

1 HB292
2 83530-5
3 By Representative Knight
4 RFD: Education Finance and Appropriations
5 First Read: 10-JAN-06

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ENROLLED, An Act,

To amend Sections 40-18-15 and 40-18-19, Code of Alabama 1975, to increase the personal and dependent exemptions and raise the optional standard deduction to increase the threshold at which the state imposes individual income taxation on taxpayers with adjusted gross income of \$30,000 or less; to increase the dependent exemption for taxpayers with adjusted gross income of \$100,000 or less; and to direct the State Treasurer to calculate and deposit interest income to the Education Trust Fund Proration Prevention Account pursuant to Section 40-1-32.1(f) of the Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-18-15 and 40-18-19, Code of Alabama 1975, are hereby amended as follows:

"§40-18-15.

"(a) No deduction shall be allowed for any losses, expenses, or interest deferred or disallowed pursuant to 26 U.S.C. § 267 or for any cost required to be capitalized in accordance with 26 U.S.C. § 263A; otherwise, there shall be allowed as deductions:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, as determined in accordance with 26 U.S.C. § 162.

1 (2) Interest paid or accrued within the taxable year
2 on indebtedness, limited to the amount allowable as an
3 interest deduction for federal income tax purposes in the
4 corresponding tax year or period pursuant to the provisions of
5 26 U.S.C. §§ 163, 264, and 265.

6 (3) The following taxes paid or accrued within the
7 taxable year:

8 a. Income taxes, Federal Insurance Contribution Act
9 taxes, taxes on self-employment income and estate and gift
10 taxes imposed by authority of the United States or any
11 possession of the United States.

12 b. State and local, and foreign, occupational
13 license taxes, and contributions to state unemployment funds.

14 c. State and local, and foreign, real property
15 taxes.

16 d. State and local personal property taxes.

17 e. The generation-skipping transfer (GST) tax
18 imposed on income distributions by 26 U.S.C. § 2601.

19 f. The taxes described in paragraphs c., d., and e.
20 shall be deductible only to the extent that the taxes are
21 deductible for federal income tax purposes under 26 U.S.C. §
22 164 (relating to taxes).

23 g. In addition, there shall be allowed as a
24 deduction, state and local, and foreign taxes, except income
25 taxes, and taxes imposed by authority of the United States or

1 any possession of the United States, which are paid or accrued
2 within the taxable year in carrying on a trade or business or
3 an activity described in 26 U.S.C. § 212 (relating to expenses
4 for the production of income).

5 h. Notwithstanding paragraph g., any tax described
6 in any paragraph preceding paragraph g. that is paid or
7 accrued in connection with an acquisition or disposition of
8 property shall be treated as part of the cost of the acquired
9 property or, in the case of a disposition, as a reduction in
10 the amount realized on the disposition of that property.

11 (4) Losses sustained during the taxable year and not
12 compensated for by insurance or otherwise if incurred in a
13 trade or business, in accordance with 26 U.S.C. § 165(c)(1).

14 (5) Losses sustained during the taxable year and not
15 compensated for by insurance or otherwise, if incurred in any
16 transaction entered into for profit, though not connected with
17 the trade or business in accordance with 26 U.S.C. §
18 165(c)(2); but, in the case of a taxpayer other than a
19 resident of the state, only as to those transactions within
20 the state.

21 (6) Casualty and theft losses sustained during the
22 taxable year of property not connected with the conduct of a
23 trade or business or a transaction entered into for profit as
24 determined in accordance with subsections (c)(3) and (h) of 26
25 U.S.C. § 165. In the case of a nonresident, the deduction

1 shall be allowed only for the losses arising from property
2 located within the State of Alabama and the limitations in 26
3 U.S.C. § 165 shall be applied with regard only to the
4 taxpayer's Alabama adjusted gross income. No loss shall be
5 allowed if at the time of filing the return, the loss has been
6 claimed on a federal estate tax return.

7 (7) Losses from debts ascertained to be worthless
8 and charged off during the taxable year of ascertainment, if
9 sustained in the conduct of the regular trade or business of
10 the taxpayer.

11 (8) A reasonable allowance for the exhaustion, wear
12 and tear of property from which any income is derived,
13 including a reasonable allowance for obsolescence, in
14 accordance with 26 U.S.C. §§ 167 and 168, and an allowance for
15 the amortization of intangibles determined in accordance with
16 26 U.S.C. § 197.

17 (9) In the case of mines, oil, and gas wells, other
18 natural deposits and timber, a reasonable allowance for
19 depletion and for depreciation of improvements, according to
20 the peculiar condition in each case based upon the cost,
21 including the cost of development not otherwise deducted, such
22 reasonable allowance in all cases to be made under rules and
23 regulations to be prescribed by the Department of Revenue;
24 and, in the case of leasehold interests, the deduction allowed

1 by this section shall be equitably apportioned between the
2 lessor and the lessee.

3 (10) Charitable contributions to the extent allowed
4 for federal income tax purposes under 26 U.S.C. § 170
5 (relating to charitable contributions and gifts).

6 (11) The deduction allowed to the individual for
7 federal income tax purposes by 26 U.S.C. § 219 (relating to
8 retirement savings).

9 (12) The deduction allowed for federal income tax
10 purposes by 26 U.S.C. § 404 (relating to qualified pension,
11 profit sharing, stock bonus, and annuity plans).

12 (13) For each individual income taxpayer, medical
13 and dental expenses, including amounts paid for medicine and
14 drugs and amounts paid for accident and health insurance, as
15 determined in accordance with 26 U.S.C. § 213; provided,
16 however, that the limitation of the deduction to the excess of
17 those expenses over 7.5 percent of adjusted gross income as
18 provided in 26 U.S.C. § 213 shall instead be limited to the
19 excess of those expenses over 4.0 percent of adjusted gross
20 income.

21 (14) For each individual income taxpayer, the
22 deduction determined in accordance with 26 U.S.C. § 212 for
23 all the ordinary and necessary expenses paid or incurred
24 during the taxable year for the production or collection of
25 income, or for the management, conservation, or maintenance of

1 property held for the production of income, or in connection
2 with the determination, collection, or refund of any tax.

3 (15) Any expense not exceeding \$1,000 actually
4 incurred during the taxable year in constructing on his or her
5 property a family radioactive fallout shelter, as approved and
6 certified by the State Department of Emergency Management, and
7 any amount not exceeding \$1,000 which he or she contributed
8 during the taxable year toward the construction of a community
9 radioactive fallout shelter.

10 (16) A deduction from the taxpayer's adjusted gross
11 income for state income tax purposes of the total cost of
12 installation for conversion from gas or electricity to wood as
13 the primary energy source for heating their individual
14 domestic homes for the taxable year during which a conversion
15 was completed.

16 (17) Alimony and separate maintenance payments, the
17 amount deductible to be the same as the amount deductible for
18 federal income tax purposes under 26 U.S.C. § 215 (relating to
19 alimony payments).

20 (18) Moving expenses paid or incurred during the
21 taxable year as allowed under 26 U.S.C. § 217 (relating to
22 moving expenses). However, in applying 26 U.S.C. § 217, the
23 term "new principal place of work" means only places of work
24 located within the State of Alabama.

1 (19) Any expense not exceeding \$35,000 actually
2 incurred during the taxable year in removing from his or her
3 property any architectural or transportation barriers to
4 handicapped persons with nonambulatory and semiambulatory
5 disabilities; provided, however, that any improvements
6 resulting from that expense shall not be eligible to be
7 capitalized for depreciation.

8 (20) Notwithstanding subdivision (1), the deduction
9 for expenses of travel, entertainment, and meals shall be
10 determined in accordance with 26 U.S.C. § 274.

11 (21) The deduction allowed by 26 U.S.C. § 179
12 (relating to expensing certain depreciable property), provided
13 that no deduction shall be allowed under subdivision (8) for
14 any amount allowed as a deduction under this subdivision.

15 (22) The deduction allowed by 26 U.S.C. § 195
16 (relating to amortization of start-up expenditures), but in
17 the case of a nonresident, only if the principal place of
18 business of the business investigated, created, or acquired is
19 located in the State of Alabama.

20 (23) The deduction allowed by subdivision (1), to
21 the extent that it consists of unreimbursed employee business
22 expenses, and the deduction allowed by subdivision (14) shall
23 be allowed only to the extent that the aggregate of the
24 deductions exceeds 2 percent of adjusted gross income.

1 (24) The reasonable medical and legal expenses paid
 2 or incurred by the taxpayer in connection with the adoption of
 3 a minor. For purposes of this subdivision, medical expenses
 4 shall include any medical and hospital expenses of the adoptee
 5 and the adoptee's biological mother which are incident to the
 6 adoptee's birth and subsequent medical care and which, in the
 7 case of the adoptee, are paid or incurred before the petition
 8 is granted.

9 (25) The amount of any aid or assistance, whether in
 10 the form of property, services, or monies, provided to the
 11 State Industrial Development Authority pursuant to Section
 12 41-10-44.8(d) in order to induce an approved company to
 13 undertake a major project within the state.

14 (26) The amount of premiums paid pursuant to a
 15 qualifying insurance contract for qualified long-term care
 16 coverage.

17 (27) The amount deductible by the taxpayer in
 18 accordance with 26 U.S.C. § 162(h).

19 (b) (1) In lieu of the deductions allowable to
 20 individual taxpayers, as provided in subdivision (1) of
 21 subsection (a) to the extent of unreimbursed employee business
 22 expenses, and as provided in subdivisions (2), (3), (5), (6),
 23 (10), (13), (14), (15), (16), (19), (22), and (26) of
 24 subsection (a) of this section, the taxpayer may elect to take
 25 the optional standard deduction of 20 percent of the adjusted

1 gross income or \$2,000, whichever is the lesser. Taxpayers
2 filing jointly as defined in Section 40-18-27 may elect to
3 take the optional standard deduction of 20 percent of the
4 adjusted gross income or \$4,000, whichever is the lesser.

5 (2) For tax years beginning after December 31, 2006,
6 the optional standard deduction shall be determined as
7 follows:

8 a. The standard deduction for married taxpayers
9 filing jointly with adjusted gross income of \$20,000 or less
10 shall be \$7,500. For married taxpayers filing jointly with
11 adjusted gross income of greater than \$20,000, the standard
12 deduction shall be reduced by \$175 for each \$500 of adjusted
13 gross income in excess of \$20,000. Notwithstanding the
14 preceding sentence, the standard deduction shall not be less
15 than \$4,000 for married taxpayers filing jointly.

16 b. The standard deduction for married taxpayers
17 filing separate returns with adjusted gross income of \$10,000
18 or less shall be \$3,750. For married taxpayers filing separate
19 returns with adjusted gross income of greater than \$10,000,
20 the standard deduction shall be reduced by \$88 for each \$500
21 \$250 of adjusted gross income in excess of \$10,000.
22 Notwithstanding the preceding sentence, the standard deduction
23 shall not be less than \$2,000 for married taxpayers filing
24 separate returns.

1 c. The standard deduction for head of family
2 taxpayers with adjusted gross income of \$20,000 or less shall
3 be \$4,700. For head of family taxpayers with adjusted gross
4 income of greater than \$20,000, the standard deduction shall
5 be reduced by ~~\$100~~ \$135 for each \$500 of adjusted gross
6 income in excess of \$20,000. Notwithstanding the preceding
7 sentence, the standard deduction shall not be less than \$2,000
8 for head of family taxpayers.

9 d. The standard deduction for single taxpayers with
10 adjusted gross income of \$20,000 or less shall be \$2,500. For
11 single taxpayers with adjusted gross income of greater than
12 \$20,000, the standard deduction shall be reduced by \$25 for
13 each \$500 of adjusted gross income in excess of \$20,000.
14 Notwithstanding the preceding sentence, the standard deduction
15 shall not be less than \$2,000 for single taxpayers.

16 (c) A deduction is allowable for the amount of
17 federal income tax paid or accrued within the taxable year. In
18 the case of a nonresident taxpayer, the amount of federal
19 income tax deductible to Alabama shall be determined by the
20 ratio that the amount of adjusted gross income received from
21 sources within the State of Alabama bears to the amount of
22 adjusted gross income received from sources within and outside
23 the State of Alabama.

24 (d) If separate returns are filed by husband and
25 wife and one spouse elects to claim the optional standard

1 deduction, the other spouse must also claim the optional
2 standard deduction.

3 (e) In the case of a nonresident individual:

4 (1) The deductions allowed in subdivisions (1), (2),
5 (3), (4), (5), (7), (8), (9), (11), (12), (19), (21), (23),
6 and (25) of subsection (a) of this section shall be allowed
7 only to the extent that they are paid or incurred in carrying
8 on a trade or business within the State of Alabama and the
9 deduction allowed by Section 40-18-15.2 shall be allowed only
10 to the extent it arose from a trade or business carried on in
11 Alabama.

12 (2) The deductions allowed by subdivisions (2), (3),
13 (5), (8), (9), (14), and (19) of subsection (a) shall be
14 allowed only to the extent arising from property located in
15 Alabama or transactions producing income that is subject to
16 tax in the State of Alabama.

17 (3) The amount of the deductions allowed by
18 subdivisions (2), (3), (6), (10), (13), (15), (16), (17),
19 (19), (24), and (26) of subsection (a) (and not allowed by
20 subdivisions (1) or (2) of this subsection), or by subsection
21 (b) ~~(1)~~ if the taxpayer elects the standard deduction, shall be
22 limited to the amount determined by multiplying the total of
23 such deductions by a fraction, the numerator of which is the
24 taxpayer's adjusted gross income determined using the rules
25 provided in subdivisions (1) and (2) of this subsection and

1 the denominator of which is the taxpayer's adjusted gross
2 income determined under Section 40-18-14.2. The deduction
3 allowed in subdivision (17) of subsection (a) shall not be
4 subtracted in calculating either the numerator or denominator
5 in the previous sentence.

6 (f) Nothing in this section shall allow any item to
7 be deducted more than once."

8 "§40-18-19.

9 "(a) The following exemptions from income taxation
10 shall be allowed to every individual resident taxpayer:

11 (1) Retirement allowances, pensions and annuities,
12 or optional allowances, approved by the Board of Control of
13 the Teachers' Retirement System of Alabama, which exempt
14 status is set out in Section 16-25-23;

15 (2) Retirement allowances, pensions and annuities or
16 optional allowances, approved by the Board of Control of the
17 Employees' Retirement System of Alabama, which exempt status
18 is set out in Section 36-27-28;

19 (3) The first \$8,000 of any retirement compensation,
20 retirement allowances, pensions and annuities, or optional
21 allowances, received by any eligible fire fighter, as defined
22 in Sections 36-32-1 and 36-32-2, or his designated
23 beneficiary, from any firefighting agency established in the
24 State of Alabama, but only if such retirement compensation,
25 retirement allowances, pensions and annuities, or optional

1 allowances as are awarded as a result of fire protection
2 services rendered. This subdivision shall become effective for
3 the taxable years beginning January 1, 1987, and thereafter
4 following its passage and approval by the Governor, or upon
5 its otherwise becoming a law; provided, that for the taxable
6 years beginning on or after January 1, 1991, all of such
7 pension and retirement payments shall be exempt from taxation;

8 (4) The first \$8,000 of any retirement compensation,
9 retirement allowances, pensions and annuities, or optional
10 allowances received by any eligible peace officer, as defined
11 in subsection (11) of Section 36-21-60, or his designated
12 beneficiary, from any police retirement system established in
13 the State of Alabama, but only if such retirement
14 compensation, retirement allowances, pensions and annuities,
15 or optional allowances are awarded as a result of police
16 services rendered. This subdivision shall become effective for
17 taxable years beginning January 1, 1984, and thereafter;
18 provided, that for the taxable years beginning on or after
19 January 1, 1991, all of such pension and retirement payments
20 shall be exempt from taxation;

21 (5) Income received as annuities under the United
22 States Retirement System from the United States Government
23 Civil Service Retirement and Disability Fund including income
24 received from the Tennessee Valley Authority's pension system,
25 income received as annuities under the United States Foreign

1 Service Retirement and Disability Fund or income received from
2 any other United States government retirement and disability
3 fund;

4 (6) Beginning January 1, 1991, all payments made on
5 or after such date to a retiree or his designated beneficiary
6 under a "defined benefit plan," as defined under Section
7 414(j) of the Internal Revenue Code of 1986, as amended from
8 time to time, to the extent such payment would be taxable for
9 federal income tax purposes;

10 (7) Net income realized by individuals and
11 partnerships from time to time in the business of conducting a
12 financial business employing moneyed capital coming into
13 competition with the business of national banks, but only if
14 such individuals and partnerships are subject to an excise tax
15 imposed by this state on or with respect to such income;

16 (8) In the case of a single person or a married
17 person not living with husband or wife, a personal exemption
18 of \$1,500 or, in the case of a head of a family or a married
19 person living with husband or wife, a personal exemption of
20 \$3,000, but a husband and wife living together shall receive
21 only one personal exemption of \$3,000 against their aggregate
22 income, and in case they make separate returns each must claim
23 a personal exemption of \$1,500;

24 (9) a. Three hundred dollars for each person, other
25 than husband or wife, dependent upon the taxpayer, and over

1 half of whose support, for the calendar year in which the
2 taxable year for the taxpayer begins, was received from the
3 taxpayer.

4 b. For tax years beginning after December 31, 2006,
5 for taxpayers with adjusted gross income equal to or less than
6 \$20,000, one thousand dollars for each person other than
7 husband or wife, dependent upon the taxpayer, and over half of
8 whose support, for the calendar year in which the taxable year
9 for the taxpayer begins, was received from the taxpayer.

10 c. For tax years beginning after December 31, 2006,
11 for taxpayers with adjusted gross income in excess of \$20,000
12 and equal to or less than \$100,000, five hundred dollars for
13 each person other than husband or wife, dependent upon the
14 taxpayer, and over half of whose support, for the calendar
15 year in which the taxable year for the taxpayer begins, was
16 received from the taxpayer.

17 For the purposes of this section, "dependent" shall
18 mean: a son or daughter of the taxpayer or a descendant of
19 either; a stepson or stepdaughter of the taxpayer; a brother,
20 sister, stepbrother, or stepsister of the taxpayer; the father
21 or mother of the taxpayer or an ancestor of either; a
22 stepfather or stepmother of the taxpayer; a son or daughter of
23 a brother or sister of the taxpayer; a brother or sister of
24 the father or mother of the taxpayer; a son-in-law,
25 daughter-in-law, father-in-law, mother-in-law, brother-in-law,

1 or sister-in-law of the taxpayer. As used in this paragraph
2 the terms "brother" and "sister" include a brother or sister
3 by the half blood. For the purpose of determining whether any
4 of the foregoing relationships exist, a legally adopted child
5 of a person shall be considered a child of such a person by
6 blood; and

7 ~~(10) Beginning January 1, 1998, all benefits~~
8 ~~received from prepaid tuition contracts administered under~~
9 ~~Title 16, Chapter 33C, shall be exempt from all income~~
10 ~~taxation by the state and by all of its political~~
11 ~~subdivisions.~~

12 (10) Beginning January 1, 1998, all benefits income,
13 interest, dividends, gains, or benefits of any kind received
14 from savings accounts or prepaid tuition contracts
15 administered under Title 16, Chapter 33C, shall be are exempt
16 from all income taxation by the state and by all of its
17 political subdivisions to the extent that the amounts remain
18 on deposit in the PACT Trust Fund or the ACES Trust Fund, or
19 are used to pay the designated beneficiary's qualified higher
20 education expenses as defined in Section 529 of the Internal
21 Revenue Code of 1986, as amended, or are refunded under such
22 terms as would not carry a penalty under Section 529 of the
23 Internal Revenue Code of 1986, as amended.

24 (b) Of the following personal exemptions allowed
25 resident taxpayers, each nonresident individual taxpayer shall

1 be allowed that proportion thereof that the adjusted gross
 2 income received by said nonresident individual taxpayer from
 3 sources within the State of Alabama bears to his or her
 4 adjusted gross income received from sources within and without
 5 the State of Alabama: In the case of a single person or a
 6 married person not living with husband or wife, a personal
 7 exemption of \$1,500 or, in the case of a head of a family or a
 8 married person living with husband or wife, a personal
 9 exemption of \$3,000, a husband and wife living together shall
 10 receive but one personal exemption of \$3,000 against their
 11 aggregate income; and, in case they make separate returns,
 12 each must claim a personal exemption of \$1,500; and ~~\$300~~ the
 13 amount in subdivision (9) for each person, other than husband
 14 or wife, dependent upon and receiving his chief support from
 15 the taxpayer."

16 Section 2. Section 40-1-32.1(f) of the Code of
 17 Alabama 1975 as amended provides that monetary interest which
 18 accrues in the Education Trust Fund Proration Prevention
 19 Account shall be retained in that account. Interest income
 20 earned on funds within the Account has not been deposited into
 21 the Account by the State Treasurer. In order to comply with
 22 the provisions of Section 40-1-32.1, the State Treasurer is
 23 hereby directed to calculate the amount of interest income
 24 that has been earned since September 1, 2004, on balances in
 25 the Education Trust Fund Proration Prevention Account based

1 upon interest rates on time deposits, open account, having
2 maturities of 91 days. The State Treasurer shall then deposit
3 from interest earned on state deposits an amount equal to the
4 calculated interest income into the Account as soon as
5 practicable. Prospectively, balances in the Education Trust
6 Fund Proration Prevention Account shall be invested by the
7 State Treasurer in short term investments, such as repurchase
8 agreements, time deposits, open account, having maturities of
9 91 days, or other short term investment instruments approved
10 by the State Treasurer. Interest income earned on these
11 investments shall be deposited into the Education Trust Fund
12 Proration Prevention Account in accordance with Section
13 40-1-32.1 of the Code of Alabama.

14 Section 3. The provisions of this act are severable.
15 If any part of this act is declared invalid or
16 unconstitutional, that declaration shall not affect the part
17 which remains.

18 Section 4. All laws or parts of laws which conflict
19 with this act are repealed.

20 Section 5. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-MAR-06, as amended.

Greg Pappas
Clerk

Senate	05-APR-06	Amended and Passed
House	06-APR-06	Concurred in Senate Amendment