

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1250

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Bell

3. Committee: General Laws and Technology

4. Title: Regulating video gaming terminals; Virginia Video Gaming Terminal Education Support Fund.

5. Summary: Authorizes and specifies the licensing requirements for the manufacture, distribution, operation, servicing, hosting, and playing of videogaming terminals (VGTs). The bill provides that VGTs are regulated by the Virginia Lottery Board, which the bill renames as the Virginia Lottery and Gaming Oversight Board. The bill requires employees of such licensees to be registered with the Virginia Lottery, which the bill renames as the Virginia Lottery and Gaming Department. The bill imposes criminal and civil penalties for violations of the law and regulations related to VGTs. The bill imposes a 34 percent tax on all gross profits from the play of VGTs and provides for how the tax proceeds are used; most are deposited into the Virginia Video Gaming Terminal Education Support Fund, created by the bill.

6. Budget Amendment Necessary: Yes, Items 404 and 494.

7. Fiscal Impact Estimates: Preliminary, see item 8.

8. Fiscal Implications: This bill would rename the Virginia Lottery the Virginia Lottery and Gaming Department and would direct the Virginia Lottery to regulate videogaming terminals across the Commonwealth. To fulfill the provision of this bill, the Virginia Lottery would need to employ staff to oversee the regulation of videogaming terminals, which would involve promulgating regulations, executing contractual agreements, and licensing gaming entities. Preliminary staffing requirements are estimated at 50 FTE for the legal, licensing, investigation, enforcement, and audit functions necessary for the statewide program, as well as associated support resources in human resources, information technology, procurement, and finance. The estimated cost from the nongeneral fund of employing 50 new FTE is \$5,678,250. While currently leased space is sufficient for current staff, additional space would be needed to house additional staff. Lottery estimates the cost of the additional staff, additional office space, and other overhead such as central gaming monitoring software could be up to \$10,000,000.

Although the bill anticipates a share of revenues allocated to the Department to cover the costs of these activities, in addition to the licensing fees collected, a line of credit to cover start-up costs prior to the start of revenues from this activity would likely be needed. The Lottery would need to assess significant licensing fees to supplement the 3% allocation of taxes to cover the costs of the regulatory program including the central system linking all terminals across the state and ongoing staffing support costs.

Although Enactment 4 permits provisional licenses for entities licensed in other states before a central monitoring system is in place and before regulations are final, this is not best practice. State laws and regulatory programs can differ significantly, and Virginia declined to adopt such a provision for sports betting operators or casinos. Therefore, revenue projections are anticipated to start no sooner than January 1, 2024.

The following chart outlines the NGF revenue estimates and their allocations:

		FY24 (half year)	FY25	FY26	FY27
Number of Licensed Operating Machines		5,000	7,500	10,000	10,000
Net Monthly Terminal Revenue		\$ 5,000	\$ 5,000	\$ 5,500	\$ 6,000
Net Annual Terminal Revenue Per Machine		\$ 30,000	\$ 60,000	\$ 66,000	\$ 72,000
Total Net Machine Revenues		\$ 150,000,000	\$ 450,000,000	\$ 660,000,000	\$ 720,000,000
Tax Rate	34%	\$ 51,000,000	\$ 153,000,000	\$ 224,400,000	\$ 244,800,000
Tax Distribution					
Problem Gambling	1%	\$ 510,000	\$ 1,530,000	\$ 2,244,000	\$ 2,448,000
Locality	26%	\$ 13,260,000	\$ 39,780,000	\$ 58,344,000	\$ 63,648,000
Lottery (cost recovery)	3%	\$ 1,530,000	\$ 4,590,000	\$ 6,732,000	\$ 7,344,000
VGT Education Support	70%	\$ 35,700,000	\$ 107,100,000	\$ 157,080,000	\$ 171,360,000

Net Machine Revenues are based on the average monthly machine revenues reported for May 2021 by the Virginia Alcoholic Beverage Control Authority (ABC) for skill machines (\$198,401,095 wagers minus \$155,019,571 winnings = \$43,381,524 net terminal revenue, divided by 8,728 machines in play = \$4,970.39 per machine monthly net terminal revenue). Revenues were estimated using a \$5,000 per machine net revenue figure, per month, at implementation and through the first full year. Monthly average machine revenue is estimated to increase by about 10% or \$500 in each year for FY26 and FY27.

FY24 assumes that 5,000 machines would be in operation for half of the fiscal year, with machine counts growing to 7,500 in FY25 (full year of operation) and to 10,000 in FY26 and beyond. Machine deployment is estimated to reach 10,000 statewide in Year 3. While there is no maximum number included in the bill, because localities would have the ability to restrict

this activity, the maximum number of machines in operation is estimated to level out at 10,000.

This legislation establishes new Class 1 misdemeanors, as well as Class 6 felonies. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

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 misdemeanant or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Virginia Lottery; Department of Corrections; law enforcement agencies; courts.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill includes provisions that would preclude individuals and businesses from being eligible for a license if they were engaged in the offering of skill games to the public on or after July 1, 2022. A court-ordered injunction remains in place permitting skill games to be operated in the Commonwealth pending resolution of active litigation challenging the constitutionality of the law banning skill games. A final decision in the case will not be issued prior to the end of the 2023 General Assembly session.