

**Regular Meeting of Board of Directors
New Mexico Lottery Authority
August 18, 2021**

MINUTES

Call to Order: Board Chair Reta Jones called the meeting to order at 12:03 a.m. and asked for a roll call. Present and constituting a quorum were: David Keylon, Othiamba Umi, Nina Thayer, Reta Jones, Leo Romero, Paul Guerin, and Sal Baragiola.

Present from NMLA were David Barden, Carolyn Cabell, Sylvia Jaramillo, Michael Boland, Kevin Duda, and Wilma Atencio. Also attending in person and virtually were Mary Stanford and Steve Beck with INTRALOT and Diego Esquibel.

Approve Proposed Agenda: R. Jones entertained a motion. L. Romero moved to approve the proposed agenda; second by S. Baragiola. All ayes, no nays. Carried; 7-0.

Approve Minutes of June 9, 2021 Board of Directors Meeting: No changes or corrections were made. R. Jones entertained a motion. L. Romero moved to approve the June 9, 2021 meeting minutes; second by D. Keylon. All ayes, no nays. Carried; 7-0.

Public Comment: None.

REPORTS:

Finance and Audit Committee Update: P. Guerin reported that the Finance and Audit Committee met last week. CliftonLarsonAllen presented their entrance conference and provided an overview of the process for the financial audit. The audit is ongoing and will be presented to the state auditor's office for review at the end of October. An exit conference will be scheduled in October for the Committee's review and vetting.

P. Guerin also reported that M. Boland presented the FY 2022 Internal Audit Plan and process for the Committee's review. R. Jones advised that the FY 2022 Internal Audit Plan was approved at the previous Board meeting with the caveat that the approval was pending approval and acceptance by the Finance and Audit Committee. P. Guerin reported that there were no changes recommended to the plan.

Security and Operations Committee Update: S. Baragiola reported that the Security and Operations Committee met earlier today and reviewed the process the Internal Auditor undertakes in preparing the annual audit plan. The Committee accepted the audit plan as presented and recommended no changes.

S. Baragiola reported that the Committee was also presented with information on Jackpocket and the consensus by the members was to move forward with that initiative. R. Jones asked whether the next step of this process would be a presentation to the full Board. D. Barden responded that the outside counsel is currently reviewing the legal issues surrounding Jackpocket's potential licensing as a retailer.

Financial Statements: S. Jaramillo provided a memorandum with highlights from the June 2021 financial statements. \$3.4 million was transferred to the Lottery Tuition Fund, making the total fiscal year transfers of \$46.5 million a record and the highest transfers since 2016, when the Lottery returned \$46.3 million. The Lottery has transferred \$906.7 million to education since 1996.

D. Keylon asked about unclaimed prizes as a percentage of total prizes. S. Jaramillo responded that the unclaimed prize fund currently has a balance of \$4.6 million. The reason for the high balance is that instant

ticket sales have been doing well. S. Jaramillo reported that the prize expense for last year was \$84 million and unclaimed prizes were about \$4 million. D. Barden reported that we had a unique year last year with COVID-19 and limited entertainment options. The plan is to put money back into the games by slightly increasing prize payouts for some games, adding more prizes, and having a better winning experience for our players, while maintaining the 30% mandate and stabilizing revenue for next year. D. Barden reported that the Lottery uses unclaimed prizes to meet the 30% return to the state from time to time, so having a surplus in that fund is good thing at the moment as the Lottery continues to look at ways to increase revenue.

L. Romero asked about the financial impact of the Vax 2 the Max program. S. Jaramillo responded that the Lottery recently sent an invoice to the State for approximately \$75,000 for the tickets provided during the promotion. There were no additional costs associated with this promotion. D. Barden reported that the promotion was a great opportunity for the Lottery to work with the Governor's office and we received positive feedback from their executive staff.

CEO Update: D. Barden thanked staff for a great year. The Lottery worked diligently and will continue making adjustments to games and ensuring that all operational aspects are in line for continued success.

D. Barden reported that Powerball sales were up this year compared to a very bad year last year. Powerball will add a Monday draw day on August 23. Powerball has flattened out and revenues have been going down over the past decade. Historically MUSL has done several things to try to improve the performance, such as increasing the cost of tickets from \$1 to \$2. In that case, while there was a slight increase in sales, we lost 20% of players by making this change in ticket prices. The same thing happened to Mega Millions when ticket prices changed in 2017.

The Lottery continues to look at ways to bring more revenue from the draw games. We do not have control over the national draw games like Powerball, Mega Millions, and Lotto America. We continuously review payouts and features for our in-state games. A group visited New Mexico in hopes of winning the Roadrunner Cash jackpot. This group purchased thousands of dollars' worth of tickets daily until they won the jackpot. These types of groups continue to pop up all over the world in hopes of winning jackpots.

D. Barden reported that the NMLA Website Policy was updated in accordance with the Board directive to update policies.

D. Barden provided some general information that may be useful for members when having conversations about the 30% mandate. This is a data-driven presentation and information that has been discussed previously. D. Barden reiterated that New Mexico is near the bottom in terms of per capita sales. The general information included historical information on the Lottery's revenue, returns, expenses, and prizes; the 2015-2016 Scratchers payout pilot project; calculations for adjusting payouts and return percentages; average instant ticket payouts nationally; the Oklahoma Lottery's growth in sales and returns to education; and information on the Louisiana Lottery adjusting their return mandate.

Board Chair

Board Initiatives: R. Jones thanked D. Barden for his presentation and looks forward to the 30% mandate discussion with members. R. Jones stated that each member will have ten minutes to share their positions, views, comments, etc. and Lottery management and staff will be available to address questions.

R. Jones reported that she was a member of the Board when the 30% mandate took effect. The reasoning for the 30% comes from a good place of providing the maximum return for the students. R. Jones stated that the Board has never been political or contentious and all members past and present have always been in favor of returning as much as possible to the students. R. Jones stated that she has provided statistical data and factual information to members and hopes it will assist with their stance on the Lottery's next steps.

S. Baragiola asked what the Board is deciding today through this discussion. R. Jones responded that the Board will decide whether to support the Board chairperson and executive team pursuing a change in the 30% mandate legislatively.

Each member provided a presentation of their perspective on the 30% mandate. Members proposed a variety of options and there was discussion amongst the members and executive staff.

Some of the options and topics raised were:

- Primary goal of providing the maximum return for the students
- Discussion of data, including that data should drive policy and should be recent
- Consideration of changing the monthly return to a quarterly return
- Consideration of having a minimum return floor
- Discussion of keeping costs down
- Consideration of separate mandates for draw games and instant games
- Consideration of a reduction in the mandate percentage
- Consideration of a pilot project for 3-5 years

D. Barden reported that he had a conversation with David Abbey with the LFC and he advised D. Barden that the legislature will be depositing \$100 million in the tuition fund to cover scholarships for the next five years. Given this coverage for scholarships, now may be a good time to propose a change to the mandate.

D. Barden stated that any actions of the Lottery related to the 30% mandate must come from the Board. The Board sets policy and oversight for the Lottery.

S. Baragiola stated that the transparency between the Lottery and Board is such that he is not concerned with Lottery operating expenses. The Lottery has always apprised the Board of day-to-day operations and he sees no concern in this area. The concern is the 30% and until something is changed, this will remain the constant.

L. Romero commented that he has concerns that New Mexico players cross the border to purchase tickets from other states to get a winning experience. D. Barden stated that is his concern as well and we are losing a significant number of sales to neighboring states, such as Texas, Colorado, and Arizona which have a higher prize payout than New Mexico.

O. Umi stated that while players are important, the statute does not state to keep them happy. The Lottery Act is about maximizing revenue for the students. The legislature would consider that people play the Lottery because they think their \$1 or \$2 is going to the students. O. Umi stated that he has talked to New Mexico residents that think the mandate should be more than 30% and the primary purpose of the Lottery's existence is the scholarship for students. The idea that the system is broken is simply not the case. The mandate is working, and the Lottery proved that with the highest return in 2020 and 2016.

R. Jones stated that there were other factors that contributed to the highest return for 2020 and that was the pandemic. The entertainment options for New Mexico were nonexistent except for the Lottery. R. Jones also stated that prior to this 30% return mandate, there was a 100% mandate of net return to the state. There was always a mandate.

R. Jones entertained a motion that would allow the Board to proceed without placing parameters on the adjustments at this time. P. Guerin made a motion to allow the Board Chair and Lottery executive staff to pursue changes to the 30% mandate. R. Jones asked if there is a second.

O. Umi inquired about the process. O. Umi stated he under the impression the Lottery would present the Board with options. R. Jones asked P. Guerin to explain his motion. P. Guerin stated that his motion would allow the Board Chair and executive staff to discuss the potential changes and then come back to the Board, without any caveats that would hold the Lottery back in pursuing potential changes. L. Romero stated he would second the motion given any proposals would come back to the Board.

D. Keylon stated he would like 2–3-year projections from the Lottery and more than one proposal with different options. D. Barden stated that the Lottery would have limited control in what a sponsor wants to put in a bill. In the past, they have inserted amendments such as a minimum return amount or a sunset provision. N. Thayer asked whether a pilot project should be included in the motion. P. Guerin stated we would not want to limit that and make additions to the motion. We want them to pursue and come back to the Board with a proposal. O. Umi stated he is comfortable with the idea of exploring the options to bring back to the Board and the Board make a determination at that time.

N. Thayer requested that the motion be read aloud again before the final vote. P. Guerin made a motion to allow the Board Chair and Lottery executive staff to pursue a change in the 30% mandate; second by L. Romero. R. Jones requested a roll call vote.

O. Umi proposed a change to the motion to say, “we allow the Board to pursue exploration of changes to the mandate based on that the Lottery will come back to the Board for review and then make a determination to pursue the changes.” O. Umi stated that the terms “pursue”, and “exploration” have different meanings when used in this motion. P. Guerin stated that the Board Chair and the Lottery executive staff cannot change the mandate without the Board voting, so it has to come back to the Board by definition. R. Jones asked for insight from D. Barden on the amendment process. O. Umi stated that he just wanted clarification on the original motion and its intent when using the term pursue versus exploration.

R. Jones stated that “pursuing” in this motion means we are opening up a conversation with legislators and possibly the Governor’s office in how the Lottery should proceed in the upcoming legislative session. The Board collectively decided to move forward on the original motion and second, since the proposed amendment change by O. Umi was to clarify the intent of the motion.

P. Guerin made a motion that would allow the Board Chair and Lottery executive staff to pursue changes to the 30% mandate; second by L. Romero. Roll Call Vote:

D. Keylon – yes

O. Umi – no (based on the word choice of the motion and its intent)

N. Thayer – yes

L. Romero – yes

P. Guerin – yes

S. Baragiola – yes

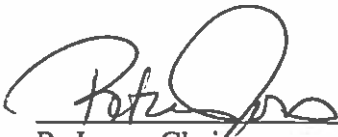
R. Jones – yes

Motion passes with a vote of 6-1.

Other: None.

Other Items: None.

Adjournment: R. Jones entertained a motion to adjourn. N. Thayer made a motion to adjourn the meeting; second by D. Keylon. All ayes, no nays. Carried; 7-0. The meeting adjourned at 2:09 p.m.



R. Jones, Chairman

Date: 12/15/21



P. Guerin, Secretary/Treasurer

Date: 12/15/21