


# INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

	Approved	Denied
<b>To:</b> J. Winston Krause, Chairman Carmen Arrieta-Candelaria, Commissioner Doug Lowe, Commissioner Robert Rivera, Commissioner		
<b>From:</b> Ryan S. Mindell, Managing Attorney		
<b>Date:</b>  February 8, 2018		
<b>Re:</b> Consideration of and possible discussion and/or action, including proposal, on new 16 TAC §403.800 (Savings Incentive Program)		

Attached for your consideration is Commission staff's proposal for new 16 TAC §403.800 (Savings Incentive Program). The purpose of the proposed new rule is to implement language required by newly-enacted SB 132 from the Regular Session of the 85th Texas Legislature concerning savings incentive programs for state agencies. While currently the Commission has no undedicated general revenue appropriated to it that would allow for a savings incentive program, the statute requires that the Commission enact rules in case such funds are appropriated in the future.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposal in the *Texas Register* to receive public comment for a period of 30 days.

1           The Texas Lottery Commission (Commission) proposes new 16 TAC §403.800 (Savings  
2 Incentive Program). The purpose of the proposed new rule is to implement language required by  
3 newly-enacted SB 132 from the Regular Session of the 85th Texas Legislature concerning savings  
4 incentive programs for state agencies. While currently the Commission has no undedicated  
5 general revenue appropriated to it that would allow for a savings incentive program, the statute  
6 requires that the Commission enact rules in case such funds are appropriated in the future.

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

15           Kathy Pyka, Controller, has determined that for each year of the first five years the  
16 proposed new rule will be in effect, the public benefit is reflecting the statutory change regarding  
17 savings incentive programs and, potentially in the future if the Commission is funded differently,  
18 encouraging employees to identify cost savings to the state.

19           Pursuant to Texas Government Code §2001.0221, the Commission provides the following  
20 Government Growth Impact Statement for the proposed rule. This statement is based on the  
21 absence of any undedicated general revenue in the Commission's current and anticipated  
22 legislative appropriations that would trigger the implementation of the savings incentive program.

1 Accordingly, for each year of the first five years the proposed rule will be in effect, Kathy Pyka,  
2 Controller, has determined the following:

3 (1) The proposed rule does not create or eliminate a government program.

4 (2) Implementation of the proposed rule does not require the creation of new employee  
5 positions or the elimination of existing employee positions.

6 (3) Implementation of the proposed rule does not require an increase or decrease in future  
7 legislative appropriations to the Commission.

8 (4) The proposed rule does not require an increase or decrease in fees paid to the  
9 Commission.

10 (5) The proposed rule creates a new regulation only as mandated by the Texas Legislature.

11 (6) The proposed rule does not expand or limit an existing regulation.

12 (7) The proposed rule does not increase or decrease the number of individuals subject to  
13 the rule's applicability.

14 (8) The proposed rule does not positively or adversely affect this state's economy.

15 The Commission requests comments on the proposed new rule from any interested person.  
16 Comments on the proposed new rule may be submitted to Ryan Mindell, Managing Attorney, by  
17 mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at  
18 (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. Comments must be received within  
19 30 days after publication of this proposal in the Texas Register in order to be considered.

20 The new rule is proposed under Texas Government Code §467.102, which authorizes the  
21 Commission to adopt rules for the enforcement and administration of the laws under the  
22 Commission's jurisdiction; and Texas Government Code §2108.103(f), which requires the  
23 Commission to adopt rules for its implementation.

1           The proposed new rule implements changes to Chapter 2108 of the Texas  
2 Government Code.

3 §403.800. Savings Incentive Program.

4 (a) Purpose. This section implements Chapter 2108 of the Texas Government Code, which  
5 requires 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 Currently, the Commission has no appropriated undedicated general revenue and therefore may  
8 not retain any savings. However, consistent with the statute, this section will govern any potential  
9 future savings realized from appropriated undedicated general revenue.

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

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

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

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

19                   (A) is a current full-time equivalent employee of the Commission;

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

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

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

4 (A) less than three percent, a bonus described by Subsection (c)(2) may not exceed  
5 \$250;

6 (B) at least three percent but less than five percent, a bonus described by  
7 Subsection (c)(2) may not exceed \$500;

8 (C) at least five percent but less than 10 percent, a bonus described by Subsection  
9 (c)(2) may not exceed \$750; and

10 (D) 10 percent or more, a bonus described by Subsection (c)(2) may not exceed  
11 \$1,000.

12 (4) The Commission may not provide a bonus under Subsection (c)(2) to an employee of  
13 the Commission who serves in a director-level position, including the executive director.