





# INTEROFFICE MEMO

Gary Grief, Executive Director

LaDonna Castañuela, 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:** August 11, 2022

**Re:** Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §401.317 ("Powerball" Draw Game Rule)

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Attached is a draft rule proposal prepared for submission to the *Texas Register* to adopt amendments to the above-referenced rule without changes to the proposed text as published in the June 24, 2022 issue of the *Texas Register* (47 TexReg 3616) (also attached).

The amendments to §401.317 align the rule with recently amended Multi-State Lottery Association (MUSL) Powerball game rules. MUSL Powerball game rules were amended on January 6, 2022 to address changes related to the funding of Powerball Guaranteed Grand Prizes.

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

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



1           The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.317  
2   (“Powerball” Draw Game Rule) without changes to the proposed text as published in the June 24,  
3   2022 issue of the *Texas Register* (47 TexReg 3616).

4           The amendments to §401.317 align the rule with recently amended Multi-State Lottery  
5   Association (MUSL) Powerball game rules. MUSL Powerball game rules were amended on  
6   January 6, 2022 to address changes related to the funding of Powerball Guaranteed Grand Prizes.

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

9           These amendments are adopted under Texas Government Code §466.015(c), which  
10   authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102,  
11   which authorizes the Commission to adopt rules for the enforcement and administration of the  
12   laws under the Commission’s jurisdiction.

13   §401.317. “Powerball” Draw Game Rule.

14   (a) Powerball®. Powerball is a Multi-State Lottery Association (MUSL) lottery draw game offered  
15   by all Lotteries that have agreed to MUSL's Powerball Group Rules. The purpose of the Powerball  
16   game is the generation of revenue for MUSL Party Lottery members and Mega Millions Party  
17   Lotteries participating under the Cross-Sell Agreement, through the operation of a specially  
18   designed multi-jurisdiction lottery game that will award prizes to ticket holders of validated  
19   winning tickets matching specified combinations of numbers randomly selected in regularly  
20   scheduled Drawings. The Powerball game is authorized to be conducted by the commission  
21   executive director (executive director) under the conditions of the MUSL rules, the laws of the  
22   State of Texas, this section, and under such further instructions, directives, and procedures as the  
23   executive director may issue in furtherance thereof. In this regard, the executive director is

1 authorized to issue such further instructions and directives as may be necessary to conform the  
2 conduct and play of the Powerball game to the requirements of the MUSL rules if, in the opinion  
3 of the executive director, such instructions, directives, and procedures are in conformance with  
4 state law. To be clear, the authority to participate in the Powerball game is provided to the Texas  
5 Lottery Commission (commission) by MUSL. The conduct and play of the Powerball game must  
6 conform to the MUSL Powerball Group Rules. Further, if a conflict arises between this section  
7 and §401.304 of this chapter (relating to Draw Game Rules (General)), this section shall have  
8 precedence. In addition to other applicable rules contained in Chapter 401, this section and  
9 definitions herein apply unless the context requires a different meaning or is otherwise inconsistent  
10 with the intent of the rules adopted by the MUSL or the MUSL Powerball Group.

11 (b) Definitions.

12 (1) "Agent" or "retailer" means a person or entity authorized by the commission to sell  
13 lottery Plays.

14 (2) A "Drawing" refers collectively to the formal draw event for randomly selecting the  
15 Winning Numbers that determine the number of winning Plays for each prize level of the  
16 Powerball game and Power Play promotion.

17 (3) "Game ticket" or "ticket" means an acceptable evidence of Play, which is a ticket  
18 produced in a manner that meets the specifications defined in the rules of the Selling Lottery and  
19 subsection (g) of this section, and is a physical representation of the Play or Plays sold to the  
20 player.

21 (4) "MUSL" means the Multi-State Lottery Association, a government-benefit association  
22 wholly owned and operated by the MUSL Party Lotteries.

1 (5) "MUSL Board" means the governing body of the MUSL, which is comprised of the  
2 chief executive officer of each Party Lottery. "MUSL Finance and Audit Committee" shall mean  
3 the committee of that name established by the MUSL Board.

4 (6) "MUSL Annuity Factor" shall mean the annuity factor as determined by the MUSL  
5 central office through a method approved by the MUSL Finance and Audit Committee and which  
6 is used as described in this rule.

7 (7) "Pari-Mutuel" or "pari-mutuel" as used in this section shall mean wagered funds that  
8 are pooled and then paid in equal shares to the holders of winning Plays as described in this section  
9 and the MUSL Rules.

10 (8) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that  
11 has joined MUSL and is authorized to sell the Powerball game. "Licensee Lottery" shall mean a  
12 state lottery or lottery of a governmental unit, political subdivision, or entity thereof that is not a  
13 Party Lottery but has agreed to comply with all applicable MUSL and Product Group requirements  
14 and has been authorized by the MUSL and by the Powerball Product Group to sell the Powerball  
15 game. "Selling Lottery" or "Participating Lottery" shall mean a lottery authorized by the Product  
16 Group to sell Plays, including Party Lotteries and Licensee Lotteries.

17 (9) "Play" means the six (6) numbers, the first five (5) from a field of sixty-nine (69)  
18 numbers and the last one (1) from a field of twenty-six (26) numbers, that appear on a ticket and  
19 are to be played by a player in the Powerball game.

20 (A) "Powerball Plays" (PB Plays) shall refer to Plays purchased as part of the  
21 Powerball game, but shall not include Power Play Plays.

22 (B) "Power Play Plays" shall refer to Plays purchased as part of the Power Play  
23 promotion described in subsection (k) of this section.

1 (10) "Power Play" shall refer to the Power Play promotion as described in subsection (k)  
2 of this section.

3 (11) "Powerball Group" or "Product Group" means the MUSL member group of lotteries  
4 which have joined together to offer the Powerball product pursuant to the terms of the Multi-State  
5 Lottery Agreement and the Powerball Group's rules, including the MUSL Powerball Drawing  
6 Procedures. In this rule, wherever either term is used it is referring to the MUSL Powerball Group.

7 (12) "Prize" means an amount paid to a person or entity holding a winning ticket.

8 (A) "The Grand Prize" shall refer to the top prize in the Powerball game.

9 (B) The Advertised Grand Prize shall mean the estimated annuitized Grand Prize  
10 amount as determined by the MUSL Central Office by use of the MUSL Annuity Factor and  
11 communicated through the Selling Lotteries prior to the Grand Prize Drawing. The Advertised  
12 Grand Prize is not a guaranteed prize amount and the actual Grand Prize amount may vary from  
13 the advertised amount, except in circumstances where there is a guaranteed Grand Prize amount  
14 as described in paragraph (6) of subsection (f) of this section.

15 (C) The "Set Prize" or "low-tier prize" means all other prizes, except the Grand  
16 Prize, and, except in instances outlined in this section, will be equal to the prize amount established  
17 by the Product Group for the prize level.

18 (13) "Terminal" means a device authorized by the commission for the purpose of issuing  
19 Powerball game tickets and as defined in §401.301 (General Definitions) of this chapter.

20 (14) "Winning Numbers" means the numbers randomly selected during a Drawing event  
21 which shall be used to determine the winning Plays for the Powerball game or the Powerball game  
22 promotion being drawn.

23 (c) Game Description.

1 (1) Powerball Game. Powerball is a five (5) out of sixty-nine (69) plus one (1) out of  
2 twenty-six (26) numbers lottery game drawn on the days specified by the MUSL Powerball Group  
3 and announced by the executive director, as part of the Powerball Drawing, which pays the Grand  
4 Prize, at the election of the player made in accordance with this section, or by a default election  
5 made in accordance with this section, either on an annuitized pari-mutuel basis or as a single lump  
6 sum payment of the total funding held in the Grand Prize Pool for the winning Drawing on a pari-  
7 mutuel basis. Except as provided in this section, all other prizes are paid on a single payment basis.

8 (A) Powerball Winning Numbers applicable to determine Powerball prizes will be  
9 determined in the Powerball Drawing. During the Powerball Drawing, five (5) numbers shall be  
10 drawn from the first set of sixty-nine (69) and one (1) number shall be drawn from the second set  
11 of twenty-six (26) numbers, which shall constitute the Powerball Winning Numbers.

12 (B) To play Powerball, a player shall select five (5) different numbers, from one (1)  
13 through sixty-nine (69) and one (1) additional number from one (1) through twenty-six (26), or  
14 request the retailer to generate a Quick Pick selection of numbers from the lottery terminal. The  
15 additional number may be the same as one of the first five numbers selected by the player.

16 (C) Powerball Plays can be purchased for two dollars (U.S. \$2.00), including any  
17 specific statutorily-mandated tax of a Selling Lottery to be included in the price of a PB Play. PB  
18 Plays may be purchased from a Selling Lottery approved sales outlet in a manner as approved by  
19 the Selling Lottery and in accordance with MUSL Rules.

20 (2) Claims. A ticket shall be the only proof of a game Play or Plays and is subject to the  
21 validation requirements set forth in subsection (g) of this section. The submission of a winning  
22 ticket to the issuing Selling Lottery or its authorized agent shall be the sole method of claiming a  
23 prize or prizes. A playslip has no pecuniary or prize value and shall not constitute evidence of Play



1 purchase or of numbers selected. A terminal-produced paper receipt has no pecuniary or prize  
2 value and shall not constitute evidence of Play purchase or of numbers selected.

3 (3) Cancellations Prohibited. In all instances, a Play recorded on the Lottery gaming system  
4 may not be voided or cancelled by returning the ticket to the selling agent or to the commission,  
5 including tickets that are misprinted, illegible, printed in error, or for any reason not successfully  
6 transferred to an authorized selling entity or player. A Selling Lottery may develop an approved  
7 method of compensating retailers for Plays that are not transferred to a player for a reason  
8 acceptable to the Selling Lottery and not prohibited by the Powerball Product Group. No Play that  
9 is eligible for a prize can be returned to the commission for credit. Plays accepted by retailers as  
10 returned Plays and which cannot be re-sold shall be deemed owned by the bearer thereof.

11 (4) Subscription Sales. A subscription sales program may be offered, at the discretion of  
12 the executive director.

13 (5) Maximum Purchase. The maximum number of consecutive Drawings on a single PB  
14 Play purchase is fifteen (15), including Power Play Plays if purchased.

15 (d) Powerball Prize Pool.

16 (1) Powerball Prize Pool.

17 (A) The prize pool for all Powerball prize categories shall consist of fifty percent  
18 (50%) of each Drawing period's Powerball sales, inclusive of any specific statutorily-mandated  
19 tax of a Selling Lottery to be included in the price of a PB Play, and including contributions to the  
20 prize pool accounts and prize reserve accounts.

21 (B) Powerball Prize Pool Accounts and Prize Reserve Accounts. The Product  
22 Group shall set the contribution rates to the prize pool and to one or more prize reserve or pool  
23 accounts established by the MUSL Powerball Group Rules.

1 (i) Prize Reserve Accounts. The Product Group has established the  
2 following prize reserve accounts for the Powerball game: the Powerball Prize Reserve Account  
3 (PRA), which is used to guarantee the payment of valid, but unanticipated, Grand Prize claims that  
4 may result from a system error or other reason, or to fund Guaranteed Grand Prizes per subsection  
5 (f)(6)(E) of this section; and the Powerball Set Prize Reserve Account (SPRA), which is used to  
6 fund deficiencies in low-tier Powerball prize payments, subject to the limitations of the MUSL  
7 rules.

8 (ii) Prize Pool Accounts. The Product Group has established the following  
9 prize pool accounts for the Powerball game: the Grand Prize Pool, which is used to fund the current  
10 Grand Prize; the Powerball Set Prize Pool, which is used to fund the Powerball Set Prizes; the  
11 Powerball Set-Aside Pool, which is used to fund the payment of the awarded minimum starting  
12 annuity Grand Prizes and minimum annuity Grand Prize increase, if necessary (subject to the  
13 limitations in the MUSL Powerball Group Rules), as may be set by the Product Group; and the  
14 Grand Prize Carry Forward Pool (GPCFP), which is used to fund the starting minimum annuity  
15 Grand Prize, as may be set by the Product Group, if such funds are available, and if sales do not  
16 fund the Grand Prize. The Power Play Prize Pool is described in subsection (k)(4) of this section.  
17 The Powerball Set Prize Pool shall hold the temporary balances that may result from having fewer  
18 than expected winners in the Powerball Set Prize (aka low-tier prize) categories and the source of  
19 the Powerball Set Prize Pool is the Party Lottery's weekly prize contributions less actual Powerball  
20 Set Prize liability.

21 (iii) The above prize reserve accounts, the GPCFP and the Set-Aside Pool  
22 shall have maximum balance amounts or balance limiter triggers that are set by the Product Group  
23 and are detailed in the Comments to the MUSL Rule. The maximum balance amounts and balance

1 limiter triggers are subject to review by the MUSL Board Finance and Audit Committee. The  
2 Finance and Audit Committee shall have two weeks to state objections, if any, to the approved  
3 maximum balance amounts or balance limiter triggers. Approved maximum balance amounts or  
4 balance limiter triggers shall become effective no sooner than two weeks after notice is given to  
5 the Finance and Audit Committee and no objection is stated or sooner if the Committee  
6 affirmatively approves the maximum balance amounts or balance limiter triggers. The Group may  
7 appeal the Committee's objections to the full Board. Group approved changes in the maximum  
8 balance amounts or balance limiter triggers set by the Product Group shall be effective only after  
9 the next Grand Prize win.

10 (iv) The maximum contribution rate to the Grand Prize Pool shall be  
11 68.0131% of the prize pool (34.0066% of sales) except as provided in subsection (f)(6)(E) of this  
12 section. An amount up to five percent (5%) of a Party Lottery's sales shall be deducted from a  
13 Party Lottery's Grand Prize Pool contribution and placed in trust in one or more prize pool accounts  
14 and prize reserve accounts held by the Product Group (hereinafter the "prize pool and reserve  
15 deduction") at any time that the prize pool accounts and Party Lottery's share of the prize reserve  
16 accounts is below the amounts designated by the Product Group. An additional amount up to  
17 twenty percent (20%) of a Party Lottery's sales shall be deducted from a Party Lottery's Grand  
18 Prize Pool contribution and placed in trust in the GPCFP to be held by the Product Group at a time  
19 as determined by the Product Group.

20 (v) The Product Group may determine to expend all or a portion of the funds  
21 in the Powerball prize pool accounts (except the Powerball Grand Prize Pool account and the  
22 GPCFP) and the prize reserve accounts: (1) for the purpose of indemnifying the Selling Lotteries  
23 for the payment of prizes to be made by the Selling Lottery; and, (2) for the payment of prizes or

1 special prizes in the game, limited to prize pool and prize reserve contributions from lotteries  
2 participating in the special prize promotion, subject to the approval of the Board's Finance and  
3 Audit Committee or that Committee's failure to object after given two weeks' notice of the planned  
4 action, which actions may be appealed to the full MUSL Board by the Product Group. The GPCFP  
5 may only be expended to fund the starting minimum annuity Grand Prize.

6 (vi) The prize reserve shares of a Party Lottery may be adjusted with refunds  
7 to the Party Lottery from the prize reserve account(s) as may be needed to maintain the approved  
8 maximum balance and sales percentage shares of the Party Lotteries.

9 (vii) A Party Lottery may contribute to its sales percentage share of prize  
10 reserve accounts over time, but in the event of a draw down from a prize reserve account, a Party  
11 Lottery is responsible for its full sales percentage share of the prize reserve account, whether or  
12 not it has been paid in full.

13 (viii) Any amount remaining in the Powerball prize pool accounts or prize  
14 reserve accounts when the Product Group declares the end of this game shall be returned to the  
15 lotteries participating in the accounts after the end of all claim periods of all Selling Lotteries,  
16 carried forward to a replacement game or otherwise expended in a manner at the election of the  
17 individual Members of the Product Group in accordance with jurisdiction statute.

18 (2) Expected Powerball Prize Payout Percentages. The Grand Prize payout shall be  
19 determined on a pari-mutuel basis. Except as otherwise provided in this section, all other prizes  
20 awarded shall be paid as single payment set cash prizes. All prize payouts are made with the  
21 following expected prize payout percentages, although the prize payout percentage per draw may  
22 vary:

23 Figure: 16 TAC §401.317(d)(2)

<b>Number of Matches Per PB Play</b>	<b>Prize Payment</b>	<b>PB Prize Pool Percentage Allocated to Prize</b>	<b>PB Sales Percentage Allocated to Prize</b>
All five (5) of first set plus one (1) of second set.	Grand Prize	68.0131%*	34.0066%
All five (5) of first set and none of second set.	\$1,000,000	8.5558%	4.2779%
Any four (4) of first set plus one (1) of second set.	\$50,000	5.4757%	2.7378%
Any four (4) of first set and none of second set.	\$100	0.2738%	0.1369%
Any three (3) of first set plus one (1) of second set.	\$100	0.6899%	0.3450%
Any three (3) of first set and none of second set.	\$7	1.2074%	0.6037%
Any two (2) of first set plus one (1) of second set.	\$7	0.9981%	0.4990%
Any one (1) of first set plus one (1) of second set.	\$4	4.3489%	2.1744%
None of first set plus one (1) of second set.	\$4	10.4373%	5.2187%
<i>*The maximum contribution rate may include contributions to reserves and pools as described in this rule and the MUSL Powerball Group Rules.</i>			

(A) The prize money allocated to the Powerball Grand Prize category shall be divided on a pari-mutuel basis by the number of PB Plays winning the Powerball Grand Prize.

(B) Powerball Set Prize Pool Carried Forward. For Party Lotteries, the Powerball Set Prize Pool (for single payment prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Powerball Set Prizes awarded in the current draw.

(C) Pari-Mutuel Powerball Prize Determinations. Except as otherwise provided, if the total of the Powerball Set Prizes (as multiplied by the respective Power Play multiplier, if applicable) awarded in a Drawing exceeds the percentage of the prize pool allocated to the

Powerball Set Prizes, then the amount needed to fund the Powerball Set Prizes, including Power Play prizes, awarded shall be drawn first from the amount available in the Powerball Set Prize Pool and the Power Play Prize Pool, if any; second from the SPRA, if available, not to exceed forty million dollars (\$40,000,000.00) per Drawing; and, third from other amounts as agreed to by the Product Group in their sole discretion.

(D) If, after these sources are depleted, there are not sufficient funds to pay the Set Prizes awarded, including Power Play Prizes, then the highest Set Prize shall become a pari-mutuel prize. If the amount of the highest Set Prize, when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize, including Power Play prizes, shall become a pari-mutuel prize. This procedure shall continue down through all Set Prize levels, if necessary, until all Set Prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning PB Plays in proportion to their respective prize percentages. Powerball Set Prizes and Power Play Prizes will be reduced by the same percentage.

(E) By agreement, the Licensee Lotteries shall independently calculate their Set Prize pari-mutuel prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.

(e) Probability of Winning Powerball Plays. The following table sets forth the probability of winning PB Plays and the probable distribution of winning PB Plays in and among each prize category, based upon the total number of possible combinations in the Powerball game. The Set

- 1 Prize Amount shall be the prizes set for all Selling Lotteries unless prohibited or limited by a
- 2 jurisdiction's statute or judicial requirements.
- 3 Figure: 16 TAC §401.317(e)

Number of Matches Per PB Play	Probability Distribution		Probable/Set Prize Amount
	Winners	Probability	
All five (5) of first set plus one (1) of second set	1	1:292,201,338.0000	Grand Prize
All five (5) of first set and none of second set	25	1:11,688,053.5200	\$1,000,000
Any four (4) of first set plus one (1) of second set	320	1:913,129.1813	\$50,000
Any four (4) of first set and none of second set	8,000	1:36,525.1673	\$100
Any three (3) of first set plus one (1) of second set	20,160	1:14,494.1140	\$100
Any three (3) of first set and none of second set	504,000	1:579.7646	\$7
Any two (2) of the first set plus one (1) of second set	416,640	1:701.3281	\$7
Any one (1) of the first set plus one (1) of the second set	3,176,880	1:91.9775	\$4
None of the first set plus one (1) of second set	7,624,512	1:38.3239	\$4
Overall	11,750,538	1:24.8671	

- 4
- 5 (f) Powerball Prize Payment.

6 (1) Powerball Grand Prizes. The Advertised Grand Prize in a Powerball game is not a  
7 guaranteed amount; it is an estimated amount, and all advertised prizes, even advertised Set Prizes,  
8 are estimated amounts. At the time of ticket purchase, a player must select a payment option of  
9 either a single lump sum payment (cash value option or CVO) or annuitized payments (Annuity)  
10 of a share of the Grand Prize if the PB Play is a winning Play. If no selection is made, payment  
11 option will be as described in the chart below:

1 Figure: 16 TAC §401.317(f)(1)

Terminal Type	Manual Entry	Playslip with No Payment Option Selected
GT1200 (Retailer Terminal)	Default to CVO; retailer toggles to choose Annuity	Playslip Rejected with message "Playslip Rejected. Select Payment Option."
GT1200C (Retailer Terminal)	Default to CVO; retailer toggles to choose Annuity.	Playslip Rejected with message "Playslip Rejected. Select Payment Option."
Gemini (Self-service Lottery Ticket Vending Machine)	CVO only – designated on draw game Quick Pick buttons.	Playslip Rejected with message "Playslip Rejected. Select Payment Option."
GT20 (Self-service Lottery Ticket Vending Machine)	CVO only – designated on draw game Quick Pick buttons.	N/A
Third-party POS systems	CVO only – Quick Pick selections through authorized third-party POS systems.	N/A

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3 (A) A player's selection of the payment option at the time of purchase is final and  
4 cannot be revoked, withdrawn, or otherwise changed.

5 (B) The Grand Prize available in the Grand Prize Pool shall be determined on a  
6 pari-mutuel basis among all winning PB Plays of the Grand Prize. A player(s) who elects a cash  
7 value option payment shall be paid their share(s) in a single lump sum payment. The annuitized  
8 option prize shall be determined by multiplying the winning Play's share of the Grand Prize Pool  
9 by the annuity factor established in accordance with Texas law and the rules of the Texas



1 Comptroller of Public Accounts. The MUSL Annuity Factor will not be used for Texas Lottery  
2 players. Neither MUSL nor any Selling Lottery shall be responsible or liable for changes in the  
3 advertised or estimated annuity prize amount and the actual amount purchased after the prize  
4 payment method is actually known to MUSL.

5 (C) In certain instances announced by the Powerball Group, the Grand Prize shall  
6 be a guaranteed amount and shall be determined pursuant to paragraph (6) of this subsection.

7 (D) If individual shares of the Grand Prize Pool funds held to fund an annuity is  
8 less than \$250,000.00, the Powerball Group, in its sole discretion, may elect to pay the winners  
9 their share of the funds held in the Grand Prize Pool. All annuitized prizes shall be paid annually  
10 in thirty (30) payments with the initial payment being made in a single payment, to be followed  
11 by twenty-nine (29) payments funded by the annuity.

12 (E) All annuitized prizes shall be paid annually in thirty (30) graduated payments,  
13 as provided by the MUSL rules, (increasing each year) at a rate as determined by the MUSL  
14 Product Group. Prize payments may be rounded down to the nearest one thousand dollars (\$1,000).

15 (F) Funds for the initial payment of an annuitized prize or the lump sum cash value  
16 option payment shall be made available by MUSL for payment by the Selling Lottery no earlier  
17 than the fifteenth calendar day (or the next banking day if the fifteenth day is a holiday) following  
18 the Drawing. If necessary, when the due date for the payment of a prize occurs before the receipt  
19 of funds in the prize pool trust sufficient to pay the prize, the transfer of funds for the payment of  
20 the full lump sum cash value option payment amount may be delayed pending receipt of funds  
21 from the Selling Lotteries. The identification of the securities to fund the annuitized prize shall be  
22 at the sole discretion of the State of Texas. If the State of Texas purchases the securities, or holds

1 the prize payment annuity for a Powerball prize won in this state, the prize winner will have no  
2 recourse on the MUSL or any other Party Lottery for payment of that prize.

3 (2) Payment of Prize Payments upon the Death of a Prize Winner. In the event of the death  
4 of a prize winner, payments may be made in accordance with §401.310 of this chapter (relating to  
5 Payment of Prize Payments Upon Death of Prize Winner), otherwise, payment of prize payments  
6 will be made to the estate of a deceased prize winner in accordance with Texas Government Code  
7 §466.406.

8 (3) Powerball Prize Payments. All prizes shall be paid through the Selling Lottery that sold  
9 the winning Play(s). All low-tier cash prizes (all prizes except the Grand Prize) shall be paid in  
10 cash or warrants in accordance with Texas statutes and these rules. A Selling Lottery may begin  
11 paying low-tier cash prizes after receiving authorization to pay from the MUSL central office.

12 (4) Powerball Prizes Rounded. Annuitized payments of the Grand Prize or a share of the  
13 Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism.  
14 Breakage on an annuitized Grand Prize win shall be added to the first cash payment to the winner  
15 or winners. Prizes other than the Grand Prize, which, under this section, may become single-  
16 payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole  
17 dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool  
18 for the next Drawing.

19 (5) Powerball Prize Rollover. If the Grand Prize is not won in a Drawing, the prize money  
20 allocated for the Grand Prize shall roll over and be added to the Grand Prize Pool for the following  
21 Drawing.

22 (6) Guaranteed Powerball Prizes. The Powerball Group may offer guaranteed minimum  
23 Grand Prize amounts or minimum increases in the Grand Prize amount between Drawings or make

1 other changes in the allocation of prize money where the Powerball Group finds that it would be  
2 in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the  
3 Grand Prize amount between Drawings is offered by the Powerball Group, then the Grand Prize  
4 shares shall be determined as follows:

5 (A) If there are multiple Grand Prize winning PB Plays during a single Drawing,  
6 each selecting the annuitized option prize, then a winning PB Play's share of the guaranteed  
7 annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by  
8 the number of Grand Prize winning PB Plays.

9 (B) If there are multiple Grand Prize winning PB Plays during a single Drawing  
10 and at least one of the Grand Prize ticket holders has elected the annuitized option prize, then the  
11 MUSL Annuity Factor may be utilized to determine the cash pool. The cost of the annuitized  
12 prize(s) will be determined at the time the annuity is purchased through a process as approved by  
13 the MUSL Board. If the annuitized option prize is selected by a Texas Lottery player, the amount  
14 shall be determined by multiplying the winning PB Play's share of the Grand Prize Pool by the  
15 annuity factor established in accordance with Texas law and the rules of the Texas Comptroller of  
16 Public Accounts. The MUSL Annuity Factor will not be used for Texas Lottery players.

17 (C) If there are multiple Grand Prize winning PB Plays during a single Drawing,  
18 and no claimant of the Grand Prize has elected the annuitized option prize, then the amount of cash  
19 in the Grand Prize Pool shall be an amount equal to the guaranteed annuitized amount divided by  
20 the MUSL Annuity Factor.

21 (D) Minimum guaranteed prizes or increases may be waived upon approval of the  
22 Powerball Group if the alternate funding mechanism set out in subsection (d)(2)(D) of this section  
23 becomes necessary.

(E) Funding of Guaranteed Grand Prizes. If the amount in the GPP, GPCFP and SAP and contributions from Licensee Lotteries who are not participating in the PRA are insufficient to fund the amount required by awarded Guaranteed Grand Prize(s), then the PRA, and thereafter contributions from individual Member Lotteries and Licensee Lotteries participating in the PRA, may be required to fund Guaranteed Grand Prize award deficiencies. Contributions from the PRA shall first be utilized, and then contributions from individual Member Lotteries and Licensee Lotteries participating in the PRA, if necessary. Contributions required from the PRA or from Member Lotteries and Licensee Lotteries participating in the PRA shall be determined on a pro rata basis based on sales since the most recent Grand Prize win.

(7) Limited to Highest Powerball Prize Won. The holder of a winning PB Play may win only one (1) prize per PB Play in connection with the Winning Numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category. All liabilities for a Powerball game or Powerball game promotional prize are discharged upon payment of a prize claim.

(8) Powerball Prize Claim Period. Prizes must be claimed no later than 180 days after the draw date.

(g) Play Validation. To be a valid Play and eligible to receive a prize, a Play's ticket shall satisfy all the requirements established by the commission for validation of winning tickets sold through its lottery gaming system and any other validation requirements adopted by the Powerball Group, the MUSL Board, and published as the Confidential MUSL Minimum Game Security Standards. The MUSL and the Selling Lotteries shall not be responsible for tickets which are altered in any manner.

1 (1) Under no circumstances will a claim be paid for any prize without an official ticket  
2 matching all game Play, serial number and other validation data residing in the selling Party  
3 Lottery's lottery gaming system and such ticket shall be the only valid proof of the wager placed  
4 and the only valid evidence for purposes of claiming or redeeming such prize.

5 (2) In addition to the above condition, in order to be deemed a valid winning Play, all of  
6 the following conditions must be met:

7 (A) The validation data must be present in its entirety and must correspond, using  
8 the computer validation file, to the number selections printed on the ticket for the applicable  
9 Drawing date(s).

10 (B) The ticket must be intact.

11 (C) The ticket must not be mutilated, altered, reconstituted, or tampered with in any  
12 manner.

13 (D) The ticket must not be counterfeit or an exact duplicate of another winning  
14 ticket.

15 (E) The ticket must have been issued by an authorized sales agent, selling agent or  
16 retailer on official Texas Lottery paper stock, or, for third-party point-of-sale systems approved by  
17 the commission, printed on paper stock or otherwise issued in a manner approved by the  
18 commission to provide tangible evidence of participation in a lottery game.

19 (F) The ticket must not have been stolen, to the knowledge of the commission.

20 (G) The Play data must have been recorded on the commission's lottery gaming  
21 system prior to the Drawing and the Play data must match this lottery record in every respect. In  
22 the event of a conflict between information as printed on the ticket and as accepted by the

commission's lottery gaming system, the wager accepted by the commission's lottery gaming system shall be the valid wager.

(H) The player or Quick Pick number selections, validation data and the Drawing date(s) of an apparent winning Play must appear in the official file of winning Plays, and a Play with that exact data must not have been previously paid.

(I) The play must not be misregistered, and the Play's ticket must not be defectively printed or printed or produced in error to an extent that it cannot be processed by the commission.

(J) In submitting a Play for validation, the claimant agrees to abide by applicable laws, all rules and regulations, instructions, conditions and final decisions of the executive director.

(K) There must not be any other breach of the Powerball Game Rules in relation to the Play that, in the opinion of the executive director, justifies invalidation.

(L) The Play must be submitted to the Selling Lottery that issued it.

(3) A Play submitted for validation that fails any of the validation conditions shall be considered void, subject to the following determinations:

(A) In all cases of doubt, the determination of the commission shall be final and binding; however, the commission may, at its option, replace an invalid Play with a Play of equivalent sales price;

(B) In the event a defective ticket is purchased or in the event the commission determines to adjust an error, the claimant's sole and exclusive remedy shall be the replacement of such defective or erroneous ticket(s) with a Play of equivalent sales price;

(C) In the event a Play is not paid by the commission and a dispute occurs as to whether the Play is a winning Play, the commission may, at its option, replace the Play as provided in subparagraph (A) of this paragraph. This shall be the sole and exclusive remedy of the claimant.

1 (h) Ticket Responsibility.

2 (1) Signature. Until such time as a signature is placed upon a ticket in the area designated  
3 for signature, a ticket shall be owned by the bearer of the ticket. When a signature is placed on the  
4 ticket in the place designated, the person whose signature appears in such area shall be the owner  
5 of the ticket and shall be entitled (subject to the validation requirements in subsection (g) of this  
6 section (Ticket Validation) and state or district law) to any prize attributable thereto.

7 (2) Multiple Claimants. The issue of multiple claimants shall be handled in accordance  
8 with Texas Government Code Chapter 466 and §401.304 of this chapter.

9 (3) Stolen Tickets. The Powerball Group, the MUSL and the Party Lotteries shall not be  
10 responsible for lost or stolen tickets.

11 (4) Prize Claims. Prize claim procedures shall be governed by the rules of the commission  
12 as set out in §401.304 of this subchapter and any internal procedures used by the commission. The  
13 MUSL and the Party Lotteries shall not be responsible for prizes that are not claimed following  
14 the proper procedures as determined by the Selling Lottery.

15 (5) The MUSL and the Participating Lotteries shall not be responsible to a prize claimant  
16 for Plays redeemed in error by a selling agent, sales agent or retailer.

17 (6) Winning Plays are determined by the numbers drawn and certified by the independent  
18 auditor responsible for auditing the Drawing. MUSL and the Participating Lotteries are not  
19 responsible for Winning Numbers reported in error.

20 (i) Ineligible Players.

21 (1) A Play or share for a MUSL game issued by the MUSL or any of its Selling Lotteries  
22 shall not be purchased by, and a prize won by any such Play or share shall not be paid to:

23 (A) a MUSL employee, officer, or director;

1 (B) a contractor or consultant under agreement with the MUSL to review the MUSL  
2 audit and security procedures;

3 (C) an employee of an independent accounting firm under contract with MUSL to  
4 observe Drawings or site operations and actually assigned to the MUSL account and all partners,  
5 shareholders, or owners in the local office of the firm; or

6 (D) an immediate family member (parent, stepparent, child, stepchild, spouse, or  
7 sibling) of an individual described in subparagraphs (A), (B), and (C) of this paragraph and  
8 residing in the same household.

9 (2) Those persons designated by a Selling Lottery's law as ineligible to play its games shall  
10 also be ineligible to Play the Powerball game in that Selling Lottery's jurisdiction.

11 (j) Applicable Law.

12 (1) In purchasing a Play, as evidenced by a ticket, or attempting to claim a prize, the  
13 purchasers and prize claimants agree to comply with and abide by all applicable laws, rules,  
14 regulations, procedures, and decisions of the Selling Lottery where the ticket was purchased, and  
15 by directives and determinations of the director of that Party Lottery.

16 (2) A prize claimant agrees, as its sole and exclusive remedy, that claims arising out of a  
17 Powerball game or a Powerball game promotion (as described in this section) can only be pursued  
18 against the Selling Lottery which issued the Play. Litigation, if any, shall only be maintained within  
19 the jurisdiction in which the Play was purchased and only against the Selling Lottery that issued  
20 the Play. No claim shall be made against any other Participating Lottery or against the MUSL.

21 (3) Nothing in these Rules shall be construed as a waiver of any defense or claim the Selling  
22 Lottery which issued the Play, any other Participating Lottery or MUSL may have in any litigation,



1 including in the event a player or prize claimant pursues litigation against the Selling Lottery, any  
2 other Participating Lottery or MUSL, or their respective officers, directors or employees.

3 (4) All decisions made by a Selling Lottery, including the declaration of prizes and the  
4 payment thereof and the interpretation of Powerball Rules, shall be final and binding on all Play  
5 purchasers and on every person making a prize claim in respect thereof, but only in the jurisdiction  
6 where the Play was issued.

7 (5) Unless the laws, rules, regulations, procedures, and decisions of the Lottery which  
8 issued the Play provide otherwise, no prize shall be paid upon a Play purchased, claimed or sold  
9 in violation of the MUSL Powerball Rules or the laws, rules, regulations, procedures, and decisions  
10 of that Selling Lottery; any such prize claimed but unpaid shall constitute an unclaimed prize under  
11 these Rules and the laws, rules, regulations, procedures, and decisions of that Selling Lottery.

12 (k) Powerball Special Game Rules: Powerball Power Play® .

13 (1) Power Play Description. The Powerball Power Play is a promotional limited extension  
14 of the Powerball game and is conducted in accordance with the Powerball game rules and other  
15 lottery rules applicable to the Powerball game except as may be amended herein. Power Play will  
16 begin at a time announced by the commission and will continue until discontinued by the  
17 commission. Power Play will offer to the owners of a qualifying Play a chance to increase the  
18 amount of any of the eight Low-Tier Set Prizes (the Low-Tier prizes normally paying \$4 to  
19 \$1,000,000) won in a Power Play Drawing. The Grand Prize is not a Set Prize and will not be  
20 increased. MUSL will conduct a separate random "Power Play" Drawing and announce results  
21 during each of the regular Powerball Drawings held during the promotion. During each Power  
22 Play Drawing a single number (2, 3, 4, 5 and sometimes 10) shall be drawn. The ten (10X)  
23 multiplier shall be available for all Drawings in which the initially Advertised Grand Prize amount

is one hundred fifty million dollars (\$150,000,000.00) or less. The probability of the possible Power Play numbers being drawn is indicated in Figure 16 TAC §401.317(k)(4)(D). The Powerball Group may modify the multiplier features for special promotions from time to time.

(2) Qualifying Play. A qualifying Play is any single PB Play for which the player pays an extra dollar (\$1.00) for the Power Play option and which is recorded at the commission's lottery gaming system as a qualifying Power Play Play.

(3) Prizes to be Increased. Except as provided in the MUSL Powerball game rules and this section, a qualifying Play which wins one of the seven lowest Set Prizes (excluding the Match 5 + 0) will be multiplied by the number drawn, either two (2), three (3), four (4), five (5), or sometimes ten (10), in a separate random Power Play Drawing announced during the official Powerball Drawing show. The ten (10X) multiplier will be available for Drawings in which the initially advertised annuitized Grand Prize amount is one hundred fifty million dollars (\$150,000,000.00) or less. The announced Match 5+0 prize, for players selecting the Power Play option, shall be paid two million dollars (\$2,000,000.00) unless a higher limited promotional dollar amount is announced by the Powerball Group.

Figure: 16 TAC §401.317(k)(3)

<b>Prize Amount</b>	<b>Regardless of Power Play number selected:</b>					
Match 5+0	\$1,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00
	<b>Prize Amount</b>	<b>10X</b>	<b>5X</b>	<b>4X</b>	<b>3X</b>	<b>2X</b>
Match 4+1	\$50,000.00	\$500,000.00	\$250,000.00	\$200,000.00	\$150,000.00	\$100,000.00
Match 4+0	\$100.00	\$1,000.00	\$500.00	\$400.00	\$300.00	\$200.00
Match 3+1	\$100.00	\$1,000.00	\$500.00	\$400.00	\$300.00	\$200.00
Match 3+0	\$7.00	\$70.00	\$35.00	\$28.00	\$21.00	\$14.00

Match 2+1	\$7.00	\$70.00	\$35.00	\$28.00	\$21.00	\$14.00
Match 1+1	\$4.00	\$40.00	\$20.00	\$16.00	\$12.00	\$8.00
Match 0+1	\$4.00	\$40.00	\$20.00	\$16.00	\$12.00	\$8.00

(4) Prize Pool.

(A) Power Play Prize Pool. The Power Play Prize Pool is created to be used to fund Power Play Prizes and shall hold the temporary balances that may result from having fewer than expected winners in the Power Play. The source of the Power Play Prize Pool is the Party Lottery's weekly prize contributions less actual Power Play Prize liability. In total, fifty percent (50%) of each draw's sales shall be collected for the payment of prizes.

(i) In Drawings where the ten (10X) multiplier is available, the expected payout for all prize categories shall consist of up to forty-nine and nine hundred sixty-nine thousandths percent (49.969%) of each Drawing period's sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery Play. In Drawings where the ten (10X) multiplier is not available, the expected payout for all prize categories shall consist of up to forty-five and nine hundred thirty-four thousandths percent (45.934%) of each Drawing period's sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery Play.

(ii) In Drawings where the ten (10X) multiplier is available, an additional thirty-one thousandths percent (0.031%) of each Drawing period's sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery ticket, may be collected and placed in trust in the Power Play Prize Pool, for the purpose of paying Power Play prizes. In drawings where the ten (10X) multiplier is not available, an additional four and sixty-

1 six thousandths percent (4.066%) of each Drawing period's sales, including any specific statutorily  
2 mandated tax of a Selling Lottery to be included in the price of a lottery ticket, may be collected  
3 and placed in trust in the Power Play Prize Pool, for the purpose of paying Power Play Prizes.

4 (iii) The prize payout percentage per draw may vary. The Power Play Prize  
5 Pool shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the  
6 Power Play Prizes awarded in the current draw and held in the Power Play Prize Pool.

7 (B) End of Promotion. Any amount remaining in the Power Play Prize Pool when  
8 the Powerball Group declares the end of this promotion shall be returned to the lotteries  
9 participating in the account after the end of all claim periods of all Selling Lotteries, carried  
10 forward to a replacement game or promotion, or otherwise expended in a manner at the election  
11 of the individual Participating Lotteries of the Product Group in accordance with jurisdiction  
12 statute.

13 (C) Expected Prize Payout. Except as provided in this section, all prizes awarded  
14 shall be paid as single payment cash prizes. Instead of the Powerball Set Prize amounts, qualifying  
15 winning Plays of Power Play will pay the amounts shown in paragraph (3) of this subsection,  
16 above. In certain rare instances, the Powerball Set Prize amount may be less than the amount shown  
17 in Figure: 16 TAC §401.317(k)(3). In such case, the eight lowest Power Play Prizes will be  
18 changed to an amount announced after the draw. For example, if the Match 4+1 Powerball Set  
19 Prize amount of \$50,000 becomes \$25,000 under the rules of the Powerball game, and a 5X Power  
20 Play Multiplier is drawn, then a Power Play winning Play prize amount would win \$125,000.

21 (D) Probability of Power Play Numbers Being Drawn. The following table sets  
22 forth the probability of the various Power Play numbers being drawn during a single Powerball  
23 Power Play Drawing. The Powerball Group may elect to run limited promotions that may modify

the multiplier features. Power Play does not apply to the Powerball Grand Prize. Except as provided in subparagraph (C) of this paragraph, a Power Play Match 5 + 0 prize is set at two million dollars (\$2,000,000.00), regardless of the multiplier selected.

Figure: 16 TAC §401.317(k)(4)(D)

<b>When the 10X multiplier is available:</b>		
<b>Power Play</b>	<b>Probability of Prize Increase</b>	<b>Chance of Occurrence</b>
10X (Prize Won Times 10)	1 in 43	2.3255%
5X (Prize Won Times 5)	2 in 43	4.6512%
4X (Prize Won Times 4)	3 in 43	6.9767%
3X (Prize Won Times 3)	13 in 43	30.2326%
2X (Prize Won Times 2)	24 in 43	55.8140%
<b>When the 10X multiplier is not available:</b>		
<b>Power Play</b>	<b>Probability of Prize Increase</b>	<b>Chance of Occurrence</b>
10X (Prize Won Times 10)	0 in 42	0.0000%
5X (Prize Won Times 5)	2 in 42	4.7619%
4X (Prize Won Times 4)	3 in 42	7.1429%
3X (Prize Won Times 3)	13 in 42	30.9523%
2X (Prize Won Times 2)	24 in 42	57.1429%
Power Play does not apply to the Grand Prize. Except as provided in subparagraph (C) of this paragraph, a Power Play Match 5 prize is set at two million dollars (\$2 million), regardless of the multiplier selected.		

(5) Limitations on Payment of Power Play Prizes.

1 (A) Prize Pool Carried Forward. The prize pool percentage allocated to the Power  
2 Play Set Prizes shall be carried forward to subsequent draws if all or a portion of it is not needed  
3 to pay the Set Prizes awarded in the current draw.

4 (B) Pari-Mutuel Prizes--All Prize Amounts. If the total of the original Powerball  
5 Set Prizes and the Power Play Prizes awarded in a Drawing exceeds the percentage of the prize  
6 pools allocated to the Set Prizes, then the amount needed to fund the Set Prizes (including the  
7 Power Play prize amounts) awarded shall first come from the amount available in the Set Prize  
8 Pool and the Power Play Prize Pool, if any, second from the Powerball Group's Set Prizes Reserve  
9 Account, if available, not to exceed forty million dollars (\$40,000,000.00) per Drawing, and third  
10 from other amounts as agreed to by the Powerball Group in their sole discretion.

11 (C) If, after these sources are depleted, there are not sufficient funds to pay the Set  
12 Prizes awarded (including Power Play prize amounts), then the highest Set Prize (including the  
13 Power Play prize amounts) shall become a pari-mutuel prize. If the amount of the highest Set Prize,  
14 when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still  
15 not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize,  
16 including the Power Play prize amount, shall become a pari-mutuel prize. This procedure shall  
17 continue down through all Set Prizes levels, if necessary, until all Set Prize levels become pari-  
18 mutuel prize levels. In that instance, the money available from the funding sources listed in this  
19 section shall be divided among the winning Plays in proportion to their respective prize  
20 percentages. Powerball and Power Play prizes will be reduced by the same percentage. By  
21 agreement, the Licensee Lotteries shall independently calculate their set pari-mutuel prize  
22 amounts, including the Power Play prize amounts. The Party Lotteries and the Licensee Lotteries

1 shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser  
2 of the independently-calculated prize amounts.

3 (6) Prize Payment.

4 (A) Prize Payments. All Power Play prizes shall be paid in a single payment through  
5 the Selling Lottery that sold the winning Power Play Play(s). A Selling Lottery may begin paying  
6 Power Play prizes after receiving authorization to pay from the MUSL central office.

7 (B) Prizes Rounded. Prizes, which, under these rules, may become pari-mutuel  
8 prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage  
9 resulting from rounding these prizes shall be carried forward to the prize pool for the next Drawing.





Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed forms are used the public benefit expected as a result of adoption of the proposed forms will be to assist the public in navigating the transition from the former version of the Act to the current Government Code version of the Act. There will be no adverse economic effect on micro- or small businesses or rural communities. Since the proposed forms will have no adverse economic effect on micro- or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to use the forms as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed rules adopting by reference the forms are in effect: they do not create or eliminate a government program; they do not require the creation or elimination of existing employee positions; they do not require an increase or decrease in future legislative appropriations to this agency; they do not require an increase or decrease in fees paid to this agency; they do not increase or decrease the number of individuals subject to the rules' applicability; they do not positively or negatively affect the state's economy; and they do not create a new regulation, or expand, limit or repeal an existing regulation. Although the rulemaking involves the creation of new forms, there would be no new regulation created since the net effect is to merely replace forms that are being concurrently proposed for repeal, while leaving the scope and the content of the current regulations that relate to these forms unchanged.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed sections in the *Texas Register*. Written comments should be submitted to Marlene K. Sparkman, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 or faxed to (512) 305-8336. Comments may also be submitted electronically to [proposal@ssb.texas.gov](mailto:proposal@ssb.texas.gov). In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The new rules are proposed under the authority of Texas Government Code, §§4002.151 and 4006.102(b). Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4006.102(b) provides the Board with the authority to adopt rules reducing fees for persons registered in two or more capacities.

The proposal affects Chapters 4003 and 4004 of the Texas Government Code, and Subchapter A of Chapter 4005 of the Texas Government Code.

§133.5. Secondary Trading Exemption Notice.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.6. Secondary Trading Exemption Renewal Notice.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.7. Securities Application.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.12. Renewal Application for Mutual Funds and Other Continuous Offerings.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.13. Application for Renewal Permit.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.16. Texas Crowdfunding Portal Withdrawal of Registration.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.18. Certification of Balance Sheet by Principal Financial Officer.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.26. Request for Determination of Money Market Fund Status for Federal Covered Securities.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.27. Year-End Report of Sales of Federal Covered Securities by a Money Market Fund.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.29. Intrastate Exemption Notice.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.30. Information Concerning Projected Market Prices and Related Market Information.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.34. Undertaking Regarding Non-issuer Sales.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

§133.36. Request for Reduced Fees for Certain Persons Registered in Multiple Capacities.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at [www.ssb.texas.gov](http://www.ssb.texas.gov).

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 June 13, 2022.

TRD-202202199

Travis J. Iles

Securities Commissioner

State Securities Board

Earliest possible date of adoption: July 24, 2022

For further information, please call: (512) 305-8303



## TITLE 16. ECONOMIC REGULATION

### PART 9. TEXAS LOTTERY COMMISSION

#### CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

## SUBCHAPTER D. LOTTERY GAME RULES

### 16 TAC §401.317

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.317, concerning ("Powerball" Draw Game Rule).

The proposed amendments to §401.317 align the rule with recently amended Multi-State Lottery Association (MUSL) Powerball game rules. MUSL Powerball game rules were amended on January 6, 2022 to address changes related to the funding of Powerball Guaranteed Grand Prizes.

Kelly Stuckey, Controller, has determined that for each year of the first five years the proposed amendments will be in effect, the public benefit expected is aligning this rule with recently amended MUSL Powerball game rules.

Kelly Stuckey, 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).

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, Kelly Stuckey, Controller, has determined the following:

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

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments 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](mailto:legal.input@lottery.state.tx.us). Comments must be received within 30 days after publication of this proposal in the *Texas Register* to be considered.

These amendments are proposed under Texas Government Code §466.015(c), which authorizes the Commission to adopt rules governing the operation of the lottery, and §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 Chapter 466.

§401.317. "Powerball" Draw Game Rule.

(a) - (c) (No change.)

(d) Powerball Prize Pool.

(1) Powerball Prize Pool.

(A) (No change.)

(B) Powerball Prize Pool Accounts and Prize Reserve Accounts. The Product Group shall set the contribution rates to the prize pool and to one or more prize reserve or pool accounts established by the MUSL Powerball Group Rules.

(i) Prize Reserve Accounts. The Product Group has established the following prize reserve accounts for the Powerball game: the Powerball Prize Reserve Account (PRA), which is used to guarantee the payment of valid, but unanticipated, Grand Prize claims that may result from a system error or other reason, or to fund Guaranteed Grand Prizes per subsection (f)(6)(E) of this section; and the Powerball Set Prize Reserve Account (SPRA), which is used to fund deficiencies in low-tier Powerball prize payments, subject to the limitations of the MUSL rules.

(ii) - (iii) (No change.)

(iv) The maximum contribution rate to the Grand Prize Pool shall be 68.0131% of the prize pool (34.0066% of sales) except as provided in subsection (f)(6)(E) of this section. An amount up to five percent (5%) of a Party Lottery's sales shall be deducted from a Party Lottery's Grand Prize Pool contribution and placed in trust in one or more prize pool accounts and prize reserve accounts held by the Product Group (hereinafter the "prize pool and reserve deduction") at any time that the prize pool accounts and Party Lottery's share of the prize reserve accounts is below the amounts designated by the Product Group. An additional amount up to twenty percent (20%) of a Party Lottery's sales shall be deducted from a Party Lottery's Grand Prize Pool contribution and placed in trust in the GPCFP to be held by the Product Group at a time as determined by the Product Group.

(v) - (viii) (No change.)

(2) (No change.)

(e) (No change.)

(f) Powerball Prize Payment.

(1) - (5) (No change.)

(6) ~~[Funding of]~~ Guaranteed Powerball Prizes. The Powerball Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between Drawings or make other changes in the allocation of prize money where the Powerball Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand Prize amount between Drawings is offered by the Powerball Group, then the Grand Prize shares shall be determined as follows:

(A) - (D) (No change.)

(E) Funding of Guaranteed Grand Prizes. If the amount in the GPP, GPCFP and SAP and contributions from Licensee Lot-

teries who are not participating in the PRA are insufficient to fund the amount required by awarded Guaranteed Grand Prize(s), then the PRA, and thereafter contributions from individual Member Lotteries and Licensee Lotteries participating in the PRA, may be required to fund Guaranteed Grand Prize award deficiencies. Contributions from the PRA shall first be utilized, and then contributions from individual Member Lotteries and Licensee Lotteries participating in the PRA, if necessary. Contributions required from the PRA or from Member Lotteries and Licensee Lotteries participating in the PRA shall be determined on a pro rata basis based on sales since the most recent Grand Prize win.

(7) - (8) (No change.)

(g) - (k) (No change.)

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 June 13, 2022.

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Texas Lottery Commission

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For further information, please call: (512) 344-5324



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 129. STUDENT ATTENDANCE

#### SUBCHAPTER AA. COMMISSIONER'S RULES

##### 19 TAC §129.1025

The Texas Education Agency (TEA) proposes an amendment to §129.1025, concerning student attendance. The proposed amendment would adopt by reference the *2022-2023 Student Attendance Accounting Handbook*. The handbook provides student attendance accounting rules for school districts and charter schools.

BACKGROUND INFORMATION AND JUSTIFICATION: TEA has adopted its student attendance accounting handbook in rule since 2000. Attendance accounting evolves from year to year, so the intention is to annually update 19 TAC §129.1025 to refer to the most recently published student attendance accounting handbook.

Each annual student attendance accounting handbook provides school districts and charter schools with the Foundation School Program (FSP) eligibility requirements of all students, prescribes the minimum requirements of all student attendance accounting systems, lists the documentation requirements for attendance audit purposes, and details the responsibilities of all district personnel involved in student attendance accounting. TEA distributes FSP resources under the procedures specified in each current student attendance accounting handbook. The final version of the student attendance accounting handbook is published on the TEA website. A supplement, if necessary, is also published on the TEA website.

The proposed amendment to 19 TAC §129.1025 would adopt by reference the student attendance accounting handbook for the 2022-2023 school year. The proposed handbook is available on the TEA website at <https://tea.texas.gov/finance-and-grants/financial-compliance/student-attendance-accounting-handbook>.

Significant changes to the *2022-2023 Student Attendance Accounting Handbook* would include the following.

##### Section 2, Audit requirements

Texas Education Code (TEC), Chapter 48, specifically §48.270, establishes the requirements for violation of presenting reports that contain false information. TEC, §44.008, authorizes the commissioner to require audit reports to be submitted for review and analysis. TEC, §44.010, allows for the review of budget, fiscal, and audit reports to determine whether all legal requirements have been met. The following changes would implement reporting for audit requirements to account for attendance and funding.

Language would be revised to state that student detail reports, campus detail reports, and district summary reports show that total days present includes in-person, remote synchronous, and remote asynchronous instruction.

Language would be revised to show that student detail reports must contain total contact hours for all career and technical education codes (V1-V3) by grade and a campus total for all grades.

Language would be revised to state that reconciliation of teacher's roster information and attendance accounting records should take place on the same day for all campuses within a local educational agency (LEA).

##### Section 3, General Attendance Requirements

TEC, §25.081, and Chapter 48, specifically §48.005, establish the general parameters for attendance and school operation. The following changes would implement reporting requirements for attendance and funding.

Language would be added to state that Code 9 applies to a student who is enrolled in a virtual learning program but not in membership. This code applies to students who are attending a virtual program under Senate Bill (SB) 15 and are not eligible to participate in the program.

Language would be revised to add a row to the funding eligibility chart that if a student is scheduled for and provided instruction through a remote program but does not meet the eligibility requirements for the program, the student is not eligible to generate average daily attendance (ADA) but would be eligible for certain FSP allotment funding and should be reported with ADA eligibility code 9.

Language would be revised to state that the number of days of participation for any student in any special program cannot exceed the number of days present (in-person, remote synchronous, and remote asynchronous) for the same reporting period for the same instructional track.

Language would be revised to show age eligibility for a student with a disability who graduated by meeting the requirements of 19 TAC §89.1070(b)(2); (3)(A), (B), or (C); or (4)(A), (B), or (C), as determined by the student's admission, review, and dismissal (ARD) committee and who is still in need of special education services. (This student may be served through age 21 inclusive.)

Language would be revised to show ineligibility of a student with disabilities who has graduated with a high school diploma under