

1 HB122  
2 203857-1  
3 By Representative Sorrell  
4 RFD: Ways and Means Education  
5 First Read: 04-FEB-20

SYNOPSIS: This bill would exclude from gross income of individuals the net capital gain derived from the exchange of precious metal bullion.

This bill would also include as a deduction of individuals from gross income the net capital loss derived from the exchange of precious metal bullion.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to state income tax as for individuals; to amend Sections 40-18-14 and 40-18-15, Code of Alabama 1975; to exclude net capital gains and losses derived from the exchange of precious metal bullion from state income taxes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Sound Money Tax Neutrality Act.

1                   Section 2. Sections 40-18-14 and 40-18-15, Code of  
2 Alabama 1975, are amended to read as follows:

3                   "§40-18-14.

4                   "The term "gross income" as used herein:

5                   "(1) Includes gains, profits and income derived from  
6 salaries, wages, or compensation for personal services of  
7 whatever kind, or in whatever form paid, including the  
8 salaries, income, fees, and other compensation of state,  
9 county, and municipal officers and employees, or from  
10 professions, vocations, trades, business, commerce or sales,  
11 or dealings in property whether real or personal, growing out  
12 of ownership or use of or interest in such property; also from  
13 interest, royalties, rents, dividends, securities, or  
14 transactions of any business carried on for gain or profit and  
15 the income derived from any source whatever, including any  
16 income not exempted under this chapter and against which  
17 income there is no provision for a tax. The term "gross  
18 income" as used herein also includes alimony and separate  
19 maintenance payments to the extent they are includable in  
20 gross income for federal income tax purposes under 26 U.S.C. §  
21 71 (relating to alimony and separate maintenance payments).  
22 The term "gross income" as used herein also includes any  
23 amount included in gross income under 26 U.S.C. § 83 at the  
24 time it is so included under 26 U.S.C. § 83.

25                   "(2) For purposes of this chapter, the reductions in  
26 tax attributes required by 26 U.S.C. § 108 shall be applied  
27 only to the net operating losses determined under this chapter

1 and the basis of depreciable property. The basis reductions of  
2 depreciable property shall not exceed the basis reductions for  
3 federal income tax purposes. All other tax attribute  
4 reductions required by 26 U.S.C. § 108 shall not be  
5 recognized.

6 "(3) Gross income does not include the following  
7 items which shall be exempt from income tax under this  
8 chapter:

9 "a. Amounts received under life insurance policies  
10 and contracts paid by reason of the death of the insured in  
11 accordance with 26 U.S.C. § 101;

12 "b. Amounts received, other than amounts paid by  
13 reason of the death of the insured, under life insurance,  
14 endowment or annuity contracts, determined in accordance with  
15 26 U.S.C. § 72;

16 "c. The value of property acquired by gift, bequest,  
17 devise, or descent, but the income from such property shall be  
18 included in the gross income, in accordance with 26 U.S.C. §  
19 102;

20 "d. Interest upon obligations of the United States  
21 or its possessions; or securities issued under provisions of  
22 the Federal Farm Loan Act of July 18, 1916;

23 "e. Any amounts received by an individual which are  
24 excludable from gross income under 26 U.S.C. § 104 (relating  
25 to compensation for injuries or sickness) or 26 U.S.C. § 105  
26 (relating to amounts received under accident or health plans);

1            "f. Interest on obligations of the State of Alabama  
2 and any county, municipality, or other political subdivision  
3 thereof;

4            "g. The rental value of a parsonage provided to a  
5 minister of the gospel to the extent excludable under 26  
6 U.S.C. § 107;

7            "h. Income from discharge of indebtedness to the  
8 extent allowed by 26 U.S.C. § 108;

9            "i. For each individual resident taxpayer, or each  
10 husband and wife filing a joint income tax return, as the case  
11 may be, any gain realized from the sale of a personal  
12 residence of the taxpayer shall be excluded to the extent  
13 excludable for federal income tax purposes under 26 U.S.C. §  
14 121;

15           "j. Contributions made by an employer on behalf of  
16 an employee to a trust which is part of a qualified cash or  
17 deferred arrangement (as defined in 26 U.S.C. § 401(k)(2), or  
18 5 U.S.C. § 8437) under which the employee has an election  
19 whether the contribution will be made to the trust or received  
20 by the employee in cash and contributions made by an employer  
21 for an employee for an annuity contract, which contributions  
22 would be excludable from the gross income (for federal income  
23 tax purposes) of the employee in accordance with the  
24 provisions of 26 U.S.C. § 403(b). The limitations imposed by  
25 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

26           "k. Amounts that an employee is allowed to exclude  
27 from gross income for federal income tax purposes pursuant to

1 26 U.S.C. § 125 (relating to cafeteria plans) and 26 U.S.C. §  
2 132 (relating to certain fringe benefits); and

3 "l. Amounts paid or incurred by an employer on  
4 behalf of an employee if the amounts may be excluded from  
5 gross income for federal income tax purposes by an employee  
6 pursuant to 26 U.S.C. § 129 (relating to dependent care  
7 expenses).

8 "m. Any net capital gain derived from the exchange  
9 of precious metal bullion. For purposes of this paragraph,  
10 precious metal bullion means coins, bars, or rounds containing  
11 primarily refined gold, silver, or other precious metal that  
12 meets either of the following qualifications:

13 "1. Is marked and valued primarily by its weight,  
14 purity, and content.

15 "2. Is minted by a government authority.

16 "(4) The term "gross income," in the case of a  
17 resident individual, includes income from sources within and  
18 outside Alabama, including without limitation, the resident's  
19 proportionate share of any income arising from a Subchapter K  
20 entity, Alabama S corporation, or estate or trust, regardless  
21 of the geographic source of the income. The term gross income,  
22 in the case of a nonresident individual, includes only income  
23 from property owned or business transacted in Alabama. For  
24 purposes of this article, proportionate share shall be defined  
25 by reference to (i) the status of the individual owner as a  
26 partner or member of a Subchapter K entity, shareholder of an  
27 Alabama S corporation, or beneficiary of an estate or trust,

1 and (ii) the allocable interest in that entity owned by the  
2 individual.

3 "§40-18-15.

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

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

12 "(2) Interest paid or accrued within the taxable  
13 year on indebtedness, limited to the amount allowable as an  
14 interest deduction for federal income tax purposes in the  
15 corresponding tax year or period pursuant to the provisions of  
16 26 U.S.C. §§ 163, 264, and 265.

17 "(3) The following taxes paid or accrued within the  
18 taxable year:

19 "a. Income taxes, Federal Insurance Contribution Act  
20 taxes, taxes on self-employment income and estate and gift  
21 taxes imposed by authority of the United States or any  
22 possession of the United States.

23 "b. State and local, and foreign, occupational  
24 license taxes, and contributions to state unemployment funds.

25 "c. State and local, and foreign, real property  
26 taxes.

27 "d. State and local personal property taxes.

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

3            "f. The taxes described in paragraphs c., d., and e.  
4 shall be deductible only to the extent that the taxes are  
5 deductible for federal income tax purposes under 26 U.S.C. §  
6 164 (relating to taxes).

7            "g. In addition, there shall be allowed as a  
8 deduction, state and local, and foreign taxes, except income  
9 taxes, and taxes imposed by authority of the United States or  
10 any possession of the United States, which are paid or accrued  
11 within the taxable year in carrying on a trade or business or  
12 an activity described in 26 U.S.C. § 212 (relating to expenses  
13 for the production of income).

14            "h. Notwithstanding paragraph g., any tax described  
15 in any paragraph preceding paragraph g. that is paid or  
16 accrued in connection with an acquisition or disposition of  
17 property shall be treated as part of the cost of the acquired  
18 property or, in the case of a disposition, as a reduction in  
19 the amount realized on the disposition of that property.

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

23            "(5) Losses sustained during the taxable year and  
24 not compensated for by insurance or otherwise, if incurred in  
25 any transaction entered into for profit, though not connected  
26 with the trade or business in accordance with 26 U.S.C. §  
27 165(c)(2); but, in the case of a taxpayer other than a



1 resident of the state, only as to those transactions within  
2 the state.

3 "(6) Casualty and theft losses sustained during the  
4 taxable year of property not connected with the conduct of a  
5 trade or business or a transaction entered into for profit as  
6 determined in accordance with subsections (c) (3) and (h) of 26  
7 U.S.C. § 165. In the case of a nonresident, the deduction  
8 shall be allowed only for the losses arising from property  
9 located within the State of Alabama and the limitations in 26  
10 U.S.C. § 165 shall be applied with regard only to the  
11 taxpayer's Alabama adjusted gross income. No loss shall be  
12 allowed if at the time of filing the return, the loss has been  
13 claimed on a federal estate tax return.

14 "(7) Losses from debts ascertained to be worthless  
15 and charged off during the taxable year of ascertainment, if  
16 sustained in the conduct of the regular trade or business of  
17 the taxpayer.

18 "(8) A reasonable allowance for the exhaustion, wear  
19 and tear of property from which any income is derived,  
20 including a reasonable allowance for obsolescence, in  
21 accordance with 26 U.S.C. §§ 167 and 168, and an allowance for  
22 the amortization of intangibles determined in accordance with  
23 26 U.S.C. § 197.

24 "(9) In the case of mines, oil, and gas wells, other  
25 natural deposits and timber, a reasonable allowance for  
26 depletion and for depreciation of improvements, according to  
27 the peculiar condition in each case based upon the cost,

1 including the cost of development not otherwise deducted, such  
2 reasonable allowance in all cases to be made under rules and  
3 regulations to be prescribed by the Department of Revenue;  
4 and, in the case of leasehold interests, the deduction allowed  
5 by this section shall be equitably apportioned between the  
6 lessor and the lessee.

7 "(10) Charitable contributions to the extent allowed  
8 for federal income tax purposes under 26 U.S.C. § 170  
9 (relating to charitable contributions and gifts).

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

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

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

25 "(14) For each individual income taxpayer, the  
26 deduction determined in accordance with 26 U.S.C. § 212 for  
27 all the ordinary and necessary expenses paid or incurred

1 during the taxable year for the production or collection of  
2 income, or for the management, conservation, or maintenance of  
3 property held for the production of income, or in connection  
4 with the determination, collection, or refund of any tax.

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

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

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

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

25           "(24) The reasonable medical and legal expenses paid  
26 or incurred by the taxpayer in connection with the adoption of  
27 a minor. For purposes of this subdivision, medical expenses

1 shall include any medical and hospital expenses of the adoptee  
2 and the adoptee's biological mother which are incident to the  
3 adoptee's birth and subsequent medical care and which, in the  
4 case of the adoptee, are paid or incurred before the petition  
5 is granted.

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

11 "(26) The amount of premiums paid pursuant to a  
12 qualifying insurance contract for qualified long-term care  
13 coverage.

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

16 "(28) The amount, up to five thousand dollars  
17 (\$5,000) per annum, contributed subsequent to December 31,  
18 2007, to the Alabama Prepaid Affordable College Tuition  
19 Program or the Alabama College Education Savings Program as  
20 defined in Chapter 33C of Title 16. If the taxpayer makes a  
21 nonqualified withdrawal as defined by Section 529 of the  
22 Internal Revenue Code (26 U.S.C. 529), the amount of the  
23 nonqualified withdrawal, plus 10 percent of the amount  
24 withdrawn, shall be added back to the income of the  
25 contributing taxpayer in the year the nonqualified withdrawal  
26 was distributed.

1           "(29) Any net capital loss derived from the exchange  
2 of precious metal bullion. For purposes of this paragraph,  
3 precious metal bullion means coins, bars, or rounds containing  
4 primarily refined gold, silver, or other precious metal that  
5 meets either of the following qualifications:

6           "a. Is marked and valued primarily by its weight,  
7 purity, and content.

8           "b. Is minted by a government authority.

9           "(b) (1) In lieu of the deductions allowable to  
10 individual taxpayers, as provided in subdivision (1) of  
11 subsection (a) to the extent of unreimbursed employee business  
12 expenses, and as provided in subdivisions (2), (3), (5), (6),  
13 (10), (13), (14), (15), (16), (19), (22), and (26) of  
14 subsection (a), the taxpayer may elect to take the optional  
15 standard deduction of 20 percent of the adjusted gross income  
16 or \$2,000, whichever is the lesser. Taxpayers filing jointly  
17 as defined in Section 40-18-27 may elect to take the optional  
18 standard deduction of 20 percent of the adjusted gross income  
19 or \$4,000, whichever is the lesser.

20           "(2) For tax years beginning after December 31,  
21 2006, the optional standard deduction shall be determined as  
22 follows:

23           "a. The standard deduction for married taxpayers  
24 filing jointly with adjusted gross income of \$20,000 or less  
25 shall be \$7,500. For married taxpayers filing jointly with  
26 adjusted gross income of greater than \$20,000, the standard  
27 deduction shall be reduced by \$175 for each \$500 of adjusted

1 gross income in excess of \$20,000. Notwithstanding the  
2 preceding sentence, the standard deduction shall not be less  
3 than \$4,000 for married taxpayers filing jointly.

4 "b. The standard deduction for married taxpayers  
5 filing separate returns with adjusted gross income of \$10,000  
6 or less shall be \$3,750. For married taxpayers filing separate  
7 returns with adjusted gross income of greater than \$10,000,  
8 the standard deduction shall be reduced by \$88 for each \$250  
9 of adjusted gross income in excess of \$10,000. Notwithstanding  
10 the preceding sentence, the standard deduction shall not be  
11 less than \$2,000 for married taxpayers filing separate  
12 returns.

13 "c. The standard deduction for head of family  
14 taxpayers with adjusted gross income of \$20,000 or less shall  
15 be \$4,700. For head of family taxpayers with adjusted gross  
16 income of greater than \$20,000, the standard deduction shall  
17 be reduced by \$135 for each \$500 of adjusted gross income in  
18 excess of \$20,000. Notwithstanding the preceding sentence, the  
19 standard deduction shall not be less than \$2,000 for head of  
20 family taxpayers.

21 "d. The standard deduction for single taxpayers with  
22 adjusted gross income of \$20,000 or less shall be \$2,500. For  
23 single taxpayers with adjusted gross income of greater than  
24 \$20,000, the standard deduction shall be reduced by \$25 for  
25 each \$500 of adjusted gross income in excess of \$20,000.  
26 Notwithstanding the preceding sentence, the standard deduction  
27 shall not be less than \$2,000 for single taxpayers.

1                   "(3) For tax years beginning after December 31,  
2 2018, the optional standard deduction shall be determined as  
3 follows:

4                   "a. The standard deduction for married taxpayers  
5 filing jointly with adjusted gross income of less than \$23,000  
6 shall be \$7,500. For married taxpayers filing jointly, the  
7 standard deduction shall be reduced further by \$175 for each  
8 \$500 of adjusted gross income in excess of \$23,000.

9 Notwithstanding the preceding sentence, the standard deduction  
10 shall not be less than \$4,000 for married taxpayers filing  
11 jointly.

12                   "b. The standard deduction for married taxpayers  
13 filing separate returns with adjusted gross income of less  
14 than \$10,500 shall be \$3,750. For married taxpayers filing  
15 separate returns, the standard deduction shall be reduced  
16 further by \$88 for each \$250 of adjusted gross income in  
17 excess of \$10,500. Notwithstanding the preceding sentence, the  
18 standard deduction shall not be less than \$2,000 for married  
19 taxpayers filing separate returns.

20                   "c. The standard deduction for head of family  
21 taxpayers with adjusted gross income of less than \$23,000  
22 shall be \$4,700. For head of family taxpayers, the standard  
23 deduction shall be reduced further by \$135 for each \$500 of  
24 adjusted gross income in excess of \$23,000. Notwithstanding  
25 the preceding sentence, the standard deduction shall not be  
26 less than \$2,000 for head of family taxpayers.



1           "d. The standard deduction for single taxpayers with  
2 adjusted gross income of less than \$23,000 shall be \$2,500.  
3 For single taxpayers, the standard deduction shall be reduced  
4 further by \$25 for each \$500 of adjusted gross income in  
5 excess of \$23,000. Notwithstanding the preceding sentence, the  
6 standard deduction shall not be less than \$2,000 for single  
7 taxpayers.

8           "(c) A deduction is allowable for the amount of  
9 federal income tax paid or accrued within the taxable year. In  
10 the case of a nonresident taxpayer, the amount of federal  
11 income tax deductible to Alabama shall be determined by the  
12 ratio that the amount of adjusted gross income received from  
13 sources within the State of Alabama bears to the amount of  
14 adjusted gross income received from sources within and outside  
15 the State of Alabama.

16           "(d) If separate returns are filed by husband and  
17 wife and one spouse elects to claim the optional standard  
18 deduction, the other spouse must also claim the optional  
19 standard deduction, unless, for the tax returns filed for the  
20 2014 and subsequent tax years, the spouses have lived apart  
21 for the entire year. In this case, each spouse may claim  
22 either the optional standard deduction or itemized deductions.  
23 Neither spouse may claim a deduction for expenses paid by the  
24 other spouse.

25           "(e) In the case of a nonresident individual:

26           "(1) The deductions allowed in subdivisions (1),  
27 (2), (3), (4), (5), (7), (8), (9), (11), (12), (19), (21),

1 (23), and (25) of subsection (a) shall be allowed only to the  
2 extent that they are paid or incurred in carrying on a trade  
3 or business within the State of Alabama and the deduction  
4 allowed by Section 40-18-15.2 shall be allowed only to the  
5 extent it arose from a trade or business carried on in  
6 Alabama.

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

12 "(3) The amount of the deductions allowed by  
13 subdivisions (2), (3), (6), (10), (13), (15), (16), (17),  
14 (19), (24), and (26) of subsection (a) (and not allowed by  
15 subdivisions (1) or (2) of this subsection), or by subsection  
16 (b) if the taxpayer elects the standard deduction, shall be  
17 limited to the amount determined by multiplying the total of  
18 such deductions by a fraction, the numerator of which is the  
19 taxpayer's adjusted gross income determined using the rules  
20 provided in subdivisions (1) and (2) of this subsection and  
21 the denominator of which is the taxpayer's adjusted gross  
22 income determined under Section 40-18-14.2. The deduction  
23 allowed in subdivision (17) of subsection (a) shall not be  
24 subtracted in calculating either the numerator or denominator  
25 in the previous sentence.

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

1                   Section 3. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law, and shall apply to  
4 tax years commencing on or after January 1, 2020.