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## FISCAL IMPACT REPORT

3/04/19  
**ORIGINAL DATE** 3/13/19  
**LAST UPDATED** 3/15/19     **HB** \_\_\_\_\_

**SPONSOR**     Woods

**SHORT TITLE**     Anonymity of Lottery Winners     **SB** 397/aSJC/aHJC

**ANALYST**     Glenn

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
Indeterminate/See Fiscal Implications	Indeterminate/See Fiscal Implications	Indeterminate/See Fiscal Implications	Recurring	Lottery Tuition Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Indeterminate	Indeterminate	Indeterminate		Recurring	See Fiscal Implications

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 80, SB 179, SB 283, SB 407, HB 146, and HB 363.

Duplicates HB 350

#### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

Lottery Authority (NMLA)

#### SUMMARY

##### Synopsis of HJC Amendment

The House Judiciary Committee amendment adds a new subsection to Section 6-24-13 of the New Mexico Lottery Act, which defines “protected personal identifier information” as used in the section. The added definition is the same as the definition of “protected personal identifier

information” in the Inspection of Public Records Act. See Section 14-2-6(E) NMSA 1978. The amendment makes the same change in Section 2 of the bill, which adds a new section to the Lottery Act prohibiting the disclosure of information identifying lottery winners.

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment changes the reference to “personal identifying information” of lottery winners that is confidential under the bill to “protected personal identifier information.” The change makes clear that the referenced information corresponds to that protected from disclosure under the Inspection of Public Records Act.

#### Synopsis of Original Bill

Senate Bill 397 amends the New Mexico Lottery Act to make the names, addresses and other personal identifying information of lottery winners confidential and not subject to disclosure under the Inspection of Public Records Act (“IPRA”). SB 397 adds a new section to the Lottery Act, which prohibits NMLA, a lottery contractor, the Taxation & Revenue Department (TRD), the Human Services Department (HSD), or any employee of those entities, from disclosing or publishing the name, address or any other personal identifying information of a person who wins a lottery game. The prohibition does not apply if a person who wins a lottery game consents to the disclosure in writing, or to disclosures TRD and HSD are required to make under the Lottery Act. SB 397 provides that a person who violates the bill’s prohibitions against disclosure is guilty of a petty misdemeanor.

### **FISCAL IMPLICATIONS**

According to NMLA, SB 397 may increase NMLA’s costs by necessitating changes to the Lottery’s prize claim procedures, including revising and reprinting winner claim forms.

NMLA notes that SB 397’s limitations on the Lottery’s ability to communicate winners’ stories to the public may erode confidence in lottery games and reduce sales.

### **SIGNIFICANT ISSUES**

NMLA states that the presence of winners across the state is an important way to communicate to potential players that lottery games are winnable. The Lottery regularly posts the name of a winner, city of residence, game played, and prize amount won on the New Mexico Lottery website. The posting may include a photo of the winner, unless the winner chooses not to have his or her photo taken. For large prizes, the Lottery may prepare a news release with the winner’s name, city of residence, prize amount, game played, name of the retailer location that sold the winning ticket, and any interesting anecdotes disclosed by the player.

NMLA explains that, currently, when players sign the winner claim form, they acknowledge that information, such as their name, city in which they live and the prize amount won, is subject to disclosure under IPRA, and that NMLA, its retailers and advertising agencies, and the news media may use their name and photograph for purposes of advertising, display, exhibition or editorial use.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to:

SB 80 Forfeited Lottery Prizes to Tuition Fund  
SB 179 Disabilities Students Lottery Scholarships  
SB 283 Limit Lottery Operational Expenses  
SB 407 Lottery Funds for Tribal Colleges  
HB 146 Full Lottery Scholarships Based on Need  
HB 363 Lottery Fund for Tribal Colleges  
HB 441 Lottery Changes

Duplicates:

HB 350 Anonymity of Lottery Winners

**TECHNICAL ISSUES**

NMAG notes that SB 397 does not define the term “personal identifying information” as used in the bill. IPRA uses a similar term, “protected personal identifier information,” which is defined as: (1) all but the last four digits of a taxpayer identification number, financial account number, or driver’s license number; (2) all but the year of a person’s date of birth; and (3) a social security number. See Section 14-2-6(E) NMSA 1978.

NMAG states that it is not clear whether SB 397 intends the term “personal identifying information” to have the same meaning as the term “protected personal identifier information” in IPRA. To avoid any confusion or ambiguity about the meaning of the term, the SB 397 might be amended to define the term “personal identifying information” for purposes of the bill’s amendment to the New Mexico Lottery Act.

BG/gb/al/gb