

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
April 10, 2024

Barbara Jordan Building
Suite 2.034
1601 Congress Avenue
Austin, Texas 78701

COMMISSIONERS:

ROBERT C. PATE, Chair
CONNIE McNABB, D.V.M., Vice Chair
MARGARET MARTIN
ARIEL "A.J." WAIGHT
MICHAEL "MIKE" MOORE (absent)
REBECCA CONTRERAS

EX OFFICIO MEMBERS:

SID MILLER, Texas Department of Agriculture
(by SUSAN MALDONADO)
STEVEN P. MACH, Public Safety Commission

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
I. CALL TO ORDER	4
II. INVOCATION	5
III. PLEDGES (U.S. AND TEXAS)	5
IV. COMMISSIONER REMARKS	
A. Commission Chair	6
B. Commission Vice Chair	9
C. Commission Members	none
V. PUBLIC COMMENTS	none
VI. STAFF REPORTS	
A. Executive Director Report	12
VII. GENERAL BUSINESS	
A. 2025-2029 Agency Strategic Plan.	18
Presentation Discussion and possible action to approve the 2025-2029 Agency Strategic Plan for submission to the 89th Legislature.	
B. Ad Hoc Greyhound Committee Update.	35
Discussion and possible action to direct staff to work with the Office of the Attorney General to seek a bill of review in the matter of Gulf Greyhound Partners, LTD, and Gulf Coast Racing, LLC, v. Texas Greyhound Association, Cause No. 2022-2767-3.	51
VIII. PROCEEDINGS ON RULES	
A. Discussion and possible action to publish proposed rule amendment in the Texas Register.	57
1. 16 Texas Administrative § 307.67, Appeal to the Commission.	
IX. EXECUTIVE SESSION (AS NEEDED)	none
The following items may be discussed and	

considered in executive session or open meeting, with any action taken in the open meeting:

A. Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer.

B. Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.

C. Under TEX. OCC. CODE §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalizator contracts.

X.	NEXT COMMISSION MEETING	59
	Wednesday, June 12, 2024, 10:30 a.m.	
XI.	ADJOURN	60

P R O C E E D I N G S

1
2 CHAIRMAN PATE: Ladies and gentlemen, we're
3 ready to start the meeting.

4 Mary, will you please call the roll.

5 MS. WINSTON: Chairman Robert C. Pate?

6 CHAIRMAN PATE: Here.

7 MS. WINSTON: Vice Chair Dr. Connie McNabb?

8 COMMISSIONER McNABB: Here.

9 MS. WINSTON: Commissioner Margaret Martin,
10 she's a little late.

11 MS. WINSTON: Commissioner Michael Moore,
12 absent.

13 MS. WINSTON: Commissioner A.J. Waight?

14 COMMISSIONER WAIGHT: Here.

15 MS. WINSTON: Commissioner Rebecca Contreras?

16 (No response.)

17 MS. WINSTON: Commissioner Steven Mach?

18 COMMISSIONER MACH: Here.

19 MS. WINSTON: And Commissioner Susan Maldonado?

20 COMMISSIONER MALDONADO: Here.

21 CHAIRMAN PATE: Do we have a quorum?

22 MS. WINSTON: We do have a quorum, Chair.

23 CHAIRMAN PATE: All right. Again, good
24 morning, everyone. Welcome to today's meeting of the
25 Texas Racing Commission.

1 Do we have Chaplain Bingham here to give an
2 invocation?

3 MS. COOK: He's supposed to be here.

4 CHAIRMAN PATE: We'll move on.

5 At this time, please stand and join me in the
6 pledges of allegiance.

7 (The Pledges, U.S. and Texas, were recited.)

8 CHAIRMAN PATE: Again, please be seated.

9 Welcome to the April meeting of the Texas
10 Racing Commission. We will have later today a
11 presentation on the agency's 2025-2029 strategic plan and
12 continue our efforts to enforce the Texas Racing Act,
13 through an increased emphasis on the integrity and safety
14 of all of our programs.

15 Commissioner Contreras has now joined us.
16 Welcome.

17 Chaplain Bingham is here. And come on in;
18 we're going to recognize you right now for our invocation.

19 CHAPLAIN BINGHAM: Thank you. I love
20 discovering the new buildings in Austin.

21 CHAIRMAN PATE: Don't we all.

22 (General laughter.)

23 CHAPLAIN BINGHAM: Father, we do thank you.
24 Thank you for the opportunity we have to come together and
25 make decisions for the industry that we love. We ask for

1 wisdom and direction for each and every one of the
2 Commission members, for everybody here. We ask that you
3 help racing in Texas grow and glorify you at the same
4 time. In the name of God who created the heavens and the
5 earth and the course that brought us all together, we ask.
6 Amen.

7 CHAIRMAN PATE: Thank you, Chaplain Bingham.

8 Today we're going to have a presentation of the
9 agency's 2025-2029 strategic plan, and we'll continue our
10 efforts to enforce the Texas Racing Act through an
11 increased on the integrity and safety of all our programs.

12 I do want to address the Commission's response
13 to a letter received from the Texas Greyhound Association,
14 I guess two weeks ago?

15 MS. COOK: Last week.

16 CHAIRMAN PATE: Last week, that requested a
17 meeting with the appointed commissioners outside of this
18 room. Until such time as the Texas Greyhound Association
19 provides the detailed financial information required by
20 the letter sent to them by Executive Director Cook on
21 February 6, 2024, no meetings will be scheduled with the
22 appointed commissioners.

23 It is critical that the TGA acknowledge that
24 they have a fiduciary duty to account for and provide
25 reports, as well as supporting documentation, of custodial

1 funds they are holding for others that were derived from
2 pari-mutuel wagering activities that were intended by our
3 statute for activities related to live greyhound racing,
4 which has not taken place in Texas since February 28,
5 2020.

6 Finally, we continue to work with the
7 Governor's Office to continue our interagency contracted
8 relationship with Texas A&M Veterinary Medical Diagnostic
9 Laboratory.

10 I asked Executive Director Cook and the staff
11 to take a look at the options for transitioning the
12 program to another analytical chemistry laboratory, but
13 all options we've explored with at a minimum: one, the
14 submission of a legislation appropriations request for
15 general revenue estimated at 5 to \$10 million; two,
16 support from Texas A&M for a program and statutory change
17 to the Racing Act during the next legislative session;
18 three, legislative appropriations for the Racing
19 Commission and other financial Texas agencies as a new
20 method of finance based on the cost estimate; four, the
21 initiation of a replacement analytical drug testing
22 capability on September 1, 2025, including establishing an
23 interagency agreement or a contract at an organization who
24 would need to build the capacity, such as building storage
25 stack equipment and so on, including our agency's

1 coordination, or increase the current capabilities to
2 support the drug testing program that we will continue to
3 expand.

4 Finally, as an additional point, we're going to
5 need revisions to the Texas Rules of Racing to
6 appropriately notice licensees on the updated process,
7 whatever it ultimately is.

8 And then finally, we need to identify the
9 transition date, which now we would estimate would be no
10 earlier than September 1, 2027. Anything short of
11 complying with statutory and regulatory steps we must take
12 to have a viable, credible drug testing program is not
13 going to serve Texas.

14 And I know some of y'all have had some
15 discussions with some of the TVMDL people. I want to make
16 sure you understand this is not a simple process. It's
17 not just a business matter of saying the contract is going
18 to change and we're going to drop you as a provider and
19 we're going to pick up a new provider.

20 We are a legislative creature. We have
21 procurement rules in Texas that we have to comply with.
22 We have an appropriation for the current biennium through
23 2025 for drug testing with A&M, so it's going to require
24 some discussion.

25 I will tell you that there is an upcoming

1 meeting that's been scheduled, and we're going to try to
2 get the parties together and try to work this out, but at
3 this point in time, no decisions have been made. That's
4 where we are right now.

5 I know that's an important issue to the
6 horsemen and tracks alike. We know neither one of y'all
7 want to be faced with massive increases of your costs in
8 connection with testing related to racing, but again,
9 these are all items that we have to just go through the
10 process and hopefully get an agreement and make the
11 proposal both be legislative proposals coming from our
12 Commission but also the A&M system and perhaps another
13 system. For example, it's no secret we've had talks with
14 Texas Tech Vet School about their possibility of being on
15 this.

16 Welcome, Commissioner Martin.

17 COMMISSIONER MARTIN: Thank you. Sorry I'm a
18 little late.

19 CHAIRMAN PATE: That's okay. We get it.

20 Anyway, that's where we are, and at this point
21 in time, I'll turn the floor over to Vice Chair McNabb for
22 her remarks.

23 COMMISSIONER McNABB: Good morning. Appreciate
24 everybody coming, and what you'll hear in the strategic
25 plan and also in regards to some of what the chair

1 discussed, I've asked Dr. Pena and Dr. Berry, and we will
2 be working with the staff.

3 I think it's important here as we are on the
4 on-ramp into the next legislative session that we take a
5 look -- and this is something that the Racing Commission
6 could have done better in the past, and so we're always
7 trying to do better moving forward -- but there are other
8 state entities that we must interface with, and we need to
9 take a look at where are the places that are working;
10 let's make sure we don't break any of the things that
11 work, but also there's places where things could be
12 better.

13 And so while the TVMDL right now is a high
14 interest item, but I think that we need to take the
15 opportunity to have good discussions with the Veterinary
16 Board, if there's some way that we can do a better job of
17 getting people in to help us with the regulatory.

18 We have an ongoing great relationship with the
19 Department of Agriculture and DPS, but there are places
20 and are we making sure as we're going through the rules
21 are we doing our part or are there things that we need to
22 talk about.

23 And hopefully if we just are dealing with
24 things that are an agency rule, then those are all very
25 much within the powers, but if there are things that are

1 driven by legislation, now is the time to be having those
2 conversations.

3 Texas Animal Health Commission, certainly
4 festivals -- I would love to see more interest from the
5 festivals in having rotations come through the racetracks,
6 what a great thing. Is that something that has to be
7 legislated? I doubt that.

8 But nevertheless, as we are taking a look at
9 all the places where we interface, we are not a stand-
10 alone stovepipe agency. If we're going to make this
11 happen, we are part of the larger Texas regulatory
12 environment, and it's time for us to take a look at our
13 rules, look at our processes, where are some of our needs?

14 And if indeed we're not meeting our needs and
15 our needs being to effectively serve you in the industry
16 and do our job, if we have places where there's shortfalls
17 or misunderstandings or they require some action, now is
18 the time rather than having a great idea in the last week
19 of the legislative session because we know that's kind of
20 late.

21 So if there are things as you have seen to make
22 this interface better, now is the time to have these
23 discussions, and then as we pull things together and get
24 their legislative initiatives, we want to make sure that
25 you're aware so that we have an opportunity to advocate

1 for things that make sense for your constituents.
2 Hopefully we can all go to the legislature and have very
3 productive discussions and do it better.

4 CHAIRMAN PATE: Thank you, Commissioner McNabb.
5 Are there any other commissioners who would
6 like to make a statement at this time?

7 (No response.)

8 CHAIRMAN PATE: All right. We now move to
9 agenda item VI.A -- I'm sorry, public comment, do we have
10 anybody signed up for public comment at this time?

11 MS. WINSTON: Not for this agenda item.

12 CHAIRMAN PATE: All right. Thank you, Mary.
13 We now move to agenda item VI.A and the
14 executive director's report.

15 Director Cook, please give us your report.

16 MS. COOK: Good morning, ladies and gentlemen,
17 commissioners.

18 Before I provide an update on agency
19 operations, I would like to take a few moments to
20 celebrate the continued growth of the agency team, thanks
21 to the investment by the 88th Legislature with their
22 continued support of the Commission.

23 When I arrived at the agency, we had 28 FTEs
24 and two contract veterinarians; today we have 39 employees
25 and six contractors, with another employee and contractor

1 inbound over the next two weeks, which will bring us to a
2 total of 47 staff members working diligently every day to
3 increase the safety and integrity of horse racing in the
4 great state of Texas.

5 I want to take a moment to introduce some of
6 the folks that are new employees who are here in the room.

7 Stuart Holmes [phonetic] is the new deputy general
8 counsel for us, joined us in the last month. Ken Clowers
9 joins us from the Fort Worth Police Department, retired
10 from there, is one of our new investigators at our Lone
11 Star Park Grand Prairie office.

12 We've also welcomed Sean James -- stand up,
13 Sean -- the man behind the magic, as one of our
14 information technology support analysts. We've also
15 welcomed another investigator; Laura Baxter and Dahlia
16 Montano, criminal analysts who have joined us who are not
17 here with us today.

18 I also want to recognize someone who, in the
19 very short time that she's been here has made incredible
20 contributions. One of the key positions that really
21 supports me day-to-day in this job, and I think you all
22 know that Virginia Fields had some health challenges, she
23 gave great service to the state in the time that she was
24 general counsel, and when she made the decision to leave,
25 she left big shoes to fill and kind of a gap in the

1 capability of the agency, which I was struggling to fill.

2 We had hired Mary Winston to be deputy general,
3 and I made Mary the interim general counsel because of the
4 contributions she made in a few short months. I want
5 today to announce that I've now selected her officially to
6 be the general counsel for the agency, and I'm really
7 proud of her and the work she's done so far and really
8 grateful to have her on the Racing Commission team.

9 So it's that time that everybody waits for. So
10 to become the employee of the year, you must become
11 employee of the month first in the year in which it's
12 selected, and so there's a lot of competition to become
13 employee of the month, because you get a great
14 certificate, the admiration of your peers, a little
15 recognition -- we started doing social media posts on it,
16 but also, you get eight hours off that you can just go and
17 do whatever you want.

18 So I'm happy to announce that the employee of
19 the month for April 2024 is here in this room, and he has
20 served the Racing Commission for 32 years, and so he was
21 nominated by his peers and his supervisors.

22 Come on, Charlie Hallum, come on up here and
23 get your Employee of the Month certificate. I think you
24 just got one in December, but now you get another one.

25 (Applause; pause for presentation and photos.)

1 MS. COOK: So although there's been a lot of
2 change, what really keeps us strong is having some great
3 folks stay in place while we effect all these changes,
4 including Charlie that stayed with us.

5 Anne Alley, our chief steward -- stand up,
6 Anne -- she's here today, has been an incredible
7 contributor and a force of strength and courage while we
8 go through all those changes, as well as Dr. Steve Bond,
9 our chief veterinarian.

10 In other news, we continue to improve our use
11 of tools and technology, and we're implementing a training
12 program called PowerDMS. PowerDMS is a public safety
13 platform that allows us not only to build policy and
14 procedure development, which we need at the agency level,
15 but also document agency statutory and non-statutory
16 required training.

17 As most of you may know, state agencies have to
18 go through a personnel review every six years -- we're
19 going through our review right now -- and one of the key
20 questions is does every employee have basic statutory
21 training and is that going well with the agency. So we're
22 fortunate to have that tool to be able to track that and
23 implement that.

24 We also want to extend our appreciation to the
25 Texas Commission on Law Enforcement team who is

1 transferring 12 -- count them, 12 -- of their agency
2 vehicles to us on May 1, 2024. That will result in an
3 overall cost savings for agency travel to racetracks
4 throughout the state, and so we'll be able to spend our
5 money not on rental vehicles and mileage that we're
6 paying, but we'll be able to field those vehicles and be
7 able to reduce costs overall at the agency level. So we
8 really appreciate TCOLE stepping in to help us in that
9 way.

10 Also, it was an honor to represent the agency
11 staff and commissioners at the Texas Horse Racing Hall of
12 Fame event on March 23, 2023 at Sam Houston Race Park. I
13 think I've said it before and I believe that public
14 service is a noble calling, and I was proud to accept the
15 JoAnn Weber Distinguished Service Award on behalf of the
16 whole team.

17 To close out this report, a couple of items
18 that were pending before the Commission to follow up and
19 provide you before we move on to general business.

20 The racetrack application period that you
21 approved on December 13, 2023, at the Commission meeting
22 that was set for February 1, 2024, to March 31, 2024, is
23 now closed. No racetrack applications for Class II horse
24 tracks were received at the agency during that open
25 period.

1 Second, the agency staff is preparing for the
2 second meet of the season at Sam Houston Race Park, and
3 some of those folks are in the room -- welcome -- from the
4 Penn Entertainment Group. That begins on April 18, 2024,
5 in Houston, and we encourage all of you to come out and
6 see the Quarter Horse meet. And the Lone Star Park
7 Thoroughbred meet starts on April 19, 2024 at Grand
8 Prairie, Texas and we also encourage you to visit that
9 meet.

10 On the enforcement side, we continue to hire
11 investigators, and I'm proud to report that we are
12 continuing to grow our capability here, and we're
13 currently working 48 open licensing and enforcement
14 actions.

15 And as we continue to work through those cases
16 and we're able to provide information, and as those cases
17 are closed, the results are provided. That will give you
18 some return on investment information that we also provide
19 to the legislature in that area.

20 Subject to any questions you have, that
21 concludes my report.

22 CHAIRMAN PATE: Questions?

23 (No response.)

24 CHAIRMAN PATE: We now move to agenda VII.A,
25 the 2025-2029 agency strategic plan presentation,

1 discussion and possible action to approve the 2025-2029
2 agency strategic plan.

3 Director Cook, please present this agenda item.

4 MS. COOK: So if you turn to page 8 in your
5 materials, which is also page 6 of the strategic plan,
6 this is an executive summary of the changes in this plan.

7 What you see here is a pre-decisional draft for your
8 review and for discussion.

9 We will continue to make more adaptive changes
10 to it as we get closer, not substantive but specific
11 changes based on budget structures that are approved by
12 the Legislative Budget Board and those type of items.

13 A couple of items that are required of state
14 agencies this year that were not required is the
15 cybersecurity certification, that all the staff have
16 completed cybersecurity training. So the chair and I will
17 sign that, along with the cover letter being updated.

18 And so if you turn to page 8, I just want to
19 hit really kind of two high points here. One is it was my
20 belief when I first prepared this the strategic plan and
21 LAR that the agency was in the wrong article of the
22 General Appropriations Act.

23 And so for the past two years I've spoken to
24 folks that were there in racing when it was written, I've
25 spoken to a lot of folks that have been in law enforcement

1 for a long time in the state and really thought about in
2 depth how to carry out the every first piece of guidance I
3 got from Commissioner Mach, which is we needed to be a
4 great law enforcement agency in our own lane. I've
5 thought about that a lot in terms of the lane that we have
6 and how we could provide value to the public safety
7 footprint that no others could.

8 When you talk about the horse racing industry
9 and you talk about the movement in and out of Texas and
10 you talk about the great economic activity that we're
11 regulating, what people worry about most is criminal
12 activity in and around regulated activity, particularly a
13 big concern is wagering.

14 The fact that the agency never had a
15 sustainable funding model, when you look at other agencies
16 in Article V, like the Texas Alcoholic Beverage
17 Commission, and Commissioner Kleinschmidt, if you
18 remember, asked me: So what happens when the economy
19 changes? And I replied, kind of smartly: Well, if
20 everyone in Texas stopped drinking, would you really
21 unfound the Texas Alcoholic Beverage Commission?

22 The fact is that this industry, like the
23 alcohol industry, deserves a regulatory agency that has a
24 law enforcement focus that even if there's an economic
25 issue that comes up, pandemic or what-have-you, the agency

1 is still functional. The agency can still provide value;
2 the agency can still enable through licensing and protect
3 that regulated activity.

4 So in speaking to a lot of folks and not having
5 actually gone through the Governor's Executive Development
6 Program and writing a paper on it and having 66
7 counterparts and other agencies read, this idea that if we
8 were in the other article, and the idea really was that we
9 were a general revenue agency that also had a licensing
10 function, and a licensing agency that the regulated
11 industry paid for, which creates intention, particularly
12 when you talk about Retama Park. Retama Park being closed
13 down for a period of time, Retama Park's licensing fee to
14 the agency on an annual basis is \$750,000 to a million
15 dollars a year.

16 At that point in time, that was one-third of
17 the agency's budget, but I took the regulatory action
18 anyway, because that's kind of the human being that I am,
19 but that's being too closely tied to the agency's
20 functionality. When you talk about the decision made to
21 move greyhound tracks to inactive, that is \$457,000 a year
22 of revenue to the agency, the direct payment relationship
23 has to stop.

24 And so that's part of my job, is that when an
25 agency is almost abolished and you get to take over, not

1 only do you get to design the logo and the motto, but you
2 also need to say let's rethink everything, let's just
3 start completely over and think about this in a whole
4 different way. And that is not what I expected when I got
5 here, but it is what I think we should do.

6 So even though it sounds impossible, or that
7 some said getting general revenue was impossible, I'm just
8 telling you we have it now, moving us to Article V -- and
9 I don't know that it would happen in this session.

10 But I think that socializing that with everyone
11 from my counterparts in Department of Public Safety, to a
12 lot of members, to a lot of folks who have been involved
13 in this a long time in the industry -- and I spoke with
14 the whole industry about this, we discussed this a couple
15 of weeks ago -- I haven't had anybody saying they didn't
16 think this was a path to really be considered.

17 So that's really where this is geared, it's
18 really emphasizing our ability to prevent, detect, deter,
19 and then adjudicate effectively violations of the Racing
20 Act and the Penal Code of Texas, and that protects the
21 industry that allows it to take on.

22 So that's one of the major initiatives in here,
23 and what that does is it also maps to the one of the
24 governor's key initiatives: Building a Safer Texas. So
25 I'm trying to tie us to two things that I think are really

1 important: one is Building a Safer Texas, and the other
2 is building a more prosperous Texas, where the industry
3 gets to take off and become what it always was designed to
4 be.

5 The other highlight is that we have examined
6 the future of the drug testing program, and I have put
7 some information about the future of that in the strategic
8 plan and some of the redundancies and impediments that I
9 think are of concern to the industry in terms of future
10 activities. So that's on page 25 of the strategic plan,
11 page 27 of your meeting materials.

12 The primary concern that I always have since
13 I've had this job is creating regulatory certainty, and I
14 think to the extent that there's been a little bit of
15 discussion on TVMDL not wanting to continue in its role as
16 the state animal regulatory laboratory that we currently
17 have as the Racing Commission testing capability, I think
18 what's really important is we've got to create regulatory
19 certainty for our 16,000 business and occupational
20 licensees.

21 And I think that we're still really responding
22 to Sunset Commission concerns, and so we have this
23 incredible opportunity to continue to make progress on
24 that, and so we would hope that TVMDL would be a part of
25 that because whether it's at the Texas Horsemen's Hall of

1 Fame, or whether it's in a Senate Finance hearing, or
2 whether it's testifying on a bill, I'm going to continue
3 to say we can be the premier state for horse racing; we
4 just have to decide we want to be that.

5 And I think TVMDL could be the premier lab for
6 horse racing, and I think the other labs would come as
7 well, but that's a decision, of course, they have to make.

8 So to the extent that the chair laid out the six steps
9 that we would need to take, those are in the strategic
10 plan as well because we would need to walk into a
11 legislative session with TVMDL saying that they want to
12 come out of our statute and divest this capability and
13 then allow us the ability to take the time to find another
14 capability.

15 I have, as the chair asked me to do, explored
16 some of those other options -- I'm not going to go into
17 that at this point because that would be a little
18 premature -- but I am expecting to visit Texas Tech, for
19 example, before the next Commission meeting and really
20 have a great conversation with them. I've spoken with the
21 dean, and we're looking at that capability.

22 Any capability we've looked at, though, the
23 short version is, whether it's an out-of-state lab or a
24 university, has to build the capability to conduct our
25 mission, and that's a couple of years away. There is no

1 one that could pick it up today and provide the regulatory
2 certainty that we really think is important.

3 CHAIRMAN PATE: That's a fundamental
4 misunderstanding, I think, in discussing with the lab
5 director at TVMDL, and I appreciate hearing the other side
6 of that.

7 MS. COOK: So next I might point to in the
8 meeting materials, unless the Commission has questions,
9 there aren't dramatic changes in the strategy from the
10 last time, but there's a continued emphasis on connecting
11 to the governor's initiatives of building a safer and more
12 prosperous Texas, of creating a sustainable funding model,
13 and really making the State of Texas proud, not just by
14 being a great agency but by giving back through public
15 safety contributions, as well as potentially emergency
16 management contributions.

17 So unless you have questions, ladies and
18 gentlemen, that concludes my presentation on the strategic
19 plan.

20 CHAIRMAN PATE: All right. Thank you, Amy.

21 And I want to reemphasize that the TVMDL matter
22 is complicated, it is sensitive -- I get it -- and we're
23 working on it.

24 I have no other questions. Does anybody have a
25 question?

1 COMMISSIONER CONTRERAS: I have one question of
2 Amy.

3 The move to the public safety article, do we
4 lose anything from moving, do we gain a lot by moving, is
5 it just sort of a paper process moving articles?

6 MS. COOK: It's not a paper process. It would
7 take a deliberate decision by the legislature.

8 COMMISSIONER CONTRERAS: So what do we lose?

9 MS. COOK: We do not lose anything. In fact,
10 we would gain stability for the agency, including the
11 industry, and also, I think, add value.

12 So when I look across Texas, and I had a
13 conversation the other day about horse trailers moving
14 around the state, and there are permissions given -- and I
15 actually spoke with some of my fellow law enforcement
16 officers about this -- when you look at what we check,
17 what we worry about when we talk animal disease and we
18 talk about traffic and we talk about things moving in and
19 out of Texas, drugs and all that, there's particular
20 attention paid to human movement, not as much to animal
21 movement, except for what Animal Health does.

22 But the equine industry here, and particularly
23 the unlicensed activity that we haven't been able to go
24 after, which really impairs the licensed groups that are
25 represented here today, a licensed racetrack worries about

1 its future because of disease that may come in and out of
2 a brush track, about criminal activity that may come in
3 and out without impairing our business.

4 If we're positioned and capable and sustained
5 to be able to go over statewide mission stats, which we've
6 always had and never did, then I think this industry
7 would really take off. That's just another aspect that
8 hasn't been addressed, because we were never effectively
9 resourced.

10 So if people begin to think of us less as a
11 licensing agency, as though you were setting up a license
12 to cut hair, and more as an agency that adds value,
13 because one of the things that the industry -- and I think
14 I mentioned it here before -- racetracks, like during
15 Hurricane Harvey when I was in military, made great
16 staging bases.

17 If you really had a disaster where you needed
18 to deploy the helicopters to evacuate people -- it would
19 have to be right for them, it would have to be the right
20 timing, but even the land that does not have a racetrack
21 built on it but is owned by the industry, in the Valley
22 where they really seek to put staging areas, is huge in
23 terms of that give-back possibility in the emergency
24 support function.

25 And where I came from, if you weren't giving

1 back as a state agency or as an industry, people wanted to
2 know what are you contributing, and I think if we go in
3 and say we have this real ability to give back to Texas
4 that just has never been thought about, it not only
5 benefits Texas but it benefits the industry that's trying
6 to engage in this economic activity. I think it's a win-
7 win.

8 Does that answer your question?

9 COMMISSIONER CONTRERAS: Yes. Thank you.

10 COMMISSIONER McNABB: And just to reinforce on
11 what Amy is saying, in our other lives when we wore less
12 stylish clothes, all of it colored camo -- I mean, we're
13 both a couple of senior military flatfeet -- we would all
14 like to think that if something happened, and just as Amy
15 just said, if indeed you had another Hurricane Harvey,
16 gosh, a racetrack is a great place, but sometimes
17 disasters don't come at the same kind of frequency as the
18 normal flux of elected officials or leaders or so forth,
19 but if indeed we are written into that category of state
20 agencies, then when things happen and we're standing up
21 for whatever the disaster du jour is, whether it's new kid
22 of whatever the new kid of the future is, he knows, okay,
23 I need to have everybody from these agencies come to the
24 table and talk. If we are part of that larger group, we
25 are automatically at the table, rather than after the fact

1 going, hey, hey, I can help, I can help, I can help.

2 So it gets us into the planning conversation so
3 we know what's happening, and when it gets down to when
4 big things happen in Texas, they're big. You know, it's
5 like convoys that are hitting Galveston as the last trucks
6 are leaving San Antonio. When big things happen in Texas,
7 they're big.

8 So as planners, even though we are a small
9 agency, there are things and certain specific expertises
10 and our interface with a very unique population, the
11 horsemen as well as the tracks. If we are automatically
12 at the table because we have become part of that state
13 construct, then we can really be part of the conversation
14 when it counts and not just an afterthought.

15 MS. COOK: Well, and I think that's been in
16 every conversation with Department of Public Safety and
17 the great folks over there, is we want to be an agency you
18 call upon when you need additional help or specialized
19 help.

20 We want to be someone that is a resource to you
21 versus you being the agency that everybody calls for
22 everything, we want to be a go-to agency. And I actually
23 said that to TDLR and I said it to Animal Health Vet Board
24 and anybody who will listen to me.

25 So I think it's about giving back and being

1 that go-to partner, and that's really providing great
2 benefits to the industry you regulate, because as you
3 said, you're in the conversation so you see what things
4 are coming up and you can protect your regulated industry.

5 CHAIRMAN PATE: Any other comments or
6 questions?

7 About a year and a half ago when you presented
8 your strategic plan, I thought it was talking at that time
9 that we needed industry to be alert to what the plan was,
10 see where they could help and help us at the legislature.

11 The truth of the matter is we got help, but we got much
12 less help than we were hoping for.

13 And so I really hope y'all can get involved,
14 take a look at the strategic plan, consult with Amy on how
15 you might be able to help us advance the agency goals, not
16 only for the agency's benefit but hopefully your perceived
17 benefit, and really move things forward at the next
18 legislative session.

19 Anything else?

20 (No response.)

21 CHAIRMAN PATE: All right. If there's no
22 further discussion, I guess what we need to do is the
23 chair will now entertain a motion on staff's
24 recommendation to approve the 2025-2029 agency strategic
25 plan for submission to the 89th Legislature.

1 COMMISSIONER McNABB: So moved.

2 COMMISSIONER MACH: Second.

3 CHAIRMAN PATE: Motion by McNabb, second by
4 Mach. Is there any further discussion?

5 (No response.)

6 CHAIRMAN PATE: Hearing none, all those in
7 favor signify by saying aye.

8 (A chorus of ayes.)

9 CHAIRMAN PATE: Any opposed?

10 (No response.)

11 CHAIRMAN PATE: Motion carries.

12 We'll now move to agenda item VII.B, a report
13 of the Ad Hoc Greyhound Committee efforts.

14 Director Cook, please present this agenda item.

15 MS. WINSTON: I hate to interrupt, but we do
16 have public comment for VII.A.

17 CHAIRMAN PATE: I'm sorry. Is there any public
18 comment?

19 MS. WINSTON: We have one comment card, and
20 that one is Tracy Sheffield.

21 CHAIRMAN PATE: Come on up, Tracy.

22 MS. SHEFFIELD: Thank you. As always, I
23 appreciate the opportunity to address the Commission.

24 Whenever something new is undertaken, it always
25 raises questions, and the strategic plan obviously is

1 going to raise some questions because it's new and there's
2 a lot of new material in there.

3 The first section I had a question on -- I have
4 question on certain sections that I just wanted to ask --
5 Section VII. Operational Goals, Goal B. Partner Action,
6 Plan 1. Accountability. Wouldn't participation in the
7 Racing Compact help meet that goal? That's a question
8 that we have.

9 And then, of course, the greatest concern of
10 all horsemen right now is the situation with post-race
11 testing, and I just have one question -- well, I have two
12 questions -- and you know, the strategic plan is just a
13 plan; it doesn't maybe have all the information in there.

14 But when I see big numbers like 5 to
15 \$10 million, that's a big span, it would be nice if those
16 could be broken down at some point for us to truly
17 understand the money situation when we're talking those
18 kinds of dollars.

19 The question I think that horsemen have with
20 the testing situation with TVMDL is it is my understanding
21 that every August the Commission negotiates a new contract
22 with TVMDL to do the post-race testing. Is it possible to
23 simply do that contract again and let TVMDL worry about
24 whether it's subbed out or done in-house? That's my
25 question on that point.

1 And if they are not doing it, they've already
2 let their RMTC accreditation lapse, then in number 5 --
3 excuse me, Section VIII. Redundancies and Impediments,
4 number 5, in that case TVMDL would have no use for the
5 funds from the Equine Research Account as they're
6 transitioning away from race testing, so I'm not sure why
7 that's in the strategic plan.

8 And then another point in there -- again, it's
9 just a question, I don't know the answer, there's probably
10 a very good one but it's not answered in the plan -- why
11 do we need five attorneys, do we need two, do we need six?

12 The number, we don't know why we need five attorneys, and
13 some clarification there would be appreciated.

14 I'd like to go to perhaps the most serious
15 issue that's been brought up, which is bush track racing.

16 These places are rough. There are occurrences of animal
17 cruelty, drug trafficking, human trafficking, and arms
18 trafficking, all occurring at bush track racing events.
19 Additionally, transmission of equine infectious anemia and
20 piroplasmosis are traced to bush track racing activities.

21 As stated in the strategic plan, bush track
22 racing in and of itself is not illegal, and I'd like to
23 put a point in here that perhaps at this point before we
24 go forward we make some efforts to have a law to make it
25 illegal, so we really have something definable to enforce.

1 Right now, I can take a horse, my friend can take a
2 horse, and we can put up a pasture and race them all day
3 long. We need a law to enforce; then we can step forward
4 further into this.

5 The plan also states that there are many
6 overlapping jurisdictions on bush tracks, and I can attest
7 that this is the case. I did used to gallop horses. The
8 nearest bush track had the best surface to do it, and
9 while I was there I saw CIA and FBI agencies there.
10 Agencies are already working bush tracks; I've seen them
11 there myself.

12 So we also have local law enforcement, as I
13 mentioned, DEA, FBI, ATF and CIA, with all these law
14 enforcement agencies in place to deal with these crimes.
15 It does raise the question: Do we need to become yet
16 another overlapping law enforcement agency?

17 CHAIRMAN PATE: Tracy, your three minutes are
18 more than up.

19 MS. SHEFFIELD: Oh, I thought that was my two-
20 minute warning. I'm sorry. Thank you, I appreciate it.

21 CHAIRMAN PATE: Well, thank you. I think
22 they're great comments, and I appreciate you actually
23 reading the strategic plan, and I will invite you to get
24 back to Amy on any other questions that you have to help
25 us move it forward.

1 Amy, do you have some responses or
2 observations?

3 MS. COOK: No. I appreciate that the draft
4 wasn't available, and so that's why you're approving a
5 draft but glad to talk about any of the items in here.

6 One thing I do want you to understand -- and I
7 left in here from the last one, it was in there -- is this
8 Equine Education and Research Council, I really want to
9 reinstate the Equine Education and Research Council, as
10 I'm rebilling it.

11 I started this idea a few years ago, because I
12 think when we talk about the fact that I didn't know there
13 was horse racing in Texas until I got this job and the
14 ability to partner with educational organizations on not
15 just lab testing but internship -- we are sending about
16 \$50,000 a year to Texas Agrilife every year that they
17 can't spend because they don't have an appropriation.

18 So monies is out of Accredited Texas Bred going
19 nowhere when it could be seed money for internships and
20 those type of things. So that one in particular is kind
21 of a one-off, but absolutely glad to answer any other
22 questions anytime.

23 But don't want to continue to take up more time
24 unless commissioners have questions on any of that.

25 CHAIRMAN PATE: Commissioners, do y'all have

1 any questions?

2 (No response.)

3 CHAIRMAN PATE: Do we need to redo the vote,
4 Mary?

5 MS. WINSTON: No, sir.

6 CHAIRMAN PATE: We're good?

7 Let's move now to agenda item VII.B, a report
8 on the Ad Hoc Greyhound Committee efforts.

9 MS. COOK: So if you turn to page 13 of the
10 draft strategic plan, and it's also on page 15 of your
11 materials, the Ad Hoc main charter that we prepared and
12 was approved by the Commission is integrated into the
13 draft strategic plan, along with their recommendations.

14 I did briefly communicate with Commissioner
15 Moore, and he said he would read through these to make
16 sure he had no feedback since he was unable to attend
17 today.

18 So the recommendations and summary -- and we
19 had a lot of great discussion not only with the
20 commissioners appointed to this but also with the industry
21 representatives -- really are twofold, on page 14 of the
22 draft strategic plan on page 16 of your materials, the
23 first of which is providing the Commission the authority
24 to address an industry transition.

25 The current version of the Racing Act does not

1 contemplate the specific end of an industry or industries,
2 such as we face today with the greyhound industry;
3 therefore, the commissioner, the agency staff, licensed
4 racetrack and occupational licensees have worked together
5 to the best of our ability to work on a legislative
6 solution to effectively transition the activities of the
7 greyhound industry.

8 Beginning in 2023, the Commission declined to
9 approve live race dates for the 2024 season based on the
10 inability of the industry to achieve the necessary
11 racetrack capability and breeding industry challenge,
12 which has been followed by the agency and the Commission
13 taking all steps possible to transition the industry.

14 As you know, on March 31, 2024, the racetrack
15 application period for Class II horse tracks requested by
16 the greyhound track owners for the counties with existing
17 greyhound racetrack licenses opened and then closed.

18 Although those three greyhound racetrack
19 associations were appreciative and supportive of the
20 opportunity to transition their business from one industry
21 to another, they decided it would be more appropriate to
22 seek guidance from the legislature and to address those
23 issues that they had concerning the greyhound industry
24 transition in that way since we had no applications.

25 The second key recommendation is that we need

1 to clarify fiduciary duties for trade associations. The
2 Texas Racing Act and Texas Rules of Racing do require
3 annual financial audits for trade associations who are
4 charged with the responsibilities of receiving, accounting
5 for, and distributing funds derived from pari-mutuel
6 wagering.

7 However, when those funds are designed for a
8 purpose which no longer exists, i.e., purses for live
9 races, the requirement to fully account for funds derived
10 from pari-mutuel wagering activities, as well as taking
11 the steps to seek Commission guidance on how to
12 appropriately return or distribute such funds would be
13 appropriate.

14 Based on further guidance from the Commission,
15 the agency will continue to work with stakeholders to
16 account for and recommend appropriate disposition of funds
17 involved in the greyhound industry transition.

18 On to the Texas Greyhound Association: As part
19 of the efforts to determine how to effectively transition
20 the industry, the Texas Greyhound Association was asked to
21 provide -- and we discussed this in the last Commission
22 meeting as well as sent a copy of the letter to the
23 Greyhound Association -- a full accounting of funds
24 derived from pari-mutual wagering sources several times,
25 with the most recent being a letter dated February 6,

1 2024, requiring certain information to be produced by
2 March 31 of 2024.

3 Although we've exchanged several phone calls
4 and letters and held a meeting to go over the requested
5 information for several hours on March 14, TGA has not
6 provided the specific information as requested as of
7 today.

8 A number of funding concerns, therefore,
9 remain, including the October 2022 declaratory judgment
10 initiated by the TGA that resulted in the distribution of
11 pari-mutuel funds to licensed greyhound tracks that was
12 not brought before the Commission.

13 Since all rulemaking and decisions related to
14 pari-mutuel wagering funds and associated programs rest
15 with the Commission, it is appropriate for the staff to
16 recommend that we seek the advice of a third party --
17 namely the Office of the Attorney General -- on the next
18 agenda item.

19 The next agenda item is not about the merits of
20 the declaratory judgment, rather it's about having another
21 set of eyes on the distribution of funds in the judgment,
22 and following that, advice can be provided to the
23 Commission on the next appropriate steps.

24 CHAIRMAN PATE: So I want to make sure, on the
25 status of the Ad Hoc report, is there actually a report

1 that's going to be generated? What I kind of envisioned
2 was that while there might be agreement on what the
3 ultimate resolution was, I felt like it would be a
4 document which would highlight for the legislature what
5 issues need to be resolved as a result of, as a practical
6 matter, the cessation of greyhound racing generally, but
7 particularly in Texas. So I don't know whether that
8 product is actually going to come out or not.

9 In other words, I realize there are opposing
10 voices that might have different views on what should
11 happen, but kind of in my own mind's eye, I envisioned
12 that those being articulated, the opposing voices, so the
13 legislature had some guidance as to what the tension was
14 with respect to some of the issues.

15 Is that where we're headed?

16 MS. COOK: Well, I think what I ended up doing
17 was putting the high level outcomes in the draft strategic
18 plan, because depending on what our next steps are back to
19 this redundancies and impediments section, I do think we'd
20 probably add a section that says here are the things that
21 really need to be looked at closely by the legislature
22 that are concerns for the agency, including this aspect
23 here. But I don't know that with all the great
24 conversations and all the great meetings and all the great
25 letters that we actually have any answer.

1 I think the main goal of this summary was to
2 say that the industry, as it stands today, the agency and
3 the Commission, we've taken all the steps we can take
4 short of legislative involvement, so we recommend the
5 legislature look at providing you the authority to address
6 distribution of those funds and the purpose for which the
7 funds existed, providing that greyhound races no longer
8 exist, and then to clarify fiduciary duties for trade
9 associations.

10 Because, to be fair to the Texas Greyhound
11 Association, what we asked for in the letter was a little
12 different than had been asked for before. We asked to
13 specifically pull out the pari-mutuel wagering funds, any
14 funds derived from those sources and do an audit on those
15 funds, not on the association proper, but on the funds
16 themselves, where they came from, how they were expended
17 and so forth, which was a little different, and it hadn't
18 been asked for before and we find ourselves in new
19 territory.

20 I'm having a little trouble, other than doing
21 high level really wrapping this up in any kind of a way
22 and integrating it into the strategy. So I'm happy to
23 offer something separate if you think that's helpful, but
24 I think this is where all of our stakeholders look, this
25 is where members look and their staff look is at this

1 document, so I thought it would be more effective
2 integrated into this.

3 CHAIRMAN PATE: Any questions?

4 COMMISSIONER CONTRERAS: So I remember this
5 discussion maybe a couple of meetings ago, and I'm a
6 little confused. So the greyhound industry regulation,
7 that falls under this Commission. Correct?

8 MS. COOK: That's correct.

9 COMMISSIONER CONTRERAS: So my experience with
10 the legislature is they really look for solid
11 recommendations to come out of agencies, but they're not
12 going to do the research or the legwork or say we think
13 this or that.

14 So what I would expect as well -- and maybe it
15 can't be done in three months or four months, maybe it
16 needs to be a longer process to have some data and
17 research industry-based recommendations to the legislature
18 that start the process for really putting a little more of
19 a stake in the ground as to what can be done.

20 And I'm not as involved as whoever was part of
21 the committee, but there hasn't been any greyhound racing
22 happening, and I see the simulcast activities ceased in
23 December, so if there's nothing going on and it's not
24 coming back, what needs to be done with it post this sort
25 of --

1 (Simultaneous voices.)

2 MS. COOK: That's a great question.

3 CHAIRMAN PATE: Well, I mean, that's exactly
4 the issue, and there are several problems, one of which is
5 there's monies out there, there's always a problem with
6 money, and then what happens to the money.

7 And I'm going to characterize it -- and I could
8 be really oversimplifying an issue, but there were
9 monies -- and I think what we're talking about here is
10 money that horse tracks were required under the law to
11 give to the greyhound industry, which the greyhound
12 industry was supposed to use as additional purse money to
13 encourage the greyhound industry.

14 The greyhound industry doesn't exist anymore,
15 and there is some money -- last time we looked it was, I
16 don't know, \$4.5 million or so -- so the issue is, well,
17 who gets the money?

18 There are probably greyhound people out there
19 who think that somehow they're entitled to it even though
20 there is no racing, and there are tracks out there who
21 think even though they've already paid it, it would be
22 great to get it back because it was never used for the
23 purpose intended. But there's no mechanism within our
24 statute that allows us to say, okay, there's no racing,
25 this is what happens, and so we're going to have to have

1 that decision.

2 And if I had to guess, at the point in time
3 when the legislature might look at this, you're going to
4 have interest industry-wide in this, you know, in the
5 areas of legislators with their various points of view,
6 and somehow through that process, hopefully a decision
7 will be made, because it's just something that's really
8 caused an inordinate amount of time on the staff to deal
9 with it over the last year and a half because of the
10 conflicting views and so forth, so hopefully we'll get a
11 resolution.

12 COMMISSIONER CONTRERAS: Thank you, Chairman.
13 That's very helpful.

14 One thought -- and I'm always looking at it as
15 how do you get the outcome you want, what is the end
16 state, so the end state to me is twofold, from what you're
17 saying. It's interim authority to do what we need to do
18 with the money, who has that, is it a designation from the
19 legislature given to the Commission to decide, you know,
20 is it a refund to the tracks or is it a distribution to
21 the association, or does it go into the general fund, I
22 mean, whatever, a decision. That's sort of one track that
23 to me makes better sense as a shorter resolution.

24 The longer resolution is since the greyhound
25 industry is dead, it's not coming back, what do we do with

1 the statute that authorizes you to operate with the
2 greyhound industry authority, right, so does it go away,
3 does it, you know --

4 MS. COOK: Well, and that's why I think I
5 called it a transition because your business interests,
6 the greyhound track association still have those licenses
7 even though they went from active to inactive.

8 They do have some considerations with respect
9 to those business interests that we don't want to disturb.

10 Also, so the committee substitute on House Bill 4115 last
11 year did address some of the greyhound industry changes,
12 but it went so far as to basically strike the Commission
13 from the statute, and we didn't get any funding.

14 We had a contingent funding request on
15 greyhound regulation, we didn't get that, so the fact that
16 we weren't resourced to regulate it but it's still in the
17 statute, and our whole statute is designed around starting
18 up industries, not transitioning or winding them down,
19 which is where we've had AG opinions and other things
20 where you have, to me -- and this is something that I
21 thought of really last session and sort of socialized with
22 this group, was that the best outcome for everyone is to
23 delegate to the Commission the authority to make decisions
24 when there's a transition, because you're in the best
25 position to have that presented to you and have these

1 folks testify what they think that is.

2 But I'd also take it a step further and say
3 you've got to clarify that the extension of the fiduciary
4 duty of the state agency and the Commission to a trade
5 association in this way needs to be clear in the statute
6 as well.

7 Just doing an audit without -- really that's
8 all it says, do an audit. So when I say, well, I'd like
9 to have an audit more specific on these responsibilities
10 because they came from industry members or they came from
11 the Comptroller to credit the Texas-Bred, that shouldn't
12 be a surprise that there's a fiduciary duty there, that
13 you're a trade association and that you then need to be
14 able to provide to the Commission that you've got clarity
15 on what happened to those funds, and so we're in new
16 territory here on that.

17 As you know, as the chairman said, I could
18 provide recommendations, someone else has to pick it up
19 and turn it into a bill, but I would say really my role is
20 to kind of give the high level recommendations that these
21 type of actions really help the Commission and solve this
22 problem, but not to the point where we take it out of our
23 statute to the extent that we can't address unlicensed
24 racing.

25 So just kind of to return to what Ms. Sheffield

1 pointed out, unlicensed racing is a felony in this state,
2 and that is actually the teeth that we have to go after
3 brush tracks, but we've never been resourced to do that.

4 CHAIRMAN PATE: Unlicensed where there's
5 betting.

6 MS. COOK: Right, where there's going to be
7 some wagering, correct.

8 Now, there could be more done with that to give
9 us more authority; that's a different conversation. But I
10 wouldn't want greyhound to come out so far that they have
11 pop-up greyhound brush track activity in the state, which
12 is, you know, potentially going on right now, I don't
13 know, because typically where you have brush tracks and
14 horse racing, you have other illegal animal racing or
15 fighting that's going on at those tracks as well.

16 So 100 percent, and I tried to come up with all
17 this conversation and all this new territory we're able to
18 talk to high level recommendations, but as I said, glad to
19 refine that more or make it a separate report if you think
20 that's appropriate. I'll defer to you on that.

21 COMMISSIONER CONTRERAS: I'd like to suggest --
22 again, because I'm looking at what's the outcome, I could
23 see ourselves talking about this a year from now and what
24 do we do. It's like a ball, who's going to take the ball.
25 Right? So I would like to suggest that maybe go back and

1 maybe put a little more teeth in the sort of
2 recommendations around those two streams, so the authority
3 around the 4 million or so that's there, who has that?

4 CHAIRMAN PATE: I think the problem is where is
5 that written. As an agency we're not really allowed to
6 lobby the legislature, so we're trying to --

7 COMMISSIONER CONTRERAS: We can make
8 recommendations. Right?

9 CHAIRMAN PATE: We can make a recommendation.

10 COMMISSIONER CONTRERAS: To a friendly member.

11 Right?

12 MS. COOK: You can do that, certainly.

13 COMMISSIONER CONTRERAS: Oh, I get it, I get
14 it.

15 I'm happy to lend my additional insight. I'm
16 all about producing -- and I know you are, too --
17 producing outcomes.

18 MS. COOK: I'm your gal if you want outcomes.

19 CHAIRMAN PATE: Just as a matter of refreshing,
20 we did have House Bill 4150 last session, and it dealt
21 with this issue and in its own way proposed a resolution;
22 the bill did not pass, it did not get set for reading. So
23 there were efforts by individuals in this room lobbying on
24 behalf of their clients, their interests to advance, but
25 they were unsuccessful, so there's mechanisms to get it

1 done, and we're trying to be honest about this is a real
2 issue that needs to be resolved and it's taking up staff
3 time.

4 COMMISSIONER MALDONADO: Well, if I might just
5 add a comment to Amy's point about what is permissible or
6 not permissible during the legislative session, I mean, as
7 we all know, you as agency staff are resource witnesses,
8 and then the legislative committees or any potential
9 sponsor is going to be looking to you as a resource
10 witness and having expectation, I think, that you have
11 marshaled the facts to be able to transfer that, to the
12 chairman's point.

13 And so while there may be divergent viewpoints
14 there, being able to line those up concisely and
15 succinctly under just a single cover, if you don't do that
16 now while you have the luxury of time, you will be asked
17 for that information during session, and it will be next
18 to impossible to marshal that evidence together, I think.

19 So I do think it's a wise decision.

20 MS. COOK: That's right, and that's what I sort
21 of tried to do here is give a summary and give the
22 recommendations but also give the timeline and the
23 background, which was meant to reflect we've done
24 everything, agency, industry, commissioners, that we can
25 under the current statutory authority that we have. Now

1 we ask you to pick this up.

2 This, to me, is the best articulation of the
3 key facts to make those decisions. My concern is that we
4 do communicate it well, as you said, that we have as much
5 detail as possible.

6 CHAIRMAN PATE: Amy, what I think you might
7 want to do on this particular issue, you might want to
8 draw out from that and create a separate paper and
9 anticipate having it be used.

10 MS. COOK: Mary, can you do one?

11 MS. WINSTON: Other duties as assigned.

12 (General laughter.)

13 COMMISSIONER MACH: FAQs are illuminating.

14 CHAIRMAN PATE: Frequently asked questions.

15 COMMISSIONER MACH: Questions you anticipate
16 them to ask.

17 MS. COOK: That's a great way to think about it
18 too. Thank you.

19 CHAIRMAN PATE: I think that's excellent
20 feedback.

21 COMMISSIONER CONTRERAS: And just one more
22 point. I think industry input is key, because it's
23 impacting the industry, so if I were a legislator, I'd
24 want to know what does the industry thinks about this, or
25 maybe a data point out of the industry of what they think

1 should happen. I know the monies are kind of a little bit
2 of a hornet's nest because everyone wants money back.

3 MS. COOK: Independent of that, the industry
4 representatives listed on the chart that were appointed,
5 we've met a number of times and talked through their
6 perspectives on it, so I'm pretty comfortable that this is
7 not a surprise to them and there's not a lot of debate,
8 but this is a relatively new draft out there so I'll go
9 back to them and ask is there any other feedback.

10 There are points where we agree to disagree
11 particularly, you know, at what point can we really figure
12 out what is the appropriate disposition of those pari-
13 mutuel wagering funds held in custody by the TGA, but
14 aside from that, I think there's great collaboration and
15 concurrence on successfully transitioning but not sending
16 a message that it's over to the business owners and the
17 kennel owners and the breeders, because the statute still
18 contains the mission, and we still have a responsibility
19 to them, if that makes sense.

20 Great feedback. Thank you.

21 CHAIRMAN PATE: All right. Now, with respect
22 to the Ad hoc Greyhound Committee efforts, is there any
23 public comment?

24 MS. WINSTON: We do have one public comment
25 card from Mr. Kevin Vickers. Judge Pate, we also have

1 some information that is written. He is aware that he
2 still has three minutes, and these documents do support
3 that that he also emailed, so we'll make sure that you get
4 that.

5 CHAIRMAN PATE: All right. Thank you.

6 MR. VICKERS: And forgive me, because I have
7 public comment limited to forego this agenda item.

8 CHAIRMAN PATE: That's what I was going to ask.
9 He really wants to, I think, talk about the action item,
10 and there was no action item has been presented yet.
11 Correct?

12 MS. COOK: It was simply an update.

13 CHAIRMAN PATE: Amy, you want to go ahead and
14 make your presentation with respect to the possible OAG
15 involvement, and then Kevin can give his comment. That's
16 probably appropriate.

17 MR. VICKERS: Yes, I'm happy to wait.

18 CHAIRMAN PATE: Thank you.

19 MS. COOK: So the next agenda item is not about
20 the merits of the declaratory judgment, which I did
21 briefly touch on before, that was issued October of 2022
22 after that OAG opinion was received, but rather the staff
23 is recommending that we put another set of eyes from the
24 Office of the Attorney General on the declaratory judgment
25 because there has been communication back and forth about

1 whether or not that was an appropriate declaratory
2 judgment issued by the court.

3 Where I stand with it is the decisions rest
4 with the Commission with respect to enforcing the Racing
5 Act and promulgating rules and making decisions with
6 respect to pari-mutuel wagering funds throughout the
7 state.

8 Since this whole declaratory judgment situation
9 happened without the advice of the Commission, I think
10 it's appropriate at this point that if the Commission
11 finds it to be appropriate that we look to the OAG's
12 office to seek advice on whether or not further steps
13 should be taken to review the action or potentially
14 seeking a bill of review.

15 CHAIRMAN PATE: All right. We're not talking
16 about the merits. The issue is you have your opinion with
17 respect to what the staff did or didn't do, and you're
18 saying that the Commission didn't vote on it; I don't
19 think we did.

20 MS. COOK: Correct.

21 CHAIRMAN PATE: And so we obviously have
22 another view; we've got reams of arguments to the
23 contrary. So you're basically saying you're going to ask
24 us to approve you as staff to go to the OAG and asking
25 them as lawyers to evaluate it and whether or not we are

1 fulfilling our fiduciary duty to account for these funds
2 that are involved.

3 MS. COOK: That's correct.

4 COMMISSIONER MACH: I'll make that motion.

5 CHAIRMAN PATE: Well, we're going to hear from
6 Kevin first.

7 MR. VICKERS: Thank you. Yes, Kevin Vickers,
8 representing the Texas Greyhound Association.

9 With respect to the bill of review motion and
10 taking, I guess, a partial step towards the possible
11 filing of a petition for a bill of review of this
12 judgment, the TGA thinks that the Commission should not
13 seek a bill of review --

14 COMMISSIONER CONTRERAS: I'm sorry. Could you
15 speak up just a little bit.

16 MR. VICKERS: Of course, yes. Thank you.

17 The TGA has provided written comment on this
18 matter, as was referenced. The written comments have been
19 sent electronically as well as printed copies have been
20 provided, as well as materials as attachments that are
21 worth looking at, and the printed copies are available
22 from the general counsel there.

23 The TGA urges the Commission to review the
24 TGA's written comments on this, to look at the letter that
25 was sent yesterday with these written comments -- or this

1 morning with these written comments, as well as the
2 letters and attachments the TGA sent two months ago on
3 February 13, we have information pertinent to this matter.

4 The underlying board judgment in the matter of
5 tracks was fully vetted by the Commission's executive
6 director and the general counsel -- fully vetted with the
7 Commission's executive director and the general counsel
8 months before the racetracks filed the underlying lawsuit.

9 This Commission's ED and general counsel, who
10 are top level officials who are statutorily charged with
11 all powers necessary to administer the agency, indicated
12 to the racetracks, the TGA and others that the Texas
13 Racing Commission had no objection and that under the
14 agency rules, specific approval by the agency was not
15 required for the racetracks to distribute the greyhound
16 purse account funds to kennel owners and to the TGA as an
17 administrative pass-through.

18 So again, the ED and general counsel said the
19 specific approval with a vote of this Commission was not
20 required. Several pieces of written documentation showing
21 the ED and the general counsel's involvement are attached
22 to the letter that the TGA sent in February in the binders
23 and in electronic form.

24 At a minimum, the Commission should postpone
25 consideration of the bill of review agenda item today

1 until after all commissioners have read TGA's letter and
2 looked at the attachments.

3 CHAIRMAN PATE: All right. Thank you. Your
4 three minutes have expired.

5 MS. WINSTON: He has one more minute.

6 CHAIRMAN PATE: Oh, I'm sorry. One more
7 minute.

8 MR. VICKERS: Well, I don't have much to add
9 other than if the public cannot trust that the agency's
10 rules and the top agency officials' statements represent
11 the agency's position without the agency almost two years
12 later taking steps to unwind those rules and those top
13 officials' statements, then there's some fundamental
14 brokenness with the regulatory system here.

15 And, ultimately, like I said, the Commission
16 should not seek a bill of review but at a minimum postpone
17 this agenda item and take a look at the materials.

18 Thank you.

19 CHAIRMAN PATE: All right. Thank you.

20 You didn't happen to bring the audit that's
21 been requested with you, did you, today?

22 MR. VICKERS: I do not have that; it's in the
23 works. Much communication is also invited with the agency
24 staff on that.

25 CHAIRMAN PATE: Okay. Any further discussion?

1 (No response.)

2 CHAIRMAN PATE: All right. Hearing none, the
3 chair will now entertain a motion to direct the staff to
4 consult with the Office of the Attorney General with
5 respect to the matter of Gulf Greyhound Partners, LTD and
6 Gulf Coast Racing, LLC against Texas Greyhound
7 Association, Cause Number 2022-2767-3.

8 COMMISSIONER McNABB: So moved.

9 COMMISSIONER MACH: Second.

10 CHAIRMAN PATE: Motion by Commissioner McNabb,
11 second by Commissioner Mach. Is there any further
12 discussion?

13 COMMISSIONER MALDONADO: I'd like to ask that
14 when we contact the Office of the Texas Attorney General
15 that we include the Texas Greyhound Association's
16 correspondence with that so the AG has the benefit of
17 hearing that viewpoint.

18 CHAIRMAN PATE: Yes, that's no problem.

19 All those in favor signify by saying aye.

20 (A chorus of ayes.)

21 CHAIRMAN PATE: Any opposed?

22 (No response.)

23 CHAIRMAN PATE: Motion carries.

24 We now move to agenda item VIII.A, discussion
25 and possible action to approve posting proposed rule

1 amendments in the Texas Register.

2 Ms. Winston.

3 MS. WINSTON: Good morning, commissioners.

4 The proposed revision to Rule 307.67 is a
5 cleanup and clarification revision. For cleanup, the term
6 "executive secretary" is no longer used, and it's being
7 replaced throughout with "executive director." The term
8 "steward or racing judge," -- throughout we have "steward
9 or racing judge." We don't utilize the term "racing
10 judge." We utilize the term "steward," so throughout we
11 are updating this section to only include "steward," not
12 the "and/or racing judge".

13 Under (b), the Filing Procedures, there's
14 further cleanup. The law that governs Texas racing is the
15 Texas Racing Act, under Section 2023.052, so that's the
16 right to appeal a penalty amount assessed on the finding
17 of a violation within 30 days of notice of that decision.

18 Section 307.67(b) of the Texas Rules of Racing
19 provides the process for that appeal established by the
20 Act to take place. While reviewing this rule, staff noted
21 that the time frame for appeal as provided by the law,
22 which is 30 days, was not included in this rule; instead,
23 the rule allowed for three days to file an appeal.

24 Since the time frame provided for appeal in the
25 statute is 30 days, changing the language in this rule to

1 30 days instead of three will make it consistent with the
2 Racing Act and provide a reasonable amount of time for
3 appeal.

4 We also clarified where the appeal was to be
5 sent and the timeliness of mailing to include reference to
6 a postmark date rather than when it's received, and not
7 the review date, to make sure we accommodate any mailing
8 abnormalities.

9 And lastly, we eliminated the requirement of
10 \$150 cash bond that was previously required to file an
11 appeal, as well as assessment for cost of copying. These
12 were a bit of an impediment to anyone who wanted to file
13 an appeal.

14 And that rounded out our changes for this rule,
15 this revision to be filed with the Texas Register. As
16 always, upon filing, it will be posted for 30 days in the
17 Register, and comment time will be allowed and that will
18 be considered during that time.

19 CHAIRMAN PATE: All right. Thank you, Mary.
20 Commissioners, any questions?

21 (No response.)

22 CHAIRMAN PATE: Do we have any public comment
23 on this particular rule modification?

24 MS. WINSTON: We have no public comment.

25 CHAIRMAN PATE: All right. If no further

1 discussion, the chair will now entertain a motion to
2 approve as Ms. Winston has outlined the amendments to
3 Section 307.67 of 16 Texas Administrative Code.

4 COMMISSIONER CONTRERAS: So moved.

5 COMMISSIONER MARTIN: Second.

6 CHAIRMAN PATE: Motion by Commissioner
7 Contreras and a second by Commissioner Martin. Any
8 further discussion?

9 (No response.)

10 CHAIRMAN PATE: Hearing none, all those in
11 favor signify by saying aye.

12 (A chorus of ayes.)

13 CHAIRMAN PATE: Any opposed?

14 (No response.)

15 CHAIRMAN PATE: The motion carries.

16 The Commission does not have an executive
17 session at this meeting.

18 Agenda item X is scheduling the next Commission
19 meeting. The next meeting is scheduled for Wednesday,
20 June 12, 2024, here in this room at the Barbara Jordan
21 Building in Austin, Texas.

22 I am pleased to say that I'll be having my
23 right knee replaced in May, and I may or may not be at the
24 meeting, but Commissioner McNabb will be here to take care
25 of things, and that's where we are today.

1 The time is now 11:40, and we are adjourned.

2 Thank you.

3 (Whereupon, at 11:40 a.m., the meeting was
4 adjourned.)

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C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: April 10, 2024

I do hereby certify that the foregoing pages, numbers 1 through 61, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Racing Commission.

DATE: April 17, 2024

/s/ Nancy H. King
(Transcriber)

On the Record Reporting
7703 N. Lamar Blvd., #515
Austin, Texas 78752



TEXAS RACING COMMISSION
1801 N. Congress Ave
Austin, TX 78711-2080
(512) 833-6699

Texas Racing Commission
Wednesday, April 10, 2024
10:30 a.m.
Barbara Jordan Building, Suite 2.034
1601 Congress Avenue
Austin, Texas 78701

AGENDA

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGES (U.S. AND TEXAS)**
- IV. COMMISSIONER REMARKS**
 - A. Commission Chair
 - B. Commission Vice Chair
 - C. Commission Members
- V. PUBLIC COMMENTS**
- VI. STAFF REPORTS**
 - A. Executive Director Report
- VII. GENERAL BUSINESS**
 - A. 2025-2029 Agency Strategic Plan Presentation

Discussion and possible action to approve the 2025-2029 Agency Strategic Plan for submission to the 89th Legislature.

B. Ad Hoc Greyhound Committee Update.

Discussion and possible action to direct staff to work with the Office of the Attorney General to seek a bill of review in the matter of Gulf Greyhound Partners, LTD, and Gulf Coast Racing, LLC, v. Texas Greyhound Association, Cause No. 2022-2767-3.

VIII. PROCEEDINGS ON RULES

A. Discussion and possible action to publish proposed rule amendment in the Texas Register.

1. 16 Texas Administrative § 307.67, Appeal to the Commission.

IX. EXECUTIVE SESSION (AS NEEDED)

The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

- A. Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer.
- B. Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.
- C. Under TEX. OCC. CODE §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalisator contracts.

X. NEXT COMMISSION MEETING

Wednesday, June 12, 2024, 10:30 a.m.

XI. ADJOURN

DRAFT // PRE-DECISIONAL



**TEXAS RACING COMMISSION
AGENCY STRATEGIC PLAN
FISCAL YEARS 2025-2029
Effective Date: June 1, 2024**

PENDING UPDATED PAGE



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

June 1, 2022

Office of the Governor
 Office of the Lieutenant Governor
 Office of the Speaker of the House of Representatives
 Legislative Budget Board

Re: *Texas Racing Commission Agency Strategic Plan, Fiscal Years 2023-2027*

Ladies and Gentlemen:

Last June, Governor Greg Abbott named me Chairman of the Texas Racing Commission. I immediately went to work with my fellow Commissioners to initiate transformational agency change, from the way we interact with our regulated parties to how we operate with the public and with those otherwise interested in our activities. From the moment of my appointment as Chairman, we had the immediate task of implementing *Senate Bill 713 (87R)*, a Sunset bill continuing this agency through 2027 and requiring us to replace senior executives.

Last fall, as a Commission, we were fortunate to find Amy F. Cook and welcome her as our new Executive Director. A retired U.S. Army Brigadier General, Amy served in significant leadership roles on active duty and with the Texas Army National Guard. She has led major organizations through dramatic change and has put her tremendous talents to work redirecting and rebuilding our agency to the benefit of all interested parties. All Texans can be proud to know Amy remains on duty in support of the Lone Star State.

Today, we have the opportunity to strengthen our relationships with the Racing industry for the betterment of Texas Racing and work with our state leaders to modernize the *Texas Racing Act* and the *Texas Rules of Racing*. Our success will ensure the vibrancy of animal racing sports for Texans and tourists to our state during the next five years and beyond. Excellence starts here.

The enclosed *Texas Racing Commission Agency Strategic Plan, Fiscal Years 2023-2027* is a vision of that modernization.

We acknowledge the critical feedback provided prior to the last legislative session by the Sunset Advisory Commission to provide a roadmap for achieving outcomes we know Texans expect of an efficient and effective regulatory and enforcement body and are the centerpiece triggering some of the reforms reflected in this Plan.

I am proud to serve alongside you to make this vision a reality.

Sincerely,

Robert C. Pate
 Chairman

cc: Texas Racing Commission Commissioners and Agency Staff
 Legislative Reference Library
 Texas State Library
 Texas State Auditor

PENDING UPDATED PAGE

PRESENTED

BY

TEXAS RACING COMMISSION

Commission Member	Term Expires	Hometown
Robert C. Pate, Chair	02/01/2023	Corpus Christi
Connie McNabb, DVM, Vice-Chair	02/01/2027	Montgomery
Margaret Martin	02/01/2021	Boerne
Arvel "A.J." Waight	02/01/2027	Willow City
Michael "Mike" Moore	02/01/2023	Ft. Worth
Rebecca Contreras	02/01/2025	Hutto
Ex-Officio Members		Hometown
Sid Miller, Commissioner Texas Department of Agriculture		Stephenville
Steven P. Mach, Chair Texas Public Safety Commission		Houston

DATE OF SUBMISSION: 1 JUNE 2022

SIGNED: _____

Amy F. Cook
Executive Director

APPROVED: _____

Robert C. Pate
Chair

TABLE OF CONTENTS

I. INTRODUCTION	5
II. EXECUTIVE SUMMARY: STRATEGIC & LEGISLATIVE CONSIDERATIONS	6
III. AGENCY MISSION	7
III. VALUES	7
IV. HISTORICAL: INDUSTRY AND AGENCY PERSPECTIVE	8
LEGISLATIVE INTENT AND PARI-MUTUEL WAGERING	8
COMPETITIVE RACING IN TEXAS	9
BRUSH AND BUSH TRACKS.....	10
SUNSET ADVISORY COMMISSION REVIEW	11
V. AD HOC GREYHOUND COMMITTEE REPORT	13
VI. HORSERACING INTEGRITY AND SAFETY ACT OF 2020	16
VII. OPERATIONAL GOALS	18
GOAL A: ENABLE.....	18
GOAL B: PROTECT	19
GOAL C: COMMUNICATE	20
GOAL D: PARTNER.....	21
VIII. REDUNDANCIES AND IMPEDIMENTS.....	22
1. Agency Appropriations Article: Article V: Public Safety	22
2. Agency Fiscal Structure	23
3. Agency Staffing Model Insufficient for Statewide Mission.....	24
4. Drug & Evidence Forensic Laboratory.....	25
5. Equine Drug Research Council	26
6. <i>Texas Racing Act</i> , Chapter 2033, Criminal and Administrative Penalties; Cease and Desist Orders; and Disciplinary Powers.....	27
IX. SUPPLEMENTAL SCHEDULES.....	28
A. BUDGET STRUCTURE.....	28
B. LIST OF MEASURE DEFINITIONS.....	28
C. HISTORICALLY UNDERUTILIZED BUSINESS PLAN	28
D. AGENCY WORKFORCE PLAN	29
E. AGENCY FULL-TIME EQUIVALENT RESOURCE ALLOCATION PLAN.....	31
F. REPORT ON CUSTOMER SERVICE.....	32

I. INTRODUCTION

In 1986, when the 69th Legislature passed the Texas Racing Act, it created a self-funded agency, unique among all others, with appropriations language and limits set forth Article VIII of the General Appropriations Act (GAA).

That strategic decision, now that we view it through the lens of the past, had the unintended impact of impairing the agency's ability to become a fully functional law enforcement agency for almost forty (40) years.

We are continuing the important work of transforming the agency to enable the horseracing industry through licensing programs, while also protecting the state of Texas by creating a specialized law enforcement agency to enforce the Texas Racing Act statewide.

Building A Safer Texas¹

To support the Governor's initiative to "*Build a Safer Texas*", in our 2025-2029 strategic plan and legislative appropriations request (LAR), the agency recommends its appropriations be moved from Article VIII (Regulatory Agencies) to Article V (Public Safety and Criminal Justice Agencies). This critical change would allow the Texas Racing Commission (TXRC) to achieve recognition as the specialized law enforcement agency it was always destined to become. The road map to a strong regulatory scheme required to carry out the public safety mission of the agency and effectively address the Sunset Commission concerns is a path to finally make Texas, a state with more horses than any other in the Nation, the premier state for horseracing.

Building a More Prosperous Texas²

During the 88th Regular Session, the agency was fortunate to have legislative investment in its plan to begin transformation to a sustainable funding model that must be in place for the agency to effectively enforce the Texas Racing Act statewide. Enabling statewide enforcement of the law, would allow the agency to prosecute individuals for engaging in the unlicensed activities found typically at "*bush tracks*," which impair the integrity of the horseracing industry as they operate to the detriment of racing and creates significant risk to racehorse health and jockey safety. The future is bright for the horse racing industry in Texas in the next five years, with the advent of the Horse Industry Escrow Account in 2019, and the industry growth recognized because of Legislative investment in this valued economic activity that is a part of the rich equine, agricultural and entertainment history of the state, there is little doubt that Texas can become the premier state for horse racing, with an agency leading the transformation that is focused on: Accountability, Respect, Integrity, Safety and Excellence.

II. EXECUTIVE SUMMARY: STRATEGIC & LEGISLATIVE CONSIDERATIONS

A summary of the changes incorporated into 2025-2029 Strategic Plan

Legislative Recommendations

- Move Agency to Article V (Public Safety Mission)
- Appropriate General Revenue Funding for a Sustainable Funding Model
- Remove Accredited Texas Bred Program from Agency Bill Pattern
- Establish Commission Authority to Address Industry Transitions (Fiscal,
- Address Greyhound Transition while protecting against Unlicensed Activities

Specialized Law Enforcement Agency Initiatives

- Agency Moved to Article V (Public Safety)
- Connect Law Enforcement Mission to General Revenue Funding Request
- Establish Partnerships with Educational Institutions & Natural Resource Agencies)
- Join the Emergency Support Function Team for Logistics (ESF 9)
- Address Unlicensed Activity – Statewide Jurisdiction (Brush Tracks)
- Determine Future of Drug Test & Forensic Laboratory Capabilities

Updated Budget Structures & Resource Requests

- Evaluate & Update FTEs Capabilities to perform statewide mission.
- Evaluate & Update Tools, Training & Technology Needs (LAR)
-

Redundancies and Impediments

- Steps to Sunset (Updated Graphic to Show Return on Investment from 88th Session)
- Unfunded Mandates & Fiscal Considerations: Greyhound Industry Transition
- Status of HISA Legal Challenges
- Future of the Drug & Evidence Testing Program
- Greyhound Industry Transition

III. AGENCY MISSION

The mission of the Texas Racing Commission is to protect the safety and integrity of the sport of pari-mutuel greyhound and horse racing in Texas, through the administration and enforcement of the *Texas Racing Act* (Subtitle A-1, Title 13, Texas Occupations Code).

VISION

To enable and protect Texas horseracing by striving to become a model specialized law enforcement organization.

MOTTO

"Excellence Starts Here"

III. VALUES

Accountability ~ Respect ~ Integrity ~ Safety ~ Excellence



IV. HISTORICAL: INDUSTRY AND AGENCY PERSPECTIVE

The modern Texas Racing Commission (TXRC) dates to 1987, but the regulatory mandate can be traced to the Depression-era of the 1930s, when the Texas Legislature first legalized pari-mutuel betting in the state and created the first embodiment of the agency, which lasted until 1937.

“The original Texas Racing Commission was created in 1933 (House Bill 12, 43rd Texas Legislature, 1st Called Session) to create and enforce rules and regulations, restrictions, and conditions applying to all horse races and exhibitions of riding horses. The commission also authorized horse racing under the ‘certificate system’ or what is known today as pari-mutuel betting. The commission was composed of three members: the Texas Commissioner of Agriculture (an elected state official), the Tax Commissioner of the State of Texas (appointed by the governor), and a third member—designated as the chairman—appointed by the governor with the advice and consent of the state senate. This chairman must have been an owner and breeder of thoroughbred livestock for at least two years. The commission, being underfunded, received an emergency appropriation by the legislature in 1937 (House Bill 714, 45th Legislature, Regular Session). In 1937, the Senate passed legislation that repealed the legal status of horse racing and pari-mutuel betting (Senate Bill 1, 45th Legislature, 1st Called Session) effectively ending the Texas Racing Commission until it was reestablished in 1986 (Senate Bill 15, 69th Legislature, 2nd Called Session).”³



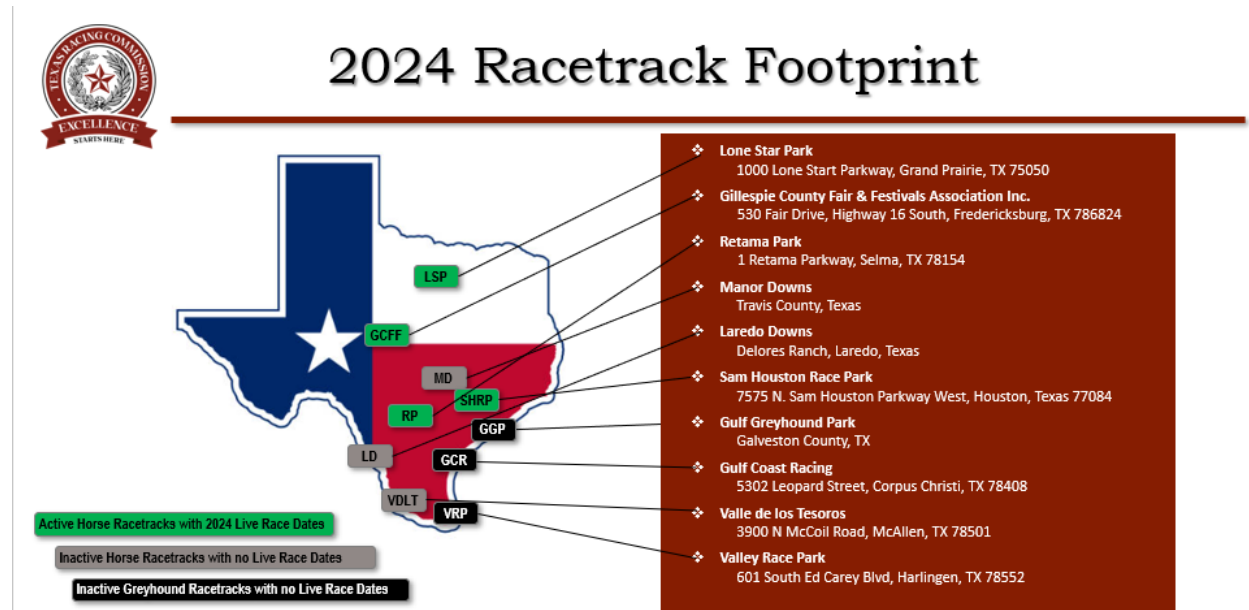
LEGISLATIVE INTENT AND PARI-MUTUEL WAGERING

The 1986 legislation re-establishing the TXRC gave the agency purview over the regulation and licensing of pari-mutuel wagering involving racehorses and greyhounds. Pari-mutuel was defined as meaning “a mutual wager,” and refers to a betting pool where those who bet on the winners of the first three places share the total amount of money wagered, minus a percentage for the management.⁴ When passing the *Texas Racing Act*, the Legislature’s stated purpose was to “...encourage agriculture, the horse-breeding industry, the horse-training industry, the greyhound-breeding industry, tourism, and employment opportunities in this state related to horse racing and greyhound racing, and to provide for the strict regulation and control of pari-mutuel wagering in connection with that racing.”⁵

Today, the TXRC is composed of nine commissioners. Seven members, including a chair and vice chair, are appointed by the Governor with staggered terms. And two commissioners holding ex-officio memberships through their status as the commissioner of the Texas Department of Agriculture and chair of the Texas Public Safety Commission.

COMPETITIVE RACING IN TEXAS

At its peak, Texas has been home to ten licensed racetracks, accommodating live and simulcasted horse and greyhound racing. Today, the TXRC oversees nine track licenses across the state, with four tracks actively conducting horse race days during the year – Gillespie County Fair & Festivals in Fredericksburg; Lone Star Park in Grand Prairie; Retama Park in Selma, near San Antonio; and Sam Houston Race Park in Houston.



“Greyhounds were introduced to America in the 1800’s to help farmers control the jackrabbit population. It was not long before competitions of greyhound racing were conducted by the surrounding farmers. This proved to be both an exciting event for the local population but also proved that the greyhound loved the chase and excitement of racing.”⁶

Professional greyhound racing began in California, in the 1920s, and spread across the United States and into parts of Europe and Mexico. “In 1931, Florida became the first state to approve wagering on greyhound races. The sport often intersected with popular culture there, as movie stars, baseball players and other celebrities frequented Florida tracks.”⁷

Since the 1990s, greyhound racing has been in steady decline. Today, greyhound racing is “currently illegal in 46 states and only operational in West Virginia”⁸ and there is Congressional interest in outlawing this activity nationwide, which includes the filing of H.R. 3894 (Greyhound Protection Act of 2023). H.R. 3894 is currently pending action in the U.S. House of Representatives and is currently co-sponsored by three members of the Texas Congressional Delegation: U.S. Reps. Lance Gooden (TX-05); Wesley Hunt (TX-38); and Jasmine Crockett (TX-30).⁹

For more than 20 years, the Texas horse racing industry has been preserving the legacy of their sport through the Texas Horse Racing Hall of Fame.

The competitive racing of horses is one of mankind's most ancient sports, having its origins among the prehistoric nomadic tribesmen of Central Asia who first domesticated the horse about 4500 BC. For thousands of years horse racing flourished as the sport of kings and the nobility...Horse racing is the second most widely attended U.S. spectator sport, after baseball.

In Texas, the organized Anglo-Texan sport of horse racing developed just after the Texas Revolution. Expensive horses were imported, and a racing circuit formed along the Gulf Coast cities of Velasco, Houston, and Galveston and in the North and East Texas cities. In 1937, betting on horses was outlawed by the state legislature. Although racing tracks closed, the breeding of fine horses continued and, in 1987, after a 50-year absence, pari-mutuel wagering was once again legalized in Texas.¹⁰

Today, there are emergent challenges for the agency and industry, particularly related to concerns with provisions of the federal *Horseracing Integrity and Safety Act of 2020* that was included in the omnibus *Consolidated Appropriations Act of 2021*.¹¹ This situation has led to on-going litigation.¹² Additionally, unlicensed racing activity remains a challenge to the industry and participant safety.

BRUSH AND BUSH TRACKS

In the 88th Legislative Session, a new racketeering statute was incorporated not only into the Texas Penal Code, but also incorporated the Texas Racing Act by reference.

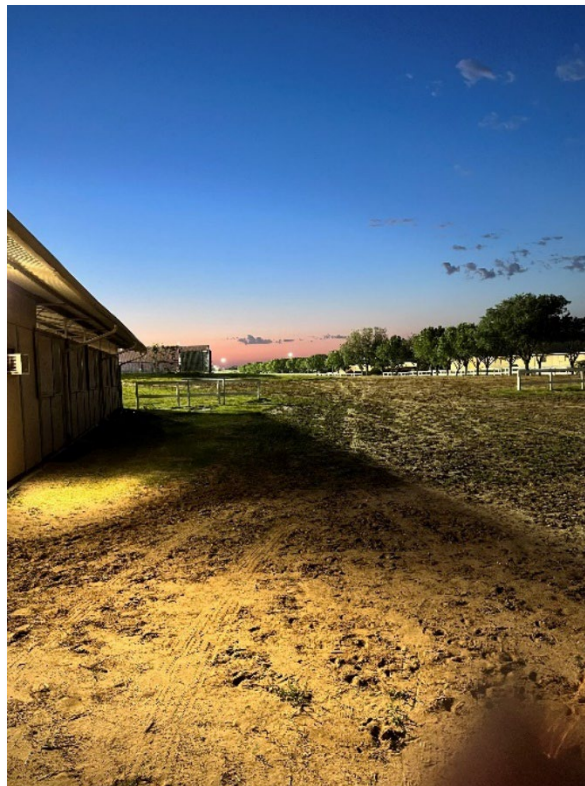
To address the numerous well-known racetracks that are in existence in Texas, it is critical that we expand our law enforcement capabilities in partnerships with the Department of Public Safety, Texas Animal Health Commission, Texas Parks and Wildlife Department and Texas Alcohol and Beverage Commission.

In 2011, the Texas Racing Commission conducted a study on the state of horse and greyhound racing in Texas in response to 81st Legislature's House Concurrent Resolution 252 and the subsequent veto proclamation by then-Governor Rick Perry¹³.

The study included the following information related to unregulated tracks:

The proliferation of unregulated racing, particularly horse racing, remains a challenge to the Texas racing industry. A long-standing tradition of "brush" or "bush" horse tracks exists across the state. There are perhaps as many as 25 to 50 of these tracks operating on any given weekend through the state.¹⁴

While private racing in general is not illegal, there are numerous health, safety, and integrity risks to the legitimate racing industry, wagering public, and racing animals.



Once wagering takes place at one of these gatherings, it becomes a racing act felony as well as a penal code violation under Chapter 72, of the Texas Penal Code. In addition to illegal wagering, brush and bush tracks are suspected to be in violation of numerous aspects of the *Act* as well as harboring human trafficking, promoting unlicensed alcohol dispensation, perpetrated forms of tax evasion, and turning a blind or knowing eye to illicit drugs and shocking devices that can injure or maim racing horses and undermine the sport's integrity.

Specifically, races conducted at brush tracks raise questions about the integrity of track programs. A winning horse at an unregulated track gains a competitive edge not reflected in the official program when the same horse later races at a licensed track. This type of insider information creates a serious handicapping disadvantage to unknowing patrons who rely on a track program to guide their wagering strategies.

Additionally, horses run at brush and bush tracks are more likely to be injected with prohibited and dangerous substances, subjected to other mistreatment, unscrupulous practices, and may be more susceptible to infectious diseases that can then be spread at other tracks. The challenge is multi-jurisdictional in nature, with overlapping authority from TXRC, Texas Department of Public Safety, Texas Animal Health Commission, the Texas Comptroller of Public Accounts, and local law enforcement.

SUNSET ADVISORY COMMISSION REVIEW

In October 1994, the first Sunset Advisory Commission staff report was issued about the Texas Racing Commission.

“Regulating pari-mutuel racing is substantially different from regulating charity bingo or operating a state lottery,” according to the report.¹⁵ “The Racing Commission must deal with unique issues including animal health, drug testing, occupational licensing, criminal law enforcement, agribusiness, and oversight of racetrack construction and safety.”

Throughout the years, Sunset has provided multiple TXRC reviews. Following a 2020 agency review, Sunset staff recommended TXRC be dissolved and having its regulatory functions absorbed and improved as part of the Texas Department of Agriculture.

While acknowledging the need for continued regulation of pari-mutuel racing in the state, the Sunset staff determined the TXRC could not “efficiently or effectively regulate” the animal racing industry in the state. Specific concerns were raised related to the agency’s funding and regulatory structure, poor communication between commission staff and licensees, as well as perceived weakened regulation due to staff shortages. Further, the Sunset staff asserted, “The commission’s small staff struggles to serve as an effective regulator while managing administrative tasks.”

In 2021, numerous pieces of legislation related to TXRC operations were considered during the Regular Session of the 87th Texas Legislature. Following the session, the *Sunset Staff Report with Final Results 2020-2021 (Texas Racing Commission)* was published with the following summary:

Although the Sunset Commission determined the Texas Racing Commission can no longer efficiently carry out its important mission of ensuring the safety, integrity, and fairness of Texas pari-mutuel racing and wagering, the 87th Legislature did not pass Senate Bill 704, which would have transferred the regulation of pari-mutuel racing to the Texas Department of Licensing and Regulation. Instead, the Legislature passed Senate Bill 713, which continues the commission until 2027. Senate Bill 713 also requires the commission to replace certain employees by December 1, 2021. Although the statutory recommendations for the commission did not pass, the Sunset Commission adopted several non-statutory management actions related to licensing and enforcement the commission should implement over the next two years.¹⁶

The replacement of the certain employees outlined in Senate Bill 713 was completed before Dec. 1, 2021. In November 2021, the TXRC appointed a new executive director, Amy F. Cook, who has conducted a review of agency operations and opened channels of communication for all interested stakeholders impacted through animal racing in Texas.



V. AD HOC GREYHOUND COMMITTEE REPORT



TEXAS RACING COMMISSION
 1801 N. Congress, Suite 7.600
 Austin, TX 78701
 (512) 833-6699
 Fax (512) 833-6907

AD HOC COMMITTEE CHARTER: TEXAS GREYHOUND INDUSTRY

I. Membership.

- A. Commissioners.** Chair: Commissioner Mike Moore,
 Vice Chair: Commissioner Connie McNabb
- B. Industry Representatives.** Nick James -Texas Greyhound Association (TGA),
 Tommy Azopardi - Greyhound Track Representative, Sabrina Brown - Greyhound
 Track Representative, Marsha Rountree - THP Executive Director.
- C. Assigned Staff:** Amy Cook, Executive Director, or Designee

II. Purpose. This Ad-Hoc Committee is created as a standing committee for the purpose of working with industry stakeholders to determine how to address the current and future state of greyhound racetrack licenses and related activities in Texas.

III. Scope of Work. The Ad Hoc Committee shall:

- A. Gather facts regarding the state of the Texas Greyhound Industry (breeding, training, racing and licensed greyhound tracks) including legislation filed during the 88th Legislative Session (e.g., HB 4115).
- B. Review the Texas Racing Act provisions on greyhound regulation.
- C. Review the Texas Rules of Racing provisions on greyhound regulation.
- D. Review industry proposals on regulatory matters related to the future of the greyhound industry in Texas.
- E. Review disposition of funds held by and for the Texas Greyhound Association and other industry participants.

IV. Deliverables. Provide specific recommendations on statutory, rule, fiscal and policy changes for the Texas Greyhound Industry to the full Commission no later than February 2024.

INTRODUCTION

The Ad Hoc Greyhound present its findings and recommendations to the full Texas Racing Commission for consideration on how to effectively wind down the greyhound industry, while not impairing the growth of the horseracing industry with minimal impact on those who have invested so much in it.

From the racetracks that no longer have a business prospect in the greyhound industry, to the kennel owners and breeders that are represented by the Texas Greyhound Association, all parties, acknowledge that the end of this era, does not mean that greyhound racing will not to Texas, but simply that we cannot see that point in the future from where we stand today.

Additionally, during the 88th Legislative Session, the agency requested a contingent rider for purposes of funding the regulation of the greyhound industry, that was not adopted. Therefore, it is incumbent upon the Texas Racing Commission who is the regulatory body that oversees this activity in Texas, and the business and occupational licenses, who have engaged in this economic activity over many years, to provide the best of the history, operational outlook, and steps taken to transition the industry into a part of Texas history.

SUMMARY OF LEGISLATIVE RECOMMENDATIONS

- ***Provide the Commission Authority to Address Industry Transitions.*** The current version of the Texas Racing Act does not contemplate the end of a specific industry or industries such as we face today, with the greyhound industry. Therefore, the commissioners, the agency staff, the licensed racetracks, and the occupational licensees have worked together to take the appropriate steps to effectively transition the activities of the greyhound industry. Beginning in 2023, the Commission declined to approve live race dates for the 2024 racing season based on the inability of the greyhound industry to achieve the necessary racetrack capability and breeding industry challenges, followed by the agency and Commission taking all steps possible to effectively transition the industry.
- ***Clarify Fiduciary Duties for Trade Associations.*** The Texas Racing Act and the Texas Rules of Racing, require annual financial audits for the trade associations, who are charged with the responsibility of receiving, accounting for and distributing funds derived from pari-mutuel wagering. However, when those funds are designed for a purpose which no longer exists (e.g., purses for live races), a requirement to fully account for funds derived from pari-mutuel wagering activities as well as seek Commission guidance on how to appropriately return or distribute such funds would be appropriate.

BACKGROUND/TIMELINE

In 1986, when the 69th Legislature passed the Texas Racing Act was passed, greyhound racing, was limited to three tracks licensed to operate along the coast of Texas. Over the years through economic, good, and hard times, the greyhound industry, often conducted year-round racing, unlike the seasonal horse racing schedule that exists for that industry today.

On September 26, 1985, the Texas Greyhound Association (TGA), was formed as a 501(c)(6) organization, and named as the “*officially designated state greyhound breed registry for accredited Texas-bred greyhounds.*” The statutory and fiduciary responsibilities of the TGA extend to oversight and accountability for pari-mutuel wagering funds derived from pari-mutuel wagering activities.¹⁷

On February 28, 2020, the last live greyhound race took place in Gulf Greyhound, in La Marque, Texas.

On April 11, 2023, Valley Race Park, in Harlingen, Texas, the only racetrack with approved live race dates for several years, notified the agency that it was unable to conduct live race dates approved by the Commission.

On September 6, 2023, the Commission Chair appointed an Ad Hoc Committee on the greyhound industry transition aligned with the review of the greyhound racetrack license reviews.

On December 13, 2023, the Commission authorized an open application period for Class 2 Horse Racetrack Application Period from February 1, 2024 – March 31, 2024, for Cameron, Galveston, and Nueces Counties, based on a request from the existing greyhound racetrack licensees.

On December 31, 2023, Gulf Coast Racing in Corpus Christ, Texas ended its simulcasting activities.

On February 6, 2024, the Executive Director issued a letter to the Texas Greyhound Association directing a detailed audit be conducted with the results provided to the Commission no later than March 31, 2024.

On February 14, 2024, the Commission designated the three existing greyhound racetrack licenses as inactive in accordance with § 2025.104 of the Texas Racing Act.

On March 31, 2024, the Class 2 horse track application period closed with no applications. Although the three greyhound racetrack groups were appreciative and supportive of the opportunity to transition their business opportunity, they decided it would be more appropriate to seek guidance from the legislature to address the issues surrounding the greyhound industry transition.

VI. HORSERACING INTEGRITY AND SAFETY ACT OF 2020

The *Interstate Horse Racing Act of 1978*¹⁸ (IHRA) is one of the only U.S. gambling laws that has governed nationwide horse race betting, off-track betting venues (OTBs), and domestic online horse betting in America until now.

In December 2020, Congress included the text of the *Horseracing Integrity and Safety Act of 2020*¹⁹ (HISA) into a comprehensive spending bill. While passed in the House, the stand-alone legislation was not publicly debated by any U.S. Senate committee. The new law is intended to address the safety and welfare of racehorses and the integrity of the sport itself through better anti-doping measures and racetrack safety standards. However, Congress delegated authority to implement the statute to the Federal Trade Commission and created a private, self-regulated entity called the Horseracing Integrity and Safety Authority (hereinafter the Authority) to administer the statute.

As the sole government agency charged with the protection of the horses, licensed participants, and the wagering public that engage in and attend the sport in Texas, the agency is in full agreement that increased uniformity of safety standards among the states is an appropriate direction for the future of horse racing.

TXRC acknowledges the federal statute will lack any appearance of uniformity on its effective date. HISA cannot fulfill its mandate to protect all racing participants, cannot implement the anti-doping directive for covered horses and cannot provide experienced personnel necessary to conduct the sport of live racing. Given the Authority's inability to perform its federal mandates, the TXRC is taking this opportunity to specify the safety measures already in place within state jurisdiction and provide an assessment of resources required to ensure the integrity of the sport.

Because protecting the health and welfare of horse racing participants undoubtedly requires additional resources, the agency proposes that the Texas Legislature provide sufficient appropriations to resource TXRC at the level required to address projected requirements to implement Sunset recommendations as well as a dual-purpose federal statute.

To account for these resources, *Texas Racing Act* requires the Commission to license and regulate all aspects of horse racing and greyhound racing in the State of Texas regardless of whether that racing involves pari-mutuel wagering. In adopting its rules and in the supervision and conduct of racing, the Commission must consider the effect of a proposed action on the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry.²⁰ A summary of the duties of the Commission and the agency under the statute include:

1. Conducting criminal and administrative investigations related to violations of the *Texas Penal Code*, *Texas Racing Act*, and *Texas Rules of Racing*, including analysis of criminal activity in Texas as well as criminal history data for racetrack and occupational license applicants to protect the horseracing industry.

2. Conducting complete personal, financial, and business background investigations of racetrack applicants and any person who owns an interest in or exercises control over an applicant racetrack including the partners, stockholders, concessionaires, management personnel, management firms, and creditors.
3. Adoption of rules regarding the issuance of business and occupational licenses and takes any other necessary action relating exclusively to horse racing or greyhound racing.
4. Adoption of rules regarding licenses for training facilities to secure past performances and workouts to (a) protect the health, safety, and welfare of race animals and participants in racing, (b) safeguard the interest of the public; and (c) promote the orderly conduct of racing in this state.
5. Administering equine and human drug testing programs to ensure integrity of racing activities.
6. Administering the Accredited Texas Bred (ATB) Incentive Fund and the Horse Industry Escrow (HIEA) trust funds.
7. Annually prescribing reasonable license fees for each category of license reasonable and necessary to cover regulatory requirements to oversee the licensing and operation of live and simulcast racing at racetracks under the *Texas Racing Act* and *Texas Rules of Racing*.

The unintended consequence of the federal legislation was not nationwide standards, but the fracturing of several state racing commissions by burdening the Thoroughbred population with another layer of government regulation in addition to state statutes and requirements.

Therefore, Texas has asked the Authority to rethink its approach to regulation of the sport by partnering with state racing commissions to create uniform national standards.²¹ Partnership models that are effective, are not one-way conversations where the federal government proposes a rule, and the state agencies and industry stakeholders can send a comment.

Currently, there is no meaningful dialogue to achieve a common goal we should all have: protecting the animals and people involved in the sport of horseracing. Instead of treating state regulatory agencies like bill collectors for the Authority, the FTC should partner with states and their congressional delegations to return to Congress with the goal of replacing the Authority with a federal cooperative agreement program.

VII. OPERATIONAL GOALS

GOAL A: ENABLE

Enable Public Safety, Education & Natural Resources Partnerships

Action Plan 1	Strengthen statewide jurisdiction posture to enforce the <i>Texas Racing Act</i> and the <i>Texas Rules of Racing</i>
<p style="text-align: center;">IMPACT ON STATEWIDE OBJECTIVES</p> <ol style="list-style-type: none"> 1. Accountability. TXRC will increase accountability of public funds through updates to our enabling statute and fiscal structure. 2. Efficiency. Updating our statutes and rules will enable modernization of agency business practices. 3. Effectiveness. Increase understanding and provide clarity through a framework of laws and policy guiding the TXRC mission and stakeholder engagement. 4. Excellence in Customer Service. Consistent feedback requires timely updates to the <i>Act</i> and <i>Rules</i> to compete in a nationwide industry. 5. Transparency. Transparent promulgation of agency rule revisions and regulations will more effectively communicate agency procedures, due process steps, appellate processes, and remedies. 	
Action Plan 2	Modernize Licensing Programs to Align with Chapter 53, Texas Occupations Code
<ol style="list-style-type: none"> 1. Accountability. Strengthen background check and occupational licensing posture to deter ineligible applicants from participating in Texas sports. 2. Efficiency. Adopt technology solutions to provide continuous online access to licensing applications for local, national, and international applicants. 3. Effectiveness. Increase pathways for licensing through greater access and understanding of licensing programs, processes, and fee structures. 4. Excellence in Customer Service. Provide positive, accurate, timely responses to all customer inquiries and complaints. 5. Transparency. Seek opportunities to increase online and face-to-face customer engagement to educate applicants and enable industry participation. 	

GOAL B: PROTECT

Deter, Investigate and Adjudicate Violations: *Texas Racing Act and Texas Penal Code*

Action Plan 1	Deter, Investigate and Adjudicate Criminal and Civil Violations
IMPACT ON STATEWIDE OBJECTIVES	
<ol style="list-style-type: none"> 1. Accountability. Increase the security and integrity of wagering activities for live and simulcast races authorized under the <i>Texas Racing Act</i> (hereafter the “Act”). 2. Efficiency. Timely review and issue, deny, suspend, or revoke licenses issued under the Act; and reduce or eliminate paperwork, language, and increase accessibility to more effectively investigate and adjudicate suspected violations. 3. Effectiveness. Proactively conduct criminal investigations and provide expert advice on brush tracks to local, city, county, and state law enforcement organizations. 4. Excellence in Customer Service. Partner with educational, natural resource and public safety agencies to strengthen the public safety efforts in Texas. 5. Transparency. Enhance timely publication of agency procedures, rulings, and proposed rule-making changes. 	
Action Plan 2	Effectively Address Equine/Licensee Health & Safety
<ol style="list-style-type: none"> 1. Accountability. Conduct pre-race exams and training day observations on equine, canine, and human participants through health records and physical screening activities. 2. Efficiency. Adopt technology solutions to provide more effective diagnostic results for equine, canine, and licensed human conditions to prevent injuries during training or live racing events. 3. Effectiveness. Reduce scratches of entered equine, canine, and licensed humans through proactive recordkeeping and review as well as pre-race observation. 4. Excellence in Customer Service. Provide positive, accurate, timely responses to all customer inquiries and complaints. 5. Transparency. Seek opportunities to educate licensed participants to the reduce the number of injuries and illnesses for equine, canine, and licensed humans. 	

GOAL C: COMMUNICATE

Modernize Internal and External Agency Communication Platforms and Practices

Action Plan 1	Modernize Agency Technology Platforms to Enhance Cybersecurity and Transparency
IMPACT ON STATEWIDE OBJECTIVES	
<ol style="list-style-type: none"> 1. Accountability. Modernizing agency information technology allows for a secure and effective means for the agency to conduct enforcement operations. 2. Efficiency. The agency will transform from outdated, resource-constraining information technology services to a partnership with the Texas Department of Information Resources to create greater proficiency through the adoption of best practices, and increased cybersecurity for all agency internal and external communications. 3. Effectiveness. The agency will adopt technology and business practices that are diverse, secure, and increase access to licensing for all customers. 4. Excellence in Customer Service. Leveraging current and emerging technologies strengthens the agency's ability to ensure that the integrity of pari-mutuel wagering, as well as access to agency services, is available on numerous online platforms. 5. Transparency. Access to agency services and procedures will facilitate a growth in agency programs, effective customer feedback mechanisms, and accountability for all Texas taxpayers. 	
Action Plan 2	Increase Accessibility and Modernization of the Licensing Process
<ol style="list-style-type: none"> 1. Accountability. The agency should meet the requirements under the Texas Government Code to provide services to all eligible applicants and will be enabled to do so by modernizing the licensing process. 2. Efficiency. Providing accessible, multi-lingual application and testing materials, and translator services, will open doors to a more diverse applicant pool. 3. Effectiveness. The agency will increase its effectiveness to serve all Texas, and national and international applicants through implementation of accessibility, accommodation, and language translation initiatives. 4. Excellence in Customer Service. All customers should feel welcomed and included because the agency is prepared to meet their needs. 5. Transparency. Updating our business practices and conducting more outreach programs will support under-served populations having access to agency services. 	

GOAL D: PARTNER

Increase Agency Effectiveness through Stakeholder and Government Partnerships

Action Plan 1	Strengthen Inter-agency Partnerships to Gain Efficiencies and Reduce Resource-Constraining Practices
<i>IMPACT ON STATEWIDE OBJECTIVES</i>	
<ol style="list-style-type: none"> 1. Accountability. Invest in effective partnerships with fellow agencies and industry partners to perform the agency’s mission in a more efficient and effective manner while avoiding resource-constraining business models. 2. Efficiency. Seek opportunities to protect resources in the areas of facilities, information technology, and professional development. 3. Effectiveness. Increase agency professional staff growth through developmental partnerships and exchange programs. 4. Excellence in Customer Service. Model customer service best practices throughout Texas. 5. Transparency. Recognize and report on value-added internal initiatives and interagency partnerships. 	
Action Plan 2	Engage in Educational and Research Initiatives
<ol style="list-style-type: none"> 1. Accountability. Employ best practices in research and education to support safety programs for racing participants. 2. Efficiency. Recognize return on investment by using data gathered to prevent future injuries and promote equine, canine, and licensed human health and aftercare programs. 3. Effectiveness. Increase Texas citizenry understanding of the agency mission and contribution to the equine industry and Texas economy. 4. Excellence in Customer Service. Provide transparent data and access to agency operations and initiatives. 5. Transparency. Invite educational, government, and industry groups to participate in agency initiatives. 	

VIII. REDUNDANCIES AND IMPEDIMENTS

1. Agency Appropriations Article: Article V: Public Safety	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	General Appropriations Act, 88 th Legislative Session. The agency is currently funded by appropriations in Article VIII (Regulatory), but as we are transforming into a specialized law enforcement agency, Article V (Public Safety) would be appropriate.
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	<p>EXCERPTS From 2021 Sunset Commission Staff Report²²:</p> <p>“Unsuccessful funding structure. When the Legislature created the commission in 1986, the Legislative Budget Board estimated racing would contribute about \$110 million annually to the General Revenue Fund through taxes on racetracks and revenue from wagers. However, racing has not become the economic driver once envisioned. Over the last five fiscal years, the contribution to general revenue from racing industry regulation has steadily decreased, from \$3 million in fiscal year 2015 to \$2.7 million in fiscal year 2019, as fewer patrons attended races. As the industry has declined, so has the funding for the commission to effectively regulate it. In 2019, the Legislature redirected tax revenue from simulcast wagers to fund the commission’s operations. However, the lack of anticipated simulcast tax revenue in 2020 due to the COVID-19 pandemic significantly reduced the commission’s revenue in March and almost forced the commission to close in July, jeopardizing the continued operation and regulation of the Texas racing industry.</p>
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	TXRC is required, by statute, to collect revenue to cover operational requirements. When there are economic or other (pandemic) factors that affect the agency's ability to collect revenue, TXRC as the regulatory agency, directly bills the licensees it regulates. Since TXRC is required a minimum level of sustainment as a state agency, a stable, transparent general revenue method of finance would be more appropriate to enforce the <i>Texas Racing Act</i> , while also being accountable to the citizens of Texas.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	In the interest of transparency and public accountability, the agency should be able to demonstrate the true resources required to sustain its’ requirements to license and regulate activities under the <i>Texas Racing Act</i> and have legislative concurrence with the appropriations required to successfully achieve the agency mission.

2. Agency Fiscal Structure	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	General Appropriations Act, 88 th Legislative Session. TXRC is requires a minimum level of sustainment as a state agency, a stable, transparent general revenue method of finance would be more appropriate to enforce the <i>Texas Racing Act</i> , while also being accountable to the citizens of Texas.
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	<p>EXCERPTS From 2021 Sunset Commission Staff Report²³:</p> <p>"Unsuccessful funding structure. When the Legislature created the commission in 1986, the Legislative Budget Board estimated racing would contribute about \$110 million annually to the General Revenue Fund through taxes on racetracks and revenue from wagers. However, racing has not become the economic driver once envisioned. Over the last five fiscal years, the contribution to general revenue from racing industry regulation has steadily decreased, from \$3 million in fiscal year 2015 to \$2.7 million in fiscal year 2019, as fewer patrons attended races. As the industry has declined, so has the funding for the commission to effectively regulate it. In 2019, the Legislature redirected tax revenue from simulcast wagers to fund the commission's operations. However, the lack of anticipated simulcast tax revenue in 2020 due to the COVID-19 pandemic significantly reduced the commission's revenue in March and almost forced the commission to close in July, jeopardizing the continued operation and regulation of the Texas racing industry.</p>
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	<p>TXRC is statutorily required to raise its own revenue, which is deposited into Account No. 597. All the Texas Bred Incentive Program funding is passed through the agency from racetracks to eligible recipients. If General Revenue–Dedicated Funds revenue falls short of the appropriations, no other funding provides the difference. The agency also is subject to a requirement in the Eighty-sixth Legislature, <i>General Appropriations Act, 2020–21 Biennium</i>, Article VIII, Special Provisions, Section 2, which limits the agency's appropriations to the amounts of actual revenue collected.</p> <p>The agency intends to request indirect administrative and overhead become funded through General Revenue, with reimbursable expenses remaining as General Revenue-Dedicated Funds.</p>
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	To effectively perform state agency functions, the agency needs to articulate its baseline operational requirements, request general appropriations, and track expenditures and efficiencies through the Texas budget process.

3. Agency Staffing Model Insufficient for Statewide Mission	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	<i>General Appropriations Act for the 2022-2023 Biennium, 87th Texas Legislature, Regular Session, 2021, Senate Bill No. 1, May 25, 2021.</i>
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	The agency's current requirements-based estimate to support a day of live racing is \$3,501 for horse racing dates and \$2,564 for greyhound race dates based on the calculations provided in the agency rider language in the GAA. This projected amount falls short of capturing the actual expense now required in 2024 and beyond to recruit and retain a competitive, professional workforce. In addition, it does not account for the administrative workload of conducting pre-race exams, hearings, appellate procedures, policy changes, public meetings, employee development programs or leave. Also not included are the indirect requirements for state agency operations, which includes maintain facility space, ensuring transportation requirements are met, and information technology support.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	Agency budget model needs to be comparable to sister state agencies in capturing annual, monthly, and recurring requirements, as well as anticipating market changes in the industry and economy.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	As noted in the agency's strategic fiscal review and Sunset Commission report, the agency struggled to meet its requirements as a state enforcement agency charged with carrying out its statutory duties under the <i>Act</i> . The investment of a professionally trained staff, with the appropriate tools and technology will provide additional opportunities for industry and economic growth for Texas.

4. Drug & Evidence Forensic Laboratory	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL), created in 1991 by the Texas Legislature has been the designated medication and drug testing laboratory for the Texas Racing Commission for over thirty years. The relationship is codified in the Texas Racing Act and the interagency agreement between the two agencies is approved annually by the Commission. ²⁴
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	<p>TVMDL has taken the position that the Texas Racing Commission needs to seek another analytic chemistry laboratory in the near future. Modifying or concluding our statutory relationship without sufficient time and legislative guidance would be detrimental to the Texas Racing Commission and the industry it regulates because it would:</p> <ul style="list-style-type: none"> - Create regulatory uncertainty for over 16,000 business and occupational license holders. - Impair the agency ability to effectively address Sunset Commission concerns issued in 2021. - Require cancellation of approved live race dates if not appropriately coordinated to protect business interests.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	<p>For the Commission to transition the current program, six steps are required:</p> <ol style="list-style-type: none"> 1) Submission of a legislative appropriations request for general revenue -- estimated at 5 – 10 million dollars; 2) Support from Texas A&M for a program and statutory change to the Racing Act during the next legislative session, 3) Legislative appropriations for the Racing Commission, and other potential Texas agencies as a new method of finance based on the cost estimate; 4) Initiation of a replacement analytical drug testing capability on September 1, 2025, including establishing an interagency agreement or contract at an organization who would need to build the capability (buildings, storage, staff, equipment, including RMTCC accreditation) or increase current capability to support the Texas drug testing program that we will continue to expand; 5) Revisions to the Texas Rules of Racing to appropriately notice licensees on the updated process; 6) identify a projected transition date no earlier than September 1, 2027.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	<p>Transitioning the program will not result in cost savings. We have all acknowledged that Texas A&M will need a have a sustainable model that can grow with the horseracing industry and support the agency's goals to expand both our drug and evidence testing. It would be appropriate to invest any additional resources, here in our own state, at Texas A&M as well as exploring expanding our testing program in partnership with Texas Tech University, to support their goals of increasing capability at their Veterinary School.</p>

5. Equine Drug Research Council	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	<i>General Appropriations Act for the 2022-2023 Biennium, 87th Texas Legislature, Regular Session, 2021, Senate Bill No. 1, May 25, 2021, Equine Research Account. Included in the appropriations above are fees collected in each year of the biennium beginning September 1, 2021, pursuant to the <i>Texas Racing Act</i>, for the Equine Research Account in support of the Equine Research Program, Page III-244.</i>
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	The agency has provided Texas Equine Research Funds (Two Percent of Texas Bred funds from horses) to first support Equine Research and then to Texas AgriLife since 2010. In 2012, the Equine Research Account Advisory Committee was discontinued by the 82nd Legislature, following the Sunset Commission's recommendation. Also of note, according to the Sunset Final Report dated July 2011, since 2005, the Legislature has not appropriated Equine Research Account funds. As a result, Texas AgriLife Research provided agency funds to award equine research proposals.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	The agency recommends reinstatement of the Equine Research Model, renamed "Equine Research Drug Council" to facilitate: <ul style="list-style-type: none"> • Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) modernization and sustainment of equipment and staff. • Funding the TXRC drug testing program. • Funding research projects and educational opportunities to use racehorse exams and testing to prevent injuries and provide a bridge to aftercare programs for retired racehorses.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	Benefits of implementing this model is the investment in medical advances to protect Texas racing enforcement ability to conduct drug testing and exam as required to carry out the agency mission. In addition, TVMDL requires research projects to sustain its Racing Medication & Testing Consortium (RMTC).

6. Texas Racing Act, Chapter 2033, Criminal and Administrative Penalties; Cease and Desist Orders; and Disciplinary Powers	
SERVICE STATUTE, RULE, OR REGULATION (WITH CITATION)	The <i>Texas Racing Act</i> , TEX. OCC. CODE, Chapter 2033, deals with criminal and administrative penalties, cease-and-desist orders, and disciplinary powers. Additionally, Chapter 72, Texas Penal Code now enables the agency to use racketeering as a tool to pursue criminal activities occurring at brush tracks.
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN AN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	The chapter should include the criminal penalty for the felony offense of cruelty to animals, TEX. PENAL CODE §§42.09 and 42.092, in addition to the other criminal penalties listed in the chapter. TEX. OCC. CODE §2033.101 only permits issuance of a cease-and-desist order upon the reasonable belief a racetrack association or other license holder is engaging or likely to engage in conduct that violates this subtitle or a Commission rule. The objective of a cease-and-desist order should be to halt unlicensed activity, including the operation of illegal racetracks, known as brush tracks. In addition to promoting illegal wagering, brush tracks harbor vast amounts of secondary criminal activities, ranging from human and drug trafficking to animal cruelty. The brush tracks, operating outside of the <i>Act</i> and <i>Rules</i> , take economic benefits from properly licensed tracks in the state. The cease-and-desist section of the <i>Act</i> should cover all persons both licensed and unlicensed.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	The agency recommends the addition of the Texas Penal Code's cruelty to animal provisions into the <i>Texas Racing Act</i> , Chapter 2033. The agency recommends the <i>Texas Racing Act</i> , §2033.101, be revised to include all persons not just licensees.
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	Although difficult to pinpoint an exact amount of illegal wagering, the estimated benefit to racetracks by the elimination of brush racetracks could easily approach millions of dollars, as well as increased public confidence in racing integrity by eliminating the opportunity for unscrupulous betters from negatively influencing wagering pools with ill-gotten knowledge gathered at these tracks. Additionally, the safety of race participants and race animals tested with prohibited substances to influence the outcome of a race on an illicit racetrack could be wholly prevented by shutting down these operations with increased criminal penalties and the seizure of compromised race animals and related equipment.

IX. SUPPLEMENTAL SCHEDULES

A. BUDGET STRUCTURE

PENDING LBB APPROVAL – MINOR CHANGES, LABORATORY STRATEGY ADDED

B. LIST OF MEASURE DEFINITIONS

PENDING LBB APPROVAL – NO CHANGES

C. HISTORICALLY UNDERUTILIZED BUSINESS PLAN

TXRC to complies with the rules for the Historically Underutilized Business (HUB) Program adopted by the Comptroller of Public Accounts (CPA) and Chapter 2161 of the Texas Government Code to encourage the use of historically underutilized businesses.

The goal of this program is to promote full and equal business opportunities for all businesses in the agency's contracting. This policy incorporates the adoption of CPA's HUB rules to implement a meaningful HUB program based on the State of Texas Disparity Study. TXRC will work diligently to work with HUBs in contracts for commodities, services, professional and consulting services, and construction by contracting directly or indirectly through subcontracting opportunities.

Additionally, TXRC will make a good faith effort to assist HUBs in receiving a portion of the total contract value of all contracts the agency expects to award in a fiscal year in accordance with the following percentages:

- 24% for professional services contracts
- 26% for all other services contracts
- 21% for commodities contracts

The agency will ensure it makes a good faith effort to work with HUBs and meet the agency goals by:

- ✓ Advanced planning of large purchases to ensure adequate time and preparation.
- ✓ Specifying reasonable, realistic delivery schedules consistent with the agency's actual requirements.
- ✓ Ensuring that specifications, terms, and conditions reflect TXRC's actual requirements, are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

D. AGENCY WORKFORCE PLAN

TEXAS RACING COMMISSIONERS

The Commission is composed of nine members, seven of whom are appointed by the Governor with the advice and consent of the Senate. The Chair of the Public Safety Commission and the Commissioner of the Texas Department of Agriculture serve as ex-officio members of the Commission with full voting privileges. The seven non-salaried Commissioners serve overlapping six-year terms. Of the seven appointed Commissioners, five must be representatives of the public and have general knowledge of business or agribusiness. At least one of those appointed members may be a veterinarian and being licensed as a veterinarian satisfies the requirement that the person has general knowledge of business or agribusiness. The Governor designates the Chair. The nine members elect the vice-chairman for a term of two years.

AGENCY STAFF

The agency is modernizing its workforce planning systems to recruit and retain the professional staff required to carry out the agency mission.

AGENCY WORKFORCE ANALYSIS

The agency is currently allocated 57.3 Full-Time Equivalent (FTEs) employees, which is insufficient to address the requirements of the statewide mission to enforce the Texas Racing Act.

OUTDATED BUDGET MODEL

The agency budget model for what is a personnel-based budget for a professionally staffed team of regulators with the training, travel, tools, and technology required to effectively enforce the *Texas Racing Act* is outdated.

The salary, benefits, and compensation calculation from 1989 does not provide an effective means of recruiting, developing, and retaining an educated, well-trained, diverse workforce. For example, the base salary for a licensed Commission veterinarian was \$68,000 per year. This figure does not include the full encumbrance for the benefits, compensation, insurance, and retirement payments required this agency to fund the position. That same veterinarian is required to have an active professional license, maintain continuing education credits, have medical supplies, diagnostic tools, administrative support, technology tools, and transportation assets to perform his or her duties for the Commission.



The choices based on the limited staff allocated in 2021 were 26 FTE positions in Austin to conduct the indirect agency operations with 31 FTEs allocated for field operational positions in Houston, Grand Prairie, San Antonio, and Fredericksburg, with 10-15 contracted staff positions (veterinarians, veterinary technicians, and stewards-in-training to round out the field operations staffing needs). The agency staffing model will continue to prioritize field operations with 70 percent of the staffing dedicated to the field operations and 30 percent of the agency FTEs to the Headquarters staff that support field operations.

AGENCY WORKFORCE BUDGET MODEL FACTORS

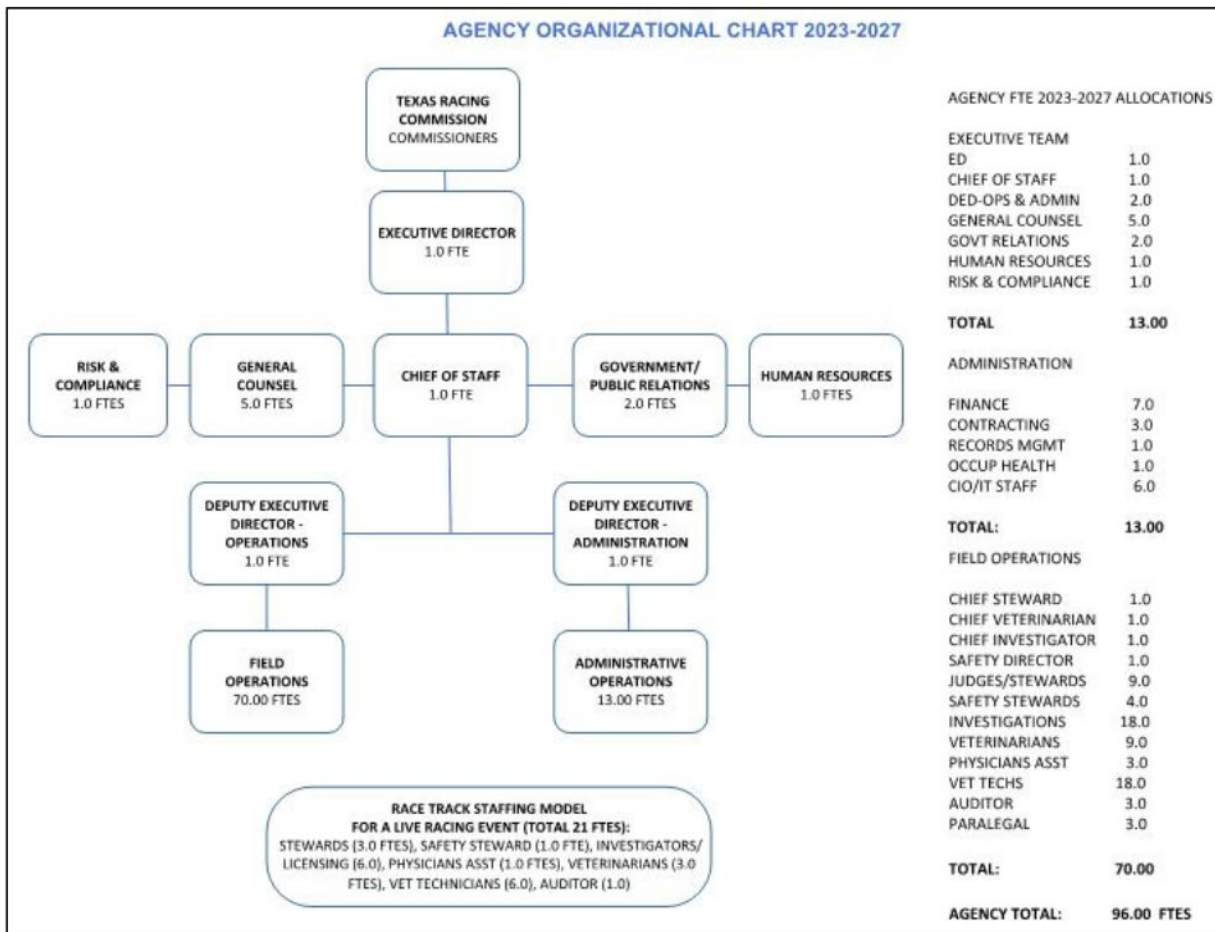
FTE employee calculations need to include:

- Effective, transparent, auditable state agency business practices.
- Competitive salary, benefits, leave, and training packages and programs.
- A probationary period with on-the-job training for specialized skill sets, such as stewards, investigators, veterinarians, test barn supervisors, veterinary technicians, and auditors.
- Professional development training and travel resources to update skill sets, as well as adapt to developing technological advances in the industry.

For purposes of addressing the workforce goals above, based on our current operational requirement, the estimated minimal staffing for a live racing day is: three stewards, one safety steward, six investigators/licensing staff members, three veterinarians; one physician assistant; six veterinary technicians; and one auditor for a total of 21 employees.

The agency organizational chart has been updated to reflect the changes required to effectively conduct the TXRC mission and meet industry standards under federal law.

E. AGENCY FULL-TIME EQUIVALENT RESOURCE ALLOCATION PLAN



F. REPORT ON CUSTOMER SERVICE

Given the serious concerns raised by the Sunset Advisory Commission in 2021, the agency has worked to increase customer engagement. To that end, we have held several public meetings around the state to address agency planning efforts, rules review and safety concerns.



The Commission intends to increase public input through continuing public meetings focused on modernizing the *Texas Rules of Racing* in response to Sunset Advisory Commission feedback as well as emerging standards being implemented in the United States. In May 2022, Chairman Robert C. Pate called on Dr. McNabb to review best practices in horseracing regulation from across the globe to ensure Texas remains “a premier state for horseracing.”²⁵

All TXRC customers can expect to be treated courteously and fairly. The agency website has a 2024 customer feedback survey or comments may be sent to our customer.service@txrc.texas.gov email address.

“Excellence Starts Here”

¹ <https://gov.texas.gov/initiatives/safer-texas>

² See Governor Abbott’s Initiatives, at <https://gov.texas.gov/initiatives>.

³ Texas State Library and Archives Commission, https://txarchives.org/tslac/finding_aids/15003.xml

⁴ Legislative Reference Library of Texas, <https://lrl.texas.gov/scanned/hroBillAnalyses/69-2/SB15.pdf>

⁵ Legislative Reference Library of Texas, https://lrl.texas.gov/LASDOCS/69CS2/SB15/SB15_69CS2.pdf#page=585

⁶ Texas Greyhound Association, <http://www.tgagreyhounds.com/about-us/>

⁷ The Pew Charitable Trusts, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/10/29/once-one-of-americas-favorite-pastimes-greyhound-racing-eats-dust>

⁸ CT Insider, <https://www.ctinsider.com/connecticut/article/ct-dog-racing-greyhound-dogtracks-19306095.php>

⁹ Congress.gov, <https://www.congress.gov/bill/118th-congress/house-bill/3894/cosponsors>

¹⁰ Texas Horse Racing Hall of Fame, <https://txhof.com/hall-of-fame-history.html>

¹¹ Albany Law School, <https://www.albanylaw.edu/government-law-center/news/understanding-the-horseracing-integrity-and-safety-act-and-new-era>

¹² Liberty Justice Center, <https://libertyjusticecenter.org/media/ruling-challenge-to-hisa/>

¹³ Legislative Reference Library, <https://lrl.texas.gov/scanned/vetoes/81/hro/HCR252.pdf>

¹⁴ Texas Racing Commission

¹⁵ Sunset Advisory Commission, https://www.sunset.texas.gov/public/uploads/files/reports/Texas%20Racing%20Commission_Equine%20Staff%20Report%201995%2074%20leg.PDF

¹⁶ Sunset Advisory Commission,

https://www.sunset.texas.gov/public/uploads/files/reports/Racing_Staff%20Report%20with%20Final%20Results.pdf

¹⁷ Texas Occupations Code § 2030.05

¹⁸ 15 USC Ch. 57: INTERSTATE HORSERACING,

<https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter57&edition=prelim>

¹⁹ Congress.gov, <https://www.congress.gov/bill/116th-congress/house-bill/1754/text>

²⁰ Tex. Occ. Code §2023.001, <https://statutes.capitol.texas.gov/Docs/OC/htm/OC.2023.htm>

²¹ Bloodhorse, www.bloodhorse.com/horse-racing/articles/256994/texas-proposes-joint-efforts-with-hisa

²² Sunset Advisory Commission,

https://www.sunset.texas.gov/public/uploads/files/reports/Racing_Staff%20Report%20with%20Final%20Results.pdf

²³ Ibid.

²⁴ See Texas Occupations Code Chapter § 2034.002.

²⁵ Texas Racing Commission,

https://static1.squarespace.com/static/61f1f682f08bd15f1e6a2d9f/t/629115ce5f3e223c03f75238/1653675471239/2022_05_27_TEXAS_RACING_COMMISSION_CHAIRMAN_DIRECTS_RULES_COMMITTEE_TO_DRAFT_SWEEPING_RULES_UPDATE.pdf

AGENDA ITEM VIII. REVISED PROPOSED RULE: APPEAL TO THE COMMISSION:

The Texas Racing Commission (TXRC) proposes rule amendments and a repeal of selected language in Texas Administrative Code, Title 16, Part 8, Chapter 307, Subchapter C, Proceedings by Stewards, and Racing Judges, § 307.67, Appeal to the Commission, concerning the timeline fine required by a licensee when appealing a ruling to the Commission.

(a) Right to Appeal. A person aggrieved by a ruling of the stewards [~~or racing judges~~] may appeal to the Commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) Filing Procedure.

(1) An appeal must be in writing in a form prescribed by the executive director. [~~secretary~~] An appeal from a ruling of the stewards [~~or racing judges~~] must be filed not later than 5:00 p.m. of the thirtieth [~~third~~] calendar day after the day the person is informed by the stewards of the ruling. [~~or racing judges~~]. The completed appeal form must be post marked by the 30th day after the person is informed of the steward ruling and mailed to: Texas Racing Commission, 1801 N Congress, Suite 7.600, Austin, TX 78701. An appeal from the modification of a penalty by the executive director [~~secretary~~] must be filed not later than 5:00 p.m. of the tenth [~~fifth~~] calendar day after the person is informed of the penalty modification. The appeal must be filed and post marked by the tenth day after the person is informed of the penalty modification and mailed to: Texas Racing Commission, 1801 N Congress, Suite 7.600, Austin, TX 78701 ~~or with the stewards or~~ [~~or racing judges~~] at a Texas pari-mutuel racetrack where a live race meet is being conducted. The appeal must be accompanied by a cash bond in the amount of \$150, to defray the costs of the court reporter and transcripts required for the appeal. ~~The bond must be in the form of a cashier's check or money order.~~

(2) Record of Stewards' [~~Judges~~] hearing. On notification by the executive director [~~secretary~~] that an appeal has been filed, the stewards [~~or racing judges~~] shall forward to the Commission the record of the proceeding being appealed. A person appealing a stewards' [~~or judges~~] ruling may request a copy of the record of the hearing. ~~and the executive secretary may assess the cost of making to the copy to the requestor.~~

(c) Hearing Procedure. A hearing on an appeal from a ruling by the stewards [~~or racing judges~~] is a contested case and shall be conducted by SOAH in accordance with the Rules regarding contested cases. In an appeal, the appellant has the burden to prove that the stewards' [~~or racing judges~~] decision was clearly in error.

(d) Effect of Appeal on Fine Payment. If a person against whom a fine has been assessed appeals the ruling that assesses the fine, the person shall pay the fine in accordance with the Rules. The executive director shall place the fine amount into the agency suspense account until such time that the appeal is final. If the appeal is disposed of in favor of the appellant, the executive director [~~Commission~~] shall refund the amount of the fine.

(e) Effect of Appeal on Purse Payment. If a ruling that affects the outcome of a race is appealed, the portion of the purse that is involved in the appeal shall be withheld and not distributed. The stewards [~~or racing judges~~] may distribute the portion of the purse that is not involved in or affected by the outcome of the appeal.

(f) Effect of Appeal on Horse Eligibility. If an appeal involves the official order of finish in a horse race, all horses finishing first or declared to be the winner by the stewards carry all penalties of eligibility until the winner is determined through the final resolution of the appeal.