

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS LOTTERY COMMISSION

AUSTIN, TEXAS

COMMISSION MEETING)
FOR THE TEXAS)
LOTTERY COMMISSION)

COMMISSION MEETING

February 15, 2023

10:00 a.m.

AT

STEPHEN F. AUSTIN STATE OFFICE BUILDING
1700 Congress Avenue
Austin, Texas 78701

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

CHAIRMAN:	Robert G. Rivera
COMMISSIONERS:	Cindy Fields Mark A. Franz Erik C. Saenz James H.C. "Jamey" Steen
GENERAL COUNSEL:	Robert F. Biard
EXECUTIVE DIRECTOR:	Gary Grief
CHARITABLE BINGO OPERATIONS DIRECTOR:	LaDonna Castañuela
CONTROLLER:	Kelly Stuckey
LOTTERY OPERATIONS DIRECTOR:	Robert Tirloni
MCCONNELL & JONES LLP:	Darlene Brown
BINGO ADVISORY COMMITTEE CHAIRMAN:	William "Trace" Smith III
ASSISTANT GENERAL COUNSEL:	Tyler Vance
DIRECTOR OF GOVERNMENTAL AFFAIRS:	Nelda Treviño
ENGAGEMENT PARTNER, WEAVER AND TIDWELL LLC	Kevin Sanford

TABLE OF CONTENTS

PAGE

I.	The Texas Lottery Commission will call the meeting to order	6
	Pledge of Allegiance to the U.S. and Texas flags. Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."	
II.	Report, possible discussion and/or action on the FY 2022 Financial Audit.	6
III.	Report by the Bingo Advisory Committee (BAC) Chairman; possible discussion and/or action on the BAC's activities, including removal and appointment of committee members	9
IV.	Consideration of and possible discussion and/or action, including adoption, of new 16 TAC §§ 402.331 (Shutter Card Bingo Systems - Definitions), 402.332 (Shutter Card Bingo Systems - Site System Standards), 402.333 (Shutter Card Bingo Systems - Shutter Card Station and Customer Account Standards), 402.334 (Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems), 402.335 (Shutter Card Bingo Systems - Licensed Authorized Organization Requirements), 402.336 (Shutter Card Bingo Systems - Distributor Requirements), 402.337 (Shutter Card Bingo Systems - Security Standards), and 402.338 (Shutter Card Bingo Systems - Inspections and Restrictions).	13
V.	Report, possible discussion and/or action on lottery sales and revenue, game performance, new game opportunities, advertising, promotional activities, market research, trends, and game contracts, agreements, and procedures.	14
VI.	Report, possible discussion and/or action on transfers to the State and the agency's budget	18
VII.	Report, possible discussion and/or action on the 88th Legislative Session	19
VIII.	Report, possible discussion and/or action on external and internal audits and/or reviews	

1	relating to the Texas Lottery Commission, and/or	
2	on Internal Audit activities, including a report	
3	on the Physical Security New Office Operations	
4	internal audit	23
5	IX. Report by the Charitable Bingo Operations Director	
6	and possible discussion and/or action on the	
7	Charitable Bingo Operations Division's activities,	
8	including licensing, accounting and audit	
9	activities, reports, and special projects. . .	30
10	X. Report by the Executive Director and possible	
11	discussion and/or action on the agency's	
12	operational status, major contracts, agency	
13	procedures, awards, and FTE status	31
14	XI. Consideration of the status and possible approval	
15	of orders in enforcement cases:.	31
16	Lottery NSF License Revocation Cases (Default)	
17	A. Docket No. 362-23-03558 - Charge Up 8	
18	B. Docket No. 362-23-06232 - A and B Grocery	
19	C. Docket No. 362-23-06233 - Collins Food Mart	
20	Lottery Agreed Orders	
21	D. Case No. 2023-24 - Lilly Food	
22	E. Case No. 2023-28 - Raceway #6918	
23	F. Case No. 2023-47 - Corner Stop	
24	G. Case No. 2023-48 - Pit Stop One	
25	H. Case No. 2023-50 - Tejas #6	
	I. Case No. 2023-212 - Mary's Food Mart	
	Other Lottery Cases	
	J. Docket No. 362-22-2563 - SA Food Mart	
	Bingo Agreed Order	
	K. Case No. 2023-76 - VFW Post 6899 Trinity County	
	Memorial	
	XII. Public comment	33
	XIII. The Commission may meet in Executive Session:. .	34
	A. To deliberate personnel matters, including the	
	appointment, employment, evaluation, reassignment,	
	duties, discipline, or dismissal of the Executive	
	Director and/or Charitable Bingo Operations	
	Director, pursuant to §551.074 of the Texas	
	Government Code.	

B. To deliberate the duties of the General Counsel pursuant to §551.074 of the Texas Government Code.

C. To receive legal advice regarding pending or contemplated litigation or settlement offers, or other legal advice, pursuant to §551.071(1) and (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.); and U.S. District Court (Western District-Austin) Docket No. 1:22-CV-578-RP (Texas Lottery Commission v. Ali Ansari).

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.

Legal advice regarding any item on this open meeting agenda.

XIV. Return to open session for further deliberation and possible action on any matter posted for discussion in Executive Session. Any matter posted for Executive Session also may be the subject of discussion and/or action in open session . . . 34

XV. Adjournment. 34

Reporter's Certificate. 35

P R O C E E D I N G S

WEDNESDAY, FEBRUARY 15, 2023

AGENDA ITEM NO. I

CHAIRMAN RIVERA: Good Morning. I'd like to call the Texas Lottery meeting to order. It is 10:00. All commissioners are present. We're going to start with the Pledge of Allegiance.

(Pledges recited)

CHAIRMAN RIVERA: Okay. Good morning, everyone. Glad to see everyone here.

AGENDA ITEM NO. II

CHAIRMAN RIVERA: So, first item is the 2022 Financial Audit. Kelly, this is your item.

MS. STUCKEY: Good morning, commissioners.

CHAIRMAN RIVERA: Morning.

MS. STUCKEY: So my name is Kelly Stuckey, Controller for the agency, and with me this morning is Kevin Sanford, the engagement partner from Weaver and Tidwell. They performed our annual financial audit. And you're welcome to follow along with Mr. Sanford's comments in the printed financial at your desk or at the link in the memo. Kevin, I'll let you proceed.

MR. SANFORD: Thank you.

1 Chairman Rivera, commissioners, good morning. As Kelly
2 mentioned, my name is Kevin Sanford. I'm the
3 engagement partner with Weaver and Tidwell on the audit
4 of the -- excuse me, Commission's financial statements
5 for the year ending August 31, 2022. And happy to be
6 here today to present the brief results of our audit.

7 On pages four, five, and six are our
8 opinions.

9 CHAIRMAN RIVERA: Sorry about that,
10 Kevin.

11 MR. SANFORD: Oh, no worries. On pages
12 four, five, and six are our opinions on the financial
13 statements. I'll pause for just a second.

14 (Pause)

15 CHAIRMAN RIVERA: Try it one more time.

16 MR. SANFORD: Good deal. Our opinion on
17 the financial statements, once again this year, is an
18 unmodified opinion. It is the highest level of opinion
19 that independent auditors can give a set of financial
20 statements, and it states that all material aspects the
21 Commission's financial statements are accurately
22 presented. So, a clean report on the financial
23 statements.

24 And then, as the lottery is a component
25 of the State of Texas, we're required to do certain

1 tests of the Commission's internal control over
2 financial reporting, as well as compliance and other
3 matters, and just in conduct of the operations of the
4 Commission itself. And our opinion on those items is
5 the very last item in the financial statements. It's
6 on pages 79 and 80.

7 And pleased to report that we had no
8 reportable items in either aspect. So, internal
9 control over financial reporting. We did not do enough
10 testing to render an opinion, but had we noted anything
11 in the context of the test of internal controls, we
12 would be required to report them to you in this report,
13 and pleased to note that there are none. As well as on
14 compliance in other matters, we had no items to report
15 here of any deviation in required compliance.

16 So really in all aspects, our audit was
17 a clean report and very well done. I want to thank
18 Kelly and her team for helping us get through it
19 efficiently and effectively, as well as to you for the
20 opportunity to work with the Commission for the audit.
21 So, at this time, I'll be happy to dig into any of the
22 additional details of the audit, answer any questions
23 or go through anything else in more detail if you'd
24 like.

25 CHAIRMAN RIVERA: Commissioners, any

1 questions? Thoughts? Input?

2 COMMISSIONER FRANZ: No. Thank you.

3 CHAIRMAN RIVERA: Okay. Do you have
4 anything you'd like to say to Kevin?

5 COMMISSIONER FIELDS: No.

6 CHAIRMAN RIVERA: Okay. Well, Kevin, we
7 sincerely appreciate the work that you do, and it gives
8 us a lot of confidence knowing that you've done such a
9 good job and it's vitally important that --

10 MR. SANFORD: Thank you.

11 CHAIRMAN RIVERA: -- this report is
12 done, and so we're grateful that it was executed in
13 such a clean manner. So, as always, if there's
14 anything that you feel that communication needs to
15 happen, things that you feel need to be highlighted, as
16 always, we have an open door and believe in complete
17 transparency in all that we do, and we're grateful for
18 the work that you do.

19 MR. SANFORD: Of course. Thank you.

20 CHAIRMAN RIVERA: Okay. Kevin, thank
21 you.

22 AGENDA ITEM NO. III

23 CHAIRMAN RIVERA: Okay. We are going
24 now onto item number 3, report from the Bingo Advisory
25 Committee. Trace, this is your item.

1 MR. SMITH: Morning commissioners,
2 Chairman.

3 CHAIRMAN RIVERA: Good morning.

4 MR. SMITH: Commissioner Fields. The
5 Bingo Advisory Committee met on the 10th of February
6 and had several items on the agenda. First and
7 foremost on the agenda was the passing of one of the
8 members of the Bingo Advisory Committee, Will Martin.
9 Will was a dear friend to the bingo community and to
10 the veterans community as well.

11 Mr. Martin passed on the 6th of January
12 of this year. He was Commander of American Legion Post
13 166 and the Executive Director for Texans for
14 Charitable Bingo. Due to Mr. Martin's passing, we, the
15 Bingo Advisory Committee asked the commissioners to
16 reopen the application process to find a suitable
17 replacement for Mr. Martin, although we will
18 acknowledge those will be huge shoes to fill.

19 The BAC also again voted unanimously in
20 approval of the language for the adoption by the
21 Commission in regards to the shutter card bingo
22 systems. The BAC believes this could be a great tool
23 for the charities in fundraising through bingo.

24 We would like to also thank LaDonna and
25 staff for helping us through this rulemaking process.

1 They've been a great asset and we appreciate them very
2 much. This concludes my report.

3 CHAIRMAN RIVERA: Okay. Do you have any
4 comments?

5 COMMISSIONER FIELDS: Trace, our
6 condolences on the loss of Will Martin. I know he'll
7 be --

8 MR. SMITH: Thank you.

9 COMMISSIONER FIELDS: -- really missed.

10 MR. SMITH: Yes.

11 COMMISSIONER FIELDS: And so, I don't
12 know if this is a motion item, but we do need to choose
13 a new person for his position. Do I need to make a
14 motion on that or?

15 MR. BIARD: Commissioners, this is Bob
16 Biard, General Counsel. I believe just giving
17 direction to LaDonna to start the nominations process
18 and bring back a candidate at the next Commission
19 meeting, I think that's sufficient. I don't think it
20 actually requires a vote.

21 COMMISSIONER FIELDS: Okay.

22 CHAIRMAN RIVERA: Okay.

23 COMMISSIONER FIELDS: Then I recommend
24 that we do that.

25 MS. CASTAÑUELA: Just one thing. I

1 don't know that we'll have it all ready by the next
2 meeting, because of the time --

3 COMMISSIONER FIELDS: Process.

4 MS. CASTAÑUELA: -- that we need, some
5 time periods.

6 CHAIRMAN RIVERA: Bob runs a very tight
7 ship. So, we'll get to it as quickly as we can, but --

8 MS. CASTAÑUELA: Yes.

9 CHAIRMAN RIVERA: -- yes, so we have all
10 the right folks in place.

11 MS. CASTAÑUELA: Yes, I can certainly
12 give you an update.

13 CHAIRMAN RIVERA: Okay. Thank you. And
14 Trace, we're definitely, to add to Commissioner Fields'
15 comments, we are all wanting to pass along our
16 condolences to the family. And obviously, this is a
17 huge loss to the Bingo community and it's one that
18 we're definitely, we're aware of.
19 And sorry about the loss, too.

20 MR. SMITH: Appreciate that very much.
21 Thank you.

22 CHAIRMAN RIVERA: We're a bingo general
23 family. So, okay, Trace. Thank you, sir.

24 MR. SMITH: Yes, sir.

25 AGENDA ITEM NO. IV

1 CHAIRMAN RIVERA: Okay. Next item is a
2 bingo rule proposal. Tyler, your item.

3 MR. VANCE: Thank you. Morning, Mr.
4 Chairman. Morning, commissioners. I'm Tyler Vance
5 with the Legal Services Division. I have for your
6 consideration today the adoption of new rules in bingo,
7 402.331 through 338. These are related to shutter card
8 bingo systems. This rulemaking was initiated this
9 summer via petition for rulemaking that was submitted
10 by three Texas licensed distributors: Daniel Moore, K&B
11 Sales, and Roy Bingo supplies. At the August meeting,
12 you voted to grant that petition, and then at the
13 December meeting, we proposed those rules and opened
14 them up for public comment.

15 We received two comments in support of
16 the proposed rules, one from the VFW of Texas, the
17 other from the petitioners. We received no negative
18 comments or neutral comments, only the two positive.

19 Staff recommends that we adopt these
20 rules in order to provide clear guidance on the use of
21 shutter card bingo systems in Texas. I'm available for
22 any questions. Kim Kiplin is the attorney for the
23 petitioners in this rulemaking and she's available,
24 too, if you have any questions.

25 CHAIRMAN RIVERA: Okay. Commissioners,

1 any thoughts? Comments? Cindy?

2 COMMISSIONER FIELDS: I make a motion
3 that we approve the rules as published.

4 CHAIRMAN RIVERA: Okay. Is there a
5 second?

6 COMMISSIONER FRANZ: Second.

7 CHAIRMAN RIVERA: Okay. All in favor
8 say aye.

9 (Chorus of "ayes")

10 CHAIRMAN RIVERA: Okay. Motion
11 approved.

12 MR. VANCE: Thank you.

13 CHAIRMAN RIVERA: Thank you.

14 AGENDA ITEM NO. V

15 CHAIRMAN RIVERA: Okay. Next item, we
16 are going to hear from Kelly. Kelly again, but without
17 Kevin. And Robert is going to be here. Okay.

18 MS. STUCKEY: All right. Again, Kelly
19 Stuckey, Controller for the agency. And with me today
20 is the Commission's Lottery Operations Director, Robert
21 Tirloni. And we'll be providing an update on sales
22 through the week ending February 4, 2023.

23 And so looking at that second slide.
24 Phillip? There we go. We'll look at the comparative
25 sales presented at the bottom of the slide, and it's

1 here we'll note that through this 23-week period, total
2 sales for fiscal year '23 are \$3,786,000,000. So that
3 is an increase of over \$262-million or 7.4 percent over
4 last year's \$3,524,000,000 for the same time period.

5 Then looking at scratch specifically,
6 that you can see there on that second orange bar on the
7 right, are \$2,853,000,000. That's showing a slight
8 decrease of 3.8-million over our fiscal year '22 sales,
9 and it's just showing a slight decrease of .1 percent
10 over the scratch sales last year at this time. The mix
11 of our products, 75.3 percent of our current total
12 sales are scratch compared to 81 percent last fiscal
13 year.

14 And then during the December commission
15 meeting, Robert and I noted that we had been seeing
16 sales decline in the scratch product week-over-week.
17 However, we are happy to note that since that time,
18 we've been seeing several weeks of actual scratch
19 ticket growth with the highest being the week of
20 January 21st as high as 5 percent. So, we're glad to
21 see maybe a turn in those scratch sales.

22 Then moving on to draw sales, our fiscal
23 year '23 draw sales continue to see great growth as a
24 result of our sizable jackpots in the Mega Millions and
25 Powerball games. And so looking at that second blue

1 bar on the right again, the fiscal year '23 draw sales
2 are 933.5-million, which is a 265.4-million increase,
3 or 39.7 percent over the 668.1-million reported this
4 time last year.

5 And so, I'll turn it over to Robert and
6 he'll go into more details on the next slide.

7 MR. TIRLONI: Thank you, Kelly. Good
8 morning, Mr. Chairman, and good morning, commissioners.

9 This next slide is the fiscal year
10 comparison through Saturday, February 4th. So I think
11 I could pretty much sum up where we are thus far this
12 fiscal year with one word and that word would be
13 jackpots.

14 We've had a tremendous run of jackpots,
15 pretty much starting in the summer with Mega Millions.
16 It was at 1.28-billion in July. Now, that doesn't
17 count for this fiscal year, but I'm just noting that
18 because that was kind of the first of quite a few, very
19 solid, sizable jackpots that we've had since then.

20 So if we look up at the top of this
21 slide, the white fonts, that's the jackpot portion of
22 the portfolio. We can start with Mega Millions. It's
23 up 102-million and its add-on features are up almost
24 19-million. So, Mega Millions had a \$494-million
25 jackpot in October, but even more noteworthy is the

1 \$1.35-billion jackpot from Mega Millions just last
2 month in January.

3 Powerball has also had very, very good
4 jackpots. In November, there was a advertised \$1.9-
5 billion jackpot. And then even just a couple weeks
6 ago, we had a jackpot up in the \$747-million range. So
7 obviously that's contributing to the \$111-million worth
8 of growth for Powerball and the \$21-million worth of
9 growth for Power Play.

10 But even our in-state jackpot games are
11 doing well. For tonight, we're advertising 42.5-
12 million for Lotto, which for our own in-state game is a
13 very, very high jackpot. The last time it was in the
14 \$40-million range was back in September of '20.

15 So if we look at the jackpot portion of
16 the portfolio as a whole, we're up almost \$266-million.
17 So, tremendous results here.

18 Looking at the Daily games in the middle
19 of the slide, in the blue font, we're basically even.
20 We're down a \$100,000. So, even there. And then the
21 draw games as a whole, we're up slightly over \$265-
22 million.

23 As Kelly noted, we had a rough period
24 with scratch back in November into pretty much through
25 December. We have seen a rebound. Scratch is down

1 3.8-million through this week, February 4th. That's a
2 .1 percent decline. And actually, a week has
3 transpired since this was developed. The results are
4 actually even better. We did have a good week for the
5 week ending last week, so, the results are even a
6 little bit better than reflected on this slide.

7 But as a whole, the portfolio is up
8 \$261-million and believe that these jackpots and the
9 great sales have positioned us well. We will have
10 tough weeks in July of '23 when we're competing against
11 that very high Mega Millions jackpot, but we believe
12 right now at this time we're positioned well for the
13 rest of the fiscal year.

14 And that is our report. But we'd be
15 happy to answer any questions that you would have.

16 CHAIRMAN RIVERA: Okay. Commissioners,
17 any questions? Thoughts?

18 (No response)

19 CHAIRMAN RIVERA: Okay. Great report.
20 Great job. Thank you.

21 MR. TIRLONI: Thank you, all.

22 MS. STUCKEY: Thank you.

23 AGENDA ITEM NO. VI

24 CHAIRMAN RIVERA: Okay. Next item, we
25 are going to stay here with Kelly and --

1 MS. STUCKEY: My last item.

2 CHAIRMAN RIVERA: -- it's all yours.

3 MS. STUCKEY: I'll direct you to the
4 report in your notebook that reflects our accrued
5 revenues and transfers through December 31, 2022.

6 So through December, our accrued revenue
7 transfers to the State have amounted to 624.9-million
8 for the first four months of fiscal year '23. And of
9 that amount, 591.2-million was transferred to the
10 Foundation School Fund, 8.5-million transferred to the
11 Texas Veterans Commission, and then the remaining 25.1-
12 million was transferred from unclaimed prizes.

13 So this leaves us with a 9.3 percent, or
14 50.5-million increase, over revenue from sales to the
15 Foundation School Fund for the same time last year.
16 Our cumulative overall accrued transfers to the
17 Foundation School Fund through December are \$30.3-
18 billion.

19 And then also included in your notebook
20 are the fiscal year '23 method of financing summary for
21 the first quarter ending November 30th. Our
22 Commission's lottery account budget for '23 is 256-
23 million. And of this amount, 71.3 was expended or
24 encumbered through this first quarter, and then the
25 Bingo Administration Budget funded by GR is 2.1-billion

1 -- sorry, 2.1-million with 93.4 expended or encumbered
2 through the first quarter.

3 Commissioners, this concludes my
4 presentation. If I can answer any questions.

5 CHAIRMAN RIVERA: Okay. Commissioners,
6 questions?

7 (No response).

8 CHAIRMAN RIVERA: Okay. All good.
9 Thank you so much, Kelly.

10 AGENDA ITEM NO. VII

11 CHAIRMAN RIVERA: Okay. Next item is a
12 report on the active legislative session. Nelda, this
13 is your item.

14 MS. TREVIÑO: Good morning,
15 commissioners. For the record, I'm Nelda Treviño. I'm
16 the Director of Governmental Affairs. I'll be
17 providing a brief update regarding the 88th Legislative
18 Session today. We've provided you this morning with a
19 copy of the agency's bill tracking report, so you
20 should have that in front of you this morning.

21 Today I want to highlight a few bills.
22 First, the appropriations bill, House Bill 1, and
23 Senate Bill 1, are the House and Senate versions of the
24 State's budget for the next biennium. The Senate
25 Finance Committee has been holding its hearings to hear

1 from state agencies and universities about their budget
2 requests.

3 Our agency appeared before the Senate
4 Committee yesterday and Gary's testimony focused on the
5 agency's one exceptional item request related to the
6 funding for scratch ticket production services.

7 The House Appropriations Committee began
8 its budget hearings this week, and the agency will be
9 scheduled to appear before the subcommittee on Articles
10 6, 7, and 8, next week on February the 21st.

11 An important item to note in both
12 versions of the filed budget bill is that they include
13 a proposed state employee pay raise, which obviously is
14 very important to all state employees. At the
15 Commission's December meeting, I mentioned a few bills
16 filed related to the agency's operation. These
17 included House Bill 431 by representative Senfronia
18 Thompson related to the conduct of charitable bingo.
19 The Senate companion bill, Senate Bill 643 by Senator
20 Judith Zaffirini has now been filed as well. Also,
21 bills previously reported were House Bill 639 by
22 Representative Lozano relating to the number of
23 temporary licenses issued to conduct bingo to
24 non-regular license holders and House Bill 903 by
25 Representative Joe Moody relating to the operation of a

1 quick draw lottery game.

2 Since our last Commission meeting, a few
3 additional bills related to the lottery have been
4 filed. One is House Bill 1395 by Representative Joe
5 Moody. This is relating to the authorization of Sunday
6 lottery drawings and HJR 92 by Representative Richard
7 Raymond. This joint resolution would amend the
8 Constitution to dedicate lottery proceeds to support
9 education programs in public schools, and would
10 prohibit the advertising that would promote the
11 purchase of tickets for the purpose of supporting
12 public education.

13 Additionally, companion House and Senate
14 bills have been filed to legalize and regulate mobile
15 sports betting, and the Texas Lottery Commission is the
16 identified oversight and regulatory agency for this
17 initiative. The mobile sports betting bills include
18 House Bill 1942 and HJR 102 by Representative Jeff
19 Leach and Senate Bill 715 and SJR 39 by Senator Lois
20 Kolkhorst.

21 Bill filing deadline is March 10th and
22 as bills continue to be filed, we will certainly add
23 any of those that are of interest to the agency.

24 This concludes my report and I'll be
25 glad to answer any questions that you might have.

1 CHAIRMAN RIVERA: Okay. Commissioners,
2 any questions?

3 (No response)

4 CHAIRMAN RIVERA: Okay. Nelda, thank
5 you very much.

6 MS. TREVIÑO: You bet.

7 AGENDA ITEM NO. VIII

8 CHAIRMAN RIVERA: Next item is Darlene,
9 the Internal Auditor Report.

10 MS. BROWN: Good morning, commissioners.

11 CHAIRMAN RIVERA: Good morning.

12 MS. BROWN: Today I have the results
13 from our recently completed internal audit of physical
14 security and new office operations. And for the
15 record, my name is Darlene Brown, and I'm the internal
16 auditor for the agency.

17 The agency moved their offices, the draw
18 studio and the Austin Claims Center, to the George H.W.
19 Bush building located at the Capitol Complex last year.
20 The purpose of this audit was to determine whether the
21 Texas Facilities Commission and the Texas Lottery
22 Commission have adequate physical security and
23 infrastructure stability within the new facilities.

24 For this audit, we focused on the
25 infrastructure, which is the power and the internet,

1 video surveillance, security within shared workspaces,
2 common server room access, common server room
3 environment. And this is a room where all servers and
4 technology equipment for all agencies are located. We
5 also looked at the claim center and the mail room,
6 sensitive operations, the background-fingerprinting
7 operations, and secure physical access.

8 We're happy to note that the Texas
9 Lottery has implemented numerous best practice controls
10 to ensure physical security of the new office and
11 operations. The eight findings we identified are
12 primarily related to things that the Texas Facility
13 Commission needs to address.

14 We noted that the Texas Facility
15 Commission has not fully installed or implemented
16 measures to ensure stability of power and internet
17 services at the facility. This has caused disruptions
18 to the lottery's operations, including timely
19 processing of prize claims.

20 Additionally, the Texas Facilities
21 Commission has not adequately protected the common data
22 room where TLC's information technology servers and
23 equipment reside. We identified instances where the
24 Texas Lottery Commission information security staff are
25 unable to exercise appropriate control on various

1 aspects of the physical environment in their new
2 offices.

3 This jeopardizes sensitive information
4 retained by the lottery, such as the personal
5 identifiable information or PII. This is due to the
6 continued presence of construction personnel, as well
7 as lack of oversight and communication from the
8 Facilities Commission.

9 While we did identify some additional
10 issues that were remediated during our review, there
11 are several persistent and severe vulnerabilities that
12 threaten the daily business operations of the lottery.
13 Specifically, we noted that the Texas Facilities
14 Commission's weaknesses in their infrastructure include
15 that the Facilities Commission has not tested or
16 notified the lottery facility staff of any generator or
17 universal power supply testing since they moved into
18 the building in September of 2022.

19 The Facilities Commission has not tested
20 or informed the Texas Lottery facilities staff on how
21 long the generator will run if it's ever needed to
22 support the building. The lottery has experienced
23 power-related issues within the building, which has
24 resulted in the lottery leveraging their data center
25 that is in their warehouse for primary data processing.

1 The Facilities Commission has also not
2 installed a redundant internet service provider, so
3 when internet goes out, there's no backup. Most areas
4 of the shared workspaces, the claim center and the draw
5 studio, are under adequate video surveillance coverage.
6 And the few areas that are not, that are sensitive, are
7 only accessed by badge or key.

8 We also noted that there was adequate
9 space designed into the common work areas of the
10 lottery and that there's ample room to lock materials
11 when needed.

12 We noted that the comms data or server
13 room where everybody's servers, not just lottery, is
14 and the IT equipment is not adequately protected.
15 There's no video camera once inside the room. So if
16 individuals can get into the room with their key or
17 their badge, there's nothing to identify what's
18 happening in there, although all of the servers are
19 behind individual locked cages.

20 But what was really surprising was when
21 our team opened up the panel for the fire suppression
22 system, there was nothing inside that panel. So, that
23 means that all the servers are there and there's no
24 protection against fire other than what comes with the
25 building.

1 We also noted that power switches within
2 the server room can be easily bumped, which can turn
3 off the power to the servers.

4 When it comes to electrical rooms on the
5 floors, they're covered with badge readers, but who has
6 access is not limited to individuals that need to have
7 access. For example, my audit team was able to access
8 those power rooms.

9 We also noted that there was one locking
10 mechanism that was covered with tape that allowed
11 access to the room on a sixth floor, and then again,
12 the Facilities Commission's ownership of the badge
13 access system causes extensive delays in receiving
14 access reports on who has the badges and who has
15 actually accessed rooms.

16 We worked with the Lottery Commission to
17 request these reports during the audit, and we've
18 received a copy a little over a week ago, and it's not
19 in a usable format and still not fully accurate.

20 So, lastly, the Facilities Commission
21 has not provided the lottery with an inventory who has
22 physical keys, including contractors, to access spaces.

23 We recognize that the facility is still
24 under construction, however, these items we've just
25 discussed are high-risk areas that impact every agency

1 in the building, not just the lottery, and they should
2 be resolved as reasonably possible.

3 This concludes my report for today, and
4 I'll be happy to address any questions.

5 CHAIRMAN RIVERA: Okay. Commissioners.
6 Thoughts? Questions? Clearly, there's a lot that
7 needs to be addressed. So, do you see a path forward?
8 What -- obviously you've laid out your --

9 MS. BROWN: Uh-huh.

10 CHAIRMAN RIVERA: -- your ideas, but
11 what's next?

12 MS. BROWN: We're working with lottery
13 staff to monitor progress of the Facilities Commission
14 addressing these issues. It takes time, but we'll come
15 back and monitor and we'll do whatever is necessary to
16 get the Facilities Commission to take action,
17 especially in that server room.

18 CHAIRMAN RIVERA: Right.

19 MS. BROWN: And getting access to other
20 rooms. Because if that goes down, then --

21 CHAIRMAN RIVERA: Correct.

22 MS. BROWN: Uh-huh.

23 CHAIRMAN RIVERA: Clearly, this is --

24 MS. BROWN: It's a major problem.

25 CHAIRMAN RIVERA: -- very important.

1 And I know there's only so much that we can physically
2 do and if Gary could take a screwdriver and fix it
3 immediately, then it would have been done already. So,
4 we trust that it will, it'll take care of itself.

5 MS. BROWN: Yeah.

6 MR. GRIEF: If I could say just a couple
7 of things.

8 CHAIRMAN RIVERA: Please.

9 MR. GRIEF: So, for 25 years, Mr.
10 Chairman, we were in control of our own building.

11 CHAIRMAN RIVERA: Right.

12 MR. GRIEF: And we had all of the
13 security measures, access controls, fortifications, in
14 place. And the lottery, not just the Texas Lottery,
15 but every lottery around the country and every gaming
16 institution for that matter, it's a very unique animal,
17 and it doesn't really fit nicely into a typical State
18 of Texas environment. So, it's a learning curve for
19 the Facilities Commission to understand our needs.
20 It's taking a little longer than we want. Our
21 Administration Director, Angela Zgarba, is doing a
22 great job of communicating all of these items to them,
23 and they're trying to get to them as they can.

24 But I really appreciate the work of
25 Darlene and her team doing this internal audit. We're

1 going to forward those findings over to the Facilities
2 Commission and ask them to provide the management's
3 responses to that audit, which we think will highlight
4 those items for them and help them better understand
5 that this is a priority.

6 CHAIRMAN RIVERA: Right.

7 MR. GRIEF: Not just for us, but for the
8 State of Texas.

9 CHAIRMAN RIVERA: Correct.

10 MR. GRIEF: And we'll continue to work
11 with them as best we can and get this done.

12 CHAIRMAN RIVERA: Okay. Great job,
13 everyone. And Darlene, tremendous report. That was --

14 MS. BROWN: Thank you.

15 CHAIRMAN RIVERA: -- really thorough.
16 Thank you.

17 MS. BROWN: Thank you.

18 AGENDA ITEM NO. IX

19 CHAIRMAN RIVERA: Okay. Next item, our
20 bingo report. LaDonna, this would be you.

21 MS. CASTAÑUELA: Good morning,
22 commissioners. For the record, my name is LaDonna
23 Castañuela, Director Charitable Bingo Operations
24 Division. Your notebooks for this item include the
25 division's output metrics for December 2022 and January

1 2023.

2 I don't have anything more to add to my
3 report this time, but I am available to answer any
4 questions.

5 CHAIRMAN RIVERA: Okay. Cindy, do you
6 have any comments? Thoughts? Additions?

7 COMMISSIONER FIELDS: Nothing to add.

8 CHAIRMAN RIVERA: Okay. LaDonna, great
9 job as always.

10 AGENDA ITEM NO. X

11 CHAIRMAN RIVERA: Next item, we have our
12 executive director's report. Gary?

13 MR. GRIEF: Mr. Chairman, other than
14 what's in your notebooks, I have nothing further to
15 report.

16 CHAIRMAN RIVERA: Okay. Good job. Any
17 questions or comments from the commissioners for Gary?

18 AGENDA ITEM NO. XI

19 CHAIRMAN RIVERA: Okay, Bob.

20 MR. BIARD: Thank you, commissioners.
21 Item 11 contains 10 lottery cases and one bingo case.
22 These are the enforcement cases, Tabs A through K. In
23 these cases, the Commission staff found a licensee
24 violated a lottery or bingo statute or rule. And in
25 many of these cases, either the respondent fails to

1 appear at the hearing and it proceeds by default or the
2 staff and the respondent reached a settlement in the
3 form of an agreed order, which is what we have today.

4 Yesterday, I wanted to note we were
5 notified that the retailer under Tab G, which is Pit
6 Stop One, terminated their license, so the Lottery
7 Operations Division has asked us to pull this order
8 from your consideration. Just so the record is clear,
9 when you make a motion today, you will not vote on Tab
10 G.

11 With that clarification, Tabs A through
12 C are the non-sufficient fund lottery retailer license
13 revocations that were handled, at the State Office of
14 Administrative Hearings and considered for revocation
15 of the retailer license because the licensee failed to
16 have sufficient funds in their bank account to cover
17 electronic fund transfers to the Commission's account.
18 In each case, the licensee failed to appear at the
19 hearing and the judge remanded the case to the
20 Commission to handle as a default matter.

21 Tabs D through I are lottery agreed
22 orders. As I said, Tab G will be pulled from your
23 consideration.

24 Tab J was a lottery case that went to
25 hearing. It's the kind of case that would normally

1 settle. It was a case where a retailer purchased a
2 winning ticket from a customer, but for some reason
3 they did not want to settle. So, it went to hearing
4 and we got the recommendation we wanted from the judge,
5 which is a 90-day suspension.

6 And Tab K is a bingo agreed order for
7 the VFW Post 6899 Trinity County Memorial.

8 And that concludes my presentation.
9 There are materials for these cases in your notebooks.
10 You may take them all up in a single vote if you'd
11 like, and I'm happy to answer any questions.

12 CHAIRMAN RIVERA: Okay. Commissioners,
13 is there a motion?

14 COMMISSIONER SAENZ: I'd make a motion.

15 COMMISSIONER STEEN: Second.

16 CHAIRMAN RIVERA: Second. All right.
17 All in favor say aye.

18 (Chorus of "ayes")

19 CHAIRMAN RIVERA: Motion approved. Bob,
20 good job.

21 MR. BIARD: Thank you, sir.

22 AGENDA ITEM NO. XII

23 CHAIRMAN RIVERA: Anything else, Bob,
24 that you need to visit with us about?

25 MR. BIARD: We have no other requests

1 for public comments and I'm not aware of the need to go
2 into executive session.

3 AGENDA ITEM NOS. XIII AND XIV

4 THE COMMISSION DID NOT MEET IN EXECUTIVE SESSION

5 CHAIRMAN RIVERA: Okay. Commissioners,
6 is there anything that y'all would like to visit about?
7 No?

8 COMMISSIONER SAENZ: No. Thank you.

9 AGENDA ITEM NO. XV

10 CHAIRMAN RIVERA: Okay. On behalf of
11 the Commission, thank you everyone for being here.
12 This was just a tremendously run meeting and it's
13 because of all of the leadership that we have on the
14 other side of this dais that allows us to operate so
15 smoothly. So, thank you, Gary, and everyone here.

16 So, have a wonderful day and we are
17 adjourned.

18 (Meeting adjourned at 10:33 a.m.)
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF HARRIS)

I, Kimberly C. McCright, Certified Vendor 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 24th day of February, 2023.

/s/ Kimberly C. McCright

Kimberly C. McCright

Certified Vendor and Notary Public

Verbatim Reporting & Transcription, LLC

17049 El Camino Real, Suite 200

Houston, Texas 77058

281.724.8600