



711 E. Wells Avenue • Pierre, SD 57501 • Phone: 605-773-5770 • Fax: 605-773-5786 • <http://lottery.sd.gov>

To: South Dakota Lottery Commission

From: Norman Lingle  
Executive Director

Re: March 16, 2023 Lottery Commission Meeting

Date: March 10, 2023

The March 16, 2023, meeting of the South Dakota Lottery Commission will begin at 9:30 a.m. in room 412 of the State Capitol. This will be an in-person meeting. The meeting audio will be streamed on the South Dakota Public Broadcasting's website. A link to the audio stream is included on the agenda.

A couple of highlights on the agenda.

With the resignation of Chair Shorma, the Commission will need to elect a new Chair and Vice Chair.

Secretary Houdyshell will provide an update on the Department of Revenue. This will be followed by comments from me.

An overview of the Code of Conduct and Conflict of Interest Policy for use by State Boards and Commissions will be presented. Department of Revenue Chief Legal Counsel Kirsten Jasper will review the policies with the Commission.

A presentation regarding participation in the North American Association of State and Provincial Lotteries (NASPL) Responsible Gaming Verification program is on the agenda. We are excited about being selected for this program. Wade LaRoche will present the details and plans for the South Dakota Lottery to achieve this designation.

The agenda also includes the normal sales, marketing and video lottery reports.

Please contact Clark or me if you have any questions, comments or if there is anything else you would like addressed during the meeting.

**South Dakota Lottery Commission**  
**Thursday, March 16, 2023 – 9:30 a.m.**  
**Room 412, State Capitol, Pierre, SD**

*\*Please read all materials provided in the packet and print and bring the Agenda and all Exhibits*

Listen live at <http://www.sd.net/room412/>



## MEETING AGENDA

1. Welcome Vice Chair Ahrendt
2. Roll Call Shawna Shaw
3. Approval of Agenda Vice Chair Ahrendt
4. Approval of Minutes – December 8, 2022 meeting Vice Chair Ahrendt
5. Conflict of Interest Vice Chair Ahrendt
6. Dept of Revenue Comments Secretary Michael Houdyshell
7. Executive Director Comments Executive Director Norm Lingle
8. Election of Chair and Vice Chair Vice Chair Ahrendt
9. Code of Conduct Chief Legal Counsel Kirsten Jasper
10. Marketing Report Director of Advert and PR Wade LaRoche
11. Responsible Gambling Verification Director of Advert and PR Wade LaRoche
12. Sales Report Deputy Executive Director Clark Hepper
13. FY23 Video Lottery Performance Review Business Analyst Nathan Remmich
14. Video Lottery Report Director of VL and Security Trevor Wiebe
15. Public Comment Vice Chair Ahrendt
16. Next Meeting – June 8, 2023 Executive Director Norm Lingle
17. Adjournment Vice Chair Ahrendt

### *Expiration Dates of Commissioner Terms*

Vacant	01/01/2025	Tona Rozum	01/01/2024
Jason Ahrendt	01/01/2025	Jamie Huizenga	01/01/2024
Joe Kafka	01/01/2023		

*Individuals wanting to testify before the Lottery Commission must sign the attendance sheet and in prefacing their remarks, state their name and the entity they represent.*

NOTE: This meeting is being held in a physically accessible location. Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the South Dakota Lottery at 605.773.5770 in advance of the meeting to make any necessary arrangements in advance of the meeting to make any necessary arrangements.



### **Commission Members**

**William Shorma - Chair**  
**Jason Ahrendt – Vice Chair**  
**Joe Kafka**  
**Jamie Huizenga**  
**Tona Rozum**

### **Minutes of the Commission Meeting**

Meeting was conducted in person  
Thursday, December 8, 2022 – 9:30 a.m.

## **UNAPPROVED**

Chair Shorma called the December 8, 2022, meeting of the South Dakota Lottery Commission to order at 9:30 a.m. Chair Shorma, Vice Chair Ahrendt, Commissioner Huizenga, and Commissioner Rozum participated in person. Commissioner Kafka participated online. The public was able to participate in person, by dialing in or listening on the internet.

### **SUPPORT STAFF PRESENT**

Norm Lingle, Clark Hepper, Michael Houdyshell, David Wiest, Wade LaRoche, Aric Frost, Nathan Remmich, and Kirsten Jasper.

### **APPROVAL OF THE AGENDA**

Chair Shorma asked if there were any changes to the agenda. There were none. Chair Shorma asked for a motion to approve the agenda, motioned by Commissioner Huizenga, and seconded by Vice Chair Ahrendt. A voice vote was taken. All in favor. Motion carried.

### **APPROVAL OF THE MINUTES FROM THE OCTOBER 11, 2022, MEETING**

Chair Shorma asked for a motion to approve the minutes, motioned by Commissioner Rozum, and seconded by Commissioner Huizenga. A voice vote was taken. All in favor. Motion carried.

### **CONFLICT OF INTEREST**

Chair Shorma asked if there were any conflicts of interest; there were none.

### **SECRETARY OF REVENUE'S COMMENTS**

*Secretary Michael Houdyshell reported on the following:*

#### Department of Revenue Update

- Sales and use tax numbers were up 13% over November 2021.
- Contractor excise tax was up 26% over November 2021.
- The Department of Revenue is getting ready for the 2023 Legislative Session by providing testimony, assisting the sponsors with language, or providing education to the legislature.

## **EXECUTIVE DIRECTOR'S COMMENTS**

*Executive Director Norm Lingle reported on the following:*

- Trevor Wiebe joined the Lottery as the new Director of Security and Video Lottery.
- On November 7, Powerball's \$2.04 billion jackpot was won.
  - After 41 draws, a single ticket was sold in California and matched five numbers plus the Powerball.
  - The ticket holder will have the choice of the annuitized \$2.04 billion or \$997.6 million cash value.
  - In South Dakota, the total Powerball sales including Power Play and Double Play for this jackpot run were \$8.98 million.
    - November 2 sales were \$1.17 million, November 5 sales were \$179 million, and November 7 sales were \$1.73 million.
    - \$2.5 million in Powerball prizes were awarded to the 175,000 winning tickets including a \$1 million winner, and five \$50,000 winners.
- Ticket in ticket out which passed during the 2022 Legislative Session and are in effect.
  - The Lottery is working with Scientific Games to update the reporting requirements and have a software update available around June 1.
  - New games provided by Grand Vision gaming will have the ticket in ticket out capabilities.

## **FY22 BUDGET RECOMMENDATION**

*Audit Manager Aric Frost reported on the following:*

The Lottery is not requesting a budget increase for fiscal year 2024.

### Instant/ Online Budget

- Personal Services show an increase of \$86,321 because of the salary policy recommended by Governor Noem.
- Fleet and Travel expenses are the biggest driver of travel expense because it is regularly used by sales representatives to travel to retailers.
- Contractual Services
  - The IGT Contract represents IGT's fee for the Lotto System and Services based on sales.
  - Advertising is primarily the Lottery's contract with Lawrence and Schiller.
  - Instant Ticket Delivery is the cost associated with delivering instant tickets to retailers.
  - Retailer Commissions and Prize Expenses can fluctuate based on sales.
- Supplies and Materials include ticket printing costs for FY21- 39 games and FY22 - 38 games.
- Capital Assets include computer hardware and software. FY22 saw an increase because the Lottery purchased a new Random Number Generator (RNG) machine.
- Other includes payments to the special jurisdiction areas. 50% of net proceeds from instant ticket sales on the reservations go back to that reservation.

### Video Lottery Budget

- Personal Services show an increase of \$42,338 because of the salary policy recommended by Governor Noem.
- Travel is primarily staff travel. A percentage is split between the instant/online budget and the video lottery budget.

- Contractual Services-
  - The Light and Wonder Contract (formerly Scientific Games) is for .28% of net machine income.
  - Inspection Services for video lottery terminals and establishments provided by MOU from the Department of Public Safety.
- Supplies and Materials are split between instant/online and video lottery budgets.
- Capital Assets include computer hardware and software.
- Other includes transfers out such as \$214,000 provided to the Department of Social Services for Responsible Gambling Treatment Services.

Vice Chair Ahrendt asked why the Lottery asks for \$200,500 in video lottery advertising annually, but it doesn't get spent. Manager Frost says it was removed for FY2023.

Commissioner Rozum asked why on Consulting Computer - IGT the Lottery spent more than they were budgeted for in previous years but didn't increase the request for FY2024. And if the Lottery is anticipating the consulting fees going down. Manager Frost says that IGT's fees are based on sales.

Chair Shorma asked if the responsible gambling services are determined by the Department of Social Services. Manager Frost answered that the Department of Social Services are reimbursed quarterly for services they provide. Executive Director Lingle added that the reimbursement is not for advertisement, but rather for the assistance DSS provides to the public regarding gambling issues. Responsible gambling advertising is a combination of what the Lottery adds to its posters and DSS's outreach. The Responsible Gambling Campaign comes out of the Lottery's advertising budget.

Chari Shorma asked for a motion to approve the instant/online of \$62,707,119 and the video lottery budget of 2,805,367 for Fiscal Year 2024. Moved by Commissioner Huizenga, seconded by Vice Chair Ahrendt. A roll call vote was taken. All in favor. Motion carried.

## **MARKETING REPORT**

*Director of Advertising and Public Relations Wade LaRoche reported on the following:*

### Campaigns and Promotions

- The new South Dakota Lottery website launched on November 28.
  - Within a week the site had 21,404 visits.
  - Reception to the site has been mostly positive.
- The new Lottery mobile app will launch soon
  - It has been approved by both Apple and Google.
  - It will improve the user experience.
- The Lottery's largest campaign, holiday, began shortly after Thanksgiving and includes Responsible Gambling messaging.
- New Year's Rockin' Eve winners Gabriella Anane and Connie Duvall will be going to New York. As the grand prize winner, Gabriella Anane will have a chance to become 2023's First Powerball Millionaire. The promotion garnished over 12,000 entries.
- Upcoming campaigns include Beneficiary Awareness, X Family Scratch tickets, and Responsible Gambling.

## **SALES REPORT**

*Director of Advertising and Public Relations Wade LaRoche reported on the following:*

Instant (as of November 30)

- Instant sales are down 1.4% over FY22 but maintaining growth over FY18 and FY19.
- A new extended play game, Cash Wheel, will launch in January. The new X Family will launch in February.
- Paid over \$12,856,400 in prizes year to date
  - Two \$40,000 – Sioux Falls and Dell Rapids
  - \$35,000 - Brookings
  - \$25,000 – Belle Fourche
  - \$20,000 - Brookings
  - Three \$10,000 and 350 \$500 winners

#### Lotto (as of November 30)

- Lotto sales are up 67.88% over FY22.
- Paid over \$5,441,600 in lotto prizes year to date
  - \$1 million Powerball – Sioux Falls
  - \$390,000 Lucky for Life – Mitchell
  - \$20,000 Lotto America – White Lake
  - Six \$50,000 Powerball winners

#### Sales (as of November 30)

- Instant - \$5.90 million in net transfers vs. \$10.35 million in FY22.
- Lotto - \$10.71 million in net transfers vs. \$7.59 million in FY22.
- Net Machine Income – 1.88% over FY22.
- State share revenue - \$164.12 million vs. \$161.31 million in FY22.
- Total FY22 Revenue projections - \$180.73 million vs \$179.25 million in FY22

### **FY22 INSTANT/ONLINE AND VIDEO LOTTERY REVIEW**

*Business Analyst Nathan Remmich reported on the following:*

#### Instant Sales

- Counties with the highest growth include Edmunds at 74.1%, Sanborn at 64%, Hand at 38.5%, Turner at 38.4%, and Lake at 29.6%.
- Cities with the highest growth include Aberdeen at 10.84%, Brookings at 8.31%, Huron at 5.58%, and Mitchell at 5.23%. There was an overall decrease of 1.56%.
- The lower price points, the \$1, \$2, \$3, and \$5, are showing decreases, but the \$10 and \$20 are showing increases of 13.53% and 9.08% respectively.

#### Lotto Sales

- Counties with the largest growth include Hanson at 162.6%, Jerauld at 119.2%, Lincoln at 101.6%, Faulk at 99.6%, and Clark at 98.2%.
- Douglas is the only county showing negative because it lost one of its retailers.
- Cities with the largest increases include Brookings at 77.04%, Sioux Falls at 74.48%, and Mitchell at 73.15%. There was an overall growth of 67.88%
- The \$2.04 billion Powerball jackpot not only increases its sales to 73.89% over FY22, but it increased Mega Millions to 157.80% and Lotto America to 66.33%.
- Mega Millions showed a decrease because it was contending a \$1 billion jackpot in FY21
- Dakota Cash shows a decrease because there wasn't a large jackpot this year, whereas there was one last year.
- Stores with Geminis showed an 11.29% (\$2,314,601) increase in sales vs 1.76% (\$3,528,056) in stores without.

Vice Chair Ahrendt asked how the Lottery chooses where to put the 50 Geminis. Executive Director Lingle stated that stores are chosen based on the stores' sales, ability to maintain the equipment, and their previous experience with similar machines.

Vice Chair Ahrendt asked about the Gemini's safety features. Executive Director Lingle stated that players must scan the barcode on the back of their driver's license to use the machine. Deputy Director Hepper also stated that a kill switch can be used by the cashier should they feel the integrity of the machine is being compromised.

## **VIDEO LOTTERY REPORT**

*Deputy Executive Director Clark Hepper reported on the following:*

### **Establishments (As of November 30)**

- The number of active video lottery establishments for FY23 is 1,323 compared to 1,265 in FY22.
- Video lottery has 10,202 terminals compared to the 9,607 in FY22.
- There are 6,409 Line machines in the market that bring in \$107.59 per machine per day, compared to the 3,793 Legacy machines in the market that bring in \$64.63 per machine per day.
- FY23 has had 254 new machines, 27 destroyed vs the 930 new machines and 366 destroyed in FY22. Most machines are destroyed toward the end of the fiscal year when it comes time to pay licensing fees.
- South Dakota licensed manufacturers include International Gaming Technology (IGT), Ainsworth Gaming Technology (AGT), Grover Gaming Inc., Accel Entertainment inc. (Grand Vision Gaming), TrestleCo LLC, and JVL Systems, Inc. Each manufacturer offers several different models, software, and games to provide lottery operators with a variety.

Chair Shorma asked if the increase of 800 line machines and decrease of 220 legacy machines are because they are being put into new locations. Deputy Director Hepper stated that new locations adding ten new machines when they open, and the increased number of establishments with only line game terminals contributes to the growth.

Commissioner Rozum asked how the lottery entities get paid. Deputy Director Clark Hepper answered that in South Dakota there are licensed manufacturers who make the machines, licensed distributors who sell them, licensed operators who own them, and licensed establishments where the machines are placed. If an establishment owns its own machine, it will receive 50% of its revenues. Establishments that don't own their machines have to reach an agreement with licensed operators to divide 50% of revenues among themselves. The agreement is something the Lottery doesn't get involved in. Executive Director Lingle stated that retailers selling instant tickets receive a 5% selling commission, a 1% commission for cashing winning tickets for prizes up to \$100, and a 1% selling bonus for tickets with prizes over \$100. Online tickets have a structured bonus based on the winning ticket's prize. Cashing bonuses aren't paid until the winning ticket is validated.

## **PUBLIC COMMENT**

Chair Shorma asked about public comments.

No emails, phone-in questions, or comments from the public.

## **NEXT MEETING DATE**

Executive Director Lingle stated the next meeting will be determined by the South Dakota Lottery Commission.

**ADJOURNMENT**

Chair Shorma adjourned the meeting at 11:16 a.m.

\*Please listen to the audio on the South Dakota Lottery Website:  
<https://Lottery.sd.gov/about/commission/> for additional details.



# **Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members**

## **Purpose**

The purpose of this code of conduct and conflict of interest policy (“Code”) is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. This Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter “Boards” and “Board member(s)”). A Board may add provisions to, or modify the provisions of, the Code. However, any change that constitutes a substantive omission from the Code must be approved by the State Board of Internal Control.

## **Conflict of Interest for Board Members**

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

## **General Restrictions on Participation in Board Actions**

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board’s official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member’s interest or relationship creates a potential to influence the member’s impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board’s administrative staff. To the extent Board members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

“Official action” means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

## **Contract Restrictions**

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in [SDCL Chapter 3-23](#) and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within [SDCL 3-23-10](#). For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <https://atg.sd.gov/Legal/OpenGovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See [SDCL 5-18A-17 to 5-18A-17.6](#). For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at <https://bhr.sd.gov/files/ConflictofInterestInstructions.pdf>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of [SDCL Chapter 3-23](#) or other laws, a Board member may contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.

## **Consequences of Violations of Conflict of Interest Laws**

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See [SDCL 3-16-7](#), [5-18A-17.4](#), and [22-30A-46](#).

## **Retaliation for Reporting**

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. [SDCL 3-16-9](#) & [3-16-10](#).

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See [SDCL 20-13-26](#).

## **Anti-Harassment/Discrimination Policy**

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex,

pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- ◆ Unwelcome physical contact such as kissing, fondling, hugging, or touching;
- ◆ Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- ◆ Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- ◆ Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- ◆ Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

### **Confidential Information**

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

### **Reporting of Violations**

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to [SDCL § 1-56-6](#).

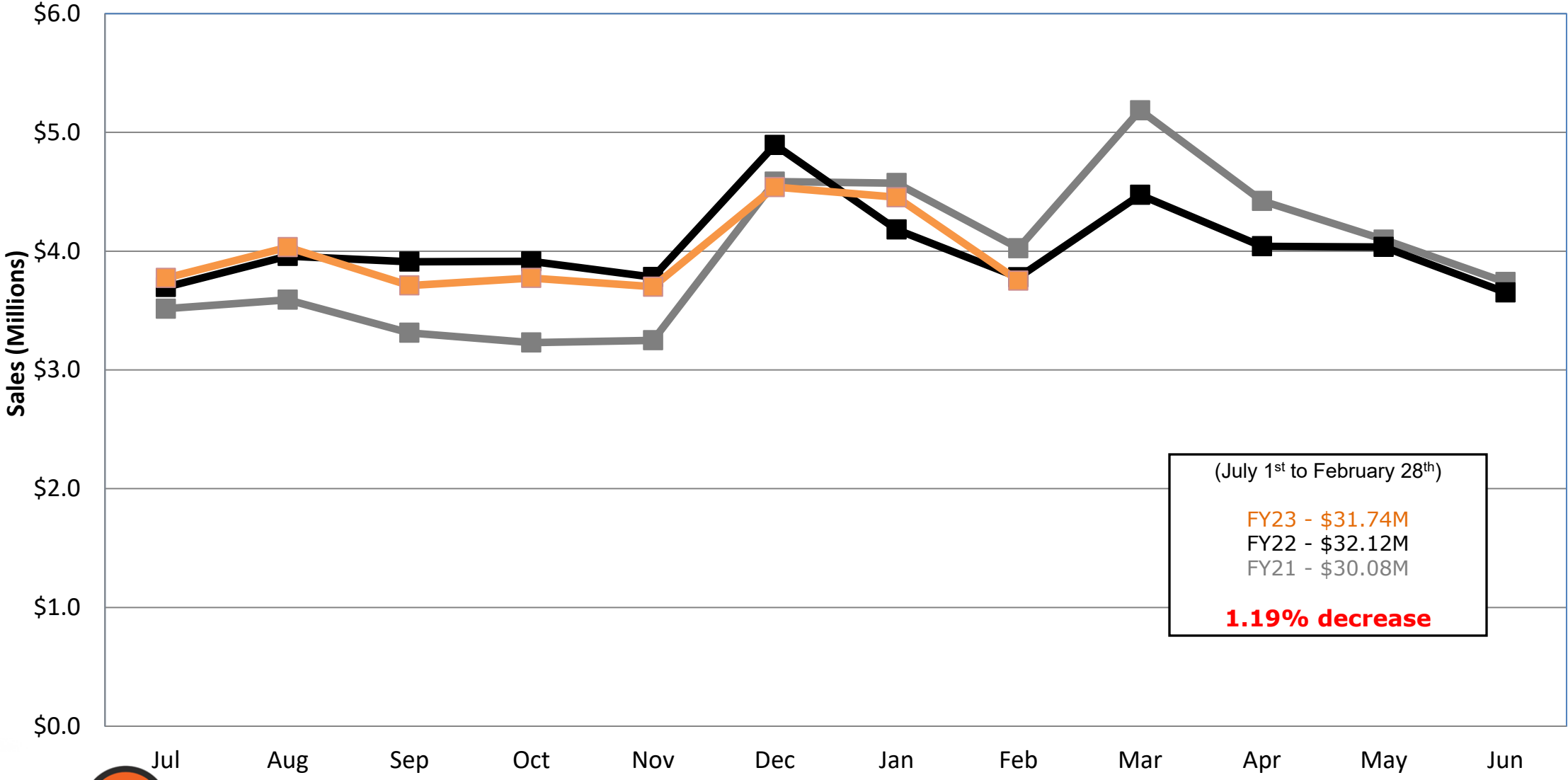
# Sales Report



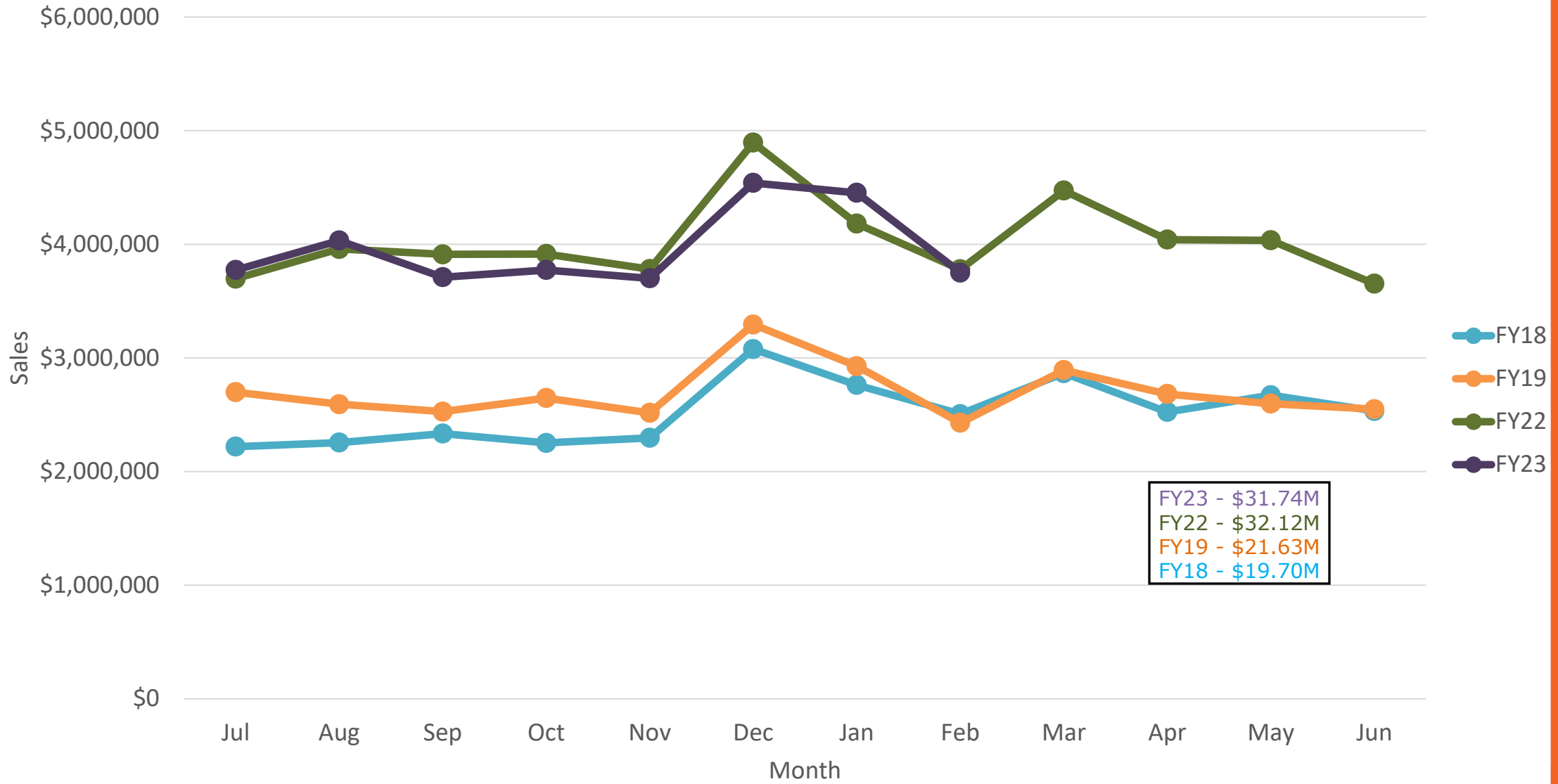
*A DIVISION OF THE SOUTH DAKOTA DEPARTMENT OF REVENUE*

# Instant Sales

FY21      FY22      FY23



# Instant Sales by Month And Fiscal Year

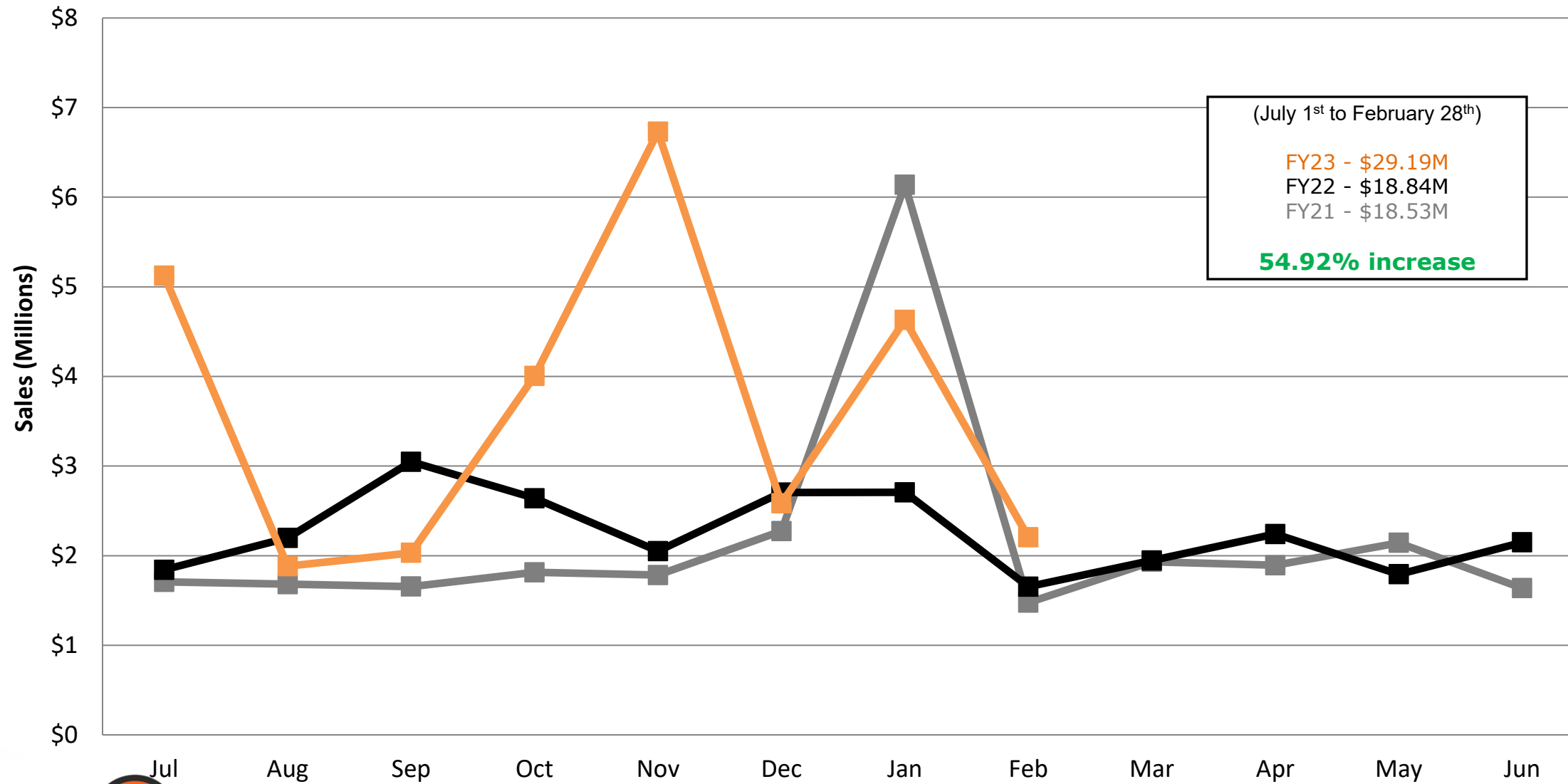


# Lotto Sales

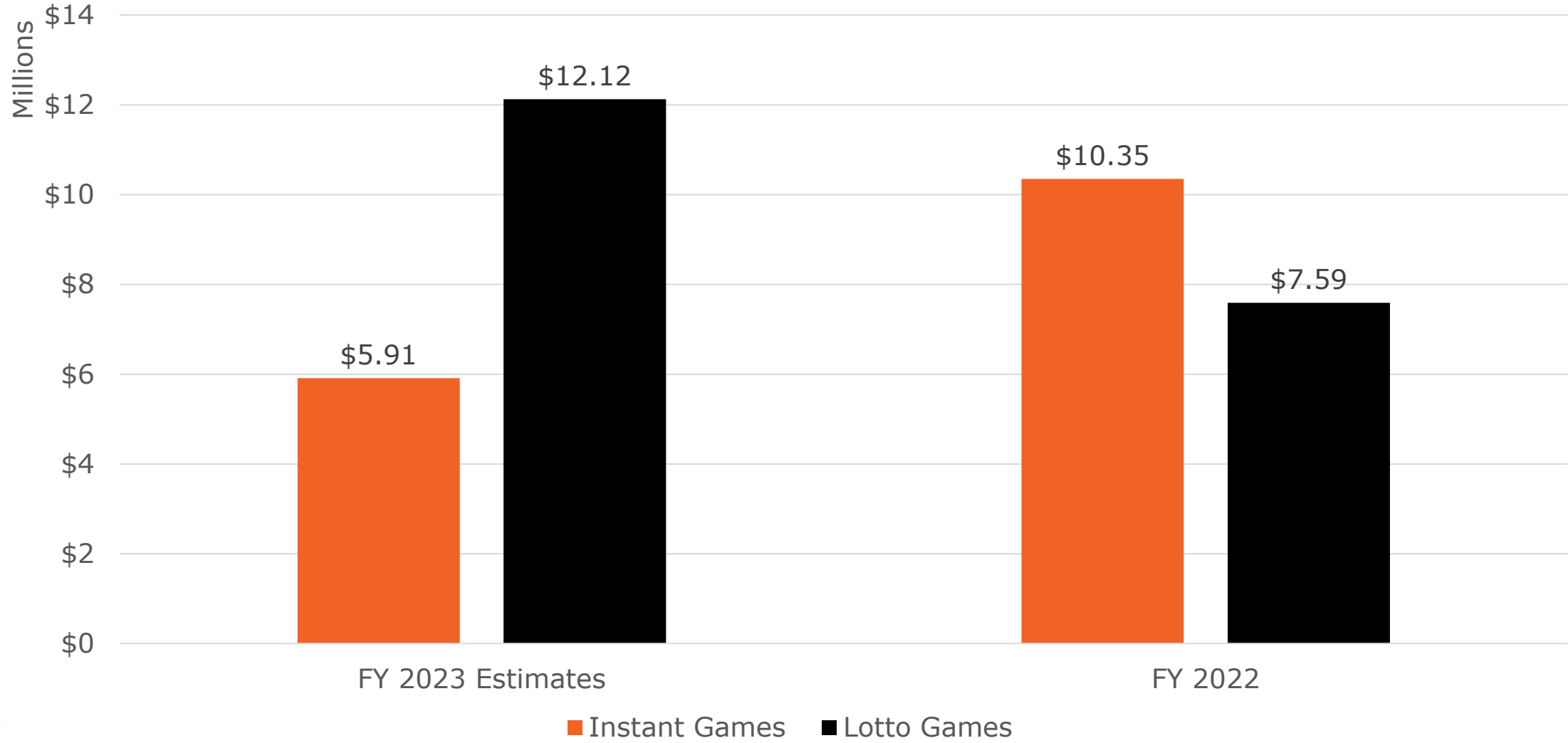
FY21

FY22

FY23



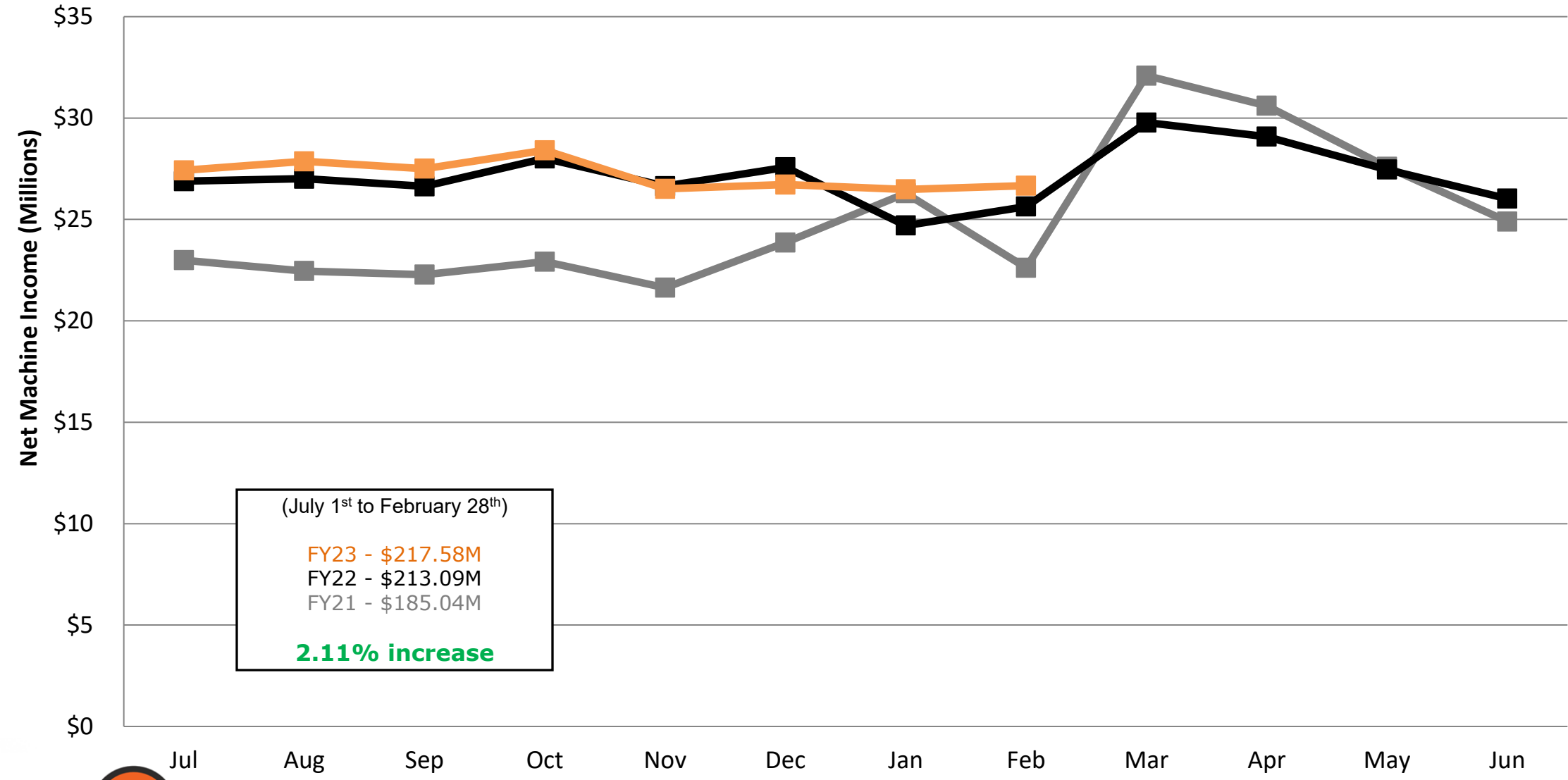
# Instant and Online FY23 Revenue Projections as of February 28, 2023





# Video Lottery NMI

FY21 FY22 FY23



# Video Lottery FY23 State Share Revenue Projection as of February 28, 2023



# Total FY23 Revenue Projections as of February 28, 2023

