

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS LOTTERY COMMISSION

AUSTIN, TEXAS

COMMISSION MEETING)
FOR THE TEXAS)
LOTTERY COMMISSION)

COMMISSION MEETING

February 10, 2022

8:34 a.m.

AT

TEXAS LOTTERY COMMISSION

611 East 6th Street

Austin, Texas 78701

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APPEARANCES

CHAIRMAN:	Robert G. Rivera
COMMISSIONERS:	Mark A. Franz Erik C. Saenz James H. C. "Jamey" Steen Cindy Fields
GENERAL COUNSEL:	Robert F. Biard
EXECUTIVE DIRECTOR:	Gary Grief
CHARITABLE BINGO OPERATIONS DIRECTOR:	LaDonna Castañuela
CONTROLLER:	Katheryn J. Pyka
PRODUCTS MANAGER:	Robert Tirloni
MCCONNELL & JONES LLP:	Darlene Brown
BINGO ADVISORY COMMITTEE CHAIRMAN:	William "Trace" Smith III
MEDIA RELATIONS	Phillip Bates
WEAVER & TIDWELL LLP	Kevin Sanfold

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	B. To deliberate the duties of the General Counsel	
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	C. To receive legal advice regarding pending or	
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(2) of the Texas Government Code, including but not limited to legal advice regarding the following items:

Pending litigation regarding Fun 5's Scratch Ticket Game #1592, including Travis County District Court Docket No. D-1-GN-14-005114 (Steele, et al. v. GTECH Corp.);

Legal advice regarding the Governor's March 13, 2020 COVID-19 state of disaster declaration (as renewed thereafter) and related Texas Lottery Commission matters, Texas Government Code Chapters 466 (State Lottery Act) and 467 (Texas Lottery Commission), the Bingo Enabling Act, the Open Meetings Act, the Public Information Act, the Administrative Procedure Act, employment and personnel law, procurement and contract law, evidentiary and procedural law, ethics laws, and general government law.

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P R O C E E D I N G S

THURSDAY, FEBRUARY 10, 2022

AGENDA ITEM NO. I

CHAIRMAN RIVERA: Okay. Good morning.

I'd like to call the Lottery Commission meeting to order. Today is February the 10th, it is 8:35. We have all Commissioners present, we have a quorum. Commissioner Steen and some staff are participating today via video conference which is allowed in the Open Meetings Act. We will start with the U.S. Pledge and then the Texas.

(Pledges recited)

CHAIRMAN RIVERA: Okay.

AGENDA ITEM NO. II

CHAIRMAN RIVERA: Okay. First item is the annual independent audit. Kathy, this is your item.

MS. PYKA: Good morning, Commissioners. My name is Kathy Pyka, Controller for the agency. With me this morning is Mr. Kevin Sanford. He is the engagement partner for the firm Weaver and Tidwell. They performed our required annual financial audit for the fiscal year 2021 financials. Kevin, I'll let you proceed.

MR. SANFORD: Very good. Thank you,

1 Kathy. Good morning, Commissioners, good morning,
2 Director Grief, it's my pleasure to be here today. As
3 Kathy mentioned, my name is Kevin Sanford, I'm a
4 partner with the firm Weaver and Tidwell and an honor
5 to be here to present the results of our audit for the
6 Lottery Commission for the year ended August 31st,
7 2021.

8 I'll say while I have a brief
9 presentation only kind of highlighting the key points
10 of the audit, if at any time or at the end, you'd like
11 me to dig in to anymore information or talk to anymore
12 specifics, please don't hesitate to interrupt.

13 The first item to highlight is our
14 opinion on the financial statements, which if you're
15 looking either at a printed copy or a bound copy, it is
16 the first item in the financial section and it's on
17 page 4 of the document, and it's on our letterhead.

18 Our opinion once again this year is an
19 unmodified or unqualified opinion. It's the highest
20 level of assurance that independent auditors can
21 provide to a set of financial statements and it states
22 that in all material respects these financials are
23 accurately presented.

24 And then you'll also notice in the back
25 of the document on page 77, there is one more report

1 from us. The Lottery, as a state agency in the State
2 of Texas, is under governmental auditing standards and
3 commensurate with that audit, we have to perform tests
4 of internal controls over financial reporting of the
5 Lottery Commission, as well as tests of the key matters
6 of compliance in other matters. And while our testing
7 of internal control is not to the point to render an
8 opinion, any testing that we do is substantial and any
9 findings we have would have to be brought forward to
10 you in this report.

11 So I'm happy to report that both under
12 internal controls there were no significant
13 deficiencies or material weaknesses in the Lottery's
14 internal control, nor were there any findings under key
15 matters of compliance and other matters. So, in all
16 respects it is a clean report from us on the
17 Commission's financial statements, as well as its
18 internal controls and key matters of compliance.

19 And so the last item from us is a letter
20 from us to you with our required communications for the
21 audit as the Board of Commissioners is responsible for
22 the oversight of us as auditors. And really, I wasn't
23 going to highlight anything in here, it's kind of the
24 standard boilerplate language with our required
25 communications, nothing adverse, nothing out of the

1 ordinary. But again, if anything in the financial
2 statements or in this letter you would like me to dive
3 into a little bit more, I'm happy to do so.

4 CHAIRMAN RIVERA: Okay. Commissioners,
5 any questions? Okay. Good job.

6 MR. SANFORD: Thank you.

7 CHAIRMAN RIVERA: Okay.

8 MS. PYKA: Thank you, Commissioners.

9 CHAIRMAN RIVERA: Very Good.

10 AGENDA ITEM NO. III

11 CHAIRMAN RIVERA: Okay. The next item
12 in our report is from the BAC, Trace, it's your item.

13 MR. SMITH: Good morning, Chairman,
14 Commissioners, staff. Our last meeting was on the 26th
15 of January, we had six members in attendance.
16 Unfortunately, our Vice Chair, Kim Rogers, had to
17 resign due to time and family constraints. Kim was a
18 valuable asset to BAC and the industry and will be
19 sorely missed.

20 So, BAC would like to ask the
21 Commissioners to reopen the application process to fill
22 the vacant position for Kim Rogers.

23 Also, the BAC is still working on points
24 to revive the website and make it more user friendly.
25 We also heard opinions on recommending removing the

1 seal of Texas off the pull-tabs and event tickets to
2 help the supply chain problems in the industry. The
3 motion to recommend the removal of the seal resulted in
4 a tie vote and did not pass for recommendation.

5 Lastly, LaDonna and her staff asked for
6 ideas to help get more charities to file their reports
7 online instead of the old paper way, to make it a lot
8 more convenient for her staff to do their audits and
9 reports, and we agreed to come up with some ideas to
10 help them with that.

11 CHAIRMAN RIVERA: Okay.

12 MR. SMITH: And that concludes my
13 report.

14 CHAIRMAN RIVERA: Okay. Cindy, do you
15 have any thoughts?

16 COMMISSIONER FIELDS: I would like to
17 say thanks to Kim Rogers for her valuable input all
18 these years. She doesn't live here, right? She
19 travels to the meetings?

20 MR. SMITH: I believe in San Antonio,
21 yes.

22 COMMISSIONER FIELDS: So, I think she's
23 been really, really helpful on everything and --

24 MR. SMITH: Absolutely.

25 COMMISSIONER FIELDS: As are all of you

1 guys.

2 MR. SMITH: Thank you.

3 CHAIRMAN RIVERA: Okay. And then to
4 that regard, LaDonna, if you could start working on
5 filling that vacancy and then report back at the next
6 meeting and give us a timeline.

7 MS. CASTAÑUELA: I will. Thank you.

8 CHAIRMAN RIVERA: And, you know, during
9 that, obviously communicate with Cindy throughout and
10 just --

11 MS. CASTAÑUELA: Yes.

12 CHAIRMAN RIVERA: -- make sure if
13 there's anything that you need from her or us, let us
14 know.

15 MS. CASTAÑUELA: Thank you.

16 CHAIRMAN RIVERA: Okay? Okay. Thank
17 you.

18 MR. SMITH: Thank you.

19 AGENDA ITEM NO. IV

20 CHAIRMAN RIVERA: Okay. Mike, next
21 three items are yours.

22 MR. FERNANDEZ: Good morning, Mr.
23 Chairman, Commissioners, make sure I'm focused in here
24 on this, and really appreciate you all working with us
25 on this. This is a first for us in terms of the

1 telecommunication meeting, so thank you for your
2 assistance and help in working with us on it.

3 Good morning, Commission. For the
4 record, my name is Mike Fernandez, I'm the Director of
5 Administration. The first item of four are two
6 contracts, both of which are briefing items. And the
7 first one is to advise of Commission staff's intent to
8 issue the request for proposals for promotional
9 products. The anticipated term of this is a one year
10 contract with two one year renewals.

11 The next item, working with and through
12 the State Office of Risk Management, staff intend to
13 acquire insurance for the purpose of managing retailer
14 bonus payments for the Mega Millions and Powerball
15 games. If you have any questions, I'd be happy to
16 answer them.

17 CHAIRMAN RIVERA: Okay. Any questions?
18 No? Okay.

19 AGENDA ITEM NO. V

20 MR. FERNANDEZ: Item Number V in your
21 notebook, Commissioners, is also a briefing item and is
22 to advise the Commission of staff's intent to extend
23 our current contract with Elsym Consulting for internal
24 control systems operation services. This extension
25 will be for a two year period, beginning September 1 of

1 2022.

2 If you have any questions I'd be happy
3 to answer them.

4 CHAIRMAN RIVERA: Okay. None.

5 AGENDA ITEM NO. VI

6 MR. FERNANDEZ: And lastly, Commission,
7 Item Number VI in your notebook is an action item.
8 Staff is seeking Commission approval to extend our
9 current contract with McConnell & Jones, LLP for
10 internal audit services for a one year period.
11 Commissioners have independently confirmed they have no
12 financial interest in McConnell & Jones.

13 If you have any questions, I'd be happy
14 to answer them, Commissioners.

15 CHAIRMAN RIVERA: Okay. None. Okay.

16 COMMISSIONER FRANZ: I'll move that we
17 extend the internal audit services contract.

18 COMMISSIONER SAENZ: I'll second.

19 CHAIRMAN RIVERA: Second. All in favor
20 say aye.

21 (Chorus of "ayes")

22 CHAIRMAN RIVERA: Jamey is a yes?

23 COMMISSIONER STEEN: Aye. Yes.

24 CHAIRMAN RIVERA: All right. Love it.

25 Wow. Echoing that in the chambers all the way out

1 here; voice from above.

2 UNIDENTIFIED VOICE: Hear you, hear you.

3 CHAIRMAN RIVERA: I love it. Mike,
4 thank you so much. Okay.

5 AGENDA ITEM NO. VII

6 CHAIRMAN RIVERA: Okay. Next item is
7 Kyle. Lottery rule proposal.

8 MR. WOLFE: Good morning. Thank you,
9 Mr. Chairman and Commissioners. For the record, I'm
10 Kyle Wolfe, Assistant General Counsel. Item VII in
11 your notebooks, which is an action item, contains
12 proposal to adopt amendments to the eight draw game
13 rules in that item. The proposed amendments to the
14 Lotto Texas and Powerball rules increase the number of
15 consecutive draws a player can purchase in those draw
16 games.

17 The proposed amendments also consolidate
18 similar provisions from seven separate draw game rules
19 into the general draw game rule. Those provisions
20 being consolidated concern a player's verification of
21 numbers and other selections on lottery tickets.

22 On this action item, the staff is
23 recommending that the Commission initiate the
24 rulemaking process by publishing these proposed
25 amendments in the Texas Register to receive public

1 comment for a period of 30 days.

2 If you have any questions about these
3 proposed amendments, I'll be happy to answer them.
4 Thank you.

5 CHAIRMAN RIVERA: Okay. Any questions?
6 Okay. Is there a motion to publish the proposal for
7 public comment?

8 COMMISSIONER FIELDS: Motion.

9 COMMISSIONER SAENZ: Second.

10 CHAIRMAN RIVERA: And a second. All in
11 favor say aye.

12 (Chorus of "ayes")

13 CHAIRMAN RIVERA: All right, 100
14 percent. Thank you very much, sir.

15 MR. WOLFE: Thank you.

16 AGENDA ITEM NO. VIII

17 CHAIRMAN RIVERA: Okay. Next item is
18 Kathy and Robert and Ryan.

19 MS. PYKA: Good morning, Commissioners.
20 My name is Kathy Pyka, Controller for the Commission.
21 With me this morning is Robert Tirloni, our Products
22 Manager at the podium, and to my right, Ryan Mindell,
23 our Lottery Operations Director, who will be joining us
24 to provide an update on the Commission's advertising
25 budget.

1 Commissioners, our first slide that we
2 have for you this morning will begin with slide 2,
3 comparative sales through the week ending February 5th,
4 2022, presented at the bottom of the slide. Total
5 fiscal year 2022 sales through this 23-week period are
6 \$3,525,000,000. That is an increase of \$100-million
7 over our fiscal year 2021 sales or 2.9 percent.

8 Commissioners, when we met in December,
9 we discussed our concern about what our year-over-year
10 increase might look like after the comparison to the
11 one billion Mega Millions jackpot that occurred in
12 January of '21, as well as the very large Powerball
13 jackpot that reached 730-million in 2021, so we're
14 super pleased that we passed that hurdle and we still
15 have a \$100-million increase over fiscal year 2021.

16 As we look at the individual sales
17 numbers, our fiscal year 2022 scratch sales, which are
18 reflected on the second orange bar, are \$2,856,000,000
19 which is a \$174-million increase over the sales figure
20 for fiscal year 2021.

21 Our current scratch ticket growth rate
22 is six and a half percent over last fiscal year. Our
23 scratch ticket sales this fiscal year amount to 81
24 percent of total lottery sales in comparison to last
25 fiscal year, which was 78.3 percent of total lottery

1 sales.

2 In our fiscal year 2022 draw sales
3 reflected on the second blue bar are 668-million, which
4 is a \$74-million increase or, excuse me, \$74-million
5 decrease, or just under 10 percent below fiscal year
6 2021.

7 Robert will now provide a detailed
8 overview of sales by product.

9 MR. TIRLONI: Thank you, Kathy. Good
10 morning, Mr. Chairman, Commissioners. This is our
11 year-over-year comparison. This is through last
12 Saturday, February 5th. We start at the bottom of the
13 slide. We are up \$100-million compared to last fiscal.
14 We can dig a little deeper and see where that growth is
15 coming from.

16 Scratch tickets on the line right above
17 that are up almost \$174-million. We did have some
18 tough weeks in January, tough comparison weeks this
19 year compared to last due to the large jackpots we had,
20 which also drove very strong scratch sales last
21 January. So, we are up 174.

22 If you look right above that, though,
23 you can see for our draw games those are down almost
24 \$74-million. Why is that? Large jackpots in January
25 of '21, the overwhelming majority of that decline is

1 coming from the jackpot portion of the portfolio.
2 That's up at the top in the white font. The jackpot
3 games are down 73-million year-over-year.

4 Quick reminder, in January of '21 we had
5 a \$730-million Powerball jackpot and we had a \$1-
6 billion Mega Millions jackpot.

7 We were lucky that both games did start
8 rolling this past fall. They rolled into January, they
9 just didn't quite get up to the levels we saw a year
10 ago. Mega Millions made it up to 421-million and
11 Powerball got up to 630-million. So, you know, the
12 \$421-million jackpot could not compete with the 1-
13 billion from a year ago and that's why we're seeing an
14 \$87-million decline for Mega Millions and the add-on
15 games for Mega Millions are down about 12.8-million.

16 We still are in the positive for
17 Powerball and Power Play, again that's thanks to us
18 getting up to 630-million just a month ago.

19 Lotto Texas is down and Texas Two Step
20 is down. Again, this is all jackpot driven, jackpot
21 related.

22 In the middle of the slide in blue are
23 our daily games. Almost breaking even, slightly down
24 \$800,000, Pick 3 is down about 1.6-million, that's
25 almost made up for with the growth on Daily 4, that's

1 up 1.2. Cash 5 is down 700,000, but All or Nothing is
2 up \$400,000. So again, draw games down 73.7, netting
3 out at 100-million growth.

4 I guess if there's good news about the
5 jackpot situation is that last year, once we got past
6 those very large jackpots in January, there was not any
7 humongous jackpots for the remainder of the fiscal
8 year. One jackpot got up to 515-million in May. So,
9 hopefully Powerball or Mega Millions can get a decent
10 jackpot run sometime the rest of this fiscal year and
11 we can add to the growth that we're already seeing for
12 Powerball, and hopefully we can minimize the losses
13 that we're experiencing on Mega Millions.

14 For scratch we have a solid game plan
15 going forward and we will continue to update you on
16 sales in future meetings.

17 And with that, Ryan's going to proceed
18 with an update on our advertising budget.

19 MR. MINDELL: Thank you, Robert, and
20 good morning, Chairman and Commissioners. For the
21 record, my name's Ryan Mindell, I'm the Lottery
22 Operations Director.

23 Thought it would be good, given the
24 budget cuts that you know we faced over the past few
25 years to give you an overview of where our advertising

1 budget stands today, an outline of some of those
2 strategic considerations we took into account as we
3 managed those budget cuts and give you a couple of
4 examples of what we have in the market.

5 So, the next slide I just want to walk
6 through again some of the strategic reasons as we face
7 this drastic decline. As you know, we've gone from 32-
8 million down to 10-million. That's almost a 69 percent
9 decrease in a relatively short amount of time.

10 With managing those budget cuts, we've
11 tried to maintain where we can long-term commitments.
12 For instance, we have Jackpot billboards in key
13 locations where we've been for almost if not longer
14 than 20 years around the state.

15 We've had to move out of different
16 mediums like radio and TV which are unfortunately a
17 little too expensive for our current budget and don't
18 allow us the flexibility to match the current budget
19 levels.

20 In turn, we've moved more into digital
21 platforms like social, mobile and web and also,
22 maintain some flexibility with our campaign billboards
23 where we can put them in certain markets around the
24 state. We've also really kept our focus on in-store
25 what we call point of sale. That's, you know, items

1 right at retail, right where the customer can see them
2 at the time of purchase. We've also looked to move
3 functionality in-house where we can and try to be a
4 little bit again, more flexible and responsive to the
5 budgets we have.

6 So, with that on the next slide, I'll
7 walk through our budget as it stands for this fiscal
8 year.

9 As you can see, there's a large
10 commitment to those jackpot billboards around the
11 state. And again, these are places that if we stepped
12 out of because of these budget cuts, we may never be
13 able to get back in to those locations. And when you
14 hear Robert and Kathy talk about how the jackpot sales
15 drive both the sales for that game, but also across the
16 portfolio, those jackpot billboards are one of the only
17 ways we have to communicate those high jackpots to our
18 players around the state.

19 We've also, as I've said, moved more
20 into digital, although it still remains a relatively
21 small portion of the portfolio, it gives us that
22 flexibility and if we have additional funds or savings
23 from other categories, we find that's a good place to
24 talk to players in a way that we maybe didn't before
25 these budget cuts.

1 Obviously, the campaign billboards on
2 point of sale, those are part of our advertising
3 campaigns for our major scratch ticket launches. I'll
4 talk a little bit more about those in a moment. We
5 have statutorily required end of game ads, and then
6 obviously, the contractual expenses with our ad agency.
7 As you know and as approved recently, we're in the
8 middle of an RFP process for the new ad agency
9 contract, which I hope will be bring some of those
10 numbers down a little bit.

11 On the next slide, I just want to give
12 you a couple examples of the billboards that I talked
13 about. So, on the one side you see the jackpot
14 billboards. And again, those are the key drivers of
15 jackpot awareness around the state. I'm sure you've
16 all seen them in all the markets we have. We have 95
17 of those. And again, these are places that we've had
18 these billboards for a very long time. We get to
19 advertise both Powerball and Mega Millions and you
20 know, they update daily and again, we just think those
21 are in key locations.

22 On the other side, you'll see what we
23 call the campaign billboards. So, those are rotating
24 messages, those are focused on key scratch campaigns
25 that we do throughout the year. Those we've had to

1 limit the reach of those and put them into fewer and
2 fewer markets as our budgets are cut, but we still
3 think they're a strong piece of the portfolio when we
4 talk about these major scratch launches we have.

5 On the next slide, I'll just walk
6 through what those scratch launches look like. So, in
7 previous years before we had these budget cuts, we
8 would come out with what we call a campaign to support
9 scratch tickets, five or six times a year. With the
10 budget cuts, we had to strip down to the four essential
11 scratch launches we do, and that would be the three
12 what we call families. It's a suite of tickets at
13 multiple price points that have a similar theme or look
14 and feel. And those launch in September, January, and
15 May usually, and we're able to support those with those
16 campaign billboards you just saw, some digital pieces,
17 and also, those point of sale right at retail.

18 We also try to support the holiday suite
19 of tickets that comes out a little bit before the
20 holidays with some point of sale in the market as well.
21 So again, this is just a very high level overview of
22 the strategic considerations we've managed this budget
23 cut and a snapshot of where we stand today.

24 Happy to answer any questions about
25 them.

1 CHAIRMAN RIVERA: Okay. Any questions?
2 Okay. Good job.

3 COMMISSIONER FRANZ: Mr. Chairman, I
4 would just say back to Robert and the whole team, that
5 was kind of making up more than the loss that we all
6 kind of knew was going to come if we didn't get those
7 jackpots. I mean, well done on the scratch increase
8 that we way more made up for that loss, and so that's
9 the one thing that you guys can control, so I just want
10 to congratulate you on that. And the other is just,
11 you know, we're kind of at the whim of the rolling
12 jackpot, so, thank you for that.

13 MR. MINDELL: Thank you.

14 AGENDA ITEM NO. IX

15 CHAIRMAN RIVERA: Okay. Next item,
16 state and agency budget status. Kathy?

17 MS. PYKA: Thank you, Mr. Chairman.
18 Again, Tab 9 includes the agency's transfers to the
19 State, as well as agency's budget status. The report
20 in your notebook reflects accrued revenue transfers and
21 the allocations to the Foundation School Fund and the
22 Texas Veterans Commission, as well as the allocation of
23 unclaimed lottery prizes for the four month period
24 ending December 31st of 2021.

25 Our total accrued revenue transfers to

1 the State amounted to \$563.6-million for the first four
2 months of the fiscal year. Of that \$563.6-million,
3 \$540.7-million was transferred to the Foundation School
4 Fund, 5.9-million was transferred to the fund for
5 Veterans Assistance, and the balance of \$17-million was
6 transferred as unclaimed lottery prizes. This leaves
7 us with a 10.1 percent increase or \$49-million over
8 revenue transfers to the Foundation School Fund for the
9 same period last fiscal year.

10 Our total cumulative transfers to the
11 Foundation School Fund through December of this year
12 include now \$28.2-billion.

13 Also, included in your notebook is the
14 fiscal year 2022 method of finance summary for the
15 first quarter ended November 30th of 2021. The
16 Commission's lottery account budget for fiscal year
17 2022 is \$263.8-million of which 71.8 percent was
18 expended and obligated through the end of the first
19 quarter. The bingo administration budget funded by
20 general revenue is just over \$2-million, with 92
21 percent of that obligated through the end of the first
22 quarter.

23 I'd be happy to answer any questions.

24 CHAIRMAN RIVERA: Okay. Commissioners,
25 any discussion? Okay.

1 MS. PYKA: Thank you.

2 CHAIRMAN RIVERA: Okay. Thank you.

3 AGENDA ITEM NO. X

4 CHAIRMAN RIVERA: Okay. Item Number X
5 is Darlene.

6 MS. BROWN: Good morning, Mr. Chairman
7 and Commissioners. For the record, name is Darlene
8 Brown and I'm your internal auditor. And first, I'd
9 like to express my sincere appreciation for renewing
10 our contract for another year and your support.

11 So, in your binder today, I have a
12 status report of our activities. This past quarter
13 we've reviewed the network access and we're happy to
14 report that there were no unauthorized user accounts on
15 your network. We continue to work on Charitable Bingo
16 reconciliations. We've also started the audit of
17 agency wide performance measures and ticket management.

18 Those were our activities for this
19 period and if you have any questions, I'll be happy to
20 address them.

21 CHAIRMAN RIVERA: Commissioners, any
22 questions? No? Okay. Thank you.

23 AGENDA ITEM NO. XI

24 CHAIRMAN RIVERA: Okay. Next item is
25 Bingo Director report. LaDonna?

1 MS. CASTAÑUELA: Good morning, Chairman
2 and Commissioners. For the record, I'm LaDonna
3 Castañuela, Director of Charitable Bingo Operations
4 Division. Information concerning output metrics for
5 CBOD for December and January can be found in your
6 notebook materials.

7 I just have a quick update about
8 Division activities. In addition to the work detailed
9 in the notebook materials, we are busy on projects
10 associated with the upcoming move, records retention,
11 and procedure documentation, including procedures for
12 reporting performance standards in preparation for the
13 related internal audit that Darlene just mentioned. A
14 few of those are outdated and need revisions, while
15 others have never been drafted before.

16 Another project that was also mentioned
17 by Trace just a minute ago that I'm working on is
18 looking for ways to increase the number of license
19 holders who file quarterly reports online. At this
20 time, 40 percent of all quarterly reports are filed by
21 mail, requiring CBOD staff to spend many hours each
22 quarter manually processing them and data entering the
23 reports into the BOSS database. If we could cut that
24 number in half or more, it would free up staff to spend
25 more time on other important office projects, cross

1 training and other professional development.

2 I'm grateful for the support offered by
3 the BAC who allowed me to present the issue at their
4 last meeting. We're in the very earliest stages of
5 this project and I'm encouraged by the response so far.

6 I also want to let you know that we've
7 been working on filling vacancies in the Division. We
8 will have a new auditor in our Austin office next week
9 and hopefully a new auditor in the San Antonio office a
10 few weeks after that. There's currently a vacancy
11 posted for a license specialist and I hope we're able
12 to bring he or she on board before the April meeting.

13 That's all I have for you today; I'm
14 available to answer any questions.

15 CHAIRMAN RIVERA: Okay. LaDonna, thank
16 you. Commissioners, is there any discussion? Cindy,
17 do you have anything you'd like to -- no?

18 COMMISSIONER FIELDS: No.

19 CHAIRMAN RIVERA: Okay. LaDonna, great
20 job as always. Thank you so much and definitely you
21 have a lot on your plate and the work that you're doing
22 is definitely noticed and we're grateful. So, thank
23 you.

24 MS. CASTAÑUELA: Thanks.

25 AGENDA ITEM NO. XII

1 CHAIRMAN RIVERA: Next item is our
2 esteemed Executive Director's report, Gary, your item.

3 MR. GRIEF: Thank you, Mr. Chairman.
4 Other than what's in your notebook this morning,
5 Commissioners, I have two items to report on.

6 The first is our upcoming move. Oh
7 sorry, just a moment.

8 (Pause)

9 MR. GRIEF: Are we good, Phillip?

10 MR. BATES: We've got you.

11 MR. GRIEF: Okay. The first item is our
12 upcoming move to the new George H.W. Bush state office
13 building at 1801 Congress. According to the Texas
14 Facilities Commission, the construction is on schedule
15 and we are tentatively planning to move the majority of
16 our staff and equipment in late April or early May.
17 Our claims center and draw studio, which are going to
18 be located on the first floor of the new building,
19 won't be moving until June 4th.

20 The bulk of our staff are going to be
21 located on the fifth and sixth floors of the new
22 building and along with the Texas Racing Commission, we
23 will be the first two agencies to move into the new
24 facility. At this point, the basic office spaces are
25 complete and the final finish out work is underway.

1 The Department of Information Resources is in the
2 process of installing the network infrastructure and
3 the modular furniture for our agency is being delivered
4 as we speak and is going to be installed throughout the
5 month of February.

6 In the new building, it will have a
7 commission meeting space for use by all the state
8 agencies who will be occupying the building. That will
9 be on a reservation basis. At this time, we're a
10 little uncertain if that commission meeting space is
11 going to be ready for April or even possibly for June
12 commission meetings, but if not, we will have our
13 current space still under lease through August and
14 we'll adjust the location of those meetings as we need
15 to.

16 Mr. Chairman, my final item to report on
17 this morning is the most important item of the day and
18 that is the imminent retirement of our agency
19 Controller, Kathy Pyka. So, I would like to ask Kathy
20 to come forward and sit at the table if she would.

21 Commissioners, Kathy's last day in the
22 office will be February 18th and Mr. Chairman, I think
23 you wanted to kick us off on this item.

24 CHAIRMAN RIVERA: Yes. Kathy, just the
25 work that you've done for as long as you have is

1 incredible and we know that you are the foundation of
2 giving us that, you know, financial direction in terms
3 of how we're doing, the work that we've done, to
4 measure our progress, the work in the future
5 definitely, in the financial world. You have an
6 incredible amount of, you know, pluses and minuses to
7 budget, a lot of budget cuts, a lot of additions, a lot
8 of, you know, everything, right? It's a perpetually --

9 MS. PYKA: Yes.

10 CHAIRMAN RIVERA: --moving, you know,
11 spreadsheet.

12 MS. PYKA: A lot of negatives.

13 CHAIRMAN RIVERA: Yeah.

14 MS. PYKA: Unfortunately.

15 CHAIRMAN RIVERA: So, well, you know,
16 regardless of how many budget cuts there are, the
17 important thing is that, you know, we can always move,
18 you know, forward, right? You can always add to that
19 balance sheet. But the reduction of you personally is
20 going to be a budget cut that's going to be very
21 difficult for us collectively to endure and your
22 presence will remain as you've set it, a very high
23 standard of work ethic, of, you know, commitment to the
24 Texas Lottery, and on behalf of all of our
25 Commissioners, we are incredibly grateful for all of

1 your years of service and you will be deeply missed.

2 MS. PYKA: Thank you so much, Mr.
3 Chairman, Commissioners. It's been a great honor to be
4 part of this agency. I think that you know the amazing
5 team that I get to work for led by Gary is one of the
6 best executive teams in state government, and, you
7 know, I've had some experiences at other places, so I
8 think I'm a pretty good judge of that after so many
9 incredible years here. But I appreciate all of y'all's
10 support and you can only very well imagine the amazing
11 team that I have in the Office of the Controller and
12 the great things that they do, you well know that I
13 just get to lead it. I have an amazing team that
14 supports me. So, I appreciate all of y'all's support
15 as well. Thank you.

16 CHAIRMAN RIVERA: Thank you. And
17 Commissioners, any other comments? Okay. I'm sorry.

18 COMMISSIONER FRANZ: Just one. I think
19 it's easy to kind of gloss over when we get these audit
20 reports and financial and all, but for every single
21 audit that I've been on this Commission for, we have
22 been spotless. That is not an easy thing and like I
23 said, that's easy to, you know, it's just financial
24 gobbledygook, that's hard to do, and particularly in an
25 agency this complex.

1 So, I really want to thank you and you
2 are going to be sorely missed.

3 MS. PYKA: Thank you. Those audited
4 financials did not quite look like that many, many
5 years ago, but we've really worked hard to place an
6 amazing set of standards in and I have full confidence
7 that under Kelly's leadership that that will continue,
8 that that financial product will be just as good as it
9 is today, so, but I appreciate that. It's a lot of
10 work, no doubt.

11 COMMISSIONER FRANZ: Well, it makes our
12 job much easier, so thank you.

13 MS. PYKA: Yes.

14 CHAIRMAN RIVERA: Okay.

15 MR. GRIEF: Well, of course, I'm not
16 going to let Kathy off that easy, so, let me start off
17 by congratulating Kathy, not only on her retirement,
18 but on all the contributions that she's made to the
19 agency. Please understand that the Texas Lottery is
20 not your typical government agency, it's much more like
21 a Fortune 500 company with billions of dollars flowing
22 through our financial system and having to be accounted
23 for. The uniqueness and complexity of our financial
24 situation here is not for everyone.

25 To highlight that fact, in the first 13

1 years of the Texas Lottery, we went through six chief
2 financial officers. In the last almost 17 we've gone
3 through one, and that's Kathy Pyka. That's a testament
4 to Kathy's ability.

5 Before Kathy joined our agency in 2005,
6 she had risen through the ranks of state government,
7 serving as Chief Financial Officer first at the
8 Department of Commerce, and then CFO at the Workforce
9 Commission, both in the early and mid-'90s.

10 In '97, she left the Workforce
11 Commission with an opportunity with the Texas Railroad
12 Commission, and that's an agency where Kathy would
13 spend about the next eight years of her career, rising
14 from Deputy CFO to CFO to finally Deputy Executive
15 Director. One of Kathy's longtime colleagues in state
16 government is our very own Mike Fernandez.

17 Their paths first crossed back in the
18 mid-'90s when Kathy worked at the Department of
19 Commerce and Mike was with the Workforce Commission.
20 By 2005, Mike had been working here at the Texas
21 Lottery long enough to see the challenges that we had
22 in finding and retaining a top-notch CFO. So, when the
23 position became vacant once again, that year Mike came
24 to me and he told me he had an outstanding person that
25 he knew of that might be a great fit for our agency in

1 his opinion.

2 Now, if you know Mike, you also know
3 that Mike has lots of opinions. He's not shy about
4 sharing any. But I value Mike's opinion and I told him
5 go ahead, see if you can get this person to apply for
6 the position. Well, that person of course ended up
7 being Kathy. Kathy went through the interview process
8 for the position which even included one of our
9 Commissioners and our future Chairman Jim Cox who was
10 on the interview panel.

11 Jim was a wonderful Commissioner and
12 being a CPA, he had a real passion for finance and he
13 wanted to help us find just the right person. So, when
14 the interviews were over, it was clear that Kathy was
15 the standout candidate among all the individuals who
16 had applied and Kathy, thankfully, accepted my offer of
17 employment. And I didn't realize it at the time, but
18 that decision to hire Kathy was surely one of the
19 wisest decisions I've ever made in my working lifetime.

20 Kathy came on board, she went out and
21 quickly recruited some of her top lieutenants who were
22 at the other agencies, she set about assessing where
23 and how we needed to improve our financial systems and
24 processes and brother, we needed a lot of improvement.
25 And she turned our financial department completely

1 around.

2 Kathy was so good at her job, that we
3 even renamed it. Before Kathy came forward, the job
4 was called the Financial Operations Director. For
5 Kathy, the job title was changed to Controller. Yes,
6 she's that good. Kathy totally redefined the position
7 during her time with the agency. She was lifting our
8 financial competency, our integrity, our reputation,
9 not just in Texas government, but in the entire lottery
10 industry, to all new heights.

11 Clean financial audits as Commissioner
12 Franz mentioned, like the one you heard about today and
13 positive internal audit reports. Those became Kathy's
14 trademarks. Whether it was meeting with financial
15 policy experts over at the legislature or working
16 closely with the financial teams, the Multi-State
17 Lottery Association or the North American Lottery
18 Association or evaluating the soundness of publicly
19 traded companies like IGT or Scientific Games, Kathy
20 has always represented the Texas Lottery and the State
21 of Texas in an exemplary fashion.

22 With Kathy on board, we've never taken a
23 backseat to anyone or any entity on financial matters
24 or negotiations, nor did I ever worry for a moment that
25 I might be outgunned in any high level financial

1 discussions for meetings.

2 Kathy has simply been the best at what
3 she does for the 16 years that she's been here, and
4 that's something that we all wish we could achieve.
5 But as I said in our all staff meeting last week, much
6 more important than her job performance these past many
7 years and something that runs much deeper than normal
8 business relationships, Kathy's been a great friend and
9 a trusted colleague, business partner, and a confidante
10 for me for 16 years. I'm going to miss her
11 tremendously and I know everybody here, her friends,
12 think the exact same way.

13 So with that, I have a proclamation, I'm
14 going to put you through this, too, Kathy, that I would
15 like to read into the record at this time.

16 Whereas, Kathy Pyka is retiring from the
17 Texas Lottery Commission; and

18 Whereas, in fulfilling the duties and
19 tasks of the Controller of the Texas Lottery
20 Commission, Kathy drew from her extensive experience,
21 having served the State of Texas for more than 35 years
22 through her previous employment with the Texas
23 Department of Commerce, Workforce Commission, and the
24 Railroad Commission, she is indeed deserving a special
25 professional and personal recognition.

1 Whereas, for 16 of those years, Kathy
2 served as the Controller for the Texas Lottery
3 Commission and provided invaluable financial expertise
4 to the Agency; and

5 Whereas, during her tenure with the
6 Commission, the Texas Lottery experienced record-
7 breaking sales and revenue transfers to the State of
8 Texas.

9 Whereas, also during her tenure with the
10 Commission, Kathy has served as an exceptional friend
11 and colleague to the Executive Director and the other
12 Division Directors, and she is regarded by the
13 management team at the Commission as the finest Chief
14 Financial Officer in state government.

15 Whereas, born on July 31st, 1964, raised
16 in Houston, Texas, Kathy attended Spring Branch High
17 School where she carried on her love of volleyball.
18 She grew up with a large family of three brothers and
19 one sister; Mike, Steve, Donald and Carol. Her parents
20 Viola and Herman were the backbone of the home and
21 Kathy's biggest supporters.

22 Kathy went on to attend and play
23 volleyball at Saint Edward's University where she
24 obtained her bachelor's in accounting and obtained her
25 CPA. Soon after entering the workforce, she met and

1 later married her loving husband Greg.

2 Whereas, Kathy and Greg are the proud
3 parents of daughter Lauren to whom they provide
4 unconditional love and support and have recently left
5 in the hands of the Baylor Bears, there are many nieces
6 and nephews who are a big part of her life and are
7 loved immensely, as well as their two dogs, Buster and
8 Maggie.

9 Whereas, Kathy is a dedicated member of
10 St. Martin de Porres Catholic Church in Dripping
11 Springs, having served on the church board of directors
12 for several years; and

13 Whereas, retirement will provide Kathy
14 with discretionary time to spend with her family
15 traveling to Schulenburg, Fredericksburg, Baylor and
16 beyond, home renovation is also on Kathy's to-do list,
17 a skill that she excels at and enjoys.

18 Whereas, the Office of the Controller
19 team will greatly miss Kathy's expertise, her drive,
20 her steadfastness, and unwavering support. Her leaving
21 leaves a huge space to be filled, but they are
22 incredibly happy for her.

23 Whereas, Kathy will also be extremely
24 missed by her friends and other colleagues at the Texas
25 Lottery Commission, be it resolved that the Texas

1 Lottery Commission and her many friends and loving
2 family members hereby congratulate Kathy on her
3 retirement and extend to her sincere best wishes, now
4 and during this next chapter in her life.

5 And be it further resolved, that an
6 official copy of this proclamation has been prepared
7 for Ms. Pyka as an expression of high regard by the
8 Texas Lottery Commission.

9 In witness thereof, we have hereunto set
10 our hands and caused the seal of the Texas Lottery
11 Commission to be affixed hereto. Done, and dated this
12 the 18th day of February, your last day, Kathy, signed
13 Robert G. Rivera, Chairman, and Gary Grief, Executive
14 Director.

15 We also have a gift, Kathy, a small
16 token of our appreciation to you for your service and
17 it is the Texas State Flag which was flown at the
18 Capitol on February 2nd, 2022, in appreciation of your
19 many years of service to the State of Texas.

20 Kathy, we wish you and Greg the very,
21 very best.

22 MS. PYKA: Thank you very much, Gary. I
23 never thought I would get emotional on this. In my
24 mind, I knew where I was going, but I don't think
25 anybody understands the great opportunity that I've had

1 in working here and just being part of this team. Not
2 many individuals get to work for the same leader for 15
3 years, and I know that y'all know what an amazing
4 leadership we have in this organization, but Gary's --
5 I mean, just his unwavering support, his guidance, his
6 friendship, all of us Directors feel that, and that's
7 what made it so hard to make this decision several
8 years ago when I became eligible. I was like ah, this
9 is too great of a job, why would I want to leave now,
10 but you know, at some point in time, you know that
11 there's other things in your life that you want to take
12 up and do, but this was a very difficult decision to
13 make because of the amazing team that I'm part of.

14 You know, Mike Fernandez is my very dear
15 friend. I think that y'all know that. In his wisdom,
16 it was 100 percent correct in 2005 when he suggested he
17 thought I might be a good fit for this position. He
18 goes, I think you might really like being part of this
19 team and my gracious, Mike, you were 100 percent
20 correct. It has been an amazing job and amazing group
21 of Directors that I have had the opportunity to work
22 with and their mentorship and their areas of expertise
23 and their support of me in the financial stewardship of
24 this agency has just been outstanding.

25 So, I'm very blessed and very thankful

1 and I'm ready to take on that next chapter of
2 renovating a home in Fredericksburg, Texas and seeing
3 what comes next after that. So thank you, all, for
4 everything and really appreciate the kind words, Gary.
5 You are just amazing.

6 MR. GRIEF: Let's give Kathy a round of
7 applause.

8 (Applause)

9 MR. GRIEF: And Mr. Chairman, that
10 concludes my report.

11 CHAIRMAN RIVERA: Wow. Okay. Yeah,
12 thank you, Gary. Okay.

13 AGENDA ITEM NO. XIII

14 CHAIRMAN RIVERA: Next item is Bob with
15 the enforcement cases.

16 MR. BIARD: Thank you, Mr. Chairman.
17 Y'all, I want to add that, you know, I first knew Kathy
18 my last year at the Railroad Commission, '97-'98 and,
19 you know, coming here it is so nice to see someone --
20 so encouraging to see someone rise through the ranks in
21 the state government for 35 years in positions of
22 responsibility. It's no small feat to survive that
23 period of time, it's encouraging, in positions of
24 responsibility, so I just want to add that I admire her
25 so very much.

1 So with that, Item 13 in your notebooks
2 have seven enforcement cases, that's Tabs A through G.
3 And for the record, I'm Bob Biard. There are six
4 Lottery cases and one Bingo Enforcement matter, Tabs A
5 through G.

6 In these cases, the Commission staff
7 either found a licensee violated a statute or rule or
8 the Applicant did not qualify for a license. In most
9 of these cases, either the Respondent failed to appear
10 at the hearing and it proceeded by default or the staff
11 and the Respondent reached a settlement in the form of
12 an agreed order, and those are the cases you have
13 today.

14 Tabs A and B are the non-sufficient fund
15 lottery retailer license revocations handled in a
16 single order. Each case was presented at the State
17 Office of Administrative Hearings for revocation of the
18 retailer license because the licensee failed to have
19 sufficient funds in the bank account to cover
20 electronic fund transfers to the Commission's account.

21 In each case, the licensee failed to
22 appear at the hearing and the Judge remanded the case
23 to the Commission to handle as a default matter.

24 Tabs C through F are lottery agreed
25 orders. Three of these cases involve a retailer buying

1 a winning ticket from a customer and claiming it. And
2 the other case, the retailer had a \$20 minimum purchase
3 requirement when buying tickets with a debit card.

4 The last item is the bingo agreed order,
5 you haven't seen one of those in a while. This case
6 involves a bingo product manufacturer who had multiple
7 violations, including not maintaining a registered
8 agent in the State of Texas. The manufacturer agreed
9 to pay a \$1,000 penalty and is on probation for one
10 year.

11 That concludes my presentation. You may
12 take up these orders in a single vote if you'd like and
13 I'll be happy to answer any questions.

14 CHAIRMAN RIVERA: Okay. All in favor of
15 approving Tabs A through G? Is there a motion?

16 COMMISSIONER FRANZ: I'll move.

17 CHAIRMAN RIVERA: Is there a second?

18 COMMISSIONER FIELDS: Second.

19 CHAIRMAN RIVERA: Okay. All in favor
20 say aye.

21 (Chorus of "ayes")

22 CHAIRMAN RIVERA: Okay. Motion passes.

23 MR. BIARD: Thank you.

24 AGENDA ITEM NO. XIV

25 CHAIRMAN RIVERA: The next item is

1 public comment and there's no public comment. We have
2 none. Commissioners, do you have anything else?

3 AGENDA ITEM NOS. XV and XVI

4 (Commission did not meet in Executive Session)

5 CHAIRMAN RIVERA: On behalf of our
6 Commissioners, again, we are incredibly grateful to
7 just all of the years of service that Kathy has
8 provided and it's definitely going to be different not
9 having you part of our meetings as you are definitely
10 part of the fabric of who we are and again, your legacy
11 will remain forever. So again, thank you.

12 Also, thank you to everyone for being
13 here. I know we had an early start time, so we
14 appreciate your commitment to Lottery and being here
15 early. For those of you at home still in bed in your
16 pajamas, thank you for joining in. And with that, we
17 are adjourned.

18 Thank you so much.

19 (Proceedings concluded at 9:22 a.m.)
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25

C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF HARRIS)

I, Kimberly C. McCright, Certified Vendor and Notary in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of February, 2022.

/s/ Kimberly C. McCright

Kimberly C. McCright

Certified Vendor and Notary Public

Verbatim Reporting & Transcription, LLC

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