

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 19, 2025

Bill: HB-293

Sponsor: Representatives Elaine Sena Cortez and Mark B. Murphy, Senator Jay C. Block, and Representatives Rod Montoya and John Block

Short Title: Eliminate Social Security Tax

Description: This bill amends Section 7-2-5.14 NMSA 1978 to remove the income cap on the exemption from taxation of social security income, and instead state that the exempted amount shall not exceed the individual's net income.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(\$33,600)	(\$35,900)	(\$38,500)	(\$41,200)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: By removing the maximum AGI limits in New Mexico, this bill allows higher-income social security earners to claim the exemption.

The Internal Revenue Service's (IRS) Statistics of Income (SOI) tabulates the number of social security recipients of taxable income and the amount of social security income by AGI brackets. Tax & Rev calculated the weighted average annual social security income and number of New Mexico taxpayers with AGIs over \$150,000 by AGI ranges¹. Tax & Rev then estimated the existing tax due using the effective tax rate for tax year 2025 and assumes taxpayers will claim this amount against personal income taxes. Tax & Rev calculates that the average tax liability on social security is \$1,078 per New Mexico taxpayer with AGIs greater than \$150,000.

Tax & Rev then grew the average tax liability by the Congressional Budget Office's inflation forecast for FY2026 to FY2029 as a proxy for cost-of-living adjustments. Tax & Rev also grew the number of higher-income eligible taxpayers by the average growth rate from 2020 to 2021 of the number of New Mexico recipients of taxable social security income per SOI at 4.8%, the most recent years available. This reflects the growing population eligible for retirement and social security benefits.

Policy Issues: Personal income tax (PIT) represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 16 percent of the state's recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statutes in the federal tax code. This is referred to as "conformity" to the federal tax code. PIT is an important tax policy tool that has the potential to further both horizontal equity by ensuring the same

¹ www.irs.gov/statistics

statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay.

With the adoption of this bill, New Mexico would join most of the states that do not tax social security benefits at all. Excluding types of retirement income from the taxable base is seen as eroding horizontal equity in state income taxes. By excluding income based on age, taxpayers in similar economic circumstances are no longer treated equally, with older taxpayers receiving a benefit not available to younger taxpayers at the same level of income.

Section 7-2-5.14 NMSA 1978 was enacted for tax year 2022. In tax year 2023, approximately 137,000 taxpayers claimed the exemption under current law, a 2.6% increase from tax year 2022, with total tax year 2023 tax relief of \$87.6 million, 9.5% over tax year 2022. The current maximum adjusted gross income (AGI) is applicable to low- and middle-income taxpayers; for individuals the cap is \$100,000, for married joint filers it is \$150,000, and for married filing separately it is \$75,000. The average tax savings per taxpayer is \$639 under current law. Removing the current cap and exempting all social security income will benefit high-income individuals who tend not to depend solely on social security benefits for their income, and who have other sources of income as well. As noted in the fiscal methodology, the average PIT liability benefit for these individuals is \$1,078 versus the current population average of \$639. Because the legislation benefits only higher-income individuals, it erodes progressivity in the tax code.

There are many other reasons why states may exempt some income for those over 65, such as lessening the economic burdens for individuals on fixed incomes and trying to attract retirees to the state. As far as attracting more retirees to the state is concerned, exempting social security from income taxation may not necessarily help in achieving that goal. For example, Texas does not tax any income, social security or otherwise, at all. Yet, Texas features as one of the least tax friendly states for retirees in the country because of its high property and sales taxes². Notably, New Mexico's property taxes are amongst the lowest in the nation. It is, therefore, necessary to take a holistic look at New Mexico's tax code, and attempts should be made to make the tax structure more simple, broad based, and equitable, without being punitive to any segment of the population.

Reducing a taxpayer's New Mexico taxable income may result in a taxpayer's marginal income bracket falling. As this bill applies to higher-income taxpayers, there may be a secondary effect of more pronounced reduction in overall aggregate personal income taxes.

Additional analysis of Section 7-2-5.14 NMSA 1978 can be found in the 2023 New Mexico Tax Expenditure Report³.

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions and publications and make information system changes. Staff training to administer the credit will need to take place. This implementation will be included in the annual tax year changes.

Implementing this bill will have a low impact on Tax & Rev's Information Technology Division (ITD), requiring approximately 220 hours or about one and a half months at a cost of \$14,661.

² https://www.kiplinger.com/kiplinger-tools/retirement/t055-s001-state-by-state-guide-to-taxes-on-retirees/index.php?state_id=44#

³ See <https://www.tax.newmexico.gov/forms-publications/>

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$14.7	--	\$14.7	NR	ITD – Staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Duplicate of SB-184 (2025 Regular Session), Similar to HB-192 (2022 Regular Session) and to HB-248 (2024 Regular Session)