

**REPORT OF THE JOINT SUBCOMMITTEE TO
STUDY PERCENTAGE OF CHARITABLE
GAMING RECEIPTS TO BE USED FOR
REQUIRED PURPOSES**

**Pursuant to Senate Bill 1127 of
the 2021 General Assembly
Special Session I (Chapter 520,
2021 SSI)**

TO THE GENERAL ASSEMBLY OF VIRGINIA



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Virginia Division of Legislative Services

Joint Subcommittee to Study Percentage
of Charitable Gaming Receipts to be
Used for Required Purposes

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http://dls.virginia.gov/interim_studies_CGR.html

Joint Subcommittee to Study Percentage of Charitable Gaming Receipts to be Used for Required Purposes

The Joint Subcommittee to Study Percentage of Charitable Gaming Receipts to be Used for Required Purposes (the Joint Subcommittee) was created by the fourth enactment of Chapter 520 of the 2021 Acts of Assembly, Special Session I. The Joint Subcommittee was made up of eight legislative members, appointed by the Senate Committee on General Laws and Technology, the Senate Committee on Finance and Appropriations, the House Committee on General Laws, and the House Committee on Appropriations. The membership of the Joint Subcommittee was as follows:

Legislative Members

- Delegate Paul E. Krizek (Chair)
- Senator John J. Bell (Vice Chair)
- Delegate David A. Reid
- Delegate Terry L. Austin
- Delegate Lashrecse D. Aird
- Senator Adam P. Ebbin
- Senator Emmett W. Hanger, Jr.
- Senator Bryce E. Reeves

Staff support for the Joint Subcommittee was provided by Committee Operations for the House of Delegates and the Virginia Division of Legislative Services (DLS), which included the following personnel:

House of Delegates, Committee Operations

- Catherine C. Hooe, Senior Operations Clerk

Virginia Division of Legislative Services

- Ashley Binns, Attorney
- Connor Garstka, Senior Attorney

The Joint Subcommittee held four meetings during the 2021 interim. [*The Joint Subcommittee's website*](#) provides access to meeting summaries and all presentations delivered to the members. The Joint Subcommittee met on the following dates:

- July 19, 2021
- August 24, 2021
- September 20, 2021
- October 14, 2021

Executive Summary

At its first meeting on July 19, the Joint Subcommittee elected Delegate Paul E. Krizek as chair and Senator John J. Bell as vice chair. Senator Bryce E. Reeves gave a brief overview of the enabling legislation and outlined five key objectives that he wanted the Joint Subcommittee to keep in mind as it accomplished its mission:

1. Identifying the problem and investigating criminal activity in the gaming industry, utilizing sworn testimony and subpoena power if necessary, and partnering with state and local law-enforcement authorities to gather facts and evidence in order to stop the spread of illegal gaming by criminal elements;
2. Crafting new, meaningful statutes with clear delineations of who, what, when, and how organizations can participate in charitable gaming, along with strict reporting, accounting, and oversight standards that are unambiguous and completely enforceable;
3. Looking at the rules, regulations, and standards governing the Charitable Gaming Board and ensuring that no member of the Board has a conflict by having a vested interest in the rulings and decisions of the Board;
4. Making sure the enforcement agency that oversees charitable gaming has the financial means and staffing requirements to investigate, audit, enforce, and terminate contracts, licenses, and permits when laws are broken; and
5. Ensuring that the moneys generated by charitable electronic games are getting to the charities themselves, that all tax revenues at both the state and local level are being duly collected, and that illegitimate charities and criminal organizations are driven out of Virginia.

The Joint Subcommittee voted unanimously to include these objectives in its official work plan.

DLS staff gave a more detailed overview of the enabling legislation and outlined the objectives, as outlined in such legislation, for the Joint Subcommittee to analyze and make recommendations on, as appropriate. Those objectives were related to:

1. The percentage of an organization's gross receipts that should be used for the religious, charitable, community, or educational purposes for which the organization was chartered or organized and certain real property expenses;
2. Whether proceeds from instant bingo, pull tabs, and seal cards should be included when calculating an organization's gross receipts;
3. The locations at which organizations should be permitted to conduct charitable gaming;
4. The types of organizations that should be permitted to conduct charitable gaming;
5. The regulatory oversight of charitable gaming in the Commonwealth, including the membership, structure, and necessity of the Charitable Gaming Board; and
6. Necessary safeguards and conflict of interest prohibitions for the Charitable Gaming Board.

Before adjourning, the Joint Subcommittee heard public comment regarding enforcement problems in the charitable gaming industry, a conflict of interest in the regulation and operation of charitable gaming in Virginia, a lack of funding for proper regulation by the Virginia



Department of Agriculture and Consumer Services (VDACS), and efforts by the Charitable Gaming Board to adopt regulations related to Texas Hold'em Poker pursuant to SB 936 (Petersen, 2020).

At its meeting on August 24, the Joint Subcommittee heard presentations on the following topics from the following individuals:

- Budget Language Regarding Charitable Gaming
 - Jason Powell, Special Projects Deputy, Senate Committee on Finance and Appropriations
- Regulation of Charitable Gaming
 - Michael Menefee, Program Manager, Office of Charitable and Regulatory Programs, Virginia Department of Agriculture and Consumer Services
- Office of the State Inspector General's Investigation of Charitable Gaming Industry
 - Adam Tagert, Audit Manager, Office of the State Inspector General
- Enforcement of Charitable Gaming Laws
 - Lieutenant Colonel Timothy Lyon, Director, Bureau of Criminal Investigation, Virginia State Police
 - Nathan Green, President-Elect, Virginia Association of Commonwealth's Attorneys
- Texas Hold'em Poker Regulations
 - Tad Berman, Virginians for Integrity in Horse Racing and Casino Gambling

The Joint Subcommittee met on September 20 for its third meeting. The main purpose of this meeting was to hear presentations on the following topics from the following individuals:

- The Specifics of Electronic Pull Tab Machines
 - Chad Criger, Vice President of Operations, Creative Game Technologies
 - Mark Newton, Vice President, Powerhouse Gaming
 - Marc Downing, Chief Counsel and Director of Compliance, Grover Gaming
- Gaming Software Verification and Compliance Testing
 - Nick Farley, President, Eclipse Compliance Testing
- Overview and History of Charitable Gaming in Virginia
 - Chris Petersen, Arbor Strategies (on behalf of the Virginia Charitable Gaming Council)
- Charitable Gaming and Charitable Gaming Board Operations
 - Chuck Lessin, Chairman, Charitable Gaming Board

The Joint Subcommittee then heard brief public comment before adjourning.

At its fourth and final meeting on October 14, the Joint Subcommittee received a final report and presentation from Adam Tagert of the Office of the State Inspector General (OSIG). Pursuant to Budget Item 105-D.1 of the 2021 Appropriation Act, OSIG was tasked with investigating and reviewing current charitable gaming regulations and processes in Virginia. Mr. Tagert described current permitting requirements as administered by the Office of Charitable and Regulatory Programs within VDACS, followed by a discussion of VDACS' current regulations, which require charities to use at least 10 percent of gross receipts for charitable purposes. He noted that the regulations allow a charity to conduct charitable gaming outside of its home jurisdiction and gave an overview of the enforcement of laws governing charitable gaming in social quarters, which is where the majority of charitable gaming receipts are generated from the use of electronic pull tab machines. Mr. Tagert compared receipts that are required by law to be reported to VDACS with actual receipts and stated that the majority of receipts are not required to be reported. In reviewing OSIG's research on each subject, Mr. Tagert provided a number of detailed policy recommendations, which are available in the [*official OSIG report*](#).

The Joint Subcommittee then heard remarks from Gary Opdyke, President of the St. Gregory the Great Catholic Church Men's Club, on his perspective as a charitable gaming operator. He gave his opinion that many charities are not only operating charitable gaming in a way that fails to comply with charitable gaming statutes and regulations but also are brazenly advertising their noncompliant programs. Mr. Opdyke opined that the current regulatory requirement that charities use at least 10 percent of gross receipts for charitable purposes is easy to meet for a legitimate charity and added that his church easily achieves a percentage that is almost twice the regulatory threshold. Finally, he stated that charitable gaming operators that push the boundaries of the law are making it harder for legitimate charities to raise money from gaming.

After hearing from presenters, Delegate Krizek initiated a discussion of possible legislative proposals on the Joint Subcommittee's work thus far. He indicated that the Joint Subcommittee would not vote at this meeting to finalize the recommendations because they were still subject to change based on the input of Joint Subcommittee members. Nevertheless, he intended to get the sense of the members' positions on each point and planned to work with members and staff to develop the proposals into legislative drafts for introduction during the 2022 Regular Session. The Joint Subcommittee discussed legislative ideas related to the types of charities eligible to conduct charitable gaming, the locations where they may do so, methods of preventing conflicts of interest affecting Charitable Gaming Board members, the percentage of gross receipts that should be required to be dedicated for charitable purposes, the types of Texas Hold'em Poker games that should be allowed as charitable gaming, and ways to improve enforcement of charitable gaming laws. Staff then presented a 50-state review of laws that require a percentage of gross receipts to be dedicated for charitable purposes.

Delegate Krizek informed the members of the Joint Subcommittee that the enabling legislation required the Joint Subcommittee to submit a report of its findings and recommendations to the General Assembly no later than the first day of the 2022 Regular Session of the General Assembly. He directed staff to prepare and submit the report.



Significant contributions to this study and the resulting report were made by the late Connor Garstka, Senior Attorney for the Division of Legislative Services.

For more information, see the [*Joint Subcommittee's website*](#) or contact the Division of Legislative Services staff:

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