

1 SB214
2 173272-1
3 By Senators Scofield, Livingston, Ward, Stutts, Melson, Reed,
4 Dial and Whatley
5 RFD: Finance and Taxation Education
6 First Read: 11-FEB-16

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8 SYNOPSIS: This bill would encourage accelerated
9 investment in broadband infrastructure by private
10 businesses by providing a nonrefundable income tax
11 credit equal to 10 percent of the qualified
12 investment in new broadband telecommunications
13 network facilities in the state.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 40-18-370, Code of Alabama 1975,
20 and to add Section 40-18-370.1 to the Code of Alabama 1975, to
21 provide a nonrefundable income tax credit for a certain
22 percentage of qualifying investment in each new broadband
23 telecommunication network facility, as defined, in Alabama.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 40-18-370, Code of Alabama 1975,
26 is amended to read as follows:

27 "§40-18-370.

1 "(a) This article shall be known and may be cited as
2 the Alabama Jobs Act.

3 "(b) The Legislature makes the following findings:

4 "(1) The economic well-being of the citizens of the
5 state will be enhanced by the increased development and growth
6 of employment within Alabama.

7 "(2) It is in the best interests of the state to
8 provide certain incentives to allow the state to foster
9 economic development through the recruitment of quality
10 projects and the expansion of existing businesses within
11 Alabama.

12 "(3) The incentives provided for in this article do
13 not raise any taxes for any individuals or businesses in
14 Alabama under state law.

15 "(4) The incentives provided in this article will
16 allow the state to encourage the creation of new jobs that may
17 not otherwise exist within the State of Alabama.

18 "(5) The incentives provided in this article will
19 increase revenues for the state without increasing taxes.

20 "(6) The Constitution of the State of Alabama grants
21 the Legislature the authority to approve and authorize
22 exemptions, exclusions, deductions, and credits from taxation
23 in order to define the net proceeds of any tax payable under
24 state law.

25 "(7) The Constitution of the State of Alabama was
26 framed, and the laws of the state were enacted, with the goal

1 of protecting, encouraging, and developing individual
2 enterprise.

3 "(8) The incentives provided in this article will
4 not decrease the salary paid to any education personnel.

5 "(9) The powers to be granted and the purposes to be
6 accomplished by this article will create an environment for
7 the recruitment of quality projects and the expansion of
8 existing businesses within Alabama.

9 "(10) Economic development through tax and financial
10 incentives benefits the citizens of the state and is a public
11 purpose of the state.

12 "(c) In addition to the definitions found at Section
13 40-18-1, the following words and phrases shall have the
14 following meanings:

15 "(1) APPROVED COMPANY. Any company determined by the
16 Secretary of Commerce and the Governor to meet the criteria
17 provided in Section 40-18-373.

18 "(2) BROADBAND TELECOMMUNICATIONS NETWORK FACILITY.
19 Any electronics, equipment, transmission facility, fiber optic
20 and copper cable, and any other property used directly or
21 indirectly to transmit broadband signals capable of speeds of
22 at least 10 megabits per second of download speed and one
23 megabit per second of upload speed.

24 "~~(2)~~ (3) CAPITAL INVESTMENT. All costs and expenses
25 incurred by the incentivized company in connection with the
26 acquisition, construction, installation, and equipping of a
27 qualifying project, if such costs are required to be

1 capitalized for purposes of the federal income tax, determined
2 without regard to any rule that permits expenditures properly
3 chargeable to a capital account to be treated as current
4 expenditures. However, for any project involving the
5 extraction of natural resources, the capital investment shall
6 not include the costs of acquiring land, land recording fees,
7 architectural and engineering services, environmental studies
8 and environmental mitigation.

9 "~~(3)~~ (4) COMPANY. Anyone or anything which has the
10 powers to own a project and have employees.

11 "~~(4)~~ (5) ELIGIBLE EMPLOYEES. Those employee positions
12 set forth in a project agreement that will be the result of
13 new jobs created by or through a qualifying project.

14 "~~(5)~~ (6) EMPLOYEES. Some or all of those persons
15 employed and residing in Alabama:

16 "a. Who are being paid directly by an approved
17 company, related company, common paymaster, joint venturer, or
18 leasing company for working at a qualifying project;

19 "b. Whom the approved company, related company,
20 common paymaster, joint venturer or leasing company identifies
21 as its employees to the U.S. Internal Revenue Service, the
22 Department of Revenue, or the Department of Labor on returns
23 or reports filed with the foregoing, including, but not
24 limited to, IRS Form 941; and

25 "c. Who are assigned to a qualifying project for a
26 period of at least one year.

1 "~~(6)~~(7) INCENTIVE PERIOD. The period or periods of
2 time during which an incentivized company can receive one or
3 more of the jobs act incentives.

4 "~~(7)~~(8) INCENTIVIZED COMPANY. An approved company
5 and any related company that are allowed to claim either or
6 both of the jobs act incentives as provided for in the project
7 agreement.

8 "~~(8)~~(9) INVESTMENT CREDIT. The annual incentive
9 provided in Section 40-18-376.

10 "~~(9)~~(10) JOBS ACT INCENTIVES. The jobs credit and
11 the investment credit as authorized and provided for in this
12 article.

13 "~~(10)~~(11) JOBS CREDIT. The annual incentive provided
14 in Section 40-18-375.

15 "~~(11)~~(12) NAICS CODE. Any sector, subsector,
16 industry group, industry or national industry of the 2012
17 North American Industry Classification System, or any similar
18 classification system developed in conjunction with the United
19 States Department of Commerce or Office of Management and
20 Budget.

21 "~~(12)~~(13) PROJECT. Any land, building, or other
22 improvements, and all real and personal properties, whether or
23 not contiguous and whether or not previously in existence, if
24 in Alabama and if deemed necessary or useful in connection
25 with an activity listed in Section 40-18-372(a).

26 "~~(13)~~(14) PROJECT AGREEMENT. The agreement entered
27 into between an approved company and the Governor establishing

1 the terms and conditions for the provision of the jobs act
2 incentives, as provided for in Section 40-18-374.

3 "~~(14)~~ (15) QUALIFYING PROJECT. Any project to be
4 undertaken by an approved company that satisfies Section
5 40-18-372.

6 "~~(15)~~ (16) RELATED COMPANY. Any company that is under
7 common ownership, management, or control with a company or an
8 approved company, as the case may be.

9 "~~(16)~~ (17) UTILITY TAXES. The taxes imposed by
10 Sections 40-21-82 and 40-21-102.

11 "~~(17)~~ (18) WAGES. Total wages of an employee
12 (including gross wages, salaries, overtime and bonuses),
13 defined by reference to Section 25-4-16(b), without
14 application of Sections 25-4-16(b) (1), 25-4-16(b) (2) a.,
15 25-4-16(b) (3), and 25-4-16(b) (4)."

16 Section 2. Section 40-18-371.1 is added to the Code
17 of Alabama 1975, to read as follows:

18 §40-18-371.1.

19 (a) Notwithstanding any other provision of this
20 chapter, and subject to the limitations of this section, for
21 all tax years beginning after December 31, 2016, there shall
22 be allowed a nonrefundable income tax credit equal to 10
23 percent of the qualified investment in broadband
24 telecommunications network facilities in Alabama, as defined
25 in Section 40-18-370.

26 (b) No equipment shall qualify for the credit
27 provided in this section until the taxpayer applies to and

1 obtains from the Alabama Department of Commerce an order or
2 ruling confirming that the installed equipment qualifies as
3 broadband telecommunications network facilities.

4 (3) The credit allowed by this section together with
5 any credits carried forward shall not, in any one taxable
6 year, exceed the lessor of:

7 a. The amount of income tax due under the Alabama
8 code, after allowance for all other credits permitted by this
9 chapter; or

10 b. Seven hundred fifty thousand dollars (\$750,000).

11 (4) If the credit allowed by this section exceeds
12 the limitation under subdivision (3) of this section, the
13 excess amount may be carried forward for a period that does
14 not exceed the next 14 taxable years.

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