

operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. In lieu of fully consolidated statements, applicant may furnish separate certified financial statements with respect to any person or persons, and certified consolidated or combined statements with respect to any group of persons.

(b)(1) A [controlled] *significant* person who is an individual or any person identified pursuant to Note B who is an individual may make a written application to the superintendent for permission to submit a certified public accountant compilation rather than an opinion of an independent certified public accountant on the grounds that submitting an opinion of an independent certified public accountant would constitute a hardship upon the [controlled] *significant* person or person identified pursuant to Note B. The written application shall explain how submitting an opinion of an independent certified public accountant would constitute a hardship upon the [controlled] *significant* person or person identified pursuant to Note B.

(2) An executive officer or director of a corporation may make a written application to the superintendent for an exemption from the requirement that the person furnish a consolidated balance sheet as of the end of the applicant's fiscal year and related consolidated statements of income and surplus for the year then ended on the grounds that submitting the documents is not pertinent in determining the financial condition of the corporation of which the individual is an executive officer or director. The written application shall explain how furnishing a consolidated balance sheet as of the end of the applicant's fiscal year and related consolidated statements of income and surplus for the year then ended would not be pertinent in determining the financial condition of the corporation.

Text of proposed rule and any required statements and analyses may be obtained from: Joana Lucashuk, NYS Department of Financial Services, One State Street, New York, NY 10004, (212) 480-2125, email: joana.lucashuk@dfs.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

This rulemaking amends Item 3 of Section 80-1.6 to fix incorrect references to a "controlled person" and to clarify that an executive officer or director of a corporation may make a written application to the Superintendent for an exemption from the requirement that the person furnish a consolidated balance sheet as of the end of the applicant's fiscal year and related consolidated statements of income and surplus for the year then ended on the grounds that submitting the documents is not pertinent in determining the financial condition of the corporation of which the individual is an executive officer or director.

This rulemaking is determined by the agency to be a consensus rulemaking, as defined in State Administrative Procedure Act ("SAPA") § 102(11), and is proposed pursuant to SAPA § 202(1)(b)(i). Therefore, this rulemaking is exempt from the requirement to file a Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, or Rural Area Flexibility Analysis.

Job Impact Statement

The amendment to Insurance Regulation 52 should have no impact on jobs and employment opportunities. This rulemaking amends Item 3 of Section 80-1.6 to fix incorrect references to a "controlled person" and to clarify that an executive officer or director of a corporation may make a written application to the Superintendent for an exemption from the requirement that the person furnish a consolidated balance sheet as of the end of the applicant's fiscal year and related consolidated statements of income and surplus for the year then ended on the grounds that submitting the documents is not pertinent in determining the financial condition of the corporation of which the individual is an executive officer or director. Because this amendment merely clarifies, and makes technical corrections to, the current rule, this rulemaking should have no impact on jobs or employment opportunities.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

New York Lottery Draw Game Rules, Including Rules Implementing Changes to the Mega Millions Lottery Game

I.D. No. SGC-32-17-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 5007.1(b), 5007.2(a), 5007.4(a) and 5007.7 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104; Tax Law, sections 1601, 1604, 1612 and 1617

Subject: New York Lottery draw game rules, including rules implementing changes to the Mega Millions lottery game.

Purpose: Implement nationwide changes to the Mega Millions multi-state lottery game.

Text of proposed rule: Sections 5007.1, 5007.2, 5007.4 and 5007.7 of title 9 of NYCRR would be amended to read as follows:

§ 5007.1. Mega Millions purpose.

(b) During each Mega Millions drawing, six Mega Millions winning numbers will be selected from two fields of numbers in the following manner: five winning numbers from a field of one through [75] 70 numbers[,] and one winning number from a field of one through [15] 25 numbers.

§ 5007.2. Mega Millions definitions.

(a) The following definitions shall apply to Mega Millions.

(7) Mega Millions play area is, for the on-line Mega Millions game, the areas on a Mega Millions play slip identified by an alpha character, A through E, containing two separate fields—one field of [75] 70 and a second field of [15] 25—both containing one- or two-digit numbers each. This is the area where the player, or computer if the player is using the quick pick option, will select five one- or two-digit numbers from the first field and will select one one- or two-digit [numbers] number from the second field.

(10) Mega Millions winning numbers are, for the on-line Mega Millions game, five one- or two-digit numbers, from one through [75] 70 and one one- or two-digit number from one through [15] 25, randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on Mega Millions tickets.

§ 5007.4. Ticket price.

(a) Mega Millions tickets may be purchased for [\$1] \$2 per play at the discretion of the purchaser, in accordance with the number of game panels and inclusive drawings. The purchaser receives one play for each [\$1] \$2 wagered in Mega Millions. Tickets may contain multiple plays. The commission may authorize the sale of Mega Millions tickets at a different purchase price. Such a change in the purchase price shall be announced publicly by the commission prior to the effective date of such change.

§ 5007.7. Prize structure.

(a) For the Mega Millions game[—] the prize structure shall; be a matrix of [5/75] 5/70 and [1/15] 1/25 with [50] an approximately 49.8 percent anticipated prize fund.

[Match Field 1]	Match Field 2	Odds 1 in	Prize	% of Sales	Level]
[5]	1	258,890,850	JACKPOT	32.577%	1]
[5]	0	18,492,204	\$1,000,000	5.408%	2]
[4]	1	739,688	\$5,000	0.676%	3]
[4]	0	52,835	\$500	0.946%	4]
[3]	1	10,720	\$50	0.466%	5]

[3	0	766	\$5	0.653%	6]
[2	1	473	\$5	1.057%	7]
[1	1	56	\$2	3.542%	8]
[0	1	21	\$1	4.675%	9]
[Total		14.71		50.000%]	

Match Field 1	Match Field 2	Odds 1 in	Prize	% of Sales	Level
5	1	302,575,350	Jackpot	37.6%	1
5	0	12,607,306	\$1,000,000	4.0%	2
4	1	931,001	\$10,000	0.5%	3
4	0	38,792	\$500	0.6%	4
3	1	14,547	\$200	0.7%	5
3	0	606	\$10	0.8%	6
2	1	693	\$10	0.7%	7
1	1	89	\$4	2.2%	8
0	1	37	\$2	2.7%	9
Total		24.0		49.8%	

(b) Jackpot prize payments. For the Mega Millions game:

(4) Purchasers in New York must select either an annuity jackpot prize or lump sum jackpot prize. A jackpot prize shall be paid, at the election of a player made no later than 60 days after the player becomes entitled to the prize, with either an annuity or lump sum payment. If the payment election is not made by a player within 60 days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election to take a lump sum payment may be made at the time of the prize claim or within 60 days after the player becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked. Withdrawn or otherwise changed without the approval of the commission.

(ii) Lump sum option jackpot prizes shall be paid in a single payment upon completion of internal validation procedures. The lump sum option amount offered shall be the amount determined by multiplying the annuitized prize amount by a discount value set by Mega Millions finance committee prior to each drawing (the ["lump sum equivalent jackpot prize"] *lump sum equivalent jackpot prize*), divided by the number of total jackpot prize winners for the Mega Millions game.

(c) Second- through ninth-level prizes.

(1) Mega Millions panels matching five of the five Mega Millions winning numbers drawn for Field 1, but not matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a second prize of \$1,000,000.

(2) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive a third prize of \$5,000 \$10,000.

(3) Mega Millions panels matching four of the five Mega Millions winning numbers drawn for field 1 but not matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a fourth prize of \$500.

(4) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive a fifth prize of \$50 \$200.

(5) Mega Millions panels matching three of the five Mega Millions winning numbers drawn for field 1 but not matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a sixth prize of \$5 \$10.

(6) Mega Millions Panels matching two of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive a seventh prize of \$5 \$10.

(7) Mega Millions panels matching one of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive an eighth prize of \$2 \$4.

(8) Mega Millions panels matching no numbers of the five Mega Millions winning numbers drawn for field 1 but matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a ninth prize of \$1 \$2.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301-7500, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission ("Commission") is authorized to promulgate the proposed rules by Tax Law Sections 1601, 1604, 1612(a) and 1617 and by Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 104(1) and 104(19).

Tax Law Section 1601 describes the purpose of Article 34 of the Tax Law, also known as the New York State Lottery for Education Law, as being to establish a lottery operated by the State, the net proceeds of which are applied exclusively to aid to education. Tax Law Section 1604 authorizes the promulgation of rules governing the establishment and operation of such lottery. Tax Law Section 1612(a) describes the distribution of revenues for a joint, multi-jurisdiction and out-of-state lottery and Section 1617 authorizes the Commission's Director of the Lottery Division to enter into an agreement with a government-authorized group of one or more jurisdictions for the operation and administration of such a lottery.

Racing Law Section 104(1) grants the Commission general jurisdiction over all gaming activities within the State. Racing Law Section 104(19) authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** To permit the State's continued participation in the Mega Millions multi-jurisdiction lottery game and to implement changes to the game that are expected to generate more revenue for education.

3. **NEEDS AND BENEFITS:** Mega Millions is a multi-state lottery game that New York offers pursuant to an agreement among various state lotteries, as authorized by Tax Law Sections 1617, 1612(a) and 1604. A consortium of state lotteries that participate in the Mega Millions game has approved and adopted amendments to the game intended to be effective nationwide with sales effective on October 28, 2017 for the drawing on October 31, 2017. Consortium participants are required to comply with official Mega Millions game rules, as amended. The proposed rulemaking incorporates amendments necessary for New York's continued participation in the Mega Millions game. In addition, these amendments are expected to increase ticket sales and generate more revenue for education.

Mega Millions awards prizes to holders of tickets matching specified combinations of numbers randomly selected in regularly scheduled drawings. Players select five numbers from one set and one number from a second set. The proposed rules are intended to create larger jackpot prize amounts. This would be accomplished by decreasing the size of the first set of numbers from which a player chooses (from 75 to 70), while increasing the size of the second set of numbers (from 15 to 25). Finally, the set prize amounts for various non-jackpot prizes will increase as follows: a third-level prize will increase from \$5,000 to \$10,000; a fifth-level prize will increase from \$50 to \$200; a sixth-level or seventh-level prize will increase from \$5 to \$10; an eighth-level prize will increase from \$2 to \$4; and a ninth-level prize will increase from \$1 to \$2.

Without the proposed rules, the Commission would need to remove the Mega Millions game from its portfolio of offerings and aid to education would be negatively affected. In the last fiscal year, \$280.8 million in Lottery sales were from the Mega Millions game. This change to the Mega Millions matrix is predicted to increase the average overall jackpot throughout the year and increase sales in New York and aid to education from this product.

4. COSTS:

(a) Costs to regulated parties for the implementation and continuing compliance with the rule: None.

(b) Costs to the regulating agency, the State, and local governments for the implementation and continued administration of the rule: No additional operating costs are anticipated as a result of the proposed rules, because current funds reserved for administrative expenses of operating lottery games are expected to be sufficient.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: The cost estimates are based on the New York Lottery's experience regulating lottery games for more than 50 years.

5. **LOCAL GOVERNMENT MANDATES:** There are no local government mandates associated with the proposed rules.

6. **PAPERWORK:** The proposed rules impose no changes in paperwork requirements. Game information will be issued by the New York Lottery for public convenience on the Lottery's website and through point of sale advertising materials at retailer locations.

7. **DUPLICATION:** The proposed regulations do not duplicate any existing State or federal requirements of the same or similar subject matter.

8. **ALTERNATIVES:** Without the amended rules, the New York Lottery would need to remove the game from its portfolio of offerings and aid to education would be affected negatively.

9. **FEDERAL STANDARDS:** The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. **COMPLIANCE SCHEDULE:** The proposed rules will become effective on October 28, 2017.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed rules changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rules would permit New York's continued participation in the Mega Millions multi-jurisdiction lottery game and implement changes to the game that are expected to generate more revenue for education.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Masters-In-Education Teacher Incentive Scholarship Program

I.D. No. ESC-32-17-00004-E

Filing No. 533

Filing Date: 2017-07-25

Effective Date: 2017-07-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 2201.17 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 669-f

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.17 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2016 term, which generally starts in August. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides for tuition benefits to college-going students attending a New York State public institution of higher education who pursue a graduate program of study in an education program leading to a career as a teacher in public elementary or secondary education. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of the program as provided in the regulation be effective immediately so that students can make informed choices and in order for HESC to process scholarship applications in a timely manner. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Masters-in-Education Teacher Incentive Scholarship Program.

Purpose: To implement the New York State Masters-in-Education Teacher Incentive Scholarship Program.

Text of emergency rule: New section 2201.17 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.17 New York State Masters-in-Education Teacher Incentive Scholarship Program.

(a) **Definitions.** As used in section 669-f of the Education Law and this section, the following terms shall have the following meanings:

(1) **Academic excellence** shall mean the attainment of a cumulative grade point average of 3.5 or higher upon completion of an undergraduate program of study from a college or university located within New York State.

(2) **Approved master's degree in education program** shall mean a program registered at a New York State public institution of higher education pursuant to Part 52 of the Regulations of the Commissioner of Education.

(3) **Award** shall mean a New York State Masters-in-Education Teacher Incentive Scholarship Program award pursuant to section 669-f of the New York State education law.

(4) **Classroom instruction** shall mean elementary and secondary education instruction, as required by the New York State Education Department, including enrichment and supplemental instruction that may be offered to a subset of students. Classroom instruction shall not include support services, such as counseling, speech therapy or occupational therapy services.

(5) **Elementary and secondary education** shall mean pre-kindergarten through grade 12 in a public school recognized by the board of regents or the university of the state of New York, including charter schools authorized pursuant to article fifty-six of the education law.

(6) **Full-time study** shall mean the number of credits required by the institution in each term of the approved master's degree in education program. A recipient may complete fewer credits than required for full-time study if he or she is in their last term and fewer credit hours are necessary to complete their degree program. In this case, the award amount shall be based on the tuition reported by the institution.

(7) **Initial certification** shall mean any certification issued pursuant to part 80 of this title which allows the recipient to teach in a classroom setting on a full-time basis.

(8) **Interruption in graduate study or employment** shall mean an allowable temporary period of leave for a definitive length of time due to circumstances approved by the corporation, including, but not limited to, maternity/paternity leave, death of a family member, or military duty.

(9) **Program** shall mean the New York State Masters-in-Education Teacher Incentive Scholarship Program codified in section 669-f of the education law.

(10) **Public institution of higher education** shall mean the state university of New York, as defined in subdivision 3 of section 352 of the education law, or the city university of New York as defined in subdivision 2 of section 6202 of the education law.

(11) **Rank** shall mean an applicant's position, relative to all other applicants, based on cumulative grade point average upon completion of an undergraduate program of study from a college or university located within New York State.

(12) **School year** shall mean the period commencing on the first day of July in each year and ending on the thirtieth day of June next following.

(13) **Successful completion of a term** shall mean that at the end of any academic term, the recipient: (i) met the eligibility requirements for the award pursuant to sections 661 and 669-f of the Education Law; (ii) maintained full-time status as defined in this section; and (iii) possessed a cumulative grade point average of 3.5 or higher as of the date of the certification by the institution.

(14) **Teach in a classroom setting on a full-time basis** shall mean continuous employment providing classroom instruction in a public elementary or secondary school, including charter schools, Boards of Cooperative Educational Services (BOCES) and public pre-kindergarten programs, located within New York State, for at least 10 continuous months, each school year, for a number of hours to be determined by the labor contract between the teacher and employer, or if none of the above apply, the chief administrator of the school.

(b) **Eligibility.** An applicant must satisfy the eligibility requirements contained in both sections 669-f and 661 of the education law, provided however that an applicant for this Program must meet the good academic standing requirements contained in section 669-f of the education law.

(c) **Priorities.** If there are more applicants than available funds, the following provisions shall apply:

(1) **First priority** shall be given to applicants who have received payment of an award pursuant to section 669-f of the education law for the academic year immediately preceding the academic year for which payment is sought and have successfully completed the academic term for which payment is sought. First priority shall include applicants who received payment of an award pursuant to section 669-f of the education law, were subsequently granted an interruption in graduate study by the corporation for the academic year immediately preceding the academic year for which payment is sought and have successfully completed the academic term for which payment is sought. If there are more applicants than available funds, recipients shall be chosen by lottery.