

1 HB94
2 115600-1
3 By Representative Canfield
4 RFD: Education Appropriations
5 First Read: 12-JAN-10
6 PFD: 01/06/2010

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8 SYNOPSIS: Current state individual income tax law
9 provides for the exemption of retirement income
10 derived from "defined benefit" pension plans.
11 However, the same provision is not currently
12 available for "defined contribution plans."

13 For tax years beginning after December 31,
14 2010, this Act would annually phase in, if certain
15 conditions are attained, an increasing exemption up
16 to a maximum of \$10,000 of payments made to a
17 retiree or designated beneficiary under a "defined
18 contribution plan," as defined in Section 414(i) of
19 the Internal Revenue Code, as amended from time to
20 time.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

26 To amend Section 40-18-19, Code of Alabama 1975, to
27 allow an increased exemption for tax years beginning after

1 December 31, 2010, that will annually phase in, if certain
2 conditions are attained, and increase up to a maximum of
3 \$10,000 for payments made to a retiree or designated
4 beneficiary under a "defined contribution plan," as defined in
5 Section 414(i) of the Internal Revenue Code, as amended from
6 time to time.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 40-18-19, Code of Alabama 1975,
9 is amended to read as follows:

10 "§40-18-19.

11 (a) The following exemptions from income taxation
12 shall be allowed to every individual resident taxpayer:

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

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

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

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

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

23 (5) Income received as annuities under the United
24 States Retirement System from the United States Government
25 Civil Service Retirement and Disability Fund including income
26 received from the Tennessee Valley Authority's pension system,
27 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) The first \$10,000 of payments received by a
11 retiree or designated beneficiary under a "defined
12 contribution plan," as defined in Section 414(i) of the
13 Internal Revenue Code, as amended from time to time. In no
14 event shall the exemption provided for in this Subdivision be
15 allowed for individuals with adjusted gross income in excess
16 of \$75,000 (\$150,000 if married filing a joint return). The
17 provisions of this Section (Section 1 of this Act) shall be
18 phased in as provided by Section 2 of this Act.

19 ~~(7)~~(8) Net income realized by individuals and
20 partnerships from time to time in the business of conducting a
21 financial business employing moneyed capital coming into
22 competition with the business of national banks, but only if
23 such individuals and partnerships are subject to an excise tax
24 imposed by this state on or with respect to such income.

25 ~~(8)~~(9) In the case of a single person or a married
26 person not living with husband or wife, a personal exemption
27 of one thousand five hundred dollars (\$1,500) or, in the case

1 of a head of a family or a married person living with husband
2 or wife, a personal exemption of three thousand dollars
3 (\$3,000) , but a husband and wife living together shall
4 receive only one personal exemption of three thousand dollars
5 (\$3,000) against their aggregate income, and in case they make
6 separate returns each must claim a personal exemption of one
7 thousand five hundred dollars (\$1,500).

8 ~~(9)~~(10) a. Three hundred dollars (\$300) for each
9 person, other than husband or wife, dependent upon the
10 taxpayer, and over half of whose support, for the calendar
11 year in which the taxable year for the taxpayer begins, was
12 received from the taxpayer.

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

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

26 For the purposes of this section, "dependent" shall
27 mean: a son or daughter of the taxpayer or a descendant of

1 either; a stepson or stepdaughter of the taxpayer; a brother,
2 sister, stepbrother, or stepsister of the taxpayer; the father
3 or mother of the taxpayer or an ancestor of either; a
4 stepfather or stepmother of the taxpayer; a son or daughter of
5 a brother or sister of the taxpayer; a brother or sister of
6 the father or mother of the taxpayer; a son-in-law,
7 daughter-in-law, father-in-law, mother-in-law, brother-in-law,
8 or sister-in-law of the taxpayer. As used in this paragraph
9 the terms "brother" and "sister" include a brother or sister
10 by the half blood. For the purpose of determining whether any
11 of the foregoing relationships exist, a legally adopted child
12 of a person shall be considered a child of such a person by
13 blood

14 ~~(10)~~(11) Beginning January 1, 1998, all income,
15 interest, dividends, gains, or benefits of any kind received
16 from savings accounts or prepaid tuition contracts
17 administered under Title 16, Chapter 33C, are exempt from all
18 income taxation by the state and by all of its political
19 subdivisions to the extent that the amounts remain on deposit
20 in the PACT Trust Fund or the ACES Trust Fund, or are used to
21 pay the designated beneficiary's qualified higher education
22 expenses as defined in Section 529 of the Internal Revenue
23 Code of 1986, as amended, or are refunded under such terms as
24 would not carry a penalty under Section 529 of the Internal
25 Revenue Code of 1986, as amended.

26 (b) Of the following personal exemptions allowed
27 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 one thousand five hundred (\$1,500) or, in the
8 case of a head of a family or a married person living with
9 husband or wife, a personal exemption of three thousand
10 dollars (\$3,000), a husband and wife living together shall
11 receive but one personal exemption of three thousand dollars
12 (\$3,000) against their aggregate income; and, in case they
13 make separate returns, each must claim a personal exemption of
14 one thousand five hundred (\$1,500); and the amount in
15 subdivision (9) of subsection (a) for each person, other than
16 husband or wife, dependent upon and receiving his chief
17 support from the taxpayer.

18 Section 2. (a) The provisions of Section 1 of this
19 Act shall be phased in over a period of four (4) adjustment
20 years in equal installments. An adjustment year is a tax year
21 beginning on or after January 1 following certification by the
22 Alabama Department of Finance (Finance) of sufficient (at
23 least 3%) estimated growth in the Education Trust Fund as
24 described below. Phase one of implementation shall provide for
25 twenty-five percent (25%) of the exemption, phase two shall
26 provide for fifty percent (50%) of the exemption and so forth
27 until the exemption is fully phased into effect.

1 (b) Beginning with the 2011 regular session of the
2 Alabama Legislature, and on an annual basis thereafter until
3 the provisions of this Act are fully phased in, Finance shall
4 certify to the Alabama Department of Revenue (Revenue) that
5 the estimated growth in revenues in the Education Trust Fund
6 will or will not equal or exceed three percent (3%) in the
7 subsequent fiscal year. Finance shall provide written
8 certification to Revenue on or before the second legislative
9 day of each regular legislative session stating Finance's
10 estimate of revenue growth in the Education Trust Fund for the
11 subsequent fiscal year, as required in Code of Alabama 1975,
12 Section 41-19-7(b) (3). Upon receipt of the aforementioned
13 certification, Revenue will take the Actions necessary to
14 implement the provisions of this Act.

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

19 Section 4. All laws or parts of laws which conflict
20 with this Act are hereby repealed.

21 Section 5. This act shall become effective for the
22 tax years beginning on or after January 1, 2011.