

**Oklahoma Lottery Commission  
Minutes of Regular Meeting**

March 18, 2008 – 1:30 p.m.

**Members Present:**

Mr. William Paul, Chairman  
Mr. George Charlton, Vice-Chairman  
Ms. Charlotte Edwards, Treasurer  
Mr. Thomas Riley, Secretary  
Mr. James Orbison, Trustee  
Mr. Pete Wilson, Trustee

**Members Absent:**

Ms. Cindy Ball, Trustee

**Others Present:**

Jim Scroggins, OLC	Rhonda Hooper, Jordan Associates
Rollo Redburn, OLC	Houston Hunt, Jordan Associates
Terri Jackson, OLC	Leo DiBenigno, Florida Lottery
Gay Tudor, AG's Office	Thomas Shaheen, North Carolina Lottery
Ron Miguel, SGI	Bryan Smith, ecapitol
Bill Fox, SGI	Tony Thornton, The Oklahoman
Allen Blankinship, SGI	Angel Riggs, Tulsa World
Pat Hall, SGI	Dave Jordan, KWTV

**ITEM 1**

**Call to Order. Roll Call and Announcement of Quorum**

The meeting was called to order at 1:35 p.m.

Roll Call: Ms. Charlotte Edwards, Mr. Thomas Riley, Mr. James Orbison, Mr. Pete Wilson and Mr. William Paul were present. Mr. Paul declared a quorum.

Mr. Charlton was delayed. Ms. Ball was absent.

**ITEM 2**

**Announcement of Filing of Regular Meeting Notice and Posting of the  
Agenda in Accordance With the Open Meeting Act**

Posting of Regular Meeting Notice and Posting of the agenda were confirmed, in accordance with the Open Meeting Act.

### **ITEM 3**

#### **Approval of Minutes of the December 18, 2007 Regular Meeting**

Ms. Edwards made a motion to approve the minutes of the December 18, 2007 meeting. Mr. Orbison seconded the motion.

Roll Call: Ms. Charlotte Edwards, Mr. Thomas Riley, Mr. James Orbison, Mr. Pete Wilson and Mr. William Paul voted to approve the motion. The minutes were approved.

Mr. Paul announced that due to the travel arrangements for the guests of today's meeting, with the Board members' approval, the meeting agenda order would be adjusted. Mr. Riley has had an unexpected obligation materialize, so the meeting will continue with Item 8 of the agenda.

### **ITEM 8**

#### **Report of Audit & Finance Committee (Mr. Riley)**

Mr. Riley stated that the Audit and Finance Committee met today prior to the Board Meeting. The internal audit report on one vendor contract, internal control processes, payments and transactions with MUSL and audits of scratch tickets in warehousing and distribution control were conducted with no problems or significant findings. The committee reviewed financials through February 29, 2008 which show revenues to be above budget and expenses to be under the budgeted numbers. The committee's conservative estimate for the remainder of the fiscal year, barring any unforeseen circumstances, will continue to be above budget throughout the remainder of the fiscal year. It will be necessary at the next meeting to entertain an engagement letter for our external auditors.

Mr. Charlton joined the meeting at 2:05 p.m. Mr. Riley departed the meeting at this time.

### **ITEM 5a(i)**

#### **Presentation on actions and results in other states: Mr. Leo DiBenigno, Secretary, Florida Lottery**

Mr. Scroggins stated that at a previous meeting with Mr. Paul and Ms. Edwards, it was requested that members have an opportunity to speak to officials from other lotteries that have increased prize payouts in instant games and no longer had a profit restriction. This would give the Board an opportunity to ask questions about the process. Mr. Scroggins approached the Florida Lottery and North Carolina Lottery and asked them to attend the meeting today to provide information on their experiences.

Mr. Paul introduced Mr. Leo DiBenigno, Secretary of the Florida Lottery, to the members and guests. Mr. DiBenigno explained that the Florida Lottery is a mature lottery that started in 1988 and waited 15 years before moving to a variable prize authority on scratch off games. In 2002, the Florida Lottery had a mandated profit of 38%. Sales in 2002 were a little more than \$600 million and had hit a plateau and were flat, as were contributions to their benefactor. With Florida having a substantial educational system, with continued growth, the flat sales were not acceptable for them doing their part to ensure that education revenues continued to rise. Florida had the lowest prize payout of all U.S. lotteries in 2000. A case was made to the

legislature that increasing prize payout percentages would lead to higher sales and greater net profits – in dollars, not percentages. Over the past two decades, more than two dozen U.S. lottery states documented significant increases in scratch-off ticket sales after increasing their prize payout percentage. Mr. DiBenigno stated that other states that have made the change to a variable prize payout authority showed a dramatic increase in sales. Providing this historical data to the Florida legislature made for a compelling case. In 2000, the California Lottery increased prize payouts and it resulted in an additional \$165 million to education in the first three years. Massachusetts leads the nation in total sales; they increased their scratch-off payout from 63.1% to 73.5% (the highest prize payout in the U.S.) over the past several years. Sales have increased from less than \$10 million weekly to more than \$35 million weekly (1988-1996). The Florida Lottery was averaging \$10- \$15 million a week; today scratch-off sales are typically above \$50 million a week. In 1997 the legislature in Texas decreased prize payouts and sales dropped 40%. In 1999 the Texas legislature reversed the decision and sales have rebounded. The Florida Lottery's return on investment analysis showed that for every dollar in additional prize payout authority a return of an additional 77 cents to education would be realized, a 77% return on investment. No state lottery has been able to sustain its scratch-off ticket sales after reducing its prize payout percentage. Prior to the variable prize payout authorization, Florida's sales were \$600 million a year, last year sales on scratch-off tickets alone were more than \$2 billion dollars, a tripling in sales in five years. Education funding rose from \$252 million in 2002 to \$487 million a year in 2007. Florida, over the last five years, has found that the optimal payout percentage is 70-71%. Florida is currently paying 19% to their beneficiary.

Mr. Paul asked Mr. DiBenigno if he knew of any other state that has had a negative experience increasing their prize payout authority. Mr. DiBenigno stated that in 2002 during talks with law makers, he had investigated historical data and was unable to find any lottery that had made the change with negative results. Mr. Paul stated that Oklahoma law currently mandates that the Oklahoma Lottery pay out a minimum of 45% in prizes, and we have averaged about 52%, where did Mr. DiBenigno guess that would put us in relationship to other states. Mr. DiBenigno stated that Oklahoma would be at the bottom, the same position that Florida previously occupied.

Mr. Orbison asked Mr. DiBenigno how they responded to criticism. Mr. DiBenigno stated that they prudently made their case with actual historical information from other lotteries that faced the same issue and had made the change to a prize payout authority on instant tickets.

Mr. Paul asked Mr. DiBenigno if the expanded sales warranted additional staff. Mr. DiBenigno stated that no additional staff or administrative costs were incurred and they actually continued to streamline their operations.

Mr. Orbison asked if, in his experience, had he encountered any negatives with a lottery eliminating a mandated profit percentage so that they can set a higher prize percentage payout. Mr. DiBenigno stated he is not aware of any negatives, nor did the Florida Lottery experience any negatives.

## ITEM 5a(ii)

### **Presentation on Actions and Results in Other States: Mr. Thomas Shaheen, Executive Director, North Carolina Lottery**

Mr. Paul introduced Mr. Thomas Shaheen, Executive Director of the North Carolina Lottery. Mr. Shaheen stated that the North Carolina Lottery started sales in 2006 and is relatively new, much like the Oklahoma Lottery. The North Carolina law initially stated that the lottery will return 35% to education, 7% to retailers, at least 50% in prizes and 8% for operations. North Carolina was surrounded by states that already had the lottery, so customers were lottery savvy. South Carolina, Virginia, Tennessee and Georgia touched North Carolina's borders and they were paying a higher prize payout on instant tickets, averaging about 62% or higher. North Carolina started up with a 50% prize payout, which the media constantly criticized and suggested players not play in North Carolina. Lottery officials immediately began discussing higher prize payouts to encourage sales in North Carolina, not the border states. North Carolina lottery officials approached the Governor and legislature and several meetings were conducted. The legislature agreed to the new higher payout on instant tickets in August 2007 and the new games began hitting the retail stores in November 2007.

The North Carolina Lottery implemented several internal initiatives to implement the new prize payout authority. A new aggressive advertising campaign was launched to show off the new instant ticket games with a new slogan "Now More Prizes. Now More Fun." The advertising campaign included television, radio, counter mats and dispenser toppers. Staff worked closely with the instant ticket vendors to get the old inventory out of the retail stores. Additional instant ticket games were introduced at a higher price point of \$5 and \$10.

Mr. Shaheen stated that the increased payout sales trend shows a drastic increase in instant ticket sales beginning the week of December 5, 2007. Prior to the increased prize payout authority, the North Carolina Lottery was averaging about \$8.7 million a week for instant ticket sales. The week of March 1, 2008 sales were \$20.4 million. Monthly sales figures before the prize payout increase in March 2007 were a little more than \$40 million, for March 2008, after the prize payout increase, sales will be more than \$80 million. Through December 2007 education received 34% of sales, the goal is to gradually decrease that percentage, for fiscal year 2009 it will be 32%. North Carolina will budget a 30-40% increase in sales for FY2009 based on the sales thus far.

Mr. Paul asked Mr. Shaheen the current population of North Carolina. Mr. Shaheen stated that the population of North Carolina just recently topped 9 million, almost three times the size of Oklahoma.

Mr. Paul asked Mr. Shaheen how they went about getting the law changed in the state of North Carolina. Mr. Shaheen stated that there were approximately four visits with the legislature and there was belief that it wasn't going to work, but the facts and figures from other states were very compelling. The legislature was encouraged to visit with other lottery directors and administrations to view the positive results first hand.

Mr. Charlton asked if North Carolina or Florida has any casinos and did that play into increasing the prize payout. Mr. Shaheen stated that North Carolina only has one casino, but he did have experience at the New Mexico Lottery, where there were 18 land based casinos. Five of the casinos were in Albuquerque, as was the lottery headquarters, and where the largest concentration of New Mexico's population resided. First they were viewed as competition, but

the increases were still realized. New Mexico entered into an agreement with two casinos to sell lottery tickets and one became the top lottery ticket seller. The casinos didn't hurt the lottery, but they may have inhibited its growth. Mr. DiBenigno stated that in 2002 Florida had jai alai, racinos, places operating electronic bingo, but no full-fledged casinos and lottery sales did very well.

Mr. Wilson asked Mr. Shaheen how exactly the law was changed. Mr. Shaheen stated that the law "mandated as nearly as practicable return at least 35% to education, 8% for operating costs, 7% to retailer and 50% to prizes". The word "mandated" was eliminated and the percentages were now labeled as "guidelines to follow to maximize revenue for education".

Mr. Paul asked Mr. Shaheen if the North Carolina lottery experienced any additional staffing needs or other expenses incurred with the increase in sales. Mr. Shaheen stated that the only expenses were in those items that directly related to sales, i.e. retailer commissions, prize payout and vendor fees, all of which are calculated as a percent of sales, but no operating expenses increased.

Mr. Paul asked Mr. Shaheen how long he has been in the lottery industry. Mr. Shaheen stated he has worked in the industry for 20 years in five different states. Mr. Paul asked Mr. Shaheen if he knew of any reasonable scenario that would result in less money for education if the Oklahoma Lottery were to change to a prize payout authority. Mr. Shaheen stated that history from other states that have increased the prize payouts have all shown an increase in sales.

Mr. Paul adjourned the meeting at 2:55 for a short break. The meeting reconvened at 3:15.

#### **ITEM 4**

##### **Executive Director's Report**

Mr. Scroggins stated sales and profits are still on track to make sales projection of \$208.2 million and \$72 million in profit. Consolidation of office space has been completed at a cost of \$38,184, with a \$2,346 reduction a month in rent. In seventeen months the renovation costs will be paid for and at that point the lottery will save \$28,000 a year.

Mr. Scroggins stated the lottery will launch a new scratch-off ticket at the end of April called "Fill'er Up". Prizes will be \$2,500 in cash or "Fill'er Up", which is free gas for a year, valued at \$2,500. Seven retail corporate chains have agreed to do promotions in their stores related to this game.

Mr. Scroggins stated \$178.2 million has been contributed to education through March 10, 2008.

#### **ITEM 6**

##### **Update on Status of Legislation Impacting the Oklahoma Lottery**

Mr. Redburn stated there are currently 20 pieces of legislation that the lottery has been tracking with approximately 14 of those related directly to the lottery. House Bill 1441, by

Representative Banz sets up a new revolving fund in the State Department of Education which will contain the appropriations made from the Lottery Trust Fund for common schools. The money is to be allocated from this new fund directly to the school districts by the State Department of Education. The bill will be changed, per the author, to be effective for August 1, 2009. The first transfer from the fund would not be until February 1, 2010 and each August 1<sup>st</sup> and February 1<sup>st</sup> thereafter.

House Bill 2949 by Representative Martin modifies the law that was enacted last year to check prize winners for not only child support, but tax debt as well. This bill modifies that law by requiring the Tax Commission to notify the lottery of debt established by other state agencies or district courts. The lottery will withhold prize winnings based on that information, pay amounts withheld to the appropriate state entity or court and provide the Tax Commission a report. The effective date of the bill is November 1, 2008. This would not have a major impact on lottery operations.

Senate Bill 1795 by Senator Johnson will amend lottery statutes to provide that allocations to the Regents from the Oklahoma Education Lottery Trust Fund (OELTF) are made on a monthly basis rather than on a quarterly basis as currently required by law. The lottery laws are amended in this bill to require that the lottery transfer to the State Treasurer, by the 25<sup>th</sup> of each month, an amount equal to 1/12<sup>th</sup> of the appropriation from the OELTF to the Higher Education System. Based on recent earnings in the Treasurer's Office, and based on estimated FY2009 OELTF appropriations to Higher Education of \$31,151,925 (45% of 95% of \$72,870,000; FY2009 estimate of OELTF), implementing this bill will result in a decrease in the lottery's interest earnings by \$178,820. In addition, this law tries to deal with cash flow requirements for the Higher Education System appropriations from the lottery money in July and they are transferring \$3 million from what essentially would be FY2009 funds into an earlier year that would change our certification for FY2009.

Senate Bill 2173 by Senator Ford is a Lottery Privatization proposal; "Oklahoma Education Lottery Privatization Act". The bill adds a new section creating the Oklahoma Lottery Asset Review Board to last through December 31, 2008, consisting of the Lt. Governor as chair, the President Pro Tempore or designee, the Speaker or designee, the State Treasurer, State Superintendent of Public Instruction, the Chancellor of Higher Education and the Executive Director of the Department of Career and Technology Education. The Asset Review Board is given authority for the lease, license or concession of the lottery and the oversight and implementation of any concession agreements for the lease, license or concession of the lottery. The Asset Review Board may enter into such concession agreements if such agreements are approved by a vote of at least six of the eight members of the Asset Review Board. There are quite a few problems and unanswered questions about the bill. Senator Ford and the analysts have been contacted and made aware of the lottery's questions and concerns. Several proposals have been initiated in the last couple of years around the country to privatize lotteries, but it has never been done. Currently there are no privatized lotteries.

House Bill 3200 by Representative Denney and Senate Bill 1427 by Senator Lerblance are bills to remove the mandated profit restriction. Neither bill made it out of committee. Since the issue has not been voted down, there is still an opportunity to get the requested law change added to one of the other bills that amend our statutes.

Mr. Orbison stated that the lottery will be in a crisis if the mandated profit restriction is not changed. If not approved, in order to meet our budget, it will be necessary to reduce costs and expenses. The Oklahoma Lottery is already one of the most efficient lotteries in the nation

as it relates to personnel, which is typically where costs would be cut first. Secondly, cutting costs in advertising and marketing would be examined; decreasing advertising dollars has historically shown a decrease in sales, creating a downward spiral. Mr. Scroggins stated that if sales stay the same, we would have to cut \$1.4 million from expenses next year, in order to accomplish that much of a savings, prizes would have to be cut. The Texas Lottery cut prizes and their sales decreased \$153 million dollars in four years.

#### **ITEM 5b**

### **Discussion and Possible Action Regarding Maximizing Lottery Funds for Education – Discussion and Possible Action by Board of Trustees**

**and**

#### **ITEM 7**

### **Discussion and Possible Action Regarding Legislation Impacting the Oklahoma Lottery**

Mr. Paul stated that the Board voted unanimously to support a change in the law to eliminate the mandated 35% profit to give the lottery flexible spending, which is the only position we have taken as a commission on legislation. After much discussion the Board agreed that no new policy position or action would be taken at this time.

Ms. Edwards stated that Mr. Scroggins and Mr. Redburn have done a very thorough job in visiting with legislators and trying to get a stand on their positions and feel comfortable that they are monitoring it carefully and the Board is ready to assist in any possible way.

Ms. Edwards made a motion that the Board reiterate their stand to eliminate the mandated profit percentage in order to have a successful lottery in this state to assist in funding education. The motion was seconded by Mr. Charlton.

Roll Call: Mr. George Charlton, Ms. Charlotte Edwards, Mr. James Orbison, Mr. Pete Wilson and Mr. William Paul voted to approve the motion. The motion carried.

#### **ITEM 9**

### **Discussion and Possible Action Regarding Board of Trustees Meeting Date in June 2008**

Mr. Paul stated that there is a conflict with the June 17, 2008 scheduled Board meeting and it was decided to change the meeting to June 10, 2008 at 1:00 p.m.

#### **ITEM 10**

### **New Business**

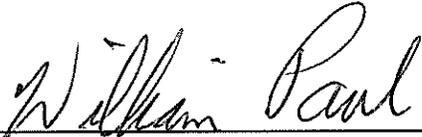
Mr. Paul stated there was no new business to be discussed.

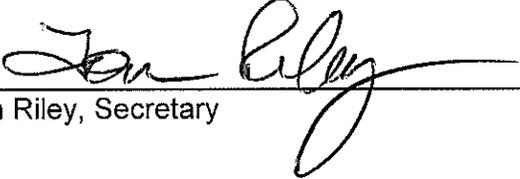
**ITEM 11**  
**Adjournment**

Mr. Orbison made a motion to adjourn. The motion was seconded by Mr. Charlton.

Roll Call: Mr. George Charlton, Ms. Charlotte Edwards, Mr. James Orbison, Mr. Pete Wilson and Mr. William Paul voted to approve the motion. The motion carried and the meeting adjourned at 3:52 p.m.

Submitted by:

  
\_\_\_\_\_  
William Paul, Chairman

  
\_\_\_\_\_  
Tom Riley, Secretary