

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
April 13, 2022

John H. Reagan Building
Room 120
1400 Congress Avenue
Austin, Texas 78701

COMMISSIONERS:

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

EX OFFICIO MEMBERS:

TIM KLEINSCHMIDT, Texas Department of
Agriculture
STEVEN P. MACH, Public Safety Commission

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P R O C E E D I N G S

1
2 CHAIRMAN PATE: Good morning. At this time,
3 I'd like to call today's meeting of the Texas Racing
4 Commission to order. The time is 10:30.

5 Jim, please call the roll.

6 MR. BLODGETT: Yes, sir. Chairman Robert Pate?

7 CHAIRMAN PATE: Here.

8 MR. BLODGETT: Vice Chair Dr. Connie McNabb?

9 DR. McNABB: Here.

10 MR. BLODGETT: Commissioner Margaret Martin?

11 (No response.)

12 MR. BLODGETT: Commissioner Michael Moore?

13 MR. MOORE: Here.

14 MR. BLODGETT: Commissioner A.J. Waight?

15 MR. WAIGHT: Here.

16 MR. BLODGETT: Commissioner Rebecca Contreras?

17 (No response.)

18 MR. BLODGETT: Commissioner Steven Mach?

19 MR. MACH: Here.

20 MR. BLODGETT: And Commissioner Kleinschmidt?

21 MR. KLEINSCHMIDT: Here.

22 CHAIRMAN PATE: Thank you, Jim. Do we have a
23 quorum?

24 MR. BLODGETT: Yes, we do.

25 CHAIRMAN PATE: All right. Thank you.

1 Commissioners, I want to welcome you to our
2 second meeting of 2022. We continue to have new
3 challenges and great opportunities for partnership and
4 engagement at all levels of the horse and greyhound
5 industry, which will benefit the citizens of this great
6 State of Texas.

7 I do have a few remarks that I want to give to
8 make sure the Commissioners are aware of some pending
9 issues. This pivotal meeting will consider the response
10 of Texas and the Texas Racing Commission to the Federal
11 HISA Act, which by terms, seeks to disenfranchise Texas
12 from its essential role in the health and safety of horses
13 and jockeys. An unintended consequence of HISA, at least
14 in Texas, may be the elimination of all pari-mutuel
15 wagering and simulcast wagering for HISA-covered horses
16 and covered horse racing.

17 Under the Texas Racing Act, the security of the
18 wagering involves the total involvement of the Texas
19 Racing Commission, with the State stewards and
20 veterinarians and licensing and regulation of owners and
21 trainers and jockeys and others, as well as the regulation
22 of the racing venues, including the security of the back
23 side and the enforcement of rules by State investigators
24 and State racing judges. Texas stewards also disqualify
25 any horse running afoul while participating in a race and

1 certify race results.

2 Further, the Commission, through its agents,
3 test the prevailing horses and provide an evidentiary
4 chain of custody to secure the integrity of test samples
5 sent to the testing lab at Texas A&M University, which is,
6 of course, one of the finest in the world. A simplified
7 view of inserting HISA representatives in isolated
8 functions will not in any way satisfy the Commission's
9 mandate to protect health and safety of racing
10 participants under the Texas Racing Act.

11 As a result, any race or meet subject to HISA
12 regulation, without State staffing to adequately implement
13 State law, will not be a race or meet which meets the
14 Texas Racing statute. And the Commission cannot allow
15 pari-mutuel wagering or simulcast wagering in those
16 circumstances where it is not involved. There is simply
17 no provision within HISA for pari-mutuel wagering or
18 simulcast wagering conducted for covering horse races.

19 The unintended result, as I have mentioned, at
20 least in Texas, will apparently be HISA's inability to
21 conduct live horse races with the proper staffing of
22 veterinarian stewards and other test barn staff sufficient
23 to meet the laws of Texas.

24 This represents imminent financial harm to
25 Texas, Texas tracks, and initially, Texas thoroughbred

1 horse owners, as well as any others related to that
2 industry. And with the help of the Texas Attorney General
3 and Texas Solicitor General, we hope to resolve these
4 issues.

5 I also want to particularly thank you all for
6 attending today, and make a couple of other remarks as I
7 consider the last couple of months.

8 I want to especially thank you, Vice Chair
9 Commissioner McNabb, who's performed hard work in
10 understanding HISA and bringing the impact upon Texas to
11 the full attention of the Commission. Additionally, I
12 want to thank Director McNabb and General Counsel Fields
13 for the long hours that rebuilding this Agency requires,
14 not to mention the hard work of Amy Cook, our Executive
15 Director.

16 I would like to mention that Commissioner
17 Waight and the representatives from Texas A&M Medical
18 Diagnostic Laboratory joined me, Commissioner McNabb, and
19 other Agency leadership in a health and safety conference
20 hosted by Retama Race Track. It was a very informative
21 meeting -- and an earlier meeting, which I was not in
22 attendance, had been earlier held at Sam Houston Race
23 Track.

24 So, finally, I want to additionally, again,
25 thank Amy Cook, our Director, who took a position of an

1 Agency that had barely survived sunset and has had the
2 hard work of trying to rebuild the Agency simultaneously
3 with facing these material issues under the Texas Racing
4 Act.

5 Now, for today's agenda -- Commissioners, I'd
6 like to take Item VIII out of order, which is the
7 Executive Session. We have as our guest today Chris
8 Hilton with the Attorney General's Office, and Tiffany
9 Gifford.

10 Gifford? Do I have that right? Thank you, Ms.
11 Gifford.

12 And so, I'd like to take that up in an
13 Executive Session so that we can discuss the pending
14 litigation that we have with respect to the HISA Act.

15 So, the Commission will be moving, and I will
16 now enter into Executive -- well, request that we now
17 enter in an Executive Session under Government Code
18 Section 551.0711, to seek the advice of its attorney
19 regarding the pending or contemplated litigation, Chris
20 Hilton and Taylor Gifford, thank you -- and I apologize
21 for mispronouncing your name -- from the Attorney
22 General's Office.

23 The time is now 10:36 a.m., and we'll be in
24 Executive Session. Thank you.

25 (Whereupon, at 10:36 a.m., the meeting was

1 recessed, to reconvene this same day, Wednesday, April 13,
2 2022, following conclusion of the executive session.)

3 CHAIRMAN PATE: The Commission is now
4 reconvening after concluding its Executive Session under
5 Texas Government Code Section 551.0711. The time is now
6 11:10. We've made no decisions while in Executive
7 Session.

8 I'd like to move now with the approval of you,
9 Commissioners, to some staff actions, and we'll come to
10 reports. Commissioner Mach has an important engagement at
11 noon, and I told him we'd try to get through this piece of
12 it first, if that's no objection. All right.

13 I'm going to move first on the proceeding on
14 rules. I guess we didn't ask for public comment. I
15 should have done that earlier. I'm going to ask right
16 now.

17 Public comment -- Jim, has anybody signed up
18 for public comment today?

19 MR. BLODGETT: Mr. Chairman, I have received no
20 requests for public comments at this time.

21 CHAIRMAN PATE: All right. Thank you very
22 much. All right.

23 The next Agenda item, Item V.A, is discussion
24 of the action to publish proposed rule repeal 16 TAC
25 '309.13, Supplemental Fee, to be published in the Texas

1 *Register* by Virginia Fields.

2 Ms. Fields?

3 MS. FIELDS: Good morning, Commissioners.

4 Virginia Fields, General Counsel. I'm here to present
5 Agenda Item V.A, proceedings on rules, the proposed rule
6 repeal of 16 Texas Administrative Code '309.13, entitled
7 Supplemental Fee. This is before you today for
8 publication in the *Texas Register*.

9 The proposed repeal was a staff recommendation
10 to begin closing of loopholes where racetracks could be
11 assessed additional fees in addition to their racetrack
12 licensing fee. This would be the first step for the
13 Agency -- taking to change the funding foundation.

14 The Agency in the future has any shortfall, we
15 would use either the emergency grant process or the
16 supplemental appropriations process, as opposed to a
17 rulemaking process, in assessing any additional fees to
18 racetracks.

19 Staff today recommends that the Commission vote
20 to approve the proposed rule appeals publication in the
21 *Texas Register*.

22 CHAIRMAN PATE: Thank you, Virginia.

23 Commissioners, do you have any questions on the
24 staff recommendation?

25 MR. MACH: Mr. Chairman, I move that we post

1 the rule for public comment.

2 CHAIRMAN PATE: All right. Before I take that
3 up, I do have one person that signed up for public
4 comment, Tommy Azopardi.

5 Did you want to speak on this item, Mr.
6 Azopardi?

7 MR. AZOPARDI: [inaudible from audience].

8 CHAIRMAN PATE: Oh, okay. Thank you very much.

9 Commissioner Mach has made a motion to publish
10 the rule repeal in the *Texas Register*. Is there a second?

11 DR. McNABB: I'll second.

12 CHAIRMAN PATE: Thank you, Commissioner
13 McNabb. Any further discussion?

14 (No response.)

15 CHAIRMAN PATE: All those in favor, signify by
16 saying aye.

17 (A chorus of ayes.)

18 CHAIRMAN PATE: Any opposed?

19 (No response.)

20 CHAIRMAN PATE: Hearing none, the motion
21 carries.

22 Item 5B. The next Item on the Agenda, V.B, is
23 discussion and possible action to publish proposed rule
24 amendment 16 TAC '303.42, Approval of Charity Race Days,
25 presented by Virginia Fields.

1 Ms. Fields?

2 MS. FIELDS: Commissioners, Agenda Item V.B,
3 the proposed rule amendment to 16 Texas Administrative
4 Code 16 '303.42, entitled Approval of Charity Race Days.
5 This is also before you today for publication in the *Texas*
6 *Register*.

7 The proposed rule amendment was a
8 recommendation by Vice Chair Connie McNabb to broaden the
9 scope of charities that could benefit from racetrack
10 charity race day events. The rule amendment will allow
11 for a greater number of charities to submit their proper
12 documentation to racetracks for consideration and approval
13 to be included in the charity race events and receive a
14 portion of the charity race day proceeds benefitting those
15 approved charities.

16 Staff recommends that the Commission vote to
17 approve the publication of the proposed rule amendment in
18 the *Texas Register*.

19 CHAIRMAN PATE: Thank you. Commissioners, do
20 you have any questions?

21 (No response.)

22 CHAIRMAN PATE: Jim, is there anyone signed up
23 for public comment on this rule?

24 MR. BLODGETT: No.

25 CHAIRMAN PATE: All right.

1 DR. McNABB: There's a comment.

2 MS. FIELDS: I believe Tommy has one.

3 DR. McNABB: Okay. Tommy --

4 CHAIRMAN PATE: No, he's in the next rule.

5 Okay.

6 DR. McNABB: Just a little bit of background --
7 this does not eliminate or pass any judgment on the
8 current charities. You know, certainly, Race Track
9 Chaplaincy has been a big favorite, and we certainly agree
10 they do wonderful work on the back side.

11 But we took a look and we have not had much
12 success finding a nonprofit that was doing equine research
13 that Charity Day really made a big difference. And so, we
14 just wanted to open this up.

15 There's a lot of great charities that do
16 wonderful work in communities in Texas, and for a person
17 who's involved with nonprofits, there's the saying: doing
18 good is good business. So, if, indeed, there's a charity
19 that can bring some goodwill in the community towards a
20 racetrack and that works for a charity day, we just -- we
21 want this to be good for all parties.

22 So, we just wanted to broaden the scope. We're
23 not saying don't look for a charity doing equine research
24 if you can find one that fits. But we just wanted to give
25 you more latitude and do more good and good for your

1 businesses, also.

2 CHAIRMAN PATE: All right. If there is no
3 further discussion or public comment, I would entertain a
4 motion to publish this rule amendment in the *Texas*
5 *Register*.

6 MR. KLEINSCHMIDT: Mr. Chairman, I move to
7 approve for publication the proposed amendment to 16 Texas
8 Administrative Code 303.42 --

9 CHAIRMAN PATE: Thank you. Motion --

10 MR. KLEINSCHMIDT: -- in the *Texas Register*.

11 CHAIRMAN PATE: Motion made by Mr.
12 Kleinschmidt. Is there a second?

13 MR. MACH: Second.

14 CHAIRMAN PATE: Second by Commissioner Mach.
15 Any further discussion?

16 (No response.)

17 CHAIRMAN PATE: All those in favor, please
18 signify by saying aye.

19 (A chorus of ayes.)

20 CHAIRMAN PATE: Any opposed?

21 (No response.)

22 CHAIRMAN PATE: All right. The motion carries.
23 The next item is Item V.C, discussion and
24 possible action to publish a proposed rule amendment to 16
25 TAC '301.1(74), definition of specimen; 16 TAC '319.3,

1 medication restricted; and 16 TAC '319.301, testing
2 authorized, in the *Texas Register* to be presented by Ms.
3 Fields.

4 Ms. Fields?

5 MS. FIELDS: Commissioners, again, Agenda Item
6 V.C, Virginia Fields here. Proposed rule amendments rules
7 as cited by the Chair. These are before you today, too,
8 as well, for publication in the *Texas Register*.

9 The proposed rule amendments were
10 recommendations that resulted from the open meetings that
11 were held on February 2nd and March 8th of the Health and
12 Safety Subcommittee.

13 All of the proposed rule amendments before you
14 are related to the hair testing that is now set for
15 implementation or reimplementation starting September 1 of
16 this year. These amendments clarify the requirement for
17 state of the art drug testing under the Racing Act,
18 Section 2034.001.

19 Staff recommends that the Commission vote for
20 approval to publish in the *Texas Register*.

21 CHAIRMAN PATE: All right. Commissioners, are
22 there any questions?

23 (No response.)

24 CHAIRMAN PATE: Mr. Azopardi, did you want to
25 address this matter?

1 MR. AZOPARDI: [inaudible] my comments were
2 going to be relating to the opening of the race date
3 application period.

4 CHAIRMAN PATE: Oh, at the very end? Okay. It
5 was just mismarked on here.

6 Got it. All right. Thanks.

7 Is there anyone else signed up for public
8 comment?

9 MR. BLODGETT: Mr. Chairman, I have received no
10 requests for public comment at this time.

11 CHAIRMAN PATE: If there's no further
12 discussion or public comment, I would entertain a motion
13 to publish these rule amendments in the *Texas Register*.

14 DR. McNABB: I so move.

15 CHAIRMAN PATE: Motion by Commissioner McNabb.

16

17 MR. MACH: Second.

18 CHAIRMAN PATE: Second by Commissioner Mach.

19 Any further discussion?

20 (No response.)

21 CHAIRMAN PATE: All right. Hearing none, all
22 those in favor, signify by saying aye.

23 (A chorus of ayes.)

24 CHAIRMAN PATE: Any opposed? Pardon me?

25 MR. MACH: I'm sorry. I jumped the gun.

1 CHAIRMAN PATE: That's okay. Motion carries.

2 MS. FIELDS: Thank you.

3 CHAIRMAN PATE: Thank you. We'll go on to
4 Section 4 [sic] now, proceeding on the Horse Industry
5 Escrow Account.

6 Next item, Item VI.A, the staff report on the
7 approved request for funds in the Horse Escrow Industry,
8 to be presented by Dinorah Chiu. And these are with
9 respect to the items that the -- less than \$50,000,
10 correct?

11 MS. CHIU: More than 50.

12 CHAIRMAN PATE: More than \$50,000 only. All
13 right. And these are all coming with staff
14 recommendations to approve, correct?

15 MS. CHIU: Yes.

16 CHAIRMAN PATE: All right. All right, Dinorah?

17 MS. CHIU: Good morning, Commissioners.

18 CHAIRMAN PATE: Good morning.

19 MS. CHIU: Okay. We have the Texas Paint Horse
20 Breeders Association's request for \$130,000 for the
21 Cowgirl Gathering event in November 11 to 13.

22 The staff recommends approval. Commissioners?

23 CHAIRMAN PATE: All right. Commissioners,
24 those materials were furnished to you. Do you have any
25 questions?

1 (No response.)

2 CHAIRMAN PATE: Jim, has anybody signed up for
3 public comment with respect to this request for funds?

4 MR. BLODGETT: No, sir, not at this time.

5 CHAIRMAN PATE: All right. If there's no
6 further discussion or public comment, I would entertain a
7 motion to approve this request.

8 DR. McNABB: So moved.

9 CHAIRMAN PATE: Moved by McNabb.

10 MR. MACH: Second.

11 CHAIRMAN PATE: Second by Mach. Any further
12 discussion?

13 (No response.)

14 CHAIRMAN PATE: Hearing none, signify your vote
15 by saying aye in favor.

16 (A chorus of ayes.)

17 CHAIRMAN PATE: Any opposed?

18 (No response.)

19 CHAIRMAN PATE: Motion carries.

20 Next item is Item VI.B.2, presentation of the
21 three requests for funding by the Texas Quarter Horse
22 Association for funds from the Horse Industry Escrow
23 Account.

24 Dinorah?

25 MS. CHIU: Yes, we have three. The first one

1 is \$353,000 for the 2022 Quarter Horse Meet at Retama,
2 with dates of June 30 through August 20, 2022. The second
3 one is \$325,000 for the Retama Stakes Program, dates June
4 30 to August 20, 2022. The third one will be \$240,000 for
5 the Texas Summer Showdown with dates July 29, 2022.

6 The staff recommends approval.

7 CHAIRMAN PATE: All right.

8 MS. CHIU: Commissioners?

9 CHAIRMAN PATE: Commissioners, are there any
10 questions with respect to these applications?

11 (No response.)

12 CHAIRMAN PATE: All right. Anybody signed up
13 for public comment on this item?

14 MR. BLODGETT: Mr. Chairman, I do not have any
15 requests at this time.

16 CHAIRMAN PATE: Thank you. If there is no
17 further discussion or public comment, the Chair would
18 entertain a motion to approve these requests.

19 MR. MACH: So moved.

20 CHAIRMAN PATE: Motion by Commissioner Mach.
21 Second?

22 MR. KLEINSCHMIDT: Second.

23 CHAIRMAN PATE: Commissioner Kleinschmidt?

24 MR. KLEINSCHMIDT: Yes, sir. Second.

25 CHAIRMAN PATE: Thank you. All right. Any

1 further discussion?

2 (No response.)

3 CHAIRMAN PATE: All right. All those in favor,
4 please signify by saying aye.

5 (A chorus of ayes.)

6 CHAIRMAN PATE: Any opposed?

7 (No response.)

8 CHAIRMAN PATE: The motion carries.

9 MS. CHIU: Thank you.

10 CHAIRMAN PATE: Thank you, Dinorah.

11 Moving on to Item VII.A, discussion and
12 possible action with respect to the racetrack matters.
13 Amy Cook will be presenting this.

14 Amy?

15 MS. COOK: Good morning, Commissioners. Ladies
16 and gentlemen, before the Commission is the staff
17 recommendation to designate a 60-day period for racetracks
18 across the state to apply for proposed race dates for a
19 five-year period.

20 Typically in the past, they were allowed to
21 apply for only two years at a time, and a request is made
22 to allow for a longer application period as the industry
23 tries to grow and come back after the COVID-19 virus.

24 In addition to this application for race dates,
25 they would also apply for charity race dates for those

1 days, and we hope to get more conversation and awareness
2 for charities throughout the state to be able to
3 participate in these dates.

4 Those race dates, once all the tracks have
5 submitted them to the Commission staff and we've all
6 worked together, will be presented jointly at a Commission
7 meeting in August of 2022.

8 CHAIRMAN PATE: All right. Commissioners, I
9 have a question. Amy, we've -- these dates will obviously
10 exceed into that period of time after which the HISA
11 becomes effective.

12 So, are we talking about race dates that would
13 be -- that would not be thoroughbred race dates? Are we
14 talking about everybody picking race dates, but we're
15 going to figure that out later? Or what are we looking
16 at?

17 MS. COOK: So, my response would be since that
18 law is not in effect, and we would hope that there would
19 be some sort of nationwide injunction to stop the
20 implementation of the Horse Racing Integrity and Safety
21 Act -- and we would all partner to do this together on
22 behalf of the horses -- that they would request -- put on
23 all their requests that they would like to have, with the
24 hope that the Texas Racing Commission would stay in the
25 lead of overseeing racing in the great State of Texas.

1 CHAIRMAN PATE: Okay. So, we're inviting just
2 the scheduling as usual -- your existing races. And then,
3 we'll -- if to the extent HISA would apply or frustrate
4 that, we would deal with that later.

5 Is that what you're suggesting?

6 MS. COOK: Yes, sir. That's correct.

7 CHAIRMAN PATE: All right. All right. Any
8 other questions, Commissioners?

9 (No response.)

10 CHAIRMAN PATE: All right. If there's no
11 further discussion, I would have -- the Chair --

12 MS. COOK: Mr. Azopardi had public comment on
13 this part.

14 CHAIRMAN PATE: Oh, come on up. I'm sorry.
15 See, I kept looking at 5A. It's 7A. Okay.

16 Come on up, Mr. Azopardi.

17 MR. AZOPARDI: Sorry about that, Mr. Chairman.
18 Commissioners, I just wanted to take a minute to
19 encourage you all to approve what Executive Director Amy
20 Cook's asked for.

21 This is yet another example of a great
22 cooperation between your staff and the industry. We have,
23 for a very long time, been asking for the ability to
24 create a five-year business plan, instead of just two
25 years at a time.

1 It's very tough to do this. And we've had a
2 lot of criticisms, a lot of complaints over the years
3 about the inactive last two licenses. This will actually
4 give us now the runway to lift that very heavy plane off
5 the ground.

6 And so, I would encourage you all to give this
7 consideration. Thank you.

8 CHAIRMAN PATE: Thank you, Mr. Azopardi. Any
9 further public comment?

10 (No response.)

11 CHAIRMAN PATE: Any further discussion,
12 Commissioners?

13 (No response.)

14 CHAIRMAN PATE: All right. If there is no
15 further discussion or public comment, the Chair would
16 entertain a motion to approve the designation of May 1
17 through June 30, 2022, as the racetrack application dates
18 for proposed race dates for calendar years 2023 through
19 2027.

20 MR. MACH: I'll make the motion.

21 CHAIRMAN PATE: Motion made by Commissioner
22 Mach to approve.

23 DR. McNABB: I'll second.

24 CHAIRMAN PATE: Second by Commissioner McNabb.
25 Thank you. Any further discussion?

1 (No response.)

2 CHAIRMAN PATE: Okay. All those in favor,
3 please signal by saying aye.

4 (A chorus of ayes.)

5 CHAIRMAN PATE: Any opposed?

6 (No response.)

7 CHAIRMAN PATE: Hearing none, the motion
8 carries. I'm going to ask you to go back, Ladies and
9 Gentlemen, to our Agenda -- on the action item, we're
10 going to go -- Amy, we're going to go ahead and go to Item
11 4A, which would be the HISA letters that we need to get
12 Commission approval on, all right?

13 So, I'm looking at Item 4A, staff action,
14 discussion, consideration, and possible action on Agency
15 draft letters to HISA, presented by Ms. Fields.

16 Ms. Fields?

17 MS. FIELDS: Commissioners, again, good
18 morning. Virginia Fields, General Counsel for the record.

19 I'm here presenting Agenda Item 4A on the Horse Racing
20 Integrity and Safety Act, or HISA.

21 As background today, staff is recommending that
22 the Commission approve the draft letters to the HISA
23 authority on their voluntary implementation agreement and
24 remitting fees that they are currently seeking, totaling
25 \$371,377. Those letters are on pages 35 and 73 of your

1 meeting materials.

2 To begin the presentation, however, I'd like to
3 provide you first with an update on the current federal
4 case in Lubbock. You were last advised of our intention
5 to attend the oral arguments on the plaintiff's motion for
6 summary judgement for claims on private non-delegation
7 under Section 1 -- Article 1, Section 1 of the U.S.
8 Constitution and Due Process Clause.

9 Those oral argument occurred on February 16th.

10 After the oral arguments, the State of Texas and the
11 Texas Racing Commission intervened in the case, and on
12 March 31st, the Court entered its memorandum order denying
13 the plaintiff's motion for summary judgement.

14 On page 34 of your meeting materials today,
15 there's a letter that our Executive Director sent to the
16 Texas Solicitor General requesting representation for
17 those matters that are currently ripe for appeal.

18 Aside from the federal legislation, the HISA
19 authority -- through a Board member -- sent two separate
20 requests to all executive directors of state racing
21 commissions. One request was sent on March 27th of 2022,
22 and provided the HISA voluntary implementation agreement
23 that is contained in your materials beginning on page 74
24 through 79.

25 Also included in your materials -- again, is

1 page 73 -- is the Agency's response to the request and our
2 various federal medical director, federal safety director,
3 federal stewards, and federal veterinarians without
4 corresponding contractual remuneration.

5 Finally, the federal statute -- it's 15 USC
6 3052 F1C -- states that not later than the date that's 90
7 days before the program's effective date, and every
8 November 1 thereafter, the authority shall determine to
9 provide to the state racing commissions the estimated
10 amount that will be required from each state to fund the
11 state's proportionate share of horse racing anti-doping
12 and medication control and the racetrack safety programs
13 for the next calendar year, and to also liquidate the
14 states' proportionate share of any HISA loan or funding
15 shortfall in the current calendar year and previous
16 calendar year for the HISA authority.

17 As required on April 1 of 2022, the HISA
18 Authority Executive Director, Lisa Lazarus, reported to
19 the executive directors of the racing commissions the HISA
20 CEO letter -- being contained on pages 37 through 39 --
21 and the bill of costs -- which included Texas and other
22 jurisdictions -- which begins on page 40.

23 Reviewing page 40, you'll note that the bill of
24 the HISA costs to the State of Texas to be paid by the
25 Texas Racing Commission for implementation of the federal

1 regulations on thoroughbred racetrack safety and
2 medication control rules is totaled currently at \$371,377.

3 The HISA statute -- specifically, Section 15 USC 3052
4 F2A -- requires that any state racing commission that
5 elects to remit those fees shall notify the authority of
6 the election not later than 60 days before the program
7 effective date, which is July 1. And therefore, this
8 letter needs to be forwarded by May 1.

9 Additionally, 15 USC 3052 F2C provides that a
10 state racing commission may cease remitting fees not
11 earlier than one year after notifying the authority of its
12 intent to do so. Many states, such as New Jersey and
13 Maryland, have already acknowledged that their respective
14 enabling statutes do not permit the payment of fees to the
15 federal government for the regulation of horse racing in
16 their jurisdictions, and the case is the same for the
17 state of Texas.

18 Staff recommends that the Commission vote to
19 approve the draft letters that are contained in your
20 meeting materials on pages 35 and 73, respectively,
21 declining to sign the voluntary implementation agreement
22 and withdrawing any election to remit fees to the federal
23 government. And I'm happy to answer any questions you may
24 have.

25 CHAIRMAN PATE: All right. Commissioners, do

1 you have any questions?

2 (No response.)

3 CHAIRMAN PATE: We do have two individuals who
4 have signed for public comment. I don't know if there is
5 any particular order here.

6 John Cardwell, you're recognized for three
7 minutes, sir.

8 MR. CARDWELL: Thank you, sir. Good morning,
9 Commissioners. I'm John Cardwell, here on behalf of Lone
10 Star Park in Grand Prairie, commenting on the HISA
11 situation.

12 First, I would like to commend the Commission
13 on the performance of your new Executive Director and
14 General Counsel. I've been coming to these meetings since
15 1988. I had brown hair when I started.

16 This is the best executive director and general
17 counsel that I have observed in those 34 years.

18 Leadership does make a difference, and we thank you for
19 your attention and your cooperation in this regard.

20 As to HISA, it has laudable goals, but the
21 devil's in the details. And we agree with the legal
22 conclusion that your General Counsel and Executive
23 Director recommend -- at least, that we understand they
24 recommend -- which is there is a limit on what the Texas
25 Racing Commission can do.

1 Texas Racing Commission, obviously, was formed
2 by the Texas Legislature. You can only do what your
3 enabling statutory authorization is. There is a specific
4 AG's opinion on your inability to collect and distribute
5 fees that are not specifically authorized by the
6 legislation.

7 So, we don't think you have the option to opt
8 in or opt out. And that's what I mean by the devil's in
9 the details.

10 HISA, in some form, would be a wonderful thing,
11 but it needs some time so that we don't have a square peg
12 being forced into a round hole. We need some time to
13 massage this. July 1, 2022 is not a reasonable amount of
14 time.

15 The legislature never envisioned a federal
16 quasi-bureaucratic private entity coming in and imposing
17 itself on state regulation. The tracks and the horsemen
18 should be and are concerned about -- is this going to be a
19 double layer of regulation, a double layer of cost? And
20 we need time to work through all those things.

21 So, it's just another example of the unfunded
22 federal mandate, which you all are being asked to deal
23 with. And we certainly appreciate your efforts and we
24 agree and support what your staff has recommended to you.

25

1 Are there any questions? Thank you.

2 CHAIRMAN PATE: No. Thank you, Mr. Cardwell.
3 I appreciate you being here today.

4 We have another person signed up -- Bruce
5 Bennett. Mr. Bennett?

6 MR. BENNETT: I have nothing to add, Mr.
7 Chairman.

8 CHAIRMAN PATE: All right. Thank you very
9 much. Is there any further public comment?

10 (No response.)

11 CHAIRMAN PATE: Commissioner McNabb?

12 DR. McNABB: I appreciate your comments. So,
13 last December, the folks who, at the time, were the
14 leadership for HISA came to the ARCI. So, that's the
15 Association of Racing Commissioners International.

16 Representatives from all the racing states were
17 there. My statement to them was our charter and our laws
18 have words like "will" and "shall", not "should" and
19 "could", and our legislature doesn't meet until 2023. The
20 things you're asking us to do, we do not have the
21 authority to do.

22 The answer I got from their top leader at the
23 time was, We're the feds, and we have FTC authority. So,
24 whatever you say doesn't matter to us. And I said, Well,
25 thank you very much, sir. See ya.

1 So, but that has been the push-back and the
2 lack of cooperation that we have had. Hopefully, with new
3 leadership at HISA, we can find our way through this maze.

4 CHAIRMAN PATE: Yeah, and I would also add, Mr.
5 Cardwell, I don't know whether you were here when we
6 started the meeting or not, but I had some remarks.

7 But I mean, we have a -- you are well aware, we
8 have one statute that encompasses within that statute the
9 things that we have to do as the Agency to license all the
10 participants and regulate the back side and so forth, all
11 for the purpose of protecting the wagering public and the
12 pari-mutuel wagering.

13 So, you know, it's pretty clear to us that
14 we're going to have -- the unintended consequence of HISA
15 in Texas could very well be that there will be no
16 pari-mutuel betting or wagering for any race, that HISA
17 comes in and takes over where Texas cannot do what it has
18 to do, so to allow pari-mutuel betting. There is no pari-
19 mutuel betting provision within HISA, none. It doesn't
20 even deal with it.

21 So, it's a tricky proposition. But anyway --

22 MR. CARDWELL: I would just add it's just
23 another example of the many conflicts that HISA
24 represents, which is why we think your case in Lubbock is
25 a race worth running. Good luck in that. Thank you.

1 CHAIRMAN PATE: We're going to let it have its
2 leash, or what do you call it? A rein. Let it rein,
3 okay? Let it run.

4 MS. FIELDS: Commissioners, I'd only add, too,
5 that after the bill of costs came through to the various
6 racing jurisdictions, some of them did go to the HISA
7 authority and request a copy of their budget, the basis of
8 the \$14 million they're seeking from all. And that is
9 included in your meeting materials on page 35, the HISA
10 budget that was forwarded after the fees were provided.

11 CHAIRMAN PATE: All right.

12 MS. FIELDS: Just for record.

13 CHAIRMAN PATE: If there is no further
14 discussion or public comment, the Chair would entertain a
15 motion on staff's recommendation to approve these draft
16 letters to the HISA authority, which have been provided to
17 you in the meeting materials, pages 35 and 73.

18 MR. KLEINSCHMIDT: Chairman, before the -- can
19 I make one comment on the --

20 CHAIRMAN PATE: Absolutely.

21 MR. KLEINSCHMIDT: The letter on page 35 -- and
22 I apologize. Being an attorney in the group, it's hard to
23 read anything that I won't want to change to some extent.

24 But third paragraph, starting on the last two
25 lines, says "instead of" -- or the last three lines,

1 "instead of treating state regulatory agencies like bill
2 collectors for the authority of the FTC should partner
3 with states and their congressional delegations, then
4 return to Congress with the goal of replacing the
5 authority, a federal cooperative agreement." I would
6 suggest adding on that second to last line after the
7 "Congressional delegation," a comma after delegations, and
8 putting the word "with" after authority. So, it would
9 read as "with states and congressional delegations, then
10 return to Congress with the goal of replacing the
11 authority with a federal cooperative agreement program."

12 And with those two corrections, I would move to
13 authorize the Executive Director to sign and send both of
14 these letters.

15 CHAIRMAN PATE: All right. With the
16 corrections noted, Commissioner Kleinschmidt has moved to
17 approve the draft letters.

18 Is there a second?

19 DR. McNABB: I'll second.

20 CHAIRMAN PATE: And you adopt the edits that
21 Commissioner Kleinschmidt proposed, Commissioner McNabb?

22 DR. McNABB: Yes.

23 CHAIRMAN PATE: All right. For your second?

24 DR. McNABB: Yes. Okay.

25 CHAIRMAN PATE: All right. Is there any

1 further discussion?

2 (No response.)

3 CHAIRMAN PATE: All right. All those in favor,
4 please signify by saying aye.

5 (A chorus of ayes.)

6 CHAIRMAN PATE: Any opposed?

7 (No response.)

8 CHAIRMAN PATE: All right. The motion carries.
9 We're going to now turn to staff reports.

10 Moved pretty fast here, Amy. I'm trying to give you
11 maximum exposure to Commissioner Mach before he has to
12 leave on items.

13 What is the lineup? Are you going to give your
14 report first?

15 MS. COOK: Yes, I am.

16 CHAIRMAN PATE: Okay.

17 Commissioners, one of the things that I know
18 that Amy will be discussing -- but give some thought now
19 as you're sitting here -- we're trying to schedule a
20 special meeting in May for purposes of considering and
21 approving the budget to be submitted to the legislature
22 for the next biennium, as well as our strategic plan.

23 Amy and staff are literally -- you know,
24 they're using what we have, but what we have was pretty
25 thin. And we're developing new goals, new aspirations,

1 and new statements of what we're all about.

2 And so, hopefully, you can attend. I think the
3 proposed date right now is May the 18th, and the plan
4 would be to get you some materials in your hands prior to
5 that date so you can review it.

6 One of the things that I did not like when I
7 first came on the Commission is simply being presented
8 with a budget and asked to approve it, where I hadn't read
9 it or knew nothing about it. I think it's important,
10 particularly in this HISA time, and particularly, because
11 of our -- that we rebill to the tracks for much of our
12 cost.

13 I think it's important for us to understand
14 what it is we're providing, how much it costs, and also
15 understand what the tracks already provide. And it gives
16 us some depth of field on our funding.

17 Amy, thank you.

18 MS. COOK: Thank you, Judge Pate. And may I
19 say I appreciate all the attendance of all the folks that
20 are here today.

21 I want to start by talking for just a moment
22 about what's happened since the last Commission meeting.
23 So, since the last Commission meeting, we've tried in
24 various ways to show signs of visible change.

25 We came up with a new logo. We came up with a

1 new motto, and that new motto is "Excellence starts here."

2 And "Excellence starts here" does not mean that
3 we are perfect. It means that we are giving our best
4 effort. That's my expectation of the Agency staff and,
5 quite frankly, of myself.

6 But what I will tell you I've learned in the
7 last 60 days is that communication, which is what I've
8 really been working on with everyone -- Commissioners,
9 staff, and all of the stakeholders -- communication
10 creates partnerships. Communication with the industry
11 folks, with the tracks, with the horsemen's partnership,
12 with TVMDL, who I see is here today; with Dwight Berube,
13 who has provided space for us to do public meetings; with
14 Angela Cooper, who has provided all of that support; for
15 the Comptroller's Office, Facilities Commission, DIR,
16 who's helping us work through our challenges.

17 Partnership has been incredible, and those
18 partnerships are creating solutions. And those solutions
19 inform the future of the racing industry in Texas. And
20 so, I'm grateful as I stand here for all of that trust
21 extended to me as I've tried to really ramp up the
22 communication for this community.

23 So, "Excellence starts here" is really a
24 challenge. It's a challenge to the Agency staff that we
25 take personally, and it's a challenge to all of us to be

1 the best state -- you know, the best state agency in
2 Texas, and the most professional racing commission in
3 America. And I'm proud to lead that charge.

4 And I think you can see the evidence in that in
5 the hair testing solutions. You know, public meetings
6 where people stood up and said, I really want to get this
7 right for Texas, and really, for those that we're trying
8 to protect, the ones without voices, which are the
9 animals.

10 You can see in the pari-mutuel wagering area,
11 where, you know, all the staff are either not available to
12 work because of health issues, or have left the Agency in
13 the last 60 days.

14 And we came together -- with Virginia Fields
15 leading that charge -- and asked everyone at all the
16 tracks that do pari-mutuel wagering and auditing, How do
17 we get this right? What are the processes that we have?
18 Engaged the Comptroller, because it turns out that we have
19 a form that the Comptroller had that they discontinued
20 using 11 years ago.

21 So, garbage in, garbage out, right? We're
22 sending them e-mails. They're sending us e-mails.

23 And so, there really wasn't a clear accountable
24 process that everyone could see between the industry, the
25 Commission, and the Comptroller of the flow of money. We

1 believe the money was flowing correctly. I'm not saying
2 it wasn't. But I would tell you that the communication
3 was not where it needed to be.

4 So, we're in the process of correcting that.
5 We're going to design a new form that everyone uses. All
6 the tracks have the same form. The Commission gets it,
7 the Comptroller gets it, and we all feel comfortable.

8 And the Commissioners can see it on what's
9 happening with simulcasting and live wagering and how that
10 handle comes in and out. You can see it on the focus on
11 safety.

12 So, Retama Park -- Angela Cooper stood up in
13 the public meeting and said Retama is ready to race on its
14 approved race dates, and we appreciate her saying that.
15 And after that meeting, we walked through the park
16 together -- the Commission staff, the industry folks, the
17 Commissioners -- and looked to see whether she was ready.
18 We believe she's ready, and we support that.

19 Lone Star Park opens up in the next couple of
20 weeks. The same thing will happen. Instead of taking a
21 checklist on a piece of paper and walking through to see
22 if all the toilets flush in the building, we are going to
23 walk through the park together with the staff, with the
24 Commission staff, and the industry.

25 And for Lone Star Park, we expect to do that on

1 April 19th. Because after going through our rules, there
2 is not one checklist item in our own rules about the
3 safety of the park -- not one. The railing for the
4 horses, you know, the health of the jockeys -- because
5 Judge Pate asked us, can you redo the checklist?

6 You know, when we were talking about safety,
7 and go through the rules and see if you can build a rule
8 checklist -- a checklist for tracks based on safety. It's
9 not in the rules.

10 So, I would say that as we go through our rule
11 review -- and there is a proposed index of rule reviews in
12 your binders for over the next year and half, where we
13 look at every rule. We make sure that safety, which is
14 part of our key mission, is really what we focus on as we
15 go through this.

16 And then, the Agency relocation -- we're
17 relocating April 29th. So, we hope after the next
18 Commission meeting to be able to invite you over, perhaps
19 for an open house, for everyone who'd like to come. But
20 we are packed. We are ready to go, and Facilities
21 Commission has been amazing in supporting us in that
22 effort.

23 But part of our challenge -- and this is what
24 everyone needs to know -- is we were hoping to migrate our
25 enforcement database that's on the server at the Cross

1 Park location. We were hoping to migrate that in the next
2 few weeks when we're not racing so that there's no
3 interruption in service to the public. That's not going
4 to happen because we're not able to actually migrate the
5 server quite yet.

6 So, there will be an announcement, probably for
7 about a week to 10 days, where that licensing database
8 will be offline, but everyone should still be able to apply
9 for licenses online. What I've discovered about the
10 online portal is not only is it out of date, but it
11 doesn't permit all Texans to apply for any license. So,
12 we're in the process of correcting that before we go
13 offline.

14 So, we're going to try to sustain business
15 operations while we migrate servers and people and
16 furniture and ourselves over to the new location. So,
17 we're going to do our best in that regard.

18 And I think that it's really important for you
19 to understand that as we talk through the financial status
20 and strategic plan of the Agency -- and I do appreciate a
21 special Commission meeting focused on that, because I will
22 share with you a conversation I had with Thomas Galvan,
23 who may be watching.

24 Thomas Galvan and I were on the phone as I
25 tried to restructure the Agency budget, and most agencies

1 don't try to start over. But we're in a position where we
2 must start over, quite frankly.

3 I mean, if you look deeply at the way the
4 architecture of the budget is -- and I point you, if you
5 would turn with me of page 5 of your materials -- so, the
6 current Agency budget structures are reflected in the
7 general appropriations acts. So, at page 5, you see, for
8 example, in the first strategy, there are six budget lines
9 and one strategy. And so, what you have is you have
10 Agency staff that are scattered through all of those
11 lines.

12 And then, if you turn to the next page, which
13 is page 6 of your materials, you know, you'll see a couple
14 different goals mixed together between texas.gov and the
15 occupational licensing program. So, we're really in a
16 position where we have about 11 different budget lines
17 where staff are scattered, and it's only 39 FTEs. And so,
18 that makes it much more difficult to fund each line and
19 also to manage fulfilling all the FTEs.

20 Also mixed in, if you turn back to page 5, is
21 the Texas-bred Incentive Program. The Texas-bred
22 Incentive Program is a trust fund that we administer, but
23 it is not part of our budget.

24 So, when you look at our budget and you look at
25 the very bottom line, it looks like, wow, they get a lot

1 of money. But actually, that appropriation is not money
2 to the Agency. It is money the Agency administers.

3 So, when talking about restructuring what we do
4 and all of that, I'd like you to turn to page 11 for me.
5 Page 11 is just a couple of slides that I want to quickly
6 go over, in terms of the direction of the strategic plan
7 and what we're thinking about, because I want to put that
8 on everyone's radar screen.

9 And between this meeting and the next meeting,
10 I will be socializing this with all of our stakeholders to
11 make sure that I'm on the right track. No pun intended.
12 Well, maybe pun intended.

13 So, we gave this briefing to Commissioner
14 McNabb and Commissioner Pate a week or so ago. And
15 essentially, if you skip from page 11 to 12 and then on to
16 13, obviously, our vision is to be the best state agency
17 in the great state of Texas, and most professional and
18 custom-oriented racing commission in America.

19 And our mission, of course, is to protect the
20 safety and integrity of greyhound and horse racing in the
21 great state of Texas because the greyhound folks have not
22 given up. And I've told them there's hope, as long I'm in
23 charge of the Agency, if anyone wants to race -- whatever
24 that racing might be -- we will support that, and that is
25 their decision to make.

1 So, turning over to page 15, here's our
2 challenges. And I think we all are aware of this, but I
3 think it's important to state them publicly. Public trust
4 is a big challenge for the Agency.

5 With all the media attention, with all the
6 concerns that legislature had, with all the public
7 documents written, public trust is a huge challenge for
8 the Agency that we're working to overcome.

9 The fiscal structure of the Agency is also the
10 other challenge, which we'll be talking about more as we
11 go through the next couple of months, and as we get into
12 legislative session. And obviously, as we all know, HISA
13 is a big challenge with the uncertainty that it creates on
14 July 1st of 2022.

15 But then, I want to focus on -- and what I've
16 asked everyone to do is tell me what the challenges were.
17 Tell me what the hard things were. But let's use those
18 to move forward.

19 So, if you'd look at slide 16, here's our
20 opportunity -- partnerships, right? Facilitating great
21 solutions together. Industry growth.

22 The industry's coming back in an amazing way
23 with the Horse Industry Escrow Account. But what I've
24 told some of the stakeholders is the rock in the stream
25 for the industry was the Commission and the way it was

1 being run, and the concerns that the legislature had.
2 Now, I don't want us to be a rock in the stream because we
3 are now able to move with the industry and support that
4 growth.

5 So, part of my request to do fiscal restructure
6 is to really make sure that as the industry grows, the
7 Agency can grow with the industry in the right way.

8 And then, modernization, you know, as we've
9 discussed. Our statute needs to be modernized. Our rules
10 of racing don't keep up with technology. And our
11 infrastructure, whether it be IT or any of the rest of it,
12 needs to be modernized.

13 So, then, moving on -- and this is an iChart.
14 You can skip slide 17. That comes right out of the
15 legislative budget board's briefing materials.

16 But if you look at slide 18, you'll see our
17 time line. So, our Agency performance measures are due
18 this Friday, and I have a handout that we'll go over in
19 just a minute about what I'm thinking there. Our
20 strategic plan is due on 1 June, hence the special
21 Commission meeting. And then, our appropriations request
22 will be due shortly, as well as budget hearings and all of
23 that coming up.

24 So, it's important to understand that I feel
25 like we're behind in terms of the Agency staff and our

1 preparedness to address the legislative session. So, I
2 appreciate everyone kind of coming together and helping us
3 figure out how to get this right because I think it's
4 important to really show that we have made dramatic change
5 at the Agency, so they legislature understands that we
6 heard what the sunset report said and what they said about
7 what we needed to do.

8 If you look at slide 19, that's our current
9 funding strategy and our total Agency budget for the year,
10 which is the \$3.7 million. And what you'll see mixed into
11 that and highlighted in gray is the Texas-bred incentive.

12 So, that is not added into the number at the bottom
13 because that's an additional \$3 million that does not get
14 added to the Agency budget.

15 So, moving to slide 20, I want to talk about
16 kind of the discussion points that I think we'll be having
17 as we go through this. The first is when I sat down with
18 the Texas Comptroller, Glenn Hegar, and his folks, I asked
19 about the Texas-bred incentive. And there have been
20 efforts, I guess, made in the past to take that out of the
21 appropriations of the Agency.

22 There is some adjustment to the law that would
23 allow that to become, much like the Horse Industry Escrow
24 Account, seen as a trust fund and administered by us as a
25 trust fund, yet not showing up as part of our

1 appropriations, which will help us just in terms of folks
2 understanding how the Agency is funded.

3 The second point is the Horse Industry Escrow
4 Account -- you know, in talking to the Comptroller and
5 looking at the sunset report, we were asked to go back and
6 look at how we administer that and provide guidance on
7 that. We're going back to the law and revisiting that
8 because it is described by the Comptroller as a trust
9 fund, and we have run it as a grant program.

10 So, we're planning on going back with our
11 industry partners and looking at the basis of the law, how
12 we're administering it, and just making sure we have a
13 good way to account for, audit, and administer that money.

14 So, when we're questioned by the legislature on how we've
15 done that process, we can answer that as a group.

16 The third point is the general revenue method
17 of finance. And so, we have two methods of finance in the
18 Agency. One is the simulcast tax, and the other is
19 licenses.

20 I believe the Agency can run on the stable
21 source of revenue about 60 percent, which is basic
22 licensing. If we do our job well, licenses grow, the
23 Agency grows.

24 The unstable source of economic method of
25 finance is the simulcasting. And I think the simulcasting

1 should be aligned with other things that are additional
2 things that we'd like to do as an agency, but not
3 necessarily the fundamental operations of the Agency.

4 And then, finally, the Employee Retirement
5 System cost. I received a bill about two weeks ago for
6 \$403,000, and that is the ERS bill that we received
7 directly because we're not general revenue appropriated.
8 And so, that comes out -- fortunately, they have a payment
9 plan. So, we'll be paying \$34,000 a month next year.

10 Because that seems to be my main talking point
11 to anybody that calls me for money right now is, do you
12 all have a payment plan? And can we sign up for it?
13 Okay.

14 Turning to slide 21, we've talked about the
15 methods of finance. And so, in looking at every other
16 commission -- racing commission in America, kind of
17 plotted on all them and all their web pages -- I see where
18 they've gone to very simple licensing process. And so,
19 what I'm looking at here in terms of our method of finance
20 and the stable funding structure is four licenses, not 57.

21 Because part of what the sunset commission said
22 was remove barriers, right? And so, we have barriers. We
23 don't have the right language translation in place. We
24 don't have accessibility barriers removed.

25 We have some work to do in that respect. But

1 we have 57 types of licenses. And so, that alone is very
2 confusing.

3 And that's our main question we get is, what
4 type of license do I need? And how do I get that? So,
5 we're looking at changing this to where it's four.

6 It's a business license. It's an occupational
7 license. It's a support license. And then, there's also
8 vehicle registration for the back side. And having that
9 fundings fee restructured and have that be the source of
10 revenue for the Agency.

11 And then, the second one will be the simulcast,
12 and we would orient that on the Equine Research Council.
13 So, right now, the Texas-bred incentive funds, in part,
14 the Equine Research Council. There used to be an actual
15 council, but that has gone away.

16 And so, what I'm going to propose with TVMDL
17 and -- which they already know about because they're not
18 being surprised over here -- and then, some of the other
19 folks that are interested in this, including the A&M
20 staff, is reinstate or reenergize what we would call the
21 Equine Drug Research Council. And that would pay for the
22 drug testing.

23 Right now, the tracks pay for it. If the
24 Commission wants to do drug testing randomly, or the
25 Commission needs to exercise some judgment because we have

1 some intel in testing, we have to rely on the tracks to
2 pay for it.

3 And that -- even though that goes okay, it
4 doesn't -- in terms of perception, the Commission should
5 independently be able to fund drug testing without the
6 tracks having to pay that bill. So, we're looking at
7 reinstating that.

8 And then, orient the additional funds we get
9 that are unstable, kind of up and down sort of thing, on
10 our safety programs. And as I said, you know, fund some
11 policy initiatives and research programs and educational
12 things, you know, with respect to some of the partnerships
13 we want to have with A&M and other entities. So, that's
14 kind of what will happen in terms of methods of finance
15 and how we're thinking.

16 The other handout that you have, which is on
17 pages 26 and 27, is my version of what I submitted as a
18 draft to LBB -- and Thomas looked at it for me already and
19 gave me some feedback. So, essentially, what you see in
20 this crosswalk is really trying to get us down to some
21 very simplified goals.

22 And if you turn over to page 24, and you look
23 at the proposed strategic framework that I have in terms
24 of where we're going, we're looking to do four things:
25 enable, protect, communicate, and partner -- and have that

1 be something that you can see in everything we're doing,
2 in the way we do our rules, in the way we do our budget,
3 in the way we do our strategy.

4 And so, in those four things, we would take our
5 budget and essentially go enable, which is enable the
6 industry growth to a modernizing or licensing program;
7 protect, which is the detect, deter, you know, investigate
8 violations of the Racing Act, oversee live racing, and
9 then have the veterinary medical care available for
10 horses. Because I also have learned that we used to have
11 contracts with veterinary clinics outside the tracks, and
12 we don't have those anymore.

13 So, I'd like to put those back in place so if
14 there is an incident on the track, we do have a contract
15 as a Commission staff so that horse can be evacuated and
16 taken care of right away. So, there's some partnerships
17 that are out there that are just being reinstated to
18 really make sure we care for everyone who's participating.

19 CHAIRMAN PATE: Amy, can I ask you one
20 question?

21 MS. COOK: Yes, sir. Absolutely.

22 CHAIRMAN PATE: You know, presently, we charge
23 the track. The tracks pay a daily fee for services on
24 Friday night. How, in this framework -- I want to
25 understand how in the framework, in terms of funding, does

1 that fit in? Is it eliminated?

2 MS. COOK: It's eliminated. And so, we're
3 currently funded on --

4 CHAIRMAN PATE: Because that is something we
5 were criticized for, correct?

6 MS. COOK: Correct. We were -- well, we're
7 criticized partly -- so, I think, also, in terms of going
8 back to the race day comment that Mr. Azopardi made and
9 what we're trying to do to open this up -- because the way
10 we're funded is, essentially, \$3,500 per race day, live
11 race day.

12 If additional race days are added, the
13 Commission gets more money, which, really, in the
14 supplemental invoicing practice, was the Commission billed
15 you if you wanted more race days. So, it's a catch 22,
16 right?

17 If I'm a race park and I want to more race
18 days, I've got to pay more money. So, the two are tied
19 together, different from, I want to grow my race days,
20 which means more licenses, which the Commission is funded
21 that way -- different from the Commission goes, Okay.
22 Then I'll just bill you if you have more race days.

23 So, there's a direct relationship there, I
24 think, between impairing the industry and the way that
25 that funding model was set up and the way that the

1 Commission operated. And, of course, anyone who's here at
2 the meeting is welcome to comment on that. But I think
3 that's precisely why I wanted to kind of send a message
4 and repeal the supplemental invoicing that you approved.

5 That rule in particular was used to get
6 additional money if the Agency fell short in simulcast
7 revenue, where I think really it's more effective for the
8 Agency to ask for an emergency grant if we have a
9 shortfall or do a supplemental appropriation.

10 CHAIRMAN PATE: Let me -- I think your time's
11 about to run out, Commissioner Mach.

12 I was going to ask him if he had any questions
13 or comments before he leaves. We will still have a quorum
14 and we're going to continue the meeting, but I wanted to
15 give him that opportunity.

16 MR. MACH: No, I just think the work looks
17 outstanding and you're an amazing leader, and I look
18 forward to working with you.

19 MS. COOK: Thank you.

20 CHAIRMAN PATE: Have a great day.

21 Go ahead, Amy.

22 MS. COOK: All right. So, and along those
23 lines, anyway, that's kind of where I'm going with the
24 strategic framework. You will see there is a form that
25 has to be filled out that doesn't look like this

1 crosswalk. But Thomas and I are working on the crosswalk.

2 I'm also going to have a cover letter that kind
3 of explains why we're going through this level of detail
4 to try to get this right, even down to the performance
5 measures. The performance measures, admittedly, in the
6 way they're described in our current strategy and budget
7 are not measures within the Agency control because they're
8 all focused on what the racetrack does, not how the Agency
9 performs its job.

10 And so, rewriting all those, as well. I very
11 much appreciate Thomas Galvan and Jarred Shaffer's help in
12 getting that review done with the legislative budget board
13 and the Governor's office.

14 So, the last thing I wanted to mention is we
15 will be making a request for an emergency deficit grant.
16 And by doing so, that's really aimed at one particular
17 problem the Agency has, which is our information
18 technology budget is \$546,000 for the biennium.

19 We've already expended almost all of that
20 budget under the contract that we had with RFD Associates
21 and subcontracted in some, which was the group that was
22 running our server and our enforcement database. We're in
23 the process of terminating the contractual agreement and
24 moving to DIR Shared Technology Services. This is the
25 server migration.

1 However, we do not -- we may not have enough
2 money to pay to bring the software licenses in the
3 database and pay the initial fees to DIR when we make this
4 move. Over time, I mean, the Shared Technology Services
5 costs per year is \$78,000 per year.

6 So, we're going from what was really costing
7 about \$500,000 a year to \$78,000 a year, but it's going to
8 take us a little bit more money to get out of this. The
9 Agency has the revenue, and Dinorah, our new CFO --
10 congratulations -- will give you the revenue estimate for
11 the year.

12 Our Agency has the revenue based on licensing
13 fees and simulcast, but we don't have the appropriations
14 for the additional \$200,000 that I believe we need to pay
15 that bill in the next five weeks to get out of that Cross
16 Park Drive location on time.

17 So, when I send that letter out to you to look
18 at, that's what that is for, and I look forward to your
19 comment feedback on that.

20 Subject to your questions, that's all I have
21 for my report today.

22 CHAIRMAN PATE: Okay. All right. We will
23 continue, then, on the Agenda.

24 So, other than that, Amy, you've been taking it
25 easy?

1 MS. COOK: Absolutely.

2 CHAIRMAN PATE: I think the next item would be
3 the Health and Safety Subcommittee report.

4 DR. McNABB: That would be me. As you all have
5 heard, we've had two meetings -- one at Sam Houston Race
6 Park -- thank you, sir -- and the other at Retama. And we
7 had the -- quite a number of trainers and interested
8 people. Marsha Rountree came and was part of the panel up
9 front to field questions and work through things. And Dr.
10 Mays from the lab was there, also.

11 There were several hot button issues, you know,
12 addressing very current questions. A lot of it had to do
13 with hair testing. But as the discussions went on, it
14 broadened out because we want to make rules that not only
15 address what's going on right now, but give us more
16 latitude.

17 So, having the feedback and hearing the
18 concerns of the horsemen, and some of it was a little bit
19 of stream of consciousness. But that's fine. I think
20 that there's been a lot of pent-up demand for
21 communication.

22 So, the rules that we thought that we could go
23 ahead and put forward and start through the process --
24 those are the ones that we've talked about so far.
25 Additional rules will be looked at.

1 And as you see in the minutes, there is a
2 schedule that we go through the whole rule book, but I
3 don't want people to think that we're done talking about
4 some of these hot button high interest items. So, we're
5 going to go through things on a deliberate manner. But I
6 do want to make sure that we keep up with these public
7 meetings because that helps us get the pulse of what's
8 going on with the folks in the industry.

9 There's a number of things that came up that
10 people were asking rules, that as we took a look at things
11 and talked with our steward staff and so forth, there's
12 things that we think that we can handle adequately as a
13 matter of establishing our policies. But if, indeed,
14 we're not hitting the mark to protect the health and the
15 welfare of the racing animals or protect the integrity of
16 the racing, we have to write an additional rule, we'll do
17 that.

18 But I don't want to make our rule book look
19 like an old *Encyclopedia Britannica*. I want to make it
20 something that's useful, but also be responsive to the
21 crowd.

22 So, we will continue with these public
23 meetings. I don't want to get into every last line item.

24 I think we beat those horses pretty thoroughly at the
25 meetings, and the people that care about it were there.

1 Those of you who have an interest, please stay
2 tuned because when we have these, they are open to the
3 public, and we do want to hear what you have to say. When
4 we write a rule, we want to be responsive to the public,
5 but also, if a rule has teeth and someone is in
6 violation -- when, indeed, someone does step across the
7 line, I want to make sure that they know that they have
8 done wrong and that the consequence is appropriate.

9 Thank you much.

10 CHAIRMAN PATE: Want to say anything about the
11 Texas A&M people that are here present?

12 DR. McNABB: Dr. Mays is here and I don't see
13 who else -- I haven't --

14 MS. COOK: Hensley.

15 DR. McNABB: And Dr. Hensley's here from A&M.

16 We did have a chance to go up and go through
17 the lab. I've been through before, but the lab is always
18 growing and flourishing. A lot of what came out from our
19 discussions was we got into a demand signal crisis when --
20 last year as we came in, and hair testing, and so on and
21 so forth.

22 I think as we take a look at what is
23 happening -- and we greatly applaud the associations who
24 are putting in hair testing requirements for
25 participation, and doing that at their level -- we reserve

1 the right to do random hair testing or testing for cause
2 or based on actionable intelligence. But I think as the
3 lab got a chance to hear from the public and the industry,
4 if, indeed, we're going to have times that there's going
5 to be a big surge, then, they can plan ahead with the kind
6 of instrumentation and labor that is necessary, and then,
7 appropriate fees.

8 So, I think that we've got a good balance. We
9 recognize what they are doing. But also, we do applaud
10 the industry, particularly, AQHA.

11 I know that Lone Star Park is putting in a
12 requirement, coming into their next meet. The other
13 tracks have taken a look and everybody's taking notes
14 because what we really want is good, clean racing.

15 And I think having these kinds of clean drug
16 tests prior to participating -- that, then, protects a lot
17 of the owners or new owners as they come in and claim
18 horses, that we are not having people claiming horses and
19 then winding up in a terrible situation.

20 I think the whole thing raises the bar. It
21 protects the health and the welfare of the racing animals
22 much better, and I think that the lab has got a good
23 handle on the demand signal.

24 And my understanding -- there's another meeting
25 about funding. So, we hope to partner with them and the

1 industry so that as the demand comes up, they have the
2 capacity to respond and we don't have to bleed out of our
3 eyes --

4 CHAIRMAN PATE: Handle the volume. Right.

5 DR. McNABB: -- and we can handle the volume --

6 CHAIRMAN PATE: Right.

7 DR. McNABB: -- so that we can have racing on
8 time.

9 CHAIRMAN PATE: All right. Thank you, Dr.
10 McNabb.

11 Are there any questions of Commissioner McNabb
12 on these items? None? All right.

13 Again, thank you very much for your leadership
14 in this area. It's been very helpful to the Commission
15 and to Texas.

16 The next item, Item III.A.3, budget and
17 finance -- Dinorah, our new Chief Financial Officer, will
18 give us the budget and finance update today.

19 MS. CHIU: Good afternoon. Okay. I have
20 provided for you in the meeting materials, on page 28 to
21 page 33, the current operating budget. Page 29 shows the
22 Agency methods of finance, which are fund 597 and 1327.
23 On page 30, it shows the revenue to date. And as you can
24 see, we have adequate revenue to cover the rest of the
25 fiscal year.

1 On the next page, it shows the revenue
2 projected for fiscal year 2022. On page 32, we have the
3 snapshot of the HIEA, which so far shows that the
4 distribution is purse, \$8.812 million; the breed
5 registries, \$4.025 million.

6 Is there any questions about this report?

7 (No response.)

8 CHAIRMAN PATE: All right. Hearing none, thank
9 you, Dinorah.

10 MS. CHIU: Thank you.

11 CHAIRMAN PATE: As you can tell, one of the
12 things that we discussed was to try to simplify some of
13 the reporting and really kind of hit the treetops, and I
14 appreciate that happening. And it's just a better
15 understanding of, you know, what's coming in and what's
16 going out and where we are.

17 Looking back at our Agenda, I think we might
18 have completed everything, but I'll double check.

19 MS. COOK: Enforcement report.

20 CHAIRMAN PATE: Oh, enforcement. Sorry. The
21 next item, III.A.4, enforcement report. Connie Estes, our
22 Deputy Executive Director of Operations.

23 Last, but not least, Connie.

24 MS. ESTES: There you go. Good afternoon. I
25 am Connie Estes, the Deputy Executive Director of

1 Operations for the Texas Racing Commission. I am here to
2 give you an enforcement report that covers the Sam Houston
3 Race Park Thoroughbred Meet that ended April the 9th.

4 This meet included 50 race days with 354 races,
5 3,506 horses. There was one race-related fatality, for a
6 percentage of .29 per thousand horses. All horses were
7 pre-raced by Commission veterinarians, Dr. Bond, Dr.
8 Freeman, and Dr. Lawhon.

9 Chief veterinarian Dr. Bond and Dr. Lawhon
10 monitored morning workouts checking the horses for any
11 post-exercise lameness. 958 horses were post-race tested,
12 under the supervision of the Commission veterinarians and
13 test barn supervisor Edna Griswold.

14 Twenty-four horses were pre-race scratched on
15 the recommendation of the Commission veterinarians. There
16 were 24 cases investigated by Chief Investigator Mike
17 Fleming and Investigator Charles Hallam. Two cases were
18 unfounded. Twenty-two were forwarded to the stewards for
19 adjudication.

20 The stewards at this meet were Chief Steward
21 Ricky Walker, who is now retired, new Chief Steward Anne
22 Alley, Darline Knight, and myself. Forty-two rulings were
23 issued, 20 rulings include suspensions, 25 where fines
24 were levied.

25 The licensing office, under the former Director

1 of Licensing, Dinorah Chiu, and a new Licensing employee,
2 Julia Bond, issued 306 new occupational licenses and
3 renewed 622.

4 We are now getting ready for Sam Houston Race
5 Park's 25-day Quarter Horse Meet -- the meet beginning
6 April 22 and going through June 18 -- and Lone Star Park's
7 48-day Thoroughbred Meet starting April 28 and going
8 through July 24.

9 Thank you.

10 CHAIRMAN PATE: All right. Commissioners, do
11 you have any questions?

12 (No response.)

13 CHAIRMAN PATE: All right. Thank you very
14 much, Connie.

15 Reviewing the Agenda, we kind of jumped all
16 over the place, but I think we've got it completed based
17 on my notes now. I want to remind all the Commissioners
18 that your personal financial statements are due to be
19 filed with the Texas Ethics Commission by May 1st of this
20 year.

21 And we're looking at May 18th at the special
22 meeting, and Amy will be following up with each one of you
23 to see whether or not you can make it. We hope you can.

24 MS. COOK: I've reserved this room so we can
25 have in-person, but also we'll have the capability to test

1 and dial you in on Teams.

2 CHAIRMAN PATE: That would be great.

3 All right. The time is now 12:12, and with all
4 business concluded, we are now adjourned. Thank you very
5 much for being here today.

6 (Whereupon, at 12:12 p.m., the meeting was
7 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 13, 2022

I do hereby certify that the foregoing pages,
numbers 1 through 64, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Elizabeth Stoddard before
the Texas Racing Commission.

DATE: April 25, 2022

(Transcriber)

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