

1 SB78
2 202087-2
3 By Senators Orr, Allen and Whatley
4 RFD: Finance and Taxation Education
5 First Read: 05-MAR-19

1 SB78

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4 ENROLLED, An Act,

5 To enact the Alabama Innovation Act; to allow a
6 research and development enhancement grant for qualified
7 research expenses in Alabama; to provide that the research
8 and development enhancement grants be subject to the
9 appropriations of the Legislature; no eligible research entity
10 can be awarded more than 20% of the maximum amount awarded in
11 a single fiscal year; to require that the grant only apply to
12 research falling within certain industries; to direct the
13 Alabama Department of Economic and Community Affairs to
14 develop rules to administer the program; to establish the
15 Alabama Research and Development Enhancement Fund; to provide
16 the fund to receive appropriations from the legislature, or
17 from the receipt of gifts, grants, or federal funds to be
18 expended for the purpose of the program; to provide for the
19 criteria under which grants are to be given; and to require an
20 annual report on the progress of the program.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be known as the "Alabama
23 Innovation Act".

24 Section 2. The Legislature hereby finds and declares
25 that the health, safety, and welfare of the people of this

1 state are dependent upon the continued encouragement,
2 development, growth, and expansion of the private sector
3 within the state. The Legislature finds that expanding upon
4 current research and development activities in the state would
5 improve the employment opportunities, products and services
6 available to the citizens of the state. Therefore, it is
7 declared to be the purpose of this act to encourage new and
8 continuing efforts to conduct research and development
9 activities within this state.

10 Section 3. For the purpose of this act, the
11 following words and phrases shall have the following meanings:

12 (a) ADECA. The Alabama Department of Economic and
13 Community Affairs.

14 (b) ALABAMA RESEARCH ENTITY. One or more of the
15 following:

16 (1) A public or private university in the state;

17 (2) A university research foundation affiliated with
18 a public or private university in the state;

19 (3) A public two-year college in the state;

20 (4) A publicly-owned hospital in the state;

21 (5) An entity duly formed, domiciled or qualified to
22 do business in the state that meets each of the following
23 criteria:

24 a. Is exempt from federal income tax under section
25 501(c)(3) of the Internal Revenue Code of 1986, as amended;

1 b. Is predominantly engaged in research and
2 non-commercial development activities undertaken for the
3 purpose of discovering information that is technological or
4 biotechnological in nature, involves a process of
5 experimentation, and the application of which is intended to
6 be used in the development of a new or improved product,
7 service or treatment;

8 c. Has its headquarters and principal place of
9 business in the state; and

10 d. Has, or is anticipated to have, at least 75
11 percent of its property and payroll in Alabama, using the
12 property and payroll factor calculations found in Title 40.

13 (c) APPROVED ACTIVITY. The conduct of an activity
14 that is predominantly any one or more of the following:

15 (1) Described by NAICS Code 1133, 115111, 2121,
16 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,
17 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,
18 511, 5121 (other than 51213), 51221, 517, 518 (without regard
19 to the premise that data processing and related services be
20 performed in conjunction with a third party), 51913, 52232,
21 54133 (if predominantly in furtherance of another activity
22 described in this article), 54134 (if predominantly in
23 furtherance of another activity described in this article),
24 54138, 5415, 541614, 5417, 55 (if not for the production of

1 electricity), 561422 (other than establishments that originate
2 telephone calls), 562213, 56291, 56292, 611512, 927 or 92811.

3 (2) The production of biofuel as such term is
4 defined in Section 2-2-90(c)(2).

5 (3) A target of the state's economic development
6 efforts pursuant to either of the following:

7 a. The Accelerate Alabama Strategic Economic
8 Development Plan adopted in January 2012 by the Alabama
9 Economic Development Alliance, created by Executive Order
10 Number 21 of the Governor on July 18, 2011, or any amended
11 version or successor document thereto or

12 b. A type listed in a regulation adopted by the
13 Department of Commerce.

14 (d) CONSORTIUM RESEARCH EXPENSES. Any amount paid or
15 incurred by any Alabama research entity for qualified
16 research, but not including any expenses for research
17 activities performed outside Alabama.

18 (e) CONTRACT RESEARCH EXPENSES. Any amount paid by a
19 business enterprise to an Alabama research entity (other than
20 an employee of the research entity) for qualified research,
21 but not including any of the following:

22 (1) Consortium research expenses; or

23 (2) Expenses for research activities performed
24 outside Alabama.

1 (f) NAICS CODE. Any sector, subsector, industry
2 group, industry or national industry of the 2012 North
3 American Industry Classification System, or any similar
4 classification system developed in conjunction with the United
5 States Department of Commerce or Office of Management and
6 Budget.

7 (h) QUALIFIED RESEARCH. The meaning given in 26
8 U.S.C. § 41(d), if conducted in Alabama in pursuit of an
9 approved activity. In applying any terms in 26 U.S.C. § 41,
10 "qualified research" shall have the meaning given herein.

11 Section 4. (a) The Director of the ADECA is
12 authorized to establish and administer the research and
13 development enhancement grant program for the purpose of
14 encouraging new and continuing efforts to conduct new or
15 expanded research and development activities within Alabama.
16 Within 90 days of the effective date of this act, the director
17 shall promulgate rules and policies to administer the program
18 and begin to accept applications for grants, and shall
19 promulgate such rules and regulations as may be necessary to
20 meet the future needs of the grant program.

21 (b) The program shall be administered pursuant to
22 policies developed by ADECA in compliance with this act. The
23 policies shall provide for the awarding of grants to Alabama
24 research entities that have qualified research expenses in
25 Alabama in a fiscal year exceeding a base amount.

1 (c) There is hereby created the Alabama Research and
2 Development Enhancement Fund in the State Treasury. The fund
3 is subject to appropriations by the legislature and gifts,
4 grants, and other donations received by ADECA for the research
5 and development grant program or fund. ADECA may not spend
6 appropriations for the program for purposes other than those
7 listed in this section. Any monies appropriated to ADECA for
8 research and development grants that are unspent at the end of
9 a fiscal year shall be carried over for use by the program in
10 the next fiscal year. ADECA shall develop rules ensuring that
11 expenses incurred to administer the program must not exceed
12 three percent (3%) of the total amount appropriated for the
13 program in any fiscal year. Moneys in the fund shall be
14 invested by the State Treasurer for the sole benefit of the
15 fund.

16 (d) Individual grants awarded by ADECA under this
17 section may only be awarded for qualified research expenses
18 and may not exceed the lesser of: (1) 20% of the total grant
19 funds awarded in a single fiscal year or (2) an amount equal
20 to the sum of the following:

21 (1) 10 percent of the following:

22 a. Contract research expenses for qualified research
23 conducted in Alabama during the fiscal year preceding the
24 fiscal year for which grant funds are being awarded, minus

1 b. Fifty percent of the contract research expenses
2 conducted in Alabama, on average, over the 3 fiscal years
3 preceding the fiscal year for which the grant amount is being
4 determined.

5 (2) 25 percent of the following:

6 a. Consortium research expenses for qualified
7 research conducted in Alabama during the fiscal year preceding
8 the fiscal year for which grant funds are being awarded, minus

9 b. Fifty percent of the consortium research expenses
10 conducted in Alabama, on average, over the 3 fiscal years
11 preceding the fiscal year for which the grant amount is being
12 determines.

13 Subject to such limitations, grants shall be awarded
14 pursuant to criteria established by ADECA, with priority given
15 to qualified research expenditures supporting an approved
16 activity as defined in Section 3 of this act.

17 (e) The first annual commencement date to submit
18 grant applications shall be within ninety days of the
19 effective date of this act, and shall be March 1 in each
20 subsequent year. ADECA shall accept applications within a
21 150-day grant window after the annual commencement date.
22 Applications for eligible expenses will be evaluated according
23 to a scoring system developed by ADECA that incorporates the
24 priorities listed in this section, with grant awards published
25 within ninety days after expiration of the filing window.

1 Section 5. (a) There is created the Alabama Research
2 and Development Enhancement Oversight Committee. The oversight
3 committee shall consist of the Chair of the House Ways and
4 Means Education Committee or designee, the Chair of the Senate
5 Finance and Taxation Education Committee or designee, two
6 members appointed by the Speaker of the House of
7 Representatives, two members appointed by the President Pro
8 Tempore of the Senate, and the Director of ADECA or his or her
9 designee. The oversight committee shall be charged with
10 meeting at least annually and providing general oversight of
11 the implementation of this act and the grant awards
12 determinations, and recommending further statutory changes to
13 promote research and development within Alabama.

14 (b) The committee shall reflect the racial, gender,
15 geographic, urban/rural, and economic diversity of the state.

16 (c) For any year in which grants are distributed
17 under the program, ADECA shall produce a quarterly report on
18 the awarded grants and the status of grants under the program
19 to the Oversight Committee, including progress toward
20 increased research and development activities in Alabama. The
21 report shall also be published on ADECA's website provided
22 however that the details of any specific research project
23 shall not be published on the ADECA website without the
24 express written permission of the research entity applying for
25 or receiving the grant. Within 12 months of the effective date

1 of this act, ADECA shall produce a report on the increased
2 research and development activities supported by grant funds.

3 Section 6. The amount of research and development
4 enhancement grants awarded by ADECA shall be subject to the
5 appropriations of the Legislature. No research entity shall
6 receive a research and development enhancement grant of more
7 than 20% of the maximum amount awarded in a single fiscal
8 year. The grants shall be allocated among various taxpayers
9 using the procedures in this section.

10 (a) Each research entity who wishes to apply for a
11 grant shall file an application with the department showing
12 the amount of grant funding which the research entity expects
13 in good faith to qualify for during the applicable fiscal
14 year. No application shall show an expected claim in excess of
15 20% of the maximum amount to be awarded in a single fiscal
16 year.

17 (b) As applications are submitted, the department
18 shall approve any the department deems sufficient, until the
19 total approved applications represent the total available
20 grant funds for the applicable fiscal year. All applications
21 received on the day that the total for the applicable fiscal
22 year is reached shall receive approval for a pro rata share of
23 the credits available at the start of that day. To the extent
24 that the applications are not approved, the portion not
25 approved shall be conditionally denied by the department.

1 Research entities may continue to submit applications after
2 the total for the applicable fiscal year is reached, and
3 applications that the department deems sufficient shall be
4 conditionally denied but maintained in the order received.

5 (c) If grant funds for the corresponding fiscal year
6 are returned for any reason or if additional grant funds
7 become available, the department shall approve, in the order
8 they were received, the applications that were conditionally
9 denied until the approved applications represent total of
10 available grant funds for the applicable fiscal year and
11 timely notify benefiting research entities.

12 Section 7. The grant program established under this
13 act shall be effective beginning with the fiscal year ending
14 September 30, 2020.

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

17 Section 9. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB78

Senate 09-APR-19

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 31-MAY-19

Senate concurred in House amendment 31-MAY-19

By: Senator Orr