



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

August 21, 2024, at 1:00 p.m.

General Assembly Building, Senate Room B

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

The Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission (the Joint Subcommittee) met in Richmond with Senator Bryce E. Reeves, chair, presiding.¹ The meeting began with opening remarks from the chair and vice-chair, Delegate Paul E. Krizek, followed by presentations and discussion. Materials presented at the meeting are accessible through the [*Joint Subcommittee's meetings webpage*](#).

Presentation: Virginia Gaming Commission Study–Cost-Benefit Analysis

Colin Hood, Director, Guidehouse, State and Local Government

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

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

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

Members Absent: Senator Todd E. Pillion, Delegate Luke E. Torian

technology systems to increase efficiency of core functions; (xi) directing the VGC to develop a standardized approach for reporting to the General Assembly on a regular basis across all gaming types; (xii) following implementation of the consolidated gaming commission, considering how to further invest in gaming enforcement; and (xiii) following the successful launch of the VGC, reconsidering Virginia Lottery operations consolidation.

Mr. Hood also provided an overview of the implementation roadmap, noting (a) a transition to a fully consolidated VGC would take an estimated two years; (b) to enable the start of the transition process by July 1, 2025, the General Assembly would need to pass legislation during the upcoming legislative session; (c) the transition approach is employee-centric, including frequent and clear communication throughout the process; and (d) the roadmap is designed to limit the potential disruptions to current operations of the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services, and the Virginia Racing Commission and maintain the integrity of the regulatory landscape. The roadmap focused on three key workstreams: human resources, technology, and operations. Mr. Hood ended the presentation by acknowledging a more complete implementation roadmap would be provided once the Joint Subcommittee votes on which consolidation option it wants to promote.

Presentation: Fantasy Sports

JT Foley, Executive Director, Coalition for Fantasy Sports

Josh Kirschner, Associate, Nelson Mullins

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

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

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



Presentation: Virginia Equine Alliance

Debbie Easter, President, Virginia Equine Alliance Board

Jeb Hannum, Executive Director, Virginia Equine Alliance

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

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

Presentation: Churchill Downs

Gary Palmisano, Patrick Neely, & Aaron Palmer

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



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

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

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

Presentation: Problem and Responsible Gambling

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

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

Ms. Doura-Schawohl provided statistics from multiple states, including Illinois, Ohio, New Jersey, and Connecticut, regarding gambling addiction rates, participation, and revenue. She also provided data from the National Survey on Gambling Attitudes & Gambling Experiences (NGAGE). She explained the current problem gambling infrastructure in the U.S., highlighting that in Virginia the per capita average spend is 20 cents and the estimated annual social cost



incurred by the state is \$358 million. Virginia ranks 27th in the nation in per capita investment. She ended the presentation by explaining a state model for strategic planning purposes, noting that best practices include funding for problem gambling that should come from gross tax revenue from all forms of legal and regulated gambling in the state to support research, prevention, treatment, and recovery. She also opined that the Virginia helpline for problem gambling does a disservice to Virginians and conflicts with the National Problem Gambling Helpline.

Public Comment

Members of the public were given a chance to speak regarding the information presented at the meeting.

Next Meeting

The next meeting of the Joint Subcommittee was not scheduled.

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

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