

Minutes of the Lottery Advisory Commission  
March 23, 2023

Attendance

A meeting of the Lottery Advisory Commission (Commission) was held from 7:11 a.m. until 8:21 a.m., on Thursday, March 23, 2023 in 17<sup>th</sup> floor conference room of the State Capitol. Commission members participating were Chairman Mike Rud by remote access, Representative Karla Rose Hanson, Senator Jeff Barta, Representative Emily O'Brien, and Mr. Russ Hanson. Representing the North Dakota Lottery (Lottery) were Mr. Lance Gaebe, director, Mr. Ryan Koppy, sales and marketing manager, Mr. Matt Anderson, account budget specialist, and Ms. Jessica Seibel, administrative assistant II.

Approval of Minutes

Commissioner Russ Hanson made a motion to approve the minutes of the November 30, 2022, meeting. Commissioner O'Brien seconded the motion, which then passed 5-0.

Lottery Background

Mr. Gaebe presented a brief overview of Lottery:

North Dakota voters approved a state lottery in 2002. North Dakota Lottery is responsible for administering, regulating, enforcing, and promoting the state's participation in multi-state lotteries. Under the supervision of the Attorney General, the North Dakota Lottery considers the sensitive nature of lottery games, and promotes options to players with integrity, security, and fairness; and encourages players to be responsible in their play.

The North Dakota Lottery conducts five multi-state games: Powerball®, Mega Millions®, Lucky for Life®, Lotto America®, and 2by2®. The mix of games provides jackpots starting from \$22,000 to \$20 million. As stipulated in the state constitution, all the games North Dakota Lottery offers are multi-state offerings. The Lottery does not sell scratch-off or instant tickets.

**Ticket Sales**

There are 445 gas stations, convenience stores, and grocery stores licensed to sell North Dakota lottery tickets. In 50 of these locations, in addition to employee operated lottery terminals, there are self-service terminals. In the calendar-year 2022, these businesses earned \$1.6 million in sales commissions and \$44,000 in bonuses related to selling winning tickets.

Retailers can verify and pay low tier winning tickets, but any \$600 or higher winners must be redeemed by the Lottery office.

Starting in 2005, the Lottery was one of the first in the country to offer subscription play. Registered and verified North Dakota players have made internet-based lottery game purchases since 2014. Purchases over mobile devices, through a custom mobile device application, have been available since 2018. The official North Dakota Lottery Players Club® mobile app permits players to:

- View lottery drawing results
- Purchase entries for authorized draw games through online play
- Scan tickets for winners and to collect reward points
- Use reward points to purchase merchandise or enter promotions
- Locate North Dakota lottery retailers

North Dakota's lottery system vendor, Scientific Games LLC, publishes and supports mobile lottery applications and the Players Club, including the Points for Drawing and Points for Prizes options.

### **Revenue**

In Fiscal Year 2022, there were approximately \$29.2 million of lottery tickets purchased in North Dakota. Ticket sales proceeds were approximately allocated:

- 53% to prizes
- 10% to the lottery system contractor
- 7% to salaries and operations
- 5% to retailer commissions and bonuses
- \$800,000 to the Multi-Jurisdictional Drug Task Force Grant Fund
- \$320,000 to the Compulsive Gambling Prevention and Treatment Fund
- The net revenue of \$5.6 million, or about 19% of sales, was transferred to the state's General Fund

### **Online Gaming System**

Scientific Games International provides the Lottery with online and secondary online gaming systems hardware, games management system (GMS) software, retailer telecommunications, 500 lottery and self-service terminals, jackpot signs, in-store video monitors and the players' club. The GMS manages retailers and tracks and controls the sale of tickets, validates winning tickets, and allows payments on winning tickets. The telecommunications network that connects retailers to the computer data center is primarily cellular based. The Lottery does not own the terminal equipment or networks.

Scientific Games has a general manager, a software tester, a field service supervisor, and several field technicians in-state to provide service to the Lottery and its retailers; and it also dedicates several remote network operators and technical specialists who assist with graphics, marketing, and Players Club activities.

Scientific Games International also contracts with a third-party internal control systems (ICS) vendor with redundant transaction verification systems. The ICSs are independent databases of

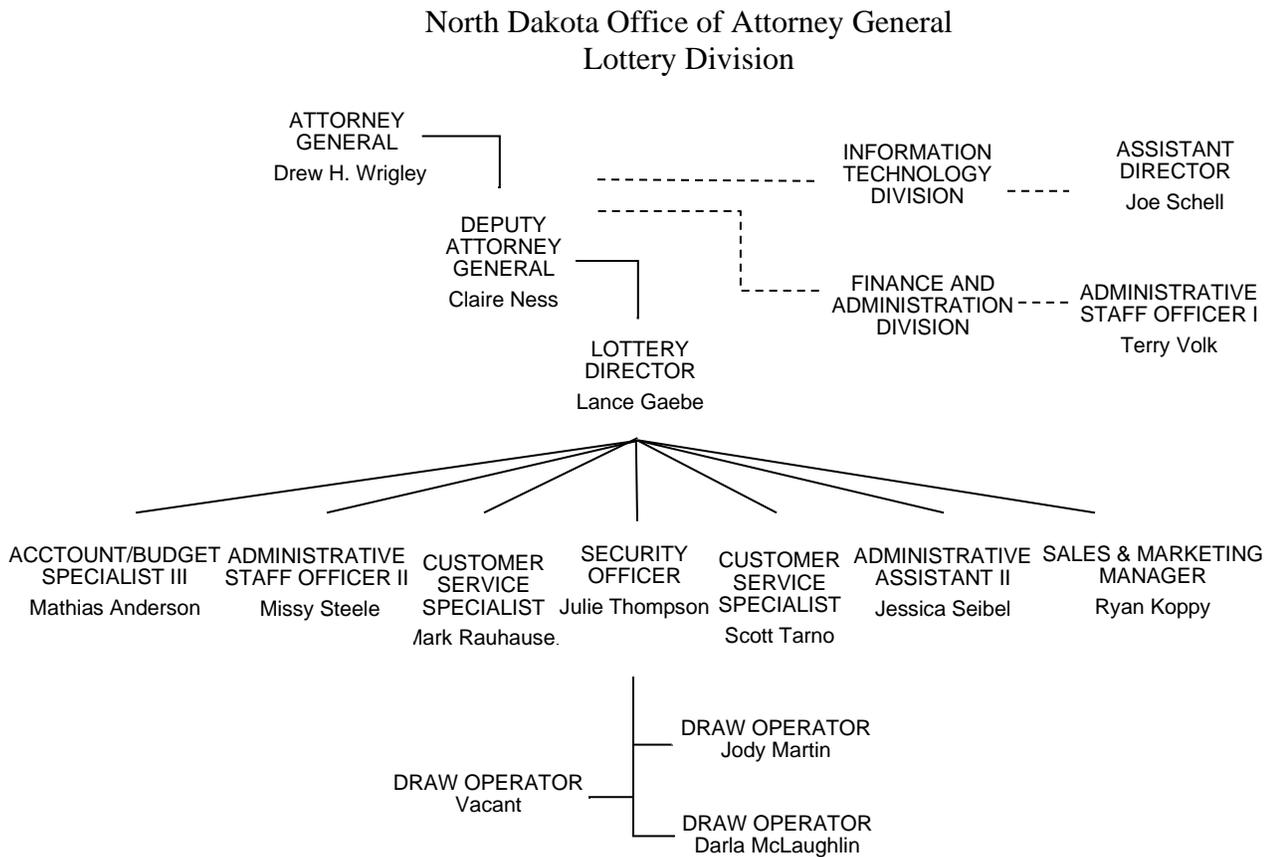
all retailer and online sales transactions that are accessed only by the Lottery, they are used for each draw to verify sales, number of winning tickets, and other confidential data.

The current gaming vendor contract with Scientific Games International expires June 30, 2024.

**Staff**

The Lottery’s appropriation for the 2021-2023 biennium is \$2,118,319 for salaries and benefits for 10 positions and \$3,136,525 for operating expenses. The Lottery has a continuing appropriation authority for variable expenses of prizes, retailer commissions, online gaming system vendor fees, and multi-state game group expenses which have a direct incremental relationship to sales and cannot be budgeted.

The appropriation funds 8 full-time and 3 part-time positions in the Lottery Division, 1 position in the Information Technology Division, and 1 position in the Finance and Administration Division.



**Advisory Commission**

North Dakota Century Ch. 53-12.1-04 established the Lottery Advisory Commission with five members, three of whom are legislators selected by the chairman of the legislative management and two of whom are selected by the attorney general. The term of office is three years.

The Lottery Advisory Commission serves as a policy advisor to the Attorney General and Director of the Lottery and serves as the Audit Committee of the Lottery. The Commission provides an independent perspective on issues and operation of the Lottery and presents ideas and recommends solutions while representing the best interests of the state, public, and lottery industry.

The Commission relies on the Director to provide data, progress reports, research, quarterly and annual financial statements, and information related to critical success factors for the Lottery. The Commission meets at least quarterly. Its budget is contained in the Lottery line of the Office of Attorney General's appropriation.

The Attorney General and Director consult with the Commission on substantive policies, plans, issues, contracts, timelines, and activities of the Lottery, including:

- Selecting retailers
- Proposing new games
- Hiring a lottery director
- Proposing laws and rules
- Drafting legislative reports
- Proposing surveys or studies
- Developing a mission statement, logo, and slogan
- Developing point-of-sale decals, brochures, banners, and posters
- Developing the organization structure and employing key employees
- Proposing ceremonial launches of games or celebrated anniversaries
- Selecting vendors for the on-line gaming system and marketing services
- Proposing advertising, marketing, promotional, and educational campaigns
- Proposing policies on monetary fines, license suspensions and revocations, and sales incentive programs

MEMBER	COUNTY	APPT. DATE	TERM ENDS
Mike Rud	Burleigh	07/01/2022	06/30/2025
Rep. Karla Rose Hanson	Cass	07/01/2021	06/30/2024
Russ Hanson	Burleigh	07/01/2021	06/30/2024
Sen. Jeff Barta	Grand Forks	02/09/2023	06/30/2023
Rep. Emily O'Brien	Grand Forks	07/01/2020	06/30/2023

Lottery employees and members of the Lottery Advisory Commission, or family members in their households, cannot buy North Dakota Lottery tickets nor win lottery prizes.

**Overview of Revenues and Expenses for Quarter ended December 31 2022**

Mr. Anderson presented the overview of revenues and expenses for the quarter ended December 31, 2022. Total ticket sales increased \$5,761,064 or 77.93% compared to the same period last year. The increase was due in part to the \$2.04 billion Powerball jackpot in November 2022. The

Mega Millions jackpot increased to \$685 million by the end of December 2022 compared to- \$221 million by the end of December 2021. Lotto America had three draws per week in 2022 compared to 2 draws per week in 2021. The game changed on 7/18/2022. Lucky for Life sales were boosted during the Quarter Ended 12/31/21 due to the Cash Dash promotion. 2by2 sales were boosted during the Quarter Ended December 31, 2022, due to the 2by2 7draw promotion.

Total operating expenses increased \$3,526,013 or 61.49% compared to the same period a year earlier. Prize expenses increased \$3,003,933 or 76.96%, retailer commissions/bonuses increased \$254,377 or 71.46%, and contractual services expense increased \$418,847 or 49.40%. The increase in sales for the quarter ended December 31, 2022, had a direct incremental impact on prizes, commissions, and contractual expenses. Powerball prize reserves rebalanced during the quarter ended December 31, 2022 and MUSL paid \$11,000 to the Lottery. The rate paid to Scientific Games decreased from 10.473% to 9.573% effective July 1, 2022. Marketing expense decreased \$98,912 or 52.54% during the Quarter Ended December 31, 2022, due to four monthly payments to KK Bold during the Quarter Ended December 31, 2021, compared to two during Quarter Ended December 31, 2022, due to the timing of the transactions.

Other operating expenses decreased \$56,506 due to National Association of State and Provincial Lotteries (NASPL) dues of \$20,000 that were paid during Quarter Ended December 31, 2021, for calendar year 2022 compared to these being paid during Quarter Ended March 31, 2023, for calendar year 2023. Also, the Quarter Ended December 31, 2021, included five monthly rent payments compared to two during prior Quarter Ended December 31, 2022, due to the timing and frequency of rent payments. Quarter Ended December 31, 2021, included a payment to InterOffice Workspace Furniture to teardown old location furniture and install new location workstations compared to none during the Quarter Ended December 31, 2022.

### **January and February 2023 sales**

Total ticket sales for January through February 2023 increased \$2,513,155 or 51.15%. Powerball jackpot reached \$724 million in 2023 compared to \$632 million in 2022. Mega Millions jackpot reached \$1.3 billion in 2023 compared to \$421 million in 2022. The higher jackpots in Powerball and Mega Millions during 2023 compared to 2022, Lotto America changed to a three draws per week in 2023 compared to two draws per week, and two Instant Luck promos ran during 2022 compared to the Cash Dash promo in 2023 all contribute to the increase of ticket sales during this period.

### **Operating Revenue and Expense Projections for the current and 2023-2025 Biennium**

Based on trends, the Lottery is expecting \$40,653,430 million dollars of operating revenue and an anticipated General Fund transfer of \$9.5 million after the close of the current fiscal year on June 30, 2023. Our highest prior revenue year was in 2016 at \$35,736,468, a significant increase of a \$5 million dollar is likely in FY 2023. A preliminary forecast of 2023-2025 revenues and expenses was also presented as summarized in the following table.

Operating Revenue and Expense Projections

	Total Operating Revenue	Total Operating Expenses	General Fund Transfers	GF Tsfr as % of Sales
23-25 Biennium:				
6/30/2022	29,329,209	21,984,865	5,600,000	19.1%
7/1/22 - 1/31/23	\$ 28,039,398	\$ 19,965,688	\$ 6,908,282	24.6%
Projected Remaining	\$ 12,614,032	\$ 9,500,136	\$ 2,658,333	21.1%
Total 6/30/23	\$ 40,653,430	\$ 29,465,824	\$ 9,566,615	23.5%
Total 21-23 Biennium	\$ 69,982,639	\$ 51,450,689	\$ 15,166,615	21.7%
23-25 Biennium:				
Projected 6/30/2024	\$ 30,273,678	\$ 22,736,524	\$ 6,380,000	21.1%
Projected 6/30/2025	\$ 30,273,678	\$ 22,736,524	\$ 6,380,000	21.1%
Total 23-25 Biennium	\$ 60,547,356	\$ 45,473,048	\$ 12,760,000	21.1%

Projections based on the 5-Year average

**Overview of Marketing Activity and Short-Term Marketing Plans**

Mr. Kopyy presented the overview of marketing activity and short-term marketing plans.

The North Dakota Lottery Players Club currently has 52,121 registered members. The following prizes were given away to players through the Points for Drawings program: five Samsonite 4-Piece Luggage Sets, two iPhone 13 Bundles, one Theater Room Package, five Game Seeker Bundles, five His & Hers Citizen Watch Sets, two iRobot Deep Clean Bundles, ten One-of-Each Pick & Click Online Plays (13-weeks), and one Alienware Gaming Laptop Bundle. Currently we have three Points For Drawing promotions in progress; one 2022 Icon i40L Golf Cart, two Freezer Filler Bundles, and five Rachel Ray 12-Piece Cookware Sets. The ND Lottery has three more Points for Drawings promotions coming up; \$1,000 Cash & NASCAR Powerball Playoff Entry, Apple Mystery Box, and Therabody Theragun Elite.

On November 20 through November 28, 2022, the Lottery ran a Black Friday/Cyber Monday Points for Prizes Promo Code Promotions. The players could save 20% on their entire Points for Prizes cart purchase by using a multi-use promo code. The code was used 162 times and players redeemed over 1.6 million points. This was a 20% increase in points redeemed compared to the previous promo ran in 2021.

On December 1 through December 31, 2022, the Lottery ran Season Savings Spectacular Points for Prizes multi-use promo code HOLIDAY2022. The code was used 74 times and players redeemed over 690,000 points. This was a 16% decrease in points redeemed compared to the 2021 Season Savings Spectacular promo.

North Dakota Lottery's yearly 1,000 Point Signup Bonus promotion ran December 1 through December 31, 2022. All players who signed-up and completed registration during the prescribed promotional period received a 1,000 bonus points upon completion of registration. In the month of December 2022, there were 266 new verified registrants. Currently, all new membership sign-ups receive a 250-point sign-up bonus.

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 can specifically target players with an email that contains 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 specific 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. Active Players defined as: Players who were active within the last 30 days and New Players who had at least one additional activity date (ticket entry or online bet) in the last 14 days of their new period. A "reminder" email is sent to eligible email addresses (individual players) that do not use the promo code and sent 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 is a reminder to these players that they have winnings in their account that they could use. The Lottery is currently planning to roll this out as a monthly campaign that occurs automatically and is still in the planning stage.

The 2by2 Instant Win Promotion ran Sunday, November 6 through Saturday, December 3, 2022. Qualifying purchase was a single play, 7-draw 2by2 ticket for \$7. With the qualifying purchase, players were eligible to instantly win a free 7-draw 2by2 ticket or \$500; winners are chosen at random. This promotion was part of a multi-state 2by2 promotion. Most of the prize expense was covered by the excess reserve in the 2by2 Grand Prize Pool. Each participating state is allotted \$35,000 with a 10% buffer (\$38,500 total). At the conclusion of the promotion, the North Dakota Lottery submitted its total prize expense to MUSL. The advertising budget was set at \$40,000 and prize expense budgeted at \$7,000. Media buy included POS, radio, social media, Programmatic Video and digital billboards. Players won \$38,554 in instant prizes including eleven (11) \$500 prizes. Since the 2by2 Grand Prize Pool reimbursed us for \$38,500, the total prize expense for this promotion was \$54. The 2by2 Instant Win Promotion was a huge success, just like previous years! 2by2 sales for the four-week promotion increased a whopping 80.6% with a total of \$611,584 in sales, when compared to the 26-week, weekly average prior to the promotion. This increase in sales created an additional \$13,645 in retailer sales commission. A 12-week post-promotion analysis showed a weekly increase of 9.8%. This means sales for 2by2 have steadily held a nearly 10% increase in sales post-promotion.

The Pick & Click online play promotion, *Never Miss A Draw*, ran December 1 through December 31, 2022. All purchases (new and/or extension) of 13 weeks, 26 weeks, 39 weeks, or 52 weeks received up to a 10% discount. Advertising and Discount expenses were budgeted at \$18,000 and \$6,000 respectively. Advertising costs came in at \$15,878.46 (small amount yet to be billed).

Total eligible sales reached \$49,842 (total Pick & Click sales for December 2022 were \$338,447) Players received \$5,040 in discounts.

Cash Dash ran from February 5 through March 4, 2023. Qualifying purchase was 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. Eligible qualifying purchases had a chance to instantly win \$5, \$20, \$100, or \$500. Cash Dash instant winners were chosen at random. The budgeted costs were \$30,000 in instant prizes. Players instantly won \$42,875 in prizes including ten \$500 winners and forty \$100 winners. There was \$80,000 in advertising costs (production, point of sale items, TV, radio, YouTube Pre-rolls, Midco CTV/OTT, digital billboards, and Facebook). So far, \$6,737.41 has been billed. This promotion was a big success, as it built on the 2021 Cash Promotion. When compared to the Nov/Dec 2021 Cash Promotion, sales increased 11.6% (+\$247,361). When compared to comparable jackpot sales, we saw an increase of 13.8% (+\$288,807).

A "flash" version of the *Instant Luck* promotion is scheduled to run one week each month in April, May, and June. This version has no POS in store and a limited advertising budget of \$7,500 which will include radio and social media only. In-store screens and promotional images on tickets will be used with zero cost. The promotion will run, Sunday, April 23 through Saturday, April 29, 2023, Sunday, May 14 through Saturday, May 20, 2023, and Sunday, June 11 through Saturday, June 17, 2023. Qualifying purchase is a single draw, 3 play Lucky for Life ticket (\$6 value). Eligible qualifying purchases receive a chance to instantly win a free \$2 Lucky for Life ticket, \$10, or \$100. Instant Luck winners are chosen at random. Advertising and prize expense budgets are set at \$7,500 and \$25,000 respectively.

Player Research will be conducted per the established plan to have the survey done every two years. The tentative schedule is for research to be conducted in the Spring of 2023. This will be an online based format, same as what was done in January/February 2021. We plan to use Survey Sparrow again and the budget for the survey is set at \$20,000.

#### **Lotto America game procedure change**

Mr. Gaebe presented the Lotto America game procedure change. Beginning Monday, April 17, 2023, Lotto America® drawings will be conducted using a computer system called a digital draw system (DDS), which will replace the numbered lottery balls and mechanical draw machines.

Lotto America will continue to have drawings every Monday, Wednesday, and Saturday night, however, Lotto America drawings will now be held before Powerball drawings, around 9:15 p.m. CT. Currently, Lotto America drawings happen after Powerball drawings. With the earlier draw time, players will have results 45 minutes – 1 hour sooner on draw nights. The digital drawings for Lotto America will be conducted and audited at MUSL's headquarters in Johnston, Iowa.

The Lotto America game will continue to be played the same way, with the same \$1 ticket price and prize structure. Players will continue to select five numbers from 1 to 52 and one Star Ball number from 1 to 10. The prize multiplier feature, known as the All Star Bonus®, will also be available for an additional \$1 per play.

Both digital and mechanical draw methods are equally random and offer the same odds of winning. Every drawing, regardless of method, is overseen and verified by draw managers and independent auditors. The draw equipment used in both methods is subject to a series of pre-deployment and ongoing security assessments to certify its randomness before it's used in official drawings.

Lotto America's transition to digital drawings does not affect Mega Millions® or Powerball® drawings, which will continue to use numbered balls and mechanical drawing machines.

#### Legislative update

Mr. Gaebe presented the Legislative update.

During its November 30, 2022, meeting, the Commission approved introduction of one proposed legislative change for consideration by the 2023 Legislative Assembly.

The North Dakota Lottery proposed the statutory change outlined in [House Bill No. 1115](#) to clarify retail sales records confidentiality.

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. This bill was offered to clarify that it is okay for the Lottery to release combined, or aggregated, retail sales information. The change made clear that individual retailer lottery sales data remains confidential, but that total or aggregated sales data can be released to reporting firms, policy makers, and as provided in Lottery's own publications.

House Bill 1115 passed the House by a vote of 91 to 0 and the Senate with a 45 to 0 vote and was signed by the Governor on March 15, 2023.

There are many gaming related policy proposals under consideration by the 2023 Legislature, but few will directly affect the Lottery, or its operations. Three measures which might, or would have impacted, the Lottery are Senate Bill 2003, House Concurrent Resolution 3002, and House Concurrent Resolution 3032.

The Lottery's salary and operations budget is within [Senate Bill 2003](#), the appropriation bill for the Office of the Attorney General. There has been little change in the funding levels except to account for potential state employee salary increases. One change approved by the Senate and being considered by the House, is to increase the quarterly transfer from the lottery operating fund to the multijurisdictional drug task force grant fund

from \$200,000 to \$250,000, this would change the biennial total from \$1.6 million to \$2 million.

If passed, [House Concurrent Resolution 3002](#), will place the question of changing the constitution to permit legalized sport betting on the November 2024 ballot. If the ballot measure passes, the 2025 Legislature could establish and implement the framework of sports betting in the state. In 2022, ten other state lotteries operated the legalized sports betting in their jurisdictions and three additional lotteries are implementing the option in their states. The measure passed the House 49-44 and is awaiting Senate consideration after a 5 to 2 Do Not Pass recommendation from its Judiciary Committee.

[House Concurrent Resolution 3032](#) would have authorized a study of consolidating the administration of racing, sports, lottery, and gaming activities into a single office, whether as a division of the Attorney General's office or a separate agency. The proposal was defeated in the House 44 to 45.

### **Lottery Online Gaming System Vendor Procurement**

Mr. Gaebe presented the Lottery online gaming system vendor procurement update.

The Lottery's online gaming system vendor contract with Scientific Games Incorporated expires June 30, 2024.

Because of system integration, data transfers, and equipment order lead times, the objective is to have a firm selected six to nine months in advance of the implementation of a new contract.

The Lottery is drafting a Request for Proposals (RFP). A tentative timeline of the project to prepare and review requests for proposals, choose a vendor, and negotiate a contract:

April 1, 2023	Issue Request For Proposals
May, 2023	Proposals Due
July 2023	Site Visits and interviews
August 1, 2023	Select a finalist
September 1, 2023	Finalize contract terms.
July 1, 2024	Conversion date

### **Additional Business**

Mr. Gaebe explained that Mega Millions is considering a change slated for Summer of 2024, to change from a \$2 dollar game to a \$5 dollar game. The concept is that whenever there is a national jackpot won, every state lottery will also have its own sub-jackpot, which would be based on a slightly more than 10% percent of its sales. One of the common complaints every state hears, including on North Dakota, is that there is never a winner in our jurisdiction.

With this game concept, when there is a \$700 million-dollar Mega Millions jackpot national winner, North Dakota could have \$250 thousand dollar winner, and Minnesota would have a \$1.1 million dollar winner. Every member state would have a sub-winner in a subsequent draw.

### **Player Club App on Google Play**

Lottery is still dealing with the Google lawsuit and trying to get the North Dakota Lottery Players Club app in the Google Play Store. Lottery's app has been in the Apple Store for IOS systems for several years. There will be an update coming up for the Lottery mobile app as well.

### **Adjournment**

There being no further business the meeting adjourned at 8:21 a.m.