

**Regular Meeting of Board of Directors  
New Mexico Lottery Authority  
November 20, 2019**

**MINUTES**

**Call to Order:** Board Vice Chair Sal Baragiola called the meeting to order at 11:04 a.m. and asked for a roll call. Present and constituting a quorum were: David Keylon, Reta Jones, Sal Baragiola, Paul Guerin, Leo Romero, and Othiamba Umi.

Present from NMLA were: David Barden, Carolyn Cabell, Sylvia Jaramillo, Wendy Ahlm, Evelyn McKnight, Kevin Duda, Vince Torrez, Michael Boland, and Wilma Atencio.

Also present were: Mary Stanford and Steve Beck with INTRALOT; Charlie Scannella and Tim Menzia with Scientific Games; Elizabeth Nunez with CliftonLarsonAllen; Ceryn Schoel with Think New Mexico, and Pat Rogers with Patrick J Rogers, LLC.

**Introduction of New Board Members:** S. Baragiola welcomed new Board members D. Keylon, R. Jones, L. Romero, and O. Umi. Each member introduced themselves to staff and audience members.

**Oath of Office:** S. Baragiola administered the Oath of Office for D. Keylon, R. Jones, L. Romero and O. Umi.

**Approve Proposed Agenda:** S. Baragiola entertained a motion to approve the proposed agenda. P. Guerin made a motion to approve the proposed agenda as presented; second by D. Keylon. Carried; 6-0.

**Approve Minutes of August 23, 2019 Board of Directors Meeting:** S. Baragiola entertained a motion to approve the August 23 minutes. P. Guerin made a motion to approve the minutes; second by S. Baragiola. Carried; 6-0.

**Public Comment:** None.

**REPORTS:**

**Finance Audit Committee:**

**Approve Minutes of October 9, 2019 Finance Audit Committee Meeting:** S. Baragiola made a motion to approve the October 9 Finance Audit Committee minutes; second by R. Jones. Carried; 6-0.

**FY 2019 Financial Audit – CliftonLarsonAllen:** S. Jaramillo introduced Elizabeth Nunez, Senior Associate with CliftonLarsonAllen (CLA) to present the FY 2019 Financial Audit Report. S. Jaramillo reported that CLA conducted their audit the last two weeks of August 2019. The audit report was sent to the Office of New Mexico State Auditor's Office following the October 9 Finance Audit Committee Meeting exit conference. The report was released by the NM State Auditor's office on November 18, 2019. The Lottery requested a waiver for the five-day waiting period so that it could be presented at today's meeting. S. Jaramillo requested an acceptance of the audit report at the conclusion of CLA's presentation.

Elizabeth Nunez provided a brief summary of the FY 2019 Financial Audit to the Board of Directors and provided two documents to review. E. Nunez reported that during the two-week period, CLA collected samples, conducted inquiries, and met with management to discuss the audit. The exit conference took place on October 9 with members of the Finance Audit Committee and Lottery management. The financial audit was released by the State Auditor's office on November 18, 2019 with a clean unmodified opinion on the financial statements and no audit findings for FY 2019. E. Nunez stated that the financial results are

consistent with the financial statements the Lottery presents each month to the Board and overall the Lottery has seen an increase from FY 2018 in its overall total net position as well as the operating expenses, game expenses, operating income, and a \$3 million increase to the lottery tuition fund. The Lottery did see a small decrease in total liabilities. The increase can be attributed to online sales with the billion-dollar jackpot. The unclaimed prize payable at the end of FY 2019 was listed at \$1.9 million.

E. Nunez stated that a clean opinion is the highest level that an organization can receive. There were no difficulties encountered in performing the audit or working with management during and after the audit process from year one to present time. The audit was completed in accordance with auditing standards generally accepted in the USA and the standards applicable to financial audits contained in the Government Auditing Standards. E. Nunez reported that the Lottery management and staff have done an amazing job in keeping fixed costs down; making strides in sales performance primarily due to online sales; being efficient and consistent; and in overall controls that are in place at the Lottery.

L. Romero asked how long has CLA conducted the financial audit for the Lottery, where are they located, whether audit firms have experience or specialize in the lottery industry, and whether there is a policy that determines the number of years/engagement terms for an audit firm. E. Nunez reported that CLA is a local firm and located in the uptown area. This is the fourth year that CLA has conducted the audit for the NMLA and this is the first year of the second engagement with the Lottery. CLA initially won the bid in FY 2016 and again in FY 2019 for an additional three years. The rotation schedule is determined by the State Auditor. In accordance with the NM State Auditor's office, an audit firm can only have two engagements per cycle. Once the two engagements are completed, the audit firm cannot bid for two years. E. Nunez spoke on CLA's experience and history of the firm. CLA has done audits on a state and local level and have multiple levels of reviewers for quality assurance within their firm and who specialize and have lottery industry knowledge and experience. CLA has also done audits for the Colorado Lottery.

S. Jaramillo thanked CLA and also thanked Lottery management and staff for consistently following policies and procedures and having controls in place that have resulted in good audits.

L. Romero made a motion to accept the FY 2019 Financial Audit Report as presented; second by D. Keylon. Carried; 6-0.

**Financial Statements:** S. Jaramillo reported on financial statements for the quarter ending September 2019 and provided highlights. \$2.867 million was transferred to the Lottery Tuition Fund in September, totaling \$8.8 million for FY20 Year-to-Date (YTD). The total transfers were nearly \$252,000 (2.77%) less than last fiscal year. Since FY 1996, the Lottery has transferred nearly \$830.9 million to education.

Net instant ticket sales were \$18.5 million for the quarter, which was \$1.4 million (8.34%) more than last year. Net instant ticket sales for the quarter were nearly \$250,000 more than the YTD Budget (101.37% of Budget).

Total net drawing game sales of \$10.9 million for the quarter were nearly \$2.3 million (17.19%) less than last year. Total net drawing game sales were nearly \$3.9 million less than the YTD Budget (73.94% of Budget). Compared to last year, Powerball sales were down nearly \$650,000; Mega Millions sales were down \$1.4 million; and Roadrunner Cash sales were down nearly \$500,000. Combined Pick 3 and Pick 4 sales were up \$284,000 from last year.

Gross revenues were nearly \$29.5 million, which was \$839,000 (2.77%) less than last year and nearly \$3.6 million less than YTD Budget (89.14% of Budget).

Total game expenses were nearly \$361,000 (1.72%) more than last year but were \$868,000 less than the YTD Budget (96.09% of Budget). S. Jaramillo reported that drawing game sales are down, and instant

ticket sales are up, bringing the prize payout percentage up to 59.2% compared to 56.7% for FY19. Because drawing game sales have been down this year and instant ticket sales have been up, our prize payout percentage is higher this year.

Total operating expenses were \$20,000 (2.27%) more than last year but were under Budget by \$291,000 (75.87% of Budget). Some operating expense line items were up compared to last year such as salaries, wages, and benefits, while other line items such as materials and supplies were down. \$100,000 more in advertising has been expensed compared to last year and ticket vendor fees were up compared to the same quarter last year.

S. Jaramillo reported that \$1.661 million of unclaimed prizes have been used during the first quarter of FY20 to meet the 30% return mandate compared to \$695,000 used during FY19. At the end of September 2019, the unclaimed prize balance was approximately \$1 million. The unclaimed prizes have been used 84.35% in the last twelve years to reach the 27% and now 30% return mandate. \$45.5 million of unclaimed prizes in the twelve years have been transferred to the scholarship fund.

O. Umi asked if the increase to salary, wages, and benefits was due to D. Barden's compensation package. S. Jaramillo reported that the increase to salaries, wages, and benefits is made up of several things. The Lottery incurred an increase of 5% across the board for insurances. Four years ago, the Lottery made the decision to utilize the "local public body" designation with the State and joined the State insurance to help keep costs down. This decision was made primarily because the Lottery is a small organization and had incurred high annual increases to our health and other insurances. Another item is staffing; many key personnel will be leaving within the next few years and the CEO is building infrastructure to prepare for the upcoming changes. Changes include the addition of the COO and open new positions.

D. Keylon asked how the unclaimed prize fund works and whether there is an optimal amount to keep in the fund. D. Barden responded that the question has come up over the past several years from a legislative standpoint. If the Lottery did not have the unclaimed prize money, the Lottery would not be able to meet the 30% mandate return every month. The alternative would be that the Lottery would pull the \$10 ticket and perhaps some of the \$5 tickets from retailers to meet the 30% mandate. As D. Barden informed the Legislative Finance Committee (LFC) yesterday, the Lottery currently has approximately \$975,000 in the unclaimed prize fund. If we lose that money it would impact our ability to keep our tickets on the market.

The unclaimed prize fund was created by the Lottery and is funded by tickets that are not claimed in a 90-day period. Since 2007, when the return mandate of 27% and now 30% was enacted, the Lottery initiated an overhaul of its operations to meet the return mandate on a monthly basis. There has been discussion at the legislative level to eliminate and transfer the unclaimed prize fund directly to the scholarship program.

D. Barden reported that the Lottery cancelled the December instant ticket launch to ensure we had enough money on hand to meet the 30% return. The \$975,000 remaining in the fund may last 2-3 months, and it takes approximately six months for new tickets to have an impact on the market. The monthly returns hamper our ability to bring in revenue. The state is already receiving the money from the unclaimed prize fund. The Lottery is currently using the prize fund to be competitive as best as we can with our neighboring states whose Scratcher prize payouts are generally 3%-5% higher. D. Barden reported that prize payouts for online games like Powerball and Mega Millions are the same in each state. NM's instant prize payout percentage is near the bottom of all US lotteries.

D. Barden reported that a legislative bill almost passed that could have alleviated some of our issues. The bill included a cap on operating expenses and removal of the 30% mandate, but the legislation died on the floor. The Lottery will continue to have conversations with legislators and find common ground between the various parties. The Lottery is aware that accountability is needed, and we hope we can come up with a compromise.

O. Umi asked for clarification on the unclaimed prize fund and for D. Barden's statement that more money goes into the scholarship fund than comes into the unclaimed prize fund. D. Barden explained that since 2008, the Lottery has transferred more money from the unclaimed prize fund to the tuition fund than has been added to the unclaimed prize fund. D. Barden reported that we have recently been transferring approximately \$600,000 each month from the unclaimed prize fund to meet the 30% mandate and that is why we are not launching any scratcher tickets in December; the Lottery cannot afford the prize payout from those games. Not launching new games will affect the Lottery's Super Tuesday advertising and marketing strategy.

L. Romero asked if there is a time limit to claim prizes. D. Barden reported there is a 90-day claim period and after that time any funds revert to the unclaimed prize fund. Each US lottery sets their own time period; some states have 180 days or one year to claim a prize. The Board of Directors set the claim period to 90 days.

O. Umi asked if there is an advantage to annual transfers versus monthly transfers and whether it would alleviate issues and provide flexibility to the Lottery if the transfers were done on an annual basis. D. Barden stated he informed the LFC that the Lottery has a new Board and unclaimed prizes could be something the new Board may like to discuss. D. Barden affirmed his responsibility is to carry out Board policy.

**Other:** None.

**CEO, David Barden:** C. Cabell, COO, reported that each Board member has been provided a packet that contains information about Board and Lottery operations. D. Barden will meet with new members to discuss "Lottery 101" and provide a tour of the facility in the near future.

**Lottery Industry Report – Scientific Games Corporation (SG):** Charlie Scannella with Scientific Games provided a presentation on the State of the Industry. As lottery vendors (SG along with INTRALOT), it is their duty to follow and maintain statutory requirements for the Lottery, which include providing the maximum amount of revenue for scholarships and engaging in entrepreneurial pursuits. The lottery industry has been growing for over 40 years and the scratcher program is what drives the business. Draw game prize payouts of around 50% offset the instant ticket games. The Lottery needs a good combination of instant and draw games.

The presentation highlighted where the Lottery stands on a national level in sales for drawing games and instant products. Over the past 52 weeks, the Lottery's Scratchers sales are up 6%, but in the last 12 weeks, there is a slight decline. The decline in nationwide sales stems from the \$1 and \$2 price points. The Lottery's growth is coming from the \$3, \$5, and \$10 ticket price points because this is where players see the best value and where the higher prize payouts are. Nationally, the growth is from the \$3-\$30 price point tickets. The presentation also showed the Lottery's ranking near the bottom in comparison to neighboring states and nationwide. The Lottery's states of interest are our neighboring states and those states that have similar population such as Colorado, Nebraska, Arizona, and Oklahoma.

C. Scannella reported that the Oklahoma Lottery is an example of what could happen if the 30% mandate were eliminated. It took Oklahoma years to overturn their mandate and in 2017, the legislators and Governor provided that relief. In the first year, Oklahoma grew their scratcher sales by 40%. Since that time, they have stayed at a growth of 10% or more. C. Scannella stated that how you manage your payout will grow your business. The Oklahoma Lottery has put more into their games in terms of payout, creating excitement for their players leading to more funds for their beneficiaries. Prize payout is important and a key component of growing your business. The optimal prize payout for NM would be an aggregate of 68%. The current prize payout is approximately 61.4%.

C. Scannella highlighted the key performance drivers that are needed to be successful, including: prize payout, price point positioning, size of game, prize structures, launch cycle, product mix, games in the market, retailer density, quality of systems, retailer mix, retailer incentives, selling force, and advertising and promotions. Board members will receive a copy of the presentation.

**General Update:** D. Barden reported that he spoke with Senators John Arthur Smith and Jacob Candelaria and there are no plans to sponsor lottery initiatives for the upcoming legislative session. Senator Campos advised that he may sponsor legislation for the upcoming 30-day session. D. Barden also reported that he met with the Governor’s Chief of Staff John Bingaman and it was a positive meeting.

D. Barden stated he would like to have discussions with the new Board on the 30% return and how it has inhibited the Lottery’s growth over the past 12 years, the unclaimed prize fund, and a sports lottery game. D. Barden reported that legislators at yesterday’s LFC meeting were generally in favor of the sports lottery initiative moving forward. The sports lottery game was approved by the prior Board members and it will be up to the new Board to determine if this project should move forward. Sports lottery could generate an additional \$30 million in sales and \$7-\$10 million for the scholarship fund. This game should bring in new players such as millennials who favor new technology.

Other housekeeping items reported by D. Barden was the Educational Reimbursement Policy was moved from an external policy to an internal policy, since this primarily affects employees only. There will be two internal audit reports presented to the Finance Audit Committee in 2020.

**Other:** None.

**Board Chair:**

**Announcements:** S. Baragiola recommended that election of officers for the Board and committee appointments take place on January 8, 2020 at 11:00 a.m.

R. Jones inquired about Lottery 101 orientation for new Board members. D. Barden reported that the Lottery would schedule and meet with each Board member either individually or collectively soon.

**Other Items:** None.

**Adjournment:** S. Baragiola entertained a motion to adjourn. D. Keylon made a motion to adjourn the meeting; second by O. Umi. Carried; 6-0. The meeting adjourned at 12:46 p.m.

*Sal Baragiola*  
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Sal Baragiola, Vice Chairman  
Date: 1-8-2020

*Sal Baragiola by direction*  
\_\_\_\_\_  
Secretary/Treasurer  
Date: 1-8-2020