



Minutes of the Commission Meeting

Room 412 Capitol Building

September 28, 2012

Chairman Bob Hartford called the September 28, 2012 meeting of the South Dakota Lottery Commission to order at 10:00 a.m.

MEMBERS PRESENT: Brent Dykstra, Doyle Estes, Bob Hartford, Kory Menken, Roger Novotny, Jim Peterson and Dick Werner.

SUPPORT STAFF PRESENT: Norm Lingle, Kelly Thompson, Joe Willingham, Deb Reese, Sherry Lauseng, Andrew Fergel and Mary Jo Bibby

APPROVAL OF THE AGENDA

Commissioner Menken moved that the agenda be approved. Novotny seconded the motion. Motion carried.

APPROVAL OF THE MINUTES

Commissioner Dykstra moved that the minutes of the August 15, 2012 meeting be approved. Novotny seconded the motion. Motion carried.

SECRETARY OF REVENUE'S COMMENTS

Secretary of the Department of Revenue Andy Gerlach spoke briefly:

Secretary Gerlach recognized the Lottery's 25th anniversary and noted how Lottery revenues have benefitted all South Dakotans. He also expressed the importance of having a strategic plan.

EXECUTIVE DIRECTOR'S COMMENTS

Executive Director Norm Lingle reported on the following:

Scientific Games is currently beta testing new machines in three Sioux Falls locations.

Interviews have been conducted for the position of Deputy Executive Director.

Norm Lingle spoke recently about the gaming industry to a political science class at the University of South Dakota.

The final transfers for FY2012 were announced. A total of \$6.6 million was transferred from instant sales and \$9.4 million was transferred from lotto sales.

A performance review indicated traditional video lottery games averaged \$47.47 in net machine income per day and terminals with line-up games averaged \$67.85 in net machine income per day during a four-month period from May 1 to Aug. 31, 2012.

Commissioner Werner asked what the increase was for instant transfers. Lingle responded it was 40 percent. Commissioner Estes asked how many of the terminals were traditional and how many were line-up in the performance review. Lingle stated that there were 8,000 traditional and 1,400 line-up games.

PUBLIC RULES HEARING

Commission Chairman Hartford opened the Public Rules Hearing. Executive Director Norm Lingle discussed the proposed Administrative Rule changes:

ARTICLE 48:01 INSTANT LOTTERY REQUIREMENTS:

Lingle explained changes which include clarifying rules, definitions and language, updating language to reflect standard industry terminology, eliminating unnecessary rules, allowing flexibility in identification features of barcodes, allowing the Commission to conduct hearings on the suspension or cancellation of a retailer's contract, declaring that the Executive Director determines if an invalid or defective ticket is replaced, allowing flexibility in the method of recording drawings, and allowing annuity prize payments to be accelerated to the estate of a deceased winner.

ARTICLE 48:02 VIDEO LOTTERY REQUIREMENTS:

An amendment to 48:02:08:01(5) would allow for fifty-dollar and hundred-dollar bills to be accepted by a video lottery terminal.

ARTICLE 48:03 ON-LINE LOTTERY REQUIREMENTS:

Changes to these rules include clarifying rules, definitions and language, eliminating unnecessary rules, updating rules to reflect new technology in use, eliminating a duplicate definition of an on-line terminal, allowing the Lottery to determine if a player may select combinations of numbers or symbols based on the design of the game, clarifying the commission rate to be paid to on-line retailers as 5 percent, allowing the largest prizes to be claimed at regional offices, allowing flexibility in managing and recording drawings, identifying reasons a drawing may be voided, and allowing the sale of raffle games in sequential order only.

ARTICLE 48:03:10:03 WILD CARD RULE CHANGE:

Director of Sales Joe Willingham explained changes in the Wild Card game:

The games changes will go into effect on January 13, 2013. The game's starting jackpot will change from \$100,000 to \$200,000. The overall odds will change from 1:6.2 to 1:6.4. The odds of winning the jackpot will change from 1:1,359,288 to 1:1,898,688. The payout will change from 53 percent to 57 percent. The Match 5 prize will increase from \$5,000 to \$6,000. The Match 4 prize will increase from \$20 to \$30.

Commissioner Estes asked what prompted the amendment allowing 50-dollar and 100-dollar bills to be accepted in video lottery machines. Lingle responded that it was requested by the members of the industry.

Commissioner Estes asked if allowing the additional bills would be an expense. Lingle responded that machines are already capable of accepting the new bills and there should not be additional cost.

Chairman Hartford opened the Hearing to public testimony.

JoDean Joy of Stop Predatory Gambling in South Dakota spoke in opposition of 48:02:08:01, allowing higher denominations to be accepted in terminals. She asked how the Lottery knows it is maximizing revenues to the state as a cost benefit study has not been done.

Bob Riter of the Music and Vending Association (MVA) spoke in support of amending the 48:02:08:01 by deleting the word “must” and replacing it with “may.”

Commissioner Estes asked Riter if the amendment he offered was being proposed by the MVA. Riter responded in the negative.

Larry Mann of the Video Lottery Establishments stated that it would be an appropriate time to seek the change.

Commissioner Menken asked about the proposal to strike “for each 25 cents” in paragraph 12. Lingle responded that it was a Form and Style change suggested by the Legislative Research Council.

Commissioner Novotny asked how long the \$20 denomination had been in rule. Lingle responded since 1989,

Chairman Hartford closed the Hearing to public testimony.

Novotny moved that in 48:02:08:01 (5) the word “must” be changed to the word “may” in paragraph 5. Dykstra seconded the motion. Motion carried.

Commissioner Menken moved to adopt the rules package as amended. Commissioner Peterson seconded the motion.

Chairman Hartford asked if any written testimony had been received. Lingle said one written testimony had been received and it has been distributed to the commission.

The role was called and there were six AYES and one ABSENT. Chairman Hartford declared the motion carried.

Chairman Hartford declared a recess at 10:55a.m. At 11:00a.m. the meeting reconvened.

STRATEGIC PLAN

Lingle presented the proposed Strategic Plan, including a Lottery Mission Statement and short-, medium- and long-term objectives:

SHORT-TERM OBJECTIVES:

Short-term Strategic Plan objectives, with deadlines of from 3 to 12 months, include allowing the penny denomination, which would require a statute change. Eliminating the bet:award ratio will allow manufacturers to offer a wider variety of game software into the state's market. Removing the Declaratory Rule regarding maximum payout percentages allows manufacturers to seek Commission approval for game submissions that exceed the 92 percent payback limit. Eliminating the relative seating requirement allows establishment owners to decide how much additional seating they want to offer. Allowing real-time connectivity would reduce non-reporting terminals and enable machines to offer progressive jackpots and other bonuses if authorized by Legislature and Commission.

MEDIUM-TERM OBJECTIVE:

Offering financial incentives for new equipment purchases, with a deadline of from one to three years, was the only medium-term objective in the Strategic Plan. Lingle stated that it is too soon after the implementation of line games to consider offering such incentives.

LONG-TERM OBJECTIVES:

Real time connectivity and statute changes would need to be implemented to allow for progressive jackpots. Increasing the maximum award would require researching what an acceptable award threshold would be.

ONGOING/ANNUAL OBJECTIVES:

Some advertising of video lottery games was done in FY2012. Once the Strategic Plan is in place, more marketing campaigns may be considered. The Lottery may become more active in proposing Legislation.

OBJECTIVE WITH UNDETERMINED DEADLINE:

Allowing for bonuses and free spins would require the elimination of the jackpot limitations, which are set in statute.

Estes asked for clarification of the bet:award limit elimination. Lingle responded that it would allow a player to win \$1,000 on a 25 cent bet. Estes stated that he believes the medium-term objective of offering incentives for new equipment purchases should be a short-term objective. Lingle responded that more time is needed evaluate the performance of the new games.

DECLARATORY RULING 89-1

Lingle explained the proposed repeal of this Ruling:

Protections are currently in place in Administrative Rule which requiring manufacturers to request approval from the Commission when introducing games which are programmed to pay out more than 92 percent.

DECLARATORY RULING 93-1

Lingle explained the proposed amendment to this Ruling:

The amendment changes the relative seating requirement, allowing establishments to use their own discretion in providing additional seating to patrons.

Chairman Hartford opened the public testimony.

Bob Riter, MVA, testified against the repeal of Declaratory Ruling 89-1, stating that for six years video lottery revenues have not kept pace with cost of living increases. Machines with line games are located in higher performing establishments and new machine purchases have slowed dramatically. He also spoke in favor of providing incentives to establishments.

Steve Schroeder, video lottery operator, testified against the repeal of Declaratory Ruling 89-1, stating that the State of Montana has implemented higher payouts which resulted in establishment closures and payout volatility. Schroeder suggested waiting until the Legislature has acted on a bill package before raising the cap on payout percentages.

Hartford asked if only line games were under the 92 percent restriction in Montana. Schroeder responded in the affirmative.

Rich Ward, video lottery operator, testified against the repeal of Declaratory Ruling 89-1. He stated that the State of Montana's share of video lottery revenue is 17 percent. Ward stated that his line games have posed a struggle because of their volatility. Ward testified in favor of Declaratory Ruling 93-1.

Chairman Hartford closed the Hearing to public testimony.

Commissioner Novotny asked if a Declaratory Ruling had a force of law. Department of Revenue legal counsel Andrew Fergel responded that Declaratory Rulings function as bulletins informing others on how a body will rule in the future.

Commissioner Estes moved to repeal Declaratory Ruling 89-1. Novotny seconded the motion. The motion carried with six AYES, one ABSENT.

Commissioner Menken moved to amend Declaratory Ruling 93-1 by deleting "Such seating within the bar or lounge must be available other than at video lottery machines and in relative proportion to the area reserved for machine placement" in the paragraph 5 of the ruling's policy statement. The motion carried with six AYES, one ABSENT.

Commissioner Estes moved to revise the Strategic Plan by making the Medium-Term Objective of offering incentives for new equipment purchases a Short-Term Objective and adopt the revised Strategic Plan. Commissioner Peterson seconded the motion. Motion carried.

FY2014 BUDGET REQUEST

Executive Director Norm Lingle highlighted some features of the budget request:

INSTANT/ON-LINE INFORMATIONAL BUDGET:

The bulk of the in-state travel costs is for sales representatives' visits to retailers. GTECH's consulting services are a function of sales. Marketing efforts are producing higher sales. GTECH fees cover communication costs. Delivery fees are paid to SpeeDee Delivery to deliver tickets to retailers. Payments to the Multi-State Lottery Association are for administering the Lottery's multi-state games. Prize expenses increase as sales increase. Ticket printing increased in FY12 because of extra games being printed. Reservations receive 50 percent of ticket revenue as escrow. The total instant/on-line budget proposal for FY2014 is \$30,424,144

VIDEO LOTTERY BUDGET:

The budget will include \$100,000 for advertising in FY2013. Telephone costs are for the nightly polling of video lottery machines. Scientific Games receives 0.3 percent of net machine income. Machine licensing and inspections are provided by the Department of Public Safety (DPS). Capital assets were higher in FY2012 because of the purchase of MCD's. The Lottery makes available \$214,000 a year to the Department of Human Services for gambling treatment. The Lottery is seeking to hire an additional FTE to assist in computer operations.

Hartford asked about the Lottery utilizing its own inspectors. Lingle responded that the Lottery could probably hire three inspectors for the cost of paying the DPS. Hartford asked if there had been any effort to do that. Lingle responded that the DPS is getting its costs under control and that other departments utilize their services. Hartford asked if one additional FTE would be enough. Lingle responded that it would go a long way.

Commissioner Dykstra asked if the budget could be modified after it is approved. Lingle responded that it can be modified, but that the Lottery has never had to ask for additional funds. Secretary Gerlach stated that more funds or additional FTE's could be requested if needed.

Commissioner Estes asked if computer services could be managed by the Lottery rather than by the Bureau of Information and Telecommunications (BIT). Gerlach responded that it is important to have internal technology and that we may move to that in the future. Estes asked about complaints from the industry regarding tech help on the weekends. Lingle responded that we do have staff on the weekends but state holidays can cause staff shortages.

Commissioner Novotny moved and Commissioner Dykstra seconded the motion to approve the budgets. Motion carried.

SALES REPORT

Director of Sales Joe Willingham also reported on the following:

INSTANT GAMES:

Sales are up over 6 percent and \$5, \$10 and \$20 games are the best sellers. Willingham showed examples of upcoming games.

LOTTO GAMES:

Lotto games are up 25.5 percent, boosted by a recent Powerball run. Powerball sales are up 37.1 percent, Mega Millions sales are up 35 percent, Hot Lotto sales are down 20.5 percent, Dakota Cash sales are up 24.4 percent and Wild Card sales are up 24.5 percent.

NEW JACKPOT SIGNS:

Deployment of new signs began on September 26. The new signs have all five games' jackpots displayed. The Lottery and GTECH are installing the signs and should be finished by the end of October.

REVENUE PROJECTIONS:

Projected revenue for FY2013 for video lottery is \$92.84 million, for instant tickets, \$5.68 million, and for lotto tickets, \$7.93 million. The total projection is \$106.71 million.

RAPID CITY OFFICE MOVE:

The Rapid City Lottery redemption center moved to 1000 Cambell Street on September 4.

PUBLIC RELATIONS/ADVERTISING REPORT

Director of Public Relations and Advertising Kelly Thompson reported on the following:

BIG WINNERS SINCE August 15, 2012:

Three players won Dakota Cash jackpots – Leroy Hoeffert of Sioux Falls won a \$40,925 jackpot, and Lewis Trusty of Custer and Donald Leff of Mobridge split a \$20,000 jackpot.

There were two \$5,000 Wild Card winners, three \$10,000 Powerball winners, and one \$40,000 Powerball winner. A \$5,000 Wild Card winner was sold but has not been claimed. Twelve top instant prizes of \$2,500 or more were claimed as the winner of a \$50,000 prize.

WHEEL OF FORTUNE:

Terry Pearman of Eagle Butte was South Dakota's finalist in the Wheel of Fortune multi-state drawing. A player from Colorado's name was drawn.

25th ANNIVERSARY CELEBRATION:

The on-line registration system installed by BIT worked well. There were 3,074 entries. Five registrants won \$500 cash prizes and twenty won Lottery premium items.

The official celebration concluded with a photo taken of 25-year staff members and commissioners with the Governor.

ESMM UPDATE:

A new slide will be added next week, showing the number of lotto winners and the amount won on monthly basis.

FACEBOOK PAGE/ADS:

As of today, the Lottery's Facebook page has 1,105 fans. Thompson is working with the Lottery's ad agency on a 12 Days of Christmas campaign.

PRESS RELEASES/WEB POSTINGS:

From Aug. 15 through Sept. 27, 2012, one jackpot winner alert, five other winner alerts, nine press releases/web announcements and 12 winner counts were issued.

Commissioner Novotny asked how the advertising budget was arrived at. Lingle responded that the budget has remained the same since he joined the Lottery. There is now a budget starting point of \$100,000 for marketing video lottery.

Thompson stated the advertising budget includes game advertising, premium items, and sponsorships. She is looking at ways to promote video lottery without using advertising dollars.

Chairman Hartford asked about putting video lottery game demonstrations on the Lottery's webpage. Thompson said she is looking into linking to manufacturers' sites for this purpose.

VIDEO LOTTERY REPORT

Director of Security and Video Lottery Operations Deb Reese reported on the following:

VIDEO LOTTERY REVENUE:

The year-to-date net machine income is \$33.6 million, which is 6.1 percent ahead of the same time last year. There is an average of 9,138 terminals, .02 percent ahead of last year. There is an average of 1,443 establishments.

LICENSING UPDATE:

Summit/Game Tech, Spielo, Arisocrat, MTD, IGT, Harms Vending, and Grand Vision Gaming have machines deployed in the market. Scientific Games has begun beta testing and will begin technician training soon. TechLink Entertainment is licensed as a manufacturer but has not submitted hardware or software yet. There are currently 571 MTD's and 1,407 line games connected to the central system.

NEXT MEETING DATE

The next meeting will be December 19, 2012 at 10 a.m.

ADJOURNMENT

Commissioner Estes moved and Commissioner Novotny seconded the motion to adjourn. Motion carried and at 12:25 p.m. the Commission adjourned.