

1 SB298  
2 210607-1  
3 By Senator Orr  
4 RFD: Finance and Taxation Education  
5 First Read: 03-MAR-21

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8 SYNOPSIS: Under current law, the Alabama Innovation  
9 Act provides for research and development  
10 enhancement grants to certain Alabama research  
11 entities.

12 This bill would clarify that any grants  
13 awarded to an Alabama research entity must be the  
14 result of a partnership with a private sector  
15 applicant.

16 This bill will also authorize the Alabama  
17 Department of Economic and Community Affairs  
18 (ADECA) to establish a competitive scoring system  
19 to award grants and establish an internship program  
20 that would allow interns to be compensated for  
21 their work on a qualified research project.

22 Additionally, this bill would modify  
23 provisions regarding maximum individual grant  
24 awards and establish the maximum amount of indirect  
25 costs and administrative costs that may be funded  
26 from grant funds.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
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5 To amend Sections 41-23-252, 41-23-253, and  
6 41-23-255, Code of Alabama 1975, relating to the Alabama  
7 Innovation Act; to provide further for the criteria under  
8 which grants are to be given; to clarify the maximum  
9 individual grant awards, and the indirect costs and  
10 administrative costs of the grant amount awarded; to authorize  
11 the Alabama Department of Economic and Community Affairs  
12 (ADECA) to establish a competitive scoring system to determine  
13 how grants are awarded; and to allow research and development  
14 grant funds to be used to compensate interns on projects.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 41-23-252, 41-23-253, and  
17 41-23-255, Code of Alabama 1975, are amended to read as  
18 follows:

19 "§41-23-252.

20 "For the purpose of this article, the following  
21 words and phrases shall have the following meanings:

22 "(1) ADECA. The Alabama Department of Economic and  
23 Community Affairs.

24 "(2) ALABAMA RESEARCH ENTITY. One or more of the  
25 following:

26 "a. A public or private university in the state in  
27 partnership with a private sector applicant.

1            "b. A university research foundation affiliated with  
2 a public or private university in the state in partnership  
3 with a private sector applicant.

4            "c. A public two-year college in the state in  
5 partnership with a private sector applicant.

6            "d. A publicly owned hospital in the state in  
7 partnership with a private sector applicant.

8            "e. An entity duly formed, domiciled, or qualified  
9 to do business in the state in partnership with a private  
10 sector applicant and that meets each of the following  
11 criteria:

12            "1. Is exempt from federal income tax under Section  
13 501(c)(3) of the Internal Revenue Code of 1986, as amended.

14            "2. Is predominantly engaged in research and  
15 non-commercial development activities undertaken for the  
16 purpose of discovering information that is technological or  
17 biotechnological in nature, involves a process of  
18 experimentation, and the application of which is intended to  
19 be used in the development of a new or improved product,  
20 service, or treatment.

21            "3. Has its headquarters and principal place of  
22 business in the state.

23            "4. Has, or is anticipated to have, at least 75  
24 percent of its property and payroll in Alabama, using the  
25 property and payroll factor calculations found in Title 40.

26            "(3) APPROVED ACTIVITY. The conduct of an activity  
27 that is predominantly any one or more of the following:

1           "a. Described by NAICS Code 1133, 115111, 2121,  
2           22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,  
3           4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,  
4           511, 5121 (other than 51213), 51221, 517, 518 (without regard  
5           to the premise that data processing and related services be  
6           performed in conjunction with a third party), 51913, 52232,  
7           54133 (if predominantly in furtherance of another activity  
8           described in this article), 54134 (if predominantly in  
9           furtherance of another activity described in this article),  
10          54138, 5415, 541614, 5417, 55 (if not for the production of  
11          electricity), 561422 (other than establishments that originate  
12          telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

13           "b. The production of biofuel as ~~such~~ the term is  
14          defined in Section 2-2-90(c) (2).

15           "c. A target of the state's economic development  
16          efforts pursuant to either of the following:

17           "1. The Accelerate Alabama Strategic Economic  
18          Development Plan adopted in January 2012 by the Alabama  
19          Economic Development Alliance, created by Executive Order  
20          Number 21 of the Governor on July 18, 2011, or any amended  
21          version or successor document.

22           "2. A type listed in a regulation adopted by the  
23          Department of Commerce.

24           "~~(4) CONSORTIUM RESEARCH EXPENSES. Any amount paid~~  
25          ~~or incurred by any Alabama research entity for qualified~~  
26          ~~research, but not including any expenses for research~~  
27          ~~activities performed outside Alabama.~~

1           ~~"(5) CONTRACT RESEARCH EXPENSES. Any amount paid by~~  
2 ~~a business enterprise to an Alabama research entity, other~~  
3 ~~than an employee of the research entity, for qualified~~  
4 ~~research, but not including either of the following:~~

5           ~~"a. Consortium research expenses.~~

6           ~~"b. Expenses for research activities performed~~  
7 ~~outside Alabama.~~

8           ~~"(6) (4) NAICS CODE. Any sector, subsector, industry~~  
9 ~~group, industry, or national industry of the 2012 North~~  
10 ~~American Industry Classification System, or any similar~~  
11 ~~classification system developed in conjunction with the United~~  
12 ~~States Department of Commerce or Office of Management and~~  
13 ~~Budget.~~

14           ~~"(7) (5) QUALIFIED RESEARCH. The meaning given in 26~~  
15 ~~U.S.C. § 41(d), if conducted in Alabama in pursuit of an~~  
16 ~~approved activity. In applying any terms in 26 U.S.C. § 41,~~  
17 ~~"qualified research" shall have the meaning given herein.~~

18           ~~"§41-23-253.~~

19           ~~"(a) The Director of ADECA may establish and~~  
20 ~~administer the research and development enhancement grant~~  
21 ~~program for the purpose of encouraging new and continuing~~  
22 ~~efforts to conduct new or expanded research and development~~  
23 ~~activities within Alabama. By September 4, 2019, the director~~  
24 ~~shall adopt rules and policies to administer the program and~~  
25 ~~begin to accept applications for grants, and shall adopt such~~  
26 ~~rules as may be necessary to meet the future needs of the~~  
27 ~~grant program.~~

1           "(b) The program shall be administered pursuant to  
2 policies developed by ADECA in compliance with this article.  
3 The policies shall provide for the awarding of grants to  
4 Alabama research entities that have qualified research  
5 expenses in Alabama in a fiscal year exceeding a base amount.

6           "(c) The Director of ADECA may adopt rules to  
7 develop a faculty and student intern partnership program to  
8 enhance the grant program by providing interns with increased  
9 experience with research and development. The research and  
10 development enhancement grant program will provide a maximum  
11 of one dollar (\$1) of grant funding for each non-state dollar  
12 of matching funding for one-year or two-year projects  
13 requiring a minimum of ten thousand dollars (\$10,000) per year  
14 and a maximum of fifty thousand dollars (\$50,000) per year in  
15 grant funds. Projects shall involve one or more students,  
16 faculty, or both, working at an Alabama research entity. The  
17 required matching funds shall be cash, grants, or contracts  
18 specifically provided for the proposed research project.

19           "~~(c)~~ (d) The Alabama Research and Development  
20 Enhancement Fund is created in the State Treasury. The fund is  
21 subject to appropriations by the Legislature and gifts,  
22 grants, and other donations received by ADECA for the research  
23 and development grant program or fund. ADECA may not spend  
24 appropriations for the program for purposes other than those  
25 listed in this section. Any monies appropriated to ADECA for  
26 research and development grants that are unspent at the end of  
27 a fiscal year shall be carried over for use by the program in

1 the next fiscal year. ADECA shall develop rules ensuring that  
2 expenses incurred to administer the program must not exceed  
3 three percent of the total amount appropriated for the program  
4 in any fiscal year. ~~Moneys~~ Monies in the fund shall be  
5 invested by the State Treasurer for the sole benefit of the  
6 fund.

7 ~~"(d)~~ (e) Individual grants awarded by ADECA under  
8 this section may only be awarded for qualified research  
9 expenses and may not exceed the lesser of: ~~(1)~~ 20 percent of  
10 the total grant funds awarded in a single fiscal year, or 50  
11 percent of the budgeted project costs. Indirect costs and  
12 administrative costs may not exceed 10 percent of the grant  
13 amount awarded ~~(2) an amount equal to the sum of the~~  
14 following:

15 ~~"(1) Ten percent of the following:~~

16 ~~"a. Contract research expenses for qualified~~  
17 ~~research conducted in Alabama during the fiscal year preceding~~  
18 ~~the fiscal year for which grant funds are being awarded, minus~~

19 ~~"b. Fifty percent of the contract research expenses~~  
20 ~~conducted in Alabama, on average, over the three fiscal years~~  
21 ~~preceding the fiscal year for which the grant amount is being~~  
22 ~~determined.~~

23 ~~"(2) Twenty-five percent of the following:~~

24 ~~"a. Consortium research expenses for qualified~~  
25 ~~research conducted in Alabama during the fiscal year preceding~~  
26 ~~the fiscal year for which grant funds are being awarded, minus~~



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

5           ~~"Subject to such limitations, grants shall be~~  
6 ~~awarded pursuant to criteria established by ADECA, with~~  
7 ~~priority given to qualified research expenditures supporting~~  
8 ~~an approved activity as defined in Section 41-23-252.~~

9           ~~"(e) (f)~~ The first annual commencement date to  
10 submit grant applications shall be September 4, 2019, and  
11 shall be March 1 in each subsequent year. ADECA shall accept  
12 applications within a 150-day grant window after the annual  
13 commencement date. Applications for eligible expenses shall be  
14 evaluated according to a scoring system developed by ADECA  
15 that incorporates the priorities listed in this section, with  
16 grant awards published within 90 days after expiration of the  
17 filing window.

18           "(g) Funding awards will be made based on the  
19 competitive scoring system developed by ADECA. Partial awards  
20 may be made at ADECA's discretion if funds do not allow a full  
21 award to be made. Scoring to be developed by ADECA will  
22 consider the following:

23           "(1) New research.

24           "(2) The amount of financial commitment of an  
25 industry partner.

26           "(3) Research to benefit Alabama business and  
27 industry.

1                   "(4) Research to benefit small- and medium-sized  
2 business and industry.

3                   "(5) New and continuing efforts to conduct new or  
4 expanded research and development activities within Alabama.

5                   "(6) Research to improve the employment  
6 opportunities available to the residents of the state.

7                   "(7) Research to improve the products and services  
8 available to the residents of the state.

9                   "(8) Other criteria, as appropriate.

10                   "§41-23-255.

11                   "(a) The amount of research and development  
12 enhancement grants awarded by ADECA shall be subject to the  
13 appropriations of the Legislature. No research entity shall  
14 receive a research and development enhancement grant of more  
15 than 20 percent of the maximum amount awarded in a single  
16 fiscal year. The grants shall be allocated among various  
17 taxpayers using the procedures in this section.

18                   "(b) Each research entity who wishes to apply for a  
19 grant shall file an application with ADECA showing the amount  
20 of grant funding which the research entity expects in good  
21 faith to qualify for during the applicable fiscal year. No  
22 application shall show an expected claim in excess of 20  
23 percent of the maximum amount to be awarded in a single fiscal  
24 year.

25                   ~~"(c) As applications are submitted, ADECA shall~~  
26 ~~approve any ADECA deems sufficient, until the total approved~~  
27 ~~applications represent the total available grant funds for the~~

1 ~~applicable fiscal year. All applications received on the day~~  
2 ~~that the total for the applicable fiscal year is reached shall~~  
3 ~~receive approval for a pro rata share of the credits available~~  
4 ~~at the start of that day. To the extent that the applications~~  
5 ~~are not approved, the portion not approved shall be~~  
6 ~~conditionally denied by ADECA. Research entities may continue~~  
7 ~~to submit applications after the total for the applicable~~  
8 ~~fiscal year is reached, and applications that ADECA deems~~  
9 ~~sufficient shall be conditionally denied but maintained in the~~  
10 ~~order received.~~

11 ~~"(d) (c) If grant funds for the corresponding fiscal~~  
12 ~~year are returned for any reason or if additional grant funds~~  
13 ~~become available, ADECA may continue to award grants based on~~  
14 ~~the competitive rating system shall approve, in the order they~~  
15 ~~were received, the applications that were conditionally denied~~  
16 ~~until the approved applications represent the total of~~  
17 ~~available grant funds for the applicable fiscal year and~~  
18 ~~timely notify benefiting research entities."~~

19 Section 2. This act shall become effective  
20 immediately following its passage and approval by the  
21 Governor, or its otherwise becoming law.