

1 HB36  
2 173040-2  
3 By Representatives South, Garrett, Fincher, Shedd, Pettus,  
4 Hill (M), Millican, Weaver, Rowe, Davis, Ledbetter,  
5 Williams (JD), Holmes (M), Wilcox, McCutcheon, Baker, Greer,  
6 McMillan, Beckman, Carns, Poole, Chesteen, Mooney, Treadaway,  
7 Hubbard, Faulkner and Johnson (K)  
8 RFD: Commerce and Small Business  
9 First Read: 02-FEB-16  
10 PFD: 01/29/2016

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8 SYNOPSIS: This bill would create the Alabama Small  
9 Business Jobs Act to establish a tax credit for  
10 Alabama small businesses to enhance the economy by  
11 the hiring of new Alabama employees.

12 This bill would define an Alabama small  
13 business employer as any business organization in  
14 Alabama having 75 or fewer employees and would  
15 provide for a tax credit to any Alabama small  
16 business employer that creates new jobs and hires a  
17 new employee in an amount of \$1,500 per qualified  
18 new employee.

19 This bill would provide that an employer may  
20 receive a credit under the Alabama Small Business  
21 Jobs Act or the Full Employment Act of 2011.

22 This bill would also require the Department  
23 of Revenue to implement a program promoting various  
24 tax credits for small businesses and independently  
25 owned business entities.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 To establish the Alabama Small Business Jobs Act; to  
5 define certain terms; to provide for a tax credit to Alabama  
6 small business employers that create new jobs and hire new  
7 employees under certain conditions; to amend Section  
8 40-18-321, Code of Alabama 1975, to make conforming changes;  
9 to provide rulemaking authority; and to require the Department  
10 of Revenue to implement a program promoting various tax  
11 credits for small businesses and independently owned business  
12 entities.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be known and may be cited  
15 as the Alabama Small Business Jobs Act.

16 Section 2. For the purpose of this act, the  
17 following words and phrases shall have the following meanings:

18 (1) ALABAMA SMALL BUSINESS EMPLOYER. A business  
19 organization duly formed, organized, or qualified to do  
20 business in the state, with its headquarters or principal  
21 place of business in the state, and having 75 or fewer  
22 employees during the tax year in which the tax credit is  
23 claimed pursuant to this act, other than new employees for  
24 which a credit is allowed by this act.

25 (2) DEPARTMENT. The Alabama Department of Revenue.

1           (3) NET EMPLOYEE GROWTH. An Alabama small business  
2 employer's net increase in the total number of full-time  
3 employees residing in Alabama based on the following:

4           a. The total number of full-time Alabama employees  
5 on the last date of each tax year in which the employer is  
6 claiming a credit pursuant to this act; minus,

7           b. The total number of full-time Alabama employees  
8 as of the last day of the tax year in which a credit under  
9 this act was first claimed and granted.

10           (4) QUALIFIED NEW EMPLOYEE. A new employee of an  
11 Alabama small business employer that, for a qualifying time  
12 period of 12 consecutive months, satisfies all of the  
13 following criteria:

14           a. Was employed on a full-time basis.

15           b. Was an Alabama resident.

16           c. Received wages from the Alabama small business  
17 employer that met or exceeded a total of forty thousand  
18 dollars (\$40,000).

19           d. Was not a full-time employee of the Alabama small  
20 business employer during any time 12 months prior to the start  
21 of such qualifying time period.

22           (5) WAGES. Total wages paid to an employee,  
23 including gross wages, salaries, overtime, and bonuses.

24           Section 3. (a) An Alabama small business tax credit  
25 is hereby allowed for any Alabama small business employer that  
26 creates a new job and hires a new full-time employee to fill  
27 that job. The credit shall be a one-time credit equal to one

1 thousand five hundred dollars (\$1,500) for each qualified new  
2 employee, and shall only be applicable to a tax year in which  
3 the new employee has completed 12 months of consecutive  
4 full-time employment with the employer.

5 (b) To qualify for the credit, the employer must  
6 have a net employee growth as of the last date of each tax  
7 year during which the employer claims a credit pursuant to  
8 this act. The net employee growth must equal or exceed the  
9 number of qualified new employees for which a credit is sought  
10 in the current or applicable tax year, plus the total number  
11 of qualified new employees for whom credits were claimed  
12 pursuant to this act in a prior tax year.

13 (c) (1) The credit shall be allowed against the tax  
14 imposed by Chapter 16 or Chapter 18, of Title 40, Code of  
15 Alabama 1975. A financial institution shall be allowed to  
16 claim the credit against the liability determined in Chapter  
17 16, Title 40, Code of Alabama 1975. The credit shall be  
18 available, on a pro rata basis, to the owners or members of  
19 qualified Alabama small business employers that are entities  
20 taxed under subchapters S or K of the Internal Revenue Code.

21 (2) An Alabama small business employer may receive a  
22 credit under this section or under the Full Employment Act of  
23 2011, Article 11, Chapter 18, Title 40, Code of Alabama 1975,  
24 but in no case shall the employer receive both a credit under  
25 this act and a credit provided under the Full Employment Act  
26 of 2011. Once a credit is claimed for an employee under this  
27 section or the Full Employment Act of 2011, the employer may

1 not thereafter make a claim for a credit of that employee  
2 under the other act.

3 (d) This tax credit may not be allowed to decrease a  
4 taxpayer's tax liability to less than zero in any tax year,  
5 but any unused portion may be carried forward for a period of  
6 up to three years. The credit is not refundable or  
7 transferable.

8 (e) To the extent the credit is used to offset a  
9 financial institution excise tax liability, the Department of  
10 Finance shall promulgate regulations to ensure that the credit  
11 in no case would reduce the distribution for municipalities  
12 and counties.

13 (f) The income tax credit provided in this section  
14 may be claimed only for employees who are hired following the  
15 effective date of this act and shall only apply to tax years  
16 beginning on or after January 1, 2016.

17 Section 4. The department may adopt rules consistent  
18 with this act as necessary to implement and administer this  
19 act.

20 Section 5. Section 40-18-321, Code of Alabama 1975,  
21 is amended to read as follows:

22 "§40-18-321.

23 "In addition to the ~~existing~~ tax credit allowed for  
24 in the Full Employment Act of 2011, codified as Section  
25 40-18-290 through 40-18-293, or the Alabama Small Business  
26 Jobs Act, an additional ~~\$1,000~~ one thousand dollar (\$1,000)  
27 tax credit for job creation is available if the existing

1 requirements of Section 40-18-290 through 40-18-293 or  
2 Sections 2 and 3 of the act adding this amendatory language  
3 are met along with the following definition:

4 "RECENTLY DEPLOYED UNEMPLOYED VETERAN. An individual  
5 who is all of the following:

6 "(1) Was a resident of Alabama at the time of entry  
7 into military service or was mobilized to active, federal  
8 military service while a member of the Alabama National Guard  
9 or other reserve unit located in Alabama, regardless of the  
10 resident's home of record.

11 "(2) Received an honorable or general discharge from  
12 active, federal military service within the two-year period  
13 preceding the date of hire.

14 "(3) Has certification by the Department of Labor at  
15 the time of hire of either of the following:

16 "a. Collecting or being eligible to collect  
17 unemployment benefits.

18 "b. Having exhausted his or her unemployment  
19 benefits."

20 Section 6. By December 31, 2016, the Department of  
21 Revenue shall create and implement a program to actively  
22 promote to small business owners, tax professionals, and other  
23 appropriate parties the tax credits allowed under the Alabama  
24 Small Business Jobs Act created by this act, the Full  
25 Employment Act of 2011, Article 11 of Chapter 18 of Title 40,  
26 Code of Alabama 1975, the Heroes for Hire Tax Credit Act of  
27 2012, Article 13 of Chapter 18 of Title 40, Code of Alabama

1 1975, and other tax credits available to small businesses and  
2 independently owned business entities.

3 Section 7. The provisions of this act are severable.  
4 If any part of this act is declared invalid or  
5 unconstitutional, that declaration shall not affect the part  
6 which remains.

7 Section 8. All laws or parts of laws which conflict  
8 with this act are repealed.

9 Section 9. This act shall become effective 90 days  
10 following its passage and approval by the Governor, or its  
11 otherwise becoming law.