



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

Multistate Survey of the Percentage of Receipts Required to be Used for Charitable Purposes

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Summary

Chapter 520 of the Acts of Assembly of 2021, Special Session I, directed this Subcommittee to study "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." Staff reviewed gaming statutes in all states to determine whether the state has a similar requirement, whether it is imposed on net or gross proceeds, and what percentage of proceeds is required to be used for charitable purposes.

Under Virginia law, 10% of gross proceeds are required to be used for charitable purposes.¹ To put Virginia's policy in perspective, staff makes the following observations:

- 9 states (including Virginia) impose a threshold that applies to *gross* receipts
- 30 states impose a threshold that applies to *net* receipts
- 9 states do not impose a threshold
- 2 states do not allow charitable gaming
- Of states that impose a threshold on the use of gross receipts, the percentage ranges from 5% to 90%
- Of states that impose a threshold on the use of net receipts, 23 require that 100% of receipts be used for charitable purposes

Notes

It is misleading to compare percentage requirements in net-proceeds states with requirements in gross-proceeds states. States that impose a percentage threshold on net receipts, rather than gross receipts, allow charities to deduct expenses from their receipts. Therefore, a charity operating in a net-proceeds state could deduct expenses that reduce its gross proceeds by 80%, before using 100% of its proceeds for charitable purposes. In other words, the actual use would be 20% of gross proceeds, which would be less than Virginia's required set-aside of 40% of gross proceeds.

Further, some states (for example, Delaware) that use a net receipts threshold allow charities to apply for a waiver, which is granted at the discretion of the administering agency, if they are unable to meet the threshold.

¹ Statutory law authorizes the administering agency, the Virginia Department of Agriculture and Consumer Services, to set the percentage in regulatory law. VA. CODE § 18.2-340.19. Currently, the threshold is 10%. 11 VA. ADMIN. CODE 15-40-20.



State	Net/Gross	Percentage	Statute
AL	Gross	10% ²	ALA. CODE § 45-8-150.07
AK	Net	30% ³	ALASKA STAT. § 05.15.128
AR	Net	100%	ARK. CODE § 23-114-504
AZ	None	None	See ARIZ. REV. STAT. §§ 13-3301 — 13-3312
CA	Gross	90%	CAL. BUS. & PROF. CODE § 19986
CO	Net	100%	COLO. REV. STAT. §§ 24-21-617 & 24-21-622
CT	Net	100%	CONN. GEN. STAT. §§ 7-169H & 7-177A
DE	Gross ⁴	40%	29 DEL. CODE § 4819A
FL	Net	100%	FLA. STAT. § 849.0931
GA	Net	100% ⁵	GA. CODE § 16-12-60
HI	N/A ⁶	N/A	N/A
ID	Gross ⁷	20%	IDAHO CODE § 67-7709
IL	Net	100%	230 ILL. COMP. STAT. § 30/8
IA	Net	60%	IOWA CODE § 99B.14
IN	Net	100%	IND. CODE § 4-32.3-5-3
KS	Net ⁸	100%	KAN. STAT. § 75-5179
KY	Net	40%	KY. REV. STAT. § 238.536
LA	Net	100%	LA. STAT. § 4:707
MA	Net	100%	MASS. GEN. LAWS CH. 10, § 38

² Alabama law authorizes gaming only in certain counties. The statute cited is an example and applies only to Calhoun County.

³ Under Alaska's charitable gaming laws, operators conduct gaming on behalf of charities. They must give at least 30% of net receipts to their authorizing charity. Alaska also limits the percentage of deductible expenses, depending on the type of game. The limits range from 50% to 90%. See ALASKA STAT. § 05.15.160.

⁴ Delaware's 40% requirement applies only to proceeds from video lottery machines. Although the Delaware statute does not authorize charities to deduct expenses from its proceeds, it requires them to also contribute 40% of proceeds to the state, which the state appropriates for charitable purposes. In other words, 40% of receipts go to the state, and then 40% of remaining receipts must be used for charitable purposes.

⁵ Although Georgia statutory law does not impose a percentage requirement, Georgia's regulations require charities to use all proceeds, minus expenses, "in furtherance of the legitimate nonprofit aims of the organization". GA. COMP. R. & REGS. § 92-2-.06.

⁶ Hawaii and Utah do not allow gaming.

⁷ Idaho also limits administrative expenses for bingo to 18% of gross receipts.

⁸ Although Kansas' statute uses the phrase "entire gross receipts", it allows charities to deduct certain expenses from its receipts before imposing the threshold.





<i>MD</i>	None ⁹	None	<i>See, e.g., MD. CRIM. LAW CODE § 13-404.1</i>
<i>ME</i>	Gross	80%	<i>ME. REV. STAT. TIT. 17, §§ 326 & 1838</i>
<i>MI</i>	Net	100%	<i>MICH. COMP. LAWS § 432.109</i>
<i>MO</i>	Net	100%	<i>MO. REV. STAT. § 313.040</i>
<i>MN</i>	Gross	30% ¹⁰	<i>MINN. STAT. § 349.15</i>
<i>MS</i>	Net	100%	<i>MISS. CODE § 97-33-52</i>
<i>MT</i>	Net	100%	<i>MONT. CODE § 23-5-413</i>
<i>NC</i>	Net	100%	<i>N.C. GEN. STAT. § 14-309.11</i>
<i>NE</i>	Net ¹¹	86%	<i>NEB. REV. STAT. §§ 9-255.03 & 9-255.04</i>
<i>NM</i>	None	None	<i>See N.M. STAT. §§ 60-2F-1 — 60-2F-26</i>
<i>ND</i>	Net	100% ¹²	<i>N.D. CENT. CODE § 53-06.1-11.1</i>
<i>NH</i>	None	None	<i>See N.H. REV. STAT. §§ 287-E:1 — 287-E:15</i>
<i>NJ</i>	None ¹³	None	<i>See N.J. STAT. §§ 5:8-24 — 5:8-49.11</i>
<i>NV</i>	Net	100%	<i>NEV. REV. STAT. § 462.200</i>
<i>NY</i>	Net	100%	<i>N.Y. GEN. MUN. LAW § 189</i>
<i>OH</i>	Net	25% ¹⁴	<i>OHIO REV. CODE § 2915.101</i>
<i>OK</i>	None	None	<i>See 3A OKL. STAT. §§ 401 — 427</i>
<i>OR</i>	Gross	5% ¹⁵	<i>OR. REV. STAT. § 167.118</i>
<i>PA</i>	Net	100%	<i>10 PENN. STAT. § 306</i>
<i>RI</i>	Net ¹⁶	100%	<i>R.I. GEN. LAWS § 11-19-32</i>
<i>SC</i>	Net	90%	<i>S.C. CODE § 33-57-140</i>

⁹ As in Alabama, Maryland authorizes charitable gaming by county-specific laws. The cited law applies to Anne Arundel County, but the percent required to be used for charitable purposes is variable among Maryland counties. It states that proceeds "shall be used to benefit a charity or to further the purpose of the permit holder".

¹⁰ Minnesota's charitable gaming laws lay out a system in which a charity receives a five-star rating if it uses 50% of receipts for charitable purposes or a one-star rating if it uses less than 20% of receipts for charitable purposes. If a charity falls below the 30% threshold, it is placed on probation.

¹¹ Like Kansas, Nebraska uses the phrase "gross receipts", but allows the deduction of additional expenses. *See* NEB. REV. STAT. § 9-255.04. In effect, this makes Nebraska a net-proceeds state.

¹² North Dakota limits allowable expenses to 60% of gross proceeds. N.D. CENT. CODE § 53-06.1-11.

¹³ New Jersey law provides that a charity's license shall state "the specific purposes to which the entire net proceeds of such games of chance are to be devoted". N.J. STAT. §§ 5:8-26 & 5:8-29. This authority could be used to require charities to use all proceeds for charitable purposes, but the statute does not specifically require it.

¹⁴ The 25% threshold applies to the first \$250,000 of net profits, and a 50% threshold applies to net profits that exceed \$250,000.

¹⁵ Oregon also limits deductible operating expenses to 22% of gross receipts.

¹⁶ Rhode Island limits expenses to 25% of gross receipts.



<i>SD</i>	None ¹⁷	None	S.D. CODIFIED LAWS §§ 22-25-1 — 22-25-52
<i>TN</i>	None ¹⁸	None	TENN. CODE §§ 3-17-101 — 3-17-115
<i>TX</i>	Net	100%	TEX. CODE § 2001.454
<i>UT</i>	N/A ¹⁹	N/A	N/A
<i>VA</i>	Gross	10% ²⁰	VA. CODE § 18.2-340.19
<i>VT</i>	Net	100%	13 VT. STAT. § 2143
<i>WA</i>	Net	100%	WASH. REV. CODE § 9.46.0321
<i>WI</i>	None ²²	None	See WIS. STAT. §§ 563.02 — 563.99
<i>WV</i>	Gross	60%	W. VA. CODE § 47-20-15
<i>WY</i>	Net	75%	WYO. STAT. § 6-7-101

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

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¹⁷ South Dakota law requires that the "proceeds therefrom do not inure to the benefit of any individual". S.D. CODIFIED LAWS § 22-25-25.

¹⁸ Tennessee law requires charities to report the purposes for which money is used. TENN. CODE § 3-17-106.

¹⁹ Hawaii and Utah do not allow gaming.

²⁰ Virginia's statute authorizes the administering agency, the Virginia Department of Agriculture and Consumer Services, to set the percentage by regulation. Currently, it is 10%. 11 VA. ADMIN. CODE 15-40-20.

²¹ Under Washington law, a charity may conduct gaming without a license if it uses net proceeds solely for charitable purposes. If not, it must obtain a license from the administering agency.

²² Wisconsin law requires profits to be used for "proper and legitimate expenditures" and "to further the organization's purpose for existence". WIS. STAT. §§ 563.51, 563.63, & 563.94. However, it does not explicitly require them to be used for charitable purposes.

