

INTEROFFICE MEMO

Gary Grief, Executive Director Tyler Vance, Acting Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

From: Deanne Rienstra, Special Counsel *DR*

Date: June 10, 2021

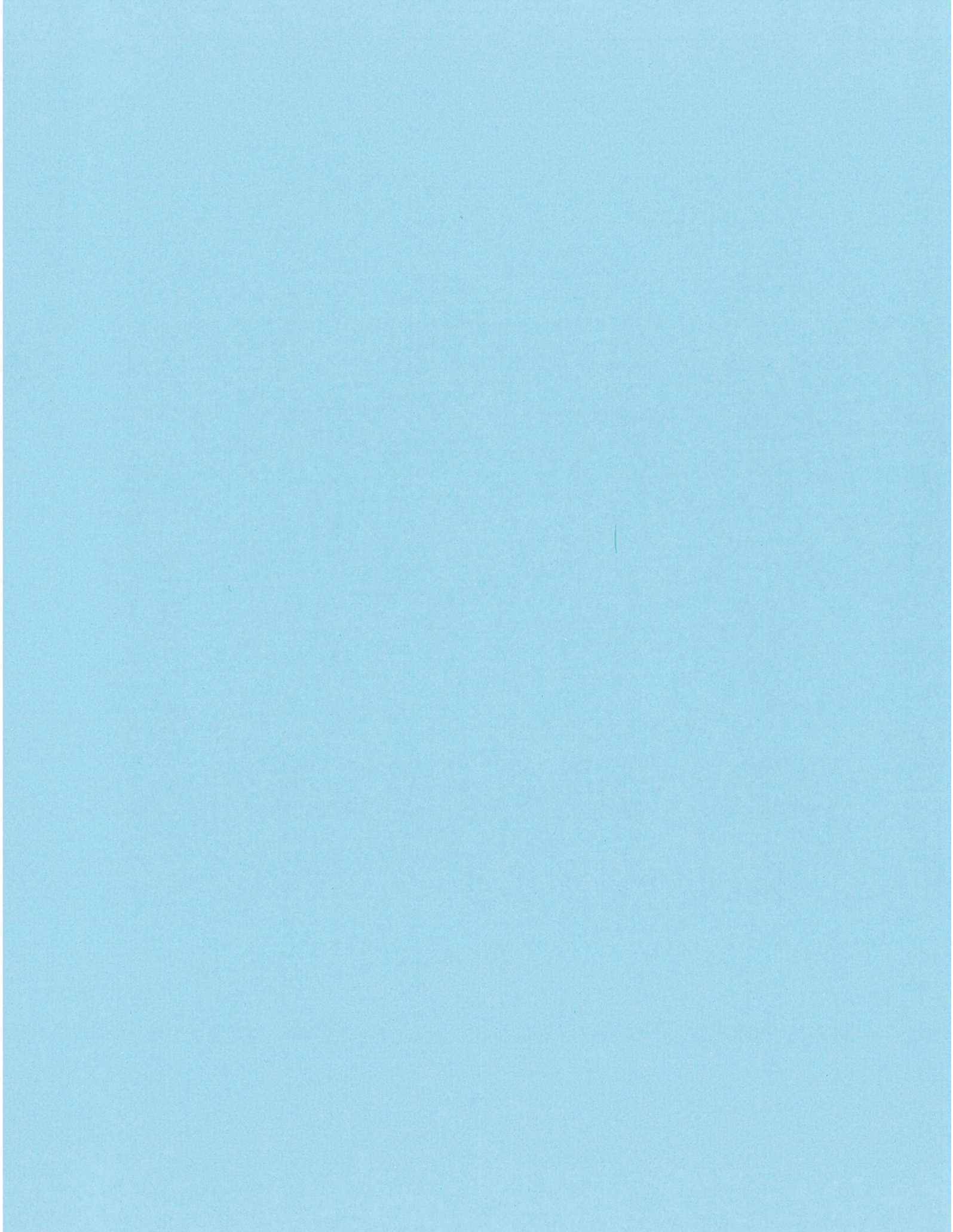
Re: Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §403.101 (Open Records), §403.110 (Petition for Adoption of Rule Changes), §403.301 (Historically Underutilized Businesses), §403.600 (Complaint Review Process), and §403.800 (Savings Incentive Program)

Attached is a draft rule proposal prepared for submission to the *Texas Register* to adopt amendments to the referenced general administration rules without changes to the proposed text as published in the April 23, 2021 issue of the *Texas Register* (46 TexReg 2677) (also attached). The rule amendments are a result of the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039.

The amendments to §403.101 (Open Records) make minor, non-substantive changes to terminology from "open records" to "public information". The amendments to §403.110 (Petition for Adoption of Rule Changes) add language regarding the residency requirement for the petitioner as amended by the 84th Legislature, R.S., Ch. 343 (H.B. 763), Sec. 1, effective June 9, 2015. The amendments to §403.301 (Historically Underutilized Businesses) make minor, non-substantive changes to update a citation to the Texas Comptroller's administrative rules. The amendments to §403.600 (Complaint Review Process) address the availability of a dedicated voicemail system for the reporting and investigation of complaints without the requisite complaint information when the facts involve a significant risk to the public or to the integrity of lottery or bingo games. The amendments to §403.800 (Savings Incentive Program) will address the statement that the Commission has no appropriated undedicated general revenue. The Charitable Bingo Operations Division currently is funded by general revenue. The Charitable Bingo program is supported only as required by bingo fees and the Commission does not foresee retaining any general revenue savings. Finally, these amendments also include non-substantive stylistic changes including "agency" to "commission" and "Commission" to "commission."

The Commission received no written comments on the proposed amendments during the public comment period.

Recommendation: Staff recommends that the Commission adopt the amendments to the referenced rules.



1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §403.101
2 (Open Records), §403.110 (Petition for Adoption of Rule Changes), §403.301 (Historically
3 Underutilized Businesses), §403.600 (Complaint Review Process), and §403.800 (Savings
4 Incentive Program) without changes to the proposed text as published in the April 23, 2021 issue
5 of the *Texas Register* (46 TexReg 2677). The rule amendments are a result of the Commission's
6 recent rule review conducted in accordance with Texas Government Code §2001.039.

7 The amendments to §403.101 (Open Records) make minor, non-substantive changes to
8 terminology from “open records” to “public information”.

9 The amendments to §403.110 (Petition for Adoption of Rule Changes) add language
10 regarding the residency requirement for the petitioner as amended by the 84th Legislature, R.S.,
11 Ch. 343 (H.B. 763), Sec. 1, effective June 9, 2015.

12 The amendments to §403.301 (Historically Underutilized Businesses) make minor, non-
13 substantive changes to update a citation to the Texas Comptroller’s administrative rules.

14 The amendments to §403.600 (Complaint Review Process) address the availability of a
15 dedicated voicemail system for the reporting and investigation of complaints without the requisite
16 complaint information when the facts involve a significant risk to the public or to the integrity of
17 lottery or bingo games.

18 The amendments to §403.800 (Savings Incentive Program) will address the statement that
19 the Commission has no appropriated undedicated general revenue. The Charitable Bingo
20 Operations Division currently is funded by general revenue. The Charitable Bingo program is
21 supported only as required by bingo fees and the Commission does not foresee retaining any
22 general revenue savings.

1 Finally, these amendments also include non-substantive stylistic changes including
2 “agency” to “commission” and “Commission” to “commission.”

3 The Commission received no written comments on the proposed amendments during the
4 public comment period.

5 These amendments are adopted under the authority of Texas Government Code §552.230,
6 which authorizes a state agency to promulgate reasonable rules of procedure under which public
7 information may be inspected and copied efficiently, safely, and without delay; Texas Government
8 Code §2001.004(1), which requires state agencies to adopt rules of practice; and Texas
9 Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement
10 and administration of the laws under the Commission's jurisdiction.

11 §403.101. Public Information. [~~Open Records.~~]

12 (a) Charges for Copies of Public Records. The charges to any person requesting reproductions of
13 any readily available record of the Texas Lottery Commission will be the charges established by
14 rule by the Office of the Attorney General in accordance with the Texas Government Code Chapter
15 552, Subchapter F.

16 (1) Pursuant to Texas Government Code §552.275, the commission [~~Commission~~] has
17 established a limit of 36 hours per fiscal year as the maximum amount of time commission
18 [~~agency~~] personnel are required to spend producing public information for inspection or
19 duplication by a requestor, or providing copies of public information to a requestor, without the
20 commission [~~agency~~] recovering costs attributable to that personnel time.

21 (2) The commission [~~agency~~] will provide each requestor a written statement of the amount
22 of personnel time spent complying with each request for public information from the requestor
23 and the cumulative amount of time spent complying with requests for public information from the

1 requestor during the fiscal year. Subject to the provisions of §552.275, when the 36-hour limit is
2 met or exceeded, the commission [agency] will require a requestor to pay costs attributable to cost
3 of materials, overhead, and personnel time necessary to comply with the request.

4 (b) The commission [agency] may furnish public records without charge or at a reduced charge if
5 it [the agency] determines that waiver or reduction of the fees is in the public interest.

6 (c) Public Information [~~Open Records~~] Requests. The following guidelines apply to requests for
7 records under the Public Information Act, Texas Government Code, Chapter 552.

8 (1) Requests must be in writing and reasonably identify the records requested. All requests
9 must be submitted to the commission's [agency's] Public Information Coordinator by one of the
10 methods indicated on the commission's [agency's] website.

11 (2) Records access will be by appointment only.

12 (3) Records access is available only during the regular business hours of the commission
13 [agency].

14 (4) Generally, unless confidential information is involved, review may be by physical
15 access or by duplication, at the requestor's option. Any person, however, whose request would be
16 unduly disruptive to the ongoing business of the office may be denied physical access and will
17 only be provided the option of receiving copies.

18 (5) When the safety of any public record is at issue, physical access may be denied, and
19 the records will be provided by duplication as previously described.

20 (6) Confidential files will not be made available for inspection or for duplication except
21 under certain circumstances, e.g., court order.

22 (7) All public information [~~open records~~] requests appointments will be referred to the
23 commission's [agency's] Public Information Coordinator before complying with a request.

1 §403.110. Petition for Adoption of Rule Changes.

2 (a) Any interested person or agency may petition the commission [~~Commission~~] requesting
3 adoption of a rule. Petitions shall be in writing, should be filed with the general counsel, and shall
4 comply with the following requirements.

5 (1) Each petition must state the name and address of the petitioner.

6 (2) Each petition shall include:

7 (A) a brief explanation of the proposed rule;

8 (B) the text of the proposed rule prepared in a manner to indicate the words to be
9 added or deleted from the current text, if any;

10 (C) a statement of the statutory or other authority under which the rule is proposed
11 to be promulgated; and

12 (D) a justification for adoption of the rule.

13 (3) For the purposes of this section, an interested person must be:

14 (A) a resident of this state;

15 (B) a business entity located in this state;

16 (C) a governmental subdivision located in this state; or

17 (D) a public or private organization located in this state that is not a state agency.

18 (b) The general counsel or the general counsel's designee shall review all petitions for compliance
19 with this section. The petitioner shall have the right to file a corrected petition which complies
20 with the requirements of this section.

21 (c) Upon receipt of a petition which complies with the requirements of this section, the general
22 counsel or the general counsel's designee will consult with the persons in the commission
23 [~~Commission~~] who are responsible for the area with which the rule is concerned to evaluate the

1 merits of the proposal. Not later than the 60th day after the date of receipt of a petition, the general
2 counsel or the general counsel's designee shall present the petition to the commission with a
3 recommendation on whether a rulemaking proceeding should be initiated.

4 (d) The commission shall deny the petition or initiate rulemaking proceedings in accordance with
5 the Administrative Procedure Act (APA) and these rules. The commission may modify any
6 proposed rule to ensure that it conforms to the format of commission rules, adequately addresses
7 the perceived problem or other subject matter, and conforms to the filing requirements of the *Texas*
8 *Register*.

9 §403.301. Historically Underutilized Businesses.

10 The Texas Lottery Commission adopts by reference the rules administered by the Office of the
11 Comptroller of Public Accounts regarding historically underutilized businesses, which are set forth
12 in the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter D, Division 1, §§20.281
13 - 20.298.

14 §403.600. Complaint Review Process.

15 (a) Purpose. This section implements §467.111 of the Texas Government Code, which requires
16 the commission [~~Texas Lottery Commission (Commission)~~] to maintain a system to promptly and
17 efficiently act on each complaint filed with the commission [~~Commission~~] and by rule adopt and
18 publish procedures governing the entire complaint process from submission to disposition. The
19 Lottery Operations Division shall manage the process for all complaints relating to any
20 commission [~~Commission~~] activities, regardless of the affected commission [~~Commission~~]
21 division or subject matter. The Lottery Operations Division may adopt written procedures to
22 further implement the requirements of §467.111 and this section.

1 (b) Complaint Intake. Complaints must be submitted by mail, email, voice mail on a dedicated
2 voice mail box, in person, or fax.

3 (1) All complaints shall be monitored through the complaint tracking system and all
4 jurisdictional complaints will be tracked, from initial intake or discovery of the complaint to final
5 disposition. A jurisdictional complaint is a complaint which alleges a violation of the State Lottery
6 Act (Government Code, Chapter 466), the Bingo Enabling Act (Occupations Code, Chapter 2001),
7 commission [~~Commission~~] rules, or any other applicable provisions of the Texas Government
8 Code or the Texas Administrative Code under which the commission [~~Commission~~] has the
9 authority to interpret and apply the law.

10 (2) The commission [~~Commission~~] shall make available information on how to file a
11 complaint on the commission's [~~Commission's~~] internet website [~~web-site~~], intranet, at
12 commission [~~Commission~~] claim centers, Bingo regional offices, licensed lottery retail locations,
13 bingo playing locations, and the commission [~~Commission~~] headquarters.

14 (3) Commission staff shall maintain and monitor a toll-free telephone number during
15 normal working hours to assist complainants. Commission staff may also maintain and monitor a
16 dedicated voice mail box to assist with complaint intake.

17 (c) Complaint Processing. The commission [~~Commission~~] requires specific information to process
18 and investigate a complaint. Commission staff will review all complaints to ensure they are
19 jurisdictional [~~, in writing,~~] and include the complainant's name, mailing address, and contact
20 phone number. If a complaint is received without all necessary information, the staff will make
21 reasonable efforts to contact the complainant and obtain the necessary information. Non-
22 jurisdictional complaints will be entered in the complaint tracking system as contacts along with
23 an explanation why the complaint is non-jurisdictional, but will not be referred for investigation

1 or follow-up. Staff will notify the complainant verbally or in writing that the complaint is non-
2 jurisdictional.

3 (d) If the complaint is jurisdictional and contains the required information, the complaint will be
4 entered in the complaint tracking system and referred to the appropriate commission [~~Commission~~]
5 division or department for investigation or follow-up. Commission staff will provide an
6 acknowledgement notification verbally or in writing to the complainant after the complaint is
7 processed. Commission staff will provide periodic ongoing complaint status updates verbally or
8 in writing. A closing notification will be provided to the complainant verbally or in writing when
9 the complaint is closed.

10 (e) Complaint Analysis and Reports. The commission [~~Commission~~] staff will maintain a
11 comprehensive database of complaints in order to identify trends or issues related to violations of
12 state laws under the commission's [~~Commission's~~] jurisdiction.

13 (1) At least once each biennium, designated commission [~~Commission~~] staff will generate
14 a trend analysis report. The report will:

15 (A) categorize complaints based on the type of violation alleged;

16 (B) track each complaint from submission to disposition;

17 (C) evaluate the effectiveness of the [~~of the~~] commission's [~~Commission's~~]
18 enforcement process; and

19 (D) include any additional information the commission [~~Commission~~] considers
20 necessary.

21 (2) The trend analysis report shall be made available to the public.

22 (f) Americans with Disabilities Act Complaints. Notwithstanding the foregoing, all complaints to
23 the commission [~~Commission~~] regarding Americans with Disabilities Act violations are governed

1 by the provisions of §401.407 of this title (relating to Complaints Relating to Non-accessibility),
2 and not this section.

3 §403.800. Savings Incentive Program.

4 (a) Purpose. This section implements Chapter 2108 of the Texas Government Code, which requires
5 state agencies to provide notice to the comptroller of savings realized from appropriated
6 undedicated general revenue and to retain a portion of the amounts verified by the comptroller.
7 The Charitable Bingo Operations Division is funded by general revenue. However, the Bingo
8 program is supported by fees and the commission does not foresee retaining any general revenue
9 savings at this time. [Currently, the Commission has no appropriated undedicated general revenue
10 and therefore may not retain any savings.] However, consistent with the statute, this section will
11 govern any potential future savings realized from appropriated undedicated general revenue.

12 (b) Retention of Funds. The commission will retain one-half of the amount of savings verified by
13 the comptroller.

14 (c) Use of Funds. Of the savings retained by the commission [~~Commission~~], one-half:

15 (1) must be used to make additional principal payments for general obligation bonds issued
16 by the commission [~~Commission~~] or on behalf of the commission [~~Commission~~] by the Texas
17 Public Finance Authority; or

18 (2) if there are no outstanding general obligation bonds issued by the commission
19 [~~Commission~~] or on behalf of the commission [~~Commission~~] by the Texas Public Finance
20 Authority, may be used to provide bonuses, distributed equally, to each commission [~~Commission~~]
21 employee who:

22 (A) is a current full-time equivalent employee of the commission [~~Commission~~];

1 (B) worked for the commission [~~Commission~~] as a full-time equivalent employee
2 for the entire fiscal year in which the savings were realized; and

3 (C) is directly responsible for or worked in a department, office, or other division
4 within the commission [~~Commission~~] that is responsible for the savings realized.

5 (3) If the amount of savings verified by the comptroller, expressed as a percentage of the
6 total amount of undedicated general revenue derived from nonfederal sources appropriated to the
7 commission [~~Commission~~] for the fiscal year in which the savings were realized, is:

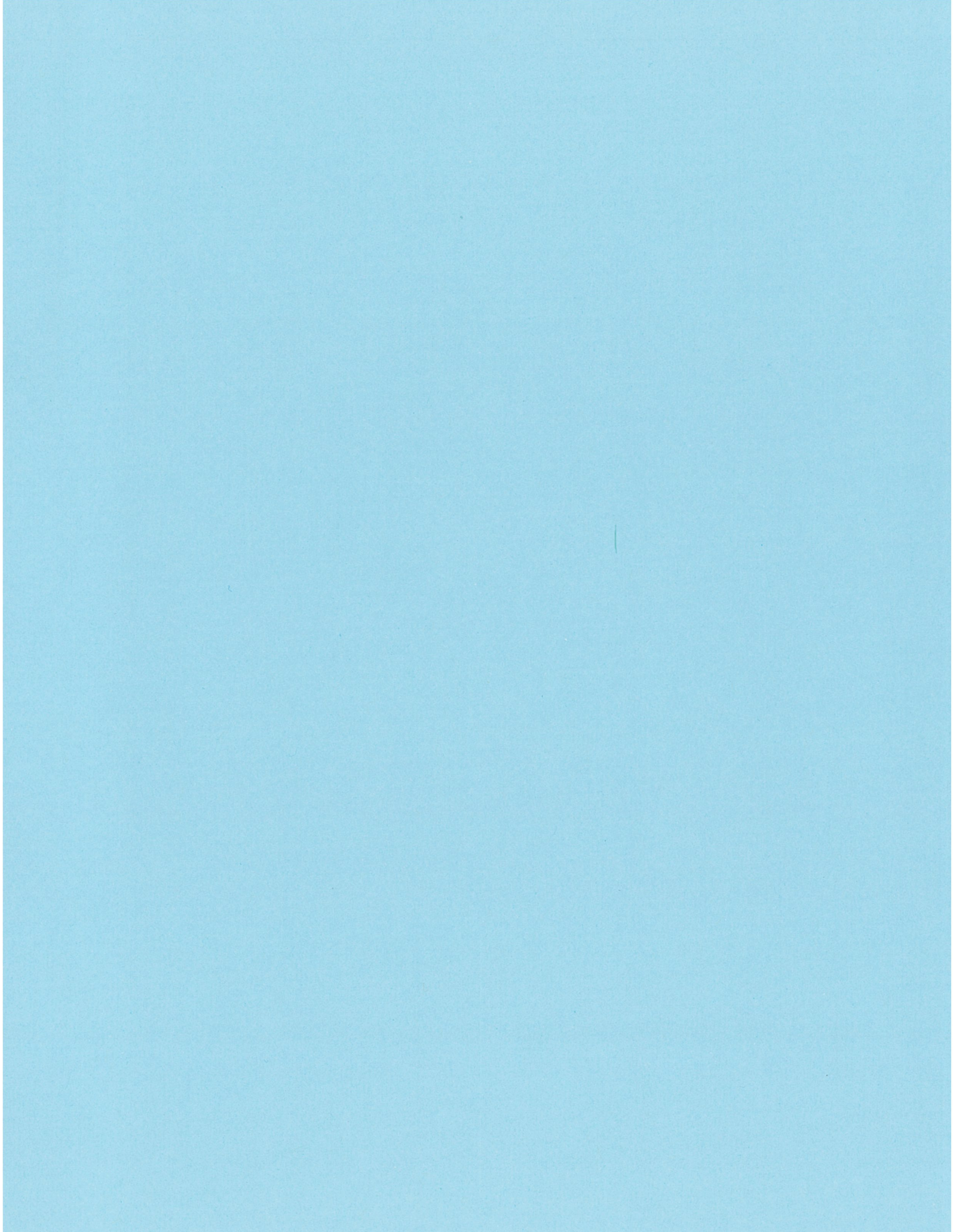
8 (A) less than three percent, a bonus described by subsection (c)(2) of this section
9 may not exceed \$250;

10 (B) at least three percent but less than five percent, a bonus described by subsection
11 (c)(2) of this section may not exceed \$500;

12 (C) at least five percent but less than 10 percent, a bonus described by subsection
13 (c)(2) of this section may not exceed \$750; and

14 (D) 10 percent or more, a bonus described by subsection (c)(2) of this section may
15 not exceed \$1,000.

16 (4) The commission [~~Commission~~] may not provide a bonus under subsection (c)(2) of this
17 section to a [~~an~~] commission employee [~~of the Commission~~] who serves in a director-level
18 position, including the executive director.



Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
Earliest possible date of adoption: May 23, 2021
For further information, please call: (512) 463-3671

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**PART 9. TEXAS LOTTERY
COMMISSION**

CHAPTER 403. GENERAL ADMINISTRATION

16 TAC §§403.101, 403.110, 403.301, 403.600, 403.800

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §403.101 (Open Records), §403.110 (Petition for Adoption of Rule Changes), §403.301 (Historically Underutilized Businesses), §403.600 (Complaint Review Process), and §403.800 (Savings Incentive Program). The proposed rule amendments are a result of the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039.

The proposed amendments to §403.101 (Open Records) make minor, non-substantive changes to terminology from "open records" to "public information".

The proposed amendments to §403.110 (Petition for Adoption of Rule Changes) add language regarding the residency requirement for the petitioner as amended by the 84th Legislature, R.S., Ch. 343 (H.B. 763), Sec. 1, effective June 9, 2015.

The proposed amendments to §403.301 (Historically Underutilized Businesses) make minor, non-substantive changes to update a citation to the Texas Comptroller's administrative rules.

The proposed amendments to §403.600 (Complaint Review Process) address the availability of a dedicated voicemail system for the reporting and investigation of complaints without the requisite complaint information when the facts involve a significant risk to the public or to the integrity of lottery or bingo games.

The proposed amendments to §403.800 (Savings Incentive Program) will address the statement that the Commission has no appropriated undedicated general revenue. The Charitable Bingo Operations Division currently is funded by general revenue. The Charitable Bingo program is supported only as required by bingo fees and the Commission does not foresee retaining any general revenue savings.

Finally, these amendments also include non-substantive stylistic changes including "agency" to "commission" and "Commission" to "commission."

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Bob Biard, General Counsel, has determined that for each year of the first five years the proposed amendments will be in effect, the public benefit expected is improved clarity and greater understanding of agency practices and procedures based on the removal of obsolete language and the use of updated and consistent terminology.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed rule amendments do not create or eliminate a government program.
- (2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed rule amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed rule amendments do not require an increase or decrease in fees paid to the Commission.
- (5) The proposed rule amendments do not create a new regulation.
- (6) The proposed amendments do not expand or limit an existing regulation.
- (7) The proposed rule amendments do not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed rule amendments do not positively or adversely affect this state's economy.

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Deanne Rienstra, Special Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

These amendments are proposed under the authority of Texas Government Code §552.230, which authorizes a state agency to promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay; Texas Government Code §2001.004(1), which requires state agencies to adopt rules of practice; and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapters 466, 467, 552, 2001, 2108, and 2161.

§403.101. Public Information. [Open Records.]

(a) Charges for Copies of Public Records. The charges to any person requesting reproductions of any readily available record of the Texas Lottery Commission will be the charges established by rule by the Office of the Attorney General in accordance with the Texas Government Code Chapter 552, Subchapter F.

- (1) Pursuant to Texas Government Code §552.275, the commission [~~Commission~~] has established a limit of 36 hours per fiscal year as the maximum amount of time commission [~~agency~~] personnel

are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without the commission [agency] recovering costs attributable to that personnel time.

(2) The commission [agency] will provide each requestor a written statement of the amount of personnel time spent complying with each request for public information from the requestor and the cumulative amount of time spent complying with requests for public information from the requestor during the fiscal year. Subject to the provisions of §552.275 when the 36-hour limit is met or exceeded, the commission [agency] will require a requestor to pay costs attributable to cost of materials, overhead, and personnel time necessary to comply with the request.

(b) The commission [agency] may furnish public records without charge or at a reduced charge if it [the agency] determines that waiver or reduction of the fees is in the public interest.

(c) Public Information [Open Records] Requests. The following guidelines apply to requests for records under the Public Information Act, Texas Government Code, Chapter 552.

(1) Requests must be in writing and reasonably identify the records requested. All requests must be submitted to the commission's [agency's] Public Information Coordinator by one of the methods indicated on the commission's [agency's] website.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the commission [agency].

(4) Generally, unless confidential information is involved, review may be by physical access or by duplication, at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will only be provided the option of receiving copies.

(5) When the safety of any public record is at issue, physical access may be denied, and the records will be provided by duplication as previously described.

(6) Confidential files will not be made available for inspection or for duplication except under certain circumstances, e.g., court order.

(7) All public information [open records] requests appointments will be referred to the commission's [agency's] Public Information Coordinator before complying with a request.

§403.110. *Petition for Adoption of Rule Changes.*

(a) Any interested person or agency may petition the commission [Commission] requesting adoption of a rule. Petitions shall be in writing, should be filed with the general counsel, and shall comply with the following requirements.

(1) Each petition must state the name and address of the petitioner.

(2) Each petition shall include:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is proposed to be promulgated; and

(D) a justification for adoption of the rule.

(3) For the purposes of this section, an interested person must be:

(A) a resident of this state;

(B) a business entity located in this state;

(C) a governmental subdivision located in this state; or

(D) a public or private organization located in this state that is not a state agency.

(b) The general counsel or the general counsel's designee shall review all petitions for compliance with this section. The petitioner shall have the right to file a corrected petition which complies with the requirements of this section.

(c) Upon receipt of a petition which complies with the requirements of this section, the general counsel or the general counsel's designee will consult with the persons in the commission [Commission] who are responsible for the area with which the rule is concerned to evaluate the merits of the proposal. Not later than the 60th day after the date of receipt of a petition, the general counsel or the general counsel's designee shall present the petition to the commission with a recommendation on whether a rulemaking proceeding should be initiated.

(d) The commission shall deny the petition or initiate rulemaking proceedings in accordance with the Administrative Procedure Act (APA) and these rules. The commission may modify any proposed rule to ensure that it conforms to the format of commission rules, adequately addresses the perceived problem or other subject matter, and conforms to the filing requirements of the *Texas Register*:

§403.301. *Historically Underutilized Businesses.*

The Texas Lottery Commission adopts by reference the rules administered by the Office of the Comptroller of Public Accounts regarding historically underutilized businesses, which are set forth in the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter D, Division 1, §§20.281 - 20.298.

§403.600. *Complaint Review Process.*

(a) Purpose. This section implements §467.111 of the Texas Government Code, which requires the commission [Texas Lottery Commission (Commission)] to maintain a system to promptly and efficiently act on each complaint filed with the commission [Commission] and by rule adopt and publish procedures governing the entire complaint process from submission to disposition. The Lottery Operations Division shall manage the process for all complaints relating to any commission [Commission] activities, regardless of the affected commission [Commission] division or subject matter. The Lottery Operations Division may adopt written procedures to further implement the requirements of §467.111 and this section.

(b) Complaint Intake. Complaints must be submitted by mail, email, voice mail on a dedicated voice mailbox, in person, or fax.

(1) All complaints shall be monitored through the complaint tracking system and all jurisdictional complaints will be tracked, from initial intake or discovery of the complaint to final disposition. A jurisdictional complaint is a complaint which alleges a violation of the State Lottery Act (Government Code, Chapter 466), the Bingo Enabling Act (Occupations Code, Chapter 2001), commission [Commission] rules, or any other applicable provisions of the Texas Government Code or the Texas Administrative Code under which the commission [Commission] has the authority to interpret and apply the law.

(2) The commission [Commission] shall make available information on how to file a complaint on the commission's

[Commission's] internet website [web site], intranet, at commission [Commission] claim centers, Bingo regional offices, licensed lottery retail locations, bingo playing locations, and the commission [Commission] headquarters.

(3) Commission staff shall maintain and monitor a toll-free telephone number during normal working hours to assist complainants. Commission staff may also maintain and monitor a dedicated voice mailbox to assist with complaint intake.

(c) Complaint Processing. The commission [Commission] requires specific information to process and investigate a complaint. Commission staff will review all complaints to ensure they are jurisdictional [~~in writing~~] and include the complainant's name, mailing address, and contact phone number. If a complaint is received without all necessary information, the staff will make reasonable efforts to contact the complainant and obtain the necessary information. Non-jurisdictional complaints will be entered in the complaint tracking system as contacts along with an explanation why the complaint is non-jurisdictional, but will not be referred for investigation or follow-up. Staff will notify the complainant verbally or in writing that the complaint is non-jurisdictional.

(d) If the complaint is jurisdictional and contains the required information, the complaint will be entered in the complaint tracking system and referred to the appropriate commission [Commission] division or department for investigation or follow-up. Commission staff will provide an acknowledgement notification verbally or in writing to the complainant after the complaint is processed. Commission staff will provide periodic ongoing complaint status updates verbally or in writing. A closing notification will be provided to the complainant verbally or in writing when the complaint is closed.

(e) Complaint Analysis and Reports. The commission [Commission] staff will maintain a comprehensive database of complaints in order to identify trends or issues related to violations of state laws under the commission's [Commission's] jurisdiction.

(1) At least once each biennium, designated commission [Commission] staff will generate a trend analysis report. The report will:

- (A) categorize complaints based on the type of violation alleged;
- (B) track each complaint from submission to disposition;
- (C) evaluate the effectiveness of the [of the] commission's [Commission's] enforcement process; and
- (D) include any additional information the commission [Commission] considers necessary.

(2) The trend analysis report shall be made available to the public.

(f) Americans with Disabilities Act Complaints. Notwithstanding the foregoing, all complaints to the commission [Commission] regarding Americans with Disabilities Act violations are governed by the provisions of §401.407 of this title (relating to Complaints Relating to Non-accessibility), and not this section.

§403.800. Savings Incentive Program.

(a) Purpose. This section implements Chapter 2108 of the Texas Government Code, which requires state agencies to provide notice to the comptroller of savings realized from appropriated undedicated general revenue and to retain a portion of the amounts verified by the comptroller. The Charitable Bingo Operations Division is funded by general revenue. However, the Bingo program is supported by fees

and the commission does not foresee retaining any general revenue savings at this time. [Currently, the Commission has no appropriated undedicated general revenue and therefore may not retain any savings.] However, consistent with the statute, this section will govern any potential future savings realized from appropriated undedicated general revenue.

(b) Retention of Funds. The commission will retain one-half of the amount of savings verified by the comptroller.

(c) Use of Funds. Of the savings retained by the commission [Commission], one-half:

(1) must be used to make additional principal payments for general obligation bonds issued by the commission [Commission] or on behalf of the commission [Commission] by the Texas Public Finance Authority; or

(2) if there are no outstanding general obligation bonds issued by the commission [Commission] or on behalf of the commission [Commission] by the Texas Public Finance Authority, may be used to provide bonuses, distributed equally, to each commission [Commission] employee who:

(A) is a current full-time equivalent employee of the commission [Commission];

(B) worked for the commission [Commission] as a full-time equivalent employee for the entire fiscal year in which the savings were realized; and

(C) is directly responsible for or worked in a department, office, or other division within the commission [Commission] that is responsible for the savings realized.

(3) If the amount of savings verified by the comptroller, expressed as a percentage of the total amount of undedicated general revenue derived from nonfederal sources appropriated to the commission [Commission] for the fiscal year in which the savings were realized, is:

(A) less than three percent, a bonus described by subsection (c)(2) of this section may not exceed \$250;

(B) at least three percent but less than five percent, a bonus described by subsection (c)(2) of this section may not exceed \$500;

(C) at least five percent but less than 10 percent, a bonus described by subsection (c)(2) of this section may not exceed \$750; and

(D) 10 percent or more, a bonus described by subsection (c)(2) of this section may not exceed \$1,000.

(4) The commission [Commission] may not provide a bonus under subsection (c)(2) of this section to a [an] commission employee [of the Commission] who serves in a director-level position, including the executive director.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 9, 2021.

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Bob Biard

General Counsel

Texas Lottery Commission

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For further information, please call: (512) 344-5392

