

REPORT OF THE

**Joint Subcommittee to Study the
Feasibility of Establishing the
Virginia Gaming Commission
(HJR 548, 2023)**

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



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

Executive Summary of 2023 Interim Activity

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

Pursuant to the powers and duties authorized under HJR 548 (Krizek, 2023 Regular) and Budget Item 6.G of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission (the Joint Subcommittee) held two meetings during the 2023 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 meetings occurred on October 16, 2023, and November 20, 2023.

Joint Subcommittee Members

Senator Bryce E. Reeves, Chair

Senator Adam P. Ebbin

Senator Jeremy S. McPike

Senator Frank M. Ruff, Jr.

Delegate Paul E. Krizek, Vice-Chair

Delegate Terry L. Austin

Delegate Barry D. Knight

Delegate James A. "Jay" Leftwich, Jr.

October 16, 2023, 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, Senator Frank M. Ruff, Jr., Delegate Terry L. Austin, Delegate Barry D. Knight, Delegate James A. "Jay" Leftwich, Jr.

Presentation: The Evolution of Legal Gambling in Virginia: From Bingo to Online Betting

Delegate Krizek

Delegate Krizek provided a brief history of gaming in Virginia, from colonial gaming to recent reforms.

Senator Reeves added information regarding the rise of online gaming, gambling addiction, and legislative oversight and emphasized the need for legislators to respond to these challenges. He also highlighted the need for the Joint Subcommittee to find comprehensive solutions to the issues facing gaming in Virginia in order to ensure that it is safe, regulated, and taxed accordingly and that gaming laws are strictly enforced.

Overview of HJR 548 (Krizek, 2023 Regular)

Ms. Binns provided an overview of HJR 548 (Krizek, 2023 Regular), which established 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."

Overview of Budget Item 6.G of Chapter 1 of the Acts of Assembly of 2023, Special Session I

Stephen Kindermann, DLS Senior Attorney and staff for the Joint Subcommittee, gave an overview of Budget Item 6.G of Chapter 1 of the Acts of Assembly of 2023, Special Session I, which provided \$250,000 in FY2024 to DLS to procure additional expertise in its role as staff support to the Commission. It also directed the Joint Subcommittee, in addition to the activities directed by HJR 548, to evaluate all potential options to consolidate gaming regulation and oversight in the Commonwealth and provide a detailed transition plan in support of recommendations.

Mr. Kindermann informed the Joint Subcommittee that DLS prepared and posted on October 13, 2023, a Request for Information (RFI) seeking qualified individuals to assist its work for the Joint Subcommittee and that responses to the RFI will be monitored until the November 16, 2023, deadline. Additionally, Mr. Kindermann informed the Joint Subcommittee that DLS received an exemption from the relevant provisions of the Virginia Public Procurement Act, allowing the agency to expedite the process of procuring a consultant, if necessary.

Status Update and Proposed Work Plan

Ms. Binns reiterated that the RFI for additional expertise to support the Joint Subcommittee has been posted and responses are being monitored and that DLS is weighing the option of moving forward with a Request for Procurement or utilizing the Virginia Public Procurement Act exemption to expedite the process of procuring a consultant.

She noted that HJR 548 directs the Joint Subcommittee to complete its meetings by November 30, 2023, and added that if the Joint Subcommittee intends to extend its work for two years, legislation allowing for such extension will need to be filed for the 2024 Session. Senator Reeves confirmed the intent to extend the Joint Subcommittee's work for two years, and Ms. Binns noted that amendments to the budget may also be needed in order to ensure appropriate funding for the Joint Subcommittee.

She assured the Joint Subcommittee that the consultant will be able to work during the 2024 Session in order to provide information to the Joint Subcommittee during the 2024 interim and added that the proposed work plan is to use questions asked and ideas posed during the Joint Subcommittee's meetings to inform that work.

Presentation: Oversight and Administration of Gaming in the Commonwealth

Tracy Smith, Associate Director, Joint Legislative Audit and Review Commission

Stefanie Papps, Principal Legislative Analyst and Project Leader, Joint Legislative Audit and Review Commission

Ms. Papps explained that the mandate of the 2022 study into the oversight and administration of gaming in the Commonwealth by the Joint Legislative and Audit Review Commission (JLARC) was to assess the advantages and disadvantages of consolidating gaming regulation into a single state agency, by (i) evaluating the roles and responsibilities of each agency currently involved in regulating gaming in the Commonwealth; (ii) evaluating the effectiveness of each such agency's gaming activities; (iii) comparing and contrasting each such agency's regulatory requirements, including licensing and inspection requirements; (iv) considering how, if at all, consolidation could affect the various missions of each such agency; and (v) examining other states' approaches to gaming regulation.

She said that the study found the following: (a) VRC does not have adequate staffing, regulations, or policies to sufficiently regulate historical horse racing; (b) VDACS is not adequately staffed to sufficiently regulate charitable gaming; (c) establishing a single state gaming agency would facilitate effective and efficient regulation across all gaming formats; and (d) if a single state gaming agency is not established, additional resources will be needed at VRC and VDACS to sufficiently regulate historical horse racing and charitable gaming.

Ms. Papps noted that JLARC also identified the following advantages to creating a single state gaming agency: (1) to concentrate the regulatory staff's knowledge and understanding of the gaming industry in one agency; (2) to consolidate information technology components of gaming regulation, creating efficiency opportunities in areas such as procurement, system modifications, and end-user experience; (3) to ensure that the Commonwealth's problem gambling prevention and treatment efforts are robust, consistent, and coordinated; and (4) to create a logical "home" for regulating any future forms of legal gaming.

She added that, based on the study's findings, JLARC recommends the following:

- Establishing a gaming policy office within the Virginia Lottery;



- Designating the Virginia Lottery as the state's central gaming agency;
- Maintaining VRC as the regulatory entity for live horse racing;
- Transferring responsibility for the regulation of historical horse racing to the Virginia Lottery; and
- Transferring responsibility for the regulation of charitable gaming to the Virginia Lottery.

Next Meeting

No date was set for the next meeting of the Joint Subcommittee.

November 20, 2023, Meeting

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

Presentation: Gaming Compliance: Sports Betting and Casino Update

Tony Russell, Interim Director, Virginia Lottery

Mr. Russell updated the Joint Subcommittee on the status of gaming compliance in sports betting in the Commonwealth, which was legalized in 2021. Mr. Russell explained the tax rate, distribution of tax revenue, and revenue generated from sports betting activity for fiscal years 2022 and 2023. Mr. Russell addressed the number and categories of sports betting violations that have occurred since 2021 and the total fines to date that have been assessed.

Mr. Russell also provided the Joint Subcommittee with an update on gaming compliance in casinos. He explained the tax on adjusted gaming revenue and the distribution of tax revenue. Mr. Russell analyzed the three casinos operating in the Commonwealth: Hard Rock in Bristol, which opened in July 2022; Rivers in Portsmouth, which opened in January 2023; and Caesars in Danville, which opened in May 2023. This analysis included the (i) number and types of games and (ii) revenue breakdown from each facility. Mr. Russell addressed the number and categories of casino violations that have occurred since 2022 and the total fines to date that have been assessed.

Mr. Russell ended the presentation by reiterating that the Virginia Lottery is the regulatory agency for casinos and sports betting, while law-enforcement agencies handle any criminal investigation matters. The Virginia Lottery has handed four cases to the Virginia State Police, and the Lottery works closely with the Virginia State Police and Office of the Attorney General as necessary for criminal activity.

Presentation: Virginia Racing Commission

David Lermond, Executive Secretary, VRC

Mr. Lermond provided an update on the status of VRC's oversight of horse racing with pari-mutuel wagering, including historical horse racing, in the Commonwealth. This update addressed

² **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

Members Absent: Senator Frank M. Ruff, Jr., Delegate Barry D. Knight, Delegate James A. "Jay" Leftwich, Jr.

some of the concerns raised by JLARC in its *2022 Oversight and Administration of Gaming in the Commonwealth report* that was presented at the October 2023 meeting of the Joint Subcommittee. Mr. Lermond also informed the Joint Subcommittee that VRC has engaged a professional consulting firm to review the JLARC report and this review would be ready in December 2023.

Presentation: Virginia ABC Update

*Chris Curtis, Interim Chief Executive Officer, Virginia Alcoholic Beverage Control Authority
Thomas Kirby, Chief Law Enforcement Officer, Virginia Alcoholic Beverage Control Authority
John Daniel, Government Affairs Officer, Virginia Alcoholic Beverage Authority*

Mr. Curtis presented on the Virginia Alcoholic Beverage Control Authority's oversight of skill games regulation across the Commonwealth from July 1, 2020, until skill games were suspended on June 30, 2021. Mr. Curtis addressed the machines and distributors regulated, types of violations handled, and tax revenue generated during this time period.

Presentation: Office of the Gaming Enforcement Coordinator

*First Sergeant Kevin Johnson, Gaming Enforcement Coordinator, Virginia State Police
Lieutenant Colonel Timothy D. Lyon, Director, Bureau of Criminal Investigations, Virginia State Police*

First Sergeant Johnson began by explaining the purposes of the Office of the Gaming Enforcement Coordinator (OGEC), which include to (i) coordinate the enforcement of the Commonwealth's gaming laws by the Virginia State Police, VDACS, attorneys for the Commonwealth, and local law enforcement; (ii) liaison with federal law enforcement to assist in its investigations into gaming activities; and (iii) establish, advertise, and administer a tip line for the public to report concerns about gaming activities.

In coordinating with state agencies, First Sergeant Johnson explained how OGEC works with the Office of Charitable and Regulatory Programs at VDACS, the Office of Gaming Compliance at the Virginia Lottery, and VRC. First Sergeant Johnson provided an overview of investigative activity with these organizations from October 2022 to present. OGEC provides liaison and outreach services to local and federal law enforcement throughout the Commonwealth, as well as to the Department of Behavioral Health and Developmental Services, for education and expertise related to gaming laws and enforcement.

First Sergeant Johnson ended the presentation by explaining the Virginia State Police gaming tip line, which was first advertised in January 2023. The tip line offers citizens two methods of reporting: by phone or an online complaint form. First Sergeant Johnson provided a breakdown of the tip line data from January 2023 to present.

Public Comment and Next Meeting

Public comment was provided by select members of relevant business associations interested in the future of skill games (also known as "gray" games) in the Commonwealth. Speakers represented small business owners who utilized skill games in their small businesses, namely convenience stores. The speakers voiced agreement with the Joint Subcommittee members on the need to regulate, tax, and enforce compliance associated with skill games. The Joint Subcommittee members thanked the speakers for their time, support, and willingness to work with the Joint Committee.



This was the last meeting of the Joint Subcommittee for the 2023 interim. Should legislation pass to extend the Joint Subcommittee, meetings will resume during the 2024 interim.

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

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