

**Stakeholder Lottery Modernization Committee  
Official Minutes of 03/04/2025 SLMC Meeting**

**Stakeholder Lottery Modernization Committee Meeting  
Official Meeting Minutes**

DATE: Tuesday, March 4, 2025

TIME: 1:30 p.m.

**All Attendees Participated Remotely through Zoom Conferencing System**

MEMBERS PRESENT: Peter Brennan, Executive Director, New England Convenience Store and Energy Marketers Association (NECSEMA), Chair  
Ryan Kearney, General Counsel, Retailers Association of Massachusetts (RAM)  
Jessica Moore, Director of Government Affairs, Massachusetts Restaurant Association (MRA)

MEMBERS ABSENT: Marlene Warner, Chief Executive Officer, Massachusetts Council on Gaming & Health (MACGH)  
Alain Hauvuy, Lottery Sales Agent, Wine Beer and More, Bridgewater

ALSO PRESENT: Mark William Bracken, Executive Director, Lottery  
Sheila Capone-Wulsin, Chief Marketing Officer, Lottery  
Gregory Polin, General Counsel, Lottery  
Christian Teja, Chief iLottery Officer, Lottery  
Christian Gonsalves, Deputy General Counsel, Lottery  
Delwin Dickinson, Director of Modernization, Innovation and Performance, Lottery  
Liz Giffen, Director, Digital Operations, Lottery  
Rachel Guerra, Deputy Director, Communications  
Benjamin Wood, Assistant Director, Stakeholder Engagement, Lottery  
Judy Rampino-Moore, Executive Assistant, Lottery  
Leslie Zella, Legal Assistant, Lottery  
  
Dylan Jeon, Senior Director of Government Relations, National Retail Federation

**I. Opening of Meeting**

**a. Notice regarding recordings**

Chairman Peter Brennan opened the Stakeholder Lottery Modernization Committee (“Committee”) meeting at 1:33 p.m.

Chairman Brennan stated:

“Pursuant to the Commonwealth’s Open Meeting Law, Massachusetts General Laws, Chapter 30A, Section 20, the Committee would like to advise that any person may make a video or audio recording of this open meeting. However, the Committee is obligated to inform attendees of any

**Stakeholder Lottery Modernization Committee  
Official Minutes of 03/04/2025 SLMC Meeting**

recording at the beginning of the meeting, so we ask that those who are making any recording identify themselves now as doing so.”

Judy Rampino-Moore, Lottery Executive Assistant, identified herself as making a recording.

**b. Notice regarding remote participation**

Chairman Brennan referenced the Massachusetts Open Meeting Law, Massachusetts General Laws, Chapter 30A, section 20, and identified the Committee members as present: General Counsel Ryan Kearney, Director Jessica Moore, and himself Chairman Peter Brennan. Chairman Brennan stated that the Committee members will be participating remotely for this meeting pursuant to Chapter 2 of the Acts of 2023, which permits remote participation by all Committee members and allows the use of adequate alternative means, such as audio or video conferencing, to ensure public access to the deliberations of the Committee.

Chairman Brennan noted that the Committee members are all participating by a conference call and asked the Committee members to identify any sort of technical difficulty. Chairman Brennan also stated that the Committee members may participate in any votes scheduled to take place at today's meeting. All votes must be taken by roll call.

**II. Approval of minutes from meeting held on Tuesday, February 4, 2025**

Chairman Brennan sought a motion to accept the minutes from the meeting held on February 4, 2025. Director Jessica Moore made a motion to accept the minutes and General Counsel Ryan Kearney seconded the motion.

Chairman Brennan, recognizing there was no further discussion, moved the motion to a roll call vote. General Counsel Ryan Kearney: yes; Director Jessica Moore: yes; Executive Director Peter Brennan: yes. The Motion carried.

The minutes were approved at 1:35 p.m.

**III. Discussion with Director of Government Relations at the National Retail Federation regarding processing fees associated with point-of-sale debit card transactions**

Chairman Brennan recapped that one of the tasks of the Committee was to review and make recommendations on processing fees associated with point-of-sale transactions using debit cards. He acknowledged how uncontrolled swipe fees have gotten and the burden it is to retailers and restaurants.

Chairman Brennan reported that Dylan Jeon, Senior Director of Government Relations, National Retail Federation (“NRF”) was in attendance to provide the Committee with all facets of information regarding transactional fees at point-of-sale.

Mr. Dylan Jeon introduced himself as the Senior Director of Government Relations and is responsible for payment and other financial service issues at the NRF. He stated that swipe fees have been his day-to-day since taking on this portfolio. He acknowledged that at the federal level, debit

**Stakeholder Lottery Modernization Committee**  
**Official Minutes of 03/04/2025 SLMC Meeting**

interchange is still costly for retailers, especially for those unregulated transactions that aren't covered by the Durbin Amendment that limits debit card interchange fees.

Senior Director Jeon explained the current payment system and the structure of the interchange system. He pointed out that U.S. merchants face the highest swipe fees among major global economies. These fees are eight times higher than in Europe and nearly double the amount paid by Canadian merchants. This situation is driven by a lack of competition in the routing market. Visa and MasterCard have established a duopoly, leaving little room for competitive forces, particularly on the credit card side. As a result, they are able to set interchange rates and merchant terms without significant pushback. Merchants are left with "take it or leave it" deals, where the terms are non-negotiable, and the interchange fee is a percentage of their gross sales, making it an extremely costly system for payment acceptance. These fees rank as the second-highest operating cost for merchants after labor. In fact, merchants are paying more in interchange fees than for employee health insurance, utilities, and other operating expenses. While credit card payments dominate as the primary method of transaction, debit cards still hold a substantial presence both in-store and online.

Senior Director Jeon explained the factors that regulate the debit market and how they affect the cost of accepting debit transactions. He noted that the key consideration when evaluating debit acceptance costs is whether the debit card is issued by a covered or regulated issuer. The Durbin Amendment, passed in 2010, defines any card issuer with assets of \$10 billion or more as a "covered issuer," while issuers below this threshold are considered unregulated. For regulated debit transactions, the interchange fee for issuers with assets of \$10 billion and up is capped at \$0.21, plus an additional 0.05% of the transaction total and another \$0.01 for fraud prevention. In contrast, unregulated transactions from issuers under the \$10 billion mark do not have any cap on interchange fees, making them significantly more expensive for merchants and comparable to typical credit card interchange rates. Senior Director Jeon highlighted that the most recent data on debit card acceptance costs, from 2023, showed businesses in the U.S. spent a total of \$60 billion on debit transaction costs. Of those, 66% were regulated transactions, benefiting from the caps, resulting in a large cost difference between regulated and unregulated transactions. For unregulated transactions, the average interchange rate is around 1.21% as compared to just 0.47% for regulated transactions. In monetary terms, this equates to approximately \$0.51 for unregulated transactions versus \$0.23 for regulated transactions, more than doubling the interchange cost for unregulated transactions.

Senior Director Jeon highlighted another significant cost consideration related to debit transactions: the authentication method used, either through Personal Identification Number ("PIN") or signature authentication, the latter of which is more common with online transactions. He explained that this difference in authentication methods can be costly, adding approximately ten basis points (0.1%) for PIN-authenticated transactions and around twenty basis points (0.2%) for signature-authenticated transactions, on a dollar-for-dollar basis, which increases the overall interchange fee. On average, a PIN-authenticated debit transaction costs about \$0.30, while a signature-authenticated, unregulated transaction costs around \$0.62. He noted that about one-third of both regulated and unregulated transactions are PIN-authenticated, with the remaining two-thirds relying on the more expensive signature authentication method for debit transactions.

Senior Director Jeon explained that large national banks are considered as covered issuers and must comply with the debit cap. However, when examining local and smaller financial institutions in Massachusetts, there are 241 issuers in the state, with only ten being considered regulated. The remaining 231 issuers, which make up the vast majority, are unregulated and do not adhere to the debit cap.

## **Stakeholder Lottery Modernization Committee Official Minutes of 03/04/2025 SLMC Meeting**

Senior Director Jeon then discussed the difference between Card Present (“CP”) and Card Not Present (“CNP”) payment transactions. He explained that CNP transactions occur online, where the cardholder does not physically present the card, while CP transactions involve both the cardholder and the payment card being physically present, allowing the business to validate the transaction in real time. He noted that there is a significant cost difference between the two methods. CNP transactions are generally more expensive on average. For example, a CNP unregulated, signature-authenticated debit transaction costs more than twice as much as a CP transaction. The same cost differential applies to PIN-authenticated transactions, which are the cheaper authentication method when comparing CP to CNP.

Senior Director Jeon also pointed out another key factor when examining CNP transactions: merchant fraud liability. He explained that in a CP scenario, fraud is typically shared between the issuer, merchant, and consumer. However, for CNP transactions, particularly online fraud, the full liability for any fraud or chargebacks falls entirely on the merchant. This creates an additional cost burden for merchants in the online environment as they are nearly fully exposed to the risk of fraud in these situations.

Senior Director Jeon highlighted the challenges small businesses face, noting that they typically pay higher interchange rates compared to larger competitors. This is largely due to transaction volume—businesses with higher volumes receive lower interchange rates from the networks. However, many small merchants are charged a blended rate, where the interchange, network, and processor fees are all combined into a single rate, rather than an unblended rate, where it’s more segmented out. He pointed out that blended rates are generally higher, especially for the processor fee, making them a cost consideration for small businesses. As a result, the majority of small businesses not only pay a higher blended rate but also face higher interchange rates from the outset.

Senior Director Jeon then opened the floor to questions from the attendees.

Chairman Brennan sought clarification on the higher swipe fees charged by smaller bank debit card issuers as compared to larger, regulated financial institutions. Senior Director Jeon explained that under the Durbin Amendment, any issuer with a threshold over \$10 billion has a cap on the amount they can charge, which is \$0.21 per transaction, with a small additional fee for fraud recovery. In contrast, smaller institutions are not subject to this cap and can charge merchants higher fees. He noted that after the Durbin Amendment was enacted, smaller institutions became more attractive to Visa and MasterCard for issuing debit cards, as they didn’t have to follow the cap and could offer higher interchange percentages on transactions. He also pointed out that it was argued that the \$0.21 cap set by the Federal Reserve was too high from the start. Originally, a \$0.12 cap was proposed, but after lobbying from financial institutions, it was raised to \$0.21. Now, a decade later, the cap is being reconsidered, with the current proposal being \$0.14 plus 0.04% multiplied by the transaction amount, and an additional \$0.02 for fraud recovery. He emphasized that even with this proposed change, the rate is still higher than it should be, noting that the average issuer’s cost is around 3.9 cents per transaction. According to the regulations, these fees should be proportional and reasonable in relation to the issuer's actual costs.

Chairman Brennan asked Senior Director Jeon if he was tracking the ongoing legislation in various states. He mentioned that he was aware Illinois was facing litigation and believed Massachusetts had a bill related to sales tax and credit card swipe fees. Senior Director Jeon responded that many states, including Massachusetts, have adopted the Illinois model, which prohibits interchange fees on sales tax and tips, and that this issue is being closely monitored. He noted that 18 states, along with the District of Columbia, have introduced similar legislation to prevent interchange fees from being applied to sales tax and tips. Some states have broadened this

**Stakeholder Lottery Modernization Committee**  
**Official Minutes of 03/04/2025 SLMC Meeting**

scope to include charitable donations. Additionally, Massachusetts and other states have expanded these efforts to include language aimed at eliminating the "Honor-All-Cards" rule. This rule forces merchants to accept all Visa and MasterCard branded cards, even premium rewards cards with interchange rates as high as 4%. Removing this rule would provide merchants with more flexibility in choosing which cards to accept. He also mentioned the issue of price-fixing, where Visa and MasterCard set interchange fees on behalf of issuing banks, rather than allowing the issuers to set their own rates. He further pointed out the concern of default fraud liability, where merchants are automatically held liable for fraud, and noted that Massachusetts, Colorado, and Texas are among the few states that have included expanded language addressing this issue.

Chairman Brennan mentioned that Massachusetts currently allows debit cards for purchasing Lottery products but doesn't believe there's any movement towards allowing credit cards. He expressed concern about the debit card fees retailers will be paying, and especially given how they can vary depending on the issuing bank. He asked whether the Lottery might be paying swipe fees for online debit card purchases, particularly for CNP transactions and at a higher rate. Director Jessica Moore clarified that under Massachusetts law, store and restaurant owners are not allowed to pass a surcharge onto customers, except when the transaction involves the government. She explained that this is viewed as an unfunded mandate on taxpayers.

General Counsel Kearney asked when the Lottery is acting as a merchant by selling products online, would it trigger the prohibition on the anti-surcharge law, even though it is a government entity. General Counsel Polin clarified that the Lottery is still in the process of procuring a vendor to facilitate the transaction. Therefore, the details of how this law might apply are still being worked out as the vendor selection process continues.

General Counsel Kearney pointed out that Senior Director Jeon had mentioned small businesses face higher rates due to their lower transaction volumes. He assumed that the Lottery, as a high-volume seller of online products, would be able to negotiate a more favorable rate due to its volume, but at the same time, it might face higher costs due to the CNP transactions. He asked which option, CNP or volume, would be more beneficial, and whether the rates could be negotiated down by \$0.05, understanding that CNP would add about \$0.02 to the cost. Senior Director Jeon responded that even the largest businesses cannot negotiate their rates. While they are offered slightly lower rates due to their high transaction volumes, these offers are non-negotiable, meaning there's no back-and-forth negotiation. He noted that it would be interesting to see if the Lottery could have more negotiating power but emphasized that his members do not have that leverage. He also pointed out that CNP transactions are more expensive overall, due to the method of the transaction (such as signature authentication) and the additional fraud liability that gets shifted onto the merchant.

Chairman Brennan suggested the possibility of securing an exemption for the Lottery, given that Lottery products are government-issued. Director Moore explained that there is currently a push for a bill that would allow any restaurant or business accepting credit or debit cards to pass on the transaction fees. She noted that 48 states already permit this practice, so she was hopeful the bill would pass soon. Chairman Brennan acknowledged that while this would make things easier, the legislature doesn't appear eager to move forward with it, and at the same time, the iLottery timeline is still about a year away. Lottery General Counsel Greg Polin clarified that the predicted launch for iLottery is the summer of 2026.

General Counsel Kearney asked Senior Director Jeon to comment on the legislation circulating across the country that would prevent credit card companies from charging interchange fees on sales tax and tips, and whether this could apply to iLottery sales. Senior Director Jeon explained that sales

**Stakeholder Lottery Modernization Committee**  
**Official Minutes of 03/04/2025 SLMC Meeting**

tax is money merchants are collecting on behalf of the state, not keeping it and this interchange fee included in the calculation results in merchants paying more than they should for payment acceptance. The same principle applies to tips, which is money intended for employees, not the merchant or restaurant. The goal is to ensure that merchants are not overpaying interchange fees on these components. Director Moore added that in Massachusetts, merchants and restaurants paid over \$300 million in interchange fees on taxes alone (not on tips) in 2023.

General Counsel Kearney noted that the funds a merchant receives for a lottery product are essentially a pass-through to the Lottery Commission. He clarified that if a merchant receives \$5 for a \$5 scratch ticket, that money does not go into his pocket; instead, it is forwarded to the Lottery, which then compensates the merchant as a commission. He further mentioned that he was investigating whether there might be any potential options or existing court rulings that treat these sales, taxes, and wages as distinct matters.

Director Moore inquired about how retailers make money from selling Lottery tickets. General Counsel Polin explained that sales agents earn a 5 percent sales commission for every dollar of Lottery tickets sold. Additionally, they receive a 1 percent cashing bonus for any winning ticket under \$600, and the same 1 percent bonus for prizes over \$600. This information is tracked through the Lottery's record-keeping system, and each agent has an account that the Lottery regularly sweeps.

Chairman Brennan pointed out that if a customer uses a debit card for an iLottery product, the swipe fee for both the iLottery purchase and a physical scratch ticket could end up being higher than the commission the agent earns from that sale, which is a concern. Senior Director Jeon explained that, on average, the interchange rate is about 1.21 percent, and this doesn't account for whether the transaction is a CNP or involves a higher authentication method. He added that this 1.21 percent fee could directly eat into the 5 percent commission that retailers receive from selling Lottery products. Chairman Brennan shared that there have been discussions about increasing the commission for retailers, but that would require legislative approval and the funds would have to come from somewhere else, like unrestricted aid, an area that cannot afford cuts. General Counsel Polin raised a scenario where a customer buys other non-Lottery items in a retail store and also purchases a \$5 scratch ticket at the counter. He pointed out that this creates complexity in determining how fees would apply. General Counsel Kearney then asked if a sales agent accepts a debit card for the Lottery purchase, would it be processed as one combined transaction along with other items, and whether there would be any cost savings from bundling everything into one transaction instead of processing two separate ones. Senior Director Jeon responded that it would be slightly more cost-effective to process the purchases as one combined transaction. Chairman Brennan noted that it's also how the program is set up when the vendor is selected and how it rolls out that could lead to some retailers choosing not to accept debit cards for Lottery products in order to avoid the swipe fee. However, he pointed out that while keeping these transactions separate might save on fees, it could also result in losing customers who prefer the convenience of paying with debit cards for all their purchases.

General Counsel Kearney asked if the Durbin Amendment includes language that allows merchants to reject debit payments for transactions under a certain dollar amount. Senior Director Jeon confirmed that such language does exist, and he believed the threshold was under \$10.00. Director Moore added that while this is not allowed in Massachusetts, some merchants still implement this practice regardless.

The Committee expressed their appreciation to Senior Director Jeon for his time, and he then exited the meeting at 2:09 p.m.

**Stakeholder Lottery Modernization Committee**  
**Official Minutes of 03/04/2025 SLMC Meeting**

**IV. Discussion of agenda items for future meetings**

Chairman Brennan outlined the agenda for future meetings, starting with April's session, where Beth Bresnahan, Chief Communications and Brand Officer at Scientific Games, would join to focus on Responsible Gaming issues. He also mentioned that CEO Marlene Warner had requested the Committee dedicate some time to discuss its direction. Chairman Brennan reminded everyone that the target launch date for iLottery is the summer of 2026, and under the enabling legislation, the Committee will meet monthly until the first ticket is sold, after which meetings will shift to a quarterly schedule. He suggested the Committee start working on recommendations.

Chairman Brennan then asked General Counsel Polin for an update on the Lottery's Request for Proposal ("RFP") process. General Counsel Polin explained that the RFP was still being developed internally, and he didn't have an estimated timeline yet, emphasizing that it's a comprehensive process.

Chairman Brennan proposed that the Committee set its own timeline to draft recommendations and send them to the Lottery as they undergo the selection process.

General Counsel Kearney reminded the Committee that Lottery Executive Director Mark Bracken had previously recommended exploring the possibility of securing additional advertising revenue. He suggested inviting the Lottery to present an overview of their current advertising budget, as well as their goals for increasing funding beyond what they are already doing. Executive Director Bracken confirmed that the Lottery could provide this information at the May meeting. He also mentioned that if the Committee wished to advocate for increased funding, they could do it this time next year during the budget process which would be an appropriate time to do so.

**V. Other Business – Reserved for Matters not Reasonably Anticipated at the Time of Posting**

After asking if there was any other business to discuss, Chairman Brennan sought a motion to adjourn the meeting. General Counsel Ryan Kearney moved to adjourn and Director Jessica Moore seconded the motion.

Chairman Brennan, recognizing there was no further discussion, moved the motion to a roll call vote. General Counsel Ryan Kearney: yes; Director Jessica Moore: yes; and Chairman Peter Brennan: yes. The Motion carried.

The SLMC meeting adjourned at 2:23 p.m.

List of Documents and Exhibits Used:

- March 2025 Stakeholder Lottery Modernization Committee Meeting Book