

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS LOTTERY COMMISSION
AUSTIN, TEXAS
COMMISSION MEETING

OCTOBER 29, 2024

10:00 a.m.

AT

GEORGE H. W. BUSH BUILDING
1801 Congress Avenue
Austin, Texas 78701

Transcript prepared by Rev.com and Commission staff from an audiovisual recording.

APPEARANCES

CHAIRMAN:	Robert G. Rivera
COMMISSIONERS:	Cindy Lyons Fields Mark A. Franz James H. C. Steen
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EXECUTIVE DIRECTOR:	Ryan Mindell
CHARITABLE BINGO OPERATIONS DIRECTOR:	LaDonna Castañuela
CONTROLLER:	Sergio Rey
PRODUCTS MANAGER:	William Russ
MCCONNELL & JONES LLP:	Darlene Brown
BINGO ADVISORY COMMITTEE CHAIRMAN:	William "Trace" Smith III
DIRECTOR OF ADMINISTRATION:	Angela Zgabay-Zgarba
SPECIAL COUNSEL:	Deanne Rienstra
ASSISTANT GENERAL COUNSEL:	Tyler Vance
ASSISTANT GENERAL COUNSEL:	Kyle Wolfe
CONSULTANT FOR THE CHRISTIAN LIFE COMMISSION:	Robert Kohler

TABLE OF CONTENTS

PAGE

I.	The Texas Lottery Commission will call the meeting to order. Pledge of Allegiance to the U.S. and Texas flags.	7
	Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."	
II.	Report by the Bingo Advisory Committee (BAC) Chairman; possible discussion and/or action on the BAC's activities, including selection of the BAC Chairman for FY 2025 and the charitable bingo rule proposal package for this open meeting.	7
III.	Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §§ 401.158 (Suspension or Revocation of License) and 401.160 (Standard Penalty Chart) ...	9
IV.	Report, possible discussion and/or action on approval of revised Commission Policy P-002, Division of Responsibilities	11
V.	Consideration of and possible discussion and/or action, including readoption, on the review of the Commission's rules set forth in 16 TAC Chapter 401, relating to Administration of State Lottery Act; Chapter 402, relating to Charitable Bingo Operations Division; and Chapter 403, relating to General Administration	13
VI.	Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 401.101 (Lottery Procurement Procedures), 401.102 (Protests of the Terms of a Formal Competitive Solicitation), 401.103 (Protests of Contract Award), 401.104 (Contract Monitoring Roles and Responsibilities), 401.153 (Qualifications for License), 401.158 (Suspension or Revocation of License), 401.160 (Standard Penalty Chart), 401.301 (General Definitions), 401.302 (Scratch Ticket Game Rules), 401.304 (Draw Game Rules (General)), 401.355 (Restricted Sales), and 401.501 (Lottery Security)	15
VII.	Consideration of and possible discussion and/or action, including proposal, on repeal of existing 16 TAC §§ 402.301 (Bingo Card/Paper) and 402.303 (Pull-tab or Instant Bingo Dispensers); new 16 TAC §§ 402.105 (Postmarks, Timely Filing of Forms, Reports, Applications and Payment of Taxes and Fees), 402.301 (Approval of Pull-Tab Bingo Tickets), 402.302 (Pull-Tab Bingo Manufacturing Requirements), 402.303 (Pull-Tab Bingo Sales and Redemption), 402.304 (Pull-Tab Bingo Record Keeping), 402.305 (Pull-Tab Bingo Styles of Play), 402.306 (Bingo Card/Paper Definitions), 402.307 (Bingo Card/Paper Approval), 402.308 (Bingo Card/Paper Manufacturing Requirements), 402.309 (Bingo Card/Paper Record Keeping), 402.310 (Bingo Card/Paper Styles of Play), and	

402.311 (Pull-Tab or Instant Bingo Dispensers); and amendments to 16 TAC §§ 402.100 (Definitions), 402.101 (Advisory Opinions), 402.102 (Bingo Advisory Committee), 402.103 (Training Program), 402.200 (General Restrictions on the Conduct of Bingo), 402.201 (Prohibited Bingo Occasion), 402.202 (Transfer of Funds), 402.203 (Unit Accounting), 402.210 (House Rules), 402.212 (Promotional Bingo), 402.300 (Pull-Tab Bingo), 402.324 (Card-Minding Systems--Approval of Card-Minding Systems), 402.325 (Card-Minding Systems--Licensed Authorized Organizations Requirements), 402.326 (Card-Minding Systems--Distributor Requirements), 402.334 (Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems), 402.400 (General Licensing Provisions), 402.401 (Temporary License), 402.402 (Registry of Bingo Workers), 402.404 (License Classes and Fees), 402.411 (License Renewal), 402.443 (Transfer of a Grandfathered Lessor's Commercial Lessor License), 402.500 (General Records Requirements), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 402.600 (Bingo Reports and Payments), 402.601 (Interest on Delinquent Tax), 402.602 (Waiver of Penalty, Settlement of Prize Fees, Penalty and/or Interest), 402.702 (Disqualifying Convictions), 402.703 (Audit Policy), 402.706 (Schedule of Sanctions), and 402.707 (Expedited Administrative Penalty Guideline	20
VIII. Consideration of and possible discussion and/or action, including adoption, on the proposed repeal of existing 16 TAC §401.315 ("Mega Millions" Draw Game Rule) and new 16 TAC §401.315 ("Mega Millions" Draw Game Rule	22
IX. Report, possible discussion and/or action on agency major contracts, including the procurement for the contract for internal audit services	25
X. Report, possible discussion and/or action on agency prime contracts, including the procurement for the contract for promotional products	26
XI. Report, possible discussion and/or action on agency major contracts, including the Houston Texans trademark license and promotional agreement with Houston NFL Holdings LP	26
XII. Report, possible discussion and/or action on the Annual Contract Status Report and Supplemental Information for all major and prime agency contracts	27
XIII. Report, possible discussion and/or action on the lottery operations and services procurement	28
XIV. 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	29

XV.	Report, possible discussion and/or action on transfers to the State and the agency's budget	37
XVI.	Report, possible discussion and/or action on the Sunset review process involving the agency, including the Sunset Advisory Commission's adopted motion directing the Sunset staff to evaluate agency leadership and to study the potential regulation of lottery courier companies	38
XVII.	Report, possible discussion and/or action on external and internal audits and/or reviews relating to the Texas Lottery Commission, and/or on Internal Audit activities, including the FY 2024 Annual Internal Audit Report, the Internal Auditor's Annual Independence Disclosure, and summaries of the Procurement and Contracting Audit and Retailer Incentive Program Audit	43
XVIII.	Report by the Charitable Bingo Operations Director and possible discussion and/or action on the Charitable Bingo Operations Division's activities, including licensing, accounting and audit activities; reports; special projects; the FY 2025 Bingo Annual Audit Plan; and an October 1, 2024, Bingo Advisory Opinion request from Croatoan Inc. (aka Northeast Bingo) (commercial lessor)	46
XIX.	Report by the Executive Director and possible discussion and/or action on the agency's operational status, major contracts, agency procedures, awards, and FTE status	48
XX.	Consideration of the status and possible approval of orders in enforcement cases:	51
	Lottery NSF License Revocation Cases (Default)	
	A. Docket No. 362-24-20030 - Adhiguru	
	B. Docket No. 362-24-20031 - Stop N Go	
	C. Docket No. 362-24-20905 - Sunshine Mart	
	D. Docket No. 362-24-21303 - MA Food and Gas	
	E. Docket No. 362-24-21620 - Tex Mex Food Mart	
	F. Docket No. 362-24-22058 - Happy Liquor	
	G. Docket No. 362-24-22553 - Mr. Lube	
	H. Docket No. 362-24-24187 - Gaston Paradise	
	I. Docket No. 362-24-24577 - Placedo Mini Mart	
	Lottery Agreed Orders	
	J. Docket No. 362-24-13399 - Speedy Mini Mart	
	K. Docket No. 362-24-24459 - Cat Corner	
	L. Case No. 2024-435 - JR Food Mart	
	M. Case No. 2024-515 - Tiger Mart #65	
	N. Case No. 2024-578 - 7-Eleven Convenience Store #35420B	
	O. Case No. 2024-579 - All Star Grocery	
	P. Case No. 2024-580 - Valley Mart #EP2401	
	Q. Case No. 2024-582 - Billy's Food Mart	
	R. Case No. 2024-583 - Fuel City Haltom City	
	S. Case No. 2024-584 - H. K. Food Mart	

T. Case No. 2024-722 - Brooks Food Mart	
U. Case No. 2024-724 - Express Food Mart	
Bingo Agreed Orders	
V. Docket No. 362-21-2282.B - Monica Weber (Bingo Worker)	
W. Docket No. 362-24-16246.B - Elizabeth Lucio (Bingo Worker)	
Other Bingo Cases	
X. Docket No. 362-24-20805.B - Esmeralda Sevilla (Bingo Worker)	
XXI. Public comment	53
XXII. The Commission may meet in Executive Session:	53
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:	
<u>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.)</u>	
Legal advice regarding 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.	
<u>Legal advice regarding any item on this open meeting agenda.</u>	
XXIII. 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	53
XXIV. Adjournment	53

1 PROCEEDINGS

2 TUESDAY, OCTOBER 29, 2024 (10:00 a.m.)

3 AGENDA ITEM I.

4 CHAIRMAN RIVERA: Good morning. I'd like to call this meeting
5 of the Texas Lottery Commission to order. Today is October 29th. It is
6 10 a.m. We have a quorum, and we will start with the Pledge of Allegiance
7 to the U.S. and Texas flags.

8 (Pledges recited)

9 AGENDA ITEM II.

10 CHAIRMAN RIVERA: All right. Okay, we have as our first item
11 today, the Bingo Advisory Committee, Trace your item.

12 MR. SMITH: Good Morning, Commissioners, Bingo Commissioner
13 Fields, Chairman Rivera. Yesterday, the Bingo Advisory Committee had its
14 first meeting of fiscal year 2025. We had eight of the nine members in
15 attendance with all three of the new members present. After the meeting
16 minutes from August were approved, the BAC unanimously voted to reinstate
17 me as Chairman of the BAC, with Melodye Green as Vice Chair. We had an
18 informative presentation from Elizabeth Godfrey-Weidig and Bob Biard on
19 the Open Meetings Act and Public Information Act. During this
20 presentation, Mr. Kuykendoll raised the question if the BAC members
21 should have an agency email to help with response time with any public
22 records requests. LaDonna and staff are checking on this to see if that
23 is a feasible or necessary option. Following that presentation, the BAC
24 voted to support the new additions to the rules review and recommended
25 those changes be added to our total recommendation for the rules review
26 to be published for your consideration on adoption.

1 The BAC went over our fiscal year 2025 work plan provided to
2 us, and we are pleased to report that we will be working with staff to
3 complete these items over the next fiscal year, taking special note to
4 address ways to increase online filing of quarterly reports and payments
5 using the Bingo Service Portal. We also created a committee to review
6 components of the agency's Charitable Bingo website and Bingo Service
7 Portal to provide recommendations for improvements. This committee will
8 be chaired by Dr. Pennie and assisted by Mr. Kuykendoll, two of our
9 newest members. Our next meeting will be on the 4th of December at 10:00
10 a.m., followed by the rules review public comment meeting at 1:00 p.m.
11 Thank you. And that concludes my report.

12 CHAIRMAN RIVERA: Okay. Commissioners, any comments? Cindy.

13 COMMISSIONER FIELDS: Yeah, just -- is this on? Can you hear
14 me?

15 MR. SMITH: Yes, ma'am.

16 COMMISSIONER FIELDS: Quick comment. Congratulations--

17 MR. SMITH: Thank you.

18 COMMISSIONER FIELDS: --on being voted by your peers to be the
19 Chair of the BAC for another year, and congratulations on getting
20 everybody to Austin for the first meeting.

21 MR. SMITH: Thank you very much.

22 COMMISSIONER FIELDS: They've already started working on their
23 work plan for this year, so hit the ground running.

24 MR. SMITH: Yes, ma'am.

25 COMMISSIONER FIELDS: Good job.

26 MR. SMITH: Thank you.

1 COMMISSIONER FIELDS: All these people travel to Austin on
2 their own dime, and we were glad to see everybody there.

3 MR. SMITH: Thank you.

4 COMMISSIONER FIELDS: Thank you again for your leadership.

5 MR. SMITH: Appreciate it.

6 CHAIRMAN RIVERA: Commissioners any other comments? Trace,
7 thank you very much for your commitment. This is obviously a huge
8 undertaking and responsibility that you have once again decided to take
9 the mantle on, so thank you on behalf of Texas.

10 MR. SMITH: Thank you.

11 CHAIRMAN RIVERA: We are very grateful.

12 MR. SMITH: Appreciate it.

13 AGENDA ITEM III.

14 CHAIRMAN RIVERA: Okay, next item is the rule amendments on
15 sales to minors. Bob, your item.

16 MR. BIARD: Good morning, Commissioners. I'm Bob Biard,
17 General Counsel. Item three is a proposal to adopt amendments to lottery
18 Rule 401.158 on suspension or revocation of license, and Rule 401.160,
19 the standard penalty chart. You approved proposing these amendments at
20 the September 11th Commission meeting. These amendments reinforce the
21 Commission's zero-tolerance policy regarding a Texas Lottery retailer
22 selling lottery tickets to a minor by requiring revocation of the
23 retailer's license in all cases involving a violation of a law or
24 Commission rule where the licensee intentionally or knowingly sells or
25 offers to sell a lottery ticket to a person that the licensee knows is

1 younger than 18 years of age. The exclusive penalty for a first-time
2 violation will be revocation of the retailer's license.

3 The Commission received one comment opposing the proposal
4 from the Texas Food and Fuel Association, which represents the wholesale
5 and retail levels of the food and petroleum industries in Texas, and
6 whose members operate or supply more than 16,500 retail convenience
7 stores in Texas. While TFFA does not condone sales to minors, it asserts
8 the proposed amendments are excessively punitive. TFFA notes the proposed
9 amendments eliminate the Commission's discretion to issue an alternative
10 penalty or to consider mitigating circumstances, including the history
11 of the retailer. TFFA also asserts that because the Sunset Advisory
12 Commission's review of the Commission is still in progress, this
13 rulemaking is premature and should be placed on hold until legislation
14 is passed to continue the Commission's operations.

15 The Commission's proposed response to the comment is that the
16 prohibition of lottery ticket sales to minors is vitally important to
17 maintaining the public's trust and ensuring the integrity of the Texas
18 Lottery. While the Commission appreciates TFFA's comments, it is
19 important to send a strong message that sales to minors must be a top
20 priority for them. And the Commission believes that its zero-tolerance
21 policy and license revocation for a first violation is an appropriate
22 measure to accomplish that. I discussed this matter with the board's
23 legal subcommittee prior to this meeting and recommend that the
24 Commission adopt the proposed amendments, which will become effective
25 20 days after filing them with the Texas Register. I'll be happy to
26 answer any questions.

1 CHAIRMAN RIVERA: Okay. Commissioners, any discussion?

2 COMMISSIONER STEEN: Sure. Yeah, just I think the Commission
3 wants to reiterate that we appreciate the Texas Food and Fuel
4 Association's comments and all TFFA and its members do for the State.
5 Clearly, they make a significant contribution to the success of the Texas
6 Lottery, and we look forward to continuing our relationship and working
7 with them in the future.

8 CHAIRMAN RIVERA: Okay. Thank you, Jamey. Any other comments?
9 Okay. Is there a motion to adopt the amendments?

10 COMMISSIONER STEEN: So moved.

11 CHAIRMAN RIVERA: Commissioner?

12 COMMISSIONER FIELDS: I second.

13 CHAIRMAN RIVERA: All in favor say aye.

14 (Chorus of "Ayes")

15 CHAIRMAN RIVERA: Okay. Good job everyone.

16 AGENDA ITEM IV.

17 CHAIRMAN RIVERA: Next item is the Commission policy on
18 division of responsibilities. Bob, also your item.

19 MR. BIARD: Yes, Commissioners, this is a discussion item today
20 on one of the Sunset Advisory Commission's management directives to
21 update the Commission's policy describing the separation of duties
22 between the Commission and staff. That policy is P-002 and titled
23 Division of Responsibilities. More specifically as stated by the Sunset
24 Board, TLC would need to update its existing policy to specify the
25 Commission's role in key planning efforts, including strategic and budget
26 planning, business planning, and directing the work of its advisory

1 committees. Involving Commission members earlier in these planning
2 processes specifically, instead of just approving things once finalized,
3 would allow them more opportunities to provide input and fulfill the
4 responsibility for establishing agency policies and providing direction.
5 So that's our guidance for revising the policy, which I'm happy to get
6 your feedback on and I'm planning to present this for adoption at the
7 December 5th Commission meeting.

8 The revisions that we're working on would set out the
9 subcommittee structure and the scope of each subcommittee's
10 responsibilities, emphasizing the subcommittee's advisory role and the
11 necessity to bring recommendations to the full board for discussion and
12 possible approval. And importantly, the revisions will emphasize that
13 all significant policies affecting the Commission, or the lottery or
14 charitable bingo industries are driven by the Commission board from the
15 top down, and that the direct reports, the executive director and the
16 Bingo director, shall implement the Commission's policies within the
17 parameters set by the board. Whenever the executive director or Bingo
18 director become aware of a significant policy issue affecting the
19 Commission or the lottery or bingo industries--whether the matter
20 involves a rule, a potential rule, agency operations, or the structure
21 of the lottery or charitable bingo business--the director must bring
22 that matter to the Commissioners as a board and seek direction, and the
23 Commission shall determine the appropriate policy direction. And if
24 there's a question regarding the Commission's authority in a particular
25 area, the Commission would consider whether to request an Attorney
26 General opinion.

1 Finally, I plan to include a brief reference to legal guidance
2 on the scope and limits of the state agency's discretion and policymaking
3 powers that will be set forth in the Commissioner Training Manual that
4 we are also updating in response to the Sunset report. I have discussed
5 this matter with the board's legal subcommittee, and we will continue
6 to revise the policy document for approval at the December Commission
7 meeting. That concludes my presentation. I'm happy to answer any
8 questions.

9 CHAIRMAN RIVERA: Okay, Commissioners, any discussion? Okay,
10 Bob.

11 MR. BIARD: Thank you.

12 CHAIRMAN RIVERA: Bob. Thank you very much.

13 AGENDA ITEM V.

14 CHAIRMAN RIVERA: Okay, next item is the rule review. Bob,
15 your item.

16 MR. BIARD: Thank you. Once again, Bob Biard, General Counsel,
17 and on this item I'm asking the Commission to re-adopt all of the agency's
18 rules as the final step in the quadrennial rule review required by the
19 Texas Administrative Procedure Act. Your notebook contains three
20 documents to submit to the Texas Register to re-adopt the rules, which
21 are located at Title 16 of the Texas Administrative Code, chapters 401,
22 Administration of State Lottery Act, 402, Charitable Bingo Operations
23 Division, and 403, General Administration. The Commission initiated this
24 proceeding in October 2023, pursuant to Texas Government Code §2001.039,
25 which requires a state agency to review all of its rules every four

1 years. The review must include an assessment of whether the reasons for
2 adopting each of the rules continue to exist.

3 Notice of intent to review the rules was published in October
4 2019 [sic]. We received no comments on chapters 401 and 403, although
5 staff identified a number of potential updates and clarifications to the
6 lottery rules. The Commission did receive comments on the chapter 402
7 bingo rules, and the BAC was heavily involved in that process. And these
8 comments are addressed in the chapter 402 document in your notebooks.
9 In addition, the lottery and bingo orders address each of the rulemaking
10 gaps identified by the Sunset Advisory Commission staff in its report
11 on the agency, which are carried forward into the rule proposals you
12 will consider in the next two agenda items after this one. The Commission
13 staff believes the reasons for adopting each of the rules continue to
14 exist and that some of the rules in these chapters need to be amended.
15 Those amendments will be proposed in separate rulemaking proceedings,
16 and you will hear more details about the proposed amendments in the
17 following two items. I discussed this matter with the board's legal
18 subcommittee, and we recommend that the Commission re-adopt the rules
19 and conclude the rule review process. I'm happy to answer any questions.

20 CHAIRMAN RIVERA: Okay, Commissioners, any discussion? None?
21 Okay, is there a motion to re-adopt the Commission rules?

22 COMMISSIONER FIELDS: So moved.

23 COMMISSIONER STEEN: Second.

24 CHAIRMAN RIVERA: Okay. All in favor say aye.

25 (Chorus of "Ayes")

1 CHAIRMAN RIVERA: Okay. Motion passes. Bob, on behalf of the
2 legal subcommittee, thank you, and not only to you, but all of your legal
3 minds that are helping to make sure that we're on the right trajectory
4 and we appreciate all your diligence and hard work. And I know that these
5 items only took a few minutes of time today, but really took a significant
6 amount of time to put together, so thank you very much to all involved.

7 MR. BIARD: Appreciate that. Thank you.

8 AGENDA ITEM VI.

9 CHAIRMAN RIVERA: Okay, next item is a lottery rule proposal.
10 Kyle, this is your item.

11 MR. WOLFE: Good morning.

12 CHAIRMAN RIVERA: Good morning.

13 MR. WOLFE: Thank you, Mr. Chairman, and Commissioners. For
14 the record, I'm Kyle Wolfe, Assistant General Counsel. Item six in your
15 notebooks contains a proposal to amend the 12 lottery rules listed on
16 the agenda for this item and included in your notebooks -- thank you --
17 the proposed amendments are the result of the Commission's recent rule
18 review conducted in accordance with the Texas Government Code, as well
19 as the agency's recent review by the Texas Sunset Advisory Commission.
20 Among the more significant changes, this proposal addresses issues
21 identified as rulemaking gaps in the May 2024 Texas Sunset Advisory
22 Commission Staff Report. The Staff Report specifically noted that there
23 was "no clarification as to whether internet sales of lottery products
24 are prohibited," so prohibited internet sales are addressed in the
25 proposed amendments to rules 401.153(b)(12), 401.158(b)(27), 401.160(h)
26 and 401.355(a). The Staff Report also noted there was "no explanation

1 of what it means for a person to 'engage in a business exclusively as a
2 (lottery) sales agent' for purposes of licensure." So that explanation
3 is addressed in the proposed amendment to rule 401.153(b)(13).

4 The proposed rule amendments also clarify procurement
5 procedures and the time period a bidder or proposer has to respond to
6 an appeal of certain protest decisions issued by the agency in
7 procurements. The amendments update several definitions; update a
8 provision in the scratch ticket game rule to make it more consistent
9 with the draw game rule; update the scratch and draw ticket prize claim
10 processes; and update the language regarding lottery security to state
11 that several divisions of the Commission are responsible for developing
12 and maintaining security plans and procedures, and confirming that these
13 plans and procedures are protected under the Texas Public Information
14 Act.

15 This is an action item and staff is recommending that the
16 Commission initiate the rulemaking process by publishing these proposed
17 amendments in the Texas Register to receive public comments for a period
18 of 45 days, and then hold a public hearing to receive any additional
19 comments on this proposal at 1:00 p.m. on January 15th, 2025 in this
20 boardroom. That's all I have. If you have any questions, I'll be happy
21 to answer them. Thank you.

22 CHAIRMAN RIVERA: Okay, Kyle, thank you. Ryan, anything you'd
23 like to add?

24 MR. MINDELL: Thank you, Chairman, Commissioners. For the
25 record, Ryan Mindell, Executive Director. I did just want to add some
26 comments on one piece of this rulemaking. As you know, there's been a

1 lot of discussion about the courier issue, recently. Part of that
2 discussion has involved the continued belief by some that the agency
3 facilitated or encouraged lottery courier services with its rulemaking
4 through rule review in 2020. At the June 21, 2023, Commission meeting,
5 you heard Bob make clear the agency's view that our rulemaking in 2020
6 or otherwise did not in any way authorize or condone lottery courier
7 services. During the 2020 rulemaking, I was the Lottery Operations
8 Director and I want to stress that lottery courier services were not
9 contemplated or considered by staff during that rulemaking. The agency
10 is neutral on this issue and continues to await legislative guidance.

11 Although our view continues to be that these changes were
12 non-substantive, this has not changed the perception by some that the
13 changes were substantive. I instructed staff to review the rules for
14 changes that we made in 2020 only to clarify language, and revert some
15 of those changes as part of this proposed package. We made the 2020
16 changes to make the rules more clear. However, they're making the
17 language and our intent less clear, so I think it's appropriate to change
18 that back. And again, because we did not view these changes as
19 substantive in the first place, reverting those changes is not a material
20 change in how the agency will apply the rules. These are clarifying
21 changes to make clear that the agency's policy remains the same; all
22 aspects of the sales transaction by a licensed lottery retailer must
23 take place at the retail location. Thank you.

24 CHAIRMAN RIVERA: Okay, Ryan, thank you. Any discussion? Okay.
25 Is there a motion to publish the rule proposal?

1 Okay, we have a request for a speaker, Mr. Rob Kohler. Yes
2 sir.

3 MR. KOHLER: Can you hear me?

4 CHAIRMAN RIVERA: Yes, sir.

5 MR. KOHLER: Hey, thank y'all so much for having me. I wasn't
6 planning on testifying, but I just wanted to make sure some of the
7 comments that Ryan made. I'd encourage the board and the Commissioners
8 go back and look at a company called Pic-A-State. Back in 1994, the same
9 arguments that the lottery couriers have today, this Commission addressed
10 in a completely different way. There's a 10-page document that will
11 outline what the Commission did when presented with this business model
12 that allows the request for a purchase.

13 It's a two-part step where there was historically only one.
14 You also get guidelines in what's happening with sweepstakes right now.
15 In the state of Florida there's huge fight, and really across the country
16 on sweepstakes, where they have allowed two processes where there
17 historically and common sense has always been one. So, this idea that
18 somehow or another that the changes in 2020 did not affect what it meant
19 to sell lottery tickets, we say is false and we would encourage the
20 Commissioners to go look at the decisions that were made by your
21 predecessors back in the nineties when tickets were sold over the phone.
22 So, thank you for the opportunity so much to testify.

23 CHAIRMAN RIVERA: Okay. Commissioners, any questions? What was
24 the name of the company? I'm sorry, at the beginning --

25 MR. KOHLER: It was called Pic-A-State.

26 CHAIRMAN RIVERA: Can you spell that?

1 MR. KOHLER: Yeah. It was P-I-C-K [sic] dash A dash State, and
2 the Commission at the time released a 10-page legal document by a lady
3 at the time named Linda Cloud who was Director of Operations. And it
4 outlined why this two-step process of allowing, the request to purchase
5 is what it was referred to, and it's the same business model as what the
6 couriers are operating within now. And you'll find that the Texas Lottery
7 actually took this all the way up to the Supreme Court. The Fifth Circuit
8 ruled on just the federal aspect of it, but did not touch the state
9 aspect of it, which the general counsel at the time, and the paper
10 actually quotes that the state laws are still in effect, that you cannot
11 purchase tickets over the phone no matter what you call the contraption
12 or the scheme.

13 CHAIRMAN RIVERA: Commissioners, any other comments?

14 COMMISSIONER FRANZ: Thank you, Rob, for the comment and we'll
15 certainly look at that. I would just like, as the only one, I think, --
16 well, Robert, you were here in 2020 when we adopted this -- I would just
17 like to reaffirm what both Ryan and Bob said was -- our intention at
18 that time with those rule changes were non-material and were not intended
19 to do that. Just to clarify that. Appreciate this 1994 reference and
20 I'll leave it to the Chairman how to respond on that.

21 CHAIRMAN RIVERA: Okay. Bob, would you like to say anything?

22 MR. BIARD: I mean -- I haven't looked at the Pic-A-State in
23 a while, but it was a case that involved purchasing tickets for customers
24 in other states. And it did lead to an amendment of a federal statute
25 that prohibits someone in one state buying a lottery ticket for a
26 customer in another state, and I just wanted to add that.

1 MR. KOHLER: And Commissioners, you're going through Sunset.
2 There's a list of the milestones that are listed for the Commission about
3 what a legislator should know about. We would submit to you that this
4 case going all the way up to the Supreme Court and being right with the
5 lottery couriers should have been included in that Sunset review process.
6 Members of the legislature have been led to believe that this is a brand-
7 new phenomenon, that somehow or another, this just popped on the Lottery
8 Commission's radar back in 2015. Well, no it didn't. This exact same
9 argument was made back in '94, and the Commission, as I say, acted very
10 differently.

11 CHAIRMAN RIVERA: Okay. Thank you for your comments.

12 MR. KOHLER: Yes.

13 CHAIRMAN RIVERA: Okay. Commissioners, any other discussion?
14 Okay. Is there a motion to publish the rule proposal?

15 COMMISSIONER FIELDS: So moved.

16 CHAIRMAN RIVERA: Okay, we have a second?

17 COMMISSIONER STEEN: Second.

18 CHAIRMAN RIVERA: Okay. All in favor say aye.

19 (Chorus of "Ayes")

20 CHAIRMAN RIVERA: Okay. Motion passes.

21 AGENDA ITEM VII.

22 CHAIRMAN RIVERA: Next item is a bingo rule proposal. Tyler
23 Vance, your item.

24 MR. VANCE: Good morning, Mr. Chairman, Commissioners. My name
25 is Tyler Vance, Assistant General Counsel, with the Legal Division. I
26 have for your consideration this morning a proposed rulemaking on 44

bingo rules that includes amendments, new rules and repeals. This proposed rulemaking is the result of the agency's quadrennial rule review process, which involved several meetings with the BAC staff and other industry stakeholders throughout the year.

This proposal also incorporates all the recommendations that were noted by the Texas Sunset Advisory Commission Staff Report that was issued in May. Specifically, the Staff Report noted that there was "no clarification of what classifies as a bingo hall's 'premises'...." This is addressed in the amendments to Rule 402.100. The Staff Report noted that there was "no clarification that bingo products may not be purchased using a credit card." This is addressed in amendments to 402.200. Staff Report noted that there was "no clarification of how certain grandfathered bingo licenses may be transferred." This is addressed in amendments to Rule 402.433. The Staff Report noted that there is "no definition of what constitutes a repeat violation." This is addressed in amendments to Rule 402.706. The Staff Report recommended a consideration of a licensee's compliance history in an audit, and this is addressed in amendments to Rule 402.703. Finally, the Staff Report recommended eliminating warnings for serious first-time violations and for repeated violations of lesser offenses, and this is addressed in amendments to Rule 402.706 and 402.707.

Other significant changes in this rule package include a new rule that establishes a single standard for determining the timeliness of filings made by licensees; it corrects typos and obsolete references; it conforms the rules to the Bingo Enabling Act; and it clarifies and simplifies agency processes, including the appointment of the BAC.

1 For the most part, the new rules and the repeals in this
2 package are simply a reorganization of rules that are currently in place
3 on bingo paper and pull-tabs. Both of those rules are extremely long and
4 so they're being broken up into smaller parts for ease of reference.

5 This is an action item. Staff recommends that the Commission
6 initiate the rulemaking process by publishing this proposed rulemaking
7 in the Texas Register in order to receive comments for 30 days. If you
8 vote to propose this rulemaking, we have a public hearing scheduled to
9 receive comments orally on December 4th at 1:00 p.m. And I'm available
10 for you if you have any specific questions.

11 CHAIRMAN RIVERA: Okay. Tyler, thank you. Cindy, any comments?

12 COMMISSIONER FIELDS: Thank you, Tyler, for your hard work and
13 LaDonna and her team's hard work, the BAC's hard work. This was a very
14 comprehensive study of the rules and very well done, I think very
15 thoughtfully done. So, with that, I would like to move that we approve
16 them for publishing.

17 COMMISSIONER STEEN: Second.

18 CHAIRMAN RIVERA: Okay. All in favor say aye.

19 (Chorus of "Ayes")

20 CHAIRMAN RIVERA: Okay, motion passes. Thank you, Cindy. Thank
21 you, LaDonna.

22 COMMISSIONER STEEN: Thank you.

23 AGENDA ITEM VIII.

24 CHAIRMAN RIVERA: All righty. Next item is Mega Millions rule
25 adoption. Deanne, your item.

1 MS. RIENSTRA: Good morning Chairman, Commissioners. I am
2 Deanne Rienstra, Special Counsel. In the August meeting you approved
3 publication of the repeal of the existing Mega Millions rule and the
4 proposed new rule to reflect the Mega Millions Group's changes to the
5 game. In your notebook is the proposed adoption of the repeal and new
6 Mega Millions rule, which were published in the Texas Register on August
7 24, 2024.

8 The Commission received 42 written comments, all against the
9 proposed price increase from \$2 to \$5. Many commenters said that they
10 would no longer play the game at the higher price. Several commented
11 that raising the price causes the game to be out of reach for some
12 players and causes others to spend more than they can afford, is not
13 proportionate with the slight improvement of the odds and is greedy.
14 Several also commented that they did not like losing the choice to
15 "Megaplay" or not, nor did they like losing the "Just the Jackpot" option.
16 A few commenters also expressed that less people will play the game,
17 resulting in less money for Texas public education.

18 In response we stated the Commission is authorized by the
19 Cross-Sell Agreement between MUSL and the Mega Million Lotteries to sell
20 the Mega Millions game in Texas. In order to sell this game, the
21 Commission must adhere to the conditions of the Cross-Sell Agreement,
22 as well as the MUSL rules regarding the game. The Mega Million Lotteries
23 control the management of the game, game changes and new game features.
24 The Commission has no vote, choice, or input on the costs of the game,
25 the play of the game, or the odds. The Commission only has a choice to

1 sell the Mega Million tickets in accordance with the Cross-Sell Agreement
2 and MUSL rules, or to not participate in the game.

3 In fiscal year 2024, Mega Millions sales generated
4 \$144,025,132.52 [sic] in revenue to the State. Whether the jackpot prize
5 is won in Texas or in another state, the proceeds from each ticket sold
6 in Texas stay in Texas. Because of the significant revenue brought to
7 the State with the Mega Millions game, the Commission intends to continue
8 selling the Mega Millions game pursuant to the Cross-Sell Agreement and
9 MUSL rules.

10 Commissioners, this is an action item. Staff recommends that
11 the Commission adopt the repeal of existing 16 TAC 401.315, the "Mega
12 Millions" Draw Game Rule and the new 16 TAC 401.315; both actions to be
13 effective on the date of implementation of the new game anticipated at
14 this time to be April 5th, 2025. I'm happy to answer any questions.

15 CHAIRMAN RIVERA: Okay, Deanne, thank you for your comments.
16 Commissioners, any discussion?

17 COMMISSIONER STEEN: So just to make it clear, we either accept
18 the changes or don't offer the game at all?

19 MS. RIENSTRA: Yes sir. That is correct.

20 COMMISSIONER STEEN: Okay, thank you.

21 COMMISSIONER FRANZ: And just last clarification, that's a
22 144-million or not a 144-million, those were the two options?

23 MS. RIENSTRA: -- revenue to the State, yes sir.

24 COMMISSIONER FRANZ: Thank you.

25 CHAIRMAN RIVERA: Any other comments? Okay. Is there a motion
26 to adopt the new rule?

1 COMMISSIONER STEEN: So moved.

2 COMMISSIONER FRANZ: I'll second.

3 CHAIRMAN RIVERA: Okay, we have a motion and a second. All in
4 favor say aye.

5 (Chorus of "Ayes")

6 CHAIRMAN RIVERA: Okay, motion passes. Deanne, thank you very
7 much.

8 AGENDA ITEM IX.

9 CHAIRMAN RIVERA: Next, five items are contract matters.
10 Angela, these five are yours.

11 MS. ZGABAY-ZGARBA: Good morning, Chairman and Commissioners.
12 For the record, my name is Angela Zgabay-Zgarba, the Director of
13 Administration. First item I have is item nine in your notebook and it
14 is an action item. Staff is seeking Commission approval to issue a
15 request for proposals for internal audit services. The anticipated term
16 will be one year starting September 1, 2025, going through August 31,
17 2026, with three one-year renewals. This is a major contract and will
18 also require Commission approval for award, which we anticipate will be
19 in the spring next year. If you have any questions or comments, I'd be
20 happy to answer them.

21 CHAIRMAN RIVERA: Okay. You want us to vote on this or do you
22 want to go through all five?

23 MS. ZGABAY-ZGARBA: I have two to vote on, if you want to vote
24 as we go, maybe?

25 CHAIRMAN RIVERA: Okay. Yes. On the first one, any comments
26 from the audit subcommittee?

1 COMMISSIONER FIELDS: We actually did talk about this in the
2 audit subcommittee, among other things, but I have no comments.

3 CHAIRMAN RIVERA: Okay. Okay. Is there a motion to start the
4 process?

5 COMMISSIONER FRANZ: I move.

6 CHAIRMAN RIVERA: Okay, thank you. We have a second?

7 COMMISSIONER STEEN: Second.

8 CHAIRMAN RIVERA: All righty. All in favor say aye.

9 (Chorus of "Ayes")

10 CHAIRMAN RIVERA: Okay. Motion passes.

11 AGENDA ITEM X.

12 CHAIRMAN RIVERA: Next item is a report on procurement for
13 promotional products.

14 MS. ZGABAY-ZGARBA: Thank you. Item ten in your notebook is a
15 briefing item. Staff intends to issue a request for proposals for
16 promotional products in the near future. The anticipated term of the
17 contract will be a one-year contract with two one-year renewals. And if
18 you have any questions or comments on this item, I would be happy to
19 address them.

20 CHAIRMAN RIVERA: Okay, any discussion?

21 AGENDA ITEM XI.

22 CHAIRMAN RIVERA: Okay. Next item --

23 MS. ZGABAY-ZGARBA: Alright.

24 CHAIRMAN RIVERA: -- is the Houston Texans license and
25 promotional agreement.

1 MS. ZGABAY-ZGARBA: Yes. Item eleven in your notebook is
2 another action item. Staff is seeking Commission approval to enter into
3 a new contract with Houston NFL Holdings LP, also known as the Houston
4 Texans. This contract will expand our current trademark licensing and
5 promotional agreement while continuing to provide ongoing marketing and
6 promotional presence in the Houston Texans complex, and for the related
7 scratch-off ticket, and to continue our successful relationship with the
8 Houston Texans brand and its organization. If you have any questions or
9 comments, I'd be happy to address them. This one will also require a
10 vote.

11 CHAIRMAN RIVERA: Okay, is there any discussion,
12 Commissioners? No? Is there a motion to start the procurement process?

13 COMMISSIONER STEEN: I'll make a motion.

14 COMMISSIONER FIELDS: I'll second.

15 CHAIRMAN RIVERA: We have a motion and a second. All in favor
16 say aye.

17 (Chorus of "Ayes")

18 AGENDA ITEM XII.

19 CHAIRMAN RIVERA: Okay, next item, annual contract status
20 report for major and prime agency contracts.

21 MS. ZGABAY-ZGARBA: Item eleven [sic] in your notebook is a
22 briefing item. The Texas Administrative Code 401.105 requires the
23 executive director to provide the status of all contracts to the
24 Commission annually for information purposes, and further, Texas
25 Government Code 2261.254 requires that each contract with a value
26 exceeding \$1-million provide additional information, including contract

1 compliance, corrective action plans, sanctions, be reported to you. The
2 spreadsheet has quite a bit of information on it, and it includes all
3 of the relative information here. As you said, this covers all of our
4 major contracts, which are more than \$10-million; and our prime
5 contracts, which are between 1-million and 10-million, and then we also
6 include our operational contracts for you to give you a full view of all
7 of the contracts under 401.105. If you have any questions on the report,
8 I would be happy to answer them.

9 CHAIRMAN RIVERA: Okay, Commissioners, any discussion? Good
10 report. Good job. Alrighty.

11 AGENDA ITEM XIII.

12 CHAIRMAN RIVERA: Final item report on lottery operations
13 procurement.

14 MS. ZGABAY-ZGARBA: All right. Item thirteen in your notebooks
15 is a briefing item. This is an interim status update to let you know
16 that the lottery operations and services RFP is continuing to progress
17 as planned. Included in your notebook is an updated timeline of events
18 for the RFP and as you can see, we have received proposals and they are
19 under review. The schedule of events was also revised in an amendment
20 to reflect a change on the date ranges for both oral presentations and
21 site visits. As stated in section 2.22 of the RFP, site visits will be
22 limited to locations in the contiguous United States. If there are any
23 additional changes to the timeline, an amendment will be posted on the
24 Electronic State Business Daily and the Texas Lottery's websites for
25 public notice. If you have any questions, I'd be happy to answer them.

1 CHAIRMAN RIVERA: Okay, Commissioners, any discussion? Okay,
2 none. Angela, as always, good job. Thank you very much.

3 MS. ZGABAY-ZGARBA: Thank you.

4 AGENDA ITEM XIV.

5 CHAIRMAN RIVERA: Next item is report on lottery sales and
6 revenue, Sergio and Will, this is your item. It's so big and important,
7 we've got two people to come and visit with us on this.

8 MR. REY: Good morning.

9 CHAIRMAN RIVERA: Good morning

10 MR. REY: Good morning, Commissioners, Chairman Rivera. For
11 the record, Sergio Rey, Chief Financial Officer. Our Lottery Operations
12 Product Manager Will Russ and I are providing a recap of our fiscal year
13 2024. In fiscal year 2024, we fought the big fight, and although we were
14 just shy of another record-breaking year, we still finished strong. The
15 Commission completed the fiscal year with \$2.01-billion in accrued
16 revenue transfers to the State, which is our second-highest revenue
17 transfer to our beneficiaries in the history of the Texas Lottery; we
18 still broke the \$2-billion mark. Of that overall transfer amount, \$1.98-
19 billion went to the Foundation School Fund and \$26.8-million went
20 directly to the Texas Veterans Commission from the sale of scratch ticket
21 games dedicated to the Fund for Veterans Assistance. Veterans scratch
22 ticket revenue for fiscal year 2024 set a new sales record of \$113.3-
23 million.

24 Thanks to the hard work and dedication of our entire Texas
25 Lottery team, our vendor partners and retailers, our cumulative revenue
26 transfers to these important beneficiaries is now \$39.8-billion and

1 fiscal year 2024 is the second-highest year for all transfers in Texas
2 Lottery history.

3 These transfers were made possible by generating \$8.39-
4 billion in lottery sales, from which there were more than \$5.736-billion
5 won by players. Again, this is the second-highest total in our history.

6 Our retailers were paid more than \$420-million in Commission
7 payments. This also earns a gold star as our second highest in total in
8 Texas Lottery history.

9 It is important to note that we concluded the fiscal year
10 with an administrative expenditure rate of 3.32%. This is well below our
11 statutorily allowed 7% and reflects how our focus is on our winners,
12 retailers, and our beneficiaries. And we continue to be good stewards
13 of our funding and of our mission.

14 Next slide. To provide a comparison on how we fared compared
15 to fiscal year 2023, here's a chart showing how close we were to our
16 highest sales year. As you can see, scratch ticket sales in 2024 were
17 just shy of the 2023 sales total, even though it made up almost 80% of
18 our total sales. Draw sales were a bit more challenging since we did not
19 have as many jackpot rolls in 2024 like we did in 2023. Our sales gap
20 was about \$250-million, about 2.1% less than in 2023. Again, nothing to
21 be discouraged about because fiscal year 2024 crossed the \$8-billion
22 mark for the fourth year in a row. We are still at the top of the charts.

23 The next slide provides a better perspective in periods of
24 time. In the few years before the pandemic, we averaged about \$4-billion
25 in scratch sales and just about \$1-billion in draw sales. So, on the
26 next slide, the pandemic brought a turning point for Texas Lottery, which

1 started a considerable jump in overall sales. As mentioned earlier, the
2 years after the pandemic have had record sales for both scratch ticket
3 and draw games, which exceeded the \$8-billion mark. And as we look at
4 2024 compared to the average of the last three years, we are still on
5 par. As you can see on the red line, our transfers to the Foundation
6 School Fund, Texas Veterans and others share the same trend in growth
7 in comparison. You can see how we have maintained within the \$2-billion
8 mark since the pandemic. Also, I mentioned how we have consistently
9 maintained a low administrative expense rate in the last eight years,
10 as shown in the green line there at the bottom of the graph. With that,
11 I will now turn it over to Will who will provide the details of the '24
12 scratch ticket and draw game performances.

13 MR. RUSS: Thank you, Sergio. Good morning, Commissioners. For
14 the record, I'm Will Russ, the Products Manager at the Lottery. As Sergio
15 mentioned, I'll be giving a more detailed view of our fiscal year '24
16 sales.

17 On my first slide, you'll see a great illustration of exactly
18 where the sales are coming from. The jackpot games are in the top and
19 the darker font, and Lotto Texas, Mega Millions and Powerball are all
20 down and we know why. Simply put, there were fewer high jackpots on the
21 national games, and when there were billion-dollar plus jackpots we did
22 not realize the same sales results as fiscal year '23. Additionally,
23 Lotto Texas did not have an historic run like '23. Without these
24 jackpots, and after the monumental jump between '20 and '21 that Sergio
25 mentioned, this makes '24 our real reset year and sales are still
26 extremely encouraging.

1 When comparing the sales from our jackpot games from fiscal
2 year '22 to '24, you can see that we are either essentially flat or up
3 on all of them. We consider this a major accomplishment to maintain such
4 sales levels without having the historic jackpots of '23.

5 Returning to fiscal year '24, Texas Two Step had a few solid
6 runs and is up. In the middle of the slide, in the bright blue, are our
7 daily games and they are all up year-over-year. For the first time since
8 '21, Pick 3 is up and monthly promotions we do on this game contributed
9 to the growth. Those promotions are a great collaboration between the
10 Lottery, IGT, and our retailer partners. We'll continue them in the
11 future. Daily 4 is another success story and has been since it was first
12 introduced in 2008. This game has seen sales increase every year.
13 Finally, Cash 5 and All or Nothing are basically flat, but up overall,
14 and contributing to the daily games being positive year-over-year by
15 almost 12-million. Go to the next slide.

16 Here's another slide we look at once a year around this time.
17 The total sales are broken out between scratch and draw. Last year,
18 because of the jackpots, the split was about 77% scratch and 23% draw.
19 This year we are closer to what we've seen historically, which is about
20 an 80/20 scratch/draw split. Next slide.

21 This pie chart is the draw game breakdown representing the
22 1.745-billion in sales. You can see that large Powerball slice at the
23 top taking the number one position. Our number two, which won't be a
24 surprise either, is Mega Millions in that kind of teal slice.
25 Commissioners, as a side note, while we're talking about Mega Millions,
26 I have some great news about a Texas winner and retailer.

1 On September 10th, the Mega Millions jackpot was at an
2 estimated annuitized 800-million. After the draw, we learned that the
3 jackpot winning ticket was sold at a Murphy USA in Sugar Land, Texas.
4 The retailer received a \$1-million bonus for selling the ticket and The
5 Sol Living Trust of Sugar Land claimed the jackpot prize earlier this
6 month. The cash value option was selected at the time of purchase and
7 the claimant received over 409-million before taxes. This is the seventh-
8 largest prize in Mega Millions history, and the largest prize ever paid
9 out to a single Texas Lottery player. We're thrilled to reward our
10 retailer partner and have such a large prize paid out to a Texas winner.

11 Continuing back to our '24 sales, Pick 3 hit almost 300-
12 million for third place, and despite only having a few modest jackpot
13 runs, we know our original draw game Lotto Texas keeps its core players
14 as evidenced by almost 186-million in sales for fourth place. Next slide.

15 Here's a similar pie chart, but now we're reviewing, excuse
16 me -- now we're viewing the 6.64-billion of scratch ticket sales broken
17 down by price point. Last year, when I gave this presentation, we
18 predicted the \$20 price point could surpass the \$10 for the number one
19 spot. Our prediction was right, and our players gravitated towards those
20 \$20 tickets. The \$10 price point has strong sales at number two, and the
21 number three spot is the \$5. The \$50 price point maintains its position
22 in the number four spot, but we have another prediction for FY '25. When
23 we're here next year, I suspect those \$50 tickets will be in the number
24 three spot and the \$5 will drop to number four. Since its introduction,
25 sales for the \$100 price point are growing and I'll talk more about that
26 in the next slide.

1 This chart is just showing the different price points for
2 scratch with a year-over-year comparison. The orange bar is last year
3 '23 and the blue bar is this year '24. The big takeaway here, which is
4 not surprising, is that our players are gravitating towards our higher
5 price points, which are driving our sales. Let's start all the way on
6 the right. The \$100 price point with about 670-million in sales is up
7 almost 400, excuse me -- is up almost 100-million from '23. After
8 launching our third \$100 game, \$400 Million Mega Bucks in February, we
9 expected to see this growth.

10 Despite adding that third \$100 ticket, the \$50 price point is
11 still slightly up. This is further evidence of our player's appetite for
12 these tickets, and I assure you we're keeping them appealing to our
13 players. The tickets are designed very thoughtfully with attention to
14 every detail, and both the TLC and IGT teams are analyzing data to find
15 the perfect launch date for each ticket. The \$30 price point remained
16 relatively flat, but a ticket launching in April with an exceptional
17 second chance trip should boost sales for '25. When I have a sample of
18 the ticket, I'll share it at a later meeting.

19 The \$20 is slightly up, while the 10 and 5 are both slightly
20 down, but we attribute this to players moving to the higher price points.

21 The \$3 price point is relatively flat, and we continue to see
22 declines on the \$2 price point, but we did have a very successful year
23 for our veterans' dedicated tickets and set a new veteran sales record.

24 Unfortunately, the \$1 price point is also down, but we are
25 moving towards our new strategy of only having one ticket at this price
26 point in market at a time. As a reminder, we'll keep the \$1 ticket in

1 the September family and the holiday suite, and also in the January and
2 May families. Next slide.

3 Onto the final slide, the top fifteen scratch tickets for FY
4 '24. Last year the \$100, \$20 Million Supreme held the top spot, and while
5 this game is still in market, it dropped to number eleven. I'll be direct
6 here; we all knew it would not be long until a Loteria themed game would
7 be back at number one. In fact, the top five games are Loteria themed.
8 They also make up seven of the top fifteen and Super Loteria is the only
9 \$5 game on the list.

10 Another thing you'll notice is the two \$10 Mega Loteria games
11 in the top five. As a side note, that is why we added the \$10 Limited
12 Edition Mega Loteria to the portfolio in August. After analyzing sales
13 data, we realized having two of these games in market at the same time
14 would yield incremental sales and this will be a continued practice. I
15 want to assure the Commissioners that we are constantly working on
16 keeping these tickets fresh, while maintaining their appeal that so many
17 of our players enjoy. We work with IGT on their design and prize
18 structures and will continue to do so.

19 At number seven is the \$20 game, \$1,000,000 Crossword. This
20 core game has been in the top fifteen since its introduction. Given those
21 sales, we know there are players searching for tickets with similar
22 extended play and we have some exciting introductions planned for '25.
23 I'll talk more about those at a future meeting. With that, I'll wrap up
24 on FY '24 sales. I'll be back at the December Commission meeting to give
25 an update on FY '25. And if there are not any questions, I will hand it
26 over to Ryan who has some additional comments.

1 MR. MINDELL: Thank you, Will. Again, Ryan Mindell, Executive
2 Director, for the record. As Sergio and Will's presentation made clear,
3 last fiscal year was excellent in a number of measurable ways for the
4 Texas Lottery. I want to add a little bit of context from the national
5 perspective. Every lottery across the nation was impacted by the lower
6 jackpot levels of the national games. Of course, those high jackpots
7 bring people into the retail store, they keep lottery top of mind. They
8 can impact the sales of daily draw games and scratch tickets as well.
9 That makes our performance in those areas that much more impressive.

10 What is most impressive though is the relative strength of
11 our scratch ticket sales compared to other lotteries. The agency had the
12 goal for a while now of becoming the number one scratch ticket
13 jurisdiction. I'm very happy to report that last fiscal year the Texas
14 Lottery achieved this goal. We had higher scratch ticket sales than any
15 other lottery in the country. Not only that, as a preview of what our
16 sales are this year, since the beginning of this fiscal year, September
17 1st, Texas continues to be number one in the country in scratch sales.
18 That's what I had to add.

19 CHAIRMAN RIVERA: Okay. Commissioners, any discussion?

20 COMMISSIONER FRANZ: I would just say that's the one where we
21 have control. You guys are designing these and pushing them out and doing
22 strategy on that, and we have seen for years that draw games are jackpot
23 driven and all that. So, where you guys are in the driver's seat, so
24 congratulations.

25 CHAIRMAN RIVERA: So, Sergio and Will, all that work within
26 your department, we're grateful for the dedication and hard work that

1 y'all bring to the table every day. We know that the results are not
2 necessarily in your immediate control. But just on behalf of all of our
3 Commissioners, we're grateful for all of our employees and all of the
4 hard work and dedication that collectively everyone puts forward to make
5 these results happen for our veterans and our schools. So, thank you
6 all.

7 MR. RUSS: Thank you so much.

8 AGENDA ITEM XV.

9 CHAIRMAN RIVERA: Okay, next item is a report on transfers to
10 the State and agency's budget. Sergio, your item.

11 MR. REY: Again, Sergio Rey, Chief Financial Officer. So,
12 transitioning into our beneficiaries and transfers, and since we just
13 highlighted fiscal year 2024, so now we move on to the start of 2025.
14 So, I'll provide a high-level summary of the accrued revenues and
15 transfers through September 30, 2024. The details are in your meeting
16 notebooks.

17 Our accrued revenue transfers to the State were just over
18 \$130-million for the first month of fiscal year 2025. Foundation School
19 Fund received \$127.9-million, with the Texas Veterans Commission
20 receiving \$2.2-million. In total, Texas Lottery has transferred \$33.9-
21 billion to the state for education, and \$250.9-million for Texas
22 Veterans.

23 On our next slide, the second part of this presentation is to
24 talk about our budget summary for fiscal year 2024, which concluded on
25 August 31, 2024. The detailed information is also included in your
26 notebook. Now that we've completed the fiscal year, the lottery account

1 budget has expenditures and commitments totaling \$300.3-million, which
2 is 90.5% of the budget. This happens to be less than our expenditures
3 in fiscal year 2023, which is routine for the first year of a biennial
4 cycle. The bingo operations expenditures and commitments of \$2.02-
5 million were slightly higher than that of fiscal year 2023.

6 And now that we've concluded fiscal year '24, we are well
7 into our annual financial report preparation and working with our
8 external auditors, Weaver and Tidwell, in completing field work for their
9 independent review of our financials. This year our financial report,
10 including Weaver's independent audit report of our financials, is due
11 to our oversight agencies on December 15. These agencies include the
12 Comptroller's Office, the Legislative Budget Board, the State Auditor's
13 Office, as well as the Governor's Office. Commissioners, this concludes
14 my presentation. Be happy to answer any questions.

15 CHAIRMAN RIVERA: Okay, Commissioners, any discussion? Okay,
16 good job.

17 AGENDA ITEM XVI.

18 CHAIRMAN RIVERA: Next item is report on agency Sunset review
19 process. Sergio, your item.

20 MR. REY: Once again, Sergio Rey, Chief Financial Officer. In
21 your notebook there are two documents for this item; they are the
22 Legislative Budget Board Strategic Fiscal Review issued in September,
23 and the Sunset Advisory Commission Staff Report with Commission
24 decisions. I will begin with a strategic fiscal review from the LBB.
25 This version in your notebook is specifically the sections for the Texas
26 Lottery Commission. The full version is available on the LBB website.

1 The strategic fiscal review is a comprehensive budgetary analysis of a
2 state agency and its operational programs. The LBB reviews the state
3 agencies under the current Sunset review process. Besides the Texas
4 Lottery Commission, three other agencies were included in this report.
5 In this report the LBB provides an overview of the agency, its budget,
6 performance measures, revenue sources, compliance with fiscal and
7 procurement requirements, as well as providing findings for
8 consideration. These findings are more in the nature of observations
9 than those of an audit finding requiring management action.

10 The findings in this report include the agency's advertising
11 appropriations have decreased historically. LBB offered as an option to
12 eliminate end of game print notices and the estimated cost savings of
13 \$230,000 per biennium be applied to advertising. The second item was the
14 LBB provided as a finding an overview of the agency's distribution of
15 lottery revenue to the State, with a focus on projections for the
16 unclaimed prize transfers to the Foundation School Fund and for the Fund
17 for Veterans Assistance. No options or recommendations were provided.

18 The second item is the Sunset Advisory Commission Staff Report
19 with the Commission's decisions. On September 19, the Sunset Commission
20 held its hearing to adopt recommendations to be issued on its decision
21 report. These adopted recommendations are a combination of those provided
22 by the Sunset staff in the original Sunset Staff Report of the agency,
23 with modifications to some of those recommendations, along with new
24 recommendations from the members of the Sunset Commission. The decisions
25 of this meeting were included in your notebook and are available on our
26 website.

1 The Sunset Commission adopted the eight recommendations
2 associated with issue one, the agency's governing body. For issue two,
3 focused on Charitable Bingo Operations Division improvements to its
4 regulatory functions, all nine recommendations were adopted with
5 modifications to recommendation 2.2, clarifying the agency's
6 organizational hierarchy of the Bingo Director, and to recommendation
7 2.5, related to the agency's consultation with the Department of
8 Information Resources to prioritize IT updates and eliminating paper-
9 based processes. For issue three, related to licensing changes, neither
10 of the recommendations to adjust grandfathered lessors, nor eliminating
11 manufacturer or distributor licenses were adopted. And for issue four,
12 related to the continuance of the Texas Lottery Commission, the
13 recommendation to continue the agency for another 12 years was adopted.

14 Four new statutory recommendations and one new management
15 action recommendation were also adopted at the hearing. These include,
16 one, authorize the agency to place commercial lessors on administrative
17 hold, but limit the hold for a period of 10 years; two, require the
18 Commission to develop and adopt a formal process for resolving questions
19 about the Commission's authority in statutory ambiguity; three, change
20 the statutory requirements associated with the sales to minors. This
21 includes upgrading the culpability of selling to minors as criminal
22 negligence in a management action recommendation to enter in a memorandum
23 of understanding with the Texas Alcoholic Beverage Commission to share
24 information, in order to promote compliance with prohibiting the purchase
25 of lottery tickets to minors. And number four, require the Sunset
26 Commission staff to conduct a limited scope review during the 2028/29

1 review cycle. The focus would be the implementation of the statutory
2 changes approved by the upcoming 89th Legislature and the management
3 actions adopted by the Sunset Commission.

4 In addition to these new recommendations, a separate motion
5 was adopted by the Commission. This motion directed the Sunset staff to
6 evaluate the effectiveness of the agency's executive leadership, and in
7 consultation with the Lottery Commission and its stakeholders to study
8 the potential regulation of lottery ticket courier companies in Texas.
9 The results of this evaluation and the study are to be submitted to the
10 Sunset Commission as soon as possible in preparation for discussion at
11 the January 15th, 2025, Sunset Advisory Commission meeting. The Sunset
12 staff is also directed to provide the results and information to the
13 Senate Committee on State Affairs and the House Committee on Licensing
14 and Administrative Procedures.

15 As a result of this adopted motion, there have been several
16 meetings with some members of executive leadership. There have also been
17 comprehensive and extensive requests for information and documentation.
18 The agency has been cooperative with the Sunset staff request by
19 providing information promptly and thoroughly. As mentioned earlier, the
20 Sunset staff has been directed to provide a report to the members of the
21 Sunset Commission, and it is our understanding this will occur sometime
22 in December. At this time, Executive Director Ryan Mindell will provide
23 additional comments.

24 MR. MINDELL: Thank you, Sergio. In addition to Sergio's
25 comments on the ongoing Sunset process, I wanted to mention two recent
26 hearings at which I testified. There was a Senate Committee on State

1 Affairs hearing on October 15th that dealt with, among other things, the
2 Senate's interim charge on couriers in Texas. There was also a House
3 Committee on Licensing and Administrative Procedures hearing on October
4 16th that addressed, again, among other things, couriers and bulk ticket
5 purchasing. I provided testimony to both committees, reiterating the
6 agency's view that we do not have jurisdiction over couriers, but we do
7 want to be as helpful as possible to the Legislature as they review this
8 item in the upcoming session.

9 As you know, the agency provided two statutory proposals, one
10 for banning and one for regulating couriers to the Sunset Commission in
11 early September. We provided both proposals to the Senate State Affairs
12 and the House Licensing Administrative Procedures Committee. I also
13 shared with both committees that I have formed an agency work group
14 headed by our Enforcement Director John Graham and staff from Lottery
15 Operations, the Office of the Controller, Governmental Affairs, and Legal
16 Services divisions to review and potentially update those proposals. The
17 work group has been meeting weekly and yesterday was able to meet with,
18 along with Sunset staff who we invited to join, the New Jersey Lottery
19 to discuss their approach to regulating couriers. I am encouraged by the
20 progress the work group has made in getting up to speed on the issue,
21 and I anticipate that their work will be useful to the agency, Sunset
22 staff, as they study this issue, the two legislative committees, as they
23 prepare their interim reports, and to the Legislature, as bills are
24 ultimately developed and introduced during session. That's what I had
25 to add.

1 CHAIRMAN RIVERA: Okay. Ryan and staff, I know that this is
2 taken on a lot of hard work and effort in order to make sure that this
3 process is thoroughly executed. And so, on behalf of all of our
4 Commissioners, we're grateful for the work that all employees are
5 participating. And as this process continues to move forward, to please,
6 likewise, keep that positive spirit of involvement and engagement if
7 there's anything that the review process requests of Lottery. So again,
8 Ryan, thank you for your leadership at that. And Mark and I were at the
9 September meeting and just grateful for all the work that you're doing.
10 And I'll open up to any other Commissioners that have any thoughts.

11 COMMISSIONER FRANZ: Again, I think that reflects the way this
12 Commission has handled the Sunset process through its -- the whole last
13 year, of viewing this as chance to take constructive criticism and
14 suggestions for improvement. And we always welcome those, and you guys
15 are continuing that. And we'll see how that wraps up with hopefully some
16 clarification from the Legislature.

17 CHAIRMAN RIVERA: Okay.

18 COMMISSIONER FRANZ: Thanks.

19 CHAIRMAN RIVERA: Good job. Sergio, thank you very much.

20 AGENDA ITEM XVII.

21 CHAIRMAN RIVERA: Next item is the auditor's report. Darlene.

22 MS. BROWN: Good morning, Commissioners.

23 CHAIRMAN RIVERA: Good morning.

24 MS. BROWN: For the record, my name's Darlene Brown, I'm your
25 Internal Auditor. Your notebooks contain a summary of activities since
26 we last met, and there's two audits that I'd like to report on today.

1 First is we completed the procurement and contracting audit, where we
2 focused on compliance with policies and applicable regulatory
3 requirements throughout the entire cycle. This includes the solicitation
4 process, response evaluations, vendor selection, contract award and
5 monitoring, vendor performance monitoring, and contract closeout. We
6 determined that the internal controls are generally effective, which is
7 the highest rating we can give, and best practices were noted, including
8 that the processes are mature for reviewing and updating policies and
9 procedures to explicitly address any applicable legislation. We also
10 noted that both the procurement and contracting processes follow
11 checklists that are designed to address relevant policies and procedures
12 to make sure nothing is missed. We also completed the Retailer Cash
13 Incentive Program and Bonus Payment Program to ensure accuracy of
14 payments to eligible participants, and that the programs are administered
15 in compliance with applicable legislation policies and procedures.
16 Again, we determined controls were generally effective and we noticed
17 several best practices, including mature processes exist for reviewing
18 and updating policies to ensure applicable legislation is addressed, and
19 then both processes cover multiple internal divisions and external
20 entities, and they ensure accurate payments are made. We had no internal
21 control findings to report on these audits.

22 We've also prepared the Annual Internal Audit Report and we'll
23 be submitting that to the required oversight bodies tomorrow in
24 accordance with Texas Internal Audit Act. The components of this report
25 are prescribed by the State Auditor's Office, and the contents reflect

1 internal audit operations for fiscal year '24 and those planned for
2 fiscal year '25.

3 We're currently working on an advisory engagement with the
4 Bingo staff to review the licensing process. And then the final
5 discussion item I have for you today is something new, it's an annual
6 independence statement. And this is required by the Institute of Internal
7 Auditors Global Standards that take effect next year. This year we're
8 providing it as an information item, next year around this time we'll
9 actually have to seek approval. We had no impairments to conducting our
10 work and we had no perceived or actual conflicts of interest that would
11 impact our independence in performing internal audit activities. So,
12 this concludes my report for today and I'll be happy to address any
13 questions.

14 CHAIRMAN RIVERA: Okay, Commissioners, any discussion, any
15 discussion from the audit subcommittee?

16 COMMISSIONER FIELDS: Yeah, we talked about -- we went through
17 the audits and the results of that, and thank you, Darlene, for all your
18 hard work.

19 MS. BROWN: You're welcome.

20 COMMISSIONER FIELDS: They did have some opportunities for
21 improvement, which we will of course implement --

22 MS. BROWN: Mm hum.

23 COMMISSIONER FIELDS: -- and we appreciate those suggestions.

24 MS. BROWN: Thank you.

1 CHAIRMAN RIVERA: Okay. Any other discussions? Nope. Okay.
2 Cindy and Jamey, thank you for your service on the audit subcommittee,
3 and Darlene, thank you for the report.

4 MS. BROWN: Thank you.

5 AGENDA ITEM XVIII.

6 CHAIRMAN RIVERA: Okay, next item, Bingo Director report,
7 LaDonna your item.

8 MS. CASTAÑUELA: Good morning, Commissioners. For the record,
9 I'm LaDonna Castañuela, Director, Charitable Bingo Operations Division.
10 Information regarding output metrics for CBOD for August and September
11 can be found in your notebook materials. Also included in your notebooks,
12 and in compliance with §2001.560 of the Bingo Enabling Act, you will
13 find CBOD Audit Services Department's FY 2024 annual audit plan and risk
14 assessment. It was presented to the audit subcommittee at its September
15 meeting. The statutory requirement is that the audit plan is provided
16 to you, but it is not an action item. If you have any questions about
17 it, I do have with me Vivian Cohn, the division's Deputy Director,
18 available to answer them.

19 CHAIRMAN RIVERA: Okay, LaDonna, thank you. Cindy, any
20 additional items you'd like to talk about?

21 COMMISSIONER FIELDS: I think not on that topic, but I think
22 LaDonna has one other item.

23 MS. CASTAÑUELA: One more. We have a draft bingo advisory
24 opinion that was requested by Kris Keller on behalf of Croatoan Inc., a
25 licensed lessor. Mr. Keller's request asked, "If a player is playing an
26 online gambling application on his or her phone, is it considered a

1 second game of chance? And is the licensee entitled to ask a person about
2 what they're doing on their phone?" Hard copies of the draft advisory
3 opinion are available on the table at the back of the room. The draft
4 explains that in accordance with §2001.416(a) of the Bingo Enabling Act,
5 a second game of chance other than a raffle conducted under chapter 2002
6 of the Occupations Code may not be conducted or allowed during a bingo
7 occasion. And that whether or not a phone application meets the
8 definition of game of chance is a fact specific determination that can
9 only be made on a case-by-case basis. The draft further explains how to
10 interpret the word allows as used in this provision of the BEA, that a
11 licensee or registered worker who knows that a customer is playing a
12 second game of chance during an occasion and fails to stop it is in
13 violation of the law, and that licensees and registered workers may
14 investigate suspicious activity, conductors may adopt house rules that
15 prohibit illegal games and remove violators. This draft was discussed
16 at the Commission's legal subcommittee meeting. This is an action item,
17 I'll hand it over to Bob Biard, our General Counsel, to provide further
18 explanation.

19 MR. BIARD: Commissioners, we are in a bit of a time crunch
20 with this opinion. The Bingo Enabling Act requires issuing the opinion
21 within 60 days of the request, which is a date before the next Commission
22 meeting in December. And the bingo rules require a 30-day public comment
23 period on the request, which still has a few days to run. So, the opinion
24 is not ready to go final today. The board recently said that it wanted
25 to approve these opinions before they're issued, but because of this
26 timing issue, we'd like to ask your approval of the general substance

1 that LaDonna just described of the draft opinion, and to delegate her
2 the authority to finalize it after the comment period to meet the
3 deadline. The statute does authorize this delegation and it's similar
4 to what you've had to do recently, and occasionally in the past with
5 other directors when a required document is substantially complete but
6 not final at the time of the Commission meeting. So, the request for
7 your vote here is subject to your feedback on the substance of the
8 opinion to delegate to LaDonna the authority to finalize it.

9 CHAIRMAN RIVERA: Okay. Commissioners, any discussion?

10 COMMISSIONER FIELDS: I move that the Commission approve in
11 substance the draft bingo advisory opinion as presented, and delegate
12 to LaDonna the authority to finalize and issue the opinion after the
13 comment period has ended and in time to meet the 60-day deadline.

14 CHAIRMAN RIVERA: Okay, is there a second?

15 COMMISSIONER FRANZ: I'll second.

16 CHAIRMAN RIVERA: All righty. All in favor say aye.

17 (Chorus of "Ayes")

18 CHAIRMAN RIVERA: Okay. Good job, Cindy. Good job, LaDonna.

19 AGENDA ITEM XIX.

20 CHAIRMAN RIVERA: Next item, Executive Director's Report.
21 Ryan, your item.

22 MR. MINDELL: Thank you, Chairman. Again, for the record, my
23 name is Ryan Mindell, I'm the Executive Director. I do have a few
24 additional updates. First, I have some news on awards the agency has won
25 recently. At the 2024 North American Association of State and Provincial
26 Lotteries, or NASPL Annual Conference, the agency won two lottery

1 industry awards. We won an award for best retail promotion for our launch
2 event for the Lady Luck 777 ticket. That event was held right here in
3 South Austin at an H-E-B, was supported by our partners IGT and Atlas
4 Experiences. We also won an award for the best radio advertisement for
5 a scratch ticket, for our "Nose Hair Trimmer" holiday ad. That
6 advertisement was recorded in-house with a number of staff chipping in
7 for its catchy jingle. The agency was recognized as a finalist in eight
8 additional categories for a number of efforts.

9 I will note in particular that the agency was a finalist for
10 best new scratch ticket for the second straight year. This time for our
11 \$1,000,000 Cash Blast ticket that offers players a chance to win a trip
12 to the edge of space. The agency also received recently a Davey Award
13 for our in-house video efforts. The Davey Award honors the best creative
14 in marketing work by internal brand teams and small production companies.
15 This is not a lottery specific award. The agency was named a silver
16 winner in the online film and video category, for the best use of graphics
17 for video supporting the Year of the Dragon scratch ticket game.

18 Next, I want to provide an update on lottery industry groups.
19 For NASPL, I've been appointed the Chairman of the Retailer Modernization
20 Committee. This committee serves as the major point of contact between
21 the lottery industry and the national retailer community, and oversees
22 many of the in-lane and API efforts that I have been a part of for the
23 last few years. I'll also lead the finance track at the annual NASPL
24 Professional Development Seminar, and I'll be a member of the NASPL
25 Product Development Committee. For MUSL, the group that oversees the
26 Powerball game, I've been added to the marketing and promotions

1 committee, which is an excellent first committee for a newly appointed
2 director. These industry positions will keep Texas at the forefront of
3 industry initiatives. I'll continue to report to you on developments
4 from those committees and those industry groups.

5 Last, November 18th through 20th, the Texas Lottery will be
6 the co-host of the LaFleur's fall conference right here at the AT&T
7 Conference Center. We have a number of staff presenting at the conference
8 and I'll be delivering the keynote to kick it off. I would like to note
9 that I've invited Sunset staff to join us at that conference. And also,
10 I've worked with lottery directors that experience bulk purchasing events
11 to join a panel discussion with me on the issue and how it's impacted
12 lotteries. Conferences like these are just a really great opportunity
13 to learn best practices from around the industry, take those lessons
14 back to what we do here in Texas. We're lucky to be able to co-host the
15 conference right here in Austin, have a number of staff attend without
16 incurring travel costs. That concludes my report. I'm happy to answer
17 any questions you may have.

18 CHAIRMAN RIVERA: Okay. Commissioners, any discussion?

19 COMMISSIONER FIELDS: I have a quick question. Will the
20 conference be live-streamed?

21 MR. MINDELL: Yes. There may be a registration requirement to
22 view the livestream, but it should be live-streamed.

23 COMMISSIONER FIELDS: Okay. Would you guys send that out to us
24 in case we want to watch?

25 MR. MINDELL: Absolutely.

1 CHAIRMAN RIVERA: Okay. Ryan, thank you for your report.
2 Obviously, you've done an incredible amount of work since you first came
3 on five months ago, and just all the Commissioners are grateful for all
4 of your hard work that you put in every day. You've covered a lot and
5 you continue to do a lot and we're grateful, Ryan, so thank you.

6 MR. MINDELL: Thank you Chairman.

7 AGENDA ITEM XX.

8 CHAIRMAN RIVERA: All righty. Next item, enforcement cases.
9 Bob, you're up.

10 MR. BIARD: Commissioners. Again, I'm Bob Biard, General
11 Counsel. Item twenty contains twenty-four cases, tabs A through X, where
12 a lottery or bingo licensee or bingo worker violated a statute or rule
13 or did not qualify for a license. And in most of these cases, either the
14 respondent failed to appear at the hearing, and it proceeds by default,
15 or the staff and the respondent reached a settlement in the form of an
16 agreed order. We have both of these types of cases today, as well as one
17 default bingo worker case that went to the State Office of Administrative
18 Hearings or SOAH.

19 Tabs A through I are the non-sufficient fund lottery retailer
20 license revocation cases. They're handled in a single order. Each case
21 was presented at SOAH for revocation of the retailer license because the
22 licensee failed to have sufficient funds in their bank account to cover
23 electronic fund transfers to the Commission's account. In each case, the
24 licensee failed to appear at the hearing and the judge remanded the case
25 to the Commission to handle as a default matter.

1 Tabs J through U are lottery agreed orders. We have a variety
2 of cases here, but the majority of them, I think, are debit card purchase
3 cases. We have several credit card cases and one case where a retail
4 employee extended credit to a customer to purchase lottery tickets. These
5 are similar types of cases you've seen in the past and the materials are
6 all in your notebook.

7 Tabs V and W are bingo agreed orders. They're both bingo
8 worker cases, and they've been settled in the form of an agreed order.
9 I did want to call out, briefly, tab V is the Monica Weber bingo worker
10 case, and this was a case that came to you last year, I think it was in
11 the summer of 2023, and it involved a bingo worker in San Antonio who -
12 - I think the owner of the bingo hall came with Mr. Fenoglio to the
13 hearing and noted that there was an issue of adequate representation at
14 the hearing, and since the penalty was going to be to basically take
15 away her job at the bingo hall, the board agreed to send it back to SOAH
16 again to be litigated. However, in that period of time, the parties have
17 reached a settlement, so we now have a settlement here, and I'm going
18 into that detail just to let you know if you have any questions about
19 that case, since it is one you sent back to SOAH, Mr. Fenoglio is here
20 in case you have any questions.

21 Other than that, the last tab X is the one I mentioned
22 earlier, and that was a bingo worker denial case that did not settle,
23 and the respondent did not show up at the SOAH hearing, so it ends up
24 being a default as well. We have to present that to you as a default
25 order. That concludes my presentation, and you may take up the
26 enforcement orders in a single vote if you like.

1 CHAIRMAN RIVERA: Okay. Commissioners, any discussion? Is
2 there a motion to approve the orders tabs A through X?

3 COMMISSIONER FIELDS: I move.

4 CHAIRMAN RIVERA: Okay, we have a motion. Do we have a second?

5 COMMISSIONER FRANZ: Second.

6 CHAIRMAN RIVERA: We have the second. Co-approvals and co-seconds. All
7 right. All in favor say aye.

8 (Chorus of "Ayes")

9 CHAIRMAN RIVERA: Okay. Motion passes. Bob, thank you.

10 MR. BIARD: Thank you.

11 AGENDA ITEM XXI.

12 CHAIRMAN RIVERA: Next item is public comment. Does not appear
13 that we have any.

14 AGENDA ITEMS XXII. AND XXIII.

15 (The Commission did not meet in Executive Session)

16 AGENDA ITEM XXIV.

17 CHAIRMAN RIVERA: So, Commissioners, I believe this concludes
18 our business of our Commission meeting. Is there a motion to adjourn?

19 COMMISSIONER STEEN: So, moved.

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

21 (Chorus of "Ayes")

22 CHAIRMAN RIVERA: Okay, we're adjourned. Good job. Thank you,
23 everyone.

24 (Meeting concluded)

25

26