

Minutes of the Lottery Advisory Commission
September 20, 2011

Attendance

A meeting of the Lottery Advisory Commission was held from 2:00 p.m. – 2:55 p.m., on Tuesday, September 20, 2011. Representing the Commission were Mr. Mike Rud (Chairman), Senator Lonnie Laffen, and Mr. Laurel Thoreson. Representative Lois Delmore and Representative Dwight Wrantham participated by telephone. Representing the North Dakota Lottery (Lottery) were Mr. Randy Miller, director, Ms. Tasha Gerding accountant/budget specialist, Ms. Kassondra Keller, sales and marketing manager, and Ms. Sonja Walder, administrative assistant.

Selection of a Chairperson

Commissioner Delmore made a motion to nominate Commissioner Thoreson to serve as chairman for a one-year term. Commissioner Wrantham seconded the motion. Mr. Miller asked for any other nominations. Commissioner Thoreson made a motion to nominate Commissioner Rud. Commissioner Laffen seconded the motion. With no other nominations, a roll call vote was taken. Commissioner Thoreson voted for Commissioner Rud, Commissioner Wrantham voted for Commissioner Rud, Commissioner Delmore voted for Commissioner Thoreson, Commissioner Laffen voted for Commissioner Rud, and Commissioner Rud voted for Commissioner Thoreson. Commissioner Rud received 3 votes and Commissioner Thoreson received 2 votes. Commissioner Rud was elected to serve a one-year term as chairman.

Approval of Minutes

Commissioner Delmore made a motion to approve the minutes of the June 9, 2011 meeting. Commissioner Wrantham seconded the motion. The motion passed 5-0.

Overview of Revenues and Expenses for the Fiscal Year Ended June 30, 2011 (unaudited)

Ms. Gerding provided an overview of the fiscal year ended June 30, 2011. Ticket sales decreased \$1,420,106 or 5.81% and total expenses decreased \$1,108,898 or 6.1% compared to last fiscal year. The prize expense, retailer commissions/bonuses, and contractual services expense decreased proportionately to the decrease in sales. Operating expenses decreased \$195,769 or 41.72% compared to last fiscal year. The decrease in operating expenses was due to the additional costs last fiscal year related to the office relocation that the Lottery did not incur this fiscal year, along with a decrease in Multi-State Lottery Association dues. Commissioner Rud asked how Multi-State Lottery Association dues are determined. Ms. Gerding explained the dues are assessed to each Lottery based on a fixed administrative fee, as well as a variable expense relative to their game sales. The dues are offset by revenue the Lottery receives on interest and royalties through the Multi-State Lottery Association.

Ms. Gerding reported ticket sales for July and August 2011 were up \$236,650 or 6.68% compared to the same period last year.

Commissioner Rud asked if the \$2.8 million decrease in Powerball sales this fiscal year compared to last was due to the Powerball jackpot levels. Mr. Miller stated that Powerball sales are very dependent on the jackpot. Weekly sales steadily increase as the Powerball jackpot approaches the \$200 million level. The Lottery sees a much greater increase in weekly sales as the Powerball jackpot continues to roll after \$200 million. This fiscal year there were fewer Powerball jackpots and the jackpots were not as high as last year which contributed to the decrease in Powerball sales. In addition, the Powerball 10X promotion was not run this year. The 10X promotion is a very good promotion for the Lottery usually generating an additional \$300,000 in sales. Ms. Gerding noted the Powerball Cash Dash promotion was not run this year, but was last year. Ms. Gerding left the meeting at 2:16 p.m.

Overview of Marketing Activity

Ms. Keller provided an overview of marketing activity. The Father's Day subscription discount promotion ran through the month of June. The promotion offered 10% off all subscriptions. There were 428 new subscriptions sold totaling sales of \$36,309. It was a fairly successful promotion for the Lottery.

The 2by2 promotion ran from July 31 through August 28. The promotion encouraged players to buy a 7 draw 2by2 ticket for \$7 and get a chance to instantly win another 7 draw ticket or \$500 cash. Players won over \$19,000 in instant prizes. This was a very successful promotion as sales increased by \$137,500 or 50% during the four week period. The Lottery plans to run the 2by2 promotion again in the future.

The Wild Card 2 subscription discount promotion is currently running on our website through September 30. The promotion offers a discount of up to 10% on any Wild Card 2 subscription. The results of this promotion will be available at the next Commission meeting.

The Cash Dash – One of Each promotion is planned to run from October 23 through November 19. This has proven to be a very successful promotion for the Lottery in the past. The promotion encourages players to purchase one of each game. With each qualifying One of Each purchase (\$8 purchase = \$2 Powerball with Power Play, \$2 Mega Millions with Megaplier, \$2 Hot Lotto with Triple Sizzler, \$1 Wild Card 2, and \$1 2by2) players have a chance to win up to \$500 instantly. The instant cash prize values are \$5, \$20, \$100, or \$500. The Lottery plans to give away \$30,000 in instant prizes. The Lottery will support the promotion with a radio and TV campaign, along with displaying point-of-sale items at retailer locations.

The Holiday Subscription Discount promotion is planned for the month of December. The promotion will offer a discount of up to 10% on a subscription purchase. Additionally, the Lottery will promote the subscription discount at the Pride of Dakota Holiday showcases in Fargo and Bismarck.

The Powerball game brochure and subscription brochure are being updated, along with developing point-of-sale items in preparation for the launch of the \$2 Powerball game on January 15, 2012.

Commissioner Laffen asked if the results of the promotions were tracked after they end. Ms. Keller explained they are tracked to see if there are any residual sales. Ms. Keller left the meeting at 2:22 p.m.

Approval of Draft Administrative Rules for the \$2 Powerball game changes and other Amended Administrative Rules

Mr. Miller provided an overview of the draft administrative rules for the \$2 Powerball game changes. The Powerball rules would be adopted as emergency rules so they are effective January 15, 2012.

**CHAPTER 10-16-04
POWERBALL® GAME**

10-16-04-01. Game description. To play POWERBALL®, a player selects five different white numbers, between one and fifty-nine, and one additional red number (powerball) between one and ~~thirty-nine~~ thirty-five. The additional number may be the same as one of the first five numbers selected. The price of a play is ~~one dollar~~ two dollars. A grand prize is paid, at the election of a winning player or by a default election made according to these rules, either on an annuitized pari-mutuel basis or as a cash lump sum payment of the total cash held for the prize pool on a pari-mutuel basis. A set prize (cash prize of ~~two hundred thousand~~ one million dollars or less) is paid on a single-payment cash basis. Draws are held every Wednesday and Saturday.

History: Effective February 1, 2004; amended effective November 8, 2005; January 4, 2009; January 15, 2012.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

10-16-04-02. Expected prize pool percentages and odds. The minimum grand prize is ~~twenty~~ forty million dollars and is paid on a pari-mutuel basis. Except as provided by rule, a set prize must be paid according to these matches per play and prize amounts with these expected prize payout percentages:

<u>Matches Per Play</u>	<u>Prize</u>	<u>Prize Pool Percentage Allocated to Prize</u>	<u>Odds***</u>
5 white + 1 red	Grand prize	65.06%* <u>63.95%</u>	1:195,249,054 <u>1:175,223,510</u>
5 white + 0 red	\$200,000 <u>\$1,000,000</u>	7.78% <u>19.40%</u>	1:5,138,133 <u>1:5,153,633</u>
4 white + 1 red	\$10,000	2.77% <u>1.54%</u>	1:723,145 <u>1:648,976</u>
4 white + 0 red	\$100	1.05% <u>0.52%</u>	1:19,030 <u>1:19,088</u>
3 white + 1 red	\$100	1.46% <u>0.82%</u>	1:13,644 <u>1:12,245</u>
3 white + 0 red	\$7	3.90% <u>1.94%</u>	1:359 <u>1:360</u>
2 white + 1 red	\$7	1.78% <u>0.99%</u>	1:787 <u>1:706</u>
1 white + 1 red	\$4	6.48% <u>3.61%</u>	1:123 <u>1:111</u>
0 white + 1 red	\$3 <u>\$4</u>	9.72% <u>7.22%</u>	1:62 <u>1:55</u>

Overall odds of winning a prize on a ~~one~~ two dollar play are ~~1:35.11~~ 1:31.85.

~~*When the grand prize reaches a new high level, the prize pool percentage allocated to the grand prize must be reduced to the percentage needed to fund the maximum grand prize increase as determined by the game group, with the remainder funding the match 5 bonus prize category.~~

*******Reflects the odds of winning and probable distribution of winning tickets in and among each prize tier, based on the total number of possible combinations.

History: Effective February 1, 2004; amended effective November 8, 2005; April 1, 2008; January 4, 2009; January 15, 2012.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

10-16-04-04. Prize pool and payment.

1. The prize pool for all prize categories must consist of fifty percent of each draw period's sales after the prize reserve account is funded.
2. The prize money allocated to the grand prize pool must be divided equally by the number of plays that win the grand prize. If the grand prize is not won in a draw, subject to any restrictions by the game group, the prize money allocated for the grand prize must roll over and be added to the grand prize pool for the next draw. ~~If a new high grand prize is not won in a draw, the prize money allocated for the match 5 bonus prizes must roll over and be added to the match 5 bonus prize pool for the next draw.~~
- ~~3. When the grand prize reaches a new high annuitized amount, the maximum amount to be allocated to the grand prize pool is an additional twenty five million dollars (annuitized) or an amount set by the game group. Any amount of the grand prize percentage that exceeds the twenty five million dollar (annuitized) increase must be added to the match 5 bonus prize pool. The match 5 bonus prize pool is created, and must accumulate until the grand prize is won, at which time the match 5 bonus prize pool must be divided equally by the number of plays that win the match 5 prize. If there is no match 5 winning play on the draw when the new high grand prize is won, the match 5 bonus prize pool must be divided equally by the number of plays that win the match 4+1 prize.~~
- 4.3. If there are multiple grand prize winning plays during a draw, each player selecting the annuitized option prize, then a winning play's share of the guaranteed annuitized grand prize must be determined by dividing the guaranteed annuitized grand prize by the number of winning plays.
- ~~5. The prize money allocated to the match 5 bonus prize must be divided equally by the number of plays that win the match 5 prize when a play wins the new high grand prize amount.~~

~~6.4~~ A grand prize must be paid, at the election of the winning player made within sixty days after the player becomes entitled to the prize, with either a per winning player annuity or cash payment. If the payment election is not made by the player within sixty days after the player becomes entitled to the prize, then the prize must be paid as an annuity prize. An election for an annuity payment made by a player may be changed to a cash payment at the election of the player until the expiration of sixty days after the player becomes entitled to the prize. Otherwise, the payment election is final. Shares of the grand prize must be determined by dividing the cash available in the grand prize pool equally among all winning plays of the grand prize. A player who elects a cash payment must be paid the share in a single cash payment. A player who elects an annuitized prize must be paid annually in thirty graduated payments with the initial payment being made in cash, followed by twenty-nine payments (increasing each year) by a rate determined by the game group funded by the annuity. Annual payments after the initial payment must be made by the lottery on the anniversary date or if this date falls on a nonbusiness day, then the first business day following the anniversary date of the draw of the grand prize winning numbers.

~~7.5~~ The lottery may not pay a grand or set cash prize until after it receives authorization from the MUSL. The lottery may pay the prize before it receives the funds from the MUSL.

~~8.6~~ The prize pool percentage allocated to set prizes must be carried forward to a subsequent draw if all or a portion of it is not needed to pay the set prizes awarded in the current draw.

History: Effective February 1, 2004; amended effective November 8, 2005; April 1, 2008; January 15, 2012.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

10-16-04-06. Power play option.

1. The power play option is a limited extension of the POWERBALL® game and is conducted according to the game group's game rules. The option offers the owner of a qualifying play a chance to ~~multiply or~~ increase the amount of a set prize. ~~A match 5 bonus prize is awarded independent of the power play option and is not multiplied by the power play multiplier.~~
2. A qualifying play is a single POWERBALL® play for which the player pays an extra one dollar for the power play option. ~~Power play does not apply to the grand prize or a match 5 bonus prize.~~

~~3. A qualifying play which wins one of the seven lowest set prizes (excluding the match 5+0 prize) will be multiplied by a single number (2, 3, 4, or 5) drawn in a separate random power play drawing. The announced match 5+0 prize, for players selecting the power play option, shall be paid \$1,000,000 unless a higher limited promotional dollar amount is announced by the game group or unless a lower dollar amount is announced by the game group under its limitation of liability rules. The game group may change one or more of the multiplier numbers or the match 5+0 power play prize amount, or both, for a special promotion.~~

4.3 A prize awarded must be paid as a lump sum set prize. Instead of the normal set prize amount, a qualifying power play which wins one of the eight lowest set prizes (excluding the jackpot) will pay the amounts shown below ~~when matched with the power play number drawn:~~

POWERBALL® Pays Instead

<u>Matches per Play</u>	<u>Set Prize Amount</u>	<u>Prize Amount With Power Play Purchase</u>
5 white + 0 red	\$200,000	\$1,000,000
	<u>\$1,000,000</u>	<u>\$2,000,000</u>

Prize Amounts With Power Play Purchase and Multiplier

<u>Matches per Play</u>	<u>Set Prize Amount</u>	<u>5X</u>	<u>4X</u>	<u>3X</u>	<u>2X</u>	
4 white + 1 red	\$10,000	<u>\$40,000</u>	\$50,000	\$40,000	\$30,000	\$20,000
4 white + 0 red	\$100	<u>\$200</u>	\$500	\$400	\$300	\$200
3 white + 1 red	\$100	<u>\$200</u>	\$500	\$400	\$300	\$200
3 white + 0 red	\$7	<u>\$14</u>	\$35	\$28	\$21	\$14
2 white + 1 red	\$7	<u>\$14</u>	\$35	\$28	\$21	\$14
1 white + 1 red	\$4	<u>\$12</u>	\$20	\$16	\$12	\$8
0 white + 1 red	\$3 <u>\$4</u>	<u>\$12</u>	\$15	\$12	\$9	\$6

Rarely, under the game group's limitation of liability rules, a set prize amount may be less than the amount shown. In that case, a the eight lowest power play prize prizes will be a multiple of two through five for the new set prize amount for the seven lowest set prizes changed to an amount announced after the draw. For example, if the match 4+1 set prize amount of ten thousand dollars becomes ~~five thousand fifty~~ five thousand dollars under the game group's rules, a power play player winning that prize amount ~~when a "4" has been drawn~~ would win ~~twenty~~

~~thousand two hundred twenty thousand dollars (\$5,050 x 4). The match 5+0 prize may be reduced as announced by the game group.~~

~~5. The following table reflects the probability of the power play numbers being drawn:~~

<u>Power Play</u>	<u>Probability of Prize Increase</u>
5X Prize won times 5	1 in 4
4X Prize won times 4	1 in 4
3X Prize won times 3	1 in 4
2X Prize won times 2	1 in 4

History: Effective February 1, 2004; amended effective November 8, 2005; April 1, 2008; January 4, 2009; November 1, 2010; January 15, 2012.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

Mr. Miller provided an overview of other draft administrative rules related to the retailer sales bonus. The retailer sales bonus rules would be adopted as emergency rules so they are effective January 15, 2012.

CHAPTER 10-16-02 RETAILER

10-16-02-07. Sales commission and bonus.

1. The lottery shall credit a retailer's account for:
 - a. A sales commission of five percent of the retail price of a ticket sold or otherwise issued by the retailer;
 - b. A sales commission of five percent of the amount of an initial or renewal subscription sale that is transacted through the lottery on a subscription application form that is issued by the retailer's terminal or procured from the retailer with the retailer's license number on it. The retailer must be currently licensed when the subscription application form is processed by the lottery. There is no sales commission on the value of a prize on a winning subscription play that automatically extends a subscription period according to subdivision a of subsection 10 of section 10-16-03-08.1; and
 - c. A sales bonus for selling a ticket with a winning play, or for an initial or renewal subscription sale described by subdivision b, including an extended subscription period, that has a winning play, for a game as stated below. However, the retailer must be currently licensed when a draw is conducted that results in the winning play of a ticket or when the

winning subscription play is validated. If the winning play for POWERBALL® has the power play option, or the winning play for MEGA MILLIONS® has the Megaplier® option, or the winning play for HOT LOTTO® has the triple sizzler option, the retailer's account must also be credited for an additional bonus as stated below:

<u>Prize</u>	<u>Bonus</u>	<u>Additional Bonus</u>
POWERBALL®		
Grand prize	\$50,000	Additional \$50,000 with power play
\$200,000	\$2,500	Additional \$2,500 with power play
<u>\$1,000,000</u>	<u>\$5,000</u>	<u>Additional \$5,000 with power play</u>
\$10,000	\$500	Additional \$500 with power play
MEGA MILLIONS®		
Grand prize	\$50,000	Additional \$50,000 with Megaplier®
\$250,000	\$2,500	Additional \$2,500 with Megaplier®
\$10,000	\$500	Additional \$500 with Megaplier®
HOT LOTTO®		
Grand prize	\$5,000	Additional \$5,000 with triple sizzler
\$10,000	\$500	Additional \$500 with triple sizzler
WILD CARD 2®		
Grand prize	\$2,000	
\$5,000	\$250	
2BY2®		
Grand prize		
\$22,000	\$500	
\$44,000*	\$1,000	

*Tuesday draw double grand prize winning play on a qualifying multi-draw ticket.

2. The lottery may credit a retailer's account for a fixed or graduated sales commission or bonus for a special promotion, including power play, Megaplier®, and triple sizzler, that the lottery conducts for a certain period of time based on parameters set by the lottery.

History: Effective February 1, 2004; amended effective January 1, 2006; January 3, 2008; January 31, 2010; January 15, 2012.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-02, 53-12.1-03, 53-12.1-13

Commissioner Delmore made a motion to approve the draft rules for the \$2 Powerball game changes and the retailer sales bonus. Commissioner Thoreson seconded the motion. A roll call vote was taken. Commissioner Thoreson-yes, Commissioner Laffen-yes, Commissioner Rud-yes, Commissioner Wrangham-no, and Commissioner Delmore-yes. The motion passed 4-1. The recommendation will be presented to Attorney General Stenehjem for approval prior to moving forward with the rule adoption process.

Commissioner Rud asked what the Powerball Group vote was on the \$2 game change. Mr. Miller explained the Powerball Group uses a dual system of voting. A membership vote and a sales vote are taken. Both require a two-thirds vote to pass. The membership vote was 68.75% and the sales vote was 73.39% to sell Powerball at \$2.

Commissioner Rud asked what the process is now regarding the Lottery and the new game changes. Mr. Miller summarized the rule adoption process. The Lottery will begin the rule adoption process after Attorney General Stenehjem provides approval of the proposed rules. Then the Lottery will send the North Dakota Legislative Council the Notice of Intent to Amend Administrative Rules and a copy of the proposed rules. The Lottery will request the North Dakota Newspaper Association to publish the Abbreviated Notice of Intent to Amend Administrative Rules in each official county newspaper. A public hearing will be held at least 20 days after the latest date of publication. Public comments will be accepted at the hearing and at least 10 days after the hearing. All written and oral comments will be presented to the Lottery Advisory Commission for consideration. The Lottery Advisory Commission will provide final approval of the proposed rules or amended rules. The recommendation will then be presented to Attorney General Stenehjem for final approval. The Lottery submits a Request for the Attorney General's Opinion as to the Legality of the Proposed Rules. Upon receiving the Attorney General's opinion as to their legality, the rules are filed with the North Dakota Legislative Council for publication in the North Dakota Administrative Code. The Lottery then provides information describing the procedure followed in adopting the rules to the Administrative Rules Committee.

Mr. Miller explained that if the Lottery wants to continue to offer the Powerball game, we must adopt the \$2 Powerball rule changes which are a summary of the Multi-State Lottery Powerball rules effective January 15, 2012. After January 14, 2012, there will no longer be a \$1 Powerball game offered, only a \$2 Powerball game.

Omnibus Items

Mr. Miller reported the Office of the State Auditor began the Lottery's financial audit for the period ending June 30, 2011 on September 12. The auditors plan to be onsite at the Lottery office for 2-3 weeks. The opinion from the Office of the State Auditor should be issued in mid-December.

Mr. Miller provided an update on tickets not printing from some retailer terminals. Scientific Games is installing a retrofit to the terminals in an effort to resolve the tickets not printing. They hope to have the equipment installed in all the retailer locations by the end of October. The issue seemed less frequent over the summer months, so with the weather changing, we will see if this retrofit alleviates the problem.

Mr. Miller informed the Commission the Wild Card 2 Game Group is discussing possible matrix changes and an add-on feature to refresh the game. There have not been any games changes made in 15 years. Depending upon how quickly the game change would take effect, a teleconference meeting with the commissioners may be necessary to approve the proposed rule changes so the Lottery can begin the rule adoption process.

Mr. Miller informed the Commission that Scientific Games made programming changes to the terminal software to allow retailers to print subscription application forms from their terminal during the holiday subscription discount promotion in December. This makes it convenient for retailers to offer the subscription discount at the terminal and earn the 5% commission on a subscription sale by printing the subscription application form and giving it to the player to complete and return to the Lottery with payment. The Lottery plans on providing retailers with a point-of-sale item such as a poster during the holiday promotion to let players know they can ask for the discounted application there. The retailer will not be processing the subscription, merely printing an application with their retailer number on it for the customer to return to the Lottery.

Mr. Miller informed the Commission the lottery customer service specialists completed the setup of the point-of-sale items for the retailer sales enhancement pilot program. The pilot program will run for six months through mid-March. The program introduces new point-of-sale items to 14 retailers in Bismarck, Mandan, Dickinson, Jamestown, Valley City, Fargo and West Fargo. New point-of-sale items include play centers, counter wrap, window striping, mini-jackpot signs, lane dividers, and shopping baskets. The Lottery will monitor the effectiveness of the pilot program based on sales increases at these locations and the customer service specialists will provide a report at our December meeting. Commissioner Rud asked Mr. Miller to send the Commissioners a list of the 14 retailers.

Mr. Miller reported the Lottery completed its first records retention for disposal of records and documents that met their retention requirements per North Dakota Century Code 54-46-05. The records retention process will be completed on an annual basis.

Mr. Miller and Ms. Keller will be attending the NASPL 2011 Annual Conference in Indianapolis the week of October 24-28. There will be Powerball Group, MUSL, and NASPL meetings, along with a trade show, general sessions with keynote speakers, breakout sessions discussing industry topics, and an Awards reception.

The Lottery will be attending the North Dakota Petroleum Marketers Convention and Trade Show in Grand Forks on October 26. It is a great opportunity to meet and greet retailers, as well as answer their questions. Because Mr. Miller will be attending the NASPL 2011 Annual Conference, Scott Tarno will be setting up the booth and representing the Lottery.

Adjournment

Commissioner Thoreson made a motion to adjourn. Commissioner Delmore seconded the motion. The motion passed 5-0. The meeting adjourned at 2:55 p.m.