

Draft

Minutes of the Teleconference of the Lottery Advisory Commission

December 14, 2010

Attendance

A teleconference of the Lottery Advisory Commission (Commission) was held from 2:00 p.m. – 3:07 p.m., on Tuesday, December 14, 2010. Representing the Commission were Representative Lois Delmore, Representative Dwight Wrangham, Mr. Laurel Thoreson, and Mr. Mike Rud. Senator Gary Lee (Chairperson) was absent. Representing the North Dakota Lottery (Lottery) were Mr. Randy Miller, director, Ms. Kassondra Keller, sales and marketing manager, Ms. Tasha Gerding, accountant/budget specialist, and Ms. Sonja Walder, administrative assistant.

Acting Chairperson

Commissioner Thoreson made a motion to nominate Commissioner Delmore to serve as acting chairperson for the meeting. Commissioner Wrangham seconded the motion. The motion passed 3-1. Commissioner Delmore voted no.

Approval of Minutes

Commissioner Thoreson made a motion to approve the minutes of the October 8, 2010 meeting. Commissioner Wrangham seconded the motion. The motion passed 4-0.

Overview of Revenue and Expenses for the Quarter Ended September 30, 2010 (unaudited)

Ms. Gerding provided an overview of the quarter ended September 30, 2010. Unaudited ticket sales decreased \$1,145,095 or (17.68%) and operating expenses decreased \$812,909 or (17.75%) compared to the same period last year. The decrease in sales was mainly attributed to the lack of jackpot runs compared to last year. The decrease in operating expenses was mainly due to the decrease in the prize expense and the contractual services expense in relationship to lower sales.

Unaudited ticket sales decreased another \$237,216 in October and November 2010 compared to the same period last year. Ticket sales for the first five months of the fiscal year (July-November 2010) are down \$1,382,284 compared to the same period last year.

Mr. Miller stated the decrease in online ticket sales this fiscal year is not uncommon among the industry as the lack of jackpot runs, in particular for Powerball and Mega Millions, had a significant impact on sales. Additionally, the cross-selling sales for the Mega Millions game for the Multi-State Lottery Association members has not been as positive as what was projected prior to the launch of Mega Millions. The expectation of larger, faster growing jackpots for Powerball and Mega Millions is not happening. For North Dakota, Mega Millions sales have been on track based on projections. Although the Powerball brand is much stronger than Mega Millions, the Lottery is hopeful that Mega Millions will become a stronger brand and value as players become more educated on the game.

Overview of Marketing Activity

Ms. Keller provided an overview of the marketing activities and short-term marketing plans. The Cash Dash promotion ran from October 31 through November 27. Cash Dash players won a total of \$31,150 in instant prizes. The advertising expenses for this promotion were \$61,871. One of each transactions increased by 215%. Sales increased \$196,455 or 11.83% compared to average sales for a similar jackpot run.

The Holiday Subscription Discount promotion runs through December 31. The promotion offers up to a 10 percent discount on subscriptions for Powerball, Hot Lotto, Wild Card 2, and 2by2. Mega Millions subscriptions will be available in February. Additionally, the Lottery promoted the subscription discount at the Pride of Dakota Holiday showcases in Fargo and Bismarck. In Fargo, the Lottery sold 44 subscriptions for a total of \$2,177. In Bismarck, the Lottery sold 40 subscriptions for a total \$2,653.

The Big Three promotion is planned to run from February 6 through March 5. The promotion will provide a \$1 discount with the purchase of Powerball with Power Play, Mega Millions with Megaplier, and Hot Lotto with Triple Sizzler.

The Lottery is preparing to run TOMA (Top of the Mind Awareness) advertising in January to create public awareness of the Lottery's games and North Dakota winners. The budget for this promotion is \$40,000.

Overview of 2011-2013 Governor's Executive Budget Recommendations

Mr. Miller provided an overview of the 2011-2013 Governor's executive budget recommendations. The Governor's budget recommendations are the same as the Office of Attorney General budget request for the Lottery, other than the inclusion of the compensation package that was added in the amount of \$77,635. The compensation package for employees includes a salary increase based on three percent each year of which two percent will be for employee salaries and one percent will be for retirement. The total 2011-2013 Governor's executive budget recommendation for the Lottery is \$3,700,242.

Final Approval of the Proposed Administrative Rules for Powerball and Mega Millions Game Changes

Mr. Miller stated there were no written or oral comments submitted and no changes to the proposed draft of the administrative rules presented to the Commission on October 8, 2010. Mr. Miller noted that there was an amendment recommended by the Commission at the October 8 meeting to add subsection 19 to section 10-16-03-08 as described below.

Section 10-16-03-08. Claim of a prize. A prize for a validated winning ticket must be claimed as follows:

Subsection 19.

A winning ticket with a total prize value of all plays of six hundred dollars or more may not be paid to a person who is identified as being in the United States illegally.

After the October 8 meeting, the recommendation was reviewed by Attorney General Stenehjem for approval. Attorney General Stenehjem requested that subsection 19 of section 10-16-03-08 not be added to the draft rules related to the Powerball and Mega Millions game changes, but rather, remain in the proposed rules for Ineligible Player; Claim of a Prize; and the Mega Millions game. Attorney General Stenehjem agreed with the Commission's consensus that the Lottery should make a good faith effort to identify if a person is in the United States illegally, but felt necessary to implement subsection 19 of section 10-16-03-08 as soon as possible rather than reconsider during the next proposed rule changes.

Mr. Miller informed the Commissioners that an October 18, 2010 notification of a public hearing and availability of proposed rules was scheduled to be publicized in the 52 daily and weekly newspapers from October 23 through October 29, 2010. The North Dakota Newspaper Association notified the Lottery that one of the newspapers missed running the notice on October 27 and rescheduled to run it on November 3 which only allowed 19 days between the latest publication and the date of the public hearing, rather than the 20 days required by law. North Dakota Century Code 28-32-14 states that the Attorney General may not approve any rule when the procedural requirements are not substantially met. It was determined that the Lottery was in substantial compliance with the rulemaking procedures. Commissioner Delmore noted that because there were no public comments, that in itself tells us the one day was not an issue.

Commissioner Thoreson made a motion to approve the proposed administrative rules. Commissioner Wrangham seconded the motion. The motion passed 4-0.

Omnibus Items

Mr. Miller informed the Commission that the next MUSL/Powerball meeting will be held in Chicago on December 16 to review two Powerball game options.

- Move to a \$2 Powerball game with a \$1 Power Play option
 - no change to matrix 5/59 and 1/39, same odds
 - higher starting jackpot (\$50 million)
 - \$1 million Match 5 prize for \$2 base game play
 - lowest prize (match Powerball only) moves from \$3 to \$4
 - \$1 cost for Power Play option
 - 2 (10X) multipliers added so multiply 7 lowest prizes 2X, 3X, 4X, 5X, or 10X
 - additional \$1 to play Power Play – prizes NOT multiplied for Jackpot or Match 5 prize

- Matrix change - Powerball remaining at \$1 with \$1 Power Play option
 - change matrix from 5/59 and 1/39 to 5/64 and 1/39
 - odds for jackpot change from 1:195 million to 1:297 million
 - Match 5 odds change from 1:5.1 million to 1:7.8 million
 - overall odds change from 1:35.11 to 1:35.89
 - higher starting jackpot (\$50 million)
 - \$1 Power Play option

Version A

- Match 5 with Power Play = \$1 million prize no matter what the multiplier
- change multipliers to 4 (5X); 3 (4X); 2 (3X); 1 (2X) – so more 5X's

Version B

- add 2 (10X) multipliers so 8 lowest prizes including Match 5 prize is multiplied 2X, 3X, 4X, 5X, or 10X
- Match 5 NOT always \$1 million prize – depends on multiplier drawn
- Match 5 can become \$2 million prize if 10X multiplier drawn

The consensus from the Commission recommended the Lottery not support either of the two Powerball game options.

Mr. Miller informed the Commission that on December 15 he will appear before the Administrative Rules Committee to describe the procedure followed by the Lottery in adopting the rule changes for Ineligible Player; Claim of a Prize; and the Mega Millions game. As a follow-up to the October 8 Commission meeting, he noted that there was an amendment recommended by the Commission to remove subsection 19 of section 10-16-03-08 as described below from the proposed rules related to Ineligible Player; Claim of a Prize; and the Mega Millions game and insert into the proposed administrative rules for Powerball and Mega Millions game changes.

Section 10-16-03-08. Claim of a prize. A prize for a validated winning ticket must be claimed as follows:

Subsection 19.

A winning ticket with a total prize value of all plays of six hundred dollars or more may not be paid to a person who is identified as being in the United States illegally.

After the October 8 meeting, the recommendation was reviewed by Attorney General Stenehjem for approval. Attorney General Stenehjem requested the proposed rules be submitted with subsection 19 of 10-16-03-08 remaining in the proposed rules for Ineligible Player; Claim of a Prize; and the Mega Millions game.

Mr. Miller informed the Commission that in an effort to make it more convenient for retailers to offer subscription discounts during the Lottery's holiday subscription discount promotion each year in December, Scientific Games believes they will be able to make programming changes to the terminal software to permit the discounted subscription prices to be reflected on subscription applications printed directly from the retailer terminals. This change will allow retailers to earn the 5% commission on a subscription sale during the holiday promotion by printing the subscription application from their terminal and giving it to the player to complete and mail to the Lottery with the payment. If all goes as planned, this feature should be available for the next holiday subscription discount promotion.

Mr. Miller informed the Commission that tentatively planned for the week of February 7, 2011, Jeff Sinacori (a former retailer and now employee of Scientific Games) will be visiting a number of Lottery retailers across the state. He will be conducting an on-site review of retailer locations, visiting with managers/point of contact, and providing the Lottery suggestions to enhance the marketing of our product and customer service at the retailer level. In short, what can the Lottery do better to provide service to our 400 retailer partners across North Dakota and increase sales? Scientific Games generally charges lotteries for the service. Through negotiations, Scientific Games is offering the service to the Lottery at no charge.

Mr. Miller informed the Commission that at the next meeting, a representative from the Office of the State Auditor is scheduled to present an overview of the financial audit for the fiscal period ended June 30, 2010.

Commissioner Rud asked if unclaimed prize money could be used to purchase self-service ticket checkers for at least the top 25% selling retailers. Commissioner Rud felt that the burden on the higher performing retailers could be lifted with the help of the ticket checkers. Mr. Miller explained that the unclaimed prizes (other than the grand prizes for Powerball, Mega Millions, Hot Lotto, and Wild Card 2) that expire 180 days from the draw date are retained by the Lottery and ultimately transferred to the general fund. The expired prizes are recorded on the financial statement as a reduction to the prize expense, but are not kept in a separate fund. The consensus from the Commission was for the Lottery to formally request a written cost proposal from Scientific Games for ticket checkers.

Adjournment

Commissioner Rud made a motion to adjourn the meeting. Commissioner Thoreson seconded the motion. The motion passed 4-0.

The meeting adjourned at 3:07 p.m.