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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Woods</u>	<b>LAST UPDATED</b> <u>3/11/2023</u> <b>ORIGINAL DATE</b> <u>2/9/2023</u> <b>BILL NUMBER</b> <u>Senate Bill 198/aSHPAC/aSJC/aHCPAC</u>
<b>SHORT TITLE</b> <u>Anonymity of Lottery Winners</u>	<b>ANALYST</b> <u>Hanika-Ortiz</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

New Mexico Lottery Authority (NMLA)  
 New Mexico Attorney General (NMAG)  
 Gaming Control Board (GCB)  
 Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of HCPAC Amendment to Senate Bill 198

The House Consumer and Public Affairs Committee amendment to Senate Bill 198 strikes SHPAC amendment 1 and SJC amendments 2 and 4 and strikes Section 2. The language in the sections struck exempted certain disclosure about a lottery game winner pursuant to the Inspection of Public Records Act and made such disclosure a crime. SB198/HCPACS now only prohibits TRD from disclosing a connection between a lottery winner and information about the winner it might be required to reveal.

### Synopsis of SJC Amendment to Senate Bill 198

The Senate Judiciary Committee amendment to Senate Bill 198 strikes the proposed amendment to the section of the New Mexico Lottery Act that provides for anonymity of lottery winners and, for the proposed new section, further clarifies that certain disclosure means disclosure to the public.

The SJC amendment to SB198 addresses a technical issue raised by NMAG.

### **Synopsis of SHPAC Amendment to Senate Bill 198**

The Senate Health and Public Affairs Committee amendment to SB198 inserts Section 7-1-8.2 in subsection B that exempts certain prohibitions against disclosing lottery winners. This section of law currently provides for information that TRD is required to reveal to the public. SHPAC further amends this Section by adding the department shall not disclose a connection between a winner of a lottery game and information about the winner the department is required to reveal.

The SHPAC Amendment to SB198 addresses a technical issue raised by TRD.

### **Synopsis of Original Senate Bill 198**

Senate Bill 198 (SB198) amends Section 6-24-13 NMSA 1978, the New Mexico Lottery Act (Act), to provide that names, addresses and other protected personal identifier information of lottery game winners shall be confidential and are not subject to disclosure pursuant to the Inspection of Public Records Act (IPRA). As used in the bill, protected personal identifier information includes: 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 person's social security number.

The bill also enacts a new section to prohibit disclosure of lottery winner personal identifier information unless a lottery game winner consents, or it is required to be disclosed pursuant to Section 6-24-21 NMSA 1978 and Section 6-24-22 NMSA 1978. A person who discloses or publishes the protected information is guilty of a petty misdemeanor and sentenced pursuant to Section 31-19-1 NMSA 1978.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## **FISCAL IMPLICATIONS**

NMLA identifies no fiscal impact from the bill.

## **SIGNIFICANT ISSUES**

The bill provides for the names, addresses and other protected personal identifier information of lottery winners to be confidential and not subject to IPRA disclosure, and includes penalties for violations. According to TRD, the bill ensures consistent disclosure statutes across lottery contractors and state agencies and others associated with lottery winners and their winnings.

NMAG noted the bill provides a penalty for a person who violates provisions, but does not provide a penalty or remedy for a state agency who, as an entity, violates this provision.

## **PERFORMANCE IMPLICATIONS**

NMLA provided the following comment:

The communication of winners serves to demonstrate to the public that lottery games are winnable and fairly awarded. The NMLA regularly posts the name of a winner, city of residence, game played, and prize amount won on the NMLA website. The posting may include a photo of the winner; winners may choose not to have their photo taken. In cases of large prizes, the NMLA may prepare a news release with the winner's name, city of residence, prize amount, game played, and the name of the retailer location that sold the winning ticket, along with any interesting anecdotes disclosed by the player.

The bill does allow for a person who wins a lottery game to consent in writing to disclosure, which may allow the NMLA to continue communicating information about some winners.

## ADMINISTRATIVE IMPLICATIONS

SB198 may require changes to the Lottery's prize claim procedures.

NMLA says prizes exceeding \$600 must be claimed at Lottery headquarters in Albuquerque or by mail with a winner claim form. Prizes of \$100 thousand or more must be claimed in person at Lottery headquarters. Currently, by signing the winner claim form, players acknowledge their understanding of the use of the information on the claim form for the purpose of complying with IPRA requests and promotion of the Lottery. The winner claim form contains the following:

“I acknowledge that certain information on this form, such as my name, city in which I live and the prize amount won, is subject to disclosure pursuant to the New Mexico Inspection of Public Records Act (Chapter 14, Article 2 NMSA 1978). I understand that the New Mexico Lottery Authority and its retailers and advertising agencies as well as the news media and their editors may use my name and photograph for reproduction in any medium they see fit for the purposes of advertising, display, exhibition or editorial use.”

## TECHNICAL ISSUES

Section 2, page 3, lines 21 and 23, the term “lottery contactor” is listed twice.

NMAG provided the following comment:

Subsection (A) provides that personal identifying information will be withheld pursuant to the Inspection of Public Records Act. This should also have a reference to the particular IPRA statute that provides IPRA exceptions related to personal identifying information: NMSA 14-2-1 et al. for clarity. (NMSA 14-2-6 is the “Definitions” section.)

Another technical issue is that the bill points to IPRA but then describes in subsection (D) its own definition of personal identifying information that may be withheld; in the event the IPRA statute is amended in any way, this bill would create a conflict to both reference the personal identifying information in NMSA Section 14-2-6 (IPRA), and then go on to give its own definition of “personal identifying information” within the bill.