The following article on the JOBS (Jumpstart Our Business Startups) Act was printed in the Birmingham News on March 25, 2012.

JOBS bill would aid startups, like at Innovation Depot, U.S. Rep. Spencer Bachus says

By Martin Swant

BIRMINGHAM, Alabama -- Startup companies such as those at Innovation Depot soon might find it easier to get early stage investment under legislation making its way through Congress.

The Jumpstart Our Business Startups Act, better known as the JOBS Act, is a package of six bills in Congress aiming to cut the red tape and regulatory burden start-ups often face while trying to raise money and attract investors. One of the bills would allow what is known as "crowdfunding," a fundraising method in which a large number of investors can pool small amounts of money to grow a new company.

The JOBS Act originated in the House Financial Services Committee, chaired by U.S. Rep. Spencer Bachus, R-Vestavia Hills. Bachus, one of the act's sponsors, spoke in favor of bills on the House floor on March 7, a day before it passed. In an interview Friday afternoon, Bachus said many start-up companies like those at Birmingham's Innovation Depot and other incubators around the country are a breeding ground for great ideas. But the young companies creating new products and new services where economic growth originates lack the funding possibilities available to larger firms.

"When I go through Innovation Depot, there were some amazingly talented people there who were investing their own time and money into their products," he said. "They were staking their own wellbeing on these products working."

Bachus said banks tell him they're not lending on many occasions because borrowers aren't

meeting the criteria to receive a loan. One of those qualifications requires a company to be profitable, but that takes time, he said. Bachus cited companies such as Google, Amazon and Facebook as examples of companies that started small.

Earlier this month, the U.S. House of Representatives passed the JOBS Act 390-23 and the Senate cleared it on Thursday by a vote of 73-26. The bills now go back to the House for approval of the amendments before they go to President Barack Obama, who has said he'll sign it. Backers of the bipartisan legislation say it would create economic growth and jobs. Others say the eased oversight could create a hotbed for companies that aim to dupe investors, much in the way that Enron did.

On March 13, Securities and Exchange Commission Chairman Mary Schapiro wrote a letter to key members of the Senate Banking Committee, including Richard Shelby, R-Ala., expressing concern about the legislation.

"Too often, investors are the target of fraudulent schemes disguised as investment opportunities," Schapiro wrote. "As you know, if the balance is tipped to the point where investors are not confident that there are appropriate protections, investors will lose confidence in our markets, and capital formation will ultimately be made more difficult and expensive."

Bachus said, when asked about the concerns expressed by regulators about the legislation, said there's a distinction between investment fraud and investment failure. Like cars and guns, he said, there's always room for abuse but that shouldn't detract from legitimate investment. The bills will make it easier for the average person to invest, he said.

"It's sort of the American story of speculation," he said. "You can't take the risk out, but if individuals don't invest, then where do we get the investment from?"

The legislation will limit investors partaking in crowdfunding to $10,000, or as much as 10 percent, of their annual income. Before the JOBS Act, the SEC had "outdated regulations" that prohibited that type of small investment, according to Steve Still, a lawyer with the Birmingham law firm Maynard, Cooper & Gale.

Franz Lohrke, a professor at Samford University's Brock School of Business, said an interesting part of the legislation removes the advertising restriction on stock sales for small- and medium-sized companies. A business has to meet and greet people through road shows, but the JOBS Act would let them advertise on social media. That could be especially beneficial for start-up companies that tend to be ahead of the curve on tech trends, he said.

Another important element in the JOBS Act would allow businesses to offer risk capital, Lohrke said. There is no collateral for the taking if a business fails, as the job of the company is to sell the idea.

"In an information economy, that's the type of financing you need," he said. "You can't get loans on ideas, but you can get that equity investment if you can convince people it's a good idea."