

VIRGINIA LOTTERY  
Board Meeting  
July 21, 2021

The Virginia Lottery Board met on July 21, 2021, at 9:30 a.m. at Lottery Headquarters in Richmond, Va. A livestream link to the meeting was available on the Virginia Regulatory Town Hall (Town Hall) website. A video recording of the meeting can be viewed here: <https://youtu.be/L3ZjEEvJqS4>

MEMBERS PRESENT: Ferhan Hamid, Chairman  
Cynthia Lawrence, Vice Chairman  
Vonda Collins  
Orrin Gallop  
Kimberley Martin  
Scott Price

STAFF PRESENT: Kevin Hall, Executive Director  
Deborah Courtney, Director of Finance  
Amy Dilworth, General Counsel  
Robert Fontaine, Deputy General Counsel for Gaming  
Kelly Gee, Manager of Government Relations  
Ted Maxwell, Director of Information Technology Services  
Jennifer Mullen, Director of Public Affairs and Community  
Relations  
Terri Rose, Director of Marketing  
Tony Russell, Director of Administration  
Tom Sawyer, Director of Sales  
Beth Smith, Director of Audit and Security  
Gina Smith, Deputy Director of Gaming Compliance  
Rob Wesley, Director of Digital  
Jo Murphy, Executive Assistant

Mr. Hamid, chairman, presided, and Jo Murphy was the recording secretary.

CALL TO ORDER

Mr. Hamid called the meeting to order and noted that a quorum was present.

MINUTES OF LAST MEETING

On motion duly made by Ms. Lawrence and seconded by Mr. Price, the minutes from the regular meeting held on April 21, 2021, were approved as distributed.

DIRECTOR'S REPORT

Mr. Hall said that it is good to meet in person and meet our newest Board members for the first time. He also said that it was nice to have Governor Northam stop by before the start of this meeting to recognize the agency for its solid work during the past fiscal year.

Mr. Hall reported that on July 6, 2021, the workforce based at Lottery Headquarters began returning to in-person work two days per week. On September 7, 2021, we intend to increase to up to three days per week of in-person work. This tracks with similar plans across the public and private sectors. Mr. Hall reminded the Board that our seven Customer Service Centers reopened in June 2020 with enhanced customer and employee safety procedures. Our sales team safely returned to in-store visits beginning in September 2020. Many of our employees returned to some form of in-person work last summer and fall. Mr. Hamid asked if employees are being encouraged to be vaccinated. Mr. Hall said yes, and a recent employee survey showed that 80% of Lottery employees were fully vaccinated.

Mr. Hall said that we are trying to strike the right balance: fully embracing the improved technology and the digital tools that boosted efficiency and productivity during 15 months of remote work while recognizing that brainstorming ideas, networking, mentoring and knowledge-transfer often are best done through some in-person work. Mr. Hall reported that the broader transition back to in-person work is progressing smoothly. He is proud of everything the team has accomplished during a challenging year. They remained focused and committed, and the year-end numbers prove that point.

Mr. Hall shared a graph that tracks Lottery sales trends across FY19, FY20 and FY21. At the time, FY19 was the best year ever with strong performance across the enterprise that was helped by a record Mega Millions jackpot run that generated excitement, headlines and sales. There was also a seasonal bump in sales that is typically seen each spring. In FY20, we saw the sustained impact from thousands of unregulated skill game machines in the market including at retail locations that sell our products. Notably, in FY20, there was no significant jackpot roll to boost sales. With the onset of the pandemic in March 2020, there was no traditional springtime sales bump. Mr. Hall said that FY21 saw a sizeable lift from the successful launch of iLottery. Sales of traditional Lottery products at retail increased 15% year-over-year.

Mr. Hall said that, for much of the past summer and into fall, the Lottery literally was the only game in town. He said access was restricted to Maryland and West Virginia casinos. Historical horse-race wagering at five Rosie's locations was limited.

Mr. Hall said that the Lottery's FY20 year-end results were \$2.1 billion in sales and \$595 million in profits for K-12 public schools. FY21 sales were \$3.3 billion and \$765 million in profits for K-12 public schools. Mr. Hall said that our record-shattering performance in FY21 brings the Lottery's total combined contributions to Virginia K-12 public schools to \$11 billion since 1999.

DIRECTOR'S REPORT (Continued)

Mr. Hall said that in FY21 there was a new record in overall sales and in prizes paid to players. There was also a new high for retailer compensation and record year-end profits generated in support of K-12 public schools.

Mr. Hamid congratulated Mr. Hall and the entire Lottery on the incredible numbers. He said that the accomplishments are even more remarkable considering it occurred during a pandemic and while employees were working from home.

Mr. Hall said that thanks go to our retailers and vendor partners who worked hard to maintain operations under difficult circumstances. He said that thanks also goes to our players for their continued loyalty.

Mr. Hall said that our connection to public education is the reason the Lottery exists. We look for interesting opportunities throughout the year to highlight that partnership.

Ms. Mullen provided a report on the recent Thank a Teacher program and provided a preview of the new back-to-school marketing campaign that will launch in August 2021.

Ms. Mullen said that, despite the pandemic and schools using remote learning, we have continued to highlight the Lottery's mission of raising revenue for public schools through our Thank a Teacher campaign. As we have for the last six years, we put out the call for people to thank teachers for all they do by sending a hard-copy or digital thank-you note courtesy of the Lottery and our partners at The Supply Room. Culminating with Teacher Appreciation Week (the first week of May), Virginians sent nearly 30,000 thank-you notes to educators across Virginia.

Ms. Mullen said that, following three phases of virtual surprise presentations over the last 16 months, we were able to surprise our two Thank a Teacher winners in person this year. First Lady Northam participated in both presentations. Ms. Mullen shared a video of highlights from the presentations.

Ms. Mullen said we take the opportunity year-round to remind Virginians of our important mission. Last year, our messaging pivoted to "Circumstances may change, but our mission does not" to acknowledge the remote-learning environment. She said that, with schools set to look a little more normal in the fall of 2021, we have updated our message to reflect the new circumstances. She shared a video showcasing the new messaging. The spot will be running when the General Assembly goes into special session beginning August 2, 2021. We will use it throughout the year as we have opportunities to engage with our key education stakeholders.

DIRECTOR'S REPORT (Continued)

Mr. Hall reminded the Board that John Hagerty reported on our extensive efforts around National Problem Gambling Awareness Month (March 2021) at the April 21, 2021 Board meeting. Mr. Hall wanted to expand on our broader, year-round, and new initiatives to promote responsible gaming. Some efforts are more recent since the Virginia legislature expanded legal gaming in 2020.

Mr. Hall said that, at the beginning of 2021, the Lottery built and launched a voluntary exclusion program prior to the launch of sports betting. The online form allows individuals to exclude themselves from all forms of state-sanctioned gambling for a period of two years, five years or for life. We push out the list every day to operators of sports betting, online lottery including Charitable Gaming, and to the Virginia Racing Commission. Operators are required to regularly cross-check the names of individuals on the Exclusion List with names tied to their own account-based wagering. Since the launch of the program, 80 individuals have signed on to self-exclude. The majority have opted for a five-year exclusionary period. No one had selected the lifetime exclusion as of this meeting.

Mr. Hall said that the Lottery has funded the toll-free helpline operated by the nonprofit Virginia Council on Problem Gambling (VCPG) for years. In anticipation of the potential for increased call volume with the expansion of gaming, the Lottery has increased its financial support of the VCPG by 25% for the current fiscal year. The VCPG shares its monthly call summary with us, and we are watching the data to identify any trends that may need to be addressed.

Mr. Hall said that, because the Lottery has been active in responsible gaming and has increased responsibility, we are working to facilitate regular conversations between gaming operators and regulators, the VCPG and the Virginia Department of Behavioral Health (VDBH). VDBH is in the process of building a gambling-resource program with a dedicated funding stream from sports betting and, ultimately, casino gaming taxes. We are facilitating a channel for regular conversation and coordination. Mr. Hall assured the Board that we remain active in trying to take a leadership role.

Mrs. Martin asked if the hotline is available 24 hours a day. She also asked about the qualifications of the call takers. Mr. Hall said that the hotline is available 24 hours a day. He also said that while we fund the program, we do not operate it. The VCPG has trained personnel handling the calls, and the hotline is primarily for resource referral.

Mr. Hall said that at this meeting the Board will take another important step forward in developing casino regulations. Deputy Counsel Robert Fontaine will explain changes in this latest 500-page draft, which builds on the 300 pages of interim regulations that the Board approved on February 3, 2021. Mr. Hall said that, if everything goes as planned, we anticipate completing the formal rulemaking process by the summer of 2022.

DIRECTOR'S REPORT (Continued)

Mr. Hall said that, in the meantime, the interim regulations remain in effect. Those regulations have allowed us to get started on the casino license application process. Casino operators partnered with the Bristol, Danville, Norfolk and Portsmouth projects can submit applications and supporting documents. The Lottery has up to 12 months to complete the in-depth licensing investigations once those submissions are complete. We have recruited and onboarded more than 20 licensing investigators, and we also have retained an experienced investigative firm to help with this complex work. Mr. Hall said that, if everything goes as planned, we could be able to consider awarding casino licenses in the summer of 2022.

Mr. Hall reminded the Board that the City of Richmond has been on a different timeline than the other four cities. Richmond has now selected its casino partner, and it is moving forward with its referendum this fall.

Mr. Hamid asked if every city was required to hold a referendum. Mr. Hall said that the first four cities held referendums in November 2020.

Ms. Gina Smith provided an update on sports betting. Since the April 21, 2021, Board meeting, Unibet Interactive, Inc. was approved and started taking wagers on April 28, 2021. This brings the total number of operators as of this meeting to seven. Three additional operators are approved. Two of which, Golden Nugget Online VA, LLC and Penn Sports Interactive, LLC, will go live by mid-August. The third operator, Bally's Corporation, is expected to go live a couple months after that.

Ms. Smith said that, during the most recent legislative session, legislation passed that removed casinos from the sports betting permit cap. That change, effective July 21, 2021, provides the Lottery with five additional sports betting permits to award. In accordance with our regulations, sports betting applications were accepted from May 15 through May 31, 2021. A total of 18 permit applications were received and are currently under review.

Ms. Smith provided a financial update. She said that all sports betting financial data for the month of June is based on preliminary estimates. Ms. Smith said that since the inception of the program there have been \$1.3 billion in wagers made on the various platforms. The operators have given away approximately \$45 million in promotional play and paid taxes in the amount of \$7.8 million.

Ms. Smith shared details of the market share by operator: FanDuel - 49.5%, Draft Kings - 25.4%, BetMGM - 16.4%, followed by Caesars, Rivers, Unibet and Wynn. Promotional play is mostly in-line with the market-share percentages. Total tax paid is \$7.8 million. Of that amount, \$7.6 million will go to the General Fund, and approximately \$196,000 will go to the Problem Gambling and Treatment Support Fund.

DIRECTOR'S REPORT (Continued)

Ms. Smith also provided a breakdown of tax payments by operator: BetMGM - \$1.8 million, DraftKings - \$1.3 million, FanDuel - \$4.7 million and Wynn - \$14,927. Rivers, Unibet and Caesars have yet to generate tax revenue.

Ms. Smith provided a breakdown of total wagers by sport. Basketball continues to hold the lead. She said that it will be interesting to see the shift once football season begins.

FINANCIAL REPORT

Ms. Courtney provided preliminary results for FY21. She reiterated that the results are not final, nor have they been audited, but she is confident about their accuracy.

Ms. Courtney said that sales increased dramatically over the past year. There was strong performance across all product lines and at retail. iLottery and Keno also were added to the portfolio this fiscal year. Total sales were \$3,259.0 million, \$1,110.4 million (51.7%) more than last year and \$355.4 million (12.2%) more than expected. Scratcher sales were \$1,302.1 million, \$135.3 million (11.6%) more than last year and \$60.4 million (4.9%) more than expected. Print 'n Play sales were \$61.7 million, \$13.7 million (18.2%) less than last year and \$3.9 million (6.0%) less than expected. Keno sales were \$46.2 million. Daily games sales were \$805.1 million, \$113.5 million (16.4%) more than last year and \$34.8 million (4.5%) more than expected. Jackpot games sales were \$275.6 million, \$70.6 million (34.5%) more than last year and \$61.9 million (29.0%) more than expected. Sales for instant games on the iLottery platform were \$753.8 million, \$756.0 million more than last year and \$208.6 million (37.9%) more than expected. Raffle sales were \$10.0 million, \$2.5 million (33.3%) more than last year. The pool of tickets was increased this year, and the tickets sold out early.

Mr. Hamid asked what was most notable about the sales results. Ms. Courtney said that the strength of the daily games sales was most notable for her. In FY20, for the first time since it has been offered, Pick 4 did not set a record. This fiscal year, both Pick 4 and Pick 3 set sales records.

Ms. Courtney reviewed the unaudited FY21 sales versus forecast and versus prior years. She also reviewed expense rates versus the prior year and versus forecast. Prize expense was 67.7%, which was 6.3% more than last year (61.4%) and 0.4% more than expected (67.3%). Retailer compensation was 5.7%, which was 0.1% more than last year (5.6%) and 0.1% more than expected (5.6%). Operating expenses were 4.5%, which was 0.9% less than last year (5.4%) and 0.5% less than expected (5.0%).

Ms. Courtney said Lottery Proceeds Fund transfers totaled \$708.2 million. This amount represented the expected profits included in the budget from sales that occurred in FY21 plus the residual transfer (excess profits earned in FY20 above the expected FY20 budget). After the audit is complete, the amount earned over our expected amount will be determined. Ms.

FINANCIAL REPORT (Continued)

Courtney reminded the Board that the FY21 budget approved by the General Assembly and the governor increased our profit estimate by approximately \$23 million. The increase was based on the strength we experienced in the January jackpot runs and the strength of the iLottery offering and profits. At the October 2021 Board meeting, the FY22 forecast will be presented for the Board's review and approval before it is submitted to the governor. The residual transfer for FY21 will become part of the estimated total transfers for FY22.

Ms. Courtney said that other contributions to the state budget from the Lottery are the Literary Fund (\$10,323,581), the Debt Setoff Fund (\$4,849,585) and Virginia tax withholdings from prize winnings (\$3,908,243).

BOARD ISSUES

AUDIT COMMITTEE REPORT

Mr. Price reported that the Audit Committee met at 8:30 a.m. on July 21, 2021. Mr. Price, Ms. Lawrence, Ms. Collins, Mr. Hall, Ms. Smith and Ms. Whitney attended the meeting.

The Audit Committee approved the audit plan for FY22, which includes working on audits with a continued emphasis on information security.

Ms. Smith confirmed the organizational independence of the department as required by the International Standards for the Professional Practice of Internal Auditing.

The Audit Committee Charter was reviewed by the committee. No changes were required. The committee confirmed that all responsibilities outlined in the charter have been carried out.

The Internal Audit Charter was reviewed by the committee. The only change was a wording change to incorporate additional requirements.

The committee plans to hold its next scheduled meeting in January 2022 to review results of the APA FY21 audit and progress on achieving the FY22 audit plan.

MARKETING PROMOTIONS

Ms. Rose said that FY21 was an incredible year. She thanked IGT, our gaming partner, who helped us through a year that we never expected. She also thanked our advertising and creative agencies.

BOARD ISSUES (Continued)

Ms. Rose presented a Keno promotion that will run August 1, 2021, through June 30, 2022. She said that our live events are happening again, and retail events are on the horizon in partnership with our Sales team. Marketing would like to offer \$1 Keno coupons at live events and retail events in addition to one-on-one direct interaction with players and potential players.

On motion duly made by Ms. Collins and seconded by Ms. Lawrence, the Board approved the promotional funding for the Keno promotion as presented.

Ms. Rose presented the Pick 3 Quick Cash Omnichannel promotion. The objectives of the promotion are to grow sales of the Pick 3 game, promote the addition of Pick 3 to the iLottery lineup and reward our players. Second chance non-winning Pick 3 tickets from retail or iLottery can be entered into weekly drawings. Sixty winners each week will win \$100 each. Sixty grand prize winners will each win \$500.

On motion duly made by Ms. Collins and seconded by Mrs. Martin, the Board approved the prizes and odds for the Pick 3 Quick Cash Omnichannel promotion as presented.

PROPOSED PERMANENT CASINO REGULATIONS

Mr. Fontaine said that the bulk of the text comprising the emergency regulations that the Board approved in February conveyed into the new draft document the Board will be asked to approve at this meeting. Mr. Fontaine will focus on key revisions we have made to create the Proposed Permanent Casino Regulations. The changes reflect amendments to the law made during the 2021 legislative session and reaction to comments we received following publication of the emergency regulations. Amendments to the statute authorize the Lottery, where appropriate, to incorporate work conducted as part of the sports betting permit process into the casino licensing process. Although it would have been entirely permissible to propose these exactly as they were published as emergency regulations in February 2021, Mr. Fontaine believes that the comments identified things that we could address now and would not have to do at the next stage. He said that this is a practical, rather than a strictly legalistic, approach.

Mr. Fontaine said that this draft also fleshes out how casinos may conduct in-person sports wagering as well as mobile casino gaming, which is permitted within the physical footprint of the casino. He said that the change that will be most welcomed by commenters is related to the theoretical payout percentages. In the emergency regulations, we included a payout range of 89% - 95%. Based on the comments we received and further analysis of other jurisdictions and industry patterns, we determined that the best approach would be to lower the minimum theoretical payout percentage to 84% and to raise the maximum payout percentage to 100%. More esoteric concerns about slot machine functions and reports were clarified.



BOARD ISSUES (Continued)

Mr. Fontaine said that some concerns related to the application process and bonds are operational in nature and impractical to address in written regulations. As the industry begins working with the Lottery as its regulator, those concerns should ease. We incorporated changes to the regulations based on comments that we felt had merit. At Mr. Hamid's request, Mr. Fontaine provided an example.

Mr. Fontaine said that other changes were basic editing, such as tightening some terms and making them more consistent throughout the document and moving language from one section to another for clarity.

Ms. Dilworth provided the estimated timeline to complete these regulations. Dates are entirely dependent upon the length of time the regulations are under Executive Branch review. After the Board approves the proposed permanent regulations on July 21, 2021, we will submit them for the Executive Branch review process. We estimate that, following the governor's review and approval, we will submit the proposed permanent regulations to the Virginia Register for publication. Around the beginning of November, we will start the 60-day public comment period. That is the period in which members of the public, stakeholders and other interested parties can submit their comments as to these proposed permanent regulations. All comments will be taken into consideration. At the end of the 60-day period (estimated to be late January 2022), the Board will meet to adopt the regulations as final. Ms. Dilworth noted that there will be an administration change in mid-January, and the General Assembly will be in session. She said she hopes the process will remain in place and not be disrupted. After the Board adopts the regulations as final, they will go back through the Executive Branch review process. The governor does not have a deadline for his review. We estimate that publication of the final stage in the Virginia Register will take place in late April 2022. At that time, a 30-day final adoption period will begin. During that 30-day adoption period, we will accept further public comment. At the end of the 30 days, the regulations will take effect in late May 2022. Ms. Dilworth reiterated that all dates are estimated.

Ms. Dilworth provided details on the process for participating in the public comment period primarily for the benefit of the public and stakeholders that are watching this meeting. All regulatory activity in Virginia is managed by the Department of Planning and Budget (DPB). She encouraged all interested parties to register on the Virginia Regulatory Town Hall (Town Hall) website (<https://townhall.virginia.gov/>). Registration ensures receiving the most current information as these regulations make their way through the process. Interested parties should go to the registration page and enter their name and email address. From there, an email will be sent confirming registration. Once registered, click on the options to indicate notification preferences. She recommends that registrants check the boxes to be notified of meetings and regulatory actions. Then click the "Other Agencies" drop-down menu, and check the boxes for both "Virginia Lottery" and "Virginia Lottery Board." Ms. Dilworth recommended that all Board

BOARD ISSUES (Continued)

members register as well. All information about public comment forums is on the Town Hall website. Comments can be posted, and all other posted comments can be read. During the public comment period, all questions concerning uploading of comments about the casino regulations should be directed to the DPB contact information provided on the website.

Mrs. Martin said a lot of hard work was quickly completed while ensuring the regulations are rolled out properly. She asked if there was anything that comes to mind that may need to be incorporated later. Mr. Fontaine said it depends on what arises as applications are received. He anticipates that ongoing dialogue with the five applicants will be useful in determining what should be addressed in the regulations going forward.

Mrs. Martin asked for an estimate of the number of public comments that were received. Mr. Fontaine said the number of public comments received was considerable but not overwhelming. He said that there were a lot of common themes. He also said that every comment was considered, and either incorporated into the regulations or rejected for policy reasons.

Ms. Lawrence moved for the approval as presented of the Proposed Permanent Casino Gaming Regulations drafted to implement the provisions of Chapter 41 of the *Code of Virginia* (Casino Gaming), as enacted by the Virginia General Assembly. It was seconded by Mr. Price.

Chairman Ferhan Hamid said that the motion passes, and the Board hereby promulgates the regulations, and the Department is directed to submit them for Executive Branch review.

OTHER BUSINESS

The next Lottery Board meeting is scheduled to take place on October 27, 2021.

BOARD MEMBERS' OPEN DISCUSSION

None.

CLOSED MEETING

Chief Gallop made the following motion, which was seconded by Ms. Lawrence.

In accordance with the provisions of Section 2.2-3712 of the *Code of Virginia*, I move that the Board convene a closed meeting for the purpose of discussion, consideration or review of:

Pursuant to subdivision A 17 of Section 2.2-3711, matters relating to specific lottery game design, prize structure and odds of winning; and matters related to proprietary lottery game information excluded from disclosure under subdivision 11 of § 2.2-3705.7.

RECONVENED MEETING

Following its closed meeting, the Board reconvened in open session. Ms. Lawrence read the following certification for the closed meeting:

WHEREAS, the Virginia Lottery Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law and the motion by which the closed meeting was convened;

NOW, THEREFORE, BE IT RESOLVED that the Virginia Lottery Board certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board.

By roll call, all members voted in the affirmative that the certification was accurate as read.

On motion duly made by Mr. Price and seconded by Ms. Collins, the Board approved, as presented in the closed meeting, the prize structures for Cash Pop - Draw Game.

On motion duly made by Mr. Price and seconded by Mrs. Martin, the Board approved, as presented in the closed meeting, the prize structures for Scratcher Games 2118, 2123 through 2126, 2136, 2138 through 2143, 2148 and 2151, as presented, including the 0.5% prize-structure variance.

On motion duly made by Mr. Price and seconded by Ms. Collins, the Board approved, as presented in the closed meeting, the prize structures for Instant Games 3217, 3218, 3219, 3221, 3703, 3705 and 3712, as presented, including up to 10% of gross gaming revenues from iLottery games to be allocated for online lottery promotional activity.

ADJOURNMENT

There being no further business to come before the Board, the chairman declared the meeting adjourned.

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Kevin Hall, Secretary

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Ferhan Hamid, Chairman