F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/12/19		
SPONSOR	Armstrong, G	**LAST UPDATED**	3/04/19	**HB**	477/a HLVMC
SHORT TITLE	Social Security Income Tax Exemption			**SB**	
				ANALYST	Graeser

REVENUE (dollars in thousands)

Estimated Revenue					**Recurring or Nonrecurring**	**Fund Affected**
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
	($73,000.0)	($83,600.0)	($86,300.0)	($89,000.0)	Recurring	General Fund (PIT)

Parenthesis ( ) indicate revenue decreases

Duplicates, Relates to, Conflicts with, Companion to HB538 is a duplicate of the previous ostensible provision with a contingency that renders the bill effective if the state enacts a law to legalize marijuana for recreational purposes.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Aging and Long-Term Services Department (ALTSO)
Taxation and Revenue Department (TRD) (on original bill)

SUMMARY

Synopsis of HLVMC Amendment

The House Labor, Veterans' and Military Affairs Committee to House Bill 477 corrected reference from Title 16 of the federal Social Security Act to Section 86 of the Internal Revenue Code. Title 16 of the federal Social Security Act provides for non-taxable supplemental security income. Section 86 of the Internal Revenue Code provides that a portion of regular Social Security retirement benefits is taxable. The amendment provides that up to $24 thousand of the taxable Social Security income may be exempted from state income tax. As in the original bill, this Social Security income exemption is grafted onto the long-time low-income elderly exemption of 7-2-5.2 NMSA 1978. This section provides for up to $8 thousand of exemption for a married couple with income up to $51 thousand of adjusted gross income.

Synopsis of Original Bill

House Bill 477 provides an exemption of $24 thousand of the individual's net income from the supplemental security income (SSI) program.

The effective date of this bill is not stated, assume 90 days after the end of the session (June 14, 2019). The provisions of the act are applicable to taxable years beginning January 1, 2019. There is no delayed repeal date but LFC recommends adding one.

FISCAL IMPLICATIONS

Tax Year	# Returns	Amount (thousands)	Average per return
2015	125,420	$1,683,538	$13,423
2016	130,759	$1,798,010	$13,614
2017	135,665	$1,911,329	$13,997
2018	140,570	$2,024,649	$14,380
2019	145,475	$2,137,969	$14,763
2020	150,380	$2,251,289	$15,146
2021	155,286	$2,364,609	$15,529
2022	160,191	$2,477,929	$15,912

The Internal Revenue Service's Statistics of Income Division publishes complete aggregate statistics by state. LFC staff have maintained this database since Tax Year 2000. The table above applies a simple trend analysis to the more recent data. Note that the total income reported by New Mexico taxpayers was $1.8 billion for the most recent 2016 tax year. (TY2017 will be reported in the late summer of 2019.) This is the income of which, HB-477 as amended would exempt all or a portion.

The 2016 SOI data were further processed as shown in the following table. Conclusions are that almost 131 thousand New Mexico taxpayers paid taxes on an average of $13,614 of Social Security income. The average AGI of taxpayers with taxable Social Security income was about $84,650.

	All Returns	$10,000 under $25,000	$25,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 under $500,000	$500,000 under $1,000,000	$1,000,000 or more
TY2016									
Avg AGI per return	84,648	17203	35838	61349	86541	133628	277583	668544	2673544
Number of Returns	127,870	13,880	36,860	27,550	18,970	23,850	5,520	650	290
Amount	1,740,277	23,699	235,833	396,648	365,950	545,501	145,880	17,468	8,120
	13,610	1,707	6,398	14,397	19,291	22,872	26,428	26,874	28,000
State Marginal Tax Rate		1.70%	3.20%	3.20%	4.90%	4.90%	4.90%	4.90%	4.90%
	72,900,334	402,883	7,546,656	12,692,736	17,931,550	26,729,549	6,491,520	764,400	341,040

Because of the relatively high average income of Social Security retirement income, the up to $24 thousand still leaves residual taxable income over the $24,000 floor for the top 4.9 percent marginal rate for married filing joint returns. The line in the table above exhibits LFC staff's analysis of the marginal rate to apply to this exemption.

A rarely discussed feature of state tax exemptions and deductions may result in a transfer through deductibility of money from the state treasury to the federal treasury. The way this works is that state income taxes are deductible from federal income for the 20 percent-30 percent or so of taxpayers that itemize deductions. Pursuant to the provisions of the Tax Change and Jobs Act, total tax deductions are limited to $10 thousand and many fewer taxpayers will itemize in 2019 and subsequent years. But for those that do itemize, state income taxes are a deduction and may increase federal liabilities because state liabilities are less because of the exemption.

This bill, because it proposes a tax expenditure, may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

SIGNIFICANT ISSUES

Although the rules for inclusion of social security income in taxable income for personal income tax purposes are quite complicated, there is a low-income threshold. For higher income taxpayers, some portion of the total income is subject to an 85 percent inclusion in income. The up- to- $24 thousand exemption for taxable social Security income would exempt over 90 percent of this income from state tax.

TECHNICAL ISSUES

1. This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.
2. After amendment, the bill offers an exemption of the greater of $24 thousand "of the individual's net income from the amount included in adjusted gross income pursuant to Section 86 of the Internal Revenue Code" or the amount of over-65 low- to moderate-income exemption. Tax wonks understand this type of language, but the average taxpayer attempting to file a return without a preparer would find this confusing.

LG/sb/al