HB64

172478-2

By Representatives Greer, Fridy and Garrett

RFD: Ways and Means Education

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

This bill would provide that the first 90 percent of such annual income is exempt. The exemption would be phased in over a five-year period.

A BILL
TO BE ENTITLED
AN ACT

To provide for the Alabama Fair Income Tax Act of 2016; to amend Section 40-18-19, Code of Alabama 1975, as amended by Act 2015-442, relating to exemptions from state income taxation; to provide for exemptions of certain percentages of annual income received as a benefit from defined contribution deferred compensation plans; and to provide for a period of five years to fully implement an exemption of 90 percent of such benefits.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall be known as and may be cited as the Alabama Fair Income Tax Act of 2016.

(b) Nothing in this act shall have an effect on defined contribution deferred compensation plans or the tax treatment of such plans.

Section 2. Section 40-18-19, Code of Alabama 1975, as amended by Act 2015-442 of the 2015 Regular Session, is amended to read as follows:

"§40-18-19.

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

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

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

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

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

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

Service Retirement and Disability Fund, or income received from any other United States government retirement and disability fund.

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

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

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

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

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

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

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

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

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

Revenue Code of 1986, as amended, or other applicable federal law.

"(12) Beginning January 1, 2017, 20 percent of annual income received as a benefit from a defined contribution deferred compensation plan shall be exempt from income taxation by the state and by all of its political subdivisions. Beginning January 1, 2018, 40 percent of annual income received as a benefit from a defined contribution deferred compensation plan shall be exempt from income taxation by the state and by all of its political subdivisions. Beginning January 1, 2019, 60 percent of annual income received as a benefit from a defined contribution deferred compensation plan shall be exempt from income taxation by the state and by all of its political subdivisions. Beginning January 1, 2020, 80 percent of annual income received as a benefit from a defined contribution deferred compensation plan shall be exempt from income taxation by the state and by all of its political subdivisions. Beginning January 1, 2021, and each tax year thereafter, 90 percent of annual income received as a benefit from a defined contribution deferred compensation plan shall be exempt from income taxation by the state and by all of its political subdivisions. The Department of Revenue may promulgate rules as necessary to implement and administer this subdivision.

"(b) Of the following personal exemptions allowed resident taxpayers, each nonresident individual taxpayer shall be allowed that proportion thereof that the adjusted gross income received by said nonresident individual taxpayer from sources within the State of Alabama bears to his or her adjusted gross income received from sources within and without the State of Alabama: In the case of a single person or a married person not living with husband or wife, a personal exemption of one thousand five hundred dollars ($1,500) or, in the case of a head of a family or a married person living with husband or wife, a personal exemption of three thousand dollars ($3,000), a husband and wife living together shall receive but one personal exemption of three thousand dollars ($3,000) against their aggregate income; and, in case they make separate returns, each must claim a personal exemption of one thousand five hundred dollars ($1,500); and the amount in subdivision (9) of subsection (a) for each person, other than husband or wife, dependent upon and receiving his or her chief support from the taxpayer."

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.