

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS LOTTERY COMMISSION

AUSTIN, TEXAS

COMMISSION MEETING)
FOR THE TEXAS)
LOTTERY COMMISSION)

COMMISSION MEETING

DECEMBER 3, 2020

10:00 a.m.

AT

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

VIA ZOOM WEBINAR

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APPEARANCES

CHAIRMAN:	Robert G. Rivera
COMMISSIONERS:	Cindy Lyons Fields
	Mark A. Franz
	Erik C. Saenz
	James H.C. "Jamey" Steen
DIRECTOR OF ADMINISTRATION:	Mike Fernandez
BERRYDUNN:	Chris Ellingwood
DIRECTOR OF LOTTERY OPERATIONS:	Ryan Mindell
SURVEY RESEARCH INSTITUTE UNIVERSITY OF HOUSTON HOBBY SCHOOL:	Gail Buttorff
SURVEY RESEARCH INSTITUTE UNIVERSITY OF HOUSTON HOBBY SCHOOL:	Jim Granato
GENERAL COUNSEL:	Robert F. Biard
BINGO ADVISORY COMMITTEE CHAIRMAN:	Trace Smith, III
ASSISTANT GENERAL COUNSEL:	Kyle Wolfe
CONTROLLER:	Katheryn J. Pyka
PRODUCTS MANAGER:	Robert Tirloni
McCONNELL JONES LANIER & MURPHY, LLP:	Darlene Brown
CHARITABLE BINGO OPERATIONS DIRECTOR:	Tom Hanson
EXECUTIVE DIRECTOR:	Gary Grief

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1 A. To deliberate personnel matters,
2 including the appointment, employment,
3 evaluation, reassignment, duties, discipline,
4 or dismissal of the Executive Director and/or
Charitable Bingo Operations Director pursuant
to §551.074 of the Texas Government Code.

5 B. To deliberate the duties of the General
6 Counsel and/or the Human Resources Director
pursuant to §551.074 of the Texas Government
7 Code.

8 C. To receive legal advice regarding pending
9 or contemplated litigation or settlement
10 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:

11 Pending litigation regarding Fun 5's Scratch
12 Ticket Game #1592, including Tex. Supreme
Court Docket No. 18-0159 (Steele, et al. v.
13 GTECH Corp.) and Tex. Supreme Court Docket
No. 17-1010 (Nettles v. GTECH Corp. and Texas
14 Lottery Commission) and the remand of these
cases;

15 Legal advice regarding the Governor's March
16 13, 2020 COVID-19 state of disaster
declaration (as renewed thereafter) and
17 related Texas Lottery Commission matters,
Texas Government Code Chapters 466 (State
18 Lottery Act) and 467 (Texas Lottery
Commission), the Bingo Enabling Act, the Open
19 Meetings Act, the Public Information Act, the
Administrative Procedure Act, employment and
20 personnel law, procurement and contract law,
evidentiary and procedural law, ethics laws,
21 and general government law.

22 Legal advice regarding any item on this open
meeting agenda.

23 XV. Return to open session for further
24 deliberation and possible action on any
25 matter posted for discussion in Executive
Session. Any matter posted for Executive
Session also may be the subject of discussion

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P R O C E E D I N G S

THURSDAY, DECEMBER 3, 2020

AGENDA ITEM NO. I

CHAIRMAN RIVERA: Good morning, everyone. This is Robert Rivera. This is the meeting of the Texas Lottery Commission called now to order. Today is December 3rd, the time is 10:00 a.m. First, we're going to do a roll call of the Commissioners. Start with Commissioner Fields. Commissioner Franz -- are you there, Fields?

COMMISSIONER FRANZ: Franz is here.

CHAIRMAN RIVERA: Franz is here. Okay. We'll go on to Saenz.

COMMISSIONER SAENZ: Here.

CHAIRMAN RIVERA: Commissioner Steen.

COMMISSIONER STEEN: Here.

CHAIRMAN RIVERA: Okay. Commissioner Fields?

COMMISSIONER FIELDS: Here.

CHAIRMAN RIVERA: Okay. Perfect. We have a quorum.

This meeting is conducted on Zoom pursuant to Governor Abbott's temporary suspension of certain open meeting laws during COVID-19 Disaster Declaration. As stated in the meeting notice, public

1 comment requests were due by 5:00 p.m. yesterday. For
2 the benefit of the audience and our court reporter, we
3 will ask every speaker to state their name before they
4 speak.

5 Before we start I want to let everybody
6 know -- everyone know that since our last meeting
7 Governor Abbott designated Commissioner Fields as our
8 Bingo Commissioner. The Bingo Commissioner is a
9 position that is required by our governing statute and
10 this announcement is great news for the bingo program
11 and the Texas bingo industry.

12 Commissioner Fields brings a wealth of
13 experience in business and state government that -- and
14 we thank her for her willingness to serve in this
15 important position.

16 Commissioner Fields, do you -- do you
17 have a few words so far in your few weeks in?

18 COMMISSIONER FIELDS: Yeah. I've
19 already started working with Tom and it's been a real
20 pleasure. I'm glad to serve in this capacity. And I
21 think we can -- we can do some good things with
22 Charitable Bingo. So, I'm glad to -- glad to be here.

23 CHAIRMAN RIVERA: Wonderful. Well, I
24 know that you've hit the ground running and I've heard
25 from lots of folks regarding your involvement in the

1 action items ahead that we'll in part discuss later in
2 this meeting. So, I thank you for your commitment to
3 Texas bingo.

4 AGENDA ITEM NO. II

5 CHAIRMAN RIVERA: Okay. The first item
6 is the biennial security study of the lottery. Mike,
7 this is your item.

8 MR. FERNANDEZ: Good morning Mr.
9 Chairman, Commissioners. For the record my name is
10 Mike Fernandez and I'm the Director of Administration.

11 Item 2 in your notebook is a
12 presentation of the 2020 Biennial Security Study of the
13 Texas Lottery Commission. Government Code 466.020
14 requires the Executive Director at least once every two
15 years to employ an independent firm to conduct a
16 comprehensive security study of all aspects of Lottery
17 security, stipulating the 12 specific areas that must
18 be reviewed.

19 The Act further requires copies of the
20 study be provided to the Commission, the Governor, and
21 Legislature. A copy of the public report will be
22 placed on the agency website and the appropriate
23 offices notified of its availability.

24 The 2020 Security Study was conducted by
25 BerryDunn. With me this morning is Christopher

1 Ellingwood, Senior Manager, Information Technology
2 Assurance, to present the study. I will now turn it
3 over to Chris. Chris, it's yours.

4 MR. ELLINGWOOD: Great. Thank you,
5 Mike. Good morning everyone. As Mike said, my name is
6 Christopher Ellingwood. I am a senior manager at our
7 Information Technology and Lottery Services group at
8 BerryDunn. I'd like to just talk briefly on the
9 process for which we've conducted the security study,
10 introduce you to just a little background of the firm,
11 and present some very high-level results of the
12 security study.

13 Now, BerryDunn is headquartered out in
14 Portland, Maine. And my team and my group specializes
15 in lottery services. On a given year we're providing
16 approximately 30 audits to state lottery agencies and
17 their vendors around security and internal controls.
18 We also work with lotteries all over the United States,
19 Carribean, Canada, and Europe.

20 We have worked with new lotteries and
21 new systems, including digital, sportsbook, and we have
22 a wide gamut and view into emerging products throughout
23 the industry. And this is our third time working with
24 the Texas Lottery on the security study. And we have
25 been working in the industry since 1995. I have a

1 dedicated team of about eight people who work full-time
2 in the lottery with me.

3 We want to really thank Mike Fernandez,
4 Eric Williams, Joan Kotal, and Jason Cannaday for
5 helping us through the security study.

6 As you know with COVID, things are a
7 little different this year. And we started our
8 security study on site at the Texas Lottery offices,
9 and that was actually our last business trip of 2020
10 before we were grounded from the pandemic. We were
11 very fortunate that working with the Texas Lottery
12 personnel, the flexibility given to us and the
13 willingness and effort of everyone who works at the
14 Lottery to get us the information, spend a little extra
15 time on Microsoft Teams meetings, sharing screens,
16 running the computer, and showing us things that
17 normally would be a lot more efficient done in person,
18 but we got through it.

19 This year, as always, our security study
20 consists of three phases: a planning phase, a risk
21 phase, and the assessment phase. As I mentioned, this
22 is our third year doing the security study for the
23 Texas Lottery, and we want to comment on the success of
24 the investment they have made over past
25 recommendations. And we've noted a lot of new

1 technology, new system upgrades, and a new focus for IT
2 security that was put in place.

3 So, with that, we spent our first part
4 of our phasing -- planning phase, understanding the new
5 changes that were made and some of the new products,
6 especially around the installation of the in-lane
7 system, the in-lane sales system, and the QUICKTICKETS.

8 We interviewed approximately 22
9 managers, and high-level personnel throughout nearly
10 every department of the Lottery and we identified about
11 169 risks which are based on best practice and current
12 procedures within the Lottery. From those 169 risks
13 and through our meetings, we identified 199 internal
14 controls that are in place throughout the agency to
15 mitigate those risks.

16 And we provided the Texas Lottery with a
17 detailed report that broke down all of the risks and
18 what those results were. This also included an
19 assessment of vendors, including IGT and other new
20 vendors that were put in place throughout the last two
21 years.

22 The second phase is that we came in and
23 we tested those 199 controls for the operating
24 effectiveness throughout the two-year period since when
25 the last security study was performed. We tested this

1 through inspection of documents, sampling, interviews,
2 and observation of system configurations. While we
3 were doing this, we were also looking for opportunities
4 based on our industry experience on controls that were
5 happening, processes, and seeking opportunities for
6 improvement and best practices.

7 At the result of our report, we did have
8 one finding noted around internal controls where one
9 control was not performed, and it is my understanding
10 that's been addressed.

11 We also provided the Lottery with 10
12 best practice recommendations: 7 were moderate risk, 3
13 were low risk. None of the risk or findings would
14 impact the security or the integrity of any of the
15 games, systems or products within the Texas Lottery as
16 also noted.

17 A lot of our recommendations and best
18 practices were focused around some of the new systems
19 that were put in place, virtualization of computing
20 systems, and some third-party management as new
21 products are introduced to the Lottery.

22 That is all I have to present to you.
23 Any questions or anything else, please let me know.
24 And again, thank you everyone at the Lottery for their
25 help. It was a wonderful experience, and unique for

1 all of us, and we got through it with the COVID
2 pandemic.

3 CHAIRMAN RIVERA: Okay. Wonderful
4 presentation and information. Commissioners, any
5 discussion?

6 AGENDA ITEM NO. III

7 CHAIRMAN RIVERA: Okay. Next item is
8 the 2020 demographic report on lottery players. Ryan,
9 this is your item.

10 MR. MINDELL: Good morning. For the
11 record, Chairman and Commissioners, my name is Ryan
12 Mindell, the Director of Lottery Operations.

13 As you know, Section 466.021 of the
14 State Lottery Act requires the executive director to
15 conduct a demographic study of Texas Lottery players
16 every two years. The results of the study must be
17 presented to the Commission, the Governor, and the
18 Legislature prior to each legislative session.

19 Item 3 in your notebook is the 2020
20 Demographic Study. Here today is Dr. Gail Buttorff,
21 Co-Director of the Survey Research Institute at the
22 University of Houston's Hobby School of Public Affairs
23 and she will present to you the results of the
24 demographic study. With that, I'll turn it over to Dr.
25 Buttorff.

1 DR. BUTTORFF: Good morning, and thank
2 you for having me. As Ryan mentioned, my name is Gail
3 Buttorff from the Hobby School of Public Affairs. I'm
4 also joined by Dr. Jim Granato who is the Associate
5 Dean of the Hobby School at the University of Houston.

6 We're here today to present the results
7 of the 2020 Demographic Survey of Texas Lottery
8 Players. The next slide, please.

9 And while they are working on the
10 slides, I can just go ahead and get started. The
11 survey was conducted between August 24th and September
12 15th, 2020. We had a sample size of 1,687.

13 We conducted this survey by both phone
14 and online. So the distribution was 64 percent of
15 respondents were contacted via phone, and 36 percent of
16 respondents were contacted online.

17 The margin of error for the survey was
18 plus or minus 2.4 percent, and that's at a 95 percent
19 confidence level. Okay. Next slide, please.

20 Okay. So compared to 2018, we saw about
21 a 3.2 percentage points increase in the participation
22 rate. So among all respondents, 45.2 percent reported
23 playing the Texas Lottery at some point during the past
24 year.

25 In terms of demographic differences

1 between players and non-players amongst survey
2 respondents, we found statistically significant
3 differences for those characteristics including income,
4 employment status, whether a respondent owns or rents
5 their home, whether they have children under 18 living
6 in the household, gender, and Hispanic origin.

7 In terms of amounts spent, we saw an
8 increase over the past few years from \$13 -- and this
9 is the median dollars spent -- \$13 in 2016, \$25 in
10 2018, and finally in 2020 we had \$36 in terms of the
11 median amount spent. Next slide, please.

12 In terms of participation rates by
13 lottery sales districts, the highest participation
14 rates were in McAllen, Waco, and Houston East. And
15 McAllen had a participation rate of 58.6, Waco of 52.8,
16 and Houston East of 52.7. The lowest sales districts
17 by participation rate were Tyler, Fort Worth, and
18 Houston West.

19 The highest average expenditure per
20 month was in El Paso, and that average was \$82.93 per
21 month. And the highest median expenditure per month
22 was in the McAllen sales district with \$56 per month on
23 average. Next slide, please.

24 Okay. In terms of which games were --
25 had the highest participation rate, Lotto Texas

1 remained the most popular by far with 74 percent of
2 respondents saying they played it at least once in the
3 last year. This was followed by Scratch, with a
4 participation rate of 70.4 percent, Pick 3 with 60.7
5 percent participation rate, Mega Millions with a
6 participation rate of 56.8, and Powerball with a
7 participation rate of 51 percent.

8 In terms of highest average expenditure
9 per play, this was for the Fireball feature with Pick 3
10 and that average expenditure was \$24.82 per play.

11 The game and feature with the highest
12 average number of times played was Fireball feature
13 with Daily 4, and this had an average of 2.79 times per
14 week played among respondents. And, finally, Daily 4
15 was played -- had the highest average play per month at
16 5.17 times per month. Next slide, please.

17 Okay. And as for the average number of
18 times played, whether weekly, monthly, or annually,
19 compared to 2018, we saw stable participation for Lotto
20 Texas -- or stable or increases for Lotto Texas, Mega
21 Millions, All or Nothing. Scratch was stable or down
22 for the number of times played weekly, monthly, or
23 annually. And we had mixed results for Powerball, Pick
24 3, Cash 5, Megaplier, and the others listed there.

25 In terms of average dollars spent per

1 play, the games that were either stable or had
2 increases compared to 2018 were Lotto Texas, Scratch,
3 Mega Millions, Powerball, Pick 3, Cash 5, Megaplier,
4 Power Play, Extra, Texas Two Step, All or Nothing, and
5 finally Daily 4. Next slide, please.

6 Okay. This figure shows the
7 participation rate over the last 27 years. So, you
8 know, from the mid '90s we've seen a decrease in the
9 participation rate of Texas Lottery, however, over the
10 past, you know, five or six years it has been steadily
11 increasing. And from 25 percent in 2014 to now in 2020
12 we have a participation rate of 45.2 percent. Next
13 slide, please.

14 And this table highlights participation
15 rates and some key changes for the games and features.
16 Though, as mentioned earlier, Lotto Texas had the
17 highest participation rate in 2020 with about 75
18 percent of players having played it at least once
19 during the last year.

20 In terms of changes in participation
21 rate from 2018 to 2020, Powerball saw the largest
22 decrease. It had a decrease in its participation rate
23 of 5.4 percent. And Pick 3 saw the highest increase in
24 its participation rate with 19 percent increase from
25 the participation rate in 2018.

1 In terms of frequency of purchase, as
2 noted earlier, Daily 4 had high frequency of purchase
3 and for both at least one -- so for both weekly and
4 monthly. And the average number of times played per
5 week and per month, as noted previously, were for Daily
6 4 and the Fireball feature with Daily 4. So, that was
7 2.79 on average per week and about 5 times per month
8 for Daily 4.

9 And again, the highest average amount
10 spent per player was for Fireball feature with Pick 3,
11 at about \$25. Next slide, please.

12 And that's all we have today, and we're
13 happy to answer any questions that anyone may have
14 about the presentation or results contained in the
15 report. Thank you.

16 CHAIRMAN RIVERA: Okay. Thank you so
17 much. That was definitely a lot of information. And
18 very much appreciated. Commissioners, any discussion?
19 Okay. You, Gail, definitely handled a lot of
20 information very thoroughly, to the point that no one
21 has any discussion items.

22 DR. BUTTORFF: Okay. Great, thank you
23 so much.

24 CHAIRMAN RIVERA: So, thank you.

25 DR. BUTTORFF: We appreciate it.

1 AGENDA ITEM NO. IV

2 CHAIRMAN RIVERA: Okay. Next item is a
3 report from the Bingo Advisory Committee. Trace Smith
4 will present. Trace, are you there?

5 MR. BIARD: Chairman, this is Bob Biard.
6 Trace is with us and we just need to get our tech folks
7 to unmute him on his telephone. He dialed in today.

8 BILL ASHLOCK: Trace, you'll need to
9 unmute your phone on your side. I've asked you to
10 unmute, and you have the ability to talk. Could be
11 Trace has some technical issues.

12 Agenda Item No. V

13 CHAIRMAN RIVERA: Okay. Let's move on,
14 then, to item number 5. Procurement for internal audit
15 service. Mike, this is your item. And we'll come back
16 when we get Trace back on line.

17 MR. FERNANDEZ: Thank you, Mr. Chairman.
18 Again, for the record, my name is Mike Fernandez and
19 I'm the Director of Administration.

20 Item 5 in your notebook is an action
21 item. Staff is seeking Commission approval to issue a
22 request for proposals for internal audit services. Mr.
23 Chairman, Commissioners, I'd be happy to answer any
24 questions.

25 That is an action item, and will require

1 a vote of the Commission to proceed.

2 CHAIRMAN RIVERA: Correct. Okay. Is
3 there a motion to proceed with the procurement?

4 COMMISSIONER SAENZ: This is Erik, I
5 make a motion.

6 CHAIRMAN RIVERA: Okay. Second?

7 UNIDENTIFIED VOICE: Second.

8 CHAIRMAN RIVERA: Okay. All in favor.

9 (Chorus of "ayes")

10 CHAIRMAN RIVERA: Wonderful. Mike, good
11 job. Trace, are you there?

12 AGENDA ITEM NO. VI

13 CHAIRMAN RIVERA: Okay. We'll move on
14 to Item number 6. Lottery rule proposal. Kyle, this
15 is your item.

16 MR. WOLFE: All right. Thank you, Mr.
17 Chairman and Commissioners. For the record, I'm Kyle
18 Wolfe, Assistant General Counsel.

19 Item 6 in your notebooks contains a
20 proposal to amend three rules: Rule 401.305, the Lotto
21 Texas Draw Game Rule; Rule 401.312, the Texas Two Step
22 Draw Game Rule; and Rule 401.317, the Powerball Draw
23 Game Rule. Specifically, the proposed amendments to
24 the Lotto Texas Draw Game Rule and the Texas Two Step
25 Draw Game Rule provide that the drawings for those

1 games will occur on days and times specified by the
2 Commission's executive director, which may be days and
3 times other than the rules currently provide.

4 And the amendment for the Powerball Draw
5 Game Rule provides that Powerball drawings will occur
6 on the days specified by the Multi-State Lottery
7 Association Powerball Group and announced by the
8 executive director, which also may be days other than
9 the rule currently provides.

10 The purpose of these proposed amendments
11 is to provide the Commission greater flexibility to
12 coordinate the draw dates and times for its jackpot
13 draw games to maximize potential revenue to the state.

14 So, staff recommends the Commission
15 initiate the rulemaking process by publishing these
16 proposed amendments in the Texas Register to receive
17 public comment for a period of 30 days. And if you
18 have any questions, I'll be happy to answer them.
19 Thank you.

20 CHAIRMAN RIVERA: Kyle, thank you so
21 much. Commissioners, any discussion? Okay. Is there
22 a motion to publish the proposal for public comment?

23 COMMISSIONER STEEN: This is Jamey. So
24 moved.

25 CHAIRMAN RIVERA: All righty. A second?

1 COMMISSIONER FIELDS: I'll second.

2 CHAIRMAN RIVERA: Wonderful. All in
3 favor say aye.

4 (Chorus of "ayes")

5 CHAIRMAN RIVERA: Perfect. Okay.
6 Trace, are you there?

7 AGENDA ITEM NO. VII

8 CHAIRMAN RIVERA: Okay. Let's move on
9 then to item number seven which is a report on lottery
10 sales and revenue. We got Kathy and Robert.

11 MS. PYKA: Good morning, Commissioners.
12 And we'll give our IT team a few seconds to get the
13 PowerPoint loaded. There we are. My name is Kathy
14 Pyka, Controller for the agency. With me presenting
15 this morning is the Commission's Products Manager
16 Robert Tirloni.

17 Our presentation this morning will begin
18 with the data on slide 2. Comparative sales through
19 the week ending November 28, 2020 are presented at the
20 bottom of this slide. Total Fiscal Year 2021 sales
21 through this 13-week period are \$1,740,000,000, an
22 increase of \$303,000,000, or 21 percent over the
23 \$1,440,000,000 the same period last fiscal year.

24 Fiscal Year 2020 Scratch ticket sales
25 reflected on the second orange bar are \$1,443,000,000,

1 which is a \$270-million increase over the sales figure
2 for Fiscal Year 2020. With a growth rate of 23 percent
3 over last fiscal year the Commission has continued to
4 report double-digit increases over Fiscal Year 2020
5 sales.

6 We have now had 33 consecutive weeks of
7 Scratch ticket sales over \$100-million beginning with
8 the week ending April 17th of last fiscal year.
9 Scratch ticket sales amount to 82.8 percent of total
10 sales through this period as compared to 81 1/2 percent
11 last fiscal year.

12 Fiscal Year 2021 Draw sales, reflected
13 on the second blue bar, are \$300-million which is a
14 \$33-million increase, or 12.4 percent, over the \$266.9-
15 million reported for last fiscal year. With the
16 exception of Mega Millions, every draw game is
17 reporting year-over-year increases this fiscal year.

18 Robert will now provide an overview of
19 detailed sales as outlined on slide 3.

20 MR. TIRLONI: Thanks, Kathy. Good
21 morning Mr. Chairman and Commissioners. This next
22 slide is a comparison of Fiscal 2021 to last fiscal,
23 Fiscal Year '20, and it's through last Saturday,
24 November 28th.

25 We can start at the top of the slide

1 with the Jackpot games in the white font. Our Jackpot
2 games are up just over \$20-million year-over-year. The
3 majority of that gain is actually coming from our in-
4 state game, Lotto Texas, our big in-state game. Lotto
5 Texas is up 14.4-million, and its add-on feature,
6 Extra, is up 4.7-million.

7 So, we're seeing a nice \$19-million gain
8 from Lotto and its add-on. That's because of the Lotto
9 jackpot that began rolling last fiscal year and it
10 continued to roll all the way into the beginning of
11 this fiscal year. And it ended up with a \$47-million
12 advertised jackpot in early September. So, that's the
13 -- that's a pretty high jackpot for our in-state game.
14 So, that's the reason for that gain there.

15 Mega Millions is down slightly. This
16 time last year Mega Millions had climbed up to \$243-
17 million, and we are just now getting up to that level.
18 The current jackpot is \$244-million for tomorrow night
19 for Mega Millions. So, you know, if we can keep that
20 game rolling we should be able to make up some of that
21 deficit, so we'll have to see what happens there.

22 Powerball and its associated add-on
23 game, Power Play, are up about \$4.9-million. So,
24 really the gain from Powerball and the loss from Mega
25 Millions are kind of netting out to zero.

1 Different situation with Powerball. The
2 highest the jackpot got this time last year was about
3 \$150-million, and now we're at \$243-million for
4 Saturday's drawing. So, that's the reason for that
5 gain, and we certainly hope to see that gain increase.
6 And our smaller in-state jackpot game, Texas Two Step,
7 is doing well. It's up \$1-million.

8 Continuing down into the middle of the
9 slide, we're getting some great results from our daily
10 games. The daily games are up \$12.8-million, with the
11 majority of that gain coming from Pick 3 with its add-
12 on, Fireball. We've got an \$8.6-million gain from
13 those products. Daily 4 with the same add-on feature,
14 Fireball, is also doing well with a \$2-million gain.
15 And we are seeing some slight gains from Cash 5 and All
16 or Nothing.

17 So our draw games as a whole are up \$33-
18 million year-over-year.

19 Continued great scratch ticket
20 performance. We're at just about \$1.44-billion for the
21 year. And that's giving us a \$270-million gain for the
22 Scratch portion of the portfolio. And so, all told,
23 we're realizing a \$303-million gain for the entire
24 portfolio. We can move to the next slide.

25 Commissioners, I wanted to provide you

1 with a brief update today on our contributions to Texas
2 veterans. Specifically, the Fund for Veterans
3 Assistance, which benefits more than 1.5-million
4 veterans in the State of Texas. To date the Texas
5 Lottery has generated more than \$144-million for Texas
6 Veterans since our first game was launched in the fall
7 of 2009. And this total includes our record-breaking
8 contribution of \$22.2-million in Fiscal Year 2020,
9 which was last year.

10 On November 7th, Commissioner Franz
11 represented the agency during a pre-recorded
12 presentation, which was shown during half-time at the
13 University of Texas Longhorn football game where he
14 presented representatives of the Texas Veterans
15 Commission with a ceremonial check reflecting our total
16 contributions to the Fund for Veterans Assistance. And
17 we wanted to share the video of this presentation with
18 you today.

19 [Video being played]

20 So, Commissioners, that was a great
21 presentation and a presentation in that setting
22 certainly calls attention to our efforts to help
23 support Texas veterans. And, so, we're glad to be able
24 to show that to you today.

25 And that concludes the sales

1 presentation. Kathy or I would be happy to answer any
2 questions that you may have.

3 CHAIRMAN RIVERA: Wonderful
4 presentation, as always. Wonderful video. It was
5 really nice to see and nice to see smiling faces there
6 not having to wear the mask for even just a few
7 minutes. That definitely brightens up, I'm sure, all
8 of our days. Any comments from Commissioners?

9 Okay. None? Wow. We will then move
10 on.

11 AGENDA ITEM NO. VIII

12 CHAIRMAN RIVERA: Let's see here. Let's
13 go back and see if we have Trace available. Okay.
14 We'll just move into the final item, then. Next item,
15 number 8, a report on transfers to the state and the
16 agency budget status. Kathy, also your item.

17 MS. PYKA: Thank you, Mr. Chairman. The
18 report in your notebook reflects accrued revenue
19 transfers and allocations to the Foundation School Fund
20 and Texas Veterans Commission, as well as the
21 allocation of unclaimed prizes for the two-month period
22 ending October 30, 2020.

23 Total accrued revenue transfers to the
24 state amounted to \$244-million for the first two months
25 of Fiscal Year 2021. Of the \$244-million transfer to

1 the state, \$240.9-million was the amount of revenue
2 transferred to the Foundation School Fund, and \$3.2-
3 million was the amount transferred to the Texas
4 Veterans Commission.

5 This leaves us with a 22.6 percent, or
6 \$44.4-million increase of revenue to the Foundation
7 School Fund for the same period last fiscal year.
8 Total cumulative transfers to the Foundation School
9 Fund through October of this year amounted to \$25.95-
10 billion.

11 Also included in your notebook is the
12 agency's final Fiscal Year 2020 Method of Financing
13 Summary for the fiscal year ending August 31, 2020.
14 The Commission's lottery account budget for Fiscal Year
15 2020 was \$274.8-million. Of this amount 81 percent was
16 expended and encumbered through the end of the fiscal
17 year.

18 The Bingo administration budget funded
19 by General Revenue was \$6.25-million with 88.1 percent
20 expended and encumbered through the end of the fiscal
21 year.

22 Commissioners, this concludes my
23 presentation, and I'd be happy to answer any questions.

24 CHAIRMAN RIVERA: Okay, Commissioners,
25 any discussion? Okay. Kathy, good job. Thank you.

1 MS. PYKA: Thank you.

2 AGENDA ITEM NO. IX

3 CHAIRMAN RIVERA: Next item is a report
4 from Darlene Brown. Your item.

5 MS. BROWN: Good morning, Chairman and
6 Commissioners. For the record my name is Darlene
7 Brown, and I'm the internal auditor for the agency.

8 In your materials are two reports. The
9 first report is in the Charitable Bingo Operations
10 Division's regulatory enforcement process performed
11 within the Compliance Department. Our audit focused on
12 the processes and internal controls in place used by
13 staff to identify, track, and monitor instances of
14 regulatory non-compliance noted through bingo audits,
15 inspections, desk reviews, and compliance received.

16 We noted that the Compliance Department
17 had not been performing several of the monitoring and
18 tracking activities assigned to them, and therefore we
19 rated the internal controls as "major improvement
20 needed".

21 We provided recommendations to improve
22 the internal controls and processes within the
23 compliance function. The Bingo director immediately
24 started addressing the findings when we brought them to
25 his attention. Did not wait until the final report was

1 issued, so we give him compliments for that, and we
2 expect that our findings will be fully remediated
3 within six months.

4 We've also been following up on prior
5 audit findings within the Charitable Bingo Operations
6 Division. The first item is written procedures across
7 the functions within the division. They are currently
8 in progress, and significant progress has been made.

9 The audit processes have been modified
10 and completed and they were recently updated to reflect
11 the new operating environment resulting from the
12 pandemic.

13 Staffing some of the positions have been
14 filled where they have been allowed to fill them. The
15 auditor positions, the align -- re-alignment is still
16 going on, and job postings are in progress. And there
17 has been some more employee turnover which places a
18 shortage in the division and additional workload
19 burdens on remaining staff.

20 Finally, the ledger account
21 reconciliation project has not started. The individual
22 that was brought on to assist with that project has
23 been pulled into daily operations due to staffing
24 shortages and has not been able to address that
25 activity yet.

1 If you have any questions on the reports
2 for Bingo operations, I'll be happy to answer them.

3 CHAIRMAN RIVERA: Okay, Commissioners,
4 any discussion? Okay. Darlene, thank you so much.

5 MS. BROWN: The second -- I have one
6 more report.

7 CHAIRMAN RIVERA: Okay.

8 MS. BROWN: And the second one's much
9 shorter. It's the agency's warehouse operations. We
10 noted that the agency has sound processes and strong
11 internal controls in place to ensure that warehouse
12 operations protect the agency's assets, secure the
13 facility, and provide a safe work environment for
14 employees and visitors. We had no findings and we
15 rated the internal controls of it as effective.

16 And that is the end of my reports today.
17 And I'm happy to address any questions.

18 CHAIRMAN RIVERA: Very nice.
19 Commissioners, any comments?

20 MR. SMITH: Hello?

21 CHAIRMAN RIVERA: Someone has a comment?

22 MR. SMITH: Hello? This is -- sorry,
23 sir. We finally got the microphone working. This is
24 Trace.

25 AGENDA ITEM NO. IV

1 CHAIRMAN RIVERA: Wonderful. Okay.
2 Darlene, thank you so much for your report. Trace, go
3 ahead.

4 MR. SMITH: All right. Sorry for the
5 technical difficulties there. We don't -- I don't know
6 what was going on. I was unmuted, but it wouldn't let
7 me talk.

8 First of all, this is Trace Smith,
9 Chairman for the Bingo Advisory Committee. And I would
10 like to give my report to the Texas Lottery
11 Commissioners.

12 First of all, we do thank Commissioner
13 Fields for becoming the Bingo Commissioner. Welcome
14 and we can't wait to sit down with you and answer any
15 questions you have. Also --

16 CHAIRMAN RIVERA: Trace. Unfortunately
17 you're pretty garbled. Other Commissioners is it just
18 me, or can you hear Trace okay?

19 COMMISSIONER FRANZ: No, it's pretty
20 spotty on my end, too.

21 COMMISSIONER FIELDS: Yeah. On mine
22 too.

23 CHAIRMAN RIVERA: Okay. Let's --

24 COMMISSIONER STEEN: Spotty, but I'm
25 able to hear what he's saying.

1 CHAIRMAN RIVERA: Okay. How about this
2 --

3 MR. BIARD: Perhaps if Trace just goes a
4 little bit slower it might be easier.

5 CHAIRMAN RIVERA: Yeah. Just -- let's
6 slow and just pretty direct with what you have to say.

7 COMMISSIONER FRANZ: Looks like we lost
8 him.

9 AGENDA ITEM NO. X

10 CHAIRMAN RIVERA: Okay. Perfect
11 transition. Let's head over to the Bingo Director's
12 report. Tom, this is your item. I'm confident you
13 will have something to weigh in regarding Trace's
14 report potentially and then look forward to hearing
15 from Commissioner Fields as well. Tom. You got the
16 ball.

17 MR. HANSON: All right. Mr. Chairman,
18 Commissioners, for the record my name is Tom Hanson,
19 Director of the Charitable Bingo Operations Division.

20 On behalf of Trace Smith my
21 understanding is he had, basically, three items to
22 discuss. One was that they are nominating Corey Harris
23 as the ninth member of the Bingo Advisory Committee. A
24 background investigation has been completed. There
25 were no findings. But it will require a vote of the

1 Commission to appoint him to that position.

2 The second item on the list was, as he
3 stated, his appreciation for the fact that the
4 Governor's Office has appointed, and Commissioner
5 Fields was nice enough to accept that position, as the
6 designated Bingo Commissioner.

7 I was fortunate enough to introduce her
8 to the group at the last Bingo Advisory Committee
9 meeting. She was warmly received by the industry.

10 The third item, the BAC and the industry
11 has reported that unlawful bingo being conducted via
12 Facebook is having a detrimental effect on the
13 potential proceeds used by licensed organizations in
14 support of their charitable purposes.

15 They asked for agency action of some
16 kind to assist them. In response to that request for
17 agency assistance, the agency developed an action plan
18 which included the creation of advisory letters which
19 will be directed to Facebook, bingo licensees, the
20 Attorney General's Office, and the Association of Texas
21 District and County Attorneys. They will also be
22 posted on the Bingo Division website.

23 This is in addition to accepting and
24 investigating complaints received by the agency.

25 Additionally, you received copies of the

1 Bingo Compliance Audit completed by our internal
2 auditor. As noted in the management responses, we
3 concur with the findings and recommendations and
4 initiated changes to address the issues. This included
5 developing procedures to define the compliance activity
6 along with direct conversations with the Compliance
7 Department coordinator related to the duties and
8 responsibilities of that position.

9 We are moving forward in addressing each
10 of the recommendations and plan to come before the
11 Commission with updates until we have addressed all of
12 the noted issues. We are also in a in the process of
13 filling a vacancy in the Compliance Department.

14 One other item, Commissioners, as
15 mentioned by Darlene Brown. Staff that was brought in
16 to conduct the business process evaluation and
17 restructuring along with the ledger reconciliation got
18 deeply involved in the day-to-day Accounting Department
19 activity due to staff shortages and was unable to
20 complete the ledger reconciliation.

21 I'll be glad to answer any questions.

22 CHAIRMAN RIVERA: Tom. Thank you
23 so much for your report and having to come in and do
24 double duty there regarding Trace's absence. And if
25 you could also please pass along to him our collective

1 appreciation for his work and effort for Texas bingo.
2 And we look forward to visiting with him on a future
3 Zoom meeting and/or, you know, God willing as soon as
4 possible in person at a future meeting would be great.

5 Commissioner Fields --

6 MR. HANSON: I will do so.

7 CHAIRMAN RIVERA: Thank you, Tom.

8 Commissioner Fields, any thoughts?

9 COMMISSIONER FIELDS: Sure. We've been
10 going over with Tom the responses to the compliance
11 audit and he and his folks there were going to --
12 they're working really hard on getting everything back
13 up to speed. The accountants tend to look at this
14 stuff, we call it areas for opportunities for
15 improvement.

16 CHAIRMAN RIVERA: Yes.

17 COMMISSIONER FIELDS: So, that's what
18 we've got here and it'll be worked on. We've got the
19 action steps that are going to be taken with respect to
20 the illegal bingo games. And it looks like the actions
21 are good. I've looked at the letters that are going to
22 go out, and they look good to go. So, we'll get all
23 that done very quickly. And hopefully it'll have some
24 effect. Law enforcement is the ultimate party that
25 needs to be involved in this. Because we don't really

1 have much ability to do anything about it. But we'll
2 do our best.

3 CHAIRMAN RIVERA: Perfect. Well --

4 COMMISSIONER FIELDS: That's all I've
5 got.

6 CHAIRMAN RIVERA: Okay. Again,
7 Commissioner Fields, thank you for your commitment and
8 beginning to move forward on a variety of bingo-related
9 topics. And just it's definitely noticed. So, thank
10 you.

11 COMMISSIONER FIELDS: It's a pleasure.

12 CHAIRMAN RIVERA: Okay. We will move
13 on, then, to item number 11 --

14 MR. BIARD: Mr. Chairman.

15 COMMISSIONER RIVERA: Yes.

16 MR. BIARD: Excuse me, Chairman, this is
17 Bob Biard, General Counsel. We do need a motion and a
18 vote on admitting the new BAC member, Corey Harris, to
19 the Bingo Advisory Committee, please.

20 CHAIRMAN RIVERA: Okay. Thank you. Is
21 there a motion to approve the new BAC member, Corey
22 Harris?

23 COMMISSIONER FRANZ: This is Mark. Go
24 ahead, Cindy.

25 COMMISSIONER FIELDS: So moved.

1 COMMISSIONER FRANZ: Second.

2 CHAIRMAN RIVERA: Okay. Perfect. All
3 in favor.

4 (Chorus of "ayes")

5 CHAIRMAN RIVERA: All right. Sounds
6 like a unanimous vote there. Good job, Commissioners.

7 AGENDA ITEM NO. XI

8 CHAIRMAN RIVERA: Next item. Number 11.
9 Our esteemed executive director's report. Gary, that
10 would be you.

11 MR. GRIEF: Thank you, Commissioners.
12 For the record, this is Gary Grief, executive director.

13 And, Commissioners, in addition to
14 what's in your notebook today I have two brief items to
15 share with you.

16 First, on this Sunday, December 6th, we
17 will be launching an updated agency website. This
18 much-needed refresh is going to feature a simplified,
19 more mobile-friendly design. And of course all the
20 information and resources that the public has come to
21 rely on will still be present.

22 This initiative was an agency-wide
23 effort, with staff from many various departments
24 participating to help us develop a logical, user-
25 focused website design and there were many hours spent

1 testing the new site to ensure that this is going to be
2 a seamless transition this weekend.

3 And second, as you know, the legislative
4 session is scheduled to convene on January 12th. While
5 the state capitol currently remains closed to the
6 public, our state leadership along with members of the
7 House and Senate are discussing how the state's
8 business during this session will be conducted.

9 Our agency's Governmental Affairs team
10 is closely monitoring what the capital landscape is
11 going to be like during the session and they are also
12 busy reviewing bills that have already been filed and
13 our Governmental Affairs Director Nelda Treviño will
14 continue to provide you with updates as the legislative
15 session nears and throughout the session.

16 Mr. Chairman, that concludes my report.
17 I will be happy to answer any questions.

18 CHAIRMAN RIVERA: Gary, thank you so
19 much, as always, for your continued just absolute
20 leadership on everything there in the building. So we
21 are grateful. Commissioners, any comments? Questions?

22 AGENDA ITEM NO. XII

23 CHAIRMAN RIVERA: Okay. We will move on
24 then. Item number 12. Bob. Your item.

25 MR. BIARD: Thank you, Chairman. For

1 the record, I'm Bob Biard, General Counsel.

2 Commissioners, item 12 contains five
3 lottery and bingo enforcement matters, tabs A through E
4 in your notebook. In these cases Commission staff
5 either found a licensee violated a statute or rule, or
6 an applicant did not qualify for a license. In many
7 cases either the respondent failed to appear at the
8 hearing and it proceeds by default, or the staff and
9 the respondent reached a settlement in the form of an
10 agreed order. Occasionally we have litigated cases, as
11 we do have one today.

12 Tabs A through C are the non-sufficient
13 fund Lottery retailer license revocations handled in a
14 single order. Each case was presented at the State
15 Office of Administrative Hearings for revocation of the
16 retailer license because the licensee failed to have
17 sufficient funds in their bank account to cover
18 electronic fund transfers to the Commission's account.
19 In each case, the licensee failed to appear and the
20 judge remanded the case to the Commission to handle.

21 Tab D is a motion for rehearing filed by
22 a Lottery retailer whose two licenses you revoked at
23 the last Commission meeting. The retailer raised no
24 new issues of fact or law that were not previously
25 considered by the Commission, and the staff recommends

1 denying the motion.

2 This was a retailer who repeatedly
3 violated the rules of a retailer cash incentive program
4 to make it appear he was selling tickets he was not
5 actually offering for sale. And he disregarded our
6 repeated warnings to follow the rules. So, we
7 recommend denying that motion for rehearing.

8 The final item is Tab E. It's a Bingo
9 Agreed Order. There were two conductor organizations
10 who repeatedly ignored our Bingo staff auditor's
11 request for information to conduct an audit. This
12 happened about 10 or more times and rather than go to a
13 hearing, the organizations each agreed to pay a \$2500
14 penalty, and the staff recommends you approve this
15 agreed order.

16 That concludes my presentation, and you
17 may take up the enforcement orders in a single vote if
18 you like. I'll be happy to answer any questions.

19 CHAIRMAN RIVERA: Okay, Bob, thank you.

20 Is there a motion to approve orders Tabs A through E?

21 COMMISSIONER STEEN: So moved. This is
22 Jamey.

23 CHAIRMAN RIVERA: Okay. I think we have
24 a move and a second. All in favor say aye.

25 (Chorus of "ayes")

1 CHAIRMAN RIVERA: Perfect. Unanimous.

2 AGENDA ITEM NOS. XIII and XIV

3 CHAIRMAN RIVERA: There are no public
4 comments so, Commissioners, and all those who are on
5 the Zoom call, we are going to go into Executive
6 Session. At this time I move that the Texas Lottery
7 Commission go into Executive Session to deliberate
8 personnel matters and receive legal advice as posted in
9 the Open Meeting Notice. Is there a second?

10 UNIDENTIFIED VOICE: Second.

11 CHAIRMAN RIVERA: Okay. All in favor
12 say aye.

13 (Chorus of "ayes")

14 CHAIRMAN RIVERA: Perfect. The Texas
15 Lottery Commission will go into Executive Session at
16 10:53 and we will return here shortly. And again,
17 today is December 3, 2020. Commissioners, you will
18 call in to the Executive Session.

19 AGENDA ITEM NO. XV

20 CHAIRMAN RIVERA: Okay. The Texas
21 Lottery Commission is out of Executive Session at 11:06
22 a.m. I'll give our Commissioners a moment to jump on
23 board. Okay. I will ask if there's any Commissioners
24 that would like to say anything.

25 COMMISSIONER FIELDS: This is Cindy. As

1 we discussed earlier when Tom gave his presentation
2 about the Charitable Bingo operations, the ledger has
3 not been reconciled and needs to be reconciled. And I
4 would like to request that we ask our internal auditor
5 to assist the Bingo Division to reconcile the ledger.
6 And hopefully Darlene is on the call. If she is,
7 Darlene, can you tell us if you have the capacity to do
8 that?

9 MS. BROWN: Yes. This is Darlene Brown,
10 the Internal Auditor. We definitely have the capacity
11 to do that. And we also have significant budget
12 remaining in our Fiscal Year 2021 internal audit budget
13 to be able to handle that without any additional cost
14 to the agency.

15 What we would need to do is bring back
16 to you a revised Internal Audit Plan for the next
17 Commission meeting, but we can proceed completing or
18 beginning the ledger reconciliation project before
19 then.

20 COMMISSIONER FIELDS: Excellent. Than I
21 would like to make a motion that Darlene -- that we
22 hire Darlene's firm to do that and that she does come
23 back with the revised audit plan to include this
24 activity.

25 CHAIRMAN RIVERA: Wonderful comments and

1 recommendation by our esteemed Bingo Commissioner. Do
2 we have a second?

3 COMMISSIONER SAENZ: This is Erik, I
4 second.

5 CHAIRMAN RIVERA: All right. All in
6 favor say aye.

7 (Chorus of "ayes")

8 CHAIRMAN RIVERA: Okay. That was 100
9 percent. Darlene, you have your marching orders. And
10 again, we are most grateful for your participation to
11 help with Bingo.

12 AGENDA ITEM NO. XVI

13 CHAIRMAN RIVERA: That now officially
14 concludes all of the business that we have here with
15 us. On behalf of our Lottery Commissioners I would
16 like to thank all of our staff, all of our IT folks,
17 everyone who had participated remotely, whether you
18 spoke or not, your participation on this call is
19 important and we all are grateful to all of our
20 employees daily that are doing the heavy lifting and
21 doing all the things that help to advance education and
22 support for our Texas veterans as well. So, with that,
23 we will end the meeting. And I just need a second, and
24 we'll vote. All those in favor to end the meeting.

25 UNIDENTIFIED VOICE: I'll second.

1 (Chorus of "ayes")

2 CHAIRMAN RIVERA: All right. We are
3 done. Thank you, everyone.

4 MR. BIARD: Thank you, Commissioners.

5 CHAIRMAN RIVERA: Thank you all.

6 (Proceedings concluded at 11:10 a.m.)

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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 13th day of December, 2020.

/s/ Kimberly C. McCright

Kimberly C. McCright

Certified Vendor and Notary Public

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