

October 16, 2025

Legislative Reference Library

sonars@lrl.leg.mn

In the Matter of the Proposed Amendments to Rules Relating to Lost and Stolen Lottery Tickets, Minnesota Rules, 7856.7040 and 7856.7050; Revisor's ID Number R-04925

Dear Legislative Reference Library:

The Minnesota State Lottery intends to adopt rules relating to lost and stolen lottery tickets. We published a Notice of Intent to Adopt Rules without a Public Hearing in the October 6, 2025, State Register.

We have prepared a Statement of Need and Reasonableness. As required under Minnesota Statutes, sections 14.131 and 14.23, we are sending the library an electronic copy of the Statement of Need and Reasonableness.

If you have any questions or concerns, please contact me at ben.freedland@mnlottery.com.

Sincerely,

Ben Freedland, General Counsel

Enclosure: Statement of Need and Reasonableness

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STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Relating to Lost and
Stolen Lottery Tickets, Minnesota Rules, 7856.7040 and
7856.7050; Revisor's ID Number R-04925

Minnesota State Lottery

September 2025

General information

1. Availability: The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Minnesota Lottery's Public Notices website: <https://www.mnlottery.com/about-the-lottery/lottery-statutes-and-rules>
2. View older rule records at [Minnesota Rule Statutes](https://www.revisor.mn.gov/rules/status/)
<https://www.revisor.mn.gov/rules/status/>
3. Minnesota Lottery contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Ben Freedland, General Counsel, Minnesota State Lottery, 2645 Long Lake Road, Roseville, MN 55113, ben.freedland@mnlottery.com; or use a telecommunications relay service.

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Acronyms

ALJ	Administrative Law Judge
APA	Administrative Procedures Act
CFR	Code of Federal Regulations
MAT	Minnesota Association of Townships
Minn. R. pt	Minnesota Rules part
Minn. Stat.	Minnesota Statutes
MMB	Minnesota Management and Budget
MN	Minnesota
MORS	Minnesota Office of the Revisor of Statutes
OAH	Office of Administrative Hearings
OLA	Office of the Legislative Auditor
SONAR	Statement of Need and Reasonableness

Introduction and Overview

Introduction

In November 2024, the Office of the Legislative Auditor (OLA) found that the Minnesota State Lottery did not comply with Minn. R. 7856.7040 when it declined to charge retailers for lost or stolen scratch game tickets. *See generally Minn. Office of the Legislative Auditor, Minnesota State Lottery – Performance Audit 28* [hereinafter OLA Report], (Nov. 21, 2024). The OLA Report recommended the Lottery “propose changes to the Minnesota rules so that the rules reflect the Lottery’s policies and procedures.” While the Lottery responded to the OLA that its current practices are consistent with its existing rules, it commenced this rulemaking to clarify those rules in response to the OLA Report.

By way of important background, Minnesota Lottery scratch games are sold via a full consignment contract pursuant to Minnesota Statutes, section 349A.06. Tickets are shipped to retailers and the Lottery charges retailers the total sales price of a pack of tickets (less commission and actual prizes paid) after each pack has been sold to retailers’ customers. This process is called activation (tickets are turned on in the Lottery’s computer system) and settlement (the retailer is charged). For example, if in one week a retailer sells one pack of 100 \$1 scratch tickets and pays \$25 in prizes, and therefore has \$75 in its cash register, the Lottery will sweep the retailer’s account for \$69 (\$100 in sales less \$25 in prizes, leaving \$6 in commissions).

Once lottery tickets are activated, they can be used to claim prizes and should be treated like cash. Deactivated tickets, however, cannot be used to claim prizes and have no value other than the fraction of a penny it costs to print each ticket. Retailers can deactivate tickets using their lottery terminal. The Minnesota Lottery, however, can deactivate tickets remotely using the Lottery computer system on a pack-by-pack or even ticket-by-ticket basis. This means that when tickets are lost or stolen, they can be deactivated if the retailer contacts the Lottery and the tickets have not yet been cashed.

When any goods are sold on consignment, an important consideration is the risk of loss. If the consignee bears the risk, the consignee may hesitate to sell the product. If the consigner bears the risk, the consignee has less incentive to safeguard the product. The Minnesota Lottery seeks to use a flexible risk-of-loss approach consigning scratch game tickets to retailers. The retailer will bear the risk unless the Lottery waives that responsibility because the retailer acted responsibly and still experienced a loss or theft. The Minnesota State Lottery is proposing amendments to Minnesota Rules, parts 7856.7040 and 7856.7050 to clarify the responsibilities of lottery retailers for tickets that are lost, stolen, or unaccounted for, and to codify a transparent and flexible framework for determining when the Lottery may waive retailer responsibility.

Statement of General Need

The Lottery needs to clarify Minnesota Rules, parts 7856.7040 and 7856.7050 to provide clear expectations to retailers while preserving the incentive structures needed to maximize the Lottery's retailer network to support generating funds for Lottery beneficiaries. The current rules do not expressly describe when or how the Lottery may waive a retailer's responsibility for lost, stolen, or missing tickets. As noted in the OLA Report, this ambiguity could create the potential for unfair practices in dealing with thefts or loss and could discourage businesses from becoming lottery retailers. While there has not been evidence of unfairness or discouragement, the Lottery needs to fix these issues to alleviate any OLA concerns and increase overall clarity. Additionally, the Lottery is using this opportunity to create a clear reconsideration process, which also furthers the goals of fairness and accountability.

Clarifying Minnesota Rules, parts 7856.7040 and 7856.7050 will ensure consistency and reinforce the Lottery's ability to evaluate each loss or theft on a case-by-case basis. It will also set a clear standard of review and create a process for reconsideration. This will further the Lottery's goals of maximizing returns while maintaining fairness, accountability, and public confidence. These clarifications are needed to align the Rules with how risk should be allocated and to provide clarity to both the Lottery and its retail partners.

Scope of Proposed Amendments

Minnesota Rules, parts 7856.7040 and 7856.7050 are affected by the proposed changes. The proposed amendments are below. In each rule, new subparts are added but the existing rule text is not modified. New rule text is **bold** below.

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7856.7040 AGENTS RESPONSIBLE FOR TICKETS.

Subpart 1. General responsibility. Tickets accepted by the retailer from the lottery, or its authorized representatives, are considered to have been purchased by the retailer, unless returned within the time specified. The retailer is responsible for lost, stolen, or missing tickets.

Subpart 2. Waiver of responsibility. The director may waive, in whole or in part, the retailer's responsibility for lost, stolen, or missing tickets if the director determines that granting a waiver is consistent with the secure, fair, and efficient operation of the lottery. In determining whether to grant a waiver, the director may consider appropriate factors, including but not limited to:

- A. The timeliness and completeness of the retailer's reporting of lost, stolen, or missing tickets;
- B. The retailer's inventory and loss prevention practices;
- C. The retailer's cooperation during any related investigation;
- D. The retailer's history of similar incidents involving lost, stolen, or missing tickets; and
- E. Any other factor the director reasonably determines would further the secure, fair, and efficient operation of the lottery.

Subpart 3. Reconsideration. A retailer who disagrees with a determination made by the director under subpart 2 may request reconsideration. The request for reconsideration must be in writing, state the reasons for the request, and be received by the lottery within 30 calendar days of the retailer's receipt of the determination. The director shall issue a written decision on the request for reconsideration within 30 calendar days of receipt. The decision on reconsideration is final.

7856.7050 TICKETS UNACCOUNTED FOR.

Subpart 1. Tickets deemed sold. Tickets that are not accounted for by the retailer on the final settlement date, regardless of reason, shall be deemed to have been sold to the retailer.

Subpart 2. Director's authority. Nothing in this part limits the director's authority under part 7856.7040 to waive a retailer's responsibility for tickets deemed sold under this part.

Statutory Authority

The Lottery's statutory authority to adopt the rules is stated in Minnesota Statutes section 349A.05, which provides that "The director may adopt rules under chapter 14 governing ... (6) accounting for and deposit of lottery revenues by lottery retailers ... (9) procedures needed to ensure the integrity and security of the lottery; and (10) other rules the director considers necessary for the efficient operation and administration of the lottery."

As shown in the Rule-by-Rule Analysis, below, the treatment of lost and stolen lottery tickets 1) impacts the deposit of lottery revenue by determining when retailers are responsible for lost or stolen tickets, 2) impacts the integrity and security of the Lottery by influencing the security protocols and procedures adopted by Lottery retailers, and 3) is a key rule in the efficient operation and administration of the Lottery because it sets expectations and the risk of loss for a product sold on consignment.

Under these statutes, the Lottery has the necessary statutory authority to adopt the proposed rules.

Public Participation and Stakeholder Involvement

Consistent with the Administrative Procedures Act (APA), the Lottery published a Request for Comments in the Minnesota State Register on March 3, 2025, and posted the Request for Comments on <https://www.mnlottery.com/about-the-lottery/lottery-statutes-and-rules>. Additionally, the Lottery solicited initial feedback on the proposed rules from a variety of organizations that are most likely to be affected by the rule revisions:

- The Minnesota Grocers Association
- The Minnesota Service Station & Convenience Store Association
- Minnesota Licensed Beverage Association
- The American Legion Department of Minnesota
- The approximately 1,300 retailer contacts that have provided the Lottery with an email address
- The Minnesota Center for Environmental Advocacy
- Conservation Minnesota
- The 17 members of the Legislative-Citizen Commission on Minnesota Resources (LCCMR)
- The eight full-time staff members of the LCCMR
- The approximately 100 project managers who submitted proposals to the LCCMR seeking funding from the Environment and Natural Resources Trust Fund (ENRTF) in 2023, 2024, and 2025.

Finally, in accordance with the requirements of Minnesota Statutes, Chapter 14, and Minnesota Rules, Chapter 1400, the Department sought input and comments from the public, stakeholders, and individuals affected by these rules.

During the Request for Comment period, the Lottery received one substantive written comment from Fueling Minnesota. Fueling Minnesota's comment noted it was a trade association representing 2,700 retail and convenience stores statewide. Fueling Minnesota noted that lottery ticket sales were a "partnership" and that historical losses from lost or stolen tickets appeared to be very low because most incidents are reported promptly and most tickets are deactivated before they can be redeemed. Substantively, Fueling Minnesota suggested full liability be placed on retailers with criminal intent, but no liability be placed on retailers with strong internal controls. Fueling Minnesota also suggested training and guidance precede any liability.

The Lottery also received a handful of phone calls from individual retailers in response to the email notice, but each was a question about the document and if anything changed immediately. None were substantive.

Also, during the Request for Comment period, the Lottery conducted a nationwide review of lottery rules and statutes to evaluate risk-of-loss arrangements for lost, stolen, or missing scratch tickets. While most state lotteries do not sell on full consignment, making the analysis difficult, the review confirmed that the proposed amendments are consistent with lottery industry standards and practices.

Reasonableness of the Amendments

General Reasonableness

The amendments to Minnesota Rules, parts 7856.7040 and 7856.7050, are reasonable because they clarify retailer expectations by establishing a clear standard for determining when retailers are responsible for lost, stolen, or missing scratch game tickets, while preserving the discretion and incentive structure needed to maintain a broad retailer network and maximize returns for Lottery beneficiaries. The amendments reasonably address the concerns raised in the OLA Report by eliminating ambiguity in the existing rules, providing transparent guidance to retailers, and creating a structured reconsideration process.

In developing these amendments, the Lottery considered but rejected a bright-line rule that placed the risk of loss on either retailers or the Lottery. While the OLA Report highlighted ambiguity in the existing rule, a strict allocation of the risk of loss would not serve the Lottery or its stakeholders. If the retailers always bore the risk, there would be little incentive to sell high-value, low-profit margin scratch tickets. If the Lottery always bore the risk, retailers would not be incentivized to follow time-consuming security best practices, and the risk of fraud would

increase. The proposed amendments strike a reasonable balance by establishing retailer responsibility as a default rule, while allowing the Lottery to waive it in cases where a retailer acted responsibly but still experienced a loss. The only substantive comment during the Request for Comment period supported this approach.

The flexible, factor-based approach described below will allow the Lottery to apply consistent principles on a case-by-case basis. This will alleviate the concerns found in the OLA Report and support the Lottery's mission.

Rule-by-Rule Analysis

Minn. Rule 7856.7040

The amended rules renumber the existing rule as Subpart 1 and add Subparts 2 and 3.

7856.7040 Subpart 1 – General responsibility

Subpart 1 in the amended rules is not new. It is the entirety of the existing Minnesota Rule 7856.7040. As explained below, under the amended rule, the default rule for responsibility for lost, stolen, and missing tickets remains on the retailer. Accordingly, this subpart is now titled "General Responsibility." This default rule is necessary to establish what happens if a retailer fails to report lost or stolen tickets as such, or if a retailer requests a waiver pursuant to new Subpart 2 but a waiver is not granted. This structure is clear, easy for retailers to understand, and reasonable, particularly because the default responsibility is reinforced in the retailer contract and in Lottery training materials.

7856.7040 Subpart 2 – Waiver of responsibility

This new subpart is the centerpiece of this rulemaking. It provides express authority, subject to defined factors, for the Lottery Director to waive the default rule described in Subpart 1.

The first sentence of Subpart 2 sets a standard for when the Lottery may waive responsibility for lost, stolen, or missing tickets and instead accept the responsibility "if the director determines that granting a waiver is consistent with the secure, fair, and efficient operation of the lottery." The standard requiring that any waiver promote the secure, fair, and efficient operation of the Lottery is both necessary and reasonable because without an articulated standard, there would be no clear principle to guide the Lottery's decision-making or to help retailers understand how the Lottery decides to waive responsibility.

The enumerated standard in the first sentence of Subpart 2 provides a clear guiding principle, but the second sentence in this subpart begins to enumerate factors the Lottery may consider to further promote transparency, consistency, and fairness. Although the list of factors

is not exhaustive, it informs retailers of what steps they must take if they want a waiver of responsibility to be granted and what guides the Lottery's decision-making. As described below, each factor is itself needed and reasonable.

7856.7040 Subpart 2 (A) – Timely and complete factor

Factor A is needed and reasonable because whether a retailer quickly reports lost or stolen tickets to the Lottery and law enforcement is key in determining whether a waiver of responsibility is warranted. As described in the introduction, when the Lottery is promptly informed of a loss or theft of scratch tickets, it can deactivate those tickets via its computer system. This renders the tickets worthless by preventing them from being redeemed for prizes. Complete reporting to the Lottery, including pack or ticket numbers, allows the Lottery to precisely deactivate only the lost or stolen inventory. Early and specific reporting mitigates retailer and Lottery losses, and is grounds to waive the default responsibility rule, particularly when reporting is so fast and detailed that no actual loss occurs.

Conversely, reporting lost or stolen tickets after all or most have been cashed means the losses have been realized. Similarly, a vague report does not enable the Lottery to deactivate only those tickets lost or stolen.

Finally, a police report is strong evidence that the incident was a legitimate loss or theft rather than fraud. The Lottery, therefore, emphasizes the importance of immediately filing a police report when it is training retailers. A police report exposes the retailer to additional criminal penalties if the report is false, reinforcing the seriousness of the claim and lending it greater credibility. While not dispositive, the act of filing a police report and triggering a police investigation provides a third-party record, and it weighs in favor of granting a waiver.

7856.7040 Subpart 2 (B) – Inventory and loss prevention practices

Factor B is needed and reasonable because whether a retailer followed the Lottery's requirements and best practices for keeping inventory and preventing losses and theft is important in determining whether a waiver of responsibility is warranted. The Lottery works closely with its retailer partners to prevent losses and theft, and to minimize their impacts when they occur. However, ultimately the Lottery cannot control whether retailers implement these practices and recommendations.

For example, the Lottery encourages retailers to keep scratch tickets locked in a safe, to limit access to active inventory, to activate only packs that are ready to be sold, to reconcile inventory, and to use Lottery technology to track scratch tickets. A retailer who consistently follows these practices but still suffers a loss or theft has likely acted responsibly and in good faith, and a waiver of responsibility may be warranted. Conversely, a retailer who fails to track

inventory, leaves active tickets unlocked, and/or violates other Lottery policies or guidance may reasonably be held to the default rule of responsibility when there is a loss or theft.

This factor helps ensure that the waiver process does not penalize retailers that make a good-faith effort to secure their inventory and encourages retailers to take proactive steps to prevent losses and theft. Best practices are clearly articulated, and in most cases, it is readily apparent whether they are followed, making this an important factor in determining whether a waiver of responsibility is warranted.

7856.7040 Subpart 2 (C) – History of similar incidents

Factor C is needed and reasonable because whether a retailer has suffered multiple losses or thefts is a relevant factor in determining whether a waiver of responsibility is warranted. While a single loss or theft may occur despite a retailer's best efforts, repeated losses may show that a retailer is not addressing the root causes or improving its loss prevention practices. Furthermore, this factor will encourage retailers to learn from prior issues because they know that each loss or theft decreases the likelihood of a waiver of responsibility. Like all the proposed factors, frequency is not dispositive, and it is possible to imagine repeated thefts in a short period of time despite a retailer's best efforts, but this is still a relevant factor and will be considered under the amended rules.

7856.7040 Subpart 2 (D) – Cooperation during related investigations

Factor D is needed and reasonable because without substantial retailer cooperation after a loss or theft, the Lottery cannot evaluate the facts or apply the other factors to determine whether a waiver of responsibility is warranted. As noted in Factors A through C, intensive inquiry must be done to ascertain numerous facts before deciding whether to grant a waiver. The retailer must allow Lottery investigators to gather the necessary information to make an individualized determination. This may involve, for example, reviewing security camera footage, inventory policies, and physical security controls. If a retailer refuses to cooperate, the Lottery should not deviate from the default rule of retailer responsibility.

7856.7040 Subpart 2 (E) – Other relevant factors

Factor E is needed and reasonable because it provides the Lottery with limited flexibility to consider other factors relevant to the secure, fair, and efficient operation standard that may arise in unusual cases. While Factors A through D cover the most common and important considerations in determining whether to deviate from the default rule of retailer responsibility for lost and stolen tickets, it is not possible to anticipate every scenario when dealing with over 3,000 retailers across all corners of the state.

This final factor ensures that the Lottery can make reasonable, equitable, and well-informed determinations, while still being guided by the overarching standard in Subpart 2. This added factor does not grant unfettered discretion or reopen the door for the concerns found in the OLA Report. Rather, if this factor is used, it must be tied to the secure, fair, and efficient operation standard, making it an important means of ensuring fairness in circumstances not covered by the other factors.

7856.7040 Subpart 3 – Reconsideration

This new subpart is an essential part of this rulemaking. This reconsideration procedure establishes a process for retailers to request review if the Lottery denies a waiver request. By requiring the retailer to request reconsideration in writing and the Lottery to issue a written response within 30 calendar days, this subpart ensures fairness, transparency, and consistency in the application of the secure, fair, and efficient operation standard. It obligates the Lottery to create a record of its reasoned decision-making to support accountability and public confidence.

This subpart is modeled after Minnesota Rules part 7856.3011, which provides a reconsideration process after the denial of a retailer application by the Lottery. This new reconsideration provision; however, is tailored to the fact-intensive inquiry and equitable decision-making outlined in Subpart 2, rather than the legal determination contemplated when granting or denying a retailer contract under Minnesota Statutes, section 349A.06. Existing retailers are familiar with this long-standing reconsideration process. Making the decision on reconsideration final is important for the Lottery and the retailer by preventing prolonged financial uncertainty after a fair and efficient reconsideration process. In sum, the reconsideration process is needed and reasonable because it balances a fair, efficient, and auditable decision-making process with the discretion needed to make case-by-case decisions involving numerous facts. It is worth noting that the Lottery remains subject to the requirement that all decisions be consistent with the secure, fair, and efficient operation of the Lottery, and the Lottery Director remains accountable to the Governor.

Minn. Rule 7856.7050

The amended rules renumber the existing rule as Subpart 1 and adds Subpart 2.

7856.7050 Subpart 1 – Tickets deemed sold

Like with Minnesota Rule 7856.7040, Subpart 1 in the amended 7856.7050 is not new. It is the entirety of the existing rule. This rule introduces the important concept of a “final settlement date.” This is the date on which all tickets are settled (and retailers are charged as described in the introduction) regardless of reason. This final date is necessary because the Lottery must reconcile all tickets: activated, inactivated, lost, stolen, destroyed, cashed, etc.,

and close its books on a scratch game. The ability to close its books on a certain date, i.e., the final settlement date, is a longstanding, needed, and reasonable way to protect the Lottery's financial and security integrity.

7856.7050 Subpart 2 – Director's authority

Subpart 2 is needed and reasonable to clarify the relationship between this rule and the amended Minnesota Rule 7040, described above. In its conversations with the OLA, this interplay between these rules was confusing and identified as a needed place for clarification. Moreover, without this clarification, retailers may be unclear as to whether the Director may waive retailer responsibility at the final settlement date. This addition ensures consistency across the two related rules, addresses the issue identified by the OLA, and supports the Lottery's goal of evaluating retailer losses fairly and transparently under the process delineated in amended Rule 7856.7040. Tickets deemed sold under this part may remain eligible for a waiver of the default rules under amended Rule 7856.7040.

Regulatory Analysis

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. The sections below quote these factors and then give the Lottery's response.

Classes Affected

A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

As described above, these rule amendments fundamentally impact the risk of loss of products sold on consignment. Whether the risk of loss for unsold tickets falls on the Lottery or on the retailer impacts retailer profitability and therefore impacts Lottery beneficiaries. Therefore, the classes of persons who will bear the costs and benefits of the proposed rules are Lottery retailers and Lottery beneficiaries.

Department/Agency Costs

The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

As described above and in the OLA Report, the Lottery has been implementing a version of the amended rules since inception in the early 1990s. The amended rules codify an

existing practice but define clear standards of review, factors to consider, and reconsideration procedures.

The Lottery anticipates that the additional cost to enforce these rules will be minimal or zero because the Lottery already employs customer service, operations, and security employees that investigate and make determinations regarding lost or stolen tickets. These determinations will be more transparent and guided by formal rules but will not be any more difficult or lead to more costs (other than de minimis costs of developing written policies and procedures to apply the amended rule framework). There will be no costs to other agencies for implementation or enforcement. Because this is not a new practice, any impact on state revenues will be positive because the defined standards of reviews, factors to consider, and a reconsideration procedure will only increase retailer confidence in the Lottery and incentivize retailers to sell tickets on consignment, as demonstrated by the substantive comment from Fueling Minnesota advocating for a “partnership” approach.

Less Costly or Intrusive Methods

A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Lottery considered but rejected a bright-line rule that placed the risk of loss entirely on either retailers or the Lottery. A bright-line rule could be less costly or easier to administer because it would alleviate the need to make case-by-case determinations, but a strict allocation of the risk of loss would not serve the Lottery or its stakeholders. If retailers always bore the risk, there would be little incentive to sell high-value, low-profit-margin tickets. If the Lottery always bore the risk, retailers would not be incentivized to follow time-consuming security best practices, and the risk of fraud would increase. As described above, this apparently less costly or intrusive alternative would not decrease profitability and confidence in the Lottery, and would not achieve the objectives of the Lottery or the proposed rule.

Alternative Methods

A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

The only alternative method seriously considered was a bright-line rule. This was rejected for the reasons explained above.

Costs to Comply

The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

The Lottery estimates the additional costs to comply with the proposed amendments is zero because it is codifying an existing practice, as described above.

Costs of Non-Adoption

The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

As described in the OLA Report, “an individual could be discouraged from applying to become a lottery retailer if they thought they would be responsible for lost or stolen tickets” because the existing rules “are not clear to the public.” Not adopting the rules will keep the status quo, which led to the finding identified by the OLA. While the Lottery respectfully disagrees with the conclusions in the OLA Report and described its objections in its response at the end of the OLA Report, now that the issue has been publicized and described through the notice process, the cost of not amending the rule is worth considering. The substantive comment from Fueling Minnesota echoed these concerns and noted that “a strong, healthy relationship with the Lottery” depends on clear and fair rules for when liability applies. It emphasized that maintaining a partnership approach will support retailer participation and confidence in the Lottery’s operations.

Differences from Federal Regulations

An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

Not applicable. There are no federal regulations impacting lost or stolen state lottery tickets.

Cumulative Effect

An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

The cumulative effect of these amendments is to create a clear and fair framework for determining what to do when lottery tickets are lost or stolen.

More broadly, the proposed amendments will increase confidence in the fairness and predictability of Lottery operations (a concern identified in the OLA Report). At the same time, the amendments will promote the secure and efficient operation of the Lottery. The amendments preserve the incentives for retailers to maintain strong security practices, while allowing the Lottery the flexibility to waive responsibility when appropriate. The Lottery has sought to strike a careful balance between retailer accountability and the fairness needed to sell high-value, low-profit-margin scratch tickets on consignment. It believes these amendments achieve that balance.

Notice Plan

Details on the previous measures taken to ensure stakeholders received both required and additional notice of this rulemaking during the Request for Comments and rule development period can be found above.

Required Notice

The Lottery is required under Minnesota Statutes, chapter 14 to identify and send notice to several groups. The steps the Lottery will take to meet those statutory requirements are laid out in detail below.

Consistent with Minnesota Statutes, section 14.14, subd. 1a, on the day the Notice of Intent to Adopt Rules is published in the *State Register*, the Lottery will send via email or U.S. mail a copy of the Notice of Intent to Adopt Rules and the proposed rule amendments to the contacts on the Lottery's list of all persons who have registered with the Lottery for the purpose of receiving notice of rule proceedings and all persons or addresses identified in the approved Additional Notice Plan. The Notice of Intent to Adopt Rules will be sent at least 33 calendar days before the end of the comment period.

Consistent with Minnesota Statutes, section 14.116(b), the Lottery will send a copy of the Notice of Intent to Adopt Rules, a copy of the proposed rules, and a copy of the SONAR to the chairs and ranking minority party members of the applicable finance and policy committees and the Legislative Coordinating Commission. These documents will be sent at least 33 calendar days before the end of the comment period.

Consistent with Minnesota Statutes, section 14.131, the Lottery will send a copy of the SONAR to the Legislative Reference Library when the Notice of Intent to Adopt Rules is sent.

There are several notices required under Minnesota Statutes, chapter 14 in certain situations that do not apply for this rulemaking. These notices are laid out in detail below.

Minnesota Statutes, section 14.116(c) requires the Lottery to “make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house of representatives and senate authors of the bill granting the rulemaking authority” if it is within two years of the effective date of the law granting rulemaking authority. This requirement does not apply because the Lottery was granted rulemaking authority for treatment of tickets and no bill within the past two years granted the Lottery additional authority for this rulemaking.

Minnesota Statutes, section 14.111 requires the Lottery to provide the commissioner of agriculture with a copy of the proposed rule change if the agency plans to adopt or repeal a rule that affects farming operations. This requirement does not apply because the proposed amendments will not have any effect on farming operations in Minnesota.

Additional Notice

In addition to the required notice referenced above, the Lottery will make the Notice of Intent to Adopt Rules, SONAR, and proposed rules available on the webpage created for this rulemaking: <https://www.mnlottery.com/about-the-lottery/lottery-statutes-and-rules>.

The Lottery also intends to send an electronic notice with a hyperlink to electronic copies of the Notice of Intent to Adopt Rules, SONAR, and proposed rule to:

- The Minnesota Grocers Association
- The Minnesota Service Station & Convenience Store Association
- Minnesota Licensed Beverage Association
- The American Legion Department of Minnesota
- The approximately 1,300 retailer contacts that have provided the Lottery with an email address
- The Minnesota Center for Environmental Advocacy
- Conservation Minnesota
- The 17 members of the Legislative-Citizen Commission on Minnesota Resources (LCCMR)
- The eight full-time staff members of the LCCMR
- The approximately 100 project managers who submitted proposals to the LCCMR seeking funding from the Environment and Natural Resources Trust Fund (ENRTF) in 2023, 2024, and 2025.

On February 13, 2025, the Lottery received confirmation from OAH that these steps meet the notice requirements for persons or classes of persons who may be affected by the proposed amendments to these rules under Minnesota Statutes, section 14.14, subdivision 1a.

Performance-Based Rules

Minnesota Statutes, section 14.002, requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and that emphasize achievement of the Lottery's regulatory objectives while allowing maximum flexibility to regulated parties and in meeting those objectives. The amended rules are not overly prescriptive or inflexible to the Lottery retailers or the Lottery because they describe a flexible, fact-intensive inquiry rather than a bright-line rule when determining what to do when scratch tickets are lost or stolen.

Consultation with MMB on Local Government Impact

As required by Minnesota Statutes, section 14.131, the Lottery will consult with Minnesota Management and Budget (MMB). The Lottery will comply by simultaneously sending MMB copies of the documents it sends to the Governor's Office for review and approval. The Lottery will send the documents before it publishes the Notice of Intent to Adopt Rules. The documents will include the Governor's Office Proposed Rule and SONAR Form, the proposed rules, and the SONAR. The Lottery will submit a copy of the cover correspondence and any response received from MMB, to OAH at the hearing or with the documents it submits for ALJ review.

Impact on Local Government Ordinance and Rules

As required by Minnesota Statutes, section 14.128, subdivision 1, the Lottery has considered whether these proposed rules will require local government to adopt or amend any ordinance or other regulation to comply with these rules. The Lottery has determined that these proposed rules do not because the amendments impact the business relationship between lottery retailers (including public-owned lottery retailers) and the State of Minnesota.

Costs of Complying for Small Business or City

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Lottery has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Lottery has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. As described in the Regulatory Analysis section of this SONAR, the Lottery provides, at no cost, numerous best practices, technology, training,

and tools to its retailers to prevent losses and theft. These include security procedure manuals, in-person and online training on ticket handling and reconciliation, point-of-sale systems that track and verify ticket inventory, and ongoing customer service by trained Lottery sales representatives. By making these resources available to all retailers (large and small alike), the Lottery reduces the likelihood and impact of losses or thefts and keeps compliance costs well below \$25,000 for any small business or small city.

Conclusion

In this SONAR, the Lottery has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules. The Lottery has provided the necessary notice and documented its compliance with all applicable administrative rulemaking requirements of Minnesota statutes and rules.

Based on the foregoing, the proposed amendments are both needed and reasonable.



Adam Prock, Executive Director
Minnesota State Lottery

9/25/25
Date