

REPORT OF THE

**Joint Subcommittee to Study the
Feasibility of Establishing the
Virginia Gaming Commission
(HJR 10, 2024)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 12

**COMMONWEALTH OF VIRGINIA
RICHMOND
2024**



Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission

Executive Summary of 2024 Interim Activity

<https://studies.viriniageneralassembly.gov/studies/667>

Pursuant to the powers and duties authorized under HJR 10 (Krizek, 2024 Regular) and SJR 12 (Reeves, 2024 Regular), the Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission (the Joint Subcommittee) held four meetings during the 2024 interim with Senator Bryce E. Reeves, chair, and Delegate Paul E. Krizek, vice-chair, presiding. Materials presented at the meetings are accessible through the [Joint Subcommittee's meetings webpage](#).

The Joint Subcommittee's 2024 interim meetings occurred on May 21, June 17, August 21, and November 8.

Joint Subcommittee Members

Senator Bryce E. Reeves, Chair

Senator Adam P. Ebbin

Senator Jeremy S. McPike

Senator Todd E. Pillion, Jr.

Delegate Paul E. Krizek, Vice-Chair

Delegate Terry L. Austin

Delegate David L. Bulova

Delegate Luke E. Torian

May 21, 2024, Meeting

The Joint Subcommittee met in Richmond with Senator Reeves presiding.¹ The meeting began with introductions and opening remarks followed by the election of chair and vice-chair, presentations, and discussion. Senator Reeves was elected as chair, and Delegate Krizek was elected as vice-chair. Materials presented at the meeting are accessible through the [Joint Subcommittee's meetings webpage](#).

Adoption of Virtual Meeting Policy

Ashley Binns, Senior Attorney with the Division of Legislative Services (DLS) and staff for the Joint Subcommittee, provided an overview of [§ 2.2-3708.3](#) of the Virginia Freedom of Information Act (FOIA) in the Code of Virginia and explained the options available to the Joint Subcommittee with respect to the adoption of a virtual meeting policy. The Joint Subcommittee unanimously voted to adopt a virtual meeting policy that encompasses all of the allowable provisions under FOIA.

¹ **Members Present:** Senator Bryce E. Reeves (chair), Delegate Paul E. Krizek (vice-chair), Senator Adam P. Ebbin, Senator Jeremy S. McPike, Delegate Terry L. Austin, Delegate David L. Bulova
Members Absent: Senator Todd E. Pillion, Delegate Luke E. Torian

Overview of HJR 10 (Krizek, 2024 Regular) and SJR 12 (Reeves, 2024 Regular)

Ms. Binns provided an overview of HJR 10 (Krizek, 2024 Regular) and SJR 12 (Reeves, 2024 Regular), which continue the Joint Subcommittee from the previous HJR 548 (Krizek, 2023 Regular), directing the Joint Subcommittee to "analyze and make recommendations, as appropriate, with respect to (i) the feasibility of establishing a new agency in the executive branch of state government, to be known as the Virginia Gaming Commission (the Commission), under which all legal forms of gaming in the Commonwealth, except the state lottery established and operated pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.), shall be consolidated for the purposes of regulation and oversight; (ii) the timely and orderly transition of the regulatory authority over casino gaming and sports betting, charitable gaming, and pari-mutuel wagering on horse racing from the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services (VDACS), and the Virginia Racing Commission (VRC), respectively, to the Commission; and (iii) ways to effectively prioritize problem gambling prevention and treatment efforts. The [J]oint [S]ubcommittee may take into consideration gaming oversight models used by other states and shall consider the feasibility, costs, and benefits of creating the Commission."

Delegate Krizek spoke briefly regarding the importance of the work the Joint Subcommittee is doing on behalf of the Commonwealth, highlighting the expansion of various forms of gaming that have proliferated in the Commonwealth over the past years as well as the importance of educating the public, regulating the industry, and providing support services to problem gamblers.

Senator Reeves spoke briefly about working with Guidehouse, the Joint Subcommittee's consultants, and the important role they have played in the work of the Joint Subcommittee.

Presentation: Update on Virginia Gaming Commission Study

Colin Hood, Director, Guidehouse

Mr. Hood, Director at Guidehouse in the State and Local Government Practice, provided an update to the Joint Subcommittee on the work Guidehouse has done on behalf of the Joint Subcommittee and the next steps Guidehouse plans to take. Guidehouse began by researching and benchmarking to understand how comparable states are structuring their gaming regulatory and oversight models. Next, Guidehouse is beginning a cost-benefit analysis of potential operating models for gaming regulation and oversight in Virginia, the results of which will be provided at the next meeting. After the cost-benefit analysis is conducted, Guidehouse will also provide the Joint Subcommittee with recommendations for possible regulatory and oversight structure options for legal gaming in Virginia. Lastly, Guidehouse will provide an implementation roadmap based on the recommendation selected, which will serve as a transition plan to get Virginia from its current state to the recommended state of legal gaming in the Commonwealth. Mr. Hood anticipated that these deliverables would be provided to the Joint Subcommittee throughout the summer.

Mr. Hood provided a snapshot of the current gaming landscape in Virginia, which included an overview of gaming regulation and oversight as well as the revenue generated from legal gaming in Virginia; three agencies manage all forms of gaming with about 160 staff, which includes a large number of vacancies. Mr. Hood discussed consolidation considerations and the relative benefits and costs of having a decentralized versus centralized gaming model in the Commonwealth. Mr. Hood also provided a list of options based on the scale of consolidation and reviewed how each option relates to a peer state with a similar model.



Delegate David L. Bulova asked how many of the peer states purposefully placed each division under the gaming commission model, versus having a commission that formed organically. Mr. Hood replied that Guidehouse would provide an answer to this question in its forthcoming benchmarking report. Delegate Krizek asked if Guidehouse only looked at peer states; Mr. Hood responded that 48 states have been surveyed, and the results were narrowed down to seven peer states.

Presentation: Impact of Unregulated Gaming

Matthew R. Hortenstine, General Counsel, J&J Ventures Gaming, LLC

Mr. Hortenstine presented on the importance of having a regulated gaming market in the Commonwealth regarding skill games and games of chance. He highlighted the specific definitions for the two types of games while explaining the difference between the mathematical algorithms of the two games. He also cited the importance of transparency to provide the consumer with information regarding skill games and games of chance.

Delegate Krizek asked Mr. Hortenstine to provide other benefits of having a central gaming control system. Mr. Hortenstine responded with three key elements: (i) the ability to create an electronic footprint so the Commonwealth can ensure that it is receiving all tax dollars it is supposed to receive from gaming, (ii) the inability to manipulate the game, and (iii) the ability to obtain retailer knowledge of the portion of tax dollars the state is supposed to receive from gaming in Virginia.

Delegate Krizek followed up with a question about checking identification of players in relation to age or those persons on the self-exclusion list; Mr. Hortenstine explained that there are multiple options to regulate player identification, including a card swipe to activate the machine, separate gaming rooms with controlled entry, and surveillance systems with facial recognition software to remove unverified individuals. Delegate Krizek asked if there was any way to implement those models and safeguards without a central control system; Mr. Hortenstine opined that it is possible, but it would be very difficult to police. Delegate Bulova asked if the states that have a centralized system are able to handle all the different systems in a streamlined fashion or if there are duplicative systems; Mr. Hortenstine was unaware of any single system that covered all areas.

Mr. Hortenstine expressed that no matter which devices are chosen, proper regulatory structure is key to protecting the public as it mitigates predatory conduct and keeps "bad actors" out of the gaming space.

Senator Reeves pointed out the difference between a gaming operator, distributor, and manufacturer and asked which other states have a regulatory authority on distributors and manufacturers; Mr. Hortenstine responded that there is a two-tier and a three-tier concept, with the three-tier concept being the one Virginia should consider. With the three-tier concept, there is a licensed manufacturer who sells the game into the system to the licensed terminal operator who owns, operates, and manages those games and is responsible for taxes and machine management. In turn, the operator places machines at the licensed retailer, who has no economic input into the system. This tiered approach allows whatever entity regulates the games to provide the licenses, permits, etc., and allows such entity to have the inspector regulate the games and provide sanctions to the appropriate level.

Mr. Hortenstine ended his presentation with data showing the estimated state gaming tax revenue lost due to having an unregulated market.



June 17, 2024, Meeting

The Joint Subcommittee met in Richmond with Senator Reeves, chair, presiding.² The meeting began with opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [*Joint Subcommittee's meetings webpage*](#).

Presentation: Virginia Gaming Commission Study — Cost-Benefit Analysis

Colin Hood, Director, Guidehouse

Julie Wedig, Managing Consultant, Guidehouse

Anaita Kasad, Engagement Partner, Guidehouse

Mr. Hood provided an update on the work that Guidehouse has done on behalf of the Joint Subcommittee, including the following key takeaways from the cost-benefit analysis of the four options for the consolidation of gaming in Virginia: (i) all options for a consolidated Virginia Gaming Commission are feasible, (ii) the benefits of consolidation options appear to outweigh the one-time transition and new ongoing operational costs, and (iii) any challenges and new costs associated with consolidation can be mitigated through governance structures and future cost savings, respectively.

He also explained the benefits of consolidation as they relate to improved mission delivery, noting the possibility of enhanced regulation and oversight across gaming types in Virginia including efficient background checks and issuance of licenses, knowledge sharing and development of institutional knowledge across auditing and compliance experts, and improved analytics, reporting, and potential improvements of compliance processes due to centralization of compliance-related data. He also explained how consolidation allows for the improved ability to forecast revenues for gaming types and easier communication, data collection, and logistical coordination to support the problem gambling work of the Department of Behavior Health and Developmental Services (the Department) and the Virginia Council on Problem Gambling.

Ms. Kasad highlighted the benefits of transparency and streamlined communication through consolidation, which include (a) clarifying the points of contact for key stakeholders by creating a single source of specialized information and resources for gaming and allowing for more effective collaboration with the Virginia State Police Office of Gaming Enforcement in order to combat gaming-related criminal activity across all gaming types, (b) increasing transparency through centralized annual reporting to the public and state government, and (c) ensuring that accountability for gaming regulation and oversight across Virginia lies with one entity, such as the Virginia Gaming Commission, or fewer entities than it does currently.

Ms. Wedig explained how consolidation can position the Virginia Gaming Commission to leverage future synergies and scale with industry growth and gave examples of how staff could be cross-trained in functions that are similar across gaming types, minimizing the impact from periods of increased workload for certain gaming types through strategic collaboration, and how technology could be consolidated to streamline key processes. She also explained the relative costs associated with consolidation, such as hiring new staff, and presented the number of estimated staff needed and the approximate additional annual cost of staffing for each consolidated option. She also noted operational and transition costs, including potential

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acquisition or expansion of office space, public awareness campaigns, consolidation of internal operation procedures and policies, and branding and marketing costs.

Mr. Hood explained that consolidation carries the risk of potential conflicts of interest between gaming types and noted that the Virginia Lottery is operated by the Commonwealth and runs as a business with revenue generation as a key goal whereas the Commonwealth serves a regulatory and oversight role for other forms of gaming with no incentive to promote one kind of gaming over another.

He also explained the technology costs associated with consolidation, noting that there are minimal immediate technology costs required for consolidation and that the potential for long-term cost savings as well as operation benefits and efficiencies exists.

Mr. Hood noted the three key decisions that need to be made across all four options for the consolidation of gaming in Virginia: (1) whether the Virginia Lottery/iLottery should remain a separate entity; (2) whether racing, including live horse racing, simulcast racing, and advance-deposit wagering, should be regulated separately; and (3) whether the new gaming commission should be an independent or executive branch agency. He also explained the benefits of being independent, noting that 81 percent of gaming commissions in the United States are independent organizations and two years is the typical timeline that other states have followed for consolidation.

Finally, Mr. Hood said that the next steps in the study process are for Guidehouse to develop a recommended regulatory and oversight structure for legal gaming in Virginia and to design a transition plan.

Presentation: Virginia's Problem Gambling Treatment and Support

Anne Rogers, Department of Behavioral Health and Developmental Services

Dr. Carolyn Hawley, Virginia Council on Problem Gambling

Dr. Hawley said that the number of calls to the Virginia Problem Gambling Helpline increased 117 percent from 2020 to 2023 and currently averages 90 to 95 intake calls per month. She also outlined the impact of the Virginia Partnership for Gaming and Health (the Partnership), which brings together state agencies, the Virginia Council on Problem Gambling, and health care providers throughout the Commonwealth to provide treatment services for individuals who need support for problem gambling. She noted that the linchpin of the Partnership's treatment and recovery model is peer recovery specialists and that five such specialists currently serve the Department's five regions of the Commonwealth. She also provided the Partnership's data for the first quarter of 2024, including referrals, intakes, and clinical services, noting that the demographic trends in gambling addiction were shifting and younger males were developing problems faster.

Dr. Hawley indicated that the top three most prevalent modes of gambling are slots at casinos, skill games, and sports betting. She indicated that Virginia is behind some comparable states in its state allocations for problem gaming and also noted that Maryland has almost double the number of peer recovery specialists as compared to Virginia.

Ms. Rogers discussed the Problem Gambling Treatment and Support Fund (the Fund) and how services to address problem gambling are being delivered in the Commonwealth. She noted that enrollments in the Virginia Lottery's voluntary exclusion program for those individuals who wish to exclude themselves from Virginia sports betting, casino gaming, and account-based lottery showed a steady increase across the two-year, five-year, and lifetime categories. She also



discussed current funding needs for the Fund and gave an overview of how the Department coordinates and collaborates between the gaming regulatory agencies in Virginia.

Presentation: Mobile Sports Wagering — A Snapshot of Virginia's Legalized Marketplace

Sarah Koch, Of Counsel, Orrick

Ms. Koch provided a regional snapshot of legal mobile sports betting in Virginia, noting that there are 15 licensed online sportsbooks operating in the Commonwealth and that sports betting adjusted gross revenue in Virginia showed steady growth from 2021 to 2023. She noted that Virginia ranks in the top 12 in revenue per adult among states with competitive, multi-operator markets coming in at about \$81 per adult. She also said that Virginia has a developing sports betting market that shows room for continued growth and noted that sports betting generated nearly \$175 million in additional tax revenue for Virginia from January 2021 through April 2024, including \$4.4 million directed to the Fund. Ms. Koch also highlighted the consumer protection framework that is in place in the Commonwealth, pointing out that a coalition of gaming operators have also created the Responsible Online Gaming Association to conduct independent studies and research in an effort to promote responsible online gaming.

Presentation: An Overview of Fantasy Contests in the Commonwealth

John Mohrmann, Senior Government Affairs Manager, DraftKings, Fantasy Sports Alliance

Mr. Mohrmann presented a brief overview of fantasy contests in Virginia, including their legalization by the Fantasy Contests Act (McDougle, 2016); their regulatory oversight by the Department of Agriculture and Consumer Services; the financial requirements for fantasy contest operators in Virginia, which include an \$8,300 registration fee and no tax rate; and the number of operators currently registered in Virginia, which is 17. He explained the statutory definition of "fantasy contest," noting that clause (ii) of the definition, which provides that "all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events," is the primary source of controversy and confusion concerning fantasy contests in Virginia.

He explained that a shift in the offerings by fantasy contest operators from peer-to-peer contests, where players compete against other individuals, to "pick'em-style" contests, where players compete against metrics established by the operator, has created confusion as to whether the latter offerings constitute "sports betting," which is authorized under a different law from the Fantasy Contests Act and is regulated by a separate entity, and may allow fantasy contest operators to offer sports betting products without paying the appropriate sports betting license fees and taxes and without adhering to sports betting age and wagering restrictions.

Mr. Mohrmann explained Virginia Attorney General Opinion 23-058 (2023), which provided that gambling arrangements that involve customers betting on athletes' performance metrics against an operator's established baseline, rather than against other contest participants, constituted sports betting, not fantasy contests. He noted that, despite the Attorney General's opinion, neither the Department of Agriculture and Consumer Services nor the Virginia Lottery has enforced the legal position provided by the Commonwealth, and several fantasy contest operators continue to offer "pick'em-style" contests. He emphasized that the Attorney General's opinion was not unique and said that other state gaming control agencies, including those in Maryland, Maine, and New York, issued similar opinions over the past two years. Lastly, he

highlighted that while Virginia was one of the earliest authorizers of fantasy contests, other states such as Maryland and Iowa provide a more robust regulatory scheme.

Presentation: An Overview of Internet Gaming

Michelle MacGregor, Senior Policy Advisor, Sports Betting Alliance

Ms. MacGregor provided an overview of the background and current state of Internet gaming, also known as "iGaming," outlining the current size of illegal iGaming operations and stating that Americans bet nearly \$338 billion with illegal iGaming operators in 2021. She said that, generally, iGaming involves online casino games of chance and that eight states have legalized iGaming and 10 other states have considered legalization bills over the past year. She explained that three states near Virginia — Delaware, Pennsylvania, and West Virginia — have legalized iGaming, adding that North Carolina and Maryland have recently considered legislation that would legalize the practice, and provided a brief overview of typical regulatory frameworks for iGaming, noting that they typically mirror regulatory frameworks for sports betting operations.

Ms. MacGregor outlined existing consumer protection measures for regulated iGaming markets, emphasizing the typical components included in legislation and regulation, including age, identity, and location verification, user self-limitation protections, monitoring and intervention capabilities, and problem gaming hotlines.

She said that, according to a 2022 study by the American Gaming Association, Virginia's illegal iGaming market equates to \$350 million per year in gross gaming revenue and referenced a study that found that Virginia could generate an additional \$5.3 billion dollars in new taxable revenue over a five-year period if it legalized iGaming. She also said that iGaming legalization could spur growth in employment at land-based gaming operations as well.

Presentation: Casino Gaming on Cruise Ships in the Offshore Waters of the Commonwealth

Frank Wagner, Princess Cruise Lines

Tray Adams, McGuireWoods Consulting

Mr. Wagner presented a brief history of cruise line activity in Virginia and said that cruise schedules for 2025 are estimated to bring 100,000 passengers into Norfolk and that those passengers are expected to bring \$15 million into Virginia's economy. He also outlined the requirements for membership in the Cruise Line International Association, a cruise industry trade association that requires members to adopt guidelines regarding casino operations. Mr. Adams discussed the rules and regulations regarding shipboard casinos and outlined actions taken in other states related to taxes and fees and how the relative time that cruise ships spend in the waters of a particular state impacts taxes and fees.

Public Comment

The Joint Subcommittee heard three public comments that were submitted online, all of which opposed legalizing cruise ship casino gaming in the offshore waters of the Commonwealth.



August 21, 2024, Meeting

The Joint Subcommittee met in Richmond with Senator Reeves, chair, presiding.³ The meeting began with opening remarks from the chair and vice-chair, Delegate Krizek, followed by presentations and discussion. Materials presented at the meeting are accessible through the [*Joint Subcommittee's meetings webpage*](#).

Presentation: Virginia Gaming Commission Study–Cost-Benefit Analysis

Colin Hood, Director, Guidehouse

Mr. Hood provided an update on Guidehouse's work on behalf of the Joint Subcommittee and its next steps. Mr. Hood provided an overview of the study mandate and the current gaming landscape in Virginia, followed by an overview of operating models of consolidation for gaming within the Commonwealth. Within the overview of operating models, he reviewed the cost-benefit analysis key takeaways and noted that the General Assembly may wish to consider Consolidation Option B in the medium term and Consolidation Option D in the long term and that such new agency would be independent instead of executive.

Mr. Hood provided the following recommendations for the General Assembly to consider regarding Consolidation Option B: (i) consolidating all gaming regulatory and oversight operations in the Commonwealth, except the Virginia Lottery, into an independent, centralized Virginia Gaming Commission (VGC); (ii) structuring the VGC to maximize forecasted economies of scale, facilitate cross-training, and leverage best practices within similar functions across different gaming types; (iii) creating the VGC Board and assigning it regulatory and oversight responsibilities over all gaming types except live horse racing and the Virginia Lottery; (iv) maintaining the Virginia Racing Commission Board and transferring historical horse racing, advance deposit account wagering, and simulcast racing regulatory and oversight responsibilities to the VGC Board; (v) directing the Charitable Gaming Board to advise the VGC on all aspects of the conduct of charitable gaming in Virginia; (vi) establishing a Problem Gambling Division in the VGC that could coordinate with local, state, and national stakeholders to manage problem gambling prevention, recovery, and treatment efforts; (vii) establishing an External Affairs & Policy Division in the VGC to recommend gaming policy decisions to legislators and communicate with relevant stakeholders in Virginia; (viii) establishing the Executive Leadership team in the VGC and defining roles and responsibilities with clear division of duties, including elevating the role of the Executive Secretary of Racing; (ix) maintaining existing beneficiaries of revenue streams from each gaming type; (x) directing the VGC to review consolidating technology systems to increase efficiency of core functions; (xi) directing the VGC to develop a standardized approach for reporting to the General Assembly on a regular basis across all gaming types; (xii) following implementation of the consolidated gaming commission, considering how to further invest in gaming enforcement; and (xiii) following the successful launch of the VGC, reconsidering Virginia Lottery operations consolidation.

Mr. Hood also provided an overview of the implementation roadmap, noting that (a) a transition to a fully consolidated VGC would take an estimated two years; (b) to enable the start of the transition process by July 1, 2025, the General Assembly would need to pass legislation during the upcoming legislative session; (c) the transition approach is employee-centric, including frequent and clear communication throughout the process; and (d) the roadmap is designed to

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limit the potential disruptions to current operations of the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services, and the Virginia Racing Commission and maintain the integrity of the regulatory landscape. The roadmap focused on three key workstreams: human resources, technology, and operations. Mr. Hood ended the presentation by acknowledging that a more complete implementation roadmap would be provided once the Joint Subcommittee votes on which consolidation option it wants to promote.

Presentation: Fantasy Sports

JT Foley, Executive Director, Coalition for Fantasy Sports

Josh Kirschner, Associate, Nelson Mullins

John Pauley, Vice President of Government Affairs and Partnerships, Underdog

Mr. Foley, Mr. Kirschner, and Mr. Pauley presented on the future outlook of fantasy sports in Virginia and regulatory considerations. Mr. Foley provided background, explaining that in 2016, Virginia passed the Fantasy Contest Act, becoming the first state in the nation to legalize daily fantasy sports (DFS); fantasy sports are regulated by the Office of Charitable and Regulatory Programs (OCPR) in the Virginia Department of Agriculture and Consumer Services. Mr. Kirschner noted that there have not been any changes in the statute since it was enacted and while there were approximately 15 million DFS players in the U.S. in 2016, in 2023 that number rose to over 50 million. Mr. Kirschner also noted that as of April 1, 2024, OCPR has licensed 17 DFS operators, with over 150,000 active users in the Commonwealth. Mr. Kirschner explained DFS regulations nationwide; in the 23 states where fantasy sports are legalized, 70 percent are regulated via a commission or board, 17 percent are regulated by the state attorney general, and 13 percent are regulated by a department.

Mr. Kirschner also explained the national regulatory landscape as of August 2024: 23 states regulate/license fantasy sports contests; 18 of 23 states that license DFS (including Virginia) have an initial licensing fee; 18 of 23 states have a renewal fee; 17 of 23 states tax DFS operator gross gaming revenues; nine of 23 states offer variable fee or tax structures based on operator size; and 17 of 23 states set the DFS eligible age at 18. In Virginia, the initial licensing fee and renewal fee are \$8,300; the fees are not currently taxed. In the U.S., the average fee is \$28,171 and the average renewal fee is \$23,967, with the average tax at 10.17 percent. Mr. Pauley ended the presentation with suggestions for modernizing the Fantasy Contest Act, including introducing taxation on revenues, allocating tax funds to the Problem Gambling Treatment and Support Fund, strengthening responsible gaming requirements and consumer protections, and ensuring continued competition and consumer choice.

Presentation: Virginia Equine Alliance

Debbie Easter, President, Virginia Equine Alliance Board

Jeb Hannum, Executive Director, Virginia Equine Alliance

Mr. Hannum began the presentation by providing a background on the Virginia Equine Alliance (VEA), noting it is a nonprofit, 501(c)(6) organization comprising the Virginia Harness Horse Association (harness racing), the Virginia Horsemen's Benevolent & Protective Association (flat racing), the Virginia Gold Cup Association (steeplechase racing), and the Virginia Thoroughbred Association (thoroughbred breeding). The VEA was established in 2015 with the purpose of promoting, sustaining, and advancing the horse racing and breeding industry in the Commonwealth and is the "nonprofit industry stakeholder organization" recognized by the Virginia Racing Commission. He also highlighted some of the work that the VEA has



accomplished since 2015. Ms. Easter presented on the impact of historical horse racing (HHR) in the Commonwealth, highlighting impacts on the Breeders Fund, farms, and the economy.

Mr. Hannum voiced the VEA's concerns with consolidation options that restructure the Virginia Racing Commission by moving oversight to the Virginia Gaming Commission. He advocated for keeping the organization as-is to protect bettors, explaining that this would be better for horses and better for the industry and agriculture. Mr. Hannum explained Virginia Racing Commission regulatory growth, noting that the Virginia Racing Commission hired a national expert in HHR oversight as the Executive Secretary. He noted six Virginia Racing Commission actions: (i) establish strategic, operating, and budgetary plans for HHR and live horse racing regulation with transparent review among industry stakeholders and the Virginia Department of Agriculture and Consumer Services (VDACS); (ii) implement the requirements of new federal legislation (re: The Horseracing Integrity and Safety Authority); (iii) formalize oversight of track licensee accountability to industry standards related to HHR and live horse racing; (iv) assure the integrity and public confidence in day-to-day HHR systems, technology, and pool integrity for pari-mutuel wagering; (v) implement and enforce responsible gaming plans; and (vi) be accountable to designated VDACS audit provisions with timely resolution overseen by a defined audit committee. Mr. Hannum also cautioned on the possible consequences of separating HHR from live horse racing (referred to as "decoupling") and how other state models have collapsed once the revenue source is removed, leaving gaming to continue while racing ceases.

Presentation: Churchill Downs

Gary Palmisano, Patrick Neely, & Aaron Palmer

Mr. Palmisano, Mr. Neely, and Mr. Palmer presented on Churchill Downs and its presence in Virginia. Churchill Downs Incorporated (CDI) owns close to 30 racing and gaming facilities across 14 states. In Virginia, CDI has invested more than \$500 million over the last year and a half; employed over 1,400 Virginia team members with \$30 million in annual salaries; contributed \$54 million in annual state and local tax revenue; and contributed \$750,000 in annual charitable contributions to community partners. CDI bought Colonial Downs in late 2022, with the track hosting 23 race days. In 2023, CDI brought three highly prestigious graded stakes races to Virginia, and in 2025, Colonial Downs will race 48 days and have its first ever Kentucky Derby Qualifier. CDI also presented on the seven gaming emporiums and the Rose Gaming Resort—an over \$400 million investment in Dumfries, Virginia, that will open with 1,650 historical horse racing (HHR) terminals.

CDI presented on the importance of racing commissions, highlighting that commissions are specialized regulators that oversee a uniquely complex equine industry comprised of numerous stakeholders. Facets of the equine industry include thoroughbred racing, harness racing, steeplechase racing, breeding, and breeding incentive programs, all of which have a substantial economic impact across the Commonwealth (especially in the agricultural industry). Numerous experts are employed, tasked with monitoring the safety, welfare, and integrity of the sport. Additionally, racing commissions must have an understanding and appreciation of federal regulations that pertain to racing and wagering, such as the Interstate Horse Racing Act of 1978 and the Horse Racing Integrity and Safety Act of 2020. CDI also highlighted the importance of racing commissions having the authority to make decisions in a timely manner, such as moving or canceling races due to weather, and adjudicating important and nuanced situations that threaten the integrity of the industry.

CDI explained how effective oversight and regulation requires expertise and specialized knowledge because of the unique characteristics and integration that HHR has with the larger equine industry. CDI explained how pari-mutuel wagering contrasts with traditional casino slots and table games, how HHR locations can be in competition with casinos and how to avoid conflicts of interest, and how a racing commission approves HHR locations based on law and what is best for developing the racing and breeding industry.

CDI ended its presentation by stating its position that oversight of the historical and live horse racing should remain at the Virginia Racing Commission and not be transferred to a new Virginia Gaming Commission, should such agency be created. CDI highlighted the industry growth since 2022 and the revenue distribution from 2023, and also noted a cautionary tale from Michigan—the state consolidated its racing commission with other forms of wagering through the Michigan Gaming Control Board in 1997, ceased thoroughbred racing in 2017, and closed the state's final racetrack in early 2024.

Presentation: Problem and Responsible Gambling

Brianne Doura-Schawohl, CEO of Doura-Schawohl Consulting LLC

Ms. Doura-Schawohl presented on best practices in problem and responsible gaming policy. She began with an overview of gaming in the U.S.: (i) 40 jurisdictions, representing 51 percent of the U.S. population, have access to regulated sports betting markets; (ii) 30 jurisdictions have approved some iteration of online sports betting; (iii) eight states have legalized iGaming; (iv) 48 jurisdictions (45 states, D.C., Puerto Rico, and the U.S. Virgin Islands) run lotteries; and (v) 23 states offer daily fantasy sports. She also presented on problem gambling factors, noting that about one to two percent of the adult population struggles with problematic gambling and five percent of all those who actively gamble will suffer from problematic gambling per the National Council on Problem Gambling (NCPG). She also noted that the national annual social cost of problem gambling is \$14 billion; that the NCPG estimates 9 million American adults suffer from gambling addiction; and there are currently no federal funds designated for problem gambling treatment or research, unlike the billions in funding for alcohol, tobacco, and drug addiction.

Ms. Doura-Schawohl provided statistics from multiple states, including Illinois, Ohio, New Jersey, and Connecticut, regarding gambling addiction rates, participation, and revenue. She also provided data from the National Survey on Gambling Attitudes & Gambling Experiences (NGAGE). She explained the current problem gambling infrastructure in the U.S., highlighting that in Virginia the per capita average spent is 20 cents and the estimated annual social cost incurred by the state is \$358 million. Virginia ranks 27th in the nation in per capita investment. She ended the presentation by explaining a state model for strategic planning purposes, noting that best practices include funding for problem gambling that should come from gross tax revenue from all forms of legal and regulated gambling in the state to support research, prevention, treatment, and recovery. She also opined that the Virginia helpline for problem gambling does a disservice to Virginians and conflicts with the National Problem Gambling Helpline.



November 28, 2024, Meeting

The Joint Subcommittee met virtually with Senator Reeves, chair, presiding.⁴ The meeting began with opening remarks from the chair and vice-chair, Delegate Krizek, followed by presentations and discussion. Materials presented at the meeting are accessible through the [*Joint Subcommittee's meetings webpage*](#).

Presentation: Virginia Gaming Commission Operating Model

Colin Hood, Director, Guidehouse

Mr. Hood presented to the Joint Subcommittee a history of the Virginia Gaming Commission Study, the engagement process, an overview of 13 recommendations that were presented at the previous meeting, and a potential option for a transition readiness governance for the Virginia Gaming Commission.

Mr. Hood provided the following recommendations for the General Assembly to consider regarding Consolidation Option B: (i) consolidating all gaming regulatory and oversight operations in the Commonwealth, except the Virginia Lottery, into an independent, centralized Virginia Gaming Commission (VGC); (ii) structuring the VGC to maximize forecasted economies of scale, facilitate cross-training, and leverage best practices within similar functions across different gaming types; (iii) creating the VGC Board and assigning it regulatory and oversight responsibilities over all gaming types except live horse racing and the Virginia Lottery; (iv) maintaining the Virginia Racing Commission Board and transferring historical horse racing, advance deposit account wagering, and simulcast racing regulatory and oversight responsibilities to the VGC Board; (v) directing the Charitable Gaming Board to advise the VGC on all aspects of the conduct of charitable gaming in Virginia; (vi) establishing a Problem Gambling Division in the VGC that could coordinate with local, state, and national stakeholders to manage problem gambling prevention, recovery, and treatment efforts; (vii) establishing an External Affairs & Policy Division in the VGC to recommend gaming policy decisions to legislators and communicate with relevant stakeholders in Virginia; (viii) establishing the Executive Leadership team in the VGC and defining roles and responsibilities with clear division of duties, including elevating the role of the Executive Secretary of Racing; (ix) maintaining existing beneficiaries of revenue streams from each gaming type; (x) directing the VGC to review consolidating technology systems to increase efficiency of core functions; (xi) directing the VGC to develop a standardized approach for reporting to the General Assembly on a regular basis across all gaming types; (xii) following implementation of the consolidated VGC, considering how to further invest in gaming enforcement; and (xiii) following the successful launch of the VGC, reconsidering Virginia Lottery operations consolidation.

Information was also presented regarding how a temporary transitional body could be established for the next phase of the VGC's transition to continue carrying out foundational work for the future VGC. A Virginia Gaming Transition Oversight Committee, consisting of members of the General Assembly and relevant agency heads, could provide legislative oversight and policy direction as needed to enable the foundational work needed for the VGC until permanent governance is established. Additionally, a legislative transition executive committee, a subgroup of General Assembly members from the Virginia Gaming Oversight Committee, could make decisions and provide direction to the work of the Project Management Office (PMO) team and

⁴ **Members Present:** Senator Bryce E. Reeves (chair), Delegate Paul E. Krizek (vice-chair), Senator Adam P. Ebbin, Senator Jeremy S. McPike, Senator Todd E. Pillion, Delegate Terry L. Austin, Delegate David L. Bulova
Members Absent: Delegate Luke E. Torian

guide broader decisions related to the VGC as appropriate. Lastly, the PMO team, led by the Division of Legislative Services, could conduct transitional work on behalf of the Virginia Gaming Oversight Committee and its Executive Committee, with assistance provided by key Virginia agencies. Sample tasks of such transitional body could include: (a) developing options for facilities transition; (b) preparing and starting technology application rationalization; (c) collecting and analyzing data, documentation, processes, and financials for each agency or group expected to transition; (d) developing and executing the change management plan; (e) planning and implementing transition work streams; (f) establishing hiring priorities and developing recruitment strategy; (g) preparing job descriptions and employee work profiles for new roles in the VGC; (h) conducting staffing analysis, in partnership with the Department of Human Resource Management; and (i) assisting in developing branding and marketing materials.

Overview of Legislative Recommendation

Ashley Binns, Senior Attorney, DLS

Ms. Binns provided an overview of legislative recommendations, explaining how an omnibus bill could be structured to implement the VGC and how a transitional body could be helpful.

Vote

The Joint Subcommittee unanimously voted to support the 13 recommendations presented by Guidehouse and move forward with an omnibus bill to establish the VGC, with a transitional body, as an independent agency to provide regulation and oversight of various forms of gaming in the Commonwealth.

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

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