

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: SB212

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
 Second House ☐ In Committee ☒ Substitute ☐ Enrolled

2. Patron: Rouse

3. Committee: General Laws

4. Title: Virginia Small Business Economic Development Act established; regulation of skill game machines; penalties.

5. Summary: The substitute provides a regulatory program for electronic skill game machines in the Commonwealth, under the oversight of the Virginia Lottery. The bill directs the Virginia Lottery Board to promulgate regulations exempt from the Administrative Process Act to become effective on January 1, 2025. Licenses would be issued for machine manufacturers, distributors, and host locations. The bill requires localities to adopt an ordinance permitting electronic gaming devices in the locality, or to hold a referendum on whether electronic gaming devices would be permitted in the locality. Upon such approval, ABC licensed locations and truck stops could have a maximum of either 2 or 5 machines per location, respectively, with all machines connected to a central monitoring system contracted by the Lottery. A gaming tax equal to 30 percent of gross profits (revenue generated from machine play, minus prizes or cash winnings paid out) would be distributed to the Lottery for regulatory program expenses, to the Department of Taxation for distribution to localities where the host locations' machines operate, to the Problem Gambling Treatment and Support Fund, to the Department of Conservation and Recreation for deferred state parks maintenance, to basic aid funding for public schools, to pre-kindergarten programs for at-risk three-year-olds and four-year-olds, to the Virginia Indigenous People's Trust Fund, to the Department of State Police Office of the Gaming Enforcement Coordinator, and the general fund. The bill includes provisions for voluntary exclusion program participation, establishes maximum wager amounts and maximum prize winnings, prohibits play for credit, establishes minimum age requirements for participants, and sets penalties for entities violating the provisions of this legislation.

6. Budget Amendment Necessary: Yes; Items 390 (Department of Corrections for Woodrum impact), 258 and 260 (Department of Taxation), 415 (Department of State Police), 480 (Virginia Lottery), see Item 8 below.

7. Fiscal Impact Estimates: Preliminary; see Item 8 below.

7a. Expenditure Impact for Virginia Lottery:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2025	25,500,000	60	Gaming Regulatory Fund
2026	44,000,000	60	Gaming Regulatory Fund

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2027	65,000,000	60	Gaming Regulatory Fund
2028	65,000,000	60	Gaming Regulatory Fund
2029	65,000,000	60	Gaming Regulatory Fund
2030	65,000,000	60	Gaming Regulatory Fund

7b. Expenditure Impact for Department of Taxation:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	318,150	1	General Fund
2025	443,208	1	Nongeneral Fund
2026	82,000	1	Nongeneral Fund
2027	82,000	1	Nongeneral Fund
2028	82,000	1	Nongeneral Fund
2029	82,000	1	Nongeneral Fund
2030	82,000	1	Nongeneral Fund

7c. Expenditure Impact for Department of State Police:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2025	196,617	2	General Fund
2026	185,703	2	General Fund
2027	185,703	2	General Fund
2028	185,703	2	General Fund
2029	185,703	2	General Fund
2030	185,703	2	General Fund

7d. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2025	36,050,000	Multiple
2026	72,000,000	Multiple
2027	180,000,000	Multiple
2028	180,000,000	Multiple
2029	180,000,000	Multiple
2030	180,000,000	Multiple

- 8. Fiscal Implications:** Regulatory program costs and possible tax revenues are preliminary estimates and will vary depending on (1) the number of localities that opt-in to allow electronic gaming, and (2) the gaming revenues each machine may generate under the legal requirements that include proactive verification of player age and identification. Lottery's estimates of regulatory program costs include estimates necessary for licensing and investigations, inspections, a central gaming system, administration of the voluntary exclusion program, and associated support costs.

Tax revenues are estimated for FY2025 based on a maximum four months of tax revenue distributions. Regulations would become effective January 1, 2025. Assuming machine revenue begins in January, those tax distributions would occur in March 2025, for a

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maximum of four months' tax revenues in FY2025. Revenues are projected to increase in FY2026 and again in FY2027 as localities make determinations about allowing games in their jurisdictions.

Based on feedback from the Department of Taxation and information from JLARC's 2022 report on Gaming, net revenue generated from the operation of 10,500 skill game machines was \$506,653,490 in FY 2021. The tax estimates above are based on machine gross profits (wagers minus wins) of \$120 million in FY2025, \$240 million in FY2026, and \$600 million in FY2027 and beyond.

Tax calculations are based on 30% of machine gross profits. The remaining 70% of gross profits must be equally shared between the distributor and the host location. From this tax, 10% of gross profits is allocated to the Virginia Lottery for program oversight expenses. The remaining taxes are allocated as follows: 25% to Department of Taxation for distribution to the host machine localities; 5% to the Problem Gambling Treatment and Support Fund administered by the Virginia Department of Behavioral Health and Developmental Services; 10% to the Department of Conservation and Reservation; 10% to Basic Aid Funding for public schools; 15% to At Risk Pre-Kindergarten Programs; 5% to Virginia Indigenous People's Trust Fund; 10% to State Police Office of Gaming Enforcement, with the remaining tax revenues to the General Fund.

Based on the revenue impacts shown above, the distribution of the estimated revenues would be as follows:

Fund	FY2024	FY2025	FY2026	FY2027 and beyond
Gaming Regulatory Fund (VAL)	\$0	\$12,000,000	\$24,000,000	\$60,000,000
Localities	\$0	\$6,000,000	\$12,000,000	\$30,000,000
Problem Gambling Treatment Fund	\$0	\$1,200,000	\$2,400,000	\$6,000,000
Department of Conservation & Recreation	\$0	\$2,400,000	\$4,800,000	\$12,000,000
Basic Aid	\$0	\$2,400,000	\$4,800,000	\$12,000,000
At Risk Pre-K	\$0	\$3,600,000	\$7,200,000	\$18,000,000
Virginia Indigenous People's Trust Fund	\$0	\$1,200,000	\$2,400,000	\$6,000,000
State Police	\$0	\$2,400,000	\$4,800,000	\$12,000,000
General Fund	\$0	\$4,800,000	\$9,600,000	\$24,000,000
Total Taxes	\$0	\$36,000,000	\$72,000,000	\$180,000,000

Licensing fee revenues will also accrue to the Gaming Regulatory Fund and are dedicated for regulatory program expenses. These licensing fee revenues are in addition to the estimated

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revenues from gaming activity taxes shown above. The bill requires that skill game machines in the Commonwealth be registered with Lottery and establishes nonrefundable registration fees for skill game machines. For initial registration, fees are set at \$1 million for manufacturers, \$250,000 for distributors, and \$3,000 for establishments. For registration renewals, fees are set at \$1 million for manufacturers, \$250,000 for distributors, and \$125 per electronic gaming device for establishments.

Impacts to other sources of Commonwealth gaming revenues (sports betting, charitable gaming, historical horse racing, lottery, casino gaming) are not addressed in this impact statement.

At this time, it is unknown how many fingerprint transactions would be manually or electronically submitted to the Virginia Department of State Police, therefore, the exact number of technicians and administrative positions needed cannot be reasonably estimated. Currently, one Fingerprint Technician can process up to 10,000 manual fingerprint cards per year or 20,000 electronic fingerprint transactions per year. The estimated annual general fund salary for a Fingerprint Technician Trainee, including benefits and IT hardware, is \$77,572 the first year and \$75,450 the second year. The estimated annual general fund salary, including benefits and IT hardware, for a Program Support Senior Technician, would be \$100,765 in the first year and \$98,643 in the second year. Not included in these costs are the cost to lease office space and purchase furniture, which VSP estimates to be \$9,140 in the first year and \$4,165 in the second year per position. The total estimated cost is \$196,617 the first year and \$185,703 the following years.

The Department of Taxation expects to incur costs of \$381,150 in fiscal year 2024, \$443,208 in fiscal year 2025, and \$82,158 in each fiscal year thereafter to administer the provisions of this bill. These estimates include the costs of updating the agency's systems and costs for administering and processing the new tax, with one additional full-time employee required. These costs assume that distributors will be required to file returns electronically. Due to ongoing implementation efforts for legislation enacted in prior sessions, the Department would not have the capacity to fully implement automatic distributions within the agency's revenue accounting system before the first distribution would be required under this bill. Instead, a temporary manual process would need to be implemented initially until the final system updates are made. Because the bill would allow the Department of Taxation to recover its costs once the tax is implemented on July 1, 2024, the Department would only require a general fund appropriation for its costs in fiscal year 2024. The Department would need a budget amendment to Item 258 to recover its costs from the revenues collected for fiscal year 2025 and after.

Any fiscal impact on the Virginia Alcoholic Beverage Control Authority is likely to be small.

Although the bill allocates revenue to agencies and localities as described previously, any expenditure impact this bill may have on these entities is not known at this time. If additional information becomes available, this impact statement will be revised.

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This legislation provides several Class 1 misdemeanor and Class 6 felony penalties for violations of its provisions. 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 Class 6 felonies, 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. 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 localities \$5.00 a day for each misdemeanant 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 general fund be assigned to the bill.

The legislation also establishes certain civil penalties, with any revenue collected to be deposited to the Literary Fund. The amount of revenue that might be collected is indeterminate.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Lottery, Virginia Department of Behavioral Health and Developmental Services, Virginia Department of Taxation, Virginia Department of Education, Virginia Department of Conservation and Recreation, Virginia Department of State Police, Virginia Department of Corrections, local and regional jails, localities.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to HB590.

February 23, 2024