

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON LOTTERIES
DUCK KEY, FLORIDA
JANUARY 14, 2005
DRAFT MINUTES

The Committee on Lotteries of the National Council of Legislators from Gaming States (NCLGS) met at Hawk's Cay Resort, in Duck Key, Florida on January 14, 2005, at 10:30 a.m. In the absence of the Chair of the Committee, Rep. Tim Solobay of Pennsylvania presided.

Other members of the Committee present were:

Rep. Kevin Ryan, CT
Sen. Steven Geller, FL
Rep. Christopher Sainato, PA

Other legislators present were:

Assem. Tom Harman, CA
Rep. Helene Keeley, DE
Rep. Vince Lofink, DE
Rep. Nancy Wagner, DE
Sen. Dennis Jones, FL
Sen. James King, FL
Sen. Pete Brungardt, KS
Rep. Tom Burch, KS
Rep. Susan Westrom, KS
Sen. Barbara Buono, NJ
Sen. Richard Lerblance, OK
Rep. Nick Kotik, PA
Rep. Anthony Melio, PA
Sen. John Pallone, PA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Ann Henstrand, MultiState Associates, Inc.

MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its June 4, 2004, meeting in Santa Fe, New Mexico.

NEW LOTTERY PRODUCT DESIGN

Mr. Marc Groz, chairman of TransIDEA Corp., presented a white paper about Nu Lots, a residual value lottery he introduced to NCLGS at the June 4, 2004, meeting in Santa Fe, New Mexico. Nu Lots is unique from current lottery products in that a portion of the ticket price is set aside for saving or investment purposes, which the buyer could use for retirement or education, he said. By its design, buyers of lottery tickets make money, even if they do not win prizes, he said.

With Nu Lots, 30 cents from each \$1 spent per ticket goes to a special account for each player, not used by the lottery for administrative costs, education, or prize pools, he said. The lottery will put this money into long-term investment accounts with a 10 percent average rate of return each year, he said.

Mr. Groz further explained the benefits of Nu Lots. With the current system, if 10,000 people of the same age each play \$5 a week on lottery games for 45 years, only ten would have won the jackpot and the others would have lost \$11,700, he said. The cumulative amount of money spent is \$117 million, which he said the lottery uses for administrative costs, education, and prize pools.

If the above players bought Nu Lots, Mr. Groz said the residual accounts would contain \$35 million after 45 years. Ten players would win the \$1.8 million grand prize, and the others would have residual accounts worth \$70,000 each.

Mr. Groz said the prizes are not as large with Nu Lots, and the lottery does not raise as much money. However, Mr. Groz said he was optimistic that ticket sales would double or triple when players realize that they are investing each time they purchase a ticket. This would increase the prize pools and revenues of the lotteries, he said.

Mr. Groz also recommended that institutional investors, such as corporations and financial institutions, guarantee a large prize pool with Scores, a patent-pending financial instrument. Lotteries could sell Scores to investors in exchange for a return, he said. Institutional investors would buy Scores as it diversifies their portfolios. Grand prizes backed by Scores would help lotteries sell more tickets.

Mr. Groz presented several proposals as to how to keep track of the buyers' accounts. Players can receive a membership card or a card for their key chain with a bar code, which would hold their identification number, he said. Some grocery stores currently use these cards, he said. He said that instead of bar codes, debit cards can be used to track information, he said. Mr. Groz said that stores that sell lottery tickets currently have systems for debit cards. Credit cards could also be an option, but they are more expensive to use, he said. Mr. Groz proposed that people could buy store value cards, where the lottery company could take \$5 from a \$20 store value card instead of 20 cents from a \$1 lottery purchase.

LOTTERY LEGISLATION IN THE STATES

Mr. Tom Shaheen, chief executive officer of New Mexico Lottery and the president of the North American Association of State and Provincial Lotteries (NASPL) spoke about lottery legislation.

Mr. Shaheen said the state of Oklahoma would be the 42nd state to have a lottery. He said the state approved a lottery by 65 percent. Sales would begin in either October or November 2005. The set-up will be similar to how it is in Tennessee and South Carolina, where 35 percent of the proceeds go towards education and 45 percent towards prizes, he said. The first \$500,000 of unclaimed prizes will help compulsive gambling and the rest will go towards future games, he said. Mr. Shaheen said that the governor of Oklahoma was looking to appoint a commissioner, and that he would set up a ten-member retail advisory board.

Mr. Shaheen also said that Antigua and Barbuda offer internet gaming in almost every US state. He said the US voted to ban internet gaming from these two islands. However, the World Trade Organization (WTO) said that this ban violates the general agreement of trades and services, as it violates the countries' rights to do business with the US, said Mr. Shaheen.

Mr. Shaheen said that the US vigorously protested this ruling, stating that the general agreements of trades and services in 1995 did not intend to include internet gaming. After losing the appeal, the US is now appealing this decision to the appellate body of the WTO, he said. The WTO will hear the appeal at the end of February and make a decision in May, he said. The US's defense includes the Wire Act, Travel Act, Illegal Gambling Business Statute, and laws from Connecticut, Louisiana, Massachusetts, Minnesota, New Jersey, New York, South Dakota, and Utah, said Mr. Shaheen. Mr. Shaheen said he anticipated that the US has a slim chance of winning.

Mr. Shaheen said that if the US ignores the WTO ruling, Antigua and Barbuda can put trade sanctions on the US.

Mr. Shaheen said that the bigger issue is not with these small islands, but with European and Canadian lotteries that could also sell their games to the US over the internet if the ruling is upheld. He said this will affect US lotteries. He said that more people would purchase tickets for lotteries over the internet in their own homes instead of going to the store and waiting in line to buy a ticket. US lotteries will then be competing against international lotteries, Mr. Shaheen said.

Another critical issue Mr. Shaheen said, involved the company, eLottery, which obtained a patent to do everything that lotteries do now, yet on the internet. If internet gaming becomes legal in the US, the states would have to get permission from eLottery to sell their tickets online, he said.

Mr. Shaheen said that the patent has already been approved and is almost impossible to reverse, leaving the US lottery industry at a disadvantage.

Mr. Shaheen said that the Justice Department had recently issued subpoenas to businesses running ads for online gaming. He said the Justice Department had requested all the account records, emails, and phone logs from the last ten years from a Chicago tabloid company, *ProFootball Weekly*. Mr. Shaheen said that there is no specific law preventing online gaming, but the current laws may still be applicable to online gaming. *Pro Football Weekly* dropped their ads, instead of fighting the Justice Department.

Mr. Shaheen said the Department also sent letters to other companies, including Infinity Broadcasting and Clear Channel Communications, Inc., all of which pulled their online gaming advertisements. Casino City Inc., a Louisiana operator of internet gaming portals, was the only company that did not pull their ads but instead sued the Justice Department for violating the company's First Amendment rights, said Mr. Shaheen.

Mr. Shaheen briefly discussed Video Lottery Terminals (VLTs). He said that Ohio voted against having VLTs, and that the governor of Maryland is currently disputing the idea with the legislature.

Sen. Geller recommended for NCLGS to prepare an amicus brief regarding internet gaming, based on the discussion and information emanating from this meeting and the State-Federal Relations Committee. He alluded to a gentleman who is in federal prison in New York, who argued that the law regarding internet gaming was not specific. Mr. Shaheen said that no law specifically states that internet gaming is illegal, but that people are charged under the Wire Act.

Sen. Geller also said that the Attorney General of Florida periodically threatens to shut down radio stations that play internet gaming advertisements. He said, however, that a few months after the Attorney General sends the letters, the stations resume their play of internet gaming advertisements.

Ms. Kristina Buchthal, reporter for *Crain's Chicago Business*, said that in Indiana, Keno sponsorship does not necessitate a change in statute. She asked if this was true for other states.

Mr. Shaheen responded by saying current lottery law and the definitions of Class II and Class III gaming dictate this. Several state lotteries offer Keno and do not need to change their laws, he said. He said that New Mexico law does not prohibit Keno yet the language in the legislation indirectly does so, by requiring a post-test drawing after every drawing—something impossible to do for Keno, a game played every five minutes. That legislation needs to change, he said. He also said that all Class III gaming in New Mexico is designated to Indian tribes and compacts, which means that the state lottery cannot sponsor Keno. Rep. Solobay said that the Pennsylvanian governor Edward Rendell discussed the idea of Keno, though he not think it passed the conversation level.

REPORT ON FLORIDA LOTTERY: MEETING THE CHALLENGE

Ms. Rebecca Dirden Mattingly, secretary of Florida Lottery, spoke regarding the recent success of the state's lottery and its future goals. Six years ago, the lottery tried to

reduce their operating costs and increase sales, she said. The lottery had six consecutive years of record sales, three consecutive years of record profits, and an 18 percent reduction in administrative costs, she said. According to the state's office of program policy and governmental analysis, she said the Florida Lottery is the top performing US lottery. This includes its total net transfer to the state and its transfers as a percentage of revenue, she said.

Ms. Mattingly said that transfers to the education enhancement trust fund did not keep pace with inflation, and that this fund is below its peak level compared to the fiscal year of 1990-1991. She said that scratch-offs had a 129 percent sales increase since 1998-1999, where sales went from \$594 million to \$1.36 billion. However, online ticket sales only increased 14 percent since 1998-1999, she said. In addition to these challenges, Florida Lottery will face challenges with Indian gaming and the passing of Amendment 4, she said.

Ms. Mattingly said that the Florida Lottery would like to get permission from the Florida Legislature to increase the prize payout percentage for online games. She said the Florida Lottery also wants to increase market penetrations, having the retailers in the market selling all of their lottery products instead of some of their products. She also said that the Florida Lottery has a new online gaming system as of January 2005, which, compared to the current vendor, is more technologically superior; has 1,500 more full-service terminals; and costs 1/3 less in price. In October 2004, Florida Revenue Estimating Conference projected \$91.5 million in additional sales from the new online gaming system, with \$32.5 million going to education, said Ms. Mattingly.

Florida Lottery will look at pricing strategies to seek additional sales, said Ms. Mattingly. She said five years ago, all scratch-off sales were from \$1 and \$2 tickets. Today, those ticket prices are only 1/3 of the scratch-off sales, as the rest of the sales are from tickets over \$2. Online ticket sales have stayed at the price from when they started, which was 50 cents to \$1, she said.

Ms. Mattingly spoke about other ways the Florida Lottery wanted to save money—including the possibility of redeeming prizes at the district level.

Rep. Solobay asked Ms. Mattingly how Florida Lottery is avoiding the Powerball. She replied by saying that since Florida Lottery has the highest per capita sales in lottery in the country, it does not need to join a multi-state lottery as its jack pot is working the way it is.

Mr. Greg Karan, the executive vice president of SunCruz Casinos, asked how Amendment 4 would affect the Florida Lottery. Ms. Mattingly said that the lottery anticipates that education would lose about \$18.5 million in the first year.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:30 a.m.