

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB403

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

2. Patron: Reeves

3. Committee: Passed both houses

4. Title: Charitable gaming; electronic gaming is restricted to social organization, etc.

5. Summary: Provides that the conduct of electronic gaming, defined in the bill, is restricted to qualified social organizations on their premises or other qualified organizations that lease the premises of a qualified social organization pursuant to the guidelines set out in the bill. The bill eliminates the exceptions related to the sale of instant bingo, pull tabs, or seal cards or the conduct of bingo games in current law for veterans and fraternal organizations. The bill provides that such qualified organizations shall be subject to two prohibitions that, under current law, apply to all other organizations, as defined in relevant law: (i) they are prohibited from selling instant bingo, pull tabs, or seal cards or conducting bingo games outside of their home locality and (ii) they are prohibited from offering such games at an establishment that has been granted a license by the Alcoholic Beverage Control Authority unless they hold such license. The bill provides that, with the exception of social organizations qualified under § 501(c)(7) of the Internal Revenue Code, all gross receipts attributable to electronic gaming shall be reported to the Department of Agriculture and Consumer Services (the Department) and shall be subject to application, audit, and administration fees. Under the provisions of the bill, social organizations that are exempt from taxation pursuant to § 501(c)(7) of the Internal Revenue Code are permitted to conduct electronic gaming until such organizations reach \$200,000 in electronic gaming adjusted gross receipts, defined in the bill, during any 12-month period. Such organizations are required to report their adjusted gross receipts to the Department and are subject to application, audit, and administration fees based on their adjusted gross receipts. The bill provides that application fees shall be paid to the Department by the qualified organization and that audit fees may be paid to the Department either by the qualified organization or the electronic gaming manufacturer that provides electronic gaming devices to such organization. The bill imposes on any person or organization conducting charitable gaming without a permit a civil penalty of not less than \$25,000 and not more than \$50,000 per incident. Finally, the bill sets out via a second enactment provisions that require qualified organizations permitted to conduct electronic gaming to report and pay all required fees to the Department based on such organization's electronic gaming adjusted gross receipts. The provisions of the first enactment of the bill requiring the use of a qualified organization's electronic gaming gross receipts for the purpose of reporting and payment of required fees has an expiration date of July 1, 2024. The provisions of the second enactment of the bill requiring the use of a qualified organization's electronic gaming adjusted gross receipts for

the purpose of reporting and payment of required fees has a delayed effective date of July 1, 2024.

6. Budget Amendment Necessary: Yes, Front Page and Item 404 of HB/SB30, as Introduced.

7. Fiscal Impact Estimates: Final.

7a. Expenditure Impact: Department of Corrections Item 404

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023	50,000	General Fund

7b. Revenue Impact: Front Page

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023	13,300,000	General Fund
2024	13,300,000	General Fund
2025	1,300,000	General Fund
2026	1,300,000	General Fund
2027	1,300,000	General Fund
2028	1,300,000	General Fund

8. Fiscal Implications: It is anticipated that this bill will have a general fund expenditure and revenue impact.

Any person who conducts or participates in electronic gaming that is not authorized under the proposed § 18.2-340.26:3 shall be subject to the penalties specified. The penalty for a Class 1 misdemeanor is confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

It is anticipated that this bill will have a general fund expenditure impact on correctional facilities, though that impact cannot be determined. According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate the increase in jail population as a result of this proposal.

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 varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice. See the Virginia Criminal Sentencing Commission's impact statement for more detail.

Additionally, it is anticipated that this bill will have a general fund revenue impact. According to § 18.2-340.31, Code of Virginia, organizations must pay an audit and administration fee of 1.375 percent of total receipts, unless specifically exempted by the statute. In FY2021, \$964 million was collected in receipts. Under the enrolled bill's first enactment clause, the audit and administration fee will be assessed based on the gross receipts generated by electronic gaming. The general fund revenue is estimated at \$13.3 million until the first enactment clause provisions expire July 1, 2024. Under the provisions of the bill's second enactment clause, which become effective on July 1, 2024, the audit and administration fee will be assessed based on the adjusted gross receipts for electronic gaming, and the general fund revenue is estimated at \$1.3 million annually thereafter.

Item 106 A of HB30/SB30, as introduced, provides that all fees, including audit and administrative fees and permit fees, paid by any organization conducting charitable gaming under a permit issued by the department, shall be deposited to the general fund. In FY2021, the Office of Charitable & Regulatory Programs deposited a total of nearly \$1.8 million in the general fund. Charitable Gaming is a general fund supported program.

Additionally, this bill establishes a civil penalty of not less than \$25,000 and not more than \$50,000 per incident for any person or organization that (i) conducts charitable gaming without first obtaining a permit to do so, (ii) continues to conduct such games after revocation or suspension of such permit, or (iii) otherwise violates any provisions of the charitable gaming statute. The amount of any such civil penalty revenue is indeterminate and is to be remitted to the Department.

The Virginia Racing Commission and Virginia Lottery also oversee electronic gaming; neither agency anticipates incurring a fiscal impact as a result of this bill.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Agriculture and Consumer Services, Department of Corrections, local and regional jails, courts, Commonwealth Attorneys, Public Defenders, Department of Juvenile Justice

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is the companion to HB 763.