

JOINT MEETING
OF THE
SPECIAL SUBCOMMITTEES
OF THE
HOUSE COMMITTEE ON GENERAL LAWS
AND THE
SENATE COMMITTEE ON GENERAL LAWS AND TECHNOLOGY
STUDYING CHARITABLE GAMING LAWS

Wednesday, April 8, 2009 *9:30 a.m.*
House Room D *General Assembly Building*

INITIAL STAFF STUDY

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I. Prior Studies

1978—House Joint Resolution No. 115, agreed to during the 1978 Session of the General Assembly, directed a joint subcommittee of the House and Senate Committees on General Laws to undertake a comprehensive study of the bingo laws of the Commonwealth.¹ The passage of House Joint Resolution No. 115 grew out of concern that large amounts of money were exchanged in the course of bingo games and that there was a significant lack of uniformity from one locality to another in the control of bingo operations. Inconsistencies, ranging from permit issuance procedures and the conduct of bingo games, to variations in records of receipts when compared to reports of disbursements, also contributed to the creation of the study. It was felt that the looseness with which the original bingo law was drafted was the primary cause of the lack of uniformity. As a result, bingo operations were essentially an unregulated exchange of large sums of money.²

In its final report, the joint subcommittee found that although most organizations conducting bingo games did so within the intent and spirit of the law, a small percentage of organizations took advantage of the lack of regulation and used the law for personal gain. As a result, the joint subcommittee recommended the repeal of the original bingo law and replaced it with a more comprehensive statutory scheme

¹ 1978 *Acts of Assembly*, House Joint Resolution No. 115.

² Report of the Joint Subcommittee of the House and Senate General Laws Committees on the Bingo Laws of the Commonwealth, House Document No. 39 (1979).

which remained the law until 1996 when regulation of charitable gaming was transferred to the then Charitable Gaming Commission.

The 1979 rewrite of the Commonwealth's bingo laws included provisions which:

- added working definitions of the terms "bingo," "organization," "instant bingo," and "raffles";
- created formal permitting procedures, rules of operation, record keeping, and the use of standardized forms;
- limited the conduct of bingo games to two days per week;
- restricted the playing of instant bingo to being a part of any regular bingo game;
- established a cap on the amount of prize awards;
- required audits by the local governing body;
- added a criminal penalty (Class 6 felony) for violations with the intent to defraud; and
- gave any person or organization aggrieved by the denial, issuance, suspension or revocation of a permit a right to a hearing before the local governing body.³

1993—Senate Joint Resolution No. 195, agreed to during the 1993 Session of the General Assembly, established a joint subcommittee to study the Commonwealth's statutes relating to bingo and raffles. The resolve clause in the resolution directed the subcommittee to study the (i) rental fees paid to bingo facility owners; (ii) percentages of profits actually returned to charitable organizations, and (iii) bogus charities acting as fronts for illegal bingo operations. The subcommittee was comprised of nine members, including legislative members, citizens, and representatives of local government.

1994—Senate Joint Resolution No. 12, agreed to during the 1994 Session of the General Assembly, continued the subcommittee and directed it to determine the feasibility of (i) transferring control of bingo and raffle operations to an agency of state government and (ii) licensing charities, bingo operators and suppliers, to ensure integrity in bingo operations, uniform enforcement and regulatory consistency. The original membership of the subcommittee continued to serve during the subcommittee's second year of study

³ Id.

II. History of Charitable Gaming (bingo and raffles) in Virginia

The operation of bingo games by charitable organizations was legalized by the General Assembly in 1973. At that time, an exception to the general prohibition against gambling was created for bingo games and raffles under certain circumstances. As originally drafted, voluntary fire departments and rescue squads, recognized by an ordinance or resolution as part of the safety program of the political subdivision where the voluntary fire department or rescue squad was located, were authorized to conduct bingo games and raffles. Additionally, certain nonprofit organizations which had been in existence continuously for two years immediately prior to seeking a bingo or raffle permit were authorized to conduct bingo games and raffles under the original law. These nonprofit organizations were identified as:

- (i) A corporation, trust, church, association, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literacy, community or educational purposes;
- (ii) Posts or associations of war veterans or auxiliary units or societies of any such posts or associations, if such posts, associations, units or societies are organized in the United States or any of its possessions;
- (iii) A fraternal society, order or association operating under the lodge system; or
- (iv) A corporation or association organized and operated exclusively for the restoration and maintenance of historic gardens and the general promotion of beautiful gardens.

Under the 1973 law, annual permits issued by local governing bodies were required as a condition precedent to the conduct of bingo games or raffles. No part of the gross receipts derived from any bingo games or raffles could inure, directly or indirectly, to the benefit of any private shareholder, member, agent or employee of the authorized organization (including voluntary fire departments and rescue squads, hereinafter included as organizations). Further, no organization could enter into any contract with any outside party for the purpose of organizing, managing or conducting bingo games or raffles, although an organization could delegate the

authority of organizing, managing, or conducting bingo games or raffles to natural persons who were bona fide members of the organization. The original law also contained a prohibition on the use of signs advertising the game on the premises or within 100 yards of the premises of the organization. Organizations were required to file records of all receipts and disbursements annually with the local commissioner of accounts, and such records were made a matter of public record. Penalties for violations included permit revocation, criminal sanctions (misdemeanor penalty with a fine up to \$1,000), and, in addition to the criminal penalty, the local Commonwealth's attorney could seek an injunction for up to three years.

In 1993, bingo had been legalized in 46 states, with pull tabs legally played in 34 states. Twenty-three states reported 1993 gross revenues of \$7 billion of which \$750 million was returned to charities, representing an average 11 percent return of gross receipts to charities. In 1993, bingo accounted for 44 percent of the gross receipts; pull tabs contributed 55 percent; and raffles contributed the remainder. By way of example, in Minnesota, \$1.25 billion is wagered annually among 1650 charitable organizations. Of that amount, \$200 million is attributable to the operation of bingo games. One can only imagine what those numbers are today. On a national average in 1993, state administration of bingo games and raffles requires funding for 30 staff positions with an annual budget of \$1.5 million or 1.6 percent of gross revenues.

II. Brief Overview of Current Charitable Gaming Law.

State control of charitable gaming—Charitable gaming as authorized [in this article] shall be permitted in the Commonwealth as a means of funding qualified organizations but shall be conducted only in strict compliance with the provisions of this article. The Department of Agriculture and Consumer Services is vested with control of all charitable gaming in the Commonwealth. The Board of Agriculture and Consumer Services shall have the power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

Definitions—"*Organization*" means any one of the following:

1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision;

2. An organization operated exclusively for religious, charitable, community or educational purposes;
3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;
4. An association of war veterans or auxiliary units thereof organized in the United States;
5. A fraternal association or corporation operating under the lodge system;
6. A local chamber of commerce; or
7. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross receipts of \$25,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or community purposes

Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts-- This article permits qualified organizations to conduct raffles, bingo and instant bingo games. All games not explicitly authorized by this article or Board regulations are prohibited.

Organizations exempt from certain permits and fees--No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$25,000 or less in any 12-month period shall be required to (i) notify the Department of its intention to conduct charitable gaming, or (ii) comply with Board regulations. If any organization's actual gross receipts for the 12-month period exceed \$25,000, the Department may require the organization to file by a specified date the report required by §18.2-340.30.

Any volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by §18.2-340.25 and the payment of audit fees required by §18.2-340.31. Nothing in this subsection shall be construed as

exempting volunteer fire departments and rescue squads from any other provisions of this article or other Board regulations.

Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Board regulations.

Eligibility for permit; exceptions; where valid—To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the Commonwealth for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or of a national or international civic organization which is exempt under § 501 (c) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools or private schools accredited pursuant to § 22.1-19; (iii) to recently established volunteer fire and rescue companies or departments, after county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

3. Have at least 50% of its membership consist of residents of the Commonwealth; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal Revenue Code, the Board shall exempt such organizations from the requirements of this subdivision.

Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$25,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal

Revenue Service, the same documentation may be filed with the Department for an interim certification of tax-exempt status. If such documentation is filed, the Department may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within 60 days of receipt of such documentation. The Department shall charge a fee of \$500 for such determination. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for 18 months, whichever is earlier.

A permit shall be valid only for the locations, dates, and times designated in the permit.

Sale of instant bingo, pull tabs or seal cards; proceeds not counted as gross receipts—Instant bingo, pull tabs or seal cards may be sold only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the instant bingo, pull tabs or seal cards are sold is open only to members and their guests (i.e., social quarters). Nothing in this article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs or seal cards, commonly known as last sale games, conducted in accordance with this section.

The proceeds from instant bingo, pull tabs or seal cards shall not be included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

Conduct of bingo games; special permits—A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

Bingo games may be held by qualified organizations no more frequently than two calendar days in any calendar week, except in accordance with subsection E.

No more than two sessions of bingo games may be held by qualified organizations in any calendar day.

A special permit may be granted a qualified organization which entitles it to conduct more frequent operations of bingo games during carnivals, fairs and state, federal or religious holidays, which shall be designated in the permit.

Any organization may conduct bingo games only in the county, city or town or in any adjoining county, city or town in which they regularly have been in existence or met. The Department may approve exceptions to this requirement where there is a special circumstance or documented need.

Conduct of instant bingo, pull tabs and seal cards--Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo, pull tabs, or seal cards as a part of such bingo game and, if a permit is required pursuant to § 18.2-340.25, such games shall be played only at such location and at such times as designated in the permit for regular bingo games.

Any organization conducting instant bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

No qualified organization shall sell any instant bingo, pull tabs, or seal cards to any individual under 18 years of age. No individual under 18 years of age shall play or redeem any instant bingo, pull tabs, or seal cards.

Reports of gross receipts and disbursements required; form of reports; failure to file--Each qualified organization shall keep a complete record of all inventory of charitable gaming supplies purchased, all receipts from its charitable gaming operation, and all disbursements related to such operation. Except as provided in § 18.2-340.23, each qualified organization shall file at least annually, on a form prescribed by the Department, a report of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to its charitable gaming operation that the Department may require. In addition, the Board, by

regulation, may require any qualified organization whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

All reports required by this section shall be filed on or before the date prescribed by the Department. The Board, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Department shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in §18.2-340.19 or have been disbursed in a manner approved by the Department.

Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Department; (ii) the name and address of each individual to whom any prize or jackpot in excess of \$599 from any charitable gaming is awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Department may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, and no new permit shall be required.

"Winner-take-all" games; proceeds not counted as gross receipts—The proceeds from any bingo game commonly referred to as "winner-take-all" games shall not be included in determining the gross receipts for a qualified organization provided that such games are conducted as provided in [this article].

Audit of reports; exemption; audit and administration fee—All reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Department in accordance with Board regulations. The Department may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities under this article.

The Department shall prescribe a reasonable audit and administration fee to be paid by any organization conducting charitable gaming under a permit issued by the Department unless the organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and one-quarter percent of the gross receipts which an organization reports pursuant to § 18.2-340.30. The audit and administration fee shall accompany each report for each calendar quarter.

The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the Department for the purposes of auditing and regulating charitable gaming.

Prohibited practices—In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for

costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with §18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting charitable gaming more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

5. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no

compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations; and

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session.

7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell,

lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$599; and

d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games.

10. The provisions of subdivision 9 shall not apply to:

a. Any bingo game, commonly referred to as "winner-take-all" games, in which all the gross receipts from players for that game, up to \$1,000, are paid as prize money back to the players, provided (i) there are no more than two such games per session of play, (ii) the prize money from such games does not exceed the lesser of the gross receipts directly attributable to the sale of bingo cards or sheets for such games or \$1,000, (iii) the bingo cards or sheets used for such games are sold separately from the bingo cards or sheets used for any other bingo games, and (iv) the organization separately accounts for the proceeds from such sales; or

b. Any bingo game, commonly referred to as "Lucky Seven" games, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of seven predetermined numbers selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the seven predetermined numbers are covered when a certain number of numbers is called, provided (i) there is no more than one such game per session per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with the Department's rules of play.

11. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization.

12. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the management and operation but not the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

13. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable

game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Board regulation.

14. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

15. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Department as a supplier pursuant to § 18.2-340.34.

16. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

Suppliers of charitable gaming supplies; manufacturers of electronic games of chance systems; permit; qualification; suspension, revocation or refusal to renew certificate; maintenance, production, and release of records.

Bingo managers and callers; remuneration; registration; qualification; suspension, revocation or refusal to renew certificate; exceptions—No person shall receive remuneration as a bingo manager or caller from any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Department. Application for registration shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$75. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$75 and shall be made on forms prescribed by the Department.

As a condition of registration as a bingo manager, the applicant shall (i) have been a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration and (ii) be required to complete a reasonable training course developed and conducted by the Department.

As a condition of registration as a bingo caller, the applicant shall be required to complete a reasonable training course developed and conducted by the Department.

The Department may refuse to register any bingo manager or caller who has (a) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

The Department may suspend, revoke, or refuse to renew the registration certificate of any bingo manager or caller for any conduct described in subsection B or for any violation of this article or regulations of the Board. Before taking any such action, the Department shall give the bingo manager or caller a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

The provisions of subsection A requiring registration for bingo callers with the Department shall not apply to a bingo caller for a volunteer fire department or rescue squad or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision

Assistance from Department of State Police—The Department of the State Police, upon request of the Department, shall assist in the conduct of investigations by the Department.

Suspension of permit—When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or the regulations of the Board, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit of the organization conducting the bingo game or raffle. If the judge, magistrate, or person to whom such application is presented is satisfied

that probable cause exists to suspend the permit, he shall suspend the permit. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Department or a court of competent jurisdiction.

Criminal penalties--Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report or other document required to be filed with or made to the Department shall be guilty of a Class 1 misdemeanor.

Each day in violation shall constitute a separate offense.

Any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than \$200, shall be guilty of petit larceny and, when the amount of funds is \$200 or more, shall be guilty of grand larceny. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

IV. Issues

09 Issues (as reflected in legislation)--

- Exception from inclusion as gross receipts--raffle ticket proceeds (HB 2331) and 50/50 raffles under limited circumstances (SB1121);
- Increase number of days for conduct of charitable gaming (HB 2053);
- Increase prize amounts (HB 2053);
- Annual audit fee based on net proceeds (not gross) (HB 2025);
- Expansion of use of proceeds for personal property (HB 2025); and
- Use of proceeds--10% to charity--based on net (not gross).

Nothing new under the sun--excerpt from recommendations made to the joint subcommittee in 1994:

- Excluding prize payout from the calculation of the minimum percentage of the gross receipts required to be returned to a charitable organization;
- Changing the audit fee basis from a percentage of gross receipts to a percentage of gross receipts less prize payout;
- Removing the restriction on instant bingo proceeds; and
- Increasing jackpot limits to \$5,000.

Legislative History of Charitable Gaming Laws Since 2000

2000

Passed:

HB 1163 (Albo)–Charitable Gaming Commission; member expenses, notice of meetings, and open records. Provides that Commission members be paid and reimbursed for expenses at the rate of \$50 a day, plus reasonable and necessary expenses. The bill also brings the governing statute of the Charitable Gaming Commission in line with the new Freedom of Information Act, and helps simplify FOI requests for information and records. (Ch. 639).

Failed:

HB 1319 (Ruff)–Charitable Gaming Commission; regulations. Provides that the Virginia Charitable Gaming Commission shall determine fees for permit applications, audits and setting the percentage an organization is required to give. (PBI'd)

Carried over:

HB 944 (Abbitt)–Charitable Gaming Commission; veterans' organizations. Provides that veterans' organizations shall not be subject to the jurisdiction of the Charitable Gaming Commission. Under the bill, however, these organizations must still comply with the law as it relates to the conduct of the charitable gaming.

SB 426 (Couric)–Charitable Gaming Commission; volunteer fire departments and rescue squads. Reduces the record-keeping burden for volunteer fire departments and rescue squads. Such organizations will be required to maintain complete records of all receipts and disbursements from their charitable gaming operations in conformance with generally accepted accounting principles. The bill also requires the Charitable Gaming Commission to audit the records maintained by such organizations every five years.

SB 556 (Potts)–Charitable Gaming Commission; fraternal and veterans' organizations. Provides that fraternal and veterans' organizations shall not be subject to the jurisdiction of the Charitable Gaming Commission provided (i) participation in any charitable gaming conducted by such organization is limited exclusively to members of the organization and not open to the general public and (ii) no public

solicitation or advertisement of charitable gaming is made by the organization. Under the bill, the organizations will remain subject to provisions of the code relating to the conduct of the games.

2001⁴

Passed:

HB 1901 (Sherwood)–Charitable gaming; sale of pull tabs. Allows persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with charitable gaming laws to sell pull tabs or seal cards provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees shall receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization. Currently, only members of an organization may participate in the conduct of charitable gaming. The bill also contains a technical amendment by deleting an obsolete provision in the charitable gaming law. (Ch. 754).

HB 2375 (Joannou)–Charitable Gaming Commission; regulations. Extends the moratorium until July 1, 2002, for which the Commission shall not revoke, suspend or deny a permit to any organization because of its failure to meet required minimum payments to charity. The bill also requires the Commission to conduct a study of fair market rental values for bingo halls. (Ch. 813).

HB 1177 (Potts)–Charitable Gaming Commission; determination of gross receipts. Provides that the proceeds from pull tabs or seal cards shall not be included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming. The bill also provides that pull tabs or seal cards may be sold only upon the premises owned or exclusively leased by a qualified organization and at such times as such premises are open only to members of the organization and their guests. (Ch. 833).

2002⁵

Passed:

⁴ No failed or carried over bills in 2001.

⁵ No carried over bills in 2002.

HB 931 (Joannou)–Charitable Gaming Commission; fair market rental value. Adds a definition of “fair market rental value” and provides clarification of "winner-take all" games. (Ch. 282).

HB 1233 (Gear)–Charitable gaming; definition of reasonable and proper business expenses. Provides that payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense. As a result, a qualified organization may use proceeds from charitable gaming to make contributions to the Fund. (Ch. 340).

Failed:

SB 571 (Potts)–Charitable Gaming Commission; appointment of Executive Secretary. Provides for the Governor to appoint the Executive Secretary of the Charitable Gaming Commission. The bill also provides for the Executive Secretary to appoint employees of the Commission. Under current law, the Commission appoints the Executive Secretary and employees.

2003

Passed:

SB 1278 (Colgan)–Charitable gaming; creation of the Department of Charitable Gaming. Creates the Department of Charitable Gaming with its director appointed by the Governor. The bill eliminates the Charitable Gaming Commission and in its place creates the Charitable Gaming Board as a policy board. The Charitable Gaming Board has the power to adopt regulations relating to charitable gaming and the Department of Charitable Gaming is responsible for the administration and enforcement of the charitable gaming laws and Board regulations. The bill also provides for the Board to examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations, and provide a report to the Governor and the 2004 Session of the General Assembly. The bill contains numerous technical amendments. (Ch.884).

Failed:

HB 1650 (Albo)–Charitable Gaming Commission; membership. Specifies that the membership of the Charitable Gaming Commission shall consist of 2 members of a qualified organization, 1 supplier, 1 commercial landlord whose premises are routinely utilized by qualified organizations for the conduct of charitable gaming, and 3 citizen members. Current law does not specify the membership of the Commission. (Stricken).

HB 2087 (Abbitt)–Charitable Gaming Commission; winner-take-all games. Prohibits the separate selling of “winner-take-all” bingo games. (Stricken).

HB 2214 (Suit)–Virginia Charitable Gaming Commission; fair market rental value; minimum percentage to charity; waiver. Allows the rent paid by an organization for the rental of a bingo hall to be used as a lawful part of an organization’s gross receipts. The bill also provides for a waiver of the Commission-determined percentage of gross receipts going to the charitable purposes for which the organization was specifically organized or chartered, and sets out how and when a waiver may be granted by the Commission. (Stricken).

HB 2811 (Gear)–Charitable gaming; definition of reasonable and proper business expenses. Provides that expenses incurred by associations of war veterans or auxiliary units thereof organized in the United States in support of their charter or constitution shall qualify as reasonable and proper business expenses. (Stricken).

2004⁶

Passed:

HB 152 (Albo)–Department of Charitable Gaming; permits. Prohibits the Department of Charitable gaming from denying, suspending, or revoking the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, provided that (i) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth; (ii) there are no pending criminal charges or prior convictions against an officer of the organization or game manager involving a felony related to fraud, theft, or financial crimes, or involving a misdemeanor related to moral turpitude; and (iii) the Department determines that an organization has used sufficient proceeds for the lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized. The bill also provides that this "waiver" shall expire on December 31, 2005, or when replacement regulations adopted pursuant to subdivision 1 of § 18.2-340.19 by the Charitable Gaming Board, become effective, whichever occurs first. (Ch. 213).

HB 437 (Suit)–Charitable gaming; prohibited practices; exceptions. Provides that the statutory limits for the award of any bingo prize money shall not apply to any bingo

⁶ No failed or carried over bills in 2004.

game, commonly referred to as "Lucky Seven Games" described in the bill, and sets prize limits for these games. (Ch. 275).

2005⁷

Passed:

HB 2454/SB1322 (Suit/Devolites-Davis)–Charitable gaming; Department of Charitable Gaming; registration of bingo manager and a caller; payment of remuneration. Authorizes the payment of remuneration to a bingo manager and a caller by a qualified organization, not to exceed \$100 per session for a manager and \$50 per session for a caller, provided the bingo manager and caller is registered with the Department. The bill sets forth the requirements for registration. The bill contains technical amendments. The bill also allows the Charitable Gaming Board to set the hours of operation of bingo games. This bill is identical to SB 1322. (Ch. 826/776).

Failed:

HB 1689 (Albo)–Charitable gaming; regulations of the Charitable Gaming Board; use of proceeds. Authorizes the Charitable Gaming Board, by regulation, to adopt variations in the types of bingo games and raffles that may be conducted provided such variations result in charitable gaming conducted in a manner consistent with the charitable gaming law. The bill also provides that after payment of business and other lawful expenses, an organization conducting charitable gaming must use all of the remaining receipts for charitable purposes, except that such receipts cannot be less than five percent of the organization's gross receipts. The bill provides that in determining whether to deny, suspend, or revoke the permit of any organization solely because of its failure to meet this requirement, the Department shall consider whether (i) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth; (ii) there are pending criminal charges or prior convictions against any officer of the organization or game manager involving a felony related to fraud, theft, or financial crimes, or involving a misdemeanor related to moral turpitude; and (iii) the organization, in the opinion of the Department, has used sufficient proceeds for charitable purposes. The bill contains technical amendments. (Stricken).

HB 2486 (Peterson)–Charitable gaming; poker games authorized. Authorizes the playing of poker as part of charitable gaming. The bill defines the term "poker game" and specifies the conditions under which it may be played. The bill also requires the Charitable Gaming Board to adopt regulations governing the management,

⁷ No carried over bills in 2005.

operation, and conduct of poker games. Poker games may only be conducted in conjunction with the operation of bingo games, and rules governing the general operation of charitable gaming apply to poker games. Prizes for poker games are capped at \$100.

2006⁸

Passed:

HB 525 (Suit)–Charitable gaming. Adds definitions of conduct, management, and operation and revises several existing definitions. Minors may no longer play bingo with parental consent, but may play only if accompanied by a parent or guardian. The bill allows a qualified organization to accept debit cards, and provides that certain employees of the Department of Charitable Gaming are law-enforcement officers. The bill allows a private security services business to provide security for bingo games. Increases the allowance for a single door prize from \$25 to \$50 and allows \$250 in cumulative door prizes in any one session. Increases the remuneration which may be paid to bingo callers from \$50 to \$100. Differentiates between the management or operation of a charitable game and the conduct of a game for the purposes of criminal convictions and places more restrictions on participation by persons with criminal convictions. Increases the fee for a supplier permit from \$500 to \$1,000. The bill provides that conversion of funds derived from charitable gaming is punishable as larceny. Allows the dissemination of criminal history record information to the Department of Charitable Gaming for the conduct of investigations. (Ch. 644).

HB 1507 (Orrock)–Department of Charitable Gaming; renewal of permits.

Provides that if a renewal application is received 45 days or more prior to the expiration of a permit, the permit shall continue to be effective until such time as the Department has taken final action. (Ch. 211).

2007⁹

Passed:

HB 1998 (Suit)–Charitable gaming; definition of instant bingo, pull tabs, and seal cards. Clarifies that Department-approved electronic instant bingo, pull tabs, and seal cards may be used in the conduct of charitable gaming. The bill also requires manufacturers or suppliers of electronic games of chance to have a permit by the Department of Charitable Gaming. (Ch. 264).

⁸ No failed or carried over bills in 2006.

⁹ No failed or carried over bills in 2007.

HB 2389 (Ingram)–Charitable gaming; use of pull tabs and seal cards. Clarifies that last sales games involving the sale of pull tabs or seal cards are permitted by organizations so long as they are played only on the premises owned or exclusively leased by the organization and at such times as the portion of the premises is open only to members and their guests. (Ch. 196).

HB 3078 (Abbitt)–Charitable gaming; regulation of bingo callers; exceptions.

Provides that bingo callers for volunteer fire departments and rescue squads and auxiliary units thereof are exempt from registering with the Department in order to receive remuneration as a bingo caller. (Ch. 226).

HB 3140 (Reid)–Charitable gaming; bingo callers. Eliminates membership in a qualified organization in order to be registered with the Charitable Gaming Department as a bingo caller. (Ch. 347).

SB 842 (Colgan)–Department of Charitable Gaming; gross receipts; "winner-take-all" games. Provides that the proceeds from any bingo game commonly referred to as "winner-take-all" games shall not be included in determining the gross receipts for a qualified organization. (Ch. 550).

SB 1154 (Potts)–Department of Charitable Gaming; definitions; athletic associations and band booster clubs. Authorizes an athletic association or athletic booster club, or a band booster club to sell instant bingo, pull tabs, or seal cards as a part of its annual fund-raising event provided that the sale is limited to a single event in a calendar year and the event is open to the public. (Ch. 160).

SB 1179 (Stolle)–Charitable Gaming Department; prohibited practices; bingo jackpot; "winner-take-all" games. Requires organizations to sell and separately account for bingo jackpot games. The bill also authorizes up to two "winner-take-all" games in any given bingo session. (Ch. 790).

2008¹⁰

Passed:

HB 134 (Albo)–Department of Charitable Gaming; prohibited practices acts; bingo prize money. Allows qualified organizations to sell bingo cards and the sheets used for bingo jackpot games with other bingo games. The bill provides, however that bingo jackpot cards and sheets must continue to be accounted for separately than other bingo games. (Ch. 352).

¹⁰ No carried over bills in 2008.

SB 696 (Colgan)–Charitable gaming; conduct of raffles. Allows each stub or other detachable section of each ticket won through some other authorized charitable game conducted by the same organization holding the raffle to be included in the raffle drawing. (Ch. 573).

Failed:

HB 226 (Cosgrove)–Charitable gaming; use of proceeds. Provides that the percentage, determined by the Charitable Gaming Board, which an organization must use for charitable purposes, is based on net receipts of the organization and not its gross receipts from charitable gaming.

2009¹¹

Passed (1):

HB 2595, Lewis–Charitable gaming; certain permits. Raises the permit exemption threshold from \$25,000 to \$40,000 for all organizations authorized to conduct charitable gaming.

(Acts of Assembly Chapter 121)

Failed (6):

HB 1702/SB 1518, Cosgrove/Stolle–Charitable gaming; use of proceeds. Provides that the percentage, determined by the Charitable Gaming Board, which an organization must use for charitable purposes, is based on net receipts of the organization and not its gross receipts from charitable gaming.

House: Left in General Laws

HB 2025, Marshall D W–Charitable gaming; use of proceeds; audit fee. Allows proceeds from charitable gaming to be used for those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real or personal property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes. Currently, proceeds may be used only for real property. The bill also based the annual audit fee on net receipts and not gross receipts.

House: Left in General Laws

HB 2053, Gear–Charitable gaming; prohibited acts; exceptions. Provides that where a qualified organization that (i) is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code and (ii) owns the building or other premises utilized in

¹¹ No carried over bills in 2009.

whole or in part for the purpose of conducting bingo games, such organization may conduct more frequent operations of bingo games, not to exceed four calendar days in any calendar week. The bill also increases bingo prize amounts, allows nonmembers of an organization to operate bingo games provided they are under the direct supervision of a member, and limits to 50 the number of bingo games in a session.

House: Tabled in General Laws (8-Y 6-N)

HB 2331, Athey--Sale of raffle tickets. Provides that raffle tickets may be sold by and that the proceeds of sale shall not be included in determining the gross receipts for a qualified organization. Currently this is limited to instant bingo, pull tabs and seal cards.

House: Left in General Laws

SB 1121, Colgan--Division of Charitable Gaming; conduct of fifty-fifty certain raffles. Authorizes a qualified organization to conduct a raffle commonly referred to as a fifty-fifty raffle subject to certain limitations. The bill also provides that the proceeds from the from a fifty-fifty raffle shall not be included in determining the gross receipts for the qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

Senate: Left in General Laws and Technology (15-Y 0-N).

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Work of 1994-1996 Joint Subcommittee
Studying Bingo and Raffles Law in Virginia

A. 1994 Activities

The 1994 interim report of the joint subcommittee (Senate Document No. 63) recounts the joint subcommittee's work during its first year of study. The work of the joint subcommittee culminated in the passage of SB 210 (Chapter 506 of the 1994 Acts of Assembly), which addressed bingo abuses such as skimming proceeds, leasing facilities to charities at greatly inflated rental rates, and requiring charities to purchase bingo supplies from the bingo hall operator. To prevent these abuses, the bill:

- Defined "landlord" as any person who owns or leases any premises devoted to the conduct of bingo games. The landlord is prohibited from (i) participating in the conduct, management or operation of any bingo games; (ii) selling, leasing or otherwise providing, for consideration, any bingo supplies; and (iii) requiring as a condition of a lease that a particular bingo manufacturer, distributor or supplier be used by the organization. An exemption to this was carved out for organizations which own their own buildings and conduct bingo games on their own behalf.
- Increased from three to five years the length of time a charitable organization has to be in existence to get a permit.
- Required localities to set a minimum percentage of proceeds which must be given over to a charity.
- Required at least 50 percent of the organization's membership to be Virginia residents.
- Limited participation by corporate sponsors of a charity to one raffle per year.
- Increased the age from 16 to 18 years to buy instant bingo tickets.
- Prohibited the use of post dated checks and the extension of lines of credit for payment to play bingo.
- Clarified that city or county attorneys are responsible for enforcement of bingo laws.

The joint subcommittee also focused on state regulation and enforcement of bingo games and raffles, state administration of bingo laws, and the consequent displacement of local control. The State Police, the Lottery Department, and the Department of Taxation were briefly discussed as existing state agencies under which the control of bingo and raffles would fit. It was noted, however, that the function and goals of the Lottery Department and state regulation of bingo and raffles are different since the Lottery Department serves as an operator/promoter of the state lottery, while the state interest in the regulation of bingo and raffles would be purely regulatory. It was also suggested that a separate state agency be established to administer bingo games and raffles. Aware of the complexities and attendant issues of transferring control of bingo to state government, the joint subcommittee concluded that the study should be continued to determine the feasibility of transferring control of bingo and raffles from local government to state government.

B. 1995 Activities

Convening its first meeting of the 1995 interim, the joint subcommittee heard testimony from citizens, business representatives, and local government officials concerning the desirability of state regulation of bingo and raffles, as well as other related issues.

A representative of Vegas Time Associates discussed Virginia's bingo and raffle statutes as they apply to that company. Vegas Time Associates, an equipment and services company, provides "Las Vegas Nights" for three types of customers: commercial, nonprofit, and private parties. Vegas Time Associates organizes approximately 250 events annually in Virginia, Maryland, and the District of Columbia. The biggest problem Vegas Time Associates has encountered in Virginia is in the permitting process because of conflicting statutory interpretations from one locality to the next. The joint subcommittee was urged to develop one set of bingo and raffle regulations that could be applied uniformly.\

A representative of the Hanover Society for the Deaf also described difficulties with the permitting process. He opined that local officials have too much authority and urged the joint subcommittee to strengthen the due process requirements in the permitting statutes.

Others also cited the problem in Hanover County with the permitting process. Small organizations' speakers suggested they may be experiencing discrimination in the issuance or denial of permits because state law gives the final authority in the

permitting process to the locality, which is subject to political influences and varying interpretations.

The Audit Director for Chesterfield County discussed some enforcement aspects of Virginia's bingo and raffle statutes. Because the law does not differentiate between organizations on the basis of gross revenue, smaller grossing organizations must meet the same extensive reporting requirements as higher grossing organizations. The reporting requirements are particularly burdensome to these smaller grossing organizations (i.e., a \$500 Girl Scout-sponsored raffle). [Additionally, there are always instances where a bingo or raffle event is held for which no permit was obtained]. The joint subcommittee was urged to examine two additional issues. The revision of the current statute to exempt from the permit and financial filing process nonprofits who expect or actually gross less than \$10,000 annually to allow resources to be concentrated on larger gambling operations; and changing the fiscal reporting year to a calendar basis to clear up reporting deadline confusion for small organizations.

The Audit Manager of Fairfax County also commented on enforcement concerns. Concurring with the remarks of the Chesterfield County Auditor, he suggested that the joint subcommittee establish a standard threshold exemption amount under which no permit to conduct bingo games or raffles would be required. Additionally, the joint subcommittee was urged to raise the current audit exemption threshold from \$2,000 to \$10,000.

Other recommendations made at the meeting included:

- Strengthening the statutory requirements to prevent professional ventures;
- Providing more uniformity among the jurisdictions in the issuance of permits;
- Relaxing the reporting requirements for small operations;
- Providing an exemption for service clubs which conduct internal raffles;
- Allowing more flexibility on how proceeds of games are utilized; and
- Striking a balance between the needs of the state and the organizations as they relate to bingo facility owners and their relationship with not-for-profit organizations.

Staff presented a review of (i) the joint subcommittee's 1993 work, (ii) 1993 carryover legislation related to bingo games and raffles (HBs 590, 758 and 884), and (iii) issues involved with state control of bingo. In an effort to make current law more "user-friendly," staff also presented the joint subcommittee with a proposed

redraft. The redraft, adopted by the joint subcommittee, contained no substantive changes, but reorganized current law and made necessary housekeeping changes. The subcommittee encouraged interested parties to submit their comments about the changes. The redraft served as the basis for all regulatory models considered by the joint subcommittee. It also introduced a new term -- charitable gaming -- both as a housekeeping measure to more easily refer to bingo games, instant bingo, and raffles, and to distinguish this type of legalized gambling from other kinds of gambling currently authorized by Virginia law.

In the area of state control of charitable gaming, the joint subcommittee reviewed testimony gathered in its first year from the North American Gaming Regulators Association (NAGRA) to learn how bingo is regulated in other states. Testimony from bingo regulators from the States of Montana, Massachusetts, Nebraska, Washington, and Minnesota indicated that charitable gaming programs in these states shared three principal characteristics: (i) charitable gaming is regulated at the state level which requires full funding for administration and enforcement; (ii) owners of commercial bingo halls are removed from all operation and management of bingo; and (iii) comprehensive licensing programs are in place, providing for the licensure of bingo supply manufacturers, distributors, and professional employees, as well as the charity itself.

In discussing the desirability of state regulation of bingo, the joint subcommittee reviewed the following policy issues.

- What is the compelling state interest in regulation of charitable gaming at the state level?
- Would enhanced local regulation solve the identified problems?
- Would state regulation be more effective?
- How effective is state regulation in other states?
- What is the appropriate scope of state regulation--should licensure extend to manufacturers, distributors, bingo employees and charities?
- What administrative/enforcement costs are involved in state regulation--special fund vs. general fund?
- Who should be responsible for enforcement? Will enforcement lie with the controlling agency or the State Police?
- If the state regulates bingo, which agency should house the state regulatory body, or should a new agency?

Next focusing its attention on the desirability of state regulation of charitable gaming, the joint subcommittee convened its second meeting of the 1994 interim.

In response to complaints about inconsistent regulation and enforcement by localities throughout the state, the joint subcommittee solicited comment from bingo industry representatives, bingo operators, facility owners and charitable organizations on their view of possible state control of the operation and conduct of bingo games and raffles.

Representatives from the National Association of Fundraising Ticket Manufacturers (NAFTM) reported that while NAFTM took no position on the question of state regulation of bingo, they could provide an overview of other state bingo regulatory models.

In 1994, bingo had been legalized in 46 states, with pull tabs legally played in 34 states. Twenty-three states reported 1993 gross revenues of \$7 billion of which \$750 million was returned to charities, representing an average 11 percent return of gross receipts to charities. In 1993, bingo accounted for 44 percent of the gross receipts; pull tabs contributed 55 percent; and raffles contributed the remainder. By way of example, in Minnesota, \$1.25 billion is wagered annually among 1650 charitable organizations. Of that amount, \$200 million is attributable to the operation of bingo games.

With regard to regulatory structures, other states employ widely divergent models:

- 6 states regulate at the local level.
- 16 states regulate through the Department of Revenue.
- 9 states regulate through a Gaming Commission or Gaming Board.
- 3 states regulate through the Attorney General's Office.
- 4 states regulate through the State Police/Justice Department.
- 3 states regulate through the Lottery Board.

On a national average in 1993, state administration of bingo games and raffles requires funding for 30 staff positions with an annual budget of \$1.5 million or 1.6 percent of gross revenues.

Advantages of state regulation include uniformity in the (i) type of games allowed, (ii) rules of play, (iii) participants, and (iv) enforcement. As a result, there is a single voice to develop charitable gaming policy for the state in addition to the ability to share policy concerns and other related problems with sister states.

Adding to state bureaucracy and restricting local government involvement in bingo regulation were identified as the disadvantages of state regulation. Additionally, a state regulatory program under-funded and under-staffed is a formula for disaster.

The Virginia Bingo Association, comprised of bingo operators, landlords, and charitable organizations, offered four regulatory options to the joint subcommittee: first, statewide licensing and enforcement of charitable gaming; second, state regulation (i.e., the state sets up the minimum standards for the operation and conduct of bingo games and raffles) with local enforcement of such standards, as is required for the Uniform Statewide Building Code and the Chesapeake Bay Preservation Act; third, removal of local options in the current statute, a method that would do little to solve the problems which occasioned the creation of the joint subcommittee; and finally, preservation of the status quo (i.e., leave the statute as is), also an alternative that would do little to remedy problems already identified.

Other issues presented to the joint subcommittee for consideration included:

- Excluding prize payout from the calculation of the minimum percentage of the gross receipts required to be returned to a charitable organization;
- Changing the audit fee basis from a percentage of gross receipts to a percentage of gross receipts less prize payout;
- Removing the restriction on instant bingo proceeds;
- Increasing jackpot limits to \$5,000; and
- Strengthening enforcement procedures.

In reviewing regulatory models, the subcommittee sought a form that would ensure uniformity of charitable gaming regulation yet would preserve the intent of the 1973 exception to Virginia's prohibition against gambling; i.e., to allow an income stream to charitable organizations to fulfill the religious, charitable, community, and educational purposes for which they were specifically chartered or organized. The joint subcommittee, however, expressed concern that with the move toward shrinking government, the climate was not amenable to the creation of a new state agency to regulate charitable gaming.

Mindful of the undisputed testimony that the current regulatory approach would have to change to exert more control over the conduct of charitable gaming to eliminate the numerous abuses in this area and the fact that there is precedent in Virginia law for local enforcement of certain programs with oversight authority vested in the state government, the joint subcommittee requested that a draft be developed which would follow the model of the Chesapeake Bay Preservation Act.

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