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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/12/19

SPONSOR Ely LAST UPDATED \_\_\_\_\_ HB 538

SHORT TITLE Some Social Security Exempt From Income Tax SB \_\_\_\_\_

ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
Apparently no fiscal impact – see Fiscal Implications					NA	General Fund (PIT)

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>		NA				

Parenthesis ( ) indicate expenditure decreases

Duplicates, Relates to, Conflicts with, Companion to HB-538 is a duplicate of the ostensible provision with a contingent 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 (ALTSD)

### SUMMARY

#### Synopsis of Bill

House Bill 477 provides an exemption of \$24,000 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**

The current level of supplemental security income (SSI) is

Calculation details

Recipient	Unrounded annual amounts for—		Monthly amounts for 2019
	2018	2019 <sup>a</sup>	
Eligible individual	\$9,007.46	\$9,259.67	\$771
Eligible couple	13,509.70	13,887.97	1,157

<sup>a</sup>The unrounded amounts for 2019 equal the unrounded amounts for 2018 increased by 2.8 percent.

**Payment reduction**

The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

From the American Community Survey file (ACS\_17\_5YR\_DP03\_with\_ann), New Mexico had 47,942 households receiving Supplemental Security Income in 2017. The average amount received by households was \$9,704.

One interpretation of the provisions of this bill is that any other income received by persons receiving SSI would be exempt up to \$24,000. This interpretation would then have those 47,942 households with zero or negative gross income. Because this is an exemption, not a refundable credit, the only effect of this would be to reduce the amount of taxable income from this source to zero and would not generate any cash payment to SSI recipients. According to the website <https://www.thebalance.com/supplemental-security-income-is-non-taxable-income-3973981><sup>1</sup> SSI does not have to be reported to the IRS as income. The \$9,407 average household income from SSI implies that the SSI population has minimal earned or unearned income outside the program.

An alternative interpretation is that the sponsor intended (as evidenced from the title of the bill) to exempt up to \$24,000 of otherwise taxable Social Security income. The same ACS file as listed above indicates that 252,249 households received Social Security retirement amounts and the average was \$17,596 per household. The Internal Revenue Service publishes Statistics of Income (IRE/SOI). For the 2016 tax year, 127,870 tax returns reported an average of \$13,609 per return in taxable social security amounts. For single filer, head of household or qualifying widow or widower with a dependent child. Social Security income for the 2018 tax year over an adjusted gross income of \$25,000 is taxable. For joint filers this taxability floor is \$32,000. If the intent of the bill is to exempt regular social security retirement income, the fiscal consequences would be substantial, since the bill would exempt \$1.7 billion in regular social security income from state taxation.

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<sup>1</sup> Because supplemental security income benefits are considered to be assistance, they're therefore not taxable income. They do not have to be reported on a tax return. ... "Social security benefits do not include SSI payments, which are not taxable; do not include these payments in your income." Nov 25, 2018

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**

It is uncertain if the provisions of this bill have any effect.

### **TECHNICAL ISSUES**

1. The average amount of SSI in New Mexico was \$9,407. This bill provides an exemption for \$24,000 of SSI income. On its face, this \$24,000 would be reduced to an average of \$9,407. The exemption would only apply to SSI income and not to other income received by the SSI recipient. It might be appropriate to phrase this as “up to \$24,000 limited by the amount of supplemental security income received.”
2. The effect of the addition of paragraph C is also uncertain. This provision was moved to paragraph C from the former unrevised Exemption for Low-Income Persons over 65 Year of Age. This prorating income provision makes sense for the original exemption, but does not seem to apply to the new exemption, which is only allowed against the SSI income.
3. Using “social security income” in the title of this bill does not reasonably represent the provisions of this bill, which only applicable to supplemental security income (SSI), which is Title 16 of the federal Social Security Act, not
4. This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

### **OTHER SUBSTANTIVE ISSUES**

<https://www.disabilitysecrets.com/resources/are-ssi-and-ssdi-two-separate-programs.htm>

explains the difference between supplemental security income (SSI -- Title 16 of the federal Social Security Act and social security disability income (SSDI – Title 2 of the federal Social Security Act.)

SSI and SSDI are two different programs with significant differences. SSDI doesn't count your assets, whereas SSI is a needs-based system.SSI and SSDI are two different programs with some significant differences between them, but they are both administered by the Social Security Administration (SSA) and the definition of medical disability is the same for both programs.

### **SSDI - Social Security Disability Insurance**

SSDI, or Social Security disability insurance (otherwise known as DIB, Disability Insurance Benefits) falls under Title 2 of the Social Security Act. SSDI provides disability benefits to individuals who have earned enough work credits for qualify. (The Social Security Disability Insurance program started as a kind of early retirement program at a time when the only benefit Social Security offered was a retirement benefit.) SSDI is paid out of the Social Security Trust

Fund; 15 cents of every Social Security tax dollar goes toward the disability trust fund rather than the retirement trust fund.

**SSI - Supplemental Security Income**

SSI stands for Supplemental Security Income and falls under Title 16 of the Social Security Act. SSI, which was created when states' welfare programs for the blind, disabled, and elderly were federalized, is for low-income individuals. SSI disability benefits are not paid out of the Social Security Trust Fund, but out of general funds. Individuals applying for disability benefits who have never worked, or whose work history has not earned them the credits needed to qualify for Social Security disability insurance, can apply for disability benefits under the SSI program.

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