

Minutes of the Lottery Advisory Commission  
June 21, 2023

A meeting of the Lottery Advisory Commission (Commission) was held from 8:04 a.m. until 8:51 a.m., on Wednesday, June 21, 2023. Commission members participating by remote access were Representative Karla Rose Hanson, Senator Jeff Barta, Representative Emily O'Brien, and Mr. Russ Hanson. Chairman Mike Rud participated in the meeting in-person from the Lottery offices. 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. Representing Scientific Games was Dan Moran, general manager for North Dakota. Representing the State Auditor's Office was Delan Hellman, senior auditor.

**Approval of Minutes**

Commissioner Russ Hanson made a motion to approve the minutes of the March 23, 2023, meeting, Commissioner Karla Rose Hanson seconded the motion, which then passed 5-0.

**Review and Acceptance of audit report for the fiscal years ended June 30, 2022**

Delan Hellman, Senior Auditor with the North Dakota State Auditor's Office, presented the North Dakota Lottery audit report for the fiscal year ended June 30, 2022, to the Commission. The audit report includes financial statements of the business-type activities of the Lottery. North Dakota Century Code § 53-12.1-03 and § 54-10-01 stipulate the auditor annually conduct audits of the Lottery. Lindsey Slappy was the Audit Manager; Mr. Hellman was the lead auditor with two other staff auditors on the audit. The final Independent Auditor's Report was issued the on April 13, 2023, and is available on the both the State Auditor's and on the North Dakota Lottery's websites.

The audit went smoothly and was a clean audit report with no formal recommendations.

The Commission noted receiving the State Auditor audit report of the Lottery for the fiscal years ended June 30, 2022.

**Overview of financial information**

Mr. Anderson presented an overview of revenues and expenses for the quarters ended March 31, 2023, December 31, 2022, and September 30, 2022 (unaudited).

For quarter ended March 31, 2023, total ticket sales increased \$2,539,451 or 35.50% compared to the same period a year earlier. The change in ticket sales is largely due to jackpot related sales. Mega Millions Jackpot reached \$1.3 billion in the quarter ending March 2023 compared to \$421 million in 2022. Lotto American reached \$39.9 million in 2023, compared to \$10 million in 2022.

Other operating revenue increased \$1,404 or 77.19% from the same period last year. In 2023, Lottery received the first payment of \$1,100 for a court case settlement, which it did not get in

2022. The settlement was for theft of lottery tickets in Walsh County and as part of the plea agreement, the parties will make restitution payments to both the retailer and to the Lottery.

As sales increase, prize expense, retailer commissions, bonuses and contractual services expense all increase. Total operating expenses increased \$1,520,264 or 28.31% compared to the same period a year earlier. Prize expenses increased \$1,010,462 or 34.50%, retailer commissions/bonuses increased \$113,396 or 34.50%, and contractual services expense increased \$199,802 or 26.03%. Some of the expense increase is related to timing, for example the dues for the North American State and Provincial Lotteries Association, were paid during the quarter ended March 2023, but were paid a quarter earlier in 2022.

Prize expense, commissions and bonuses and contractual service expense are incrementally related to sales. But the contractual service expense has dropped slightly because in 2023 the Lottery had a new rate 9.573% of gross sales it pays to its gaming system vendor, Scientific Games. Previously the vendor was paid based on 10.473% of sales.

The expense categories of players club, marketing, salaries, and operating all are paid from the legislatively approved budget included in the Attorney General's budget appropriation. For the fiscal year to date, the players club expenses are as projected, marketing expenses are only \$439,000 versus the budgeted \$600,000, and salaries and operating expense closely follow the initial budget.

Besides ticket sales, the Lottery realizes interest income which at \$11,000 in the fiscal year, \$6,000 higher than was forecast. The larger sales deposits and higher interest rates contributed to the larger income. Interest income is transferred to the State's General Fund at the end of the year.

A chart of expenses is provided on the following page.

NORTH DAKOTA LOTTERY  
Statement of Revenues, Expenses, and Changes in Net Position  
For the Quarters Ended March 32, 2023, December 31, 2022 and September 30, 2022

3/4 Rev & Exp  
Based on Beg Proj\*\*  
& Leg approved Budg

	March 31, 2023	December 31, 2022	September 30, 2022	Totals	Thru March 31, 2023	Difference	% Inc/ (Dec)
<b>Operating Revenues:</b>							
Ticket Sales	\$ 9,692,902	\$ 13,153,387	\$ 9,945,680	\$ 32,791,969	\$ 22,591,910	\$ 10,200,059	45% High jackpots
Other Operating Revenue	3,223	17,630	68,988	89,841	113,348	(23,507)	(21%) Missing \$38,500 2by2 Promo Reimb
Total Operating Revenues	<u>\$ 9,696,125</u>	<u>\$ 13,171,017</u>	<u>\$ 10,014,668</u>	<u>\$ 32,881,810</u>	<u>\$ 22,705,258</u>	<u>\$ 10,176,552</u>	45%
<b>Operating Expenses:</b>							
Prizes (1)	\$ 4,798,910	\$ 6,907,189	\$ 5,125,601	\$ 16,831,700	\$ 11,803,305	\$ 5,028,395	43% Incremental relationship with sales
Retailer Commissions and Bonuses	442,055	610,337	460,723	1,513,115	1,097,651	415,464	38% Incremental relationship with sales
Contractual Services	967,432	1,266,767	855,279	3,089,478	2,413,857	675,621	28% Beg Proj based on 5 yr avg at 10.473%. New rate is 9.573%
Players Club	108,333	81,250	54,167	243,750	243,750	-	0%
Marketing	232,767	89,352	117,873	439,992	600,000	(160,008)	(27%)
Salaries and Benefits	263,383	262,582	261,933	787,898	794,370	(6,472)	(1%)
Operating	78,188	43,229	197,493	318,910	332,447	(13,537)	(4%)
Total Operating Expenses	<u>\$ 6,891,068</u>	<u>\$ 9,260,706</u>	<u>\$ 7,073,069</u>	<u>\$ 23,224,843</u>	<u>\$ 17,285,380</u>	<u>\$ 5,939,463</u>	34%
Operating Income	<u>\$ 2,805,057</u>	<u>\$ 3,910,311</u>	<u>\$ 2,941,599</u>	<u>\$ 9,656,967</u>	<u>\$ 5,419,878</u>	<u>\$ 4,237,089</u>	78%
<b>Nonoperating Revenues:</b>							
Interest Income	\$ 6,857	\$ 2,979	\$ 1,487	\$ 11,323	\$ 6,260	\$ 5,063	81% High bank balance
Total Nonoperating Revenues	<u>\$ 6,857</u>	<u>\$ 2,979</u>	<u>\$ 1,487</u>	<u>\$ 11,323</u>	<u>\$ 6,260</u>	<u>\$ 5,063</u>	81%
Income Before Transfers	<u>\$ 2,811,914</u>	<u>\$ 3,913,290</u>	<u>\$ 2,943,086</u>	<u>\$ 9,668,290</u>	<u>\$ 5,426,138</u>	<u>\$ 4,242,152</u>	78%
<b>Transfers to Other Funds:</b>							
Compulsive Gambling Fund	\$ 80,000	\$ 80,000	\$ 80,000	\$ 240,000	\$ 240,000	\$ -	0%
Multijurisdictional Drug Task Force Grant Fund	200,000	200,000	200,000	600,000	600,000	-	0%
State General Fund	-	-	-	-	-	-	
Total Transfers to Other Funds	<u>\$ 280,000</u>	<u>\$ 280,000</u>	<u>\$ 280,000</u>	<u>\$ 840,000</u>	<u>\$ 840,000</u>	<u>\$ -</u>	
Change in Net Position	<u><u>\$ 2,531,914</u></u>	<u><u>\$ 3,633,290</u></u>	<u><u>\$ 2,663,086</u></u>	<u><u>\$ 8,828,290</u></u>	<u><u>\$ 4,586,138</u></u>	<u><u>\$ 4,242,152</u></u>	92%
Note:							
North Dakota Prizes	\$ 2,451,388	\$ 3,216,593	\$ 2,479,336	\$ 8,147,317	**Beginning Projections were based on the previous 5 year average in each category.		
MUSL Prize Expense	2,684,907	3,789,131	2,749,875	9,223,913			
Expired ND Prizes	(337,385)	(98,535)	(103,610)	(539,530)			
(1) Net Prize Expense	<u>\$ 4,798,910</u>	<u>\$ 6,907,189</u>	<u>\$ 5,125,601</u>	<u>\$ 16,831,700</u>			

The 'prize expense' represents the prize liability for the quarter. A portion of these prizes may be unclaimed. The remaining revenues, expenses, and transfers are reported on a cash basis.

### **Overview of April and May 2023 Sales**

April and May 2023 total tickets sales decreased \$291,796 or 6.43% compared to the same period a year earlier. Powerball jackpot reached \$473 million in 2022 compared to only \$252 million in 2023. Mega Millions increased the comparative sales by 22% due to jackpot reaching only \$170 million in 2022 compared to \$476 million in 2023. Lotto American decreased in comparative sales, but on the first day of the period the in 2023 the \$40 million jackpot was won, so sales did not keep increasing. Over timeframe in 2023 the Lotto America jackpot reached \$3.2 million whereas in 2022, it reached \$13.9 million.

Lucky for Life had an increase in sales of 13.42% and there is no increase in jackpot, so this is mainly due to the Instant Luck Promotion that ran in 2023 but did not run during the same period in 2022.

### **Preliminary Operating Expense Budget**

Mr. Anderson reviewed a proposed expense budget for the upcoming biennium. Projected \$3.1 million operating expenses does not change from the 2021-2023 budget to 2023-2025. Salaries and benefits will go up with legislatively authorized increases, but the Lottery will net those increases by reducing other expenses so total operating expenses will not change. The Commission received, but did not act on the preliminary budget, as additional detail on salaries will be determined in the next several months. The chart is on next page.

PROPOSED LOTTERY OPERATING EXPENSE BUDGET  
23/25 BIENNIUM

	21-23 Budget	23-25 Tentative Budget	Change	Explanation
<b>Salaries and Benefits</b>				
<b>Salaries - Permanent</b>	1,404,396	1,565,239	160,843	21-23 base + cost to continue \$8,471 + equity adjustment \$13,375 + \$190,496 for equivalent of 6% and 4% salary increases - legislative vacant FTE adjustment of \$150,552
<b>Temporary Salaries</b>	80,599	80,599	0	
<b>Fringe Benefits</b>	633,324	684,823	51,499	Health insurance premium increase.
<b>Salaries and Benefits</b>	<b>2,118,319</b>	<b>2,330,661</b>	<b>212,342</b>	Estimated salaries and benefits were provided by the OAG Finance and Administration Division.
<b>Operating Expenses</b>				
Travel	76,131	85,000	8,869	Increase in travel costs and more training planned
Supplies - IT Software	10,000	10,000	0	
Supply/Material - Professional	2,000	100	(1,900)	Closer to actual outlay
Food and Clothing	500	500	0	
Bldg, Grounds, Vehicle Supply	1,000	5,000	4,000	More costs related to current location
Miscellaneous Supplies	5,000	5,000	0	
Office Supplies	20,000	20,000	0	
Postage	20,000	20,000	0	
Printing	25,000	25,000	0	
IT Equipment under \$5,000	9,000	9,000	0	
Other Equipment under \$5,000	2,000	2,000	0	
Office Equip & Furniture-Under	3,000	3,000	0	
Utilities	0	15,000	15,000	Current building bills utilities separately
Insurance	2,000	2,000	0	
Rentals/Leases-Equipment&Other	1,000	200	(800)	Closer to actual outlay
Rentals/Leases - Bldg/Land	141,085	145,000	3,915	Building rent includes construction cost recovery
Repairs	4,000	4,000	0	
IT - Data Processing	64,000	65,000	1,000	IT expense anticipated to increase
IT - Communications	25,000	25,000	0	
IT Contractual Services and Re	150,000	150,000	0	
Professional Development	50,000	50,000	0	
Operating Fees and Services	2,309,809	2,279,725	(30,084)	Net of operating expense changes excluding salaries
Professional Fees and Services	216,000	216,000	0	
<b>Operating Expenses</b>	<b>3,136,525</b>	<b>3,136,525</b>	<b>0</b>	
IT Equip / Over \$5000	0	0	0	
<b>Total Expenditures</b>	<b>5,254,844</b>	<b>5,467,186</b>	<b>212,342</b>	
		\$ 5,316,634		Total Budget approved by legislature.
Difference		\$ 150,552		with no vacancies, will request salary appropriation restoration

## **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 52,723 registered members. The following prizes were given away to players through the Points for Drawings (PFD) program: two Freezer Filler Bundles, five Rachael Ray 12-piece Cookware Sets, five Therabody Theragun Elites, three Apple Mystery Boxes, and one 2022 Icon i40L Gold Cart.

There are three PFD promotions in progress, one 2023 Yamaha Viking EPS, ten \$1,000 Cash & NASCAR Powerball Playoff Entry and five Swagtron Foldable Electric Scooters. Upcoming PFD promotions include \$1,000 Cash & Powerball First Millionaire of the Year Semi-Finalist Entry, Home Theater Projector Bundle, Ninja Foodi Indoor Grill, Photo Printer Package, “The Big 3” Pick & Click online play (26 weeks), HP Laptop Bundle, and Echelon Fitness Mirror.

On May 1 through May 31, 2023, the Lottery ran Mother’s Day promotion in which players could save 15% on their entire Points for Prizes (PFP) cart purchase by using Promo Code MOM2023. The promo code had 62 uses by 52 individuals with 101,341 points saved. This was a 38.71% decrease in points saved and a 43.12% decrease in code usage when compared to the 2022 Mother’s Day month long promotion.

The Father’s Day promotion was running for the entire month of June allowing players to save 15% on their PFP cart purchase by using Promo Code DAD2023.

### **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 (customer relationship management) platform and Players Club database, the Lottery specifically targeted players with an email with a Promo Code that allows them to try a Pick & Click online \$9 play for free. A “reminder” email was sent to players that did not use the promo code and another sent three days prior to the code’s expiration date. An email reminder is also sent to players who 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.

A “flash” version of the *Instant Luck* promotion was scheduled to run one week in each of April, May, and June. This version has no POS (point of sale) in stores and a limited advertising budget of \$7,500 which will include radio and social media only. The Lottery utilizes in-store screens and promotional images on tickets with no cost. The promotion ran Sunday, April 23 through Saturday, April 29, 2023, and 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 received a chance to instantly win a free \$2 Lucky for Life ticket, \$10, or \$100. Instant Luck winners were chosen at random. Advertising and prize expense budgets are set at \$7,500 and \$25,000 respectively. In the April 2023 and May 2023 promotions, players won \$7,630 and \$6,036 in instant prizes, respectively. Sales increased 76.9% (in April) and 54.12% (in May) when compared to the 26-week, weekly average. Full promotion results will be presented a future LAC meeting.

The Money Medal Madness promotion is scheduled to run September 3 through September 30, 2023. Qualifying purchase is a single draw, 3-play Lotto America with All Star Bonus ticket (\$6 value). Eligible qualifying purchases have a chance to instantly win a free \$2 Lotto America with All Star Bonus ticket, \$10, or \$100. Money Medal Madness instant winners will be chosen at random. Advertising and prize expense budgets are set at \$50,000 and \$30,000 respectively. Advertising will consist of using Connected TV, radio, social media posts, online ads (Facebook, DV360 Programmatic Display), point-of-sale, and digital billboards.

### **Marketing and Advertising Services Contract Task Order**

The “Marketing Communications Services Pool” (State Contract #268) Task Order Request Number 125.2022-2023 (for Fiscal Year 2023) ends June 30, 2023. State Contract #268 Task Order Request Number 125.2023-2024 was completed and signed by the Lottery and KK Bold on June 8, 2023 and which ends June 30, 2024.

It was explained that the owner of KK Bold is selling the firm to Odney on June 30, 2023. The State Procurement Office was consulted because Odney is not on the state marketing services pool. Because KK Bold is going exist as an entity under Odney, its contracts will essentially carry over and the State Procurement Office will handle the transition to the vendor’s new owner.

### **Player Research and Survey**

Player Research was conducted May 2 through May 26, 2023, per the established plan to have the survey done every two years. The survey was conducted online using Survey Sparrow. There were 2,296 responses with a 100% completion rate. Respondents who completed the survey had a chance to win one of five \$100 Visa Gift Cards. The winners were Greg Liddle from West Fargo, Jean Ritter from Williston, Vicki Parisien from Belcourt, Mark Sheldon from Bismarck, and Janell Rudel from Fessenden. Research overview and recommendations are being completed and will be presented to the LAC at a future meeting. Budget for survey is set at \$20,000; \$9,500 has been billed so far.

### **Players Club App Access**

Historically, to install the Android Version of the North Dakota Lottery Players Club official mobile app, players must go to Lottery’s website (<https://lottery.nd.gov/mobile-app>), download the APK file and side-load the app on their devices. This process was not easy for players, but Google did not permit in-app lottery gaming purchases on the Google Play.

In June 2021 Google began allowing lottery apps with in-store purchases, but the list of eligible entities did not include “North Dakota” After many attempts get North Dakota able to submit its Players Club app added on Google Play, a letter was sent to Google’s State Policy Manager in February 2023. On April 27, 2023, notification was received that North Dakota could submit its app for approval to be offered on Google Play. In May 2023, the app was approved on the Google Play Store.

All future Players Club App updates should be seamless whether they downloaded the APK or Google Play Store versions. The mobile app download option will no longer be offered on the North Dakota Lottery website, but instead players will be directed to Google Play to access the app.

Future downloads and updates will be done via Google Play. Procedures will now be very similar to how updates work for iOS devices (and the Apple® App Store). No changes will occur with iOS Version of the app.

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

Mr. Gaebe discussed the Lottery's online gaming system vendor procurement project.

The Lottery's online gaming system vendor contract with Scientific Games expires June 30, 2024. Because of system integration, data transfers, and equipment order lead times, the objective is to have a firm selected at least nine months in advance of the implementation of a new contract.

While the Lottery began drafting vendor requirements and contract expectations in 2022, conflicting advice on procurement format, Information Technology requirements, and workload challenges have delayed the Request for Proposals release. The original schedule provided sufficient opportunity for responses, evaluation, and execution, but delays are squeezing all timeframes- especially contract negotiation and implementation. Conversion schedules will vary, but a long lead time is desired because of supply chain, hardware installation, connection requirements, and data transfer deadlines.

Besides the incumbent vendor, Scientific Games, two other specialized lottery vendor companies that are likely to submit responses. The three firms have all independently suggested the existing contract should be extended so the chosen vendor will have sufficient time to convert systems and install hardware for a go-live date. The vendors note that a one-year conversion period is needed after a contract is awarded. With less than 13 months until the expiration of the existing contract, one year for a conversion is not possible.

With the approval of the director of the Office of State Procurement, the Lottery has requested an extension of its gaming vendor contract with Scientific Games to March of 2025.

It is hoped this extension will provide sufficient time for the Lottery to undertake a proper gaming vendor procurement effort and successful conversion to a replacement system. It is in the best interest of the State to seek this extension.

### **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 percent of its Mega Millions sales.

### **Commissioner Terms of Office**

Mr. Gaebe reminded the Commission that 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 meets at least quarterly. Its budget is contained in the Lottery line of the Office of Attorney General's appropriation.

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.

	Appointment	Term ends
Mike Rud	07/01/2022	06/30/2025
Rep. Karla Rose Hanson	07/01/2021	06/30/2024
Russ Hanson	07/01/2021	06/30/2024
Sen. Jeff Barta	02/09/2023	06/30/2023
Rep. Emily O'Brien	07/01/2020	06/30/2023

### **Adjournment**

There being no further business the meeting was adjourned.