

# HB182 INTRODUCED



1 U8WYXG-1

2 By Representatives Estes, Gidley, Shaw, Butler, Standridge,

3 Rigsby, Shirey, Yarbrough, Wilcox, Mooney, Oliver, Lamb,

4 Kirkland, Givens, Holk-Jones, Hurst, Shedd

5 RFD: Ways and Means Education

6 First Read: 22-Mar-23

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SYNOPSIS:

Under current law, taxpayers are allowed a dependent exemption for a son or daughter for computing income subject to the income tax levied by the state.

This bill would expand the definition of a dependent to include an unborn child.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to revenue and taxation; to amend Section 40-18-19, as last amended by Act 2022-292, Act 2022-294, and Act 2022-297 of the 2022 Regular Session, Code of Alabama 1975 to expand the definition of a dependent to include an unborn child.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-19, as last amended by Act 2022-292, Act 2022-294, and Act 2022-297, 2022 Regular Session, Code of Alabama 1975, is amended as follows:

"§40-18-19

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



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

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

37           (3) The first eight thousand dollars (\$8,000) of any  
38 retirement compensation, retirement allowances, pensions and  
39 annuities, or optional allowances, received by any eligible  
40 firefighter, as defined in Sections 36-32-1 and 36-32-2, or  
41 his or her designated beneficiary, from any firefighting  
42 agency established in the State of Alabama, but only if such  
43 retirement compensation, retirement allowances, pensions and  
44 annuities, or optional allowances as are awarded as a result  
45 of fire protection services rendered. This subdivision shall  
46 become effective for the taxable years beginning January 1,  
47 1987, and thereafter following its passage and approval by the  
48 Governor, or upon its otherwise becoming a law; provided, that  
49 for the taxable years beginning on or after January 1, 1991,  
50 all of the pension and retirement payments shall be exempt  
51 from taxation.

52           (4) The first eight thousand dollars (\$8,000) of any  
53 retirement compensation, retirement allowances, pensions and  
54 annuities, or optional allowances received by any eligible  
55 peace officer, as defined in subdivision (11) of Section  
56 36-21-60, or his or her designated beneficiary, from any



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57 police retirement system established in the State of Alabama,  
58 but only if the retirement compensation, retirement  
59 allowances, pensions and annuities, or optional allowances are  
60 awarded as a result of police services rendered. This  
61 subdivision shall become effective for taxable years beginning  
62 January 1, 1984, and thereafter; provided, that for the  
63 taxable years beginning on or after January 1, 1991, all of  
64 the pension and retirement payments shall be exempt from  
65 taxation.

66 (5) Income received as annuities under the United  
67 States Retirement System from the United States Government  
68 Civil Service Retirement and Disability Fund, including income  
69 received from the Tennessee Valley Authority's pension system,  
70 income received as annuities under the United States Foreign  
71 Service Retirement and Disability Fund, or income received  
72 from any other United States government retirement and  
73 disability fund.

74 (6) Beginning January 1, 1991, all payments made on or  
75 after such date to a retiree or his designated beneficiary  
76 under a defined benefit plan, as defined under 26 U.S.C. §  
77 414(j), to the extent such payment would be taxable for  
78 federal income tax purposes.

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



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

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

100           b. For tax years beginning after December 31, 2006, for  
101 taxpayers with adjusted gross income equal to or less than  
102 twenty thousand dollars (\$20,000), one thousand dollars  
103 (\$1,000) for each person other than husband or wife, dependent  
104 upon the taxpayer, and over half of whose support, for the  
105 calendar year in which the taxable year for the taxpayer  
106 begins, was received from the taxpayer.

107           c. For tax years beginning after December 31, 2006, for  
108 taxpayers with adjusted gross income in excess of twenty  
109 thousand dollars (\$20,000) and equal to or less than one  
110 hundred thousand dollars (\$100,000), five hundred dollars  
111 (\$500) for each person other than husband and wife, dependent  
112 upon the taxpayer, and over half of whose support, for the



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113 calendar year in which the taxable year for the taxpayer  
114 begins, was received from the taxpayer.

115 d. For tax years beginning after December 31, 2021, for  
116 taxpayers with adjusted gross income equal to or less than  
117 fifty thousand dollars (\$50,000), one thousand dollars  
118 (\$1,000) for each person other than husband or wife, dependent  
119 upon the taxpayer, and over half of whose support, for the  
120 calendar year in which the taxable year for the taxpayer  
121 begins, was received from the taxpayer.

122 e. For tax years beginning after December 31, 2021, for  
123 taxpayers with adjusted gross income in excess of fifty  
124 thousand dollars (\$50,000) and equal to or less than one  
125 hundred thousand dollars (\$100,000), five hundred dollars  
126 (\$500) for each person other than husband and wife, dependent  
127 upon the taxpayer, and over half of whose support, for the  
128 calendar year in which the taxable year for the taxpayer  
129 begins, was received from the taxpayer.

130 1. For the purposes of this section, "dependent" shall  
131 mean: A son or daughter of the taxpayer or a descendant of  
132 either; a stepson or stepdaughter of the taxpayer; a brother,  
133 sister, stepbrother, or stepsister of the taxpayer; the father  
134 or mother of the taxpayer or an ancestor of either; a  
135 stepfather or stepmother of the taxpayer; a son or daughter of  
136 a brother or sister of the taxpayer; a brother or sister of  
137 the father or mother of the taxpayer; a son-in-law,  
138 daughter-in-law, father-in-law, mother-in-law, brother-in-law,  
139 or sister-in-law of the taxpayer. As used in this paragraph  
140 the terms "brother" and "sister" include a brother or sister



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141 by the half blood. For the purpose of determining whether any  
142 of the foregoing relationships exist, a legally adopted child  
143 of a person shall be considered a child of such a person by  
144 blood.

145 2. (i) For the purposes of this section, for all tax  
146 years beginning after December 31, 2023, "dependent" shall  
147 also mean any unborn child as defined in Section 26-23H-3. The  
148 Department of Revenue shall establish a form by administrative  
149 rule to be signed by a licensed health care professional and  
150 submitted by the taxpayer to verify that a taxpayer claiming a  
151 dependent pursuant to this subparagraph was pregnant during  
152 the tax year. The Alabama Department of Public Health shall  
153 post this form on the department's public website.

154 (ii) A taxpayer may only claim one dependent pursuant  
155 to this subparagraph per tax year, unless the taxpayer has a  
156 multiple gestation pregnancy.

157 (iii) A taxpayer claiming a dependent pursuant to this  
158 subparagraph may not, in the same tax year, also claim a  
159 dependent under subparagraph 1. for a child resulting from the  
160 pregnancy.

161 (10) Beginning January 1, 1998, all income, interest,  
162 dividends, gains, or benefits of any kind received from  
163 savings accounts or prepaid tuition contracts administered  
164 under Title 16, Chapter 33C, are exempt from all income  
165 taxation by the state and by all of its political subdivisions  
166 to the extent that the amounts remain on deposit in the PACT  
167 Trust Fund or the ACES Trust Fund, or are used to pay the  
168 designated beneficiary's qualified higher education expenses



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169 as defined in 26 U.S.C. § 529, or are refunded under such  
170 terms as would not carry a penalty under 26 U.S.C. § 529.

171 (11) Beginning January 1, 2016, all income, interest,  
172 dividends, gains, or benefits of any kind received from ABLE  
173 savings accounts administered under Title 16, Chapter 33C, are  
174 exempt from all income taxation by the state and by all of its  
175 political subdivisions to the extent that the amounts remain  
176 on deposit in the ABLE Trust Fund, or are used to pay the  
177 designated beneficiary's qualified disability expenses as  
178 defined in 26 U.S.C. § 529A, or are refunded under such terms  
179 as would not carry a penalty under 26 U.S.C. § 529A, or other  
180 applicable federal law.

181 (12) Beginning January 1, 2018, amounts received by an  
182 individual from sources within a foreign country or countries  
183 which constitute a housing allowance, and earned income  
184 attributable to services performed by such individual received  
185 during the tax period are exempt from all income taxation by  
186 the state and by all of its political subdivisions to the  
187 extent such income is exempt from federal income tax pursuant  
188 to 26 U.S.C. § 911.

189 (13) a. Beginning January 1, 2023, the first six  
190 thousand dollars (\$6,000) of taxable retirement income.

191 b. This exemption may only be claimed by individual  
192 taxpayers who are 65 years of age or older.

193 (b) Of the following personal exemptions allowed  
194 resident taxpayers, each nonresident individual taxpayer shall  
195 be allowed that proportion thereof that the adjusted gross  
196 income received by said nonresident individual taxpayer from





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197 sources within the State of Alabama bears to his or her  
198 adjusted gross income received from sources within and without  
199 the State of Alabama: In the case of a single person or a  
200 married person not living with husband or wife, a personal  
201 exemption of one thousand five hundred dollars (\$1,500) or, in  
202 the case of a head of a family or a married person living with  
203 husband or wife, a personal exemption of three thousand  
204 dollars (\$3,000), a husband and wife living together shall  
205 receive but one personal exemption of three thousand dollars  
206 (\$3,000) against their aggregate income; and, in case they  
207 make separate returns, each must claim a personal exemption of  
208 one thousand five hundred dollars (\$1,500); and the amount in  
209 subdivision (9) of subsection (a) for each person, other than  
210 husband or wife, dependent upon and receiving his or her chief  
211 support from the taxpayer.

212 (c) The Department of Revenue may enact rules as  
213 necessary to implement and administer the provisions of this  
214 act."

215 Section 2. This act shall become effective on the first  
216 day of the third month following its passage and approval by  
217 the Governor, or its otherwise becoming law.