

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS LOTTERY COMMISSION  
AUSTIN, TEXAS

COMMISSION MEETING )  
FOR THE TEXAS )  
LOTTERY COMMISSION )

COMMISSION MEETING

FEBRUARY 13, 2020

10:00 a.m.

AT

TEXAS LOTTERY COMMISSION  
611 East 6th Street  
Austin, Texas 78701

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## APPEARANCES

CHAIRMAN: J. Winston Krause

COMMISSIONERS: Cindy Fields  
Mark A. Franz  
Robert Rivera  
Erik Saenz

GENERAL COUNSEL: Robert F. Biard

EXECUTIVE DIRECTOR: Gary Grief

ACTING CHARITABLE BINGO  
OPERATIONS DIRECTOR: Tom Hanson

CONTROLLER: Katheryn J. Pyka

PRODUCTS MANAGER: Robert Tirloni

McCONNELL JONES  
LANIER & MURPHY, LLP: Darlene Brown

DIRECTOR OF ADMINISTRATION: Mike Fernandez

WEAVER AND TIDWELL, LLP: Kevin Sanford

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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 and/or the Human Resources Director 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 Tex. Supreme Court Docket No. 18-0159 (Steele, et al. v. GTECH Corp.) and Tex. Supreme Court Docket No. 17-1010 (Nettles v. GTECH Corp. and Texas Lottery Commission).

State of Texas v. Equal Employment Opportunity Commission, et al. (U.S. Fifth Circuit Court of Appeals Docket No. 18-10638);

State of Texas v. C.D. (On Petition for Review to Texas Supreme Court - Docket No. 18-0808);

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.

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 prior to Executive Session . . . . . 32

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## P R O C E E D I N G S

THURSDAY, FEBRUARY 13, 2020

(10:00 a.m.)

## AGENDA ITEM NO. I

CHAIRMAN KRAUSE: Good morning. This is Winston Krause, Chairman of the Lottery Commission.

And today is February the 13th, the time is 10:00 a.m., and we're going to go ahead and get started.

Commissioners Fields, Franz, Rivera, and Saenz are present. We not only have a quorum, but for the first time in several years we have a full Commission and I'm thankful to the Governor for taking care of that.

Since our last meeting, the Governor's appointed our newest Commissioner, Cindy Fields, who like one of our other former Commissioners, is from El Paso. And her term expires in February of 2023.

Commissioner Fields is a CPA in El Paso in private practice. We welcome her and thank her for her willingness to serve, even though she's in a different time zone and that makes it a little bit more of a burden. We now have a full board of five Commissioners.

Ms. Fields, do you have any comments that you'd like to make?

COMMISSIONER FIELDS: Just glad to be

1 here.

2 CHAIRMAN KRAUSE: Excellent. Before we  
3 begin, I want to let everybody know that we have a  
4 former Bingo Commissioner, a former Bingo Director,  
5 Michael Farrell. He's tendered his resignation. We  
6 want to thank him for his service to the Commission.  
7 He worked really hard and he was a gentleman from  
8 beginning to end and we really appreciate everything  
9 that he did.

10 We -- as we normally do, we start our  
11 Commission meetings with a Pledge of Allegiance to the  
12 U.S. and Texas flag, and I'm going to ask Commissioner  
13 Rivera to lead us in that.

14 (Pledges recited)

15 AGENDA ITEM NO. II

16 CHAIRMAN KRAUSE: Our first item is a  
17 report on Commissioner training, including ethics,  
18 administrative procedure, and open government laws.  
19 And we always do this when we have a new Commissioner,  
20 and the rest of us bear through it. And so, anyway, we  
21 are happy to have a new Commissioner, and so we are  
22 very happy with her. So, Mr. Biard.

23 MR. BIARD: Thank you. Commissioners,  
24 for the record, I'm Bob Biard, General Counsel.  
25 Whenever there is a new Lottery Commissioner this



1 agency has a tradition of briefly reviewing the laws  
2 that govern the Texas Lottery Commission at that  
3 Commissioner's first open meeting. Also since 2013 the  
4 State Lottery Act has required new appointees to  
5 complete a training program before they may vote,  
6 deliberate, or be counted as a member in attendance at  
7 a Commission meeting.

8 The training must provide the appointee  
9 with information regarding the legislation that created  
10 the Commission, the programs, functions, rules, and  
11 budget of the Commission, the results of the most  
12 recent formal audit of the Commission, the requirements  
13 of laws relating to open meetings, public information,  
14 administrative procedure, and conflicts of interest,  
15 and any applicable ethics policies adopted by the  
16 Commission.

17 I want to state for the record that  
18 prior to this meeting Commissioner Fields had the  
19 required training session to go over these items with  
20 Governmental Affairs Director Nelda Treviño, Controller  
21 Kathy Pyka, and me.

22 For purposes of today's meeting I want  
23 to provide a brief overview of the highlights regarding  
24 the ethics, procedural, and open government laws  
25 governing the Commission.

1                   At the training session I provided a  
2 document titled "A Guide for Ethics Laws for State  
3 Officers and Employees." This is a Texas Ethics  
4 Commission publication, and because the Texas Lottery  
5 Commission has a number of more specific requirements  
6 we annotated it using blue ink to highlight provisions  
7 specific to the Lottery Commission.

8                   These lottery-specific provisions are  
9 generally more restrictive than the requirements that  
10 apply to other state agencies. For instance, this  
11 agency has a restriction against accepting employment  
12 or payment from a person that has a significant  
13 financial interest in the lottery, which is a defined  
14 term that includes venders of lottery goods and  
15 services, including their officers and certain  
16 employees, and licensed lottery retailers; or, on the  
17 Bingo side, from a commercial lessor, distributor, or  
18 manufacturer.

19                   Also, with respect to accepting gifts,  
20 while other agencies are subject to a de minimis  
21 exception that allows agency members and employees to  
22 accept gifts under \$50 in value, for instance to cover  
23 the cost of a meal, Lottery Commissioners and employees  
24 are prohibited from accepting any gift, which is  
25 defined in Chapter 467 to include anything of value,

1 from a person that has a significant financial interest  
2 in the lottery and certain persons associated with  
3 them, or a person who has won a lottery prize exceeding  
4 \$600 within the last two years.

5 The Lottery Commission does have an  
6 exception for Commissioners and employees to accept a  
7 gift that is given on account of a relationship that is  
8 independent of your status as a Commissioner, such as  
9 kinship or a personal, professional, or business  
10 relationship. In those cases gifts are allowed.

11 Also, the agency does not have the  
12 authority to accept gifts, so you cannot accept gifts  
13 on behalf of the Commission.

14 Next there is a restriction against  
15 certain political fund-raising activities that is  
16 unique to this agency. A Lottery Commissioner may not,  
17 and I'm quoting here, "directly or indirectly coerce,  
18 attempt to coerce, command, or advise a person to pay,  
19 lend, or contribute anything of value to another person  
20 for political purposes."

21 There are two Attorney General opinions  
22 that discuss this provision, which applies only to the  
23 Lottery Commission, and I have provided these to you.  
24 This restriction, however, does not prevent you from  
25 personally donating to political candidates or causes.

1 Those are just a few ethics points I wanted to  
2 highlight.

3 Next, with respect to procedural laws,  
4 under the Administrative Procedure Act the Commission  
5 has two key roles. First, you propose and adopt rules  
6 relating to the Lottery and Charitable Bingo, and  
7 second, you decide contested cases involving specific  
8 licensees.

9 Rules are general statements of policy  
10 or practice that are generally applicable to all  
11 persons. When you propose rules you are acting in a  
12 legislative capacity, and you may talk to anyone you  
13 wish in connection with agency rule proposals.  
14 However, you also have a judicial function, because you  
15 decide contested cases where the legal rights and  
16 duties of particular licensees are determined after an  
17 opportunity for hearing.

18 And for the Lottery Commission,  
19 contested cases usually involve a Lottery or Bingo  
20 licensee, and the issue is usually whether to deny,  
21 suspend, or revoke a license, and, on the Bingo side  
22 only, you may assess monetary penalties for violations  
23 of the agency's governing statutes or rules, or approve  
24 settlements.

25 In contested cases ex parte

1 communications are prohibited, which means you may not  
2 communicate with any person or party to a case about an  
3 issue of fact or law unless all parties have the  
4 opportunity to participate. There is an exception to  
5 this prohibition that allows you to communicate with  
6 agency staff members that did not participate in the  
7 case to use the agency's special skills or knowledge in  
8 evaluating the evidence.

9 Cases are heard at the State Office of  
10 Administrative hearings, which we call SOAH, by an  
11 independent administrative law judge who prepares a  
12 proposal, which is a recommendation for your  
13 consideration. And although it is only a  
14 recommendation, the law protects the impartial role of  
15 the judge by limiting the reasons why the Commission  
16 may change the judge's recommendation. And there are  
17 three reasons: these are, one, to correct a technical  
18 error such as a wrong name, address, date, or other  
19 uncontested fact; two, if the judge fails to properly  
20 apply the law, agency rules, policies, or prior agency  
21 decisions; or, three, if the Commission decides to  
22 overrule a prior agency decision relied on by the judge  
23 because it is incorrect or because the Commission  
24 decides it should be changed.

25 Next I want to touch on additional

1 required training. A new Commissioner is required to  
2 complete the Attorney General's online training on the  
3 Open Meetings Act and Public Information Act within 90  
4 days of taking the oath of office.

5 Commissioner, you've already completed  
6 one of those training sessions on the Public  
7 Information Act and the agency is required to maintain  
8 your training completion certificates on file so when  
9 you complete the open meeting session if you would  
10 please give that to me as well I'd appreciate that.

11 Commissioner Fields and I discussed the  
12 Open Meetings Act and Public Information Act and I  
13 won't go into detail on those here.

14 There's also a separate required webinar  
15 training course on contract management that's conducted  
16 by the Comptroller's Office. There is no time deadline  
17 on completing that, but there is also a certificate on  
18 that that I will need from you.

19 Last thing is I will note that because  
20 the Lottery Commission is a five-member board, three  
21 Commissioners are required for a quorum, and there must  
22 be at least three Commissioners present to conduct  
23 business at an open meeting.

24 This also means that two Commissioners  
25 can meet and discuss public business without violating

1 the act, but there is an important caveat to that. The  
2 Attorney General and Texas courts have said that it  
3 would be a violation of the Open Meetings Act to  
4 deliberately have a series of two Commissioner meetings  
5 with different Commissioners to decide a matter of  
6 public business outside of the public meeting.

7 This is referred to as a walking quorum,  
8 and it is not allowed. Whether you are circumventing  
9 the act, however, is a question of intent, which is  
10 always going to be a fact question.

11 Commissioners, this is a very broad  
12 overview of some of the topics we covered with  
13 Commissioner Fields. There's a lot of information in  
14 the laws governing the Commission's activity, so please  
15 feel free to contact me or my staff if you ever have  
16 any questions. Thank you.

17 AGENDA ITEM NO. III

18 CHAIRMAN KRAUSE: Our next item is  
19 connected with our annual financial audit, and Kathy  
20 Pyka is the lead on this. Looks like she's got a  
21 guest.

22 MS. PYKA: Good morning, Commissioners,  
23 my name is Kathy Pyka, Controller for the agency. With  
24 me this morning is Kevin Sanford, the engagement  
25 partner for the firm Weaver and Tidwell, who performed

1 our required annual financial audit. Kevin, I will let  
2 you proceed.

3 MR. SANFORD: Thank you, Kathy. Good  
4 morning, Chairman Krause and Commissioners. My name is  
5 Kevin Sanford. I'm a partner with the firm of Weaver  
6 and Tidwell and the lead engagement partner on the  
7 audit of the Commission's financial statements for the  
8 year ended August 31, 2019. And pleased to be here to  
9 present the results of that audit to you here today.

10 So, for the highlights of our opinion,  
11 the first item in the financial section of the document  
12 at the top of the second page, page five, once again  
13 this year our opinion is an unqualified opinion, or an  
14 unmodified opinion. That is the highest level of  
15 assurance that auditors can give to a set of  
16 financials, and it states that in all material respects  
17 the financial statements are accurately presented.

18 So for the financials themselves, just  
19 to cover the brief highlights reading from page 29,  
20 which is the Statement of Revenues and Expenses for the  
21 Lottery Fund, the primary operating fund for the  
22 gaming, the ticket sales this year were 6,251,478,000,  
23 which I believe is a record for the Commission. The  
24 operating expenses were 6.263-billion, which is  
25 primarily just over 4-billion in prizes, as well as



1 1,636,000,000 in transfers to other governmental  
2 entities within the state. All but 20-million of that,  
3 so 1,616,000,000, went to the Texas Education Agency  
4 for the Foundation School Fund. There was an increase  
5 in fair value of the Commission's investments of 26.75-  
6 million. And so when you aggregate all of that  
7 information the change in net position for the lottery  
8 fund for the year ended 08/31/19 was \$15,618,000.

9 All right, we have to conduct the audit,  
10 in accordance, of course, with U.S. audit standards,  
11 but the Commission as an agency fund -- or an agency of  
12 the State of Texas, we also have to conduct the audit  
13 in accordance with the Government Auditing Standards,  
14 which is a little bit higher threshold level that  
15 requires us to do testing on the Commission's internal  
16 control over financial reporting as well as compliance  
17 with key agreements and contracts. I'm pleased to  
18 report on page 85 of the financial document that our  
19 opinion is stated as also no exceptions to note and no  
20 findings to note within internal control or in  
21 compliance in other matters. So, again, I -- the  
22 highest level of assurance we can provide, and is a  
23 clean opinion in every way.

24 And the last item I was going to present  
25 is our letter to you, the Commissioners, as those that

1 are responsible for oversight of us as auditors during  
2 the performance of the engagement. Really nothing here  
3 to report, it's relatively standard boilerplate  
4 language, but it does state our responsibility, of  
5 course, is to audit the financial statements. It's  
6 management's job to prepare them. And our report was  
7 dated in December of 2019 as an unmodified opinion.  
8 And really unless there's any other questions I think  
9 it's relatively standard boilerplate language, but  
10 again, I'm more than happy to go into any other level  
11 of detail or answer any questions that anyone may have.

12 CHAIRMAN KRAUSE: Does our newest  
13 Commissioner as a CPA have any questions about our  
14 unqualified opinion?

15 Commissioner FIELDS: I don't.

16 CHAIRMAN KRAUSE: Well, we've been  
17 having unqualified opinions year after year, and we're  
18 proud of that, because we are the most transparent  
19 agency, and we work hard to keep it that way. So thank  
20 you for coming up and giving us this report.

21 MR. SANFORD: Thank you, Commissioners.

22 MS. PYKA: Thank you.

23 AGENDA ITEM NO. V

24 CHAIRMAN KRAUSE: We're going to pass  
25 Item 4. Trace Smith is the Chairman of the BAC, and

1 I'm always impressed when he appears, because he drives  
2 from Texarkana, which is not quite as far as driving  
3 from El Paso, but he is not here today, and so we're  
4 going to pass Item 4 and we're going to head on to the  
5 items that Mike Fernandez is going to visit with us  
6 about.

7 MR. FERNANDEZ: Good morning, Mr.  
8 Chairman, Commissioners. For the record, my name is  
9 Mike Fernandez. I'm the Director of Administration.  
10 Item 5 in your notebook is a briefing item to advise  
11 the Commission of staff's intent to extend our current  
12 contract with Johnson Control Security Solutions, our  
13 security monitoring contractor, for a period of two  
14 years and add drawing studio surveillance equipment.  
15 Commissioners have each independently confirmed they  
16 have no financial interest in Johnson Controls Security  
17 Solutions. I'll be happy to answer any questions, Mr.  
18 Chairman.

19 CHAIRMAN KRAUSE: Questions,  
20 Commissioners? Does this contract include the work  
21 that they're probably going to do in connection with  
22 our new building?

23 MR. FERNANDEZ: No, sir.

24 CHAIRMAN KRAUSE: Okay.

25 MR. FERNANDEZ: This is going to get us

1 up to that point, but we will -- we will go out for a  
2 bid prior to that time. They'll be engaged in the  
3 transition, but they will not be the contractor of  
4 record when we make that move unless they win that  
5 deal.

6 CHAIRMAN KRAUSE: So our new building's  
7 really not even cresting the horizon for us.

8 MR. FERNANDEZ: Well, it's in 20 --  
9 it's August 31, 2022. And, you know, we have a hard  
10 stop on this build, and they're very much aware of that  
11 over at the Texas Facilities Commission.

12 CHAIRMAN KRAUSE: Ah, good. Okay.  
13 Excellent. All right, thank you so much.

14 AGENDA ITEM NO. VI

15 CHAIRMAN KRAUSE: Kathy, your report yet  
16 again.

17 MS. PYKA: Good morning, Commissioners.  
18 My name is Kathy Pyka, Controller for the agency. With  
19 me this morning is the Commission's Products Manager,  
20 Robert Tirloni.

21 Commissioners, our first chart this  
22 morning reflects the comparative sales through the week  
23 ending February 8th, 2020. Total Fiscal Year 2020  
24 sales through this 23-week period are \$2,715,000,000,  
25 which is a decrease of \$81-million, or 2.9 percent

1 under the sales value for Fiscal Year 2019.

2 Commissioners, when we last met in  
3 December, our total year-over-year decline was \$154-  
4 million, so better summarized, in just 9 weeks the  
5 year-over-year total sales decline has been reduced by  
6 \$73-million.

7 Our Fiscal Year 2020 ticket sales,  
8 scratch ticket sales, reflected on the second orange  
9 bar, are \$2,209,000,000, which is a \$119-million  
10 increase over the Fiscal Year 2019 sales figure, and  
11 with a growth rate of just over 5.7 percent over last  
12 fiscal year, we have now reported scratch-ticket sales  
13 increases in every single week of the fiscal year. Our  
14 most recent week was just shy of \$112-million, and that  
15 set a new weekly sales record for scratch-ticket sales,  
16 breaking the record that we had set in December at  
17 \$108.5-million. Our scratch-ticket sales amount to  
18 81.4 percent of total sales for this period, as  
19 compared to 74.7 percent last fiscal year.

20 And now moving to draw sales. On the  
21 second blue bar, our Fiscal Year 2020 draw sales are at  
22 \$506.3-million, which is a \$200-million decrease, or  
23 28.3 percent under Fiscal Year 2019 sales. The draw-  
24 game sales decline is attributed to the 1.6-billion  
25 Mega Millions jackpot that we had in October of Fiscal

1 Year 2019, as well as a 750-million Powerball jackpot  
2 for that same period.

3 With that, Robert will now provide an  
4 overview of sales by product.

5 MR. TIRLONI: Thanks, Kathy, good  
6 morning, Commissioners. So this is the year-over-year  
7 comparison by product through Saturday, February 8th,  
8 so through last Saturday.

9 So at the top we have the Jackpot  
10 portion of the portfolio, and you can see we're down  
11 almost \$205-million for the Jackpot games. The bulk of  
12 that deficit is, of course, coming from the Mega  
13 Millions game. Kathy just mentioned the lack of  
14 jackpots that we've seen in '20 compared to '19. So  
15 this is a \$159-million deficit here from Mega Millions  
16 and its add-on games, and then there's another \$47-  
17 million decline from Powerball.

18 The good news is our in-state games are  
19 seeing a little bit of lift. Lotto Texas and its add-  
20 on game are both up and our smaller in-state rolling  
21 Jackpot game, Texas Two Step, is up \$700,000.

22 If we move to the middle of the slide in  
23 the blue font these are our daily games. Our daily  
24 games are up just under \$5-million through last  
25 Saturday. We are seeing some nice gains from Pick 3

1 and Daily 4. You'll remember that we added the new  
2 feature, Fireball, in the spring of 2019, and so we  
3 believe that is lending to this increase that we're  
4 seeing.

5 All or Nothing is also up 1.6-million,  
6 and Cash 5 is down 1.2-million. Cash 5 is competing  
7 against the same time period last year when we had a  
8 lot of launch activity going on. We changed that game  
9 right at the beginning of fiscal '19. So, all told,  
10 the draw games are down \$200-million.

11 As Kathy mentioned, we're seeing  
12 phenomenal growth from the scratch portion of the  
13 portfolio. Scratch is up \$119-million, and we have  
14 some very successful games out in market right now with  
15 more to come. And so we believe that over the next  
16 months we will definitely erase this \$81-million  
17 deficit by slowly chipping away at it week after week  
18 via our successful scratch sales. And that's the end  
19 of our sales presentation for today, but we're happy to  
20 answer any questions if you have any.

21 CHAIRMAN KRAUSE: Commissioners,  
22 questions? Thank you very much.

23 MR. TIRLONI: Thank you.

24 AGENDA ITEM NO. VII

25 CHAIRMAN KRAUSE: Kathy, you're still

1 up.

2 MS. PYKA: Certainly. Commissioners,  
3 Tab 7 includes information on the agency's transfers to  
4 the state as well as the agency's budget status. The  
5 report in your notebook reflects accrued revenue  
6 transfers and allocations to the Foundation School Fund  
7 and the Texas Veterans Commission as well as the  
8 allocation of unclaimed prizes for the four-month  
9 period ending December 31st of 2019.

10 We have since completed the revenue  
11 transfer for the period ending January 31st of 2020 in  
12 which I will update you on this morning. Our total  
13 accrued revenue transferred to the state now amounts to  
14 \$558.3-million for the first five months of fiscal year  
15 2020. Of the \$558.3-million transferred to the state,  
16 \$532.1-million is the amount transferred to the  
17 Foundation School Fund. \$7.2-million to the Texas  
18 Veterans Commission, with the remaining balance of 19-  
19 million transferred from unclaimed prizes.

20 This leaves us with a 10 percent, or a  
21 \$59.3-million decrease under revenue to the Foundation  
22 School Fund for the same period last fiscal year.  
23 Again, last fiscal year we had had large jackpot rolls  
24 for both Mega Millions and Powerball attributing to the  
25 large revenue growth we had in fiscal year 2019. Our



1 total cumulative revenue to the Foundation School Fund  
2 through January of this year is now at \$24.6-billion.

3 Also included in your notebook is the  
4 agency's Fiscal Year 2020 Method of Financing Summary  
5 for the first quarter ending November 30th of 2019.  
6 The Commission's Lottery Account Budget for Fiscal Year  
7 2020 is \$254.9-million. Of this amount 71.1 percent  
8 was expended and encumbered through the end of the  
9 first quarter.

10 The Bingo administration budget funded  
11 by General Revenue is \$2.5-million with 90.3 percent  
12 expended and encumbered through the end of the first  
13 quarter.

14 Commissioners, this concludes my  
15 presentation. I'd be happy to answer any questions.

16 CHAIRMAN KRAUSE: Commissioners, thank  
17 you so much.

18 MS. PYKA: Thank you.

19 Agenda Item No. VIII

20 CHAIRMAN KRAUSE: Darlene.

21 MS. BROWN: Good morning,  
22 Commissioners. My name's Darlene Brown, the Internal  
23 Auditor. In your binder I have my regular status  
24 report for you. I'm also presenting and discussing  
25 with you three audit reports that we have recently

1 issued. And we all have also completed the review of  
2 the Bingo operations and have provided you the draft  
3 copy of that report.

4 The first report I would like to give  
5 you the highlights on is the Implementation of House  
6 Bill 2578. We rated those internal controls as  
7 effective for prize fee allocation distribution, but we  
8 also rated on the Bingo side that there's major  
9 improvement needed for refund calculations.

10 What we noted was that the Office of the  
11 Controller -- they have some processes to make sure  
12 that the information was -- they'd received the prize  
13 fee distribution allocation amounts from the Bingo  
14 Division that they're accurately distributed. But we  
15 also noted that the Bingo Division did not have  
16 processes in place to make sure that those license fee  
17 refunds were issued accurately. We found some errors.

18 Now I know that every penny counts to  
19 these charitable organizations, so every error is very  
20 material to them, but on a global perspective the total  
21 amount of dollar error was immaterial.

22 So our recommendations there were that  
23 the Division needed to develop written procedures to  
24 act as a methodology for issuing refunds going forward.  
25 That this Bingo Division needed to update their

1 mailroom procedures to not accept money if it was not  
2 due to the organization. And then our biggest  
3 recommendation is that we think that there needs to be  
4 100 percent reconciliation of all the ledger accounts  
5 to make sure that they're accurate, given the  
6 inaccuracies that we saw.

7 So if there are no questions on that  
8 report I'd be happy to move on to the next one.

9 CHAIRMAN KRAUSE: Please.

10 MS. BROWN: Okay. So the next two  
11 reports, the first one is the Lottery Operation's  
12 Customer Service Program. We rated those as best  
13 practices. We saw a lot of processes in place that  
14 could be replicated by other lottery agencies, and  
15 also, that the -- providing the exemplary customer  
16 service is one of the agency's six core values, but  
17 when you speak to staff here in your agency, no matter  
18 what the process is, there's always positive outlook  
19 and always putting the customer first.

20 The second audit report that I'm, well,  
21 it's actually the third one, is the Cybersecurity  
22 Program. We also rated that as best practices, and we  
23 also know that Cybersecurity is only as good as today,  
24 because there's always going to be attempts out there.  
25 But this agency has processes and systems in place that

1 go above and beyond what the state's requirements are  
2 for protecting the assets and data.

3 We also noted that the agency has really  
4 good processes in place to quickly identify a potential  
5 attack and be able to respond to that very, very  
6 quickly. So, therefore, that's why we rated it as best  
7 practices.

8 If there are no questions on these  
9 reports I will be issuing them and they'll be posted to  
10 the website. Thank you.

11 CHAIRMAN KRAUSE: Well, this is an  
12 action item, and so we've got audit reports to approve.

13 MR. RIVERA: Move for approval.

14 MR. FRANZ: Second.

15 CHAIRMAN KRAUSE: All in favor say aye.

16 (Chorus of "ayes")

17 Approved, thank you, ma'am. We love  
18 having our reports say, Best practices, along with our  
19 report saying, unqualified opinion. So there you have  
20 it.

21 MR. BIARD: Commissioners, Darlene, I  
22 was -- I was just wondering, do you want to mention the  
23 Organization Review?

24 MR. BROWN: I did.

25 MR. BIARD: Okay. I'm sorry. All

1 right, excuse me.

2 AGENDA ITEM NO. X

3 CHAIRMAN KRAUSE: As I mentioned we  
4 don't have a Bingo Director at the moment, so we're  
5 going to pass Item 9, which is the Bingo Director's  
6 Report and move on to the Executive Director.

7 MR. GRIEF: Yes, Mr. Chairman. Other  
8 than what's in your notebooks I have nothing further to  
9 report.

10 CHAIRMAN KRAUSE: That's what I wanted  
11 to hear.

12 AGENDA ITEM NO. XI

13 CHAIRMAN KRAUSE: Enforcement, Mr.  
14 Biard.

15 MR. BIARD: Great. Thank you,  
16 Commissioners. Item 11 contains 20 Lottery and Bingo  
17 enforcement matters. These are Tabs A through T in  
18 your notebook. In these cases Commission staff either  
19 found a licensee violated a statute or rule, or an  
20 applicant did not qualify for a license. In many cases  
21 the respondent failed to appear at the hearing, and it  
22 proceeds by default, or the staff and the respondent  
23 reached a settlement in the form of an agreed order.

24 Occasionally we have litigating cases,  
25 and we have two of those today. I'll briefly describe

1 the cases and you can take them up in a single vote if  
2 you'd like.

3 Tabs A through M are the non-sufficient  
4 fund lottery retailer license revocations and these are  
5 handled in a single order. Each case was presented at  
6 the State Office of Administrative Hearings for  
7 revocation of the retailer license because the licensee  
8 failed to have sufficient funds in their bank account  
9 to cover electronic fund transfers to the Commission's  
10 account.

11 In each case the licensee failed to  
12 appear, and the judge remanded the case to the  
13 Commission to handle as a default matter. That means  
14 since the licensee failed to appear, the allegations in  
15 the Commission's Notice of Hearing are deemed admitted.  
16 Your notebook contains a single order to revoke each of  
17 these 13 licences.

18 Next, Tabs N through Q are Lottery  
19 Agreed Orders. These are settlements. Tab R is a  
20 litigated lottery case, Mega Mart in San Antonio. The  
21 judge agreed with the Commission staff in this matter  
22 and recommends revocation.

23 Tab S is a Bingo Agreed Order. This  
24 case involves deferred rents, involved a charitable  
25 unit of five charities, and a commercial lessor.

1                   Tab T is a litigated Bingo case  
2                   involving failure to pay prize fees, and the judge in  
3                   this case agreed with our staff's recommendation to  
4                   revoke the license.

5                   That concludes my presentation, and you  
6                   may take up the enforcement orders in a single vote if  
7                   you like, and I'll be happy to answer any questions if  
8                   you have them.

9                   CHAIRMAN KRAUSE: All right. We do want  
10                  to take them up in a single vote. Now I'm looking for  
11                  a motion to do so.

12                  COMMISSIONER FRANZ: Motion.

13                  Commissioner RIVERA: Second.

14                  CHAIRMAN KRAUSE: All in favor say aye.

15                  (Chorus of "ayes")

16                  Done.

17                  AGENDA ITEM NO. XIII

18                  CHAIRMAN KRAUSE: At this point I move  
19                  that the Texas Lottery Commission go into Executive  
20                  Session to deliberate significant personnel matters,  
21                  especially regarding the interim Bingo Commissioner,  
22                  and to receive legal advice. And so, anyway, as posted  
23                  in our Open Meeting Notice. Is there a second?

24                  MR. RIVERA: Second.

25                  CHAIRMAN KRAUSE: All in favor say aye.

1 (Chorus of "ayes")

2 We're in Executive Session. The vote's  
3 unanimous, and we are going in at record time of 10:23.

4 AGENDA ITEM NO. XIV

5 CHAIRMAN KRAUSE: The Texas Lottery  
6 Commission is out of Executive Session at 11:10 a.m.  
7 Is there any action to be taken as a result of  
8 Executive Session?

9 Commissioner RIVERA: Yes. I move that  
10 the Commission appoint Tom Hanson as the acting Bingo  
11 Director at the annual salary of \$125,000, and that we  
12 direct Tom to work with HR Director and Internal Audit  
13 to implement the recommendations of the Internal  
14 Auditor's Charitable Bingo Operations Division  
15 organization review.

16 CHAIRMAN KRAUSE: Is there a second?

17 UNKNOWN SPEAKER: Second.

18 CHAIRMAN KRAUSE: All in favor say aye.

19 (Chorus of "ayes")

20 So done. Tom?

21 MR. HANSON: Commissioners, for the  
22 record, my name is Tom Hanson. I formally accept the  
23 offer as Acting Director of the Charitable Bingo  
24 Division. I look forward to working with the staff and  
25 serving not only the staff, but the Commission, in that



1 capacity. Thank you very much.

2 MR. RIVERA: Tom. Are there any Bingo  
3 employees in the room? Raise their hands. Fantastic.  
4 So this body, this, you know, Chairman Krause, and your  
5 Commissioners are very excited about Tom as the  
6 interim. We placed tremendous value in all the things  
7 that you are doing as an organization supporting Bingo  
8 across the state.

9 So we're confident in his abilities.  
10 We're excited about the days and weeks that are ahead,  
11 as it is a new day for Bingo, and so you have our full  
12 faith and confidence, and we look forward to positive  
13 things happening for the Division in the future. So  
14 we'll continue to have this discussion moving forward,  
15 but we're very excited and pleased about today.

16 CHAIRMAN KRAUSE: Any other comments  
17 from the Commissioners?

18 AGENDA ITEM NO. XV

19 CHAIRMAN KRAUSE: All right. Well, I  
20 move that we adjourn.

21 MR. RIVERA: Amen. Second.

22 CHAIRMAN KRAUSE: So, all in favor say  
23 aye.

24 (Chorus of "ayes")

25 All right, we are adjourned at 11:13.

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(Proceedings concluded at 11:13 a.m.)

## C E R T I F I C A T E

STATE OF TEXAS )

COUNTY OF HARRIS )

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

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

IN WITNESS WHEREOF, I have hereunto set my  
hand and seal this 10th day of October, 2019.

/s/ Kimberly C. McCright

Kimberly C. McCright

Certified Vendor and Notary Public

Verbatim Reporting &amp; Transcription, LLC

1322 Space Park Drive, Suite C165

Houston, Texas 77058

281.724.8600