HB83

115588-1

By Representatives Love and Allen

RFD: Education Appropriations

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SYNOPSIS: Under existing individual income tax law, Alabama has relatively small allowances for both personal and dependent exemptions and also a low allowance for the optional standard deduction taken in lieu of itemized deductions. As a result of these low amounts, the state imposes individual income tax on a family of four beginning at $12,600 of Alabama adjusted gross income. If the below specified conditions occur, this bill would gradually increase the personal and dependent exemptions and raise the adjusted gross income phase-out of the optional standard deduction over a five-step period to increase the threshold at which the state imposes individual income tax. In the event that the growth in the Education Trust Fund equals or exceeds three percent (3%) annually as certified by the Department of Finance, this bill provides for the gradual increase in the personal and dependent exemptions, and raises the current phase-out amounts relative to the optional standard deduction over a five-step period in order to increase the threshold at which the state imposes individual income tax. However, no enhanced exemption or deduction amounts shall be allowed for those individuals with adjusted gross income in excess of $100,000.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 40-18-15, 40-18-19, and 40-18-27 of the Code of Alabama 1975, to gradually increase the personal and dependent exemptions and raise the phase-out amount currently applicable to the optional standard deduction over a five-step period to increase the threshold at which the state imposes individual income tax. These increased exemptions and deductions shall occur only upon certified revenue growth in the Education Trust Fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-18-15, 40-18-19, and 40-18-27 of the 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.

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

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

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

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

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

d. State and local personal property taxes.

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

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

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

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

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

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

(6) Casualty and theft losses sustained during the taxable year of property not connected with the conduct of a trade or business or a transaction entered into for profit as determined in accordance with subsections (c)(3) and (h) of 26

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

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

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

(9) In the case of mines, oil, and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Department of Revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably apportioned between the lessor and the lessee.

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

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

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

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

(14) For each individual income taxpayer, the deduction determined in accordance with 26 U.S.C. § 212 for all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income, or in connection with the determination, collection, or refund of any tax.

(15) Any expense not exceeding $1,000 actually incurred during the taxable year in constructing on his or her

property a family radioactive fallout shelter, as approved and certified by the State Department of Emergency Management, and any amount not exceeding $1,000 which he or she contributed during the taxable year toward the construction of a community radioactive fallout shelter.

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

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

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

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

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

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

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

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

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

(25) The amount of any aid or assistance, whether in the form of property, services, or monies, provided to the

State Industrial Development Authority pursuant to Section 41-10-44.8(d) in order to induce an approved company to undertake a major project within the state.

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

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

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

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

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

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

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

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

(3) However, for tax years beginning after December 31, 2010, and if the conditions in Section 2 of this Act are met, a taxpayer will be allowed to claim the optional standard deduction as shown in the table below:

Adjustment Year	Filing Status	Standard Deduction allowed for taxpayers with AGI < Phase-Out	Phase-Out based upon AGI	Standard Deduction allowed for taxpayers with AGI > Phase-Out	Standard Deduction reduced for every $500 ($250 for MFS) increase in AGI
One	MFJ	$7,500	$30,000 - $40,000	$4,000	$175
One	HOF	$4,700	$30,000 - $40,000	$2,000	$135
One	Single	$2,500	$30,000 - $40,000	$2,000	$25
One	MFS	$3,750	$15,000 - $20,000	$2,000	$88
Two	MFJ	$7,500	$40,000 - $50,000	$4,000	$175
Two	HOF	$4,700	$40,000 -	$2,000	$135

				$50,000		
13	Two	Single	$2,500	$40,000 - $50,000	$2,000	$25
14	Two	MFS	$3,750	$20,000 - $25,000	$2,000	$88
15	Three	MFJ	$7,500	$60,000 - $70,000	$4,000	$175
16	Three	HOF	$4,700	$60,000 - $70,000	$2,000	$135
17	Three	Single	$2,500	$60,000 - $70,000	$2,000	$25
18	Three	MFS	$3,750	$35,000 - $40,000	$2,000	$88
19	Four	MFJ	$7,500	$70,000 - $80,000	$4,000	$175
20	Four	HOF	$4,700	$70,000 - $80,000	$2,000	$135
21	Four	Single	$2,500	$70,000 - $80,000	$2,000	$25
22	Four	MFS	$3,750	$35,000 - $40,000	$2,000	$88
23	Five	MFJ	$7,500	$90,000 - $100,000	$4,000	$175
24	Five	HOF	$4,700	$90,000 -	$2,000	$135

			$100,000		
Five	Single	$2,500	$90,000 - $100,000	$2,000	$25
Five	MFS	$3,750	$45,000 - $50,000	$2,000	$88

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

(d) If separate returns are filed by husband and wife and one spouse elects to claim the optional standard deduction, the other spouse must also claim the optional standard deduction.

(e) In the case of a nonresident individual:

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

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

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

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

"§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) a. 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).

b. However, for tax years beginning after December 31, 2010, and if the conditions in Section 2 of this Act are met, a personal exemption shall be allowed as follows:

Adjustment Year	Single, Married filing Separately	Married Filing Jointly, Head of Family
One	$1,600	$3,200
Two	$1,700	$3,400
Three	$1,800	$3,600
Four	$1,900	$3,800
Five	$2,000	$4,000

However, in no case shall a taxpayer or taxpayers (if filing jointly) be allowed to take an increased deduction if adjusted gross income exceeds $100,000.

(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.

d. For tax years beginning after December 31, 2010, and if the conditions in Section 2 of this Act are met, the dependent exemption shall be increased by the amounts shown in the table below 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:

Adjustment Year	Dependent Exemption for taxpayers with AGI < Phase-Out	Adjusted Gross Income Phase-Out	Dependent Exemption for taxpayers with AGI > Phase-Out
One	$1,200	$30,000	$500
Two	$1,400	$40,000	$500
Three	$1,800	$60,000	$500
Four	$1,900	$80,000	$500
Five	$2,000	$100,000	$300

However, in no case shall a taxpayer or taxpayers (if filing jointly) be allowed to take an increased dependent exemption if adjusted gross income exceeds $100,000.

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.

(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 ($1,500) or,~~equal to the amount allowed in subdivision (a)(8); 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)~~equal to the amount allowed in subdivision (a)(8), against their aggregate income; and, in case they make separate returns, each must claim a personal exemption ~~of one thousand five hundred ($1,500)~~equal to the amount allowed in subdivision (a)(8); and the amount in ~~subdivision (9) of subsection (a)~~subdivision (a)(9) for each person, other than husband or wife, dependent upon and receiving his chief support from the taxpayer.

"§40-18-27.

(a) ~~Effective for tax years beginning after December 31, 1997, every taxpayer having an adjusted gross income for the taxable year of more than one thousand eight hundred seventy-five dollars ($1,875) if single or if married and not living with spouse, and of more than three thousand seven hundred fifty dollars ($3,750) if married and living with spouse, shall each year file with the Department of Revenue a return stating specifically the items of gross income, the deductions and credits allowed by this chapter, the place of residence, and post office address.~~ Each year every taxpayer shall file with the Department of Revenue a return stating specifically the items of gross income, deductions and credits allowed by this chapter, the place of residence, and post office address for each taxpayer having an adjusted gross income for a taxable year exceeding:

(1) The optional standard deduction allowed in Section 40-18-15, plus

(2) The personal exemption allowed in Section 40-18-19, plus

(3) Any dependent exemption allowed in Section 40-18-19.

If a husband and wife living together have an adjusted gross income exceeding the amounts allowed in this subsection~~of more than three thousand seven hundred fifty dollars ($3,750)~~, each shall file a return unless the income of each is included in a single joint return. If the taxpayer is unable to file a return, the return shall be filed by a duly authorized agent, a guardian, or other person charged with the care of the person or property of the taxpayer.

(b) A taxpayer other than a resident shall not be entitled to the deductions authorized by Sections 40-18-15 and 40-18-15.2 unless the taxpayer files a complete return showing the gross income of the taxpayer both from within and outside the state. Included on every income tax return shall be the name, and address, and social security number of the person who prepared the return. The taxpayer shall be held liable for any statement made by an agent of the taxpayer with reference to any information required by law to be furnished in connection with that tax return.

(c) Returns filed on the basis of the calendar year shall be filed on or before April 15 following the close of the calendar year. Returns filed on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. The department may grant a reasonable extension of time for filing returns, under rules and regulations as it shall prescribe. Except in the case of taxpayers who are abroad, no extension shall be for more than six months. If the taxpayer has requested an extension of time for the filing of a return, the period during which the return will be considered timely filed shall not expire until 10 days after the Department of Revenue mails to the taxpayer a rejection of the request for an extension of time for filing the return. The return must be signed or otherwise validated by both the taxpayer(s) and, if applicable, the tax return preparer under rules or regulations of the Department of Revenue and must contain a printed declaration that the return is filed under the penalties of perjury.

(d) Every individual who willfully files and signs or otherwise validates under rules or regulations of the Department of Revenue a return which the individual does not believe to be true and correct as to every material particular shall be guilty of perjury and, upon conviction thereof, shall be imprisoned in the penitentiary for not less than one, nor more than five years.

(e) In the event a husband and wife file a joint return, the husband and wife shall be jointly and severally liable for the income tax shown on the return or as may be determined by the Department of Revenue to be due by them to the State of Alabama. Notwithstanding the foregoing, an innocent spouse shall be relieved of certain liabilities to the same extent and in the same manner as granted by the Internal Revenue Code for federal income tax purposes.

Section 2. (a) The changes for the adjustment years beginning after December 31, 2010, provided for in this Act shall take effect upon the certification by the Alabama Department of Finance (Finance) to the Alabama Department of Revenue (Revenue) that the estimated growth in revenues in the Education Trust Fund shall equal or exceed three percent (3%) in the subsequent fiscal year. Finance shall provide written certification to Revenue on or before the second legislative day of each regular legislative session stating Finance's estimate of revenue growth in the Education Trust Fund for the subsequent fiscal year, as required in Code of Alabama 1975, Section 41-19-7(b)(3). Upon receipt of the aforementioned certification, Revenue will take the actions necessary to implement the changes mandated by this Act.

(b) The changes can be tolled and resumed until all the tolled changes in this Act have been implemented. If the estimated growth does not equal or exceed three percent (3%), the changes for the subsequent years will be tolled. At the time the estimate equals or exceeds three percent (3%), after a tolling, the changes prescribed in Section 1 will resume at the level of the adjustment year in which they were tolled.

(c) (1) The phrase Adjustment Year, as used in the tables contained herein, means a calendar tax year with a corresponding fiscal year for which Finance estimates that growth in the Education Trust Fund will equal or exceed three percent (3%).

(2) A fiscal year corresponds to the tax year in which the fiscal year ends.

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

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

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