

Minutes of the Lottery Advisory Commission  
November 30, 2022

**Attendance**

A meeting of the Lottery Advisory Commission (Commission) was held from 1:31 p.m. to 2:53 p.m. on Wednesday, November 30, 2022. Commission members participating by telephone were Representative Karla Rose Hanson, Representative Emily O'Brien, and Senator Nicole Poolman. Members Mr. Mike Rud (Chairman) and Mr. Russ Hanson participated in the Commission meeting in-person.

Representing the North Dakota Lottery were Mr. Lance Gaebe, director, Mr. Ryan Koppy, sales and marketing manager, Mr. Matt Anderson, account budget specialist, Ms. Julie Thompson, security officer, Ms. Missy Steele, administrative staff officer, and Mr. Mark Rauhauser, customer service specialist, Scott Tarno, customer service specialist, and Ms. Jessica Seibel, administrative assistant.

Representing Scientific Games International was Dan Moran, general manager for North Dakota.

North Dakota Attorney General Drew H. Wrigley attended a portion of the meeting.

**Approval of Minutes**

Commissioner Hanson made a motion to approve the minutes of the September 8, 2022, meeting. Commissioner O'Brien seconded the motion. The motion passed 5-0.

**Reports**

a. **Revenues and Expenses and Sales Activity (Unaudited)**

Mr. Anderson presented the overview of revenues and expenses for the fiscal year ended June 30, 2022 (unaudited) and for the quarter ended September 30, 2022 (unaudited) and October 2022 (unaudited) sales.

Total ticket sales for fiscal year ended June 30, 2022, decreased \$1,206,231 or 3.97% compared to the same period last year. The decrease was due to lower jackpots in FY 2022. The \$699 million Powerball jackpot and the \$432 million Mega Millions jackpot, were lower than jackpots of \$731 million and \$1 billion for Powerball and Mega Millions respectively during the prior year. Lucky for Life changed to a daily draw on July 19, 2021, and the Lottery ran a promotion to boost sale in 2022 compared to 2021. High jackpots in Powerball and Mega Millions increased 2by2 sales during 2021 compared to 2022.

Total operating expenses for quarter ended June 30, 2022, decreased \$1,607,007 or 6.81% compared to same period last year. Prize expense decreased \$915,513 or 5.62%, retailer commissions/bonuses decreased \$93,641 or 6.41%, contractual services expense decreased \$111,962 or 3.55%. These decreases were due in part to the Multi-State Lottery Association

(MUSL) distributing excess reserves of \$35,000 during FY 2022 with none in FY 2021. Players Club expense stayed the same \$325,000. Marketing expense increased \$4,957 or .95%. Salaries and benefits decreased \$227,777 or 17.66% due to the pension liability expense of \$269,000 in FY 2021 compared to \$35,000 in FY 2022. Operating expenses decreased \$263,071 or 46.55% due to \$348,000 paid in building costs (cost overrun from building), in addition to rent in FY 2021 compared to \$5,000 in FY 2022.

Total ticket sales for quarter ended September 30, 2022, increased \$2,188,258 or 28.21% compared to last fiscal year. The increase was primarily due to a large Mega Millions the \$1.2 billion jackpot in July 2022, compared to \$432 million in 2021. The Lotto America jackpot reached \$7 million during quarter end September 30, 2021, compared to \$24 million for quarter end September 30, 2022. The high jackpots increased sales for all games including 2by2. Additional sales can also be attributed to Lotto America switching from a two-to three-day per week draw on July 18, 2022, and the Lottery ran a promotion to boost sales.

Total ticket sales for the month ended October 31, 2022, compared to October 31, 2021, increased \$1,544,290 or 60.65%. This increase was primarily due to the Powerball jackpot reaching \$999 million and Mega Millions jackpot reaching \$494 million during October 2022, compared to \$699 million and \$108 million respectively in October 2021. The Lotto America jackpot reached \$29.4 million for month end October 31, 2022, compared to \$3.7 million during October 2021. The sales for Lucky for Life dropped by 11.8% but this was due to a promotion ran to boost sales in 2021 compared to 2022 when the game went to a seven day draw in 2021.

b. **Marketing Activity and Short-Term Marketing Plans**

**Players Club**

Mr. Kopyy presented an overview of marketing activity and short-term marketing plans. The North Dakota Lottery Players Club currently has 50,436 registered members. During the world record \$2.04 Billion Powerball jackpot run in November 2022, the Lottery had another significant spike in club registrations with 1,885 new registrations in just the seven days of November 1<sup>st</sup>-7<sup>th</sup>. In comparison, during the \$1.2 Billion Mega Millions jackpot run in July 2022, there were 1,897 new club registrations in one month.

The following prizes were given away to players through the Points for Drawings program. On September 7, The North Dakota Lottery gave away one Powerball First Millionaire of the Year Trip for two to New York City and five Carson Red Planet Telescopes. On October 11<sup>th</sup>, the Lottery gave away five Oculus VR Headsets and two Troy-Bilt Snow Blowers. On November 15<sup>th</sup>, five Capresso Grind/Brew/Froth Bundles were awarded.

There are three Points for Drawings promotions in progress including one Theater Room Package, two iPhone 13 Bundles, and five Samsonite 4-Piece Luggage Sets. Upcoming Points for Drawings promotions include a One-of-Each Pick & Click Online Play (13 weeks), iRobot Deep Clean Bundle, and His & Hers Citizen Watch Set and Game Seeker Bundle.

November 20 – November 28, 2022, a Black Friday/Cyber Monday 20% discount was offered on Points for Prizes cart purchases using a multi-use promo code. During December 2022, a Season

Savings Spectacular 15% discount will be offered on Points for Prizes cart purchases using multi-use promo code.

Currently all new membership signups receive a 250-point signup bonus. During the month of December 2022, a 1,000-point signup bonus promotion will run. All players who sign up and complete registration during the prescribed promotional period will receive 1,000 bonus points.

### **Promotions**

The Lottery conducted a new promotion that targeted Players Club members who have never funded and purchased a Pick & Click online play. Via the OptiMove CRM platform and Players Club database, the Lottery was able to target email players with a Promo Code that allows them to try Pick & Click online play for free. Players who use the specific promo code between set dates, receive a play/draw of a specific game's online play (\$9 value) for free. The promo codes are sent to eligible email addresses of individual players that meet certain criteria. A "reminder" email is sent to eligible email addresses that do not use the promo code three days prior to the code's expiration date. A third email is sent to players who have yet to use any winnings they might have received. This email reminder is to players that they have winnings in their account that they could use. The Lottery is planning to roll this out as a monthly campaign that occurs automatically.

The Pick & Click online play promotion, *Buy \$10, Get a \$2 discount*, ran as a set of FLASH promotions in September. This is set up as a FLASH promotion in which the sale is promoted on the day of the promotion only. Players who spend \$10 on any game or combination of games or spend \$10 to extend a current Pick & Click online play, receive a \$2 discount during the prescribed dates (September 8, 14, 20, and 26). For each increment of \$10 spent (e.g. \$20, \$50, etc.), a \$2 discount is applied to the purchase at checkout. For example: \$20 spent receives a \$4 discount and \$50 spent receives a \$10 discount. Total promotion sales were \$63,006. Advertising and prize expense are budgeted at \$10,000 and \$17,000 respectively.

The Pick & Click online play promotion, *Never Miss a Draw*, is scheduled to run December 1 through December 31, 2022. All purchases (new and/or extension) of 13 weeks, 26 weeks, 39 weeks, or 52 weeks will receive up to 10% discount. Advertising and prize expenses are budgeted at \$18,000 and \$6,000 respectively.

The 2by2 Instant Win Promotion has run November 6 through December 3, 2022. Qualifying purchase is a single play, 7-draw 2by2 ticket for \$7. With the qualifying purchase, players are eligible to instantly win a free 7-draw 2by2 ticket or \$500; winners are chosen at random. This promotion is part of a multi-state 2by2 promotion. Most of the prize expenses will be covered by the excess reserve in the 2by2 Grand Prize Pool. This was agreed upon, unanimously, by the 2by2 Group. Each participating state is allowed \$35,000 with a 10% buffer (\$38,500 total). At the conclusion of the promotion, the North Dakota Lottery will submit its total prize expense to MUSL. Advertising budget is set at \$40,000 and prize expense budgeted at \$7,000. Media buy includes POS, radio, social media, Programmatic Video, and digital billboards.

The Cash Dash promotion is scheduled to run from February 5 through March 4, 2023. The qualifying purchase will be one of each of the Lottery's games with multipliers (Powerball with Power Play, Mega Millions with Megaplier, Lotto America with All Star Bonus, Lucky for Life,

and 2by2) for \$11. With the qualifying purchase, players will have the chance to instantly win \$5, \$20, \$100, or \$500. Cash Dash instant winners will be chosen at random. The budgeted costs are \$30,000 in instant prizes, \$80,000 in advertising costs (production, point of sale items, radio, YouTube Pre-rolls, Midco CTV/OTT, digital billboards, and Facebook).

### **Player Research and Survey**

Lottery statutes authorize a survey of retailers and players as necessary to study reactions to present and potential features of the lottery. Player research is to be conducted under an established plan to have the survey done every two years. Tentative schedule is for research to be conducted in January and February 2023. The survey will be an online based format like was used in 2021. Survey Sparrow and KK Bold will format questions and compile results. Survey budget is \$20,000.

*(Attorney General, Drew Wrigley, joined the meeting at 2:00 p.m. for 20 minutes and took time to thank Commission members for their service, particularly Senator Poolman, who is retiring from the State Senate and the Commission.)*

### **Draw Process**

Ms. Thompson presented a general overview of Lottery Draw Processes, she discussed the delay in the November 7, 2022, Powerball Draw and North Dakota Lottery redundancy efforts to regularly balance sales.

### **Lottery Draw Processes**

The Multi-State Lottery Association (MUSL) promulgates rules to which all MUSL member lottery jurisdictions must adhere. These rules encompass a wide variety of systems and processes such as network configurations, computer gaming system (CGS), operating systems, internal control system (ICS), daily balancing, draw processes, sales and winners reporting to the MUSL, network access security, and physical security.

These rules are in place to ensure game integrity and that each individual play is recorded in each jurisdiction. This gives assurance to all member lotteries that the plays and winners for a draw have been recorded on the CGS and the separate ICS and the play information is the same on both systems and has not been altered. Every night, before a drawing can happen, each lottery's CGS and ICS systems must "balance." This means that every single data entry must be transmitted between the two systems and perfectly match. Normally, this occurs throughout the day.

For Powerball and each lottery game, all participating lotteries must balance before the drawing. If even one lottery cannot balance, the drawing is delayed until the issue is identified and corrected. This is essential so that every ticket across the country has an equal chance of winning and all prizes are accurately accounted.

The integrity of the plays entered in each draw is critical to uphold the public confidence in the draw and ensure both the lotteries and players that the eventual winners were not in any way fraudulent. To meet these requirements, every lottery must have a CGS that records all plays

sold. These plays must be recorded on the separate ICS system before the ticket is printed or other purchasing avenues. Every day, each member lottery uploads their daily sales data to MUSL. A file is sent by the CGS, and a separate file is sent by the ICS. The MUSL computers record the data from both systems and compare them to each other to make sure data matches exactly. When a draw break occurs each evening, the CGS and the ICS system also encrypt all play information for each ticket recorded in the draw and create a unique hash signature. The encrypted hash signature should be exactly the same between the two systems if the play data recorded for each ticket in a draw matches. The CGS and ICS send their hash signature to the MUSL system separately.

The MUSL system compares the sales and the encrypted hash signatures between the CGS and ICS. If the sales or the hash signatures do not match exactly, the MUSL informs the draw operator for that jurisdiction they are out of balance and will have implement their lockdown procedures and resolve the difference before the draw can occur. The MUSL then informs all other lotteries that the draw will be delayed until the jurisdiction in lockdown can resolve its imbalance issue.

### **November 7, 2022, Powerball Draw Delay**

In the case of the November 7, 2022, Powerball drawing delay, after sales were closed for the game at the draw break, one jurisdiction was unable to report its sales and hash signatures to MUSL. That state lottery was not able to retrieve its draw break sales and hash signature from their ICS system. The jurisdiction implemented lockdown process and began trying to resolve the problem.

The Powerball jackpot for the November 7 drawing had climbed to \$2 billion and all jurisdictions were experiencing huge sales volume. In the sales lead for the drawing, one state's lottery system vendors were not able to communicate in real time, which delayed that state's ability to balance. That lottery worked until 1:45 a.m. on November 8 with its internal control system vendor to fix the communications problem, but at that point it began a reprocess the entire day's sales data. Because of the tremendous number of sales, this process took over five hours to confirm sales data and balance at 7:50 a.m. on November 8. This cleared the Multi-State Lottery to conduct the drawing, which occurred at 7:54 a.m.

At no time was lottery sales data or the game compromised, the draw was delayed ensuring accuracy.

### **North Dakota Lottery Daily Balancing and Redundancy**

The MUSL lotteries go to lengths to avoid imbalance situations. North Dakota balances CGS and ICS submissions every day including weekends and holidays. This gives the Lottery assurance that any imbalance at a draw break would have happened between the start of the current day and the draw break. Daily balancing of data reduces the amount of information that would need to be reviewed to find any discrepancy.

The Lottery ICS system also does a balancing check at regular intervals during the day. If there is a discrepancy between the information it received and what the CGS shows, an automatic notification is sent to the lottery director and security officer.

The Lottery also has two separate ICS servers on separate networks and the CGS also has a backup system. The lottery has lockdown procedures in place in the event of an imbalance between its CGS and ICS. There have been less than five instances when draw sales were out of balance since 2004, and all were resolved before causing a delay in any game draw.

### **Legislative Proposal**

A legislative proposal was presented by the Director Gaebe.

The North Dakota Lottery has one potential law change to propose to the 2023 Legislative Assembly. It is a clarification of retail records confidentiality. Recent open records requests prompted questions about Lottery's authority to release aggregated retail sales information, it has historically provided to requesters and in annual reports. North Dakota Century Code 53-12.1-11(1)(e) stipulates that retail lottery sales data is confidential if its disclosure impacts the competitive position of the lottery, a retailer, or an entity doing business with the lottery.

The proposed change would clarify that individual lottery sales data is confidential if its disclosure may cause harm. The bill would be offered to clarify that sales data is confidential only if the information could be identified with a retailer. A bill draft was shared for the Commission's consideration.

Commissioner Russ Hanson moved to support introduction of the legislative bill and Commissioner Poolman seconded the motion which passed 5-0.

### **Lottery Vendor Contract**

The Lottery's on-line gaming system vendor contract with Scientific Games expires June 30, 2024. Because of system integration, data transfers, and equipment order lead times, the Lottery wants to select a vendor six to nine months in advance of the implementation of a new contract.

The Lottery is drafting a Request for Proposals (RFP) for its game system services. An approximate timeline of the project to prepare and review requests for proposals, choose a vendor, and negotiate a contract:

February 1, 2023	Issue Request For Proposals
March 1, 2023	Deadline for receipt of question and objections
March 17, 2023	Lottery/State responses to questions
April 15, 2023	Proposals Due
June 1, 2023	Site Visits and interviews
July 1, 2023	Select a finalist
August 1, 2023	Finalize contract terms.

Mr. Gaebe had asked for involvement from some of the commissioners that may have some experience in this. Commissioner Russ Hanson suggested Chairman Rud since he was on the last one and did a great job. Chairman Rud said he'd be available to participate.

### **Retailer License Renewals**

The Lottery received all 444 retailer renewals, of which 428 were completed online. The remaining 16 were sent to the office where the Lottery completed them online. The Lottery

collected the annual renewal fee of \$150.00 totaling \$66,600. Licenses were mailed on September 29, 2022.

### **Sales and Jackpot Highlights**

Mr. Rauhauser presented the sales and jackpots highlights.

The *Powerball* \$1.9 billion jackpot in October and early November generated substantial lottery interest in North Dakota and across the country. The \$2.04 billion jackpot was a world record lottery jackpot and when it closed on November 7, 2022. Powerball tickets are sold in North Dakota and 44 other states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The advertised Powerball jackpot is based on ticket sales and annuity interest rates and grows until someone wins. Powerball tickets cost \$2 per play, and for \$1 more per play, players may add the Power Play option to increase non-jackpot prizes.

A single ticket sold in California won a Powerball® jackpot worth \$2.04 billion (\$997.6 million cash) after matching all six numbers drawn in the delayed Monday, November 7 drawing. Due to a technical issue related to verifying sales, the Powerball drawing was delayed and performed the following morning.

The Jackpot interest increased membership in the North Dakota Lottery Players Club and engaged many accounts that had been idle. The membership enables targeted communications and promotions from the Lottery.

Mr. Tarno presented charts that highlighted how jackpots drive sales. Year-to-date through November 21, 2022, sales were up 66 percent. Sci-Play, which provides the Lottery's online sales, was up 71 percent and this purchasing option represents 10 percent of Lottery sales. The in-store terminals do a little over 90 percent of sales. Sales spikes occur with jackpots like during the runup to the \$1.2 billion Mega Millions and the \$2 billion Powerball Jackpot compared prior years' sales. This Fall the Lottery has had two of the four highest jackpots ever in modern history.

### **Omnibus Items**

Mr. Gaebe offered information on two additional topics that did not necessitate Commission action.

The Mega Millions group is contemplating making some changes to differentiate the game from Powerball. The group is talking about a process where each state might have a winner in addition to a major jackpot winner.

Letters were sent to Players Club members whose accounts had been inactive for more than five years. They were asked to contact the Lottery to request a check for their funds or to access their account to purchase tickets. If members do not contact the Lottery, the money will be sent to the State Unclaimed Property Division.

### **Adjournment**

Commissioner Russ Hanson made a motion to adjourn. Chairman Rud seconded the motion, which passed 5-0. The meeting adjourned at 2:53 p.m.