

1 HB63  
2 171507-1  
3 By Representative Greer  
4 RFD: Ways and Means Education  
5 First Read: 02-FEB-16

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8 SYNOPSIS: Currently, income from defined contribution  
9 deferred compensation plans is taxable as income.

10 This bill would provide that 90 percent of  
11 such income is exempt.  
12

13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 To amend Section 40-18-19, Code of Alabama 1975, as  
18 amended by Act 2015-442, relating to exemptions from state  
19 income taxation; to provide that 90 percent of income from  
20 defined contributions deferred compensation plans is exempt  
21 from income taxation.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 40-18-19, Code of Alabama 1975,  
24 as amended by Act 2015-442 of the 2015 Regular Session, is  
25 amended to read as follows:

26 "§40-18-19.

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

3           "(1) Retirement allowances, pensions and annuities,  
4 or optional allowances, approved by the Board of Control of  
5 the Teachers' Retirement System of Alabama, which exempt  
6 status is set out in Section 16-25-23.

7           "(2) Retirement allowances, pensions and annuities,  
8 or optional allowances, approved by the Board of Control of  
9 the Employees' Retirement System of Alabama, which exempt  
10 status is set out in Section 36-27-28.

11           "(3) The first eight thousand dollars (\$8,000) of  
12 any retirement compensation, retirement allowances, pensions  
13 and annuities, or optional allowances, received by any  
14 eligible firefighter, as defined in Sections 36-32-1 and  
15 36-32-2, or his or her designated beneficiary, from any  
16 firefighting agency established in the State of Alabama, but  
17 only if such retirement compensation, retirement allowances,  
18 pensions and annuities, or optional allowances as are awarded  
19 as a result of fire protection services rendered. This  
20 subdivision shall become effective for the taxable years  
21 beginning January 1, 1987, and thereafter following its  
22 passage and approval by the Governor, or upon its otherwise  
23 becoming a law; provided, that for the taxable years beginning  
24 on or after January 1, 1991, all of the pension and retirement  
25 payments shall be exempt from taxation.

26           "(4) The first eight thousand dollars (\$8,000) of  
27 any retirement compensation, retirement allowances, pensions

1 and annuities, or optional allowances received by any eligible  
2 peace officer, as defined in subsection (11) of Section  
3 36-21-60, or his or her designated beneficiary, from any  
4 police retirement system established in the State of Alabama,  
5 but only if the retirement compensation, retirement  
6 allowances, pensions and annuities, or optional allowances are  
7 awarded as a result of police services rendered. This  
8 subdivision shall become effective for taxable years beginning  
9 January 1, 1984, and thereafter; provided, that for the  
10 taxable years beginning on or after January 1, 1991, all of  
11 the pension and retirement payments shall be exempt from  
12 taxation.

13 "(5) Income received as annuities under the United  
14 States Retirement System from the United States Government  
15 Civil Service Retirement and Disability Fund including income  
16 received from the Tennessee Valley Authority's pension system,  
17 income received as annuities under the United States Foreign  
18 Service Retirement and Disability Fund, or income received  
19 from any other United States government retirement and  
20 disability fund.

21 "(6) Beginning January 1, 1991, all payments made on  
22 or after such date to a retiree or his designated beneficiary  
23 under a "defined benefit plan," as defined under Section  
24 414(j) of the Internal Revenue Code of 1986, as amended from  
25 time to time, to the extent such payment would be taxable for  
26 federal income tax purposes.

1           "(7) Net income realized by individuals and  
2 partnerships from time to time in the business of conducting a  
3 financial business employing moneyed capital coming into  
4 competition with the business of national banks, but only if  
5 such individuals and partnerships are subject to an excise tax  
6 imposed by this state on or with respect to such income.

7           "(8) In the case of a single person or a married  
8 person not living with husband or wife, a personal exemption  
9 of one thousand five hundred dollars (\$1,500) or, in the case  
10 of a head of a family or a married person living with husband  
11 or wife, a personal exemption of three thousand dollars  
12 (\$3,000), but a husband and wife living together shall receive  
13 only one personal exemption of three thousand dollars (\$3,000)  
14 against their aggregate income, and in case they make separate  
15 returns each must claim a personal exemption of one thousand  
16 five hundred dollars (\$1,500).

17           "(9) a. Three hundred dollars (\$300) for each  
18 person, other than husband or wife, dependent upon the  
19 taxpayer, and over half of whose support, for the calendar  
20 year in which the taxable year for the taxpayer begins, was  
21 received from the taxpayer.

22           "b. For tax years beginning after December 31, 2006,  
23 for taxpayers with adjusted gross income equal to or less than  
24 \$20,000, one thousand dollars for each person other than  
25 husband or wife, dependent upon the taxpayer, and over half of  
26 whose support, for the calendar year in which the taxable year  
27 for the taxpayer begins, was received from the taxpayer.

1            "c. For tax years beginning after December 31, 2006,  
2 for taxpayers with adjusted gross income in excess of \$20,000  
3 and equal to or less than \$100,000, five hundred dollars for  
4 each person other than husband and wife, dependent upon the  
5 taxpayer, and over half of whose support, for the calendar  
6 year in which the taxable year for the taxpayer begins, was  
7 received from the taxpayer.

8            "For the purposes of this section, "dependent" shall  
9 mean: A son or daughter of the taxpayer or a descendant of  
10 either; a stepson or stepdaughter of the taxpayer; a brother,  
11 sister, stepbrother, or stepsister of the taxpayer; the father  
12 or mother of the taxpayer or an ancestor of either; a  
13 stepfather or stepmother of the taxpayer; a son or daughter of  
14 a brother or sister of the taxpayer; a brother or sister of  
15 the father or mother of the taxpayer; a son-in-law,  
16 daughter-in-law, father-in-law, mother-in-law, brother-in-law,  
17 or sister-in-law of the taxpayer. As used in this paragraph  
18 the terms "brother" and "sister" include a brother or sister  
19 by the half blood. For the purpose of determining whether any  
20 of the foregoing relationships exist, a legally adopted child  
21 of a person shall be considered a child of such a person by  
22 blood.

23            "(10) Beginning January 1, 1998, all income,  
24 interest, dividends, gains, or benefits of any kind received  
25 from savings accounts or prepaid tuition contracts  
26 administered under Title 16, Chapter 33C, are exempt from all  
27 income taxation by the state and by all of its political

1 subdivisions to the extent that the amounts remain on deposit  
2 in the PACT Trust Fund or the ACES Trust Fund, or are used to  
3 pay the designated beneficiary's qualified higher education  
4 expenses as defined in Section 529 of the Internal Revenue  
5 Code of 1986, as amended, or are refunded under such terms as  
6 would not carry a penalty under Section 529 of the Internal  
7 Revenue Code of 1986, as amended.

8 "(11) Beginning January 1, 2016, all income,  
9 interest, dividends, gains or benefits of any kind received  
10 from ABLE savings accounts administered under Title 16,  
11 Chapter 33C, are exempt from all income taxation by the state  
12 and by all of its political subdivisions to the extent that  
13 the amounts remain on deposit in the ABLE Trust Fund, or are  
14 used to pay the designated beneficiary's qualified disability  
15 expenses as defined in Section 529A of the Internal Revenue  
16 Code of 1986, as amended, or are refunded under such terms as  
17 would not carry a penalty under Section 529A of the Internal  
18 Revenue Code of 1986, as amended, or other applicable federal  
19 law.

20 "(12) Beginning January 1, 2016, 90 percent of the  
21 income received as a benefit from a defined contribution  
22 deferred compensation plan.

23 "(b) Of the following personal exemptions allowed  
24 resident taxpayers, each nonresident individual taxpayer shall  
25 be allowed that proportion thereof that the adjusted gross  
26 income received by said nonresident individual taxpayer from  
27 sources within the State of Alabama bears to his or her

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

15 Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.