

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB448-S1

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

2. **Patron:** Rouse

3. **Committee:** Rehabilitation and Social Services

4. **Title:** Cannabis control; retail market; penalties.

5. **Summary:** The substitute bill establishes a framework for the creation of a retail marijuana market in the Commonwealth, which would be administered by the Virginia Cannabis Control Authority. The bill allows the Authority to begin issuing marijuana licenses on July 1, 2024, but provides that no marijuana sales may occur prior to January 1, 2025.

6. **Budget Amendment Necessary:** See Item 8 below

7. **Fiscal Impact Estimates:** Preliminary (see Item 8 below)

8. **Fiscal Implications:** The proposed bill has varying levels of impact on several state agencies:

### **Cannabis Control Authority (CCA)**

In order to meet the provisions of this bill, the CCA estimates that it will need up to 77 additional (nongeneral fund supported) staff in 2025. The necessary staff categories include Education, Legal and Policy, Investigation, Licensing, Compliance, Information Technology, Human Resources, and Finance. The CCA also reports that it will need to use resources for IT services and equipment, computer software development and maintenance, motor vehicle and law enforcement equipment, and travel within the Commonwealth of Virginia. Under the substitute bill, the agency estimates approximately 960 adult use permits in Virginia. The CCA estimates that an additional 11 nongeneral fund supported positions would be needed to meet provisions for a minority and small business program. The source of the nongeneral funds to support these positions is the revenue collected from a marijuana establishment pursuant to § 4.1-614 (disposition of moneys collected by the Board).

The CCA's estimated costs are summarized below:

Description	FY 2025 Cost	FY 2026 Cost
Computer Software Development and Maintenance Services (licensing and product registration software) (One-Time and Recurring)	\$850,000	\$250,000

Motor Vehicle and Law Enforcement Equipment and Supplies (One-Time and Recurring)	\$913,710	\$57,360
IT Services, Software, Travel, Training, and Incidentals for FTE (Recurring)	\$1,031,665	\$1,031,665
IT Equipment and Furniture for FTE (One-Time)	\$451,220	
Estimated Personnel Costs (77 FTE)	\$5,969,823*	\$7,997,491
<b>Estimated Total Fiscal Impact</b>	<b>\$9,216,418</b>	<b>\$9,336,516</b>
<b>*FY 2025 estimated personnel costs are prorated for nine months.</b>		

Item 397 in Chapter 1 (present Appropriation Act) provides the CCA with a general fund base budget of \$5.3 million and 49 positions. Chapter 1 also provides one-time funding of \$2.5 million general fund originally appropriated under Item 479 U., Chapter 552, 2021 Acts of Assembly, Special Session I, to cover one-time expenses. The Introduced Budget (HB30/SB30) adjusts CCAs authority by \$1 million each year. According to the agency, once the retail market is fully implemented, the currently general funded positions would be supported with nongeneral fund appropriation.

#### **Department of Taxation (TAX)**

Under this bill, CCA will begin to see an impact to two nongeneral funds starting in Fiscal Year 2025. The total marijuana tax revenue is estimated to be \$8.24 million in Fiscal Year 2025 and will increase annually to \$104.59 million in Fiscal Year 2030. The total revenues will be split evenly between a special fund for localities and a group of social funds that are prescribed by § 4.1-614.

The full breakdown of funds can be found in the table below.

<b>Tax Year Revenue Impacts from Retail Marijuana Market (Millions \$)</b>						
	<b>Fiscal Year 2025*</b>	<b>Fiscal Year 2026</b>	<b>Fiscal Year 2027</b>	<b>Fiscal Year 2028</b>	<b>Fiscal Year 2029</b>	<b>Fiscal Year 2030<sup>e</sup></b>
<b>Marijuana Tax (12.00%)</b>	<b>\$8.24</b>	<b>\$30.05</b>	<b>\$51.17</b>	<b>\$71.52</b>	<b>\$89.28</b>	<b>\$104.59</b>
- Locality Distribution (1/2)	\$4.12	\$15.02	\$25.58	\$35.76	\$44.64	\$52.30
- Net Profits Disposition (1/2)	\$4.12	\$15.02	\$25.58	\$35.76	\$44.64	\$52.30
<b>Distribution of Net Profits</b>						
-Pre-K Programs (40%)	\$1.65	\$6.01	\$10.23	\$14.30	\$17.86	\$20.92
-Cannabis Equity Reinvestment Fund (30%)	\$1.24	\$4.51	\$7.68	\$10.73	\$13.39	\$15.69
-Substance Use Disorder (25%)	\$1.03	\$3.76	\$6.40	\$8.94	\$11.16	\$13.07

-Public Health Program (5%)	\$0.21	\$0.75	\$1.28	\$1.79	\$2.23	\$2.61
<b>Tax revenue estimates use JLARC's 2020 retail cannabis sales estimates.</b>						
<b>Assumed effective start date for retail sales begins January 1, 2025. * Tax revenues in Fiscal Year 2025 are reduced by 5/12 given mid-fiscal year start.</b>						
<b><sup>e</sup> Half of Fiscal Year 2030 sales are extrapolated using the rate of change from JLARC sales estimates</b>						

### **Office of the Executive Secretary of the Supreme Court (OES)**

According to the Office of the Executive Secretary of the Supreme Court, the proposed legislation is not expected to have a fiscal impact on agency operations.

### **Virginia Department of State Police (VSP)**

According to the Virginia State Police, fingerprint-based criminal background checks may be required for each cannabis license applicant. Currently, the Civil and Applicant Records Exchange (CARE) of the CCRE is tasked with processing criminal history record background checks. It is anticipated that fingerprint submissions will be inked cards instead of electronic submissions. Within the fingerprint-based criminal record check process, Fingerprint Technicians are used to identify the fingerprints to match the information to the appropriate criminal history record. One Fingerprint Technician and one Program Support Technician can process up to 10,000 fingerprint cards per year. The agency estimates that it would require one Fingerprint Technician Trainee and one Program Support Technician to process the additional background checks for a total estimated general fund cost of \$188,287 in the first year and \$177,373 in the second year (including benefits, IT hardware, and furniture).

### **Department of Agriculture and Consumer Services (VDACS)**

VDACS estimates it will require current staffing and resources to maintain the Office of Hemp Enforcement as well as three additional Food Safety Specialists with annual salary, benefits, and operating expenses totaling \$91,081 general fund per position to keep up with increasing inspections of new edible marijuana manufacturers.

### **Department of Education (DOE)**

According to the Department of Education, the agency can absorb any work associated with reviewing and distributing materials on underage marijuana use provided by the CCA.

Under § 4.1-1003. Marijuana tax, per paragraph A and existing § 4.1-614, part of the 12% tax would go to pre-K programs for at-risk three- and four-year-olds.

### **State Council of Higher Education for Virginia (SCHEV)**

The impact of the mandatory tuition/fee waiver in § 23.1-609 to institutions of higher education (IHE) is indeterminate. It is expected that the requirement in § 23.1-1301 is absorbable for IHEs. If SCHEV reports a material fiscal impact as a result of this bill, the fiscal impact statement will be updated to reflect the information received.

### **Office of the Attorney General (OAG)**

The OAG reports that this bill will authorize the agency to institute or conduct criminal prosecutions in the circuit court for violations of the Cannabis Control Act and, therefore, may have a fiscal impact on agency operations. The fiscal impact cannot be quantified at this time, however, the OAG estimates that it may need to hire one additional Attorney General II, at an annual salary of \$150,752 general fund (including benefits).

### **Department of Health Professions (DHP)**

According to the Department of Health Professions, the proposed legislation is not expected to have a fiscal impact on agency operations.

### **Criminal Impact**

According to the Virginia Criminal Sentencing Commission (VCSC), the number of individuals who may be convicted of the new misdemeanors and felonies defined in the proposal, and the sentences these individuals may receive, is not known. By creating a regulatory and licensing structure, the proposal may result in fewer convictions related to the unlawful distribution of marijuana. Whether or not, or the extent to which, this will occur is not known.

Licensees convicted for false statements on tax returns required by the bill may be sentenced similarly to those currently convicted of perjury under § 18.2-434.

VCSC reports that while the proposal would eliminate certain criminal penalties related to marijuana from the Code and reduce penalties for other offenses, it would establish a number of new misdemeanors and felonies for engaging in activities related to the cultivation, manufacture, testing and sale of marijuana without the required license or otherwise engaging in prohibited practices related to the production, sale, etc., of marijuana. The proposal also specifies that monthly tax returns filed by licensees must be made under oath, which may have felony implications for making a materially false statement on the return. Furthermore, the proposal expands the felony for operating an aircraft while under the influence to include the influence of marijuana. The net effect on the number of convicted individuals and the impact on sentencing patterns cannot be estimated; therefore, the net impact on the future state-responsible (prison) bed space needs of the Commonwealth cannot be quantified. Similarly, the net impact on local-responsible (jail) bed space needs cannot be estimated.

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 \$5.00 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 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 be assigned to the bill.

**9. Specific Agency or Political Subdivisions Affected:** Courts, Department of Education, Department of Agriculture and Consumer Services, Virginia State Police, Department of Corrections, Office of the Attorney General, Department of Health Professions, Board of Pharmacy, Department of Corrections, local and regional jails, state and local law enforcement agencies, Commonwealth's Attorneys, and Office of the Public Defender.

**10. Technical Amendment Necessary:** Line 1287, after "tax," insert: "except the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) pursuant to § 4.1-1003)"

Line 1317, after " (§ 58.1-600 et seq.)," strike: "or any other provision of state or local law"

**11. Other Comments:** None.