

**Regular Meeting of Board of Directors  
New Mexico Lottery Authority  
March 23, 2023**

**MINUTES**

**Call to Order:** Board Chair Reta Jones called the meeting to order at 12:00 p.m. and asked for a roll call. Present and constituting a quorum were David Keylon, Leo Romero, Reta Jones, Paul Guerin, Sal Baragiola, and Nina Thayer via telephone. Othiamba Umi was absent.

**Introductions:** Present from NMLA staff were David Barden, Michael Boland, Jay Siegel, Kevin Duda, and Wilma Atencio. Also attending was Mary Stanford with INTRALOT.

J. Siegel, Director of Finance was introduced. He stated that he was born and raised in Los Angeles and that he has 44 years in public accounting, both governmental accounting and internal auditing.

**Approval of Proposed Agenda:** No changes or corrections were made. L. Romero moved to approve the proposed agenda; N. Thayer seconded the motion. Motion carried 6-0.

**Approval of Minutes of December 7, 2022, Board of Directors Meeting:** No changes or corrections were made. N. Thayer moved to approve the December 7, 2022, meeting minutes; L. Romero seconded the motion. Motion carried 6-0.

**Public Comment:** None.

**REPORTS:**

**Security and Operations Committee:**

**Policy Updates:** S. Baragiola reported that the Committee reviewed, vetted, and approved two policy updates. S. Baragiola reported that the Payment of Prizes on Ticket Claims Policy clarifies the ninety-day (90) time period within which to claim a winning instant ticket or draw ticket by allowing a winning ticket to be claimed on the first business day after the 90th day if the Lottery is not open for business. S. Baragiola stated that this language is included on the back of instant tickets, not word for word, due to space constraints on the back of tickets.

D. Keylon made a motion to approve the Payment of Prizes on Ticket Claims Policy as presented; N. Thayer seconded the motion. Motion carried 6-0.

S. Baragiola reported that the second policy update is the Separation from Employment Policy, which provides operational guidelines relating to employees who resign, retire, or are terminated from employment with the NMLA. The policy provides for a general two-week notice for employees who resign and a three-month notice to Human Resources for retiring employees. The new language allows for the CEO or his/her designee to make exceptions to the policy based on individual circumstances, which discretion will provide more flexibility.

S. Baragiola made a motion to approve the Separation from Employment Policy as presented; D. Keylon seconded the motion. Motion carried 6-0.

**Operational Initiatives:** S. Baragiola reported that a vendor presentation was cancelled and will be rescheduled. S. Baragiola further stated that the new Executive Vice President for Security, Randy Bertram, met with the Committee and provided an overview of his background/experience as well as an update on

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the responsibilities of the Security Division. R. Bertram's comments were informative and well received by the Committee.

**Finance and Audit Committee:**

**Internal Audit Reports:** P. Guerin reported that the Finance and Audit Committee met yesterday (March 22, 2023). P. Guerin asked M. Boland to provide a brief summary of Internal Audit's items.

**MUSL Minimum Game Security Standards Compliance Audit:** M. Boland reported that the Lottery is a member of Multi-State Lottery Association (MUSL), and therefore subject to MUSL rules and standards. Internal Audit periodically conducts an audit to ensure we are meeting the MUSL Standards. Internal Audit reported that the Lottery is in compliance, there were no findings, and two recommendations were offered. The Security Division accepted and implemented the recommendations.

**Dynamics GP Accounting Software Access Engagement Phase 2:** M. Boland reported that Internal Audit and an independent consultant completed Phase 1 last year of an engagement regarding access security roles and segregation of duties (SOD) with our accounting software. It was determined there were some risks that needed to be mitigated. Phase 2 delved into detail with the security structure resulting in recommendations from the consultant. The recommendations will be implemented in Phase 3 at a future date.

L. Romero asked M. Boland to briefly summarize the recommendations. M. Boland reported there are many recommendations, but essentially it is to update roles and associated access in the accounting system to have stronger segregation of duties. These recommendations were implemented in a test environment and tested by the Finance Division. M. Boland reported that the initial setup of the accounting software many years ago was more open-box and not tailored to the Lottery's specific needs.

R. Jones requested an example of an improper separation of duties. M. Boland responded that through the analysis conducted by the consultant, a staff accountant had access to the full life cycle of a transaction by setting up bank accounts, writing checks, and deleting items. The Lottery has mitigating controls in place allowing for internal reviews within the Finance Division, and also takes necessary preventive controls for this circumstance not to occur, now and in the future. M. Boland stated that there are no issues and there have not been any issues in the past; the idea is to simply update to an automated preventative control process. There are significant and adequate controls currently in place.

D. Keylon inquired about the timetable for the implementation. D. Barden responded that Phase 3 will be implemented once the Finance Division is fully staffed.

**FY 2023 Financial Audit Contract Extension:** M. Boland reported that the Lottery received the annual notification from the State that the financial audit be conducted by an Independent Auditor. The Lottery plans to procure Financial Audit Services, as our current Independent Public Accountant (IPA), Carr Riggs Ingram, LLC (CRI), has chosen not to execute an extension due to staffing at their firm. M. Boland reported that the Lottery learned about this yesterday.

Internal Audit submitted a request to the Finance and Audit Committee to bid for Financial Audit Services, rather than to use an RFP process, as the cost of the audit is below State and Lottery procurement thresholds, and the State Auditor Rule allows for this bidding process unless the RFP process is determined to be more beneficial. A Lottery evaluation committee will review and score the proposals to select the successful vendor/offeror, and management further requests that the Finance and Audit Committee be authorized to approve the successful vendor on behalf of the Board so that a contract can be submitted to the State Auditor's Office by the June 1, 2023, deadline.

P. Guerin reported that the Committee passed a motion to recommend that the Board authorize the Lottery to proceed with taking the necessary steps to procure the services of a new CPA firm through either the bid process or an RFP, whichever was more beneficial to the Lottery. D. Barden stated that CRI put the Lottery in a difficult situation due to the timing, and that the Board's direction is necessary in how to facilitate and move forward with our Financial Audit Services contract.

Discussion between the Board and Lottery management ensued to differentiate between the bid and RFP processes. The Lottery reviewed the past two RFPs for Financial Audit Services and noted only three to four firms have responded due to strict requirements. The Lottery's thought process is that due to the timing issue, requesting bids from only those firms who have submitted proposals in the past would reduce the timeframe versus an RFP, which is more complex. R. Jones advised that there is risk in proceeding with a bid process, such as the cost of personnel going up due to inflation.

L. Romero made a motion that the Board adopt and approve either the bid procedure or RFP procedure to obtain an external auditing firm; P. Guerin seconded the motion.

D. Barden requested a point of clarification that the Internal Auditor requested that the Finance and Audit Committee be authorized to approve the successful vendor on behalf of the Board so that a contract can be submitted by June 1, 2023.

R. Jones asked L. Romero if he would accept the amendment to his motion. L. Romero agreed. P. Guerin seconded the amendment. L. Romero made a motion that the Board approve the bid or RFP procedure in obtaining an external auditor and authorize the Finance and Audit Committee to approve the successful vendor on behalf of the Board; P. Guerin seconded the motion. Motion carried 6-0.

**Financial Statements:** D. Barden provided a recap sheet highlighting the January 2023 financial statements. The Lottery transferred \$5.5 million to the Lottery Tuition Fund for January. FY23 YTD transfers of \$32.3 million were \$7.7 million more than FY22 YTD and \$8.4 million more than the YTD original budget.

D. Barden reported the YTD instant sales are 10.3% or \$4.7 million more than FY22 YTD. All draw game sales are ahead of FY22 YTD, except for Roadrunner Cash. D. Barden reported that adding prizes to some instant games led to increased sales. There were three major jackpots this year. Total Sales of \$107.5 million were \$25.7 million more than FY22 YTD and \$27.5 million more than YTD original budget.

**FY 2023 Consolidated Revised Annual Budget:** D. Barden reported that the Lottery will return a total of \$49.5 million to the Lottery Tuition Fund this year, which will be the best transfer year to date. The Lottery has transferred nearly \$980 million to the lottery tuition fund since 1996.

D. Barden reported that revenue increased in the proposed FY23 revised budget with minimal changes, outside of revenue and expenses. D. Barden provided a presentation of the revised budget for ease and reported that the Operating Revenue increased by \$28.5 million or 20.90%.

D. Barden stated the revised budget is too low/very conservative but will not be adjusted. D. Barden reported that Powerball added a draw day. Mega Millions will go to a \$5 game at the end of the fourth quarter. Lotto America has the biggest jackpot with only 13 states participating in this game. Pick 3 Plus and Pick 4 Plus sales are down. Instant game sales are running 10% higher, due to increased prize payout.

Capital Assets and Expenditures saw an overall reduction of \$45 thousand. The capital consisted of a fleet vehicle purchase, employee bathroom renovations, and upgrade of audio/recording for the board room for meetings. D. Barden requested approval of the bathroom upgrade, since it is above \$75,000 and any item above \$75,00 requires Board approval. The upgrade is included in the revised budget.

Games Expenses increased by \$19.9 million; the increases in this area are prize expense, retailer commission, online vendor fees, ticket vendor fees, and shipping. D. Barden reported that retailer commissions will generate \$13 million this year.

P. Guerin asked how many retailers are in the state. D. Barden responded there are approximately 1,000 retailers, but the figure fluctuates. Some retailers were lost during the pandemic.

Operating Expenses increased by \$145 thousand or 3.02%. Salaries, wages, and benefits; utilities and maintenance; and professional fees are areas that increased. Division budgets for Advertising & Marketing, Security, and Sales increased over the FY23 original budget. D. Barden advised that we receive about \$4 million of added value for advertising. D. Barden requested approval of the FY 2023 Consolidated Revised Annual Budget.

P. Guerin reported that during the Finance and Audit Committee meeting, a member voiced his abstention for the revised budget. L. Romero stated it was he who abstained and has previously stated for the past three years that is unnecessary, in his opinion, to complete a revised budget. Some members were in agreement.

P. Guerin made a motion to approve the FY2023 Consolidated Revised Annual Budget; S. Baragiola seconded the motion. Motion carried 5-0, with L. Romero abstaining.

P. Guerin commented that he preferred the broader overview/narrative of the budget as presented--not just numbers.

#### **CEO:**

**Open Meetings Resolution:** D. Barden reported that the Open Meetings Resolution is an annual document that the Lottery follows when conducting Board and Committee meetings in accordance with the Open Meetings Act. This document needs to be adopted annually.

L. Romero made a motion to accept the Open Meetings Resolution as presented; S. Baragiola seconded the motion. Motion carried 6-0.

**CEO Update:** D. Barden provided updates on several topics: \_\_\_\_\_

- Video Slides were shown including YTD Draw Sales, Instant Draw Sales, and Total Sales on a weekly basis and the three major jackpots. The slides showed jackpot fatigue over the past four fiscal years, meaning it takes more draws to get players interested in playing, and as soon as the jackpots are hit, sales decrease. The instant ticket sales for this year are close to levels reached during COVID. The Lottery increased prize payout, resulting in increased sales.
- New Mexico will add a new Powerball feature called Double Play. For an additional \$1, players will have a chance to match their Powerball numbers in a second drawing. The top prize is \$10 million, and the drawing will occur 30 minutes after the regular Powerball drawing.
- The Lottery is participating in the World Lottery Association responsible gaming framework certification process. The process is extensive involving documentation and resources, culminating in review by an independent assessment panel. The Lottery has obtained level 1 certification and plans to submit an application for level 2 later this year.
- The Appreciation Luncheon is scheduled for April 21, 2023.
- The next proposed Board of Directors meeting is in June 2023.

**Board Chair**


**Board Initiatives:** R. Jones reported that committee assignments from the previous year will remain the same for both the Finance and Audit Committee and the Security and Operations Committee, chaired by P. Guerin and S. Baragiola, respectively.


R. Jones reported that the past legislative session was interesting. There were a few bills introduced relating to the Lottery, including SB 198 pertaining to anonymity of winners, and SB 369 which would have eliminated the Lottery altogether. R. Jones was contacted by a newspaper requesting a comment about SB 369. Not only would the bill have eliminated the Lottery, but also the tuition fund would be funded by the general fund. The bill was heard in the House Education Committee, and R. Jones and D. Keylon attended the meeting. The data that was presented by the sponsors was derived from a voluntary survey. R Jones reported that it was a distorted presentation of any factual information regarding the Lottery. There was a perception that dollars are going out of state and that retailers should not receive commission fees. This appeared to be more of an anti-gaming initiative.

R. Jones stated that going forward, the Board may wish to be more active during the legislative interim by educating and informing legislators as to how the Lottery works. The Board also needs to be more present by having the Lottery produce packets including where the money goes, create a web-based information center, and continue with the benefits campaign highlighting recipients of the Lottery Scholarship.

**Other Items:** None.

**Adjournment:** N. Thayer made a motion to adjourn the meeting; D. Keylon seconded the motion. Motion carried 6-0. The meeting adjourned at 1:32 p.m.

  
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R. Jones, Chairman  
Date: 6/22/23

  
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P. Guerin, Secretary/Treasurer  
Date: 6/22/23