

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB896-H2

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Sickles

3. Committee: Appropriations

4. Title: Virginia Lottery; repeal prohibition against sale of lottery tickets over the Internet.

5. Summary: The substitute directs the Virginia Lottery (the Lottery) to regulate sports betting. Before administering a sports betting operation, an entity is required to apply for a three-year permit and pay an application fee of \$250,000. Permit holders must apply for renewal of a permit every three years, which includes a renewal fee of \$200,000. The Director may issue no fewer than four and no more than 12 permits to operate sports betting platforms to qualified applicants. The Director shall issue a permit to operate a sports betting facility only to a qualified applicant that is also a major league sports franchise. The bill prohibits betting by Lottery employees, permit holders and certain related persons, participants in athletic events on which the bet is placed, and persons under age 21. The penalty for engaging in prohibited betting is a Class 1 misdemeanor. The bill directs the Lottery to establish a voluntary exclusion program, which would allow individuals to request that the Lottery exclude them from (i) buying lottery tickets or shares; (ii) participating in sports betting; (iii) engaging in any form of betting, wagering, or casino gaming; (iv) participating in charitable gaming; (v) participating in fantasy contests; or (vi) wagering on horse racing. The bill directs the Lottery to publish a consumer protection bill of rights to include consumer protection measures. The bill imposes a 20 percent tax on a permit holder's adjusted gross revenue, defined in the bill. The bill creates the Problem Gambling Treatment and Support Fund, administered by the Department of Behavioral Health and Developmental Services. The Fund would be used to provide counseling to compulsive gamblers, implement problem gambling treatment and prevention programs, and provide grants to organizations that assist problem gamblers. The Fund would be funded by 2.5 percent of the revenue generated from sports betting. The remaining 97.5 percent of tax revenue generated from sports betting shall be transferred to the general fund. The bill authorizes the Lottery to sell tickets over the Internet. Under current law, it is prohibited from doing so.

6. Budget Amendment Necessary: Yes – see Item 8. The Virginia Lottery would require a new Item in HB/SB 30 to administer the sports betting regulatory program.

7. Fiscal Impact Estimates: Preliminary – see Item 8.

8. Fiscal Implications: The legislation authorizes the sale of lottery tickets through the Internet. The Virginia Lottery would procure a contract with a gaming system provider to

support the additional distribution of lottery products through iLottery, an application that allows users to purchase lottery tickets online via smartphone, computer, and other electronic devices. All costs of the iLottery gaming application and related supporting activities would be funded from the online sale of lottery products. According to the Virginia Lottery, these types of contracts are typically a combination of start-up costs and ongoing expenses, and would become part of the Virginia Lottery's overall financial results that are audited annually by the Auditor of Public Accounts.

The Virginia Lottery would require additional full-time equivalent (FTE) employees to provide information security support, gaming support, legal and regulatory compliance, contract management, and financial compliance activities; however, the number of additional FTEs needed to implement iLottery is not available at this time. The Virginia Lottery would need to increase its maximum employment level and nongeneral fund appropriation beginning in fiscal year 2021 to fund the agency's ongoing personal and nonpersonal expenses to support iLottery. The additional nongeneral fund appropriation would be limited to the percentages of revenues as prescribed by law.

The sale of lottery tickets online also may generate an indeterminate amount of additional revenue for the Commonwealth through the Commonwealth Setoff Debt Collection Act for all prizes \$100 or greater, and state income taxes from the reporting and withholding of eligible prizes. In fiscal year 2019, the Virginia Lottery collected \$2.5 million in unpaid debts for the Commonwealth and nearly \$5 million in Virginia tax withholdings from prizewinners.

The Joint Legislative Audit and Review Commission's (JLARC) 2019 report, "Gaming in Virginia", identified six states that have implemented iLottery within the past two to three years. Among the six states, Michigan had the highest iLottery sales of \$125 million, which represented 3.5 percent of the state lottery's total sales. The JLARC report indicated that Virginia may experience similar sales and proceeds as Michigan in the first year of implementing iLottery, which would total approximately \$78 million in annual sales and \$12 million in total annual proceeds after payment of prizes, retailer commissions, and Lottery operating expenses. It should be noted that the estimated \$12 million in annual proceeds assumes iLottery sales are new sales and do not affect the sale of other lottery products.

The Virginia Lottery also would require additional FTE employees to oversee and administer the sports betting regulatory program. The Virginia Lottery expects an additional five employees will be needed beginning in fiscal year 2021. The Virginia Lottery would need to increase its maximum employment level and nongeneral fund appropriation beginning in fiscal year 2021 to fund the sports betting program's ongoing personal and nonpersonal expenses. The Virginia Lottery's staffing and related regulatory oversight costs of the sports betting program would be funded through the sports betting operation permit and renewal fees.

The revenue estimates below are based on mid-range estimates of proceeds from sports betting as included in the 2019 JLARC report for sports wagering in year five after a ramp-up period. Estimates are based on even growth annually until reaching maturity in year five.

The bill imposes a 20 percent tax on a permit holder's adjusted gross revenue with 97.5 percent of the taxes allocated to the general fund and 2.5 percent of the taxes collected allocated to the Problem Gambling Treatment and Support Fund. The Problem Gambling Treatment and Support Fund is established to provide counseling and other support services for compulsive and problem gamblers; developing and implementing problem gambling treatment and prevention programs; and providing grants to supporting organizations that provide assistance to compulsive gamblers.

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021	\$12.0 million \$9.1 million \$0.2 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund
2022	\$12.5 million \$18.2 million \$0.5 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund
2023	\$13.0 million \$27.4 million \$0.7 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund
2024	\$13.5 million \$36.5 million \$1.0 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund
2025	\$14.0 million \$45.6 million \$1.0 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund
2026	\$14.5 million \$45.6 million \$1.0 million	Lottery Proceeds Fund -iLottery General Fund Problem Gambling Treatment and Support Fund

The bill also imposes civil penalties for permit holders who violate § 58.1-4030. The legislation authorizes a monetary penalty of no more than \$1,000 for each violation and requires the collection of civil penalties to be deposited to the general fund.

The Department of Behavioral Health and Developmental Services (DBHDS) is required to administer the Problem Gambling Treatment and Support Fund. Currently, DBHDS does not provide counseling or rehabilitative services for gambling addiction. Previous estimates, based on the population density of Virginia, projected that at a minimum, a comprehensive program would require 24 local positions through the Community Services Boards and one central office position at the DBHDS central office at a cost of \$1.9 million per year in staffing. Additionally, using the costs of administering the Mental Health First Aid program

as a blueprint, DBHDS projects the need for an additional \$1.1 million for training and treatment services at the regional level.

<i>Expense</i>	<i>Cost</i>	<i>Number of FTEs</i>	<i>Total</i>
<i>CSB Staff</i>	\$75,000 per position	24.0	\$1,875,000
<i>Central Office Staff</i>	\$75,000 per position	1.0	\$75,000
<i>Treatment/Training Programs</i>	\$1,100,000	-	\$1,100,000
		25.0	\$3,050,000

The figures above are in line with average per capita expenditures on problem gambling programs nationwide. Based on a 2016 survey done by the National Council on Problem Gambling, the average per capital allocation for problem gambling services for states that have such programs was \$0.37. The census of Virginia, according to the US Census Bureau, is estimated at approximately 8.5 million. The average allocation applied to the Virginia census equals \$3,145,000, which is in line with the DBHDS estimate. Since the revenues generated from this legislation would not be sufficient to cover these costs, DBHDS would either be required to absorb any additional costs from within its existing appropriations or additional general fund support would be required. If the legislation is not interpreted to require a comprehensive program, and requires only the level of service and related expenditures match of the funds deposited, there is no fiscal impact.

The bill prohibits betting by Lottery employees, permit holders and certain related persons, participants in athletic events on which the bet is placed, and persons under age 21. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal; however, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality; however, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in fiscal year 2018.

9. Specific Agency or Political Subdivisions Affected: Virginia Lottery, Department of Education, Department of Behavioral Health and Developmental Services, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to SB 384-S2 (McPike).