

**LFC Requester:**

**Jennifer Faubion**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**    01/26/2024

**Bill No:**    HB 249

**Sponsor:**    Rep. C. Brown; Rep. G. Armstrong

**Agency Name and Code Number:**    305 – New Mexico Department of Justice

**Short Title:**    Social Security Income Indexing

**Person Writing Analysis:**    AAG Tessa Ryan

**Phone:**    505-537-7676

**Email:**    legisfir@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

House Bill (“HB”) 249 would require inflation-based adjustment of income levels set forth in the social security income-exemption statute. The statute provides that the social-security income of taxpayers below certain income levels is exempt from the state income tax.

The bill would require the Taxation and Revenue Department to annually calculate and adjust the amounts of adjusted gross income that limit who qualifies for the exemption. The calculation is based on the change in the consumer price index from the end of 2023.

**FISCAL IMPLICATIONS**

None.

**SIGNIFICANT ISSUES**

It is possible the language of the bill describing how the exemption’s income thresholds are to be calculated does not implement the intended change. According to the last sentence in Subsection B, if, in a given year, the consumer price index decreases from the previous year, then “no adjustment shall be made”—meaning that the amounts stated in Subsection A of the bill (i.e., \$75,000, \$150,000, and \$100,000) would apply.

Perhaps what was intended is that if, in a given year, the consumer price index decreases from the previous year, then the income thresholds applied in that previous year should continue to apply. Alternatively, the intent might be to ensure that the income thresholds never fall below the amounts stated in Subsection A.

**PERFORMANCE IMPLICATIONS**

None.

**ADMINISTRATIVE IMPLICATIONS**

None.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 248 – conflict. HB 248 proposes to eliminate the income thresholds from the social security income-exemption statute.

SB 114 – conflict. SB 114 proposes to amend the social security income-exemption statute to include other types of retirement income in the exemption.

### **TECHNICAL ISSUES**

1. “Consumer price index” as used in Subsection B of Section 1 of the bill is not defined, and since there is more than one type of consumer price index, the bill might benefit from a definition of that term, to clarify which index is being referred to.
2. It appears that the reference to “modified gross income” on page 2, line 13 of the bill is an error, in that the text should read “adjusted gross income”—to reflect what is being referred to: Subsection A’s adjusted gross income amounts.
3. It is unclear why Section 2 (the applicability section providing that the enactment would apply to taxable years beginning on or after January 1, 2024) is included in the bill, given that if the bill were enacted, Subsection B of the statute would explicitly state the taxable years the new provisions apply to (i.e., “the 2025 taxable year and each subsequent taxable year”).

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

None.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

### **AMENDMENTS**

1. If desired, the definition of “consumer price index” from another tax statute (e.g., § 7214(H)(1); § 7-2-18.34(J)(1); or § 7-36-21.3(I)(1)) could be imported here.
2. The word “modified” on page 2, line 13, should be changed to “adjusted.”
3. Depending on the intent behind the measure, the text on page 2, line 20 should be revised to reflect that the adjustments from the preceding taxable year should control if the current year’s adjustments result in lower year-over-year amounts. Alternatively, if the intent is to ensure that the income thresholds never fall below the amounts stated in Subsection A, then the text on page 2, lines 19 through 20, “for the preceding taxable year[.]” should be replaced with “of adjusted gross income provided in Subsection A of this section[.]”