

Tobacco Study: House Bill 1946/Senate Bill 1060

July 8, 2025

- ▶ Introductions
- ▶ Review of HB 1946/SB 1060
- ▶ Statement of Purpose
- ▶ Overview: Study Road Map
- ▶ Open Forum: Input and Discussion
- ▶ Next Steps

- ▶ **Kristin Collins**, Deputy Commissioner
- ▶ **Charles Kennington**, Assistant Commissioner of Tax Legislation & Economic Analysis Office
- ▶ **James Savage**, Director of the Tax Legislation Division
- ▶ **Anna Mucha**, Sales and Local Tax Team Lead of the Tax Legislation Division
- ▶ **Joseph Mayer**, Expert Tax Law Analyst
- ▶ **Katherine Spivey**, Tax Law Analyst
- ▶ **Mike Fojtik**, Tax Law Analyst
- ▶ **E.V. Goode**, Director of Legislative Implementation
- ▶ **Candace Banks**, Tobacco Administrative Supervisor

- ▶ **Dale Farino**, Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority (ABC)
- ▶ **Thomas Kirby**, Chief Operating Officer of ABC
- ▶ **John Daniel**, Government Affairs Officer and General Counsel of ABC
- ▶ **Leslie Haley**, Deputy Attorney General at the Virginia Office of the Attorney General (OAG)
- ▶ **Sean Thorton**, Senior Assistant Attorney General at OAG
- ▶ **Flora Hezel**, Senior Assistant Attorney General at OAG
- ▶ **Colleen Hughes**, Director of the Office of Behavior Health Wellness at the Department of Behavioral Health and Developmental Services (DBHDS)
- ▶ **Jason Carlin**, Behavioral Health Wellness Consultant, Office of Behavior Health Wellness, DBHDS
- ▶ **James Goodrich**, First Sergeant of the Virginia State Police
- ▶ **Benjamin Jones**, Chief of Staff in the Office of Senator Adam Ebbin



Licensing Stamping Agents, OTP Distributors, and Certain Retailers of Liquid Nicotine

- Process applications and conduct background checks
- Issue licenses
- Conduct compliance checks via field and desk audit to verify tax compliance



Tax Exemption Certificates

- Process applications, conduct background checks and verify retail store validity
- Issue certificates
- Confirm full payment of tax liabilities



Tax Return Processing

- Process returns
- Conduct desk and field audits to verify information on return



2024 HB 790/SB 582 would have required that Virginia Tax conduct underage checks with ABC and law enforcement. However, during its 2025 Session, the General Assembly exempted Virginia Tax from this requirement and directed further study on the issue.

HB 1946/SB 1060 require Virginia Tax convene a work group to develop an enforcement program to address the sale of retail tobacco products intended for smoking to individuals younger than 21 years old.

The work group shall include representatives from:

ABC, Virginia Tax, the Office of the Attorney General, the Virginia State Police, and DBHDS

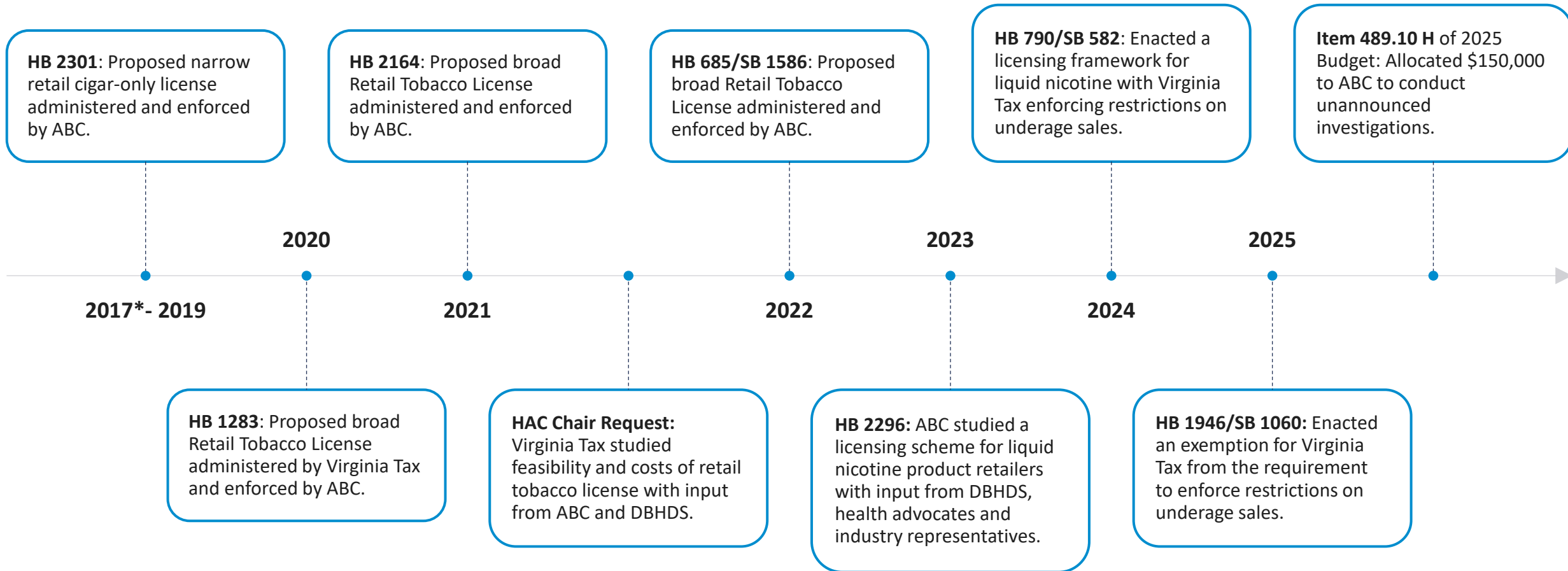
The study's considerations will include:

- ▶ The frequency of licensee inspections in Virginia and other states;
- ▶ Compliance rates in the Commonwealth and other states;
- ▶ Costs of an enforcement program; and
- ▶ Funding sources to support the enforcement program.

Legislative History of Bills Regulating Retail Tobacco

Legislative History of Retail Tobacco Regulatory Bills in Virginia

8



*Nearly identical bills were introduced in 2017 (HB 2220), 2018 (HB 1541) and 2019 (HB 2301) that would have created a narrow cigar-only retail license.



During the 2025 Legislative Session, ABC and Virginia Tax worked closely with the Patrons to draft a substitute bill that created a comprehensive Tobacco Retail Permit issued and enforced by ABC in lieu of the more narrow Liquid Nicotine License issued by Virginia Tax.



This version was proposed by the Senate Committee on Finance and Appropriations as SB 1060 Senate Substitute 2.



The enacted version of this legislation did not include Tobacco Retail Permit structure; however, Virginia Tax was exempted from the underage enforcement requirements. In addition, ABC was allocated \$150k to conduct a pilot of underage enforcement under the Appropriation Act.

Retail Tobacco Licenses Administered and Enforced by ABC

ABC enforces underage sales in collaboration with local law enforcement.

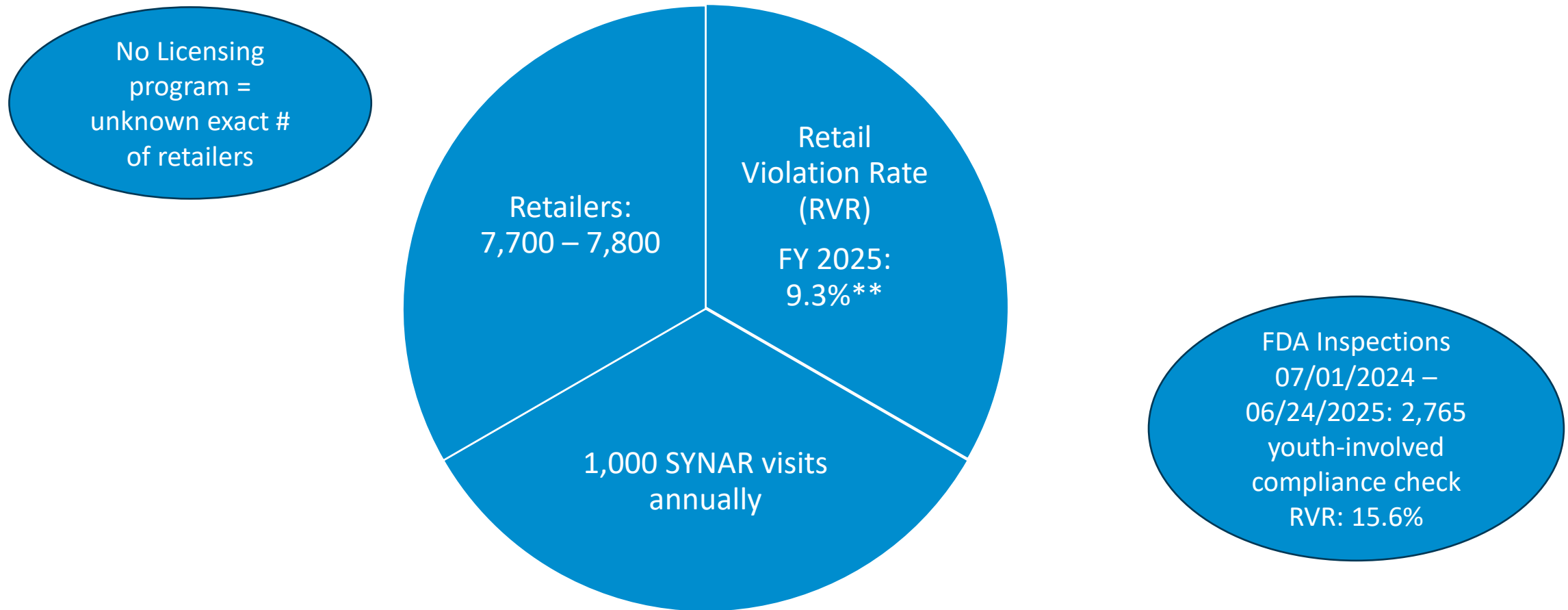
ABC application fee of \$400 and allows ABC to use the Retail Tobacco Fund to cover expenses of administration and enforcement.

ABC's preliminary estimate included initial costs to be around \$3.6M and ongoing costs of \$2.7M every year thereafter.

Frequency of Licensee Inspections and Compliance Rates in Virginia and Other States

Frequency of Underage Enforcement and Compliance Rates in Virginia

12



**Data provided by the Office of Behavior Health Wellness at the DBHDS.*

*** States must maintain an RVR below 10% in order to receive federal funding under SYNAR/Tobacco21*

Frequency of Licensee Inspections and Compliance Rates in Other States*

13

State	Frequency	Compliance RVR FY 2025
Arizona	No clear separation of visits between state and FDA	14.0%
Kentucky	Retailers: 4,915 400-500 SYNAR visits annually	8.3%
Illinois	Each outlet inspected annually	11.4%
Maine	Annually inspected	6.0%
Nevada	Inspections every 3 years according to state Code	12.8%
New York	Outlets: 20,000 Annually inspected.	17.3%

* Data provided by the Office of Behavior Health Wellness at the DBHDS.

Frequency of Licensee Inspections and Compliance Rates in Other States*

14

State	Frequency	Compliance RVR FY 2025
Oklahoma	Licensees: 4,500 Inspections every 3 years	13.8%
Oregon	Each licensed retailer inspected twice annually	14.0%
Pennsylvania	Each establishment inspected annually	13.5%
Texas	Retailers: over 30,000 1,500 Synar visits annually + 6,000 - 7,000 state enforcement inspections	16.6%
Utah	Yearly SYNAR visits and additional non SYNAR checks 2 Inspections annually according to state Code	Last SYNAR unweighted RVR: 5.4%

* Data provided by the Office of Behavior Health Wellness at the DBHDS.

Compliance Programs to Prevent Underage Sales of Tobacco Products

A compliance program to prevent underage sales of tobacco products will typically have three components:



Retail Licensing System

Regulatory Framework for Tobacco Retailers

Licensing may help with the identification and tracking of all tobacco retailers, which is essential for ensuring compliance with applicable laws and regulations.

Increases Accountability

Licensing may help to keep retailers accountable for violations of underage sales.

Facilitates Enforcement

Licensing may help with enforcement, including the ability to suspend or revoke licenses.

Dedicated Funding Structure

Tobacco Retail Licensing Fees

Used to cover the cost of enforcement.

State Budget

Dedicated funding can be specifically allocated to ensure adequate resources for enforcement activities.

Utilize Funds from Agreements

The Master Settlement Agreement.

The JUUL settlement.

Enforcement Program

Designated Agency and Protocols

A specific agency with clear responsibility for enforcement may be designated.

Clear protocols for enforcement activities.

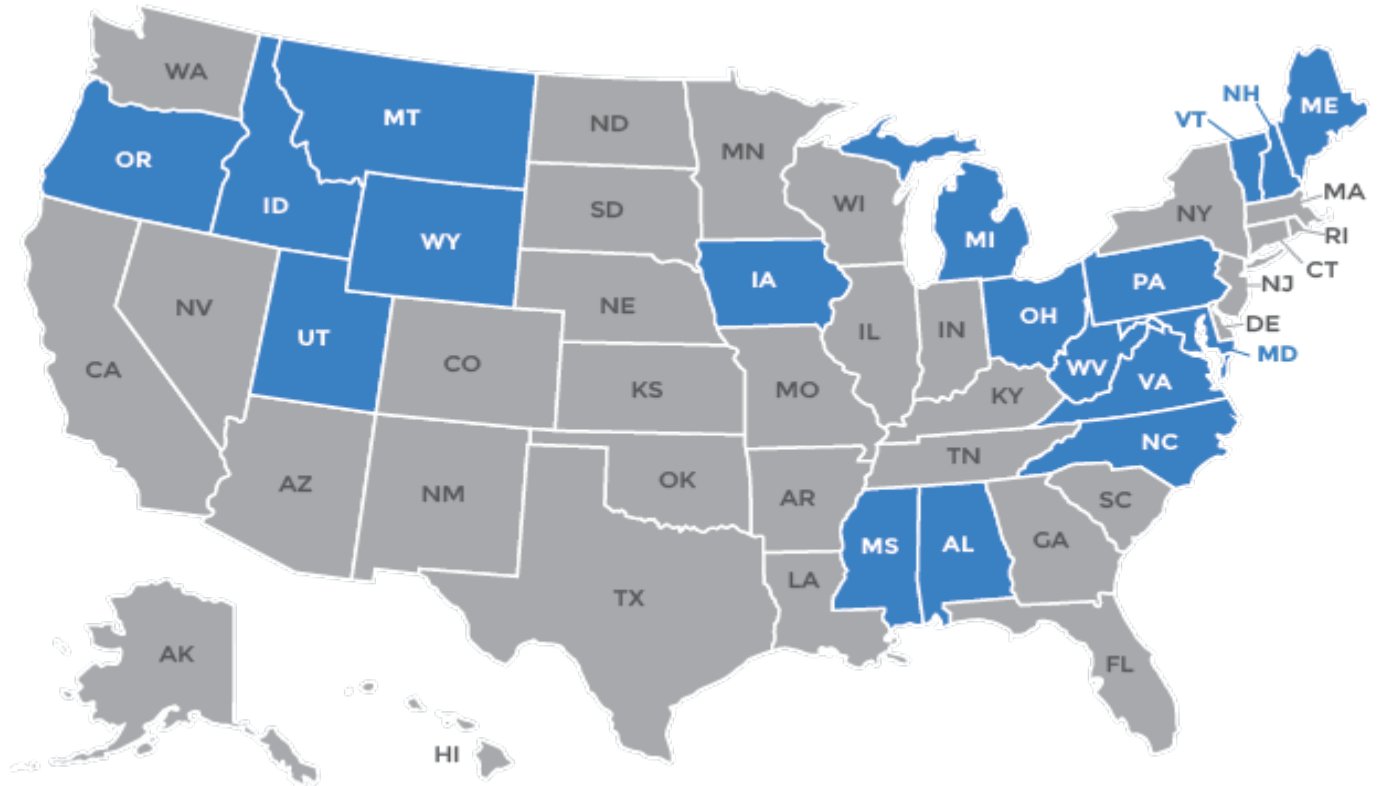
Penalties

Penalties for violations are commonly imposed on the retailer or licensee with graduated fines and the ability to prohibit sales.

Merchant Education

Effective retailer education programs could be implemented.

- ▶ 17 states have state monopolies over the wholesaling or retailing of some or all categories of alcohol (i.e. an ABC Authority). Blue, at right.
 - ▶ ABC is typically responsible for enforcing the restrictions on sales of tobacco products to underaged individuals in these states.
- ▶ The remaining states have private businesses purchasing and selling alcohol, with state laws regulating it.



Open Forum

Questions and Comments

Enforcement Program

- ▶ How would the program be funded initially?
- ▶ What ongoing funding mechanism makes the most sense?
- ▶ What enforcement time frame makes the most sense?
- ▶ What should the penalty structure be?

If legislation is advanced in 2026 that incorporates the language of 2025 HB 1946/SB 1060 Substitute 2:

- ▶ What changes, if any, would you make to the substitute?
- ▶ What is local law enforcement and state police's role?
- ▶ What is DBHDS's role?
- ▶ How does the OAG see this interfacing with their MSA/JUUL enforcement efforts?

- ▶ This presentation and all provided handouts will be made available on the Virginia Tax webpage for Active Studies and Surveys: <https://www.tax.virginia.gov/studies-and-surveys> (coming soon).
- ▶ Please provide written comments, including any suggested approaches along with responses to the agency-specific insights, to Katherine Spivey by **July 29**:
 - ▶ **ABC**: Are there updates to the administrative costs provided for SB 1060-S2? Are there any additional funding sources or ideas on how to structure a comprehensive Retail Tobacco program that have not been discussed?
 - ▶ **DBHDS**: What are your agency's suggestions and concerns regarding a broader license or permit structure, timing of enforcement, and transition options?
 - ▶ **OAG**: What are your agency's concerns regarding the interaction between a retail tobacco permit and your current enforcement responsibilities?
 - ▶ **Virginia State Police**: How do you envision your role in this enforcement? How would ABC enforcement interact with local law enforcement?
- ▶ We will reconvene the week of **August 18-22** to review drafts of legislative options incorporating the written responses and agency-specific insights and will be in touch this week to schedule that date.
- ▶ We will circulate a draft report to work group participants in advance of its submission by November 1.

Thank You!



James Savage

Tax Legislation Director
james.savage@tax.virginia.gov



Anna Mucha

Sales and Local Tax Team Lead
anna.mucha@tax.virginia.gov



Katherine Spivey

Tax Law Analyst
katherine.spivey@tax.virginia.gov