

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

June 5, 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 audio recording.

## APPEARANCES

## COMMITTEE MEMBERS:

William T. Smith III (Trace), Chairman

Melodye Green

Floyd Olive

Tommy Duncan Jr.

Jason Pohl

Veronica Uriegas

Michael Anastasio

Stacie Johnston

Corey Harris

## COMMISSION STAFF:

LaDonna Castañuela, Director of Charitable Bingo Operations

Tyler Vance, Assistant General Counsel

## PUBLIC:

Steve Bresnen, Bingo Interest Group

Tom Stewart, Texas Charity Advocates

Stephen Fenoglio, Texas Charity Advocates

## TABLE OF CONTENTS

	PAGE
1. Call to order.....	4
Pledge of Allegiance to the U.S. and Texas flags.	
Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."	
2. Roll call.....	4
3. Meeting minutes from April 3, 2024, meeting.....	5
A. Public comment.	
B. Action.	
4. Sunset update.....	5
A. Public comment.	
B. Discussion.	
5. Rules review.....	17
A. Subcommittee on rules review.	
B. Public comment.	
C. Discussion.	
D. Action.	
6. Annual Workplan.....	33
A. Public comment.	
B. Discussion.	
7. BAC Annual Report.....	38
A. Public comment.	
B. Discussion.	
8. FY 2025 BAC nominations update.....	40
A. Public comment.	
B. Discussion.	
9. Old business.....	45
C. Public comment.	
D. Discussion.	
10. New business.....	45
A. Public comment.	
B. Discussion.	
11. Set date for next meeting.....	46
12. Adjournment.....	47

**PROCEEDINGS**

WEDNESDAY, JUNE 5, 2024 (10:00 a.m.)

AGENDA ITEM I

CHAIRMAN SMITH: Michael, Jason, can you hear us?

MR. POHL: Yes sir.

CHAIRMAN SMITH: Okay.

MR. ANASTASIO: Yes, I can.

CHAIRMAN SMITH: Excellent. Glad y'all made it today. Okay.  
We've already called the meeting to order; we'll start with the --

MS. CASTAÑUELA: Just to let you know they're both on.

CHAIRMAN SMITH: Yeah. I was just making sure they could hear  
us. Okay. I'm going to start off with the Pledge of Allegiance to the  
U.S. and Texas flags.

(Pledges recited)

AGENDA ITEM II

CHAIRMAN SMITH: We'll start with our roll call. Melody Green.

MS. GREEN: Here.

CHAIRMAN SMITH: Floyd Olive.

MR. OLIVE: Here.

CHAIRMAN SMITH: Tommy Duncan.

MR. DUNCAN: Here.

CHAIRMAN SMITH: Jason Pohl.

MR. POHL: Here.

CHAIRMAN SMITH: Veronica Uriegas?

1 MS. URIEGAS: Here.

2 CHAIRMAN SMITH: Corey Harris. Michael Anastasio.

3 MR. ANASTASIO: Here.

4 CHAIRMAN SMITH: And Stacie Johnston.

5 MS. JOHNSTON: Here.

6 AGENDA ITEM III

7 CHAIRMAN SMITH: All right. Moving on to item number three,  
8 meeting minutes from April 3rd, 2024. Those meeting minutes have been  
9 posted on the website. Is there any public comment on that? Anyone else  
10 have any comment on the meeting minutes? Do we get a motion to accept?

11 MS. URIEGAS: I move that the meeting minutes get approved.

12 MR. DUNCAN: Second.

13 CHAIRMAN SMITH: All right, we have a motion and a second. All  
14 in favor?

15 (Chorus of "ayes")

16 Any opposed? Meeting minutes are approved.

17 AGENDA ITEM IV

18 CHAIRMAN SMITH: Item number four, Sunset update. As many of  
19 you are aware, the Sunset Committee came out with their findings on Bingo  
20 recently. A lot in that. Do we have any public comment on the Sunset  
21 report? If you would come up front. Mr. Bresnen.

22 MR. BRESNEN: Thank you, Mr. Chairman. Is this on?

23 CHAIRMAN SMITH: Yes, sir.

24 MR. BRESNEN: Is it still on since I've messed with the button  
25 up here?

26 CHAIRMAN SMITH: Yes, sir.

1           MR. BRESNEN: Okay, good. The table's not wide enough to get  
2 that away from me. So, I'm Steve Bresnen. I'm here on behalf of the  
3 Bingo Interest Group, and I'd like to comment about Sunset report. I  
4 want to start by saying I've worked many, many times with Sunset  
5 Commission and their staff. I have the greatest respect for the process,  
6 for the people in it, and the work they do. I think -- at the same time  
7 when I met with Sunset staff, I had the feeling that they were a mule  
8 looking at a new gate. Bingo's different and it's complicated and it has  
9 a history, and so some of the features of bingo regulation are historical  
10 and that may not come across to people who haven't been involved as long  
11 as some of us have. And I think some of those historical roots were  
12 missed. I don't fault people too much for that, for not being elderly  
13 like me, but I think they missed some things and didn't have a view from  
14 outside the agency as part of the regulated community and so I think  
15 some things were missed.

16           I'll get a little more specific, but the first thing I want  
17 to do is talk about the issue of engagement. That was -- seemed like a  
18 theme throughout the report, that they didn't feel like the commissioners  
19 were engaged enough. Well, if you've been here for a while, you know  
20 that this is the golden era of commissioner engagement and staff  
21 engagement with people in the regulated community, bingo issues in  
22 general. There was a day when bingo regulation was an afterthought and  
23 an irritation, and I think those days are gone. They went by the wayside  
24 some time ago but the culture of engagement with bingo has been retained  
25 over time. I don't know how anybody could request a greater engagement  
26 than Commissioner Fields has had with charitable bingo. She's been here,

1 she's been attending. I know there's lots of communication with staff.  
2 We've had communication with her. We've had private briefing meeting  
3 with her and staff of various groups, and so I just think that's just  
4 wrong. What happens on the lottery side of the shop I don't intend to  
5 comment about. I don't know anything about that. So, my comments are  
6 reserved to the board's engagement with charitable bingo. I think the  
7 fact that there's been discussion about a public member on the BAC and  
8 how should it be properly constituted and then all that is evidence of  
9 the Commission's engagement with charitable bingo. So, I just think that  
10 missed the mark.

11           Related to that is the recommendation that the current system  
12 whereby the Charitable Bingo Operations director reports directly to the  
13 Commission -- that's going in the opposite direction if you want greater  
14 Commission engagement, to put a buffer between them and the folks in  
15 charitable bingo. So, that, to me, that didn't follow. There was a  
16 historic reason for that. Some of y'all -- I'm about to tell you what  
17 you already know, I apologize for that, but we are creating a record --  
18 there was a time when there was a rampant and, I would say, justified  
19 reason amongst people in the regulated community that felt like their  
20 competitor, the lottery, was regulating them to their disadvantage in  
21 the marketplace; and I think it was certainly a real feeling that people  
22 had. We asked the legislature to set up this system and the legislature  
23 responded, and I know of nobody in the legislature in that time who has  
24 had a bad experience as a result of that or thinks there was anything  
25 wrong with it. Is it different? It's not common amongst state agencies.  
26 We could probably find some things that are analogous, but the fact that

1 it is different is no reason to put your thumbs down on it. And I think  
2 it's worked real well; I'm unable to discern that this creates any  
3 additional work for the commissioners themselves or for the staff. I  
4 think it puts us on every agenda with the people who are responsible  
5 making reports and keeping the commissioners up to date. I feel like it  
6 gives us access to someone who's actually focused on the industry and  
7 knowledgeable about it. No knock to the executive director of the  
8 Commission, whoever they are at any given time; I know we've got a new  
9 one now. I don't fault them in any way. I'm just saying that if you want  
10 the agency and the commissioners to be more engaged, this is one way to  
11 do it. And making a recommendation to undo that is not consistent with  
12 that proposal.

13           To hit a few more details of the report -- on page 10 of the  
14 report, if you give me just a second, let me pull that up -- there's a  
15 chart about where the money goes in bingo. The Bingo Interest Group  
16 raised in its comments regarding the staff report, we questioned the  
17 accuracy of this chart. If you notice, as we all know, the biggest part  
18 of where the money goes is prizes, but they have the prize fees separated  
19 out as separate items from prizes. And as we all know, the prize fees  
20 are deducted from prizes. So, it would seem to me that either they've  
21 already sorted that out and so the prizes awarded is reduced as a result  
22 and maybe the chart's accurate and it needs some kind of a note, a  
23 footnote, or something to account for that. We filed our comments some  
24 time ago. I've not heard anything from the Commission, Sunset staff yet  
25 where that explains either, oops, we got that wrong, or that there should  
26 have been an explanatory note there. But if that's the case, it



1 understates by about \$30 million prizes awarded and because they have  
2 those at 1% and 2% of the total, I suspect that that distribution is  
3 wrong on this chart and should be corrected.

4           One of the reasons that I'm highlighting that is they've made  
5 some suggestions that are sort of state agency speak for costs that are  
6 being borne on the lottery side that are being to the benefit of the  
7 bingo side of the shop: the legal services, probably personnel, some  
8 things like that, that are coming out of the lottery side of the budget.  
9 This has been discussed a number of times over the years by the  
10 legislature and I'd be honest about it, I don't know if it's compliant  
11 with the Lottery Act or not to do that, but I make this point, they  
12 don't say really how to straighten it out. The implication is, or one  
13 implication would be, that there'd be more fees. We asked the legislature  
14 to get rid of the licensing fees because bingo produces more than a  
15 sufficient amount of money, probably about five times just for the state  
16 of what's necessary to regulate bingo. So, we don't want this staff  
17 report to be taken by the legislature that they need to be generating  
18 revenue over on the bingo side of the shop in order to replace those  
19 costs that may be being borne on the lottery side. The lottery will have  
20 to speak for itself on that and the staff, but my sense of it is that  
21 the sun has continued to rise in the morning and go down in the evening  
22 under this particular arrangement. If there's a fiscal or other reason  
23 to change it, then that's fine as long as that money either comes out  
24 of the state's take from the prize fee or the local government's prize  
25 fee, or both. Frankly, I don't think there should be a prize fee. I  
26 don't really think it's even a constitutional thing for them to do.

1           Three more quick things -- thank you for putting up with the  
2 length of my comments, since I may not get a chance to be this lengthy  
3 tomorrow. There is no doubt that the technology budget of the bingo side  
4 of the agency needs to be beefed well up; I think it'll improve  
5 compliance, efficiency, confusion, mistakes, etc., if the agency has a  
6 robust and flexible capability to meet the regulated community's needs  
7 in that regard. So, we fully support that aspect of the report.

8           We also support that aspect of the report that the BAC should  
9 be mandatory, probably not necessary in the current environment, but we  
10 all know that environments change over time and there was a time where  
11 there was no BAC, that they made a conscious decision not to. As I  
12 recall, there was a lame excuse that we hadn't been strong enough against  
13 eight-liners or something at the time, but that bottom line is we have  
14 a BAC, it's been reconstituted, the agency's paying good attention to  
15 it and it doesn't seem to be too cumbersome.

16           And then, finally, and I'm happy to answer any questions about  
17 any of these, but finally, the issue of licensing manufacturers and  
18 distributors is one that caught my attention. I understand, and there's  
19 a general attitude to simplify licensing structures, occupational  
20 regulation is a big deal, particularly on the right end of the political  
21 spectrum these days, and well-deserved attention to be paid to. But I  
22 failed to see then, how eventually, if not immediately, that the sorts  
23 of things that are protected by the three-tiered system would not fall  
24 down into the lap of the conducting charities. How do you know, unless  
25 you've got Tommy Duncan's shop sending you product and he's got a license  
26 at issue that could be revoked and effecting from operating in other

1 states, if his license got revoked, how would the conductor know if  
2 product looked like approved product, but it came through some other  
3 channel to them? How do you know that if it's not manufactured properly  
4 and the serial numbers are messed up or whatever, how do you know who  
5 to go back to and what do you do if it is, and what does the agency do  
6 if it is? How do you do your auditing? You could put a serial number in  
7 there, but if there's no way to track it. So, it seems to me that all  
8 of those questions would need to be answered before there was unilateral  
9 disarmament in the licensure of manufacturers and distributors. Again,  
10 I don't see a particular evil that's being addressed there and it's  
11 certainly not an uncommon structure in regulation to have separation  
12 between the kinds of entities. Now as an aside, there may need to be  
13 some attention paid to enforcing the actual separation between the actors  
14 in the system, but that's a different issue.

15           And really, finally, I want to talk about the lessor  
16 arrangement. The report completely ignores the existence of association  
17 lessors, and so it's not comprehensive with regard to the lessor issue.  
18 They didn't come down with a recommendation as to what to do. I'm going  
19 to refer to regular lessors and grandfathered lessors. They basically  
20 said either make them all one or make them all the other. This is another  
21 historic result that came about in 1989. I'm not seeing the evil and I  
22 understand from the outside you might look at it and see one group of  
23 people is advantaged or disadvantaged from the other, but also there was  
24 no discussion about what the economic consequences are if you leave the  
25 same rent structure in place and lift that bifurcation, what impact would  
26 it have on the industry.

1           Since 1989, I'm venturing to guess, it's a lot more expensive  
2 to provide a building in the Dallas-Fort Worth, Austin, Bexar County,  
3 et cetera area, maybe not so dramatic in Abilene. And so the failure to  
4 account for those kinds of things and have some idea of what the impact  
5 would be on charitable bingo, I think is a serious shortcoming. And it's  
6 asking legislators to choose between two things and not telling them  
7 what the hell's going to happen if one or the other is selected.

8           So, for that reason, we have a lot of concerns about this  
9 report. I'm going to give a truncated explanation of that tomorrow to  
10 the commissioners, if so allowed. And when the actual Sunset Commission  
11 meets, we will give our report to them as well along the lines of what  
12 I'm saying. We don't know when that commission's going to meet; we've  
13 been hearing somewhere in the second or third week of September, but  
14 some of the members on the House side were defeated in their recent  
15 election, there's a bunch of vacancies on the Senate side of that.  
16 Whether those are going to be filled and when, somebody probably knows,  
17 but it ain't me. And so the staff over there, I think, needs the guidance  
18 from the legislators. We will work those legislators strongly around the  
19 issues that I've expressed. Thank you for letting me take more than a  
20 little bit of time to explain our views about this report.

21           CHAIRMAN SMITH: Thank you, Steve. Well said. Tom Stewart.

22           MR. STEWART: For the record, I'm Tom Stewart, executive  
23 director for Texas Charity Advocates. As most of you know, our  
24 organization represents all facets of the charitable bingo industry. We  
25 have charity conductors, we have lessors, we have manufacturers, we have  
26 distributors, that are all a part of TCA. I'll start out by saying that

1 probably 90% of what Mr. Bresnen just said we would agree with,  
2 particularly starting out -- particularly on the issue of engagement.  
3 We've found that the Commission itself, Chairman Rivera, Commissioner  
4 Fields, the other commissioners have been accessible and open and  
5 available to us, the staff as well; good working relationship in the six  
6 or seven years that I've been a part of TCA in working on those issues.

7           We also responded. The board of TCA met, discussed the key  
8 items and recommendations made by the Sunset staff and we responded in  
9 written form, a letter, that I think's been widely circulated, but I'll  
10 cover some of the highlights here. Obviously, there're some issues that  
11 we agree with, some that we disagree with, some that we're relatively  
12 neutral on, but we do have a point of view about.

13           We certainly agree that modifying the statute to require the  
14 Bingo Advisory Committee and improve its effectiveness is a solid  
15 recommendation by the staff. And we've got some suggestions in ways, one  
16 of which I'll talk about here in a minute, that can help the BAC improve  
17 its effectiveness and a utility, I think, going forward.

18           Obviously, anything that can be done to prioritize IT and  
19 modernizing the Bingo Division, we think is a good idea, and then improve  
20 its data practices and data validation, and other quality controls, we  
21 think those are good recommendations and, obviously, we certainly agree  
22 that the Commission should be renewed for another 12 years, including  
23 the Bingo Division.

24           Where we disagree is on the issues of the organizational  
25 hierarchy, eliminating the licenses for manufacturers and distributors,  
26 and then we have issues with changing the grandfathered and lessor

1 licenses as well. We think that the current hierarchy works well and to  
2 Mr. Bresnen's point is a move away from additional engagement should the  
3 Sunset Commission decide to go that way. It just doesn't square with one  
4 of the key themes that came out of the Sunset staff's recommendations.

5           With regard to the licenses for manufacturers and  
6 distributors of bingo materials -- the bottom line is that shifts the  
7 regulatory risk onto the backs of charity conductors and our point of  
8 view is very strong that -- that is not a direction that we need to  
9 head. Anything that places a further burden, particularly the regulatory  
10 risk and the financial risk that that brings, would be a huge step in  
11 the wrong direction.

12           And then with regard to the grandfathered licenses, I'd simply  
13 say the state wrote these rules in 1989 and people have been following  
14 these rules since that time. To suddenly and quickly change those rules  
15 and how they're written and how they're promulgated, again, is a step  
16 in the wrong direction and destroys value that's been created since 1989,  
17 and we just don't think that's the proper direction.

18           We're neutral regarding the issue on the budget and how that's  
19 handled. However, I'd reiterate, I think the point that Mr. Bresnen made,  
20 which is, if you do that, the resources to replace what Bingo Division  
21 currently has in sort of a shared services situation with the lottery  
22 side of the business, whatever additional resources, they need to come  
23 from somebody else's pocket, it shouldn't come from the licensees pocket,  
24 regardless of who they are, whether it's a lessor, manufacturer, or  
25 charity conductor, or a distributor. There's plenty of revenue that  
26 lottery [sic] produces in those prize fees to cover those costs. And it

1 shouldn't be borne, especially shouldn't be borne by the charity  
2 conductors themselves.

3           The last thing that I'll mention is something that really  
4 wasn't covered at all in Sunset staff's report. The mission of the  
5 Charitable Bingo Division is to be the regulatory cop on the beat. That's  
6 all it's ever been; and that's fine, that's a proper role that it should  
7 be, but we're all very well aware of the trend in charitable bingo in  
8 terms of attendance, it's falling. We know because of market research  
9 that Texas Charity Advocates has conducted and other things that we've  
10 done on our own initiative -- that -- it's a very simple problem; it's  
11 an awareness problem. We compete with so much out there in terms of  
12 entertainment, in terms of people who like to take a chance in the hope  
13 that they might get a few bucks back to put into their pocket, including  
14 lottery. We compete with so much -- charitable bingo, bingo, going to a  
15 bingo hall is not top of mind when they think of, oh, What do I want to  
16 do Friday night or Saturday night? That can be addressed through an  
17 awareness campaign. One of the things that I would encourage this  
18 committee to do in its work plan next year is to look at other  
19 jurisdictions and other places that have charitable bingo. What have  
20 they done to help and to promote charitable bingo, to increase  
21 attendance? I think that would be an excellent research, possibly a  
22 subcommittee that could be established by the Bingo Advisory Committee  
23 to look at how we might actually do that. We've test marketed with the  
24 help of financial resources of our members; we've test marketed, we've  
25 shown results, we've shown that we can drive people into bingo halls,  
26 we can track them. We know fundamentally what works and we can take some

1 clues from what our friends on the lottery side do in terms of promoting  
2 awareness of their products. That can be applied to charitable bingo as  
3 well. What we haven't figured out what to do or how to do it is to scale  
4 it for a state the size of Texas and the diversity of markets that we  
5 have: small rural markets, suburban markets, and major urban areas. The  
6 issue is scale, and the issue is resources, and we think that that's  
7 something that the Sunset staff missed. We hope that we will have some  
8 open minds and open hearts when we talk to the Sunset Commission itself.  
9 When they finally meet on these issues, we hope that we can come up with  
10 a way that we can ultimately propose to the legislature itself that  
11 creates some type of public-private partnership so that we could begin  
12 to attack this issue of awareness, stem the tide of declines in  
13 attendance and ultimately reverse that. That's a multi-year process that  
14 requires a lot of resources. And we need help. And I think this committee  
15 should look at it, I think Sunset should look at it, I think the  
16 legislature should look at it. So, with that, I'm happy to answer any  
17 questions anybody might have.

18 CHAIRMAN SMITH: Thank you, Tom. Does anyone have any questions  
19 for Tom or Steve? Thank y'all very much. We appreciate that. Does anyone  
20 else want to comment on the current item we're on? No. I'd just like to  
21 say real quick that -- I'm only going to comment on the engagement part  
22 of the Sunset report. I personally -- and I'm not speaking for anyone  
23 on the board or the board itself, I'm speaking for myself -- I have  
24 personally felt like that the engagement from, not only Commissioner  
25 Fields, but the staff, has been exemplary, and it has been far beyond  
26 what we have ever dreamed we could get from the staff and the



1 commissioners. Commissioner Fields is at almost, I think she's only  
2 missed one meeting in years, which is incredible for us to experience.  
3 I know that I personally speak to LaDonna about every week about  
4 something or another. So, when you come to the meetings and you see a  
5 short meeting, that doesn't mean that we're just passing stuff through.  
6 That means that all the work was done before the meetings to talk about  
7 and iron out the problems to go over, whether it be a rule review or it  
8 be a proposed rule change or something like that. There's a lot of work  
9 that's done behind the scenes that we're definitely engaging in. And  
10 Tyler's been a big help on that as well. So, in my mind, engagement has  
11 been A+. So, thank y'all very much for that. We definitely recognize  
12 that.

13 MR. DUNCAN: I think we all agree on that.

14 CHAIRMAN SMITH: Yes, sir. All right. Any other discussion on  
15 that item? Excellent.

16 AGENDA ITEM V

17 CHAIRMAN SMITH: We'll move on to item number five, the rules  
18 review. So, the first part of that is the subcommittee on rules review.  
19 We had our rules review meeting before the last BAC meeting, and there  
20 was some work to be done on the rules review. I know we were -- I know  
21 Tyler's been pretty busy with Sunset and a million other things, but we  
22 got the updated rules back from staff -- Monday, I think it was? Yeah.

23 MR. VANCE: Yesterday, actually.

24 CHAIRMAN SMITH: Yesterday. Okay, yesterday. So, we will  
25 definitely, probably be having another rules review meeting pretty soon.  
26 I know, Tyler, you're going to comment on this pretty well, and if you

1 need to, we can go through maybe the highlights or something. We don't  
2 have to go through the whole thing today. I know nobody's had a chance  
3 to really look at it. So, Tyler, all you sir.

4 MR. VANCE: Sure. So, the big news is that, in light of all  
5 the Sunset recommendations, and this goes on both the lottery and the  
6 bingo side, we've got a lot of rule stuff to do to incorporate their  
7 recommendations. So, we decided to push the entire rule review process  
8 back, we're looking at October now. So, everything was proposed last  
9 December. So, we have until December to close it. You have one year once  
10 you publish it. So, the idea now is to close the rule review process on  
11 October and then, most likely, to propose the rule amendments at that  
12 same time, which means that we could possibly adopt them, the rule  
13 amendments, in December or probably more likely February, given how many  
14 changes are involved here. So, yesterday I sent out what is the most  
15 current draft version of the staff's rule package. This incorporates all  
16 the changes that Sunset recommended, it incorporates many of the things  
17 that we've discussed at the subcommittee meeting, and some things that  
18 weren't included, based on discussions with Commissioner Smith,  
19 Commissioner Fields, and the Audit Division. And again, it's just a  
20 draft. So, none of this is set in stone. There's going to be plenty of  
21 time to talk about it. We just wanted to get something out to you guys  
22 so you could consider it in the meantime.

23 Some of the Sunset recommendations, they wanted a definition  
24 of premises. Premises is defined in the BEA already and we haven't had  
25 any issues with what a premises is or isn't, in a very, very long time.  
26 Nonetheless, Sunset wants it, so I put it in there under the definitions;

1 I included the definition of premises. Also, there are some other odd  
2 references in the BEA to what a premises is, including, it needs to have  
3 an address, and it's under a common roof or over a common foundation.  
4 And then I went ahead and threw in there that a premises does not include  
5 a virtual location or place. Just to add on, we've got in this whole  
6 package, there's a couple new references to -- the general principle,  
7 bingo must be conducted in a physical reality, right? It can't be done  
8 on social media. So, that's just one more latch on there.

9           And let's see. So, they want the prohibition of credit  
10 payments. We put out an advisory opinion in 2017 stating that credit  
11 card payments were not allowed under the BEA for two reasons, one of  
12 which is that you need to have all your funds deposited within three  
13 days. So, there's just kind of a functional impossibility of using  
14 credit, but then also historically, politically, there's a strong  
15 aversion to allowing the use of credit in any gambling business. The  
16 lottery is required by law to use only debit or cash. The BEA does allow  
17 debit cards. And so there was an argument in this BAO that, because the  
18 legislature explicitly allowed the use of debit cards, but at that time  
19 they didn't take the liberty to add credit cards, they must have  
20 therefore not intended, or rather should have intended not to allow,  
21 credit card payments. So, we've got a provision in there that prohibits  
22 credit card payments.

23           And, also, this has come up in some enforcement cases, is --  
24 if you allow, say PayPal, you're allowed to use a PayPal debit payment,  
25 that's fine. But PayPal also offers credit services. And so we've also  
26 tried to prohibit any type of credit payment, not just on a physical

1 card. So, you can use PayPal, you can use Venmo, as long as it's a debit  
2 cash-based transaction. But we've seen this in certain instances where,  
3 and it's hard for us to tell whether or not it's a credit or debit-based  
4 transaction. So, we're just making it clear that credit transactions are  
5 not allowed.

6           Sunset asks for a rule explaining how you transfer a  
7 grandfathered lessor license, and this is a bit of a misnomer because  
8 you actually don't transfer a lessor, a grandfathered lessor license.  
9 We have a rule that talks about how -- when you do in fact transfer, a  
10 true transfer of a license means one entity giving it to another, and  
11 when you do that, it loses the grandfathered rights. What we see, and  
12 what Sunset heard about, and what I think they're actually speaking  
13 about, is that when a grandfathered lessor license is held by a corporate  
14 entity or any other entity that's not a sole individual owner, this is  
15 just Texas corporate law, you can change the owners of that corporate  
16 entity a million times and it's still the same corporate entity. And so  
17 the license is never transferred. It's still owned by the same corporate  
18 entity, even if all the people are completely different from the ones  
19 who held that license 30 years ago. And that's just the way the law is.  
20 We've got an AG opinion on it that talks about it. So, I think that's  
21 what they wanted. And so I've got the rule in there saying that it's --  
22 when a license is held by a corporate entity and those corporate officers  
23 or owners change, that does not constitute the transfer of a license.  
24 So, it's almost -- it's proved in the negative. So that the license, and  
25 we're going to base it on the tax ID, this comes up once in a while.  
26 Steve's got one with us right now where they want to change their name.

1 In Texas corporate law, you can change the name of an entity and still  
2 retain the same taxpayer ID. So, that's the person that we're going to  
3 use for the purposes of retaining a grandfathered license, is the  
4 Secretary of State taxpayer ID. So, everything else can change and that  
5 can keep its grandfather rights.

6         They wanted to add compliance history to audit risk factors.  
7 So, we put that in there. They wanted to eliminate warnings for all  
8 serious offenses and for all repeat offenses. So, I've gone in there and  
9 changed that. And we were in fact doing that. The first few categories  
10 of offenses are the most serious, and those always came with a minimum  
11 of, I believe a 250 or a \$100 penalty. So, we were never issuing warnings  
12 on there, but the chart did say that it was a possibility. Then I've  
13 gone in there for every second and third offense, no matter how severe  
14 or not severe it is, I've eliminated the possibility of a warning and  
15 put in some minimal fine in its place.

16         They also asked us to define repeat offense. This is another  
17 one where we've got a rule that says that a repeat offense is a previous  
18 violation that occurs again within 36 months. I added another sentence  
19 on there to make it real clear that it's the same violation that's been  
20 repeated within 36 months. So that's in there.

21         Let's see, other things. We've had some issues with the  
22 standard of a receipt based on a postmark. So, different documents had  
23 different standards of when they were deemed to be filed or paid for  
24 prize fees or waiver requests. They were kind of all over the place. So,  
25 what I've done is eliminated all the different references to when  
26 anything is received, and I basically copied and pasted the rule from

1 the comptroller's office, which states, in general, that everything is  
2 based on the postmark. But to be clear, that's only if we actually  
3 receive it. If we don't ever receive your document, your proof of  
4 delivery is still based on that postmark, so you should take a picture  
5 of it. We always recommend certified mail. You can get a copy of it. If  
6 you use FedEx or UPS or whatever, you get an electronic version of it.  
7 But this way, at least, it's clear -- the date that a form, a report, a  
8 license application, or a payment was filed or made will be the postmark  
9 date on the package that's sent. And that's the standard of the  
10 comptroller uses for billions of dollars in taxes, so that should work  
11 for us.

12           In discussions with the commissioners, I think based on the  
13 discussion from the Sunset Commission, we decided not to allow executive  
14 session for BAC. The recommendation is that everything be discussed in  
15 public so that there not be anything hidden.

16           After considering -- the initial draft of the rules allowed  
17 the BAC meetings to be held virtually or at any other physical location  
18 in the state of Texas -- we realized staff has to set these things up.  
19 We don't have a travel budget. We don't have the ability to set up a  
20 meeting in Amarillo or even Round Rock, probably. So, we've reduced this  
21 down to -- virtual meetings are allowed, we can always do a virtual  
22 meeting anywhere, anytime, or any state office building in Austin. So,  
23 we've taken some things out of there.

24           This was a request from the subcommittee that if we receive  
25 a complaint about illegal bingo, that we issue a cease and desist letter

1 and send a copy to local law enforcement. We've been doing that for a  
2 long time, but we're happy to put that in the rule.

3           There's also a grammatical suggestion to add a comma in one  
4 of the provisions by Mr. Bresnen, and I've thrown that in there to make  
5 it clear that there are two separate things and not one conjunctive  
6 thing.

7           There's a cleanup in the disciplinary qualification section.  
8 There's a reference to a criminal statute that doesn't exist that a legal  
9 assistant noticed a couple weeks ago. And then some of the things you  
10 guys requested: changes to the game schedule record keeping, the  
11 inventory record keeping, and the gift certificate record keeping. And  
12 based on the discussion with auditors, we've decided not to change any  
13 of those. They feel that all those record-keeping provisions are  
14 necessary in order to correctly audit the trail of money and the trail  
15 of products in bingo. And that's that.

16           There were three things that came up in that discussion last  
17 time. There was online gift certificates, there was the elimination of  
18 the 65% pull-tab price structure, and then there was a discussion of a  
19 minimum price structure for card-minders. All those things, in my  
20 opinion, are perfectly legal, but they're all very controversial, as you  
21 can tell by the discussions we had in here. Although I think everyone  
22 in here wants online gift certificates, but as staff, just throwing the  
23 word online out there in anything is not a very good look. So, we are  
24 not going to include any of those things in the staff's version. But as  
25 the Steves will tell you, anyone in the industry is free to request a  
26 rulemaking on any of those issues or any other issue at any time you

1 want, and that, I think, would properly place these kind of controversial  
2 policy decisions onto the commissioners who are the political decision-  
3 makers in this agency. And again, I think all of those things are legal.  
4 I don't see any reason to prohibit them legally, but they're all, these  
5 are, I think, very big policy decisions that the staff doesn't  
6 necessarily want to voice support for or non-support for or anything  
7 like that. So, you guys are free to ask for them. We're free to discuss  
8 them in here amongst the BAC and the BAC can take a position on it. But  
9 we've decided that the rule review process is mostly a cleanup process,  
10 not a Christmas tree, as some folks say. But as you know, you can always  
11 ask for anything you want at any Commission meeting. Steve knows how to  
12 propose or request a rule proposal very well. So, that's that.

13           And again, this is just a draft. It was thrown together pretty  
14 quick in the last couple of weeks. So, I don't think any of this, even  
15 this new language -- I think that the old language from the last meeting  
16 seems pretty well established, since I did a rough draft, we sat in here,  
17 we talked about it, I edited it. I think that stuff's pretty well agreed  
18 upon. But all these new things -- they can change and we have a long  
19 time to change them because now we're going to be waiting until October  
20 before this gets forward. So, we'll have a meeting in August. Maybe that  
21 may be a good opportunity for another subcommittee meeting or, at the  
22 very least, a thorough BAC review of these. But I think I've addressed  
23 everything, all the concerns of the Sunset, all the internal staff  
24 concerns. If something pops up over the summer, some random enforcement  
25 thing that we need to address, we might add that in there. But at this  
26 point, I think this should be pretty much it.



1           CHAIRMAN SMITH: Thank you, Tyler. LaDonna, just a question  
2 for you real quick. Since we did this through a subcommittee, would you  
3 like for us to schedule that subcommittee meeting the day before the  
4 next BAC meeting or do you want to get back to us?

5           MS. CASTAÑUELA: I'm going to have to get back to you, but it  
6 would help to know if you all are available, if that would help. I mean,  
7 if I go to the trouble to figure it out and then somebody's not available.

8           CHAIRMAN SMITH: So, I'll skip an item here too. I don't  
9 remember the date you had for the next meeting --

10          MR. VANCE: For the August meeting?

11          CHAIRMAN SMITH: Yes, sir.

12          MR. VANCE: I've got August 7th. Yeah, so presumably the BAC  
13 meeting would be on the sixth, a Tuesday, and then the subcommittee would  
14 be the --

15          MS. CASTAÑUELA: It'll be a Tuesday.

16          CHAIRMAN SMITH: So, the sixth is the BAC meeting, the seventh  
17 is Commission?

18          MR. VANCE: So, the sixth, it's not on my calendar yet as the  
19 BAC meeting, but yeah, one thing you could consider is knock them out  
20 on the same day, right? You got the subcommittee meeting in the morning  
21 and then maybe the BAC in the afternoon, but that all depends on room  
22 availability and all that. But yeah, right now I don't have anything for  
23 the BAC meeting because you would typically, you wouldn't announce it  
24 until today, right? At the end of this meeting, you would plan the next  
25 one. So, it's not on there yet, but the Commission meeting is on the  
26 seventh.

1           CHAIRMAN SMITH: Okay. If we do it all in one day, the only  
2 concern I would have is giving us enough time to digest everything to -  
3 -

4           MR. DUNCAN: To vote on it.

5           CHAIRMAN SMITH: -- to vote on it the next day. There may be  
6 some issues that -- I don't know, depending on what the split time would  
7 be on that.

8           MR. VANCE: Yeah. And this is totally your call. That was just  
9 a random suggestion from me.

10          CHAIRMAN SMITH: And I appreciate the suggestion. I do.

11          MR. DUNCAN: It could be the day before --

12          MS. CASTAÑUELA: It would still give you another meeting. That  
13 would just be the August meeting. According to the schedule that Tyler  
14 just gave us, the proposal wouldn't go to the Commission until October,  
15 so it would still give you another two months before you actually needed  
16 to speak to the commissioners about -- take a position on it, if that  
17 was what you were talking about.

18          MS. URIEGAS: I guess, do we have to have the public meeting?  
19 Is that what we're doing for the subcommittee?

20          MR. VANCE: You don't have to do anything. So, when it gets  
21 proposed in October though, the commissioners will expect Trace to report  
22 on the BAC's position on the proposed rules. So, whatever it takes for  
23 you guys to be comfortable to make that recommendation one way or another  
24 in October is what we need here. So, if you need a subcommittee meeting  
25 to do that, that's fine. If you don't, you don't. And yeah, so that'd  
26 be in October.

1           CHAIRMAN SMITH: So, we wouldn't have to have a recommendation  
2 from the BAC until October. We would do that the day before --

3           MR. VANCE: Correct.

4           CHAIRMAN SMITH: -- the Commission meeting?

5           MR. VANCE: Correct.

6           CHAIRMAN SMITH: Okay. Well, yeah, then I think we would have  
7 plenty of time to do it all in the same day if that's what everybody  
8 wants to do. I'm game either way.

9           MR. DUNCAN: I'm good either way.

10          CHAIRMAN SMITH: Yeah. So, we could have the rules subcommittee  
11 in the morning and then maybe after lunch have the BAC meeting. I think  
12 that would be wonderful.

13          MS. GREEN: Sixth.

14          MS. URIEGAS: Yes.

15          CHAIRMAN SMITH: Tomorrow is the sixth.

16          MR. DUNCAN: I don't think it should take long. He went over  
17 a lot of it.

18          MR. VANCE: Yeah, there's not that much new stuff. And so much  
19 of it is Sunset. I mean, I don't know how much room we really have to  
20 haggle over what Sunset's telling us we need to do.

21          CHAIRMAN SMITH: Okay. LaDonna is that all right with you to  
22 try to do that?

23          MS. CASTAÑUELA: Let me just confirm we've got the room.

24          CHAIRMAN SMITH: Excellent.

25          MS. CASTAÑUELA: I'll get back to you during our weekly phone  
26 call.

1 CHAIRMAN SMITH: Yes. All right, wonderful. Okay, any public  
2 comment on the rules review? Tom Stewart? We can't hear you and we have  
3 people online. Sorry, bud. Nope, you're good?

4 MR. BRESNEN: Steve Bresnen on behalf of the Bingo Interest  
5 Group. I think what Tyler just outlined is the kind of engagement that  
6 we were praising before. As a lobbyist, we look for Christmas trees, an  
7 so -- but we take that as a warning, but I will say it's like Christmas  
8 in June that I got my Oxford comma. Very important. Supreme Court cases  
9 have been decided based on Oxford comma. So, I really appreciate that,  
10 and I can't tell you how gratified I am and how much my high school  
11 English teacher would appreciate it.

12 MR. VANCE: You can put it on your refrigerator when it gets  
13 adopted.

14 MR. BRESNEN: Thank you.

15 CHAIRMAN SMITH: Thank you, Steve. Any other comment on the  
16 rules review? All right.

17 MR. FENOGLIO: Mr. Chairman.

18 CHAIRMAN SMITH: Mr. Fenoglio.

19 MR. FENOGLIO: For the record, my name is Stephen Fenoglio.  
20 I'm an officer of Texas Charity Advocates, and I've also litigated with  
21 the agency and the one concern, there are others that I'll find inviting,  
22 but it has to do with the penalty matrix and what I have seen on many  
23 occasions and in the rule review, if you'll give me a moment, I'll get  
24 to that page, has been not knowing violations, but in the category of -  
25 - I transposed a number or I forgot. And it starts on page 126 of Tyler's  
26 work product -- and it's an incredible work product, Tyler, that you

1 did, by the way. And so in the standard administrative penalty chart,  
2 we're talking about 16 TAC 402.706(c), violation number two, a person  
3 made a false statement on application in a license. That happens. People  
4 make mistakes. What should have -- and this goes back to over 10 years  
5 ago when these rules, maybe 15 or 20, were being drafted -- we talked  
6 about knowing violations as opposed to, I misspelled someone's name, is  
7 an example that has happened. Well, that's a false statement. It's not  
8 knowing false statement, but it happens. The same is true for, a person  
9 falsified or made false entries in books and records. You transpose a  
10 number, you forget to add a daily cash report if you're a bookkeeper for  
11 multiple halls. And it happens toward the end of the quarter where  
12 they're trying to get all of their data loaded into a quarterly report.  
13 It's not a knowing violation, it's an unknowing violation. And so it  
14 doesn't have that. If -- it's just well, there's a false record. We got  
15 you. It's a minimum \$250 payment the first time it ever happened. So --  
16 and the same is true for four: a person conducted, promoted, or  
17 administered bingo without a license. We've had situations where they  
18 had a temp, but for whatever reason, in a unit, hall, charity one filed  
19 for the temp but charity three unknowingly was conducting bingo on that  
20 temp license. There was a license, but it wasn't a knowing violation.  
21 They used it for a different charity. Similarly, the category four on  
22 128, the organization or unit deposited funds other than from the conduct  
23 of bingo in the bingo account. Again, it's just, if you did it  
24 intentionally, I get it, but if you did it unknowingly, why do you  
25 automatically have a hundred-dollar fine?

1 MS. URIEGAS: I have a question. So, about 25 years ago or so  
2 that happened, the charities deposited in the wrong account and we got  
3 audited for that time period. And I spoke with the auditor at the time,  
4 his name was BJ. I do not remember his last name. Do you guys remember  
5 BJ?

6 CHAIRMAN SMITH: I do.

7 MS. URIEGAS: Do you remember BJ? Such a nice man. So, he said,  
8 he made a notation, and I said, I finally did it. And he said, I'm going  
9 to make a note it was here. So, I don't know who gets to make that call  
10 or how that's done now if that happens because it was just human error.  
11 And he said, You write a check from one to the other and make a notation.  
12 So that's how that was corrected. I don't know how that's handled these  
13 days, but that did happen. And I don't know, it goes back to -- it was  
14 at the discretion of the auditor at the time. So, I don't know if there's  
15 something in writing to address issues like you're discussing.

16 MR. FENOGLIO: Well, under the penalty matrix, based on what  
17 the Sunset staff wants, you would have to pay the penalty. And there are  
18 charities, I use this as a unit to compound matters even further. There  
19 are bingo halls that don't use a unit and so it could be where, again,  
20 charity one filed for the temps, but it turned out that charity three  
21 in that hall used that temp unknowingly. They thought they had one.  
22 Another one on page 130, not a large violation, category seven, starts  
23 on page 129, the organization failed to obtain, maintain, keep current,  
24 and make available for review to any person upon request a copy of the  
25 Bingo Enabling Act and the rules of the Commission. This is not a knowing  
26 violation. It just you didn't do it. Well, three examples. One, they had

1 the last version they thought they had of the rules. It wasn't the  
2 updated rules. Again, it doesn't say a knowing violation, it's just it's  
3 a violation, you pay a penalty. These are funds from charities that are  
4 going to be used for non-profit activities. So, it seems to me that there  
5 should be the discretion not to have an automatic monetary penalty where  
6 auditors, for good or bad, are just looking and checking, okay, you  
7 didn't do this, that's a monetary penalty. You didn't do this, that's a  
8 monetary -- I know you didn't intend to do it, but you did it. So, pay  
9 up. And that affects the charity's bottom line. Occasionally a charity  
10 says, Well, we didn't knowingly violate it. We're going to hire a lawyer,  
11 pay legal fees, and work out a matter including whether you properly  
12 mailed and sent a renewal application or a quarterly report to the  
13 organization. And the postal service screwed it up unquestionably. And  
14 that charitable organization has to pay a lot in legal fees to get their  
15 results. So, people make mistakes, is my point. We've all made mistakes.  
16 At one point I thought I was going to be a CPA until I learned in cost  
17 accounting, the third year of accounting, that I'm dyslexic with numbers,  
18 and if you give me a telephone number and I don't repeat it back to you,  
19 there's about a 70% chance I'm going to transpose one of those numbers.  
20 Even if you're not dyslexic, that happens. And so it seems to me Sunset  
21 staff is off when they say you have to have a monetary penalty for each  
22 and every violation. I'll be happy to answer any questions.

23 CHAIRMAN SMITH: Thank you, Steve. Any questions for Steve?  
24 Thank you. I have a question, Tyler, about that kind of stuff. You  
25 mentioned that the recommendations from Sunset played a big part in what

1 you do for your rule review. Just a dumb question here. If Sunset  
2 recommends that you do that, are you bound to do that or is it --

3 MR. VANCE: No, no. They're just recommendations. And of  
4 course, these are just the recommendations from the staff report. These  
5 aren't necessarily the final recommendations of the Sunset Commission  
6 itself. But the idea is that we want to get out in front of all these  
7 things so that we can tell the Sunset commissioners that we're already  
8 incorporating as many of the changes as possible. I will say one thing  
9 about Steve's recommendation, one thing I can do, the problem with making  
10 everything a knowing-based violation is that we can never prove that.  
11 If you tell us, I didn't know I did it -- well, that's the end of that  
12 enforcement case. Knowing is a standard for criminal law that applies  
13 to situations where we're going to throw you in jail for the rest of  
14 your life. So, that's why that burden exists there. One thing I can do  
15 though is I can take these violations that are in category one and two  
16 and I can break them out. I can have a knowing violation of that law,  
17 which again, we will never be able to prove, can be a category one  
18 offense, and a non-intentional violation of that law can be in a  
19 different category where the first option is still a warning.

20 CHAIRMAN SMITH: Like for transposition of numbers or a  
21 misspelling of a name.

22 MR. VANCE: Sure. Sure.

23 CHAIRMAN SMITH: I like that.

24 MR. VANCE: Yeah. And then that way we can -

25 CHAIRMAN SMITH: Gotcha.



1           Mr. VANCE: -- we can still issue warnings for what appear to  
2 be simple, unintentional mistakes.

3           MS. CASTAÑUELA: Sure. A situation where a deposit was made in  
4 one charity instead of the other, that's clear. The money's there. It's  
5 not like it disappeared or something.

6           CHAIRMAN SMITH: Exactly.

7           MS. CASTAÑUELA: So that's clear.

8           MS. GREEN: [inaudible] here.

9           MS. CASTAÑUELA: Right.

10          CHAIRMAN SMITH: Cool. Cool. Any other comments on the rule  
11 review?

12                           AGENDA ITEM VI

13          CHAIRMAN SMITH: Moving on to item number six, the annual work  
14 plan. You should've all received an email or a copy of the annual work  
15 plan. Let me stress right off the bat that this is a draft. This is not  
16 the final product. In the past, we have looked at and voted on the annual  
17 work plan and the annual report in one meeting, and presented it to the  
18 commissioners the very next meeting without the commissioners being able  
19 to look at it. It's also been a very short process time for staff as  
20 well. So that's kind of why we're trying to get this done in two meetings  
21 instead of one. That way, the staff has a heads-up and also the  
22 commissioners as well. So, there are some edits I think that will need  
23 to be made to not only the work plan but the annual report. So, if,  
24 LaDonna, do you want to talk about the annual work plan or Tyler? Do you  
25 have any comments on that so far?

1 MS. CASTAÑUELA: I've not had a chance to look at it closely.  
2 Sorry.

3 CHAIRMAN SMITH: Okay. Anyone else on the work plan?

4 MR. ANASTASIO: I did not receive that work plan.

5 CHAIRMAN SMITH: Pardon?

6 MR. DUNCAN: He didn't receive the email.

7 MR. ANASTASIO: This is Mike. I didn't receive that email.

8 CHAIRMAN SMITH: Okay. I'll make sure to resend that to you.  
9 We're not going to vote on this today. This is just draft work, so I'll  
10 make sure you get that and let you look over that. Tom Stewart.

11 MR. STEWART: This is Tom Stewart with Texas Charity Advocates.  
12 Again, I'd reiterate something that I said earlier. I would hope that  
13 in the work plan, y'all would consider looking at ways in which this  
14 committee can make recommendations on some sort of public-private  
15 partnership that is designed to promote the game of bingo in the state  
16 of Texas among consumers. The other thing, given the rules discussion  
17 that we just had, and the three items that Tyler mentioned at the end:  
18 the percentage prize payout for pull-tabs, the selling gift certificates  
19 online, and establishing some sort of minimum price structure for  
20 handhelds. It might be something that you might want to consider  
21 including in your work plan. Again, creating subcommittees to look at  
22 those issues and with the ultimate goal of making a recommendation to  
23 the Commission to start a rulemaking procedure. I think that's a perfect  
24 use of the BAC to look at; is that a direction that we ought to head.  
25 And so by including that in the work plan, that gives you the opportunity

1 to consider those issues. So just a suggestion as you work through the  
2 finalizing the work plan.

3 CHAIRMAN SMITH: Okay. Thank you. LaDonna, just real quick on  
4 the work plan and the annual report -- we will plan on voting on sending  
5 these to the commissioners at our next meeting.

6 MS. CASTAÑUELA: That sounds good.

7 CHAIRMAN SMITH: That'll satisfy requirement and all that.  
8 Yep.

9 MS. CASTAÑUELA: That will -- well, that means you can -- okay,  
10 so you'll vote on it, you'll make the recommendation the next day. It  
11 won't be the recommended version. There won't be a recommended version  
12 in the commissioner's notebook.

13 CHAIRMAN SMITH: So, we need to wrap this up before that.

14 MS. CASTAÑUELA: If you want something in the commissioners'  
15 notebooks material --

16 CHAIRMAN SMITH: I think that would be very helpful for the  
17 commissioners; I think they would appreciate that. Okay, so we may have  
18 to do some email votes or something like that, which we're allowed to  
19 do without having a full-on meeting.

20 MR. VANCE: You're allowed to meet outside of this structure,  
21 but I think for you to take a formal action as a BAC, then I think you  
22 would need a BAC meeting and you could have a virtual meeting to approve.  
23 So, you can pass this thing back and forward and have email discussions  
24 or discussions at the bar or whatever you want. But in order for the BAC  
25 to formally approve some version of this to be passed onto to the  
26 commissioners, then you would need a meeting. But again, I think we could

1 have a virtual one and we needed what, two weeks? Two weeks before the  
2 Commission meeting in August, so that it can be uploaded to their file.

3 CHAIRMAN SMITH: Okay.

4 MR. VANCE: Or I think it's 10 days. The agenda gets posted  
5 two weeks in advance and then they want files 10 days. Right.

6 MS. CASTAÑUELA: Agenda for the Commission meeting. Now I'm  
7 thinking about the virtual BAC meeting.

8 MR. DUNCAN: Yeah, do a virtual meeting.

9 CHAIRMAN SMITH: Would right after the 4th of July work for  
10 you? Maybe?

11 MR. DUNCAN: Be that following week?

12 MS. URIEGAS: Yeah, or --

13 CHAIRMAN SMITH: Or just a virtual meeting?

14 MS. CASTAÑUELA: Well, if it's a meeting, I was just talking  
15 to Tyler about getting an agenda posted even for the virtual meeting and  
16 when that would be. So, let's see, the 4th of July is a Thursday, so the  
17 week after that?

18 CHAIRMAN SMITH: Yeah, if we do it maybe that Monday or that  
19 Tuesday.

20 MR. DUNCAN: That's good.

21 CHAIRMAN SMITH: Does that sound good with everybody? Just a  
22 virtual?

23 MR. DUNCAN: Eighth or ninth?

24 CHAIRMAN SMITH: Eighth or ninth? Yes.

25 MS. URIEGAS: Yeah. I'm good either day.

1           CHAIRMAN SMITH: And unless there's some dire need, we would  
2 only put two things on that virtual agenda, which would be the work plan  
3 and the annual report, unless there's some dire need for something else.

4           MS. CASTAÑUELA: It's Monday, July 8th.

5           CHAIRMAN SMITH: I think everybody's good with that.

6           MR. ANASTASIO: Yes, I'm definitely good with that.

7           CHAIRMAN SMITH: Okay. Do you have a time preference on that?  
8 Do you want to do morning or afternoon, LaDonna?

9           MS. CASTAÑUELA: My day's wide open on the eighth.

10          MS. URIEGAS: 10:00 a.m.

11          CHAIRMAN SMITH: 10:00 a.m. okay with everybody?

12          MS. CASTAÑUELA: Sure.

13          CHAIRMAN SMITH: Okay.

14          MR. POHL: Yes, sir.

15          CHAIRMAN SMITH: Excellent. And then once we vote on that, it  
16 would go into the commissioners' packets, correct?

17          MS. CASTAÑUELA: I can get it to the -- Yes.

18          CHAIRMAN SMITH: Yeah, excellent.

19          MR. VANCE: So, they need it 10 days before the meeting in  
20 August, so you're looking at the very end of July.

21          CHAIRMAN SMITH: Okay. Okay, excellent.

22          MR. VANCE: July 30th, Dorota tells me.

23          MR. DUNCAN: So, July 8th is plenty of time to get that in  
24 there.

25          CHAIRMAN SMITH: Yes.

26          MR. VANCE: Excellent. Okay.

1 CHAIRMAN SMITH: Good.

2 MS. CASTAÑUELA: For the materials or for the agenda?

3 MR. VANCE: For the agenda.

4 CHAIRMAN SMITH: Any other comment on the annual work plan?  
5 Any public comment?

6 AGENDA ITEM VII

7 CHAIRMAN SMITH: Okay. Moving on to the next item, BAC annual  
8 report. I do have some notes on that. So, I was given some notes that -  
9 - the first part of the annual report, the section where it quotes  
10 government code, that doesn't actually -- that's not exactly what we  
11 need to be putting there. We probably should cite to 2001.057 and the  
12 annual work plan, which is item eight, recite that. Then on gross  
13 receipts, there's a correction we need to use. Instead of 894 million,  
14 it would be 897.5. And keep in mind, the annual report is a rough draft  
15 as well, so it's a working document. Then that last line under gross  
16 receipts 2021, it needs to be changed to 2024, just typo stuff. A lot  
17 of this was just put together rounding numbers off, but I think we need  
18 to be a lot more specific on this going forward. Adjusted gross, change  
19 197 million to 197.9 and then change the percentage of the increase  
20 there. Under net proceeds that last line of that first paragraph, change  
21 it to 28.7 million instead of 28.5, and then change those two percentages  
22 in that next line. Going on to charitable distributions, the second  
23 paragraph, the single line where it says XX million, put the actual  
24 number in there and then change the 27.9 million to 29.3 million. And  
25 then on expenses, we'll need to adjust those numbers in that paragraph  
26 there to reflect the correct amount. Under attendance, we need to change

1 10.8 to 10 and 10.1 to 10.2 million and then correct the 44% drop there  
2 in the last line, correct that percentage. There's a typo on the fourth  
3 paragraph down, the fourth line, where it says Charitable Bingo needs  
4 to consider some kind -- it says time, it should say kind. And then  
5 under the website review, kind of determine whether we're talking about  
6 the website or the BSP. Sometimes when we're in these meetings, we talk  
7 about the website, sometimes we talk about the BSP, and we've been asked  
8 to clarify which one exactly we're talking about. And that's just some  
9 of the quick notes that we have.

10 Are there any other corrections anybody else saw or wants to  
11 add to or take away from? Okay, so I would like to take this time to  
12 personally thank Tom Stewart at Texas Charity Advocates for helping with  
13 this. Tom does most of the heavy lifting on these two reports. Tom, I  
14 really thank you for helping with this. You've really taken a big load  
15 off, so we appreciate your efforts and we're looking forward to working  
16 with you some more on these.

17 MR. STEWART: Tom Stewart with Texas Charity Advocates. I just  
18 have to admit that it's possible that I sent you the wrong draft, and  
19 I'm always happy to help and support the work of this group at any point  
20 in time. But as I was looking through documents on my computer, they  
21 were scattered all about, and so I might not have been working from last  
22 year's version to update for this year's version. So, it's very possible  
23 that part of the reason why some of those numbers are wrong and the  
24 percentages are wrong is I sent you the wrong draft. So, I apologize for  
25 that, and we'll make sure we get that corrected.

1           CHAIRMAN SMITH: Tom, those are very simple corrections and I  
2 know that you helped churn this out in a very quick pace to help make  
3 sure that the commissioners are in the loop on this. The body of this  
4 is excellent. Just some small typos that we need to correct. That's all.  
5 So, we couldn't do it without you. So, thank you very much, Tom.

6           Any other comments on the annual report? Okay, any public  
7 comment on the annual report?

8                           AGENDA ITEM VIII

9           CHAIRMAIN SMITH: Moving on to item number eight, fiscal year  
10 2025 Bingo Advisory Committee nominations update. So, at the last  
11 commission meeting, the commissioners decided to open up the nominations  
12 process for all seats on the BAC and, after some conversations with some  
13 of my colleagues up here -- LaDonna, Tyler, I'm going to ask a question  
14 and I'm not trying to put you on the spot. If you need to get back to  
15 us, that's okay, we don't mind. But if you could, could you tell us  
16 what's expected of us to go through this process this time? Because in  
17 the past we were tasked with reviewing the nominee forms that we received  
18 from staff and selecting a single nomination to recommend to the  
19 commissioners, which we did. We don't do the background checks or  
20 anything, that's all for staff to do. So, we only have the ones that are  
21 cleared, but -- I guess, if you'll explain that process to us, one of  
22 the main questions that I've received is, Do we nominate ourselves that  
23 are already on the board? We're kind of in a conundrum here -- there's  
24 not really any open seats on the BAC. How would we proceed with this if  
25 you understand my --



1 MR. VANCE: Sure. So, I'll give you the rule. The rule says  
2 that the BAC may be a resource to the Commission, by reviewing  
3 nominations, interviewing prospective members, and submitting its  
4 recommendations to the commissioners for consideration. However, the BAC  
5 will not act to exclude nominees. So, my recommendation -- because it  
6 says the BAC may be a resource to the commissioners -- I would ask them  
7 tomorrow what they would like you guys to do, maybe in light --

8 CHAIRMAN SMITH: [inaudible] Tyler.

9 MR. VANCE: -- of the situation, they just want to leave you  
10 guys completely out of it. I don't know. But yeah, I would ask them. So,  
11 they can if they want you to interview each other and make  
12 recommendations on yourselves, then they can ask you to do that. Or if  
13 they don't want you to be involved in it, they can tell you that as  
14 well.

15 CHAIRMAN SMITH: Okay. So, I guess that's what we'll do  
16 tomorrow. Commissioner Fields, do you want to weigh in on this or maybe  
17 think about it? Okay. All right. Commissioner Fields said she would think  
18 about it. All right. Don't want to put anybody on the hot seat. Okay.  
19 So real quick, we'll go through the BAC nominees. BAC members currently  
20 on the BAC have the --

21 MS. CASTAÑUELA: Trace?

22 CHAIRMAN SMITH: Yes, ma'am.

23 MS. CASTAÑUELA: Before you do that, can I give you all a  
24 little summary about the process so far?

25 CHAIRMAN SMITH: Yes, ma'am.

1 MS. CASTAÑUELA: So, on May 6th, we sent an email blast to  
2 everybody that's in BOSS, which is 14 or 15,000 people. A day or so  
3 after that, you informed me that not all your members received it and I  
4 realized they're not necessarily in BOSS and so I sent it to the BAC  
5 also. I did some additional outreach with some help from my colleagues  
6 with Texas Municipal League, Texas Association of Counties, Texas  
7 Commission on Law Enforcement. Oh, Steve, what was the name of the --

8 MR. BRESNEN: Texas Catholic Bishops Conference.

9 MS. CASTAÑUELA: -- Catholic Bishops Conference. I keep  
10 getting that one confused. I'm sorry. But -- colleagues, help from my  
11 colleagues. Thank you very much. I did all that research, I mean all  
12 that outreach, also to hope to get us a public member for the 2025 BAC.  
13 We have been sending you the applications forms for those that have  
14 passed the eligibility criteria. You've got 13 so far. You don't have  
15 all of them. If there are more that passed the criteria, I will send  
16 them along to you or I'll have them sent to you. And at the point where  
17 I realize you have them all, I will let you know. You should have --  
18 everybody on the dais should have a packet of all 13 hard copies of  
19 those applications and then a little spreadsheet that I thought might  
20 be helpful --

21 CHAIRMAN SMITH: Thank you very much for that spreadsheet, by  
22 the way, that's been great.

23 MS. CASTAÑUELA: -- to see the interest groups that everybody  
24 has requested. You can see that we have at least one person for each  
25 interest group and some of them we have several. So, I just wanted to  
26 give you that background summary.

1           CHAIRMAN SMITH: Excellent. Thank you very much. So, everybody  
2 has the applications that have been submitted in your packet. I would  
3 urge all the members of the BAC to guard those packets carefully. There  
4 is personal and sensitive information in those that is not for public  
5 release. Obviously the names are public, correct? We can make public the  
6 names right? Okay. So, the names can be public, but the data on the  
7 nomination forms needs to be --

8           MS. URIEGAS: Confidential.

9           CHAIRMAN SMITH: -- kept, yeah, confidential. Kept between the  
10 BAC members and the staff. So, I'm just going to real quick -- I've sent  
11 some of the applications out to people. I did not resend the applications  
12 for current members out because I think we're all familiar with each  
13 other pretty well in what we do and how we do it, but you now have a  
14 printout of those. So, I'm just going to go down the spreadsheet here  
15 just so everybody is aware. I would urge each of you to reach out on  
16 your own unless we want to form a subcommittee, which we can. If we want  
17 to form a subcommittee, we can do that and have the subcommittee reach  
18 out to the nominees that have passed background check. If not, we can  
19 leave it to each one of us.

20           MR. DUNCAN: Should we wait till after you find out what the  
21 commissioners want us to do, how we want to handle that?

22           CHAIRMAN SMITH: I think we have to do our due diligence and  
23 do the interviews. Do you agree with -- LaDonna, Tyler?

24           MR. VANCE: I think you're free to -- I think you should form  
25 this subcommittee today while we're all here and then see what they say  
26 tomorrow. If they tell you tomorrow they don't want you involved in it

1 at all, then we just don't do anything. But at least that way you've got  
2 the subcommittee formed. If they do tell you tomorrow, Yes, please call  
3 these guys and tell us what you think, then you've formed that  
4 subcommittee here today, so --

5 CHAIRMAN SMITH: Okay.

6 Mr. VANCE: -- and then you can start working on it.

7 CHAIRMAN SMITH: Okay.

8 MS. URIEGAS: Excuse me. In the past, Kim and I had taken the  
9 list and separated it, and each did some interviews over the phone. So,  
10 I can do some of that if somebody wants to help me.

11 CHAIRMAN SMITH: Yeah, I'd be glad to help with that. Does  
12 anybody else want to jump in on that to help? No. Okay. Yeah. Melodye?  
13 Okay. So, subcommittee will be Veronica and Melodye and I. Another  
14 question. If the commissioners instruct us tomorrow to do the interviews  
15 to vet them, should we go ahead and give our recommendation at the next  
16 BAC meeting that we had scheduled for the July the eighth on the Teams  
17 meeting?

18 MR. VANCE: I think you could do it in August. So, August will  
19 be the Commission meeting when all these folks are appointed. And then  
20 -- so they'll ask for the BAC's or if they want your input, they'll ask  
21 for your talk at the August Commission meeting. They would expect you  
22 to say the BAC voted yesterday to recommend the following people. So, I  
23 don't think you need to handle this at the special BAC meeting in July.  
24 This can be done at the August one before the Commission meeting.

25 CHAIRMAN SMITH: Okay. All right. That'll work. All right. Any  
26 public comment on the nominations?

## 1 AGENDA ITEM IX

2 CHAIRMAN SMITH: If not, we'll go on to item nine. Old  
3 business, any public comment?

## 4 AGENDA ITEM X

5 CHAIRMAN SMITH: If not, we'll go on to item number ten. New  
6 business?

7 MR. DUNCAN: Yeah, Tommy Duncan with the distributors. I'd  
8 like to make a motion that, the Commission is going to look at a Bingo  
9 Advisory Commission opinion tomorrow, and if they agree with staff, we  
10 would like the staff to send that -- while they post it on the website,  
11 go ahead and send it to all the lessors and charities they have emails  
12 for, if that's possible.

13 MS. CASTAÑUELA: Yes. Well, the plan would be to issue the BAO  
14 over the same email blast --

15 MR. DUNCAN: Okay.

16 MS. CASTAÑUELA: -- the 15,000 names.

17 MR. DUNCAN: Right. Right. All right. Cool. That's all I have.

18 CHAIRMAN SMITH: Okay. So --

19 MR. VANCE: So you got a motion? So, you either second the  
20 motion or withdraw the motion.

21 CHAIRMAN SMITH: Well, do we need to do that since that's  
22 already the status quo?

23 MR. VANCE: I don't think so.

24 CHAIRMAN DUNCAN: There you go.

25 MR. VANCE: You got a motion, so --

26 CHAIRMAN SMITH: Withdraw that.

1 MR. DUNCAN: Yeah, I'll withdraw the motion. She's already  
2 going to do it.

3 CHAIRMAN SMITH: All right. Thank you, Tommy. Excellent. Okay.  
4 No other new business. Any public comment?

5 AGENDA ITEM XI

6 CHAIRMAN SMITH: All right, we already have -- let's move on  
7 to item eleven, date for the next meeting. We will have a Teams meeting,  
8 July the 8th at 10 a.m. to discuss the annual work plan and the annual  
9 report. And then we will have the August BAC meeting on the sixth, with  
10 the Commission meeting on the seventh.

11 MS. CASTAÑUELA: So, I have been able to confirm that on August  
12 6th we do have this room all day, so you can schedule your rules review  
13 meeting and the BAC meeting. Do you want to talk about times right now?

14 MR. DUNCAN: Sure. Yeah.

15 MS. URIEGAS: 10 a.m. for the --

16 CHAIRMAN SMITH: Rules -

17 MS. URIEGAS: -- rules review.

18 MS. GREEN: Yeah, 10 to 12.

19 MS. URIEGAS: 10 to 12. And then take a break.

20 CHAIRMAN SMITH: What time do you want to come back, LaDonna,  
21 for the BAC meeting? Two?

22 MS. CASTAÑUELA: 2 o'clock? Will that --

23 CHAIRMAN SMITH: Give you a couple hours for lunch --

24 MS. CASTAÑUELA: -- give you enough time to have a meeting and  
25 lunch?

26 MR. DUNCAN: Yep.

## AGENDA ITEM XII

CHAIRMAN SMITH: I think so. Okay. Any other comments, LaDonna?

We all good on that? Yep. Okay. All right. This meeting is adjourned at

11:26. Thank you for coming.