

Minutes of the Lottery Advisory Commission
December 21, 2020

Attendance

A teleconference meeting of the Lottery Advisory Commission (Commission) was held from 2:05 p.m. – 2:36 p.m., on Monday, December 21, 2020. Representing the Commission were Mr. Mike Rud (Chairman), Mr. Russ Hanson, Senator Nicole Poolman, Representative Emily O'Brien, and Representative Karla Rose Hanson. Representing the North Dakota Lottery (Lottery) were Mr. Randy Miller, director, Mr. Ryan Kopyy, sales and marketing manager, Mr. Matt Anderson, account budget specialist, and Ms. Jessica Seibel, administrative assistant. Representing Scientific Games were Bryan Colbert, general manager for North Dakota, Dan Moran, general manager for North Dakota, and Amy Warner.

Commissioner K. Hanson arrived at 2:06 p.m.

Approval of Minutes

Commissioner R. Hanson made a motion to approve the minutes of the October 20, 2020 meeting. Commissioner Poolman seconded the motion. The motion passed 4-0.

Commissioner O'Brien arrived at 2:09 p.m.

Overview of Revenues and Expenses for Quarter Ended September 30, 2020 and Sales Activity for October and November 2020 (unaudited)

Mr. Anderson presented the overview of revenues and expenses for the quarter ended September 30, 2020. Total ticket sales increased \$52,584 or 0.90% compared to the same period last year. Total operating expenses increased \$133,188 or 3.11% compared to the same period last year. Prize expense increased \$201,025 or 6.81%, retailer commissions/bonuses decreased \$4,997 or 1.78%, and contractual services expense increased \$22,645 or 4.04%. Players Club expenses decreased \$27,083 or 33.33%. This decrease was due to three payments made to Player's Club during that quarter in 2019 compared to only two payments in 2020; this was just a timing issue. Marketing expense decreased \$82,575 or 71.04% due to two payments made to KKBold in 2019 and only one in 2020; this was just a timing issue. Salaries and benefits increased \$5,469 or 2.23%. Other operating expenses increased \$18,704 or 41.16%. This increase was due to two rent payments during the quarter ended September 30, 2020, one in the beginning of July and one at the end of September while there was only one payment in 2019.

Total ticket sales for October and November 2020 decreased \$74,395 or 1.83% compared to the same period last year.

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 43,016 registered members. The following prizes were given away to players through the Points for Drawings program: five \$1,000 Cash and Semi-Finalist entry into the Powerball First Millionaire of the Year Finalists drawing on October 13, 2020; ten Free one year (364 draws) of 2by2 Pick & Click online play on October 20, 2020; five 9-in1 Ninja Foodi deluxe on November 17, 2020; five Stamina Recumbent exercise bikes on December 15, 2020; two Troy Bilt snow blowers on December 15, 2020; and one Sunview Imports bedroom package on December 15, 2020. There are currently three Points for Drawings promotions in progress; Bose mystery box, clean room package, and outdoor patio package. Upcoming Points for Drawings promotions include a laptop, Apple iPad, yard care package, and Yamaha Viking EPS.

November 22 through November 30, 2020, a Black Friday/Cyber Monday promotion was held. Players received 20% off their entire Points for Prizes cart purchase by using promo code BFCYM2020 at check out. This was the first time a multi-use code was used, allowing players to use the code multiple times throughout the promotion. The promo code was used 62 times by 51 individual players. Code usage increased 24% when compared to the same promotion last year. Players saved 273,050 points.

The Season Savings Spectacular promotion is currently running through December 31, 2020. Players receive 15% off their entire Points for Prizes cart purchase by using promo code HOLIDAY2020. This is a multi-use code, allowing players to use the code multiple times throughout the promotion.

A 1,000 Point Signup Bonus promotion is currently running now through December 31, 2020. All players who sign up and complete registration during the prescribed promotional period will receive 1,000 bonus points upon completion of registration.

The Pick & Click online play promotion, *Buy \$10, Get a \$2 Discount*, ran October 6 through October 27, 2020. Every Tuesday in October, players that spent \$10 on any game or combination of games or spent \$10 to extend a current Pick & Click online play, received a \$2 discount. Total Pick & Click sales for the month of October 2020 were \$165,467, an increase of 13.3% compared to September 2020 sales and a 48% increase compared to October 2019 sales. Prize/discount expense was budgeted at \$10,000. Players received \$10,144 in discounts. Advertising expense was budgeted at \$10,000 with \$8,955.83 billed so far.

The Cash Dash promotion ran from November 1 through November 28, 2020. The qualifying purchase was one of each of the Lottery's games with multipliers for \$11. With the eligible qualifying purchase, players had a chance to instantly win \$5, \$20, \$100, or \$500. Cash Dash winners were chosen at random. Players won over \$39,000 in instant prizes. Advertising costs were budgeted at \$80,000 with \$5,734.21 billed so far. Sales increased nearly 13% when compared to comparable jackpots. Total Lottery sales during the promotion totaled over \$2.1 million.

The Pick & Click online play promotion, *Never Miss A Draw*, is currently running now through December 31, 2020. All purchases of 13 weeks, 26 weeks, 39 weeks, or 52 weeks receive up to a 10% discount. Advertising and prize expenses are budgeted at \$18,000

and \$5,000, respectively. As of end of day December 15, only \$110,838 in sales are needed by December 31 to reach the \$1 million mark in Pick & Click sales for the first six months of Fiscal Year 2021.

Player research will be conducted in January/February 2021. Due to continually increasing costs of conducting a telephone survey, the Lottery will be moving to an online based format. Research expense is budgeted at approximately \$15,000.

The 2by2 7 Draw Promotion is scheduled to run Sunday, February 7 through Saturday, March 6, 2021. The qualifying purchase will be a single play, 7-Draw 2by2 ticket for \$7. With the qualifying purchase, players will be eligible to instantly win a free 7-draw 2by2 ticket or \$500. Winners will be chosen at random. This promotion will again be part of a multi-state 2by2 promotion. A majority of the prize expenses will be 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). The advertising budget is set at \$40,000 and the prize expense budget at \$33,000. Media buy includes radio, social media, YouTube Prerolls, Google Display ads, Midco OTT/CTV and digital billboards.

A Buy \$10, Get a \$2 Discount Pick & Click promotion will run in March 2021. This promotion will be available every Monday, Wednesday, and Friday beginning March 1, 2021. Players who spend \$10 on any game or combination of games on Mondays, Wednesdays, and Fridays will received a \$2 discount upon checkout. The prize/discount expense is budgeted at \$25,000 and the advertising expense is budgeted at \$40,000.

Approval of the Draft North Dakota Administrative Rule Changes Referencing Debt Setoff of an Annuity Prize, Powerball Game Changes (Adding Monday Draw), & Lucky for Life Game Changes (Seven Day Draw)

Mr. Miller presented the draft rule changes. The debt setoff of an annuity prize was removed because it was not necessary to update the rule. Commissioner R. Hanson made a motion to approve the proposed administrative rules as presented. Commissioner K. Hanson seconded the motion. The motion passed 5-0. The recommendation will be presented to Attorney General Stenehjem for approval prior to moving forward with the rule adoption process.

(Proposed amendments attached.)

Approval of the Draft North Dakota Century Code Changes Referencing Debt setoff of an Annuity Prize

Mr. Miller presented the draft North Dakota Century Code changes. Commissioner Poolman made a motion to approve the proposed North Dakota Century Code changes as presented. Commissioner K. Hanson seconded the motion. The motion passed 5-0. The recommendation will be presented to Attorney General Stenehjem for approval prior to moving forward with the change.

(Proposed amendments attached.)

Acceptance of the Audit Report for the Years Ended June 30, 2020 and 2019

Mr. Miller presented the audit report for the years ended June 30, 2020 and 2019. There were no formal or informal recommendation in the audit report, because of this Mr. Miller suggested the Lottery not request a representative from the Office of the State Auditor to present the report. The Commission agreed. Since the Commission serves as the audit committee for the Lottery, Mr. Miller asked the Commission for a motion to accept the audit report. Commissioner Poolman made a motion to accept the audit report for the fiscal years ended June 30, 2020 and 2019. Commissioner O'Brien seconded the motion. The motion passed 5-0.

Overview of the 2021-23 Governor's Executive Budget Recommendation

Mr. Anderson presented the overview of the 2021-23 Governor's executive budget recommendation. The total budget request increased from \$5,205,496 to \$5,267,490. The increase of \$61,994 was due to the compensation increase of 2% for each year of the biennium.

Omnibus Items

Mr. Miller provided the following:

Unaudited ticket sales from July through November 2020 were \$9.88 million. This represents a \$28,587 increase in sales or 0.29% compared to the same period last year.

Attorney General Stenehjem approved the recommendation from the Commission for the two-year contract extension with Scientific Games. The contract now runs through June 30, 2024.

Adjournment

Commissioner R. Hanson made a motion to adjourn. Commissioner K. Hanson seconded the motion. The motion passed 5-0. The meeting adjourned at 2:36 p.m.

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Version 12-21-20

NORTH DAKOTA LOTTERY

Underlined represents proposed additions to the present
~~Strikethrough~~ represents proposed deletions to the present rules.

**CHAPTER 10-16-04
POWERBALL® GAME**

Section	Game Description
10-16-04-01	Game Description
10-16-04-02	Expected Prize Pool Percentages and Odds
10-16-04-03	Probability of Winning [Repealed]
10-16-04-04	Prize Pool and Payment
10-16-04-05	Prize Payment [Repealed]
10-16-04-06	Power Play Option

10-16-04-01. Game description.

To play POWERBALL®, a player selects five different white numbers, between one and sixty-nine, and one additional red number (powerball) between one and twenty-six. The additional number may be the same as one of the first five numbers selected. The price of a play is 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 one million dollars or less) is paid on a single-payment cash basis. Draws are held every Monday, Wednesday and Saturday.

History: Effective February 1, 2004; amended effective November 8, 2005; January 4, 2009; January 15, 2012; October 4, 2015; August 23, 2021.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

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**CHAPTER 10-16-11
LUCKY FOR LIFE® GAME**

Section	
10-16-11-01	Game Description
10-16-11-02	Prizes and Odds
10-16-11-03	Prize Pool and Payment
10-16-11-04	Prize Liability Limits

10-16-11-01. Game description.

To play LUCKY FOR LIFE®, a player selects five different numbers, between one and forty-eight, and one additional number (Lucky Ball) between one and eighteen. The additional number may be the same as one of the first five numbers selected. The price of a play is two dollars. Draws are held every ~~Monday and Thursday~~ day of the week.

History: Effective January 31, 2016; amended effective October 29, 2017; July 19, 2021.

General Authority: NDCC 53-12.1-13

Law Implemented: NDCC 53-12.1-13

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**CHAPTER 53-12.1
LOTTERY**

53-12.1-12. Setoff of prize.

1. A claimant agency and the director shall cooperate on the setoff of a winning lottery ticket or promotional cash prize against a delinquent debt. A claimant agency is an agency of the state of North Dakota that an individual owes money to or that collects money on behalf of another party to satisfy a debt. The claimant agency and director shall share necessary information, including the individual's full name, social security number, and amount and type of debt, through a mutually convenient method timely achieve a setoff of a prize.
2. The director shall establish a debt setoff process in which a lottery prize claim of an amount equal to or greater than six hundred dollars must be used to set off a delinquent debt owed to or collected through a claimant agency. If the lottery prize claim is paid through an annuitized payment option, each prize payment must be used to set off a delinquent debt owed to or collected through a claimant agency.
3. If the director determines that a winning player owes a delinquent debt to or has a delinquent debt collected through a claimant agency, the director shall set off the amount of the debt from the prize due and notify the player, in writing, of the setoff. If the setoff accounts for only a portion of the prize due, the remainder of the prize must be paid to the player. The director shall transfer the setoff amount to the claimant agency unless the player notifies the director, in writing, within thirty days of the date of the notice of the setoff, that the player disputes all or part of the debt owed to or collected through the claimant agency. If the director receives a notification that the player disputes the setoff amount or claim upon which the setoff is based, the director shall grant a hearing to the player to determine whether the setoff is proper or the claim is valid, unless a review by a court is authorized under section 50-09-14. At a hearing, no issue may be reconsidered that the player has or could have previously litigated in a court or administrative proceeding.
4. The lottery is discharged of all further liability for the amount of any debt setoff paid to a claimant agency.
5. If two or more claimant agencies have delinquent accounts for the same player, the director shall apportion the prize equally among them. However, a setoff to the department of human services for child support payments has priority over all other setoffs.
6. If the prize is insufficient to satisfy the entire debt, the remainder of the debt may be collected by a claimant agency as provided by law or rule and resubmitted for setoff against any other prize awarded.
7. If two or more claimant agencies make adverse claims to all or a part of a prize payment, upon receipt of written notice from the claimant agencies setting forth their claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment with the clerk of court in the district in which an action pertaining to the contested amount is pending or with a court-authorized depository. If one of the claims is for child support, the director shall transfer the setoff amount to the state disbursement unit before depositing any remaining prize payment or award. Any review of this transfer to the state disbursement unit must be done pursuant to section 50-09-14. Upon making the deposit or transfer, the state and its officials and employees are discharged and relieved from further liability to any individual or claimant agency related to the prize payment.