

1 SB235  
2 173898-3  
3 By Senator Smitherman  
4 RFD: Finance and Taxation Education  
5 First Read: 16-FEB-16

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, taxpayers are allowed a  
9 deduction for medical and dental expenses.

10 This bill would allow a deduction on the  
11 Alabama Individual Income Tax return for prenatal  
12 medical expenses separate from the deduction  
13 allowed for medical and dental expenses.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 To amend Section 40-18-15, relating to individual  
20 income tax; to allow a deduction for all prenatal medical  
21 expenses separate from the deduction allowed for medical and  
22 dental expenses; and provide that any deduction allowed for  
23 prenatal medical expenses shall not be used in calculating the  
24 deduction for medical and dental expenses.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 40-18-15, Code of Alabama 1975,  
27 is amended to read as follows:

1           "§40-18-15.

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

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

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

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

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

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

23           "c. State and local, and foreign, real property  
24 taxes.

25           "d. State and local personal property taxes.

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

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

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

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

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

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

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

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

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

22           "(9) In the case of mines, oil, and gas wells, other  
23 natural deposits and timber, a reasonable allowance for  
24 depletion and for depreciation of improvements, according to  
25 the peculiar condition in each case based upon the cost,  
26 including the cost of development not otherwise deducted, such  
27 reasonable allowance in all cases to be made under rules and

1 regulations to be prescribed by the Department of Revenue;  
2 and, in the case of leasehold interests, the deduction allowed  
3 by this section shall be equitably apportioned between the  
4 lessor and the lessee.

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

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

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

14 "(13) For each individual income taxpayer, medical  
15 and dental expenses, including amounts paid for medicine and  
16 drugs and amounts paid for accident and health insurance, as  
17 determined in accordance with 26 U.S.C. § 213; provided,  
18 however, that the limitation of the deduction to the excess of  
19 those expenses over 7.5 percent of adjusted gross income as  
20 provided in 26 U.S.C. § 213 shall instead be limited to the  
21 excess of those expenses over 4.0 percent of adjusted gross  
22 income. No amounts used for the deduction provided for in  
23 subdivision (a) (29), if both claimed, shall be included in  
24 medical and dental expenses.

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) The amount of expenses incurred during the  
2           taxable year for prenatal medical care. This amount shall not  
3           be used in calculating medical and dental expenses provided in  
4           subdivision (a) (13) if both are claimed.

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

16          "(2) For tax years beginning after December 31,  
17          2006, the optional standard deduction shall be determined as  
18          follows:

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

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

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

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

25           "(c) A deduction is allowable for the amount of  
26 federal income tax paid or accrued within the taxable year. In  
27 the case of a nonresident taxpayer, the amount of federal

1 income tax deductible to Alabama shall be determined by the  
2 ratio that the amount of adjusted gross income received from  
3 sources within the State of Alabama bears to the amount of  
4 adjusted gross income received from sources within and outside  
5 the State of Alabama.

6 "(d) If separate returns are filed by husband and  
7 wife and one spouse elects to claim the optional standard  
8 deduction, the other spouse must also claim the optional  
9 standard deduction, unless, for the tax returns filed for the  
10 2014 and subsequent tax years, the spouses have lived apart  
11 for the entire year. In this case, each spouse may claim  
12 either the optional standard deduction or itemized deductions.  
13 Neither spouse may claim a deduction for expenses paid by the  
14 other spouse.

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

16 "(1) The deductions allowed in subdivisions (1),  
17 (2), (3), (4), (5), (7), (8), (9), (11), (12), (19), (21),  
18 (23), and (25) of subsection (a) shall be allowed only to the  
19 extent that they are paid or incurred in carrying on a trade  
20 or business within the State of Alabama and the deduction  
21 allowed by Section 40-18-15.2 shall be allowed only to the  
22 extent it arose from a trade or business carried on in  
23 Alabama.

24 "(2) The deductions allowed by subdivisions (2),  
25 (3), (5), (8), (9), (14), and (19) of subsection (a) shall be  
26 allowed only to the extent arising from property located in

1 Alabama or transactions producing income that is subject to  
2 tax in the State of Alabama.

3 "(3) The amount of the deductions allowed by  
4 subdivisions (2), (3), (6), (10), (13), (15), (16), (17),  
5 (19), (24), and (26) of subsection (a) (and not allowed by  
6 subdivisions (1) or (2) of this subsection), or by subsection  
7 (b) if the taxpayer elects the standard deduction, shall be  
8 limited to the amount determined by multiplying the total of  
9 such deductions by a fraction, the numerator of which is the  
10 taxpayer's adjusted gross income determined using the rules  
11 provided in subdivisions (1) and (2) of this subsection and  
12 the denominator of which is the taxpayer's adjusted gross  
13 income determined under Section 40-18-14.2. The deduction  
14 allowed in subdivision (17) of subsection (a) shall not be  
15 subtracted in calculating either the numerator or denominator  
16 in the previous sentence.

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

19 Section 2. All laws or parts of laws which conflict  
20 with this act are hereby repealed.

21 Section 3. This act shall become effective for the  
22 taxable years beginning after December 31, 2016, and following  
23 its passage and approval by the Governor, or upon its  
24 otherwise becoming law.