

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS LOTTERY COMMISSION  
AUSTIN, TEXAS  
BINGO ADVISORY COMMITTEE MEETING

December 4, 2024

10:00 a.m.

AT

1801 Congress Avenue  
George H. W. Bush Building  
4<sup>th</sup> Floor, Board Room 4.300  
Austin, Texas 78701

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

## APPEARANCES

## COMMITTEE MEMBERS:

William T. Smith III (Trace), Chairman

Tommy Duncan Jr.

Melodye Green

Victor Kuykendoll

Floyd Olive

Dr. Demetrick "Tre" Pennie

Jason Pohl

## COMMISSION STAFF:

LaDonna Castañuela, Director of Charitable Bingo Operations

Vivian Cohn, Deputy Director of Charitable Bingo Operations

Tyler Vance, Assistant General Counsel

Jason Cannaday, Director of Information Technology

## PUBLIC:

Stephen Fenoglio, Texas Charity Advocates and Bingo Interest Group

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PROCEEDINGS

WEDNESDAY, DECEMBER 4, 2024 (10:00 a.m.)

AGENDA ITEM I.

CHAIRMAN SMITH: All right, good morning and welcome to the December 4th Bingo Advisory Committee meeting. I call the meeting to order. It is 10:01. We will rise for the Pledge of Allegiance to the U.S. and to the Texas flags.

(Pledges recited)

AGENDA ITEM II.

CHAIRMAN SMITH: All right, item number two, roll call. I am present. Ms. Green?

MS. GREEN: Here.

CHAIRMAN SMITH: Dr. Pennie?

DR. PENNIE: Present.

CHAIRMAN SMITH: Tommy?

MR. DUNCAN: Present.

CHAIRMAN SMITH: Jason?

MR. POHL: Present.

CHAIRMAN SMITH: Veronica is not here today. Floyd?

MR. OLIVE: Present.

CHAIRMAN SMITH: Audrey? Audrey will not be here today. Victor? Is Victor online, by any chance? Nope. Okay. Alright, we do have enough for a quorum, so we'll proceed.

AGENDA ITEM III.

CHAIRMAN SMITH: Item number three, meeting minutes from October 28th, 2024 meeting. Hey, there you are, sir.

1 MR. KUYKENDOLL: Sorry about that, Mr. Chairman.

2 CHAIRMAN SMITH: Not a problem. I'm sure it's the weather  
3 today.

4 MR. KUYKENDOLL: Nobody was downstairs to let us in.

5 CHAIRMAN SMITH: Oh gosh. Okay. All right. Victor is here.  
6 All right, meeting from the October 28th, '24 meeting. Any public  
7 comment on the meeting minutes from that meeting? If not, I move that  
8 we approve the meeting minutes from the October meeting.

9 MS. GREEN: Second.

10 CHAIRMAN SMITH: Okay, we have a motion and a second. All in  
11 favor say "aye."

12 (Chorus of "Ayes")

13 CHAIRMAN SMITH: Any opposed? Meeting minutes are approved.

14 AGENDA ITEM IV.

15 CHAIRMAN SMITH: Item number four, rule review update. Do we  
16 have any public comment on the rule review?

17 MR. FENOGLIO: For the record, my name is Stephen Fenoglio.  
18 I'm an attorney in Austin, board member of Texas Charity Advocates,  
19 and I'm making comments on behalf of TCA and the Bingo Interest Group.

20 First, staff, thank you for a very exhaustive,  
21 comprehensive review and analysis. The summary was incredible, by the  
22 way. So, I'll get right to it. And I'm going to comment based on the  
23 paginations.

24 Page 10 is my first comment, and this is dealing with  
25 402.100, subparagraph (9), Definition Of Premises, which is -- for the  
26 first time the agency's going to define what the premises are. It

1 incorporates, basically, what everyone has understood. There's one  
2 hiccup, and it's the second sentence: "There may not be more than one  
3 premises under a common roof or over a common foundation." That's true  
4 today for new halls and has been for many years, but there's a  
5 grandfather provision in the Bingo Enabling Act Section 201.403 that  
6 gives a grandfather -- if there were established two locations, two  
7 premises under the common roof or common foundation -- they're allowed  
8 to have two premises. So, I'd be happy to suggest language, if that's  
9 the staff's preference.

10 I like the fact that they've continued on in that  
11 subsection -- the premises must have an address and doesn't include a  
12 viral location or place; we all know of the social media activities  
13 where people are playing bingo or conducting bingo on Facebook or  
14 Instagram, and that's designed to put notice that you can't do that.  
15 And then there's later in the rule provisions dealing with potential  
16 enforcement of that, which we appreciate.

17 Next comment is under 402.102, the Bingo Advisory  
18 Committee, and my addition is in subparagraph (n) on the BAC's  
19 reporting requirements. The Sunset Advisory Commission observed  
20 correctly that it makes no sense that the BAC cannot comment on other  
21 states' bingo activities, and that's been part of the Commission's  
22 work plan -- it's not in the statute, it's not in the rule -- it's  
23 been in the work plan. The Sunset Advisory Commission said that  
24 doesn't make any sense; the BAC should advise the Commission on  
25 charitable bingo activities. For example, if Mississippi had a  
26 different rule on event tickets, pull-tabs, that would be helpful to

1 the charitable bingo folks in Texas, then the BAC should be able to  
2 bring that to the commissioners' attention and perhaps advocate for  
3 that rule change. Well, the work plan prohibits that.

4 My suggestion is -- in subparagraph (n)(3), at the end of  
5 the sentence that ends "fiscal year," put a semicolon and then the  
6 following language, "The work plan shall allow the BAC to review and  
7 comment on other states' laws." That way, the BAC -- if there's a  
8 provision that's helpful or detrimental that's in the statute or  
9 another statute -- that they should be able to comment on that. And  
10 again, that's consistent with the Sunset Advisory Commission. We don't  
11 always agree with what they say, but that was their recommendation.

12 I would also point out that the lottery staff regularly  
13 advises the Commission on other lottery statutes. We have Multi-State  
14 Lottery, and the reason we have Multi-State Lottery is because the  
15 staff properly advised the Commission and the Legislature that there's  
16 this Multi-State Lottery that would be beneficial for the education  
17 budget of the state. And so the Lottery Commission participates in two  
18 different multi-state lotteries, and it didn't happen by accident. So,  
19 just seems to me that that would make perfect sense.

20 The staff did a great job on the changes on how and when  
21 quarterly reports, license renewals, payment of prize fees are  
22 addressed in the rule, and it's great; it will solve a lot of  
23 potential problems that have occurred where, for example, an  
24 application or a renewal is sent via first-class mail or certified  
25 mail and it doesn't get to the right address, even though it's  
26 properly addressed and postage is prepaid. It's got a mark on it, a

1 postmark, but it didn't get to the right place. Well, under this  
2 revised rule, it would be considered timely filed. So, thank you.

3 Under subparagraph (c) of that, and that's at the middle of  
4 page 13, I would suggest in the subparagraph (c)(1) on the third line  
5 down that starts, "a report or payment was delivered to a contract  
6 carrier," I would add "or contract" -- "a common carrier," I'm sorry,  
7 it says "common carrier" -- I would add the words "or contract  
8 carrier," to be consistent with the last line in that same  
9 subparagraph (c)(1) that does have the language "contract carrier".  
10 Such that, the bottom line is you can deliver it via U.S. Postal  
11 Service, common carrier, FedExpress, or a contract carrier and it  
12 could be considered timely made.

13 My next observation deals with 402.200, General  
14 Restrictions on the Conduct of Bingo, and subparagraph (q). And this,  
15 for the first time will put into official policy of the agency that  
16 licensed authorized organizations cannot accept credit cards or credit  
17 for payment of bingo. That provision doesn't exist, or prohibition  
18 doesn't exist in the Bingo Enabling Act and historically has never  
19 been in the rule. It is common in the gaming world that no one's  
20 allowed to gamble with credit. You see that in every casino.  
21 Coincidentally, there's always an ATM machine nearby where you can put  
22 your credit card in and get cash and then go gamble. That's okay.

23 But, there's the phrase in here on subparagraph (q) that  
24 raises a concern to me because I don't know what's intended and that's  
25 the phrase "regardless of how the transaction is structured". And at  
26 some point I'd like for staff to explain what is meant by that,



1 "regardless of how the transaction is structured." I think everyone  
2 understands the plain language, which is you can't accept a credit  
3 card for payment of bingo, and I'm only aware of a few instances in  
4 the last 30 years where that's ever happened. And again, the language,  
5 "or any other type of credit payments for the payment of bingo  
6 products," got that. But then, this, "regardless of how the  
7 transaction is structured," I don't know what that means, and I would  
8 invite the staff at the appropriate time to what is meant by that.

9           402.201, Prohibited Bingo Occasions. Here's the language  
10 that's getting close to the Commission to, hopefully, restrict further  
11 -- you'll never stop it -- the social media playing off charitable  
12 bingo. And I like the language in subparagraph (b), "If a complaint  
13 regarding illegal bingo is substantiated, the Commission will issue a  
14 cease and desist letter, and copy local law enforcement." I would  
15 suggest the Commission not "will" but "shall," "shall" is a stronger  
16 verb, and "copy local law enforcement." And my suggested language is  
17 continuing that same sentence, "and, if applicable, copy Facebook,  
18 TikTok, Instagram or other social media platform," and then continue  
19 with the language in there that if the location is known. And this new  
20 language would be consistent with the staff's practice in the past  
21 that when we have contacted Tyler and said, "Hey, there's a Facebook  
22 posting where they're conducting bingo on Facebook and it's in Texas.  
23 We know this," the staff in the past has then contacted Facebook, and  
24 that Facebook posting has been taken down. Thank you very much staff  
25 for doing that. So, the comment here is, if that's the case, then  
26 continue your practice but also maybe send a cease and desist letter.

1           My understanding is, in particular, Facebook has been very  
2 positively reactive when staff has contacted them and pointed that  
3 out, that there's illegal gambling going on on their platform.

4           And by the way, I sent these changes to both Tyler and  
5 LaDonna yesterday after my clients' approval, so they do have the  
6 changes. If anyone else wants them, if I have your email address, I  
7 can provide that. It's redlined.

8           Next change for me is 402.309, Bingo Card Paper Record  
9 Keeping, and it's in subparagraph (3)(A). It falls on the licensed  
10 authorized organization, this is on page 48, by the way, at the  
11 bottom, and it continues on at the top of page 49. The language is  
12 subparagraph (A), "A licensed authorized organization must maintain a  
13 disposable bingo card/paper sales summary showing the organization's  
14 name, taxpayer number, distributor's taxpayer number, invoice date,  
15 distributor's name, invoice number, serial number, and series number."  
16 My comment is, do you really need the charity to tell you what the  
17 taxpayer number is of the distributor? That taxpayer number is readily  
18 available on the Commission's website. It's not like there's a huge  
19 number of distributors out there; probably three or four of the  
20 distributors control at least 80% of the market. So, it's just another  
21 thing that we don't think is necessary, and it's one more data point a  
22 charity has to maintain, keep track of, and sometimes they forget or  
23 they transpose a number. So, it seems to me it's just not needed.

24           I had one bookkeeper also say it shouldn't have to keep the  
25 distributor's name because the agency could then go to the distributor  
26 and get that information. But from my perspective, the agency's not

1 going to know who the distributor is, so it would be - it would  
2 require them to engage in some sleuthing to figure that out. So, I  
3 didn't make that comment to eliminate the distributor's name. I just  
4 think this taxpayer number of the distributor isn't necessary.

5 In subparagraph (D), and this is on page 49, the language  
6 reads, "Disposable bingo cards/paper marked for destruction cannot be  
7 destroyed until witnessed by the Commission, its authorized  
8 representative or designee." My suggested language was -- put a  
9 semicolon after the notification and then add the following language,  
10 "When the licensed authorized organization notifies the Commission,  
11 the Commission has 30 days to witness the destruction."

12 I've heard of one instance, and it hasn't been recent,  
13 where they had to keep the paper for destruction for about 120 days  
14 while the Commission decided if they were going to send someone out to  
15 witness the destruction. 30 days seems to be sufficient that that  
16 would be the practice that after they're properly notified by the  
17 charity, the Commission has 30 days to either witness it or the  
18 charity can go ahead and destroy the paper. And my experience through  
19 the years has been, it's not often that the Commission does actually  
20 witness the destruction. All the more reason to have a window where  
21 they have a timeframe where they can either keep it for verification  
22 or go ahead and destroy it.

23 Next comment is on 402.443, Transfer of Grandfathered  
24 Lessor's Commercial Lessor License. Subparagraph (c) is new language,  
25 and we support it; it's consistent with the Commission's current  
26 practice and that is that "A change in the name or the ownership of a

1 legal entity that holds a grandfathered lessor license does not  
2 constitute a transfer of the license if the entity's Comptroller  
3 Taxpayer Number remains the same." Kudos to the staff.

4 Subparagraph, then, 402.500, General Records Requirements,  
5 subparagraph (e), "Bingo uses cash basis accounting, which records  
6 revenue expenses when the cash related to those transactions is  
7 actually received or dispensed." My flag to the clients was, do you  
8 care? The Securities and Exchange Commission mandates that any  
9 publicly traded company must use accrual accounting, not cash  
10 accounting. So why would you not allow them to use accrual accounting?  
11 The reason the SEC -- the policy reason -- is it's more accurate  
12 description of the company's actual financial standing. For example,  
13 if the public entity is aware of a huge expense that's coming, they've  
14 already signed the contract, but they haven't actually paid for that  
15 expense. Under cash accounting, you wouldn't reflect that expense;  
16 under accrual accounting, you would. My clients' conclusion was we  
17 like the cash accounting the way it is. I recognize the agency would  
18 never want the option of cash or accrual because then the quarterly  
19 reports -- you couldn't compare an apple with an apple if one charity  
20 or one hall is using cash and the other is using accrual, it would be  
21 a mishmash. So, after much discussion, they agreed to keep the  
22 language as it is.

23 402.600, Bingo Reports and Payments. Good changes with one  
24 hickey. The language, and it begins on page -- line 12 [sic] of page  
25 64, "The report will be deemed filed in accordance with Rule 402.105"  
26 -- and some of the bookkeepers have observed that there are times when

1 the Commission system will not accept a quarterly report filing and  
2 payment of money. It doesn't happen very often. My belief is that's  
3 because everyone's knocking at the door of the Commission's website at  
4 the same time and there's not enough capacity to accept all of them.  
5 Several bookkeepers have never experienced any problem with it. One,  
6 in particular, has; and I note -- and thank you, LaDonna, that you  
7 submitted a survey on your system to get feedback, and I think that  
8 may be the solution is that there may be times on the 25th of the  
9 month following the calendar quarter where too many people are hitting  
10 the system at the same time. I've asked for the specific example, and  
11 I haven't gotten one yet other than, "Well, we've had this problem  
12 before." I recognize it'd be helpful to have that specific  
13 information; and if I get it, I will let you know.

14           Standard Administrative Penalty Chart, 16 TAC 402.706,  
15 subparagraph (c) begins at page 68 and runs on for about six or eight  
16 pages to page 74. And the Commission staff have reacted positively to  
17 the Sunset Advisory Commission recommendation that you should have  
18 minimum mandatory monetary penalties for certain actions as opposed  
19 to, for example, in the category one violation, which is in the middle  
20 of page 68, currently it's a zero, warning to up to \$1,000 for the  
21 first offense; you can read the language. And then on that same  
22 category one from zero, warning to 1,000 for a second offense, it's  
23 now a minimum of 250.

24           And so my observation is this provision will take money  
25 from the charities. We have lived with multiple charitable bingo  
26 directors, and I think that the last several have been accommodating

1 and understanding that honest mistakes are made and so a warning  
2 letter is appropriate. Well, these changes, and it's the same in  
3 category two, different levels, that will no longer happen. And I just  
4 make the observation that if someone -- subparagraph two of this  
5 category one, "A person makes a false statement in an application for  
6 a license," or subparagraph category three, "A person falsified or  
7 made false entries in books and records." Well, on the false entries,  
8 if you transpose a number that's a false entry; it would be a  
9 mandatory \$250 fine for the first offense. That makes no sense. It's  
10 an honest mistake. The staff in the past have looked at that and said,  
11 "Do better." And then the same is true on an application license. They  
12 made a false statement. It wasn't intentional. Maybe they used the  
13 wrong address, they transposed a zip code number. Well, technically  
14 that's a false statement in the license application. Now they're going  
15 to start assessing \$250 fines. Again, that's money from the charities  
16 that they would not have for their charitable purposes. It makes no  
17 good policy sense. In my view, if the current director looked at that  
18 and determined that the person who made those errors and they were  
19 repeated was either indifferent or maybe intentional, then the  
20 Commission has the appropriate penalty matrix to lay the hammer down,  
21 as well the director should. But if it's an honest mistake, why are we  
22 having that discussion? So that comment continues for all of the  
23 categories. As you can see, they're all minimum monetary fines, with  
24 the exception of category six and seven on the first offense, which is  
25 still a warning. And the higher the number, it's the more innocent the  
26 mistake, if you will, or less serious mistake.

1           So, it makes sense, but again, this second offense, "The  
2 organization failed to ... maintain, keep current ... make available  
3 for review to any person upon request a copy of the Bingo Enabling Act  
4 and the Rules." So, what typically happens in most organizations now  
5 is they print off the current version from the Commission website.  
6 Here's our statute, here are the rules. If you want to look at it,  
7 here they are. What happens if they forget to update the rule because  
8 one of the rules changed? And it happened on more than one occasion.  
9 Well, that's a mandatory \$50 fine. No one's harmed by it. I mean, that  
10 person could go on the website and look at the rule itself, but,  
11 again, all designed, in my view, to take money from charities. We  
12 ought to make sure that charities have the money to meet their  
13 charitable purposes. I'll be happy to answer any questions. I'm done.

14           CHAIRMAN SMITH: Thank you, Steve. Does anyone have any  
15 questions? Comments? Thank you, Steve. Pardon, Melody?

16           MS. GREEN: I do have a comment. We're talking about, during  
17 the audit, the name of the distributor is at the top and license  
18 numbers. The auditors -- we also turn in our invoices. Every invoice  
19 has the name of the distributor, their license number, the date it was  
20 sold. All that information is on the invoice that we also hand to the  
21 auditor. So, it's repeated several times on every sheet of paper.

22           DR. PENNIE: Yeah. Just real quick, Steve, a quick question  
23 on your Section 402.201, when you talk about the prohibited language  
24 and if someone were to violate using social media to conduct charity  
25 or whatnot, and you said to send a letter. Outside of the cease and  
26 desist letter, you also want to notify law enforcement. Who in

1 particular are we talking about? Are we talking more so going through  
2 the constables? Or what are we talking about in terms of having law  
3 enforcement get involved in this social media unlawful conducting of  
4 charity business?

5 MR. FENOGLIO: I think the way that's drafted it would be  
6 up to the staff, but in the past, what I've been aware of is they copy  
7 either the district attorney or the county attorney, the person,  
8 office that's going to make the call, and certainly they could contact  
9 the county sheriff or the police department. I don't know that in the  
10 rule you want to specify to that degree, but certainly they are also  
11 always -- my experience has been when they've seen the illegal bingo,  
12 not on a social media platform but in real life -- they've always  
13 contacted the DA or usually it's the DA because it's usually a felony  
14 and not a misdemeanor, which county attorneys have authority on. And  
15 in past practice, the Commission staff will actually go to the DA's  
16 office and sit down with them and give them the paperwork -- I'm  
17 familiar with half a dozen of those instances -- and give them, if you  
18 will, the road map for law enforcement to follow, to shut down or  
19 prosecute that illegal activity. Does this make sense?

20 DR. PENNIE: Yes, sir. No, I'd love to talk to you offline  
21 just about the whole social media aspect because it's a new anomaly  
22 that we're dealing with in today's society.

23 MR. FENOGLIO: And it's rampant, it's illegal, again, and  
24 it's not just bingo, it's -- you can play an online casino, you can  
25 play an online sweepstakes, and you can acquire certain products that  
26 are illegal to possess online.



1 DR. PENNIE: Yes, sir.

2 MR. FENOGLIO: Thank you.

3 CHAIRMAN SMITH: All right. Any other questions? Any other  
4 comments on the rule review from anyone else? So, the BAC will have  
5 another meeting in February on the rule review. Tyler, it's my  
6 understanding that the staff will have the staff's comments for us for  
7 that meeting?

8 MR. VANCE: Yeah, that's correct. The plan here is to adopt  
9 these proposals in February and you guys, presumably, will have a BAC  
10 meeting the day before, and so, if that's the case, you'll have a copy  
11 of the proposed adoption for the next day, and that proposed adoption  
12 will contain all of the public comments we receive, plus all of  
13 staff's responses to those comments. And I think at that point we  
14 would expect the BAC to review those comments and responses and be  
15 able to take a position to present to the Commission the next day.

16 CHAIRMAN SMITH: Okay. Do you have a ballpark estimate of  
17 when the staff will have those recommendations?

18 MR. VANCE: They have to be published seven days before the  
19 meeting, but I think we aim for -- two weeks before? Yeah. By law, I  
20 think it's seven days, but we aim to have it two weeks ahead. And so  
21 of course as soon as it's available publicly, we will get it to all  
22 you guys.

23 CHAIRMAN SMITH: Okay. When does the public comment period  
24 end?

25 MR. VANCE: It'll be 60 days after the --

26 UNIDENTIFIED VOICE: Publication.

1 MR. VANCE: -- after the October meeting. Let me see. I  
2 don't have it on my calendar. Yeah, it'll be 60 days after the close.  
3 And, of course, we've got the public hearing after this meeting at  
4 1:00, so anybody's free to show up to that. And then it'd be 60 days  
5 after they were proposed in the Texas Register.

6 CHAIRMAN SMITH: Okay.

7 MR. FENOGLIO: I had -- Steve Fenoglio, again, for the  
8 record. Will the staff put on the website all comments that are made?  
9 I would encourage you to do so.

10 MR. VANCE: Sorry, Dorota just commented me -- December  
11 16th, it's going to be 30 days after publishing in the Texas Register.  
12 All those responses -- so when we go in February, presuming that it's  
13 up for adoption, it'll be posted as an agenda item to the Commission  
14 meeting, the proposed adoption of the rules. And then in that  
15 document, we must publish all of the comments that were received and  
16 then our response to all those comments, the proposed response, of  
17 course. The Commission hasn't adopted them yet, so that can change,  
18 but those would be the staff's proposed responses. And so those will  
19 all be available at least seven days before the Commission meeting in  
20 February, and then they'll have that available, BAC will have that  
21 available to take a position on.

22 MR. FENOGLIO: , you won't put them on the website?

23 MR. VANCE: They will be on the website just like every  
24 agenda for every Commission meeting.

25 MR. FENOGLIO: Right, but not before you post?

1 MR. VANCE: No, it'll be posted with the Commission meeting  
2 agenda.

3 MR. FENOGLIO: We'll file open records. Thanks.

4 CHAIRMAN SMITH: Okay, so presumably seven days before we'll  
5 get the posting and the comments and all that. That way the BAC can  
6 review those before the meeting, instead of in the meeting.

7 MR. VANCE: Correct.

8 CHAIRMAN SMITH: Okay. Excellent. Any other comments? Okay.

9 AGENDA ITEM V.

10 CHAIRMAN SMITH: Moving on to item number five, Sunset  
11 update. LaDonna, do y'all have any updates? Anything you want to brief  
12 us on?

13 MS. CASTAÑUELA: I don't have an update, anything for  
14 Sunset.

15 CHAIRMAN SMITH: No news is good news.

16 CASTAÑUELA: Right. They're dealing with some issues over on  
17 the lottery side, but nothing for bingo.

18 CHAIRMAN SMITH: Okay. Any public comment on Sunset review?

19 AGENDA ITEM VI.

20 CHAIRMAN SMITH: Moving on to item number six, 2025  
21 legislative update. Mr. Fenoglio, do you want to address anything on  
22 this, per chance?

23 MR. FENOGLIO: For the record, my name is Steven Fenoglio.  
24 There have been no bills introduced to date that would mention  
25 charitable bingo in any substantive form, so there's no bills yet.

1 CHAIRMAN SMITH: Okay, thank you. Anyone else? Ma'am? Nope,  
2 you're good? Thanks, ma'am. Okay, any other public comments or  
3 discussion on legislative update?

4 AGENDA ITEM VII.

5 CHAIRMAN SMITH: All right. Item number seven, Bingo Service  
6 Portal Input Subcommittee, and that is a mouthful. Discussion of what  
7 the Bingo division needs from the subcommittee. LaDonna, is this all  
8 you or is this Tyler?

9 MS. CASTAÑUELA: I can get us started. First of all, I want  
10 to introduce Jason Cannaday, our division director for IT here at the  
11 agency. He's working with me on -- sorry, can you hear me?

12 CHAIRMAN SMITH: Yes, ma'am.

13 MS. GREEN: What's his name?

14 MS. CASTAÑUELA: Jason. Jason Cannaday, our IT director, and  
15 he's been working with me and will continue to work with me on this  
16 recommendation. You've got a couple of handouts. One of them has  
17 emboldened on it, Management Action 2.5. That is an excerpt from the  
18 agency's Sunset Report and Decisions. And then you've got a draft BSP  
19 survey; I think it's got nine or ten questions on it. I sent that to  
20 everybody, probably Monday, sparing you from having to study it over  
21 the Thanksgiving holiday.

22 So just a little background. Management Action 2.5 is, of  
23 course, from our Sunset Report; it includes -- you'll see I've got  
24 highlighted March 15th, 2025, at the bottom of it -- it directs the  
25 agency to develop a plan, prioritizing the BSP and BOSS updates,

1 including establishing timelines and discrete tasks to achieve the  
2 improvements, eliminating paper-based processes.

3 That first bullet is the one that I am coming to you and  
4 your subcommittee for, and that is consulting with the BAC to seek  
5 input related to licensees' experiences and suggestions for the Bingo  
6 Service Portal. The survey is the first part of that. The second part  
7 would be what I need from Dr. Pennie's subcommittee, Dr. Pennie and  
8 Mr. Kuykendoll's subcommittee, which is to, hopefully, conduct some  
9 outreach for your -- I would suggest -- your fellow members. They can  
10 probably give you some more contacts.

11 CHAIRMAN SMITH: So, one of the questions that we had --

12 MS. CASTAÑUELA: Yes.

13 CHAIRMAN SMITH: -- earlier was going and looking at the BSP  
14 -- Dr. Pennie and Mr. Kuykendoll, they don't have access to it.

15 MS. CASTAÑUELA: Right.

16 CHAIRMAN SMITH: Can we get them access to that or figure  
17 out a way to give them access?

18 MR. CANNADAY: Nice to meet you all. So, I'm Jason Cannaday.

19 CHAIRMAN SMITH: Yes, sir.

20 MR. CANNADAY: I'm the IT director at Texas Lottery  
21 Commission. So, one of our ideas was for those that don't have access  
22 to the BSP, we're happy to demo the environment to get people familiar  
23 with it. If the request is to have access to it, I'd have to come back  
24 and get back with you on that. It's typically -- I don't know if we're  
25 restricting anyone who can create an account, but I think maybe the  
26 starting point would --

1 MS. CASTAÑUELA: Vivian, can you move to a microphone  
2 please?

3 MR. CANNADAY: Yeah, please come up.

4 MS. COHN: Hi, I'm Vivian Cohn. I'm the deputy director for  
5 the Charitable Bingo Operations Division. Anyone can create a BSP  
6 account. The only thing about a BSP account -- if you create it and  
7 you're not linked to any kind of organizations or the unit, you will  
8 not be able to see the full function of the BSP. So just like Jason  
9 said, we can do a demo, that definitely will help you to understand  
10 what BSP can provide, what features it can show you. Yes.

11 CHAIRMAN SMITH: Melodye, go ahead.

12 MS. GREEN: Thank you. If somebody wants to create an account  
13 --

14 MS. COHN: Yes.

15 MS. GREEN: -- and when they log on -- when I log on, I have  
16 38 charities sitting there because I'm chairman of all of them -- but  
17 when they log on, if Dr. Pennie logs on, what is he going to see?

18 MS. COHN: He's not going to see anything because his  
19 account would not link to any organizations. If --

20 MS. GREEN: What good will it be?

21 MS. COHN: Huh?

22 MS. GREEN: What good -- I don't know how they can have input  
23 on this without seeing it.

24 CHAIRMAN SMITH: Well, and that's --

1 MS. CASTAÑUELA: This is the subcommittee. At the last  
2 meeting when we asked for volunteers for the subcommittee, these were  
3 the only volunteers. We missed you.

4 CHAIRMAN SMITH: Well, I think maybe if Dr. Pennie -- I  
5 think once he gets some people from the industry on his subcommittee,  
6 I think that will allow him to gain access. I do think it's a great  
7 idea if, maybe, whoever on the BAC, especially Dr. Pennie and Mr.  
8 Kuykendoll, get that demo from the staff and look at it from the  
9 staff's perspective of how they see it and then get with other members  
10 of their committee and then see how the industry sees it. I think  
11 that'll give them a better knowledge of both sides of the road, if  
12 that's okay with you, sir.

13 MR. KUYKENDOLL: Mr. Chairman, I can tell you that I took  
14 initiative to go ahead and create an account, just so I could try to  
15 see what is available -- and she's absolutely correct, it's very  
16 limited what I can see because I'm not associated with any type of  
17 license or anything else. So, it's imperative that we're going to have  
18 users that's going to be able to feed us information about what their  
19 experiences are. This survey is going to go a long way to doing that,  
20 but I would also think about -- because I did see there were reports  
21 for those who have access to this. And I'm a layperson, I don't  
22 understand what's desired out of these reports, but I do think that  
23 part of the survey that we need to look at is to gauge whether or not  
24 these reports are relevant. There's need to be changes made in these  
25 reports. Is it even appropriate for these reports to be located in the  
26 service portal or should it be outside the service portal towards just

1 a public inquiry access, something like that? Because I could see non-  
2 licensed holders, for whatever reason may be necessary, may want to  
3 access this information. I don't know where that is outside that  
4 portal at this point because I'm still wandering through the system  
5 myself, aimlessly.

6 CHAIRMAN SMITH: So, do you have an idea of when staff may  
7 want to provide a course or --

8 MR. CANNADAY: Or overview. I think as early as next week we  
9 could help.

10 CHAIRMAN SMITH: Okay. Now is this something you can do  
11 virtually or does this need to be in person?

12 MS. CASTAÑUELA: We had talked about doing it on Teams. If  
13 you're on a computer with a monitor, then you can follow along; we can  
14 share screens and talk about what we're looking at.

15 MR. KUYKENDOLL: I think that's an excellent idea.

16 MS. CASTAÑUELA: I think the sooner the better, considering  
17 the holidays and our very tight deadline.

18 CHAIRMAN SMITH: That was the other thing I was going to  
19 bring up. Would you like to go over the wonderful March 15th deadline  
20 on this?

21 MS. CASTAÑUELA: Yes. So thrilled about the March 15th  
22 deadline. So, our next Commission meeting is in February. The next one  
23 after that right now is scheduled as usual not until April. So, in  
24 order to meet the requirement of this recommendation, which is to  
25 submit it to the Commission for approval by March 15th, we have to  
26 plan to do so in February, and early February. That Commission meeting



1 right now is potentially scheduled for February 6th. Yeah, so the BAC  
2 meeting would be February 5th.

3 Right now, of course, all bets are off during legislative  
4 session, that could change depending on -- but right now that is our  
5 schedule. That means that the report, of course needs to go to one of  
6 our -- it'll go to the planning subcommittee of our Commission and  
7 that'll happen in late January, which means that the report needs to  
8 be completed by then, which really means that we need the feedback  
9 from the BAC and whatever other industry reps you all, the  
10 subcommittee can pull together for us by January 10th. January 10th is  
11 the -- what, the second Friday in January?

12 MS. GREEN: I have a question.

13 MS. CASTAÑUELA: Yes.

14 MS. GREEN: To make a better experience, are you looking for  
15 sweeping changes? Are you looking for -- like we need to be able to  
16 print when you apply for 40 temporaries; unless you take a picture  
17 with your phone, it's hard to remember what you did. You cannot print  
18 it --

19 MS. CASTAÑUELA: Write it down and submit it.

20 MS. GREEN: So are you looking for --

21 MS. CASTAÑUELA: Specifics; we are looking for specifics.

22 MS. GREEN: Okay.

23 MS. CASTAÑUELA: Either one. Give us everything you've got.  
24 We're looking for the feedback.

25 MS. GREEN: So the more the better?

1 MS. CASTAÑUELA: Yes, absolutely. We can't promise that we  
2 can do everything, but we want to hear it all.

3 MS. GREEN: Okay.

4 MS. CASTAÑUELA: Absolutely. So --

5 CHAIRMAN SMITH: So -- no, go ahead, LaDonna.

6 MS. CASTAÑUELA: No, go ahead. Please.

7 CHAIRMAN SMITH: Dr. Pennie, I know there was -- I spoke to  
8 a few people yesterday that were -- when they saw this on the agenda -  
9 - they were requesting to help out. So, I'll give you those names, if  
10 that's all right with you. I'm not suggesting you put them on your  
11 committee, but they're offering.

12 DR. PENNIE: [inaudible]

13 CHAIRMAN SMITH: LaDonna, did you want to go over the BSP  
14 survey question?

15 MS. CASTAÑUELA: Sure. So, I sent it to you all on Monday.  
16 Hopefully you've had a chance to look at it. When I talked to Jason,  
17 he told me -- let me start by saying this might be the first of more  
18 than one survey, but I think it's a good start. CBOD staff and IT  
19 worked on it together, and we're looking for your feedback. Of course,  
20 number one, do you use the BSP? I can read these, we can go through  
21 them one by one, or I can just ask you if you have any comments.

22 MS. GREEN: When do you need this?

23 MS. CASTAÑUELA: Hoping to get it back today.

24 CHAIRMAN SMITH: So, you're wanting us to fill this out and  
25 turn this in or you --

1 MS. CASTAÑUELA: No, no. Just tell me if you think -- what  
2 are your thoughts on -- this is a draft. These -- what are these, 9 or  
3 10 questions -- this is a draft of what our potentially initial -- but  
4 definitely the survey, maybe the only survey -- but potentially the  
5 initial survey to the customers. We're working on a good distribution  
6 list rather than the entire 15,000 that we send to when we send notice  
7 of the BAO.

8 CHAIRMAN SMITH: Gotcha. Are you wanting the BAC to vote on  
9 this as a recommended draft as a whole? Or are you just wanting our  
10 individual --

11 MS. CASTAÑUELA: I don't even need you to vote on it. I just  
12 want your feedback on it.

13 CHAIRMAN SMITH: Individual feedback. Okay.

14 MS. CASTAÑUELA: Yeah. If you have additional questions do  
15 you think should be asked on a preliminary survey to get feedback,  
16 then just let us know.

17 MR. KUYKENDOLL: I think that, excuse me, Chairman --

18 CHAIRMAN SMITH: Yes, sir.

19 MR. KUYKENDOLL: -- it's going to be incumbent upon whoever  
20 does these surveys, complete surveys, that they pay very close  
21 attention to item three. It's going to be one of those deals where  
22 they're going to have to really take the initiative to expand upon  
23 what they want to see out of the portal itself.

24 MS. CASTAÑUELA: Mm-hmm.

25 MR. KUYKENDOLL: And again, I would like to see something  
26 about the reports themselves because I fiddled around with them, and I

1 don't really gain a lot of information from the reports I ran, but it  
2 may be because I don't have a license and because the limited  
3 functionality of it for me doesn't generate the reports in a way I  
4 would deem relevant. So, I would like to see that maybe added.

5 MS. CASTAÑUELA: The question about reporting; the reports.

6 MR. KUYKENDOLL: Yeah, reports, what is it? Do you use these  
7 reports, the pros and cons of those, and what reports are missing,  
8 because maybe some of these reports are irrelevant, don't need to be  
9 there. And maybe there's reports that need to be there that aren't  
10 there.

11 CHAIRMAN SMITH: Got you. All right. Do we have any member  
12 of the public that wants to comment on the BSP surveys? All right, we  
13 will get back to you individually as soon as possible on this then. Is  
14 that okay with you?

15 MS. CASTAÑUELA: Terrific. Thank you.

16 MR. FENOGLIO: Mr. Chairman?

17 CHAIRMAN SMITH: Yes, sir.

18 MR. FENOGLIO: If I may, Stephen Fenoglio. I misspoke  
19 earlier, and my colleague Tom Stewart reminded me there has been a  
20 bill, actually two bills introduced, that would affect charitable  
21 bingo, and I said there weren't any. And I did know about them, I just  
22 forgot. If I may?

23 CHAIRMAN SMITH: Yes, sir.

24 MR. FENOGLIO: So, there are two bills. One in the House by  
25 Carl Tepper, who's a representative from Lubbock, and then in the  
26 Senate, Mayes Middleton, who's a senator from Galveston. The bills are

1 first designed to address the recent Supreme Court decision on eight-  
2 liners, the case of City of Fort Worth v. Rylie, which held that all  
3 eight-liners are prohibited because they operate on the lottery  
4 principle and the Texas Constitution prohibits lotteries unless  
5 specifically authorized. For example, the Constitution allows  
6 charitable bingo to operate, it allows the Texas Lottery to operate,  
7 and the Constitution also allows charities to conduct drawings, but  
8 there's no constitutional provision that allows eight-liners to  
9 operate. And again, the Supreme Court said that those operate on the  
10 lottery principle, meaning, money is required to play, chance  
11 determines whether your prize is won, and you win a valuable prize. In  
12 the case of eight-liners, it may be a fuzzy animal.

13           So that's the first premise. The second one though is where  
14 it affects bingo. And so they're creating in these bills, and they're  
15 identical, both the House and the Senate, a legal game where skill  
16 predominates, and there's no statutory definition, it's just the  
17 language "if skill predominates" and the customer can win on the  
18 premises a prize similar to what is in the current Penal Code,  
19 meaning, it's a wholesale prize the value of which is de minimis no  
20 more than 10 times or \$5 wholesale value for the cost of the play. So,  
21 if it's a 50-cent play, you could win a \$5 wholesale prize, wholesale-  
22 value prize. It also allows you to accumulate, or you can be awarded a  
23 ticket and you can accumulate those tickets for a \$50 prize. And then  
24 it specifically states and amends the Bingo Enabling Act to state that  
25 those games are legal to operate in a bingo hall either before,

1 during, or after the bingo occasion. So, that's where the bill would  
2 affect charitable bingo.

3           There are a couple of other provisions in the bill that  
4 don't address charitable bingo, but those two bills do impact  
5 charitable bingo. The deadline for pre-filing -- and these are pre-  
6 filed bills; the session hasn't started, but under our state statute  
7 and Constitution, they can pre-file bills, which started the Monday  
8 after the statewide election, and then pre-filing bills typically can  
9 be made up until usually mid-March. In the House and Senate,  
10 typically, committees don't get started hearing bills other than  
11 appropriations until mid-March. The session starts the second week of  
12 January and runs to the first week of June.

13           CHAIRMAN SMITH: Okay, thank you.

14           MS. CASTAÑUELA: Steve, do you have bill numbers?

15           MR. FENOGLIO: Yes, I'm sorry, I should have said that.  
16 House Bill 487, which is Carl Tepper's bill, and Senate Bill 517 by  
17 Mayes Middleton.

18           MS. CASTAÑUELA: Thank you.

19           MR. FENOGLIO: And again, they're identical.

20           MS. CASTAÑUELA: Okay, thank you.

21           CHAIRMAN SMITH: Thank you. Okay, back to the Bingo Service  
22 Portal. So, Dr. Pennie, you will get some people on your subcommittee,  
23 choose some people; I'm sure y'all can find a few people in the  
24 audience. I think Mr. Fenoglio would probably volunteer to help, if  
25 needed, with the Bingo Service Portal.

26           MR. FENOGLIO: Sure.

1           CHAIRMAN SMITH: And if not, I'm sure he has great contacts  
2 to get some bookkeepers that really use this on a daily basis that you  
3 could choose from. And I'm sure Melody is very well versed in that as  
4 well. Okay. Excellent. Is there any other assistance we can give you  
5 on that?

6           DR. PENNIE: No, I'm going to spend this week navigating  
7 through it.

8           CHAIRMAN SMITH: Okay.

9           MS. CASTAÑUELA: Terrific --

10          CHAIRMAN SMITH: Excellent.

11          MS. CASTAÑUELA: -- I just want to repeat the deadline,  
12 January 10th. You can, of course, send it to me by email. And also  
13 want to let you know that we're hoping to get that survey out as soon  
14 as possible and as soon as next week.

15          CHAIRMAN SMITH: Okay.

16          MS. GREEN: Just email it back to you?

17          MS. CASTAÑUELA: Email it back to me ASAP, whatever your  
18 feedback is, but you'll see it when you will in fact be asked to  
19 respond to it, you'll see it as soon as next week.

20          MR. KUYKENDOLL: Mr. Chairman, is there any reason why we  
21 delay them? Go ahead and say we recommend that you release the survey  
22 as soon as possible so we can start getting the feedback on it. Is  
23 there anything that we suspect that we're going to add to the survey  
24 that we already haven't mentioned?

25          CHAIRMAN SMITH: Well, this is not the BAC's survey. This is  
26 the staff survey.

1 MR. KUYKENDOLL: I just didn't want them waiting on us to  
2 provide input after this meeting.

3 CHAIRMAN SMITH: Yeah. Like LaDonna said earlier, this is  
4 not something that the BAC would need to vote on as a whole. It's just  
5 individual users that use it.

6 MR. DUNCAN: Our feedback ASAP.

7 MR. KUYKENDOLL: Yeah, that's understood. I just didn't want  
8 them waiting on us to provide feedback; I think that this is the  
9 feedback.

10 MS. CASTAÑUELA: If I get feedback in the next 24 hours or  
11 so, that'd be fine.

12 MR. KUYKENDOLL: Excellent. Okay.

13 MS. CASTAÑUELA: Yeah. That's not going to slow us down or -  
14 -

15 CHAIRMAN SMITH: Our personal feedback?

16 MS. CASTAÑUELA: -- our goal to get it out to people as soon  
17 as possible, as soon as next week.

18 MR. KUYKENDOLL: So, they can go ahead and release it.

19 MS. CASTAÑUELA: Thank you.

20 CHAIRMAN SMITH: Yes. Okay. Did that answer your question?

21 MR. KUYKENDOLL: That's where I was going towards, is just  
22 not having them waiting on us any more necessary.

23 CHAIRMAN SMITH: Yes, sir. Okay. All right. Any other public  
24 comment on the Bingo Service Portal Input Committee? Any public  
25 comment? Dr. Pennie, are you good?

26 DR. PENNIE: I'm good. I'm good.



1 CHAIRMAN SMITH: Dr. Pennie is the chair and Mr. Kuykendoll  
2 is vice chair on that subcommittee.

3 MR. KUYKENDOLL: Right.

4 DR. PENNIE: Yeah, we're going to start digging through it.  
5 So I'll get those names from you as well.

6 AGENDA ITEM VIII.

7 CHAIRMAN SMITH: Okay. Excellent. Okay. Item number eight,  
8 old business. Any old business?

9 MS. CASTAÑUELA: I would just like to confirm, I don't know  
10 if this comes under old business, but I think so. At the last meeting  
11 we talked about possibly getting Lottery Commission email accounts for  
12 interested BAC members. Since then we polled the BAC members and we  
13 have zero interest, so I think we can cross that one off of old  
14 business. Just want to get it on the record.

15 CHAIRMAN SMITH: Consider it crossed. All right. Any public  
16 comment on old business?

17 AGENDA ITEM IX.

18 CHAIRMAN SMITH: New business, item number nine, any new  
19 topics of discussion? Any public comment? All right.

20 AGENDA ITEM X.

21 CHAIRMAN SMITH: Moving right along to item number 10, set  
22 the date for the next meeting. I think, LaDonna, I think you said the  
23 BAC was tentatively scheduled for the 5th of February?

24 MS. CASTAÑUELA: It is scheduled for February 5th, which  
25 will be the day before the next Commission meeting, and it'll occur in  
26 this room.

## AGENDA ITEM XI.

CHAIRMAN SMITH: Excellent. All right. It is now 10:56 and we will consider this meeting adjourned.