

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

1 SB298

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4 ENROLLED, An Act,

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:

1 "a. A public or private university in the state in
2 partnership with a private sector applicant.

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

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

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

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

14 "1. Is exempt from federal income tax under Section
15 501(c) (3) of the Internal Revenue Code of 1986, as amended.

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

23 "3. Has its headquarters and principal place of
24 business in the state.

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

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

6 "a. Described by NAICS Code 1133, 115111, 2121,
7 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,
8 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,
9 511, 5121 (other than 51213), 51221, 517, 518 (without regard
10 to the premise that data processing and related services be
11 performed in conjunction with a third party), 51913, 52232,
12 54133 (if predominantly in furtherance of another activity
13 described in this article), 54134 (if predominantly in
14 furtherance of another activity described in this article),
15 54138, 5415, 541614, 5417, 55 (if not for the production of
16 electricity), 561422 (other than establishments that originate
17 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

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

22 "1. The Accelerate Alabama Strategic Economic
23 Development Plan adopted in January 2012 by the Alabama
24 Economic Development Alliance, created by Executive Order

1 Number 21 of the Governor on July 18, 2011, or any amended
2 version or successor document.

3 "2. A type listed in a regulation adopted by the
4 Department of Commerce.

5 "~~(4) CONSORTIUM RESEARCH EXPENSES. Any amount paid~~
6 ~~or incurred by any Alabama research entity for qualified~~
7 ~~research, but not including any expenses for research~~
8 ~~activities performed outside Alabama.~~

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

13 "~~a. Consortium research expenses.~~

14 "~~b. Expenses for research activities performed~~
15 ~~outside Alabama.~~

16 "~~(6)~~ (4) NAICS CODE. Any sector, subsector, industry
17 group, industry, or national industry of the 2012 North
18 American Industry Classification System, or any similar
19 classification system developed in conjunction with the United
20 States Department of Commerce or Office of Management and
21 Budget.

22 "~~(7)~~ (5) QUALIFIED RESEARCH. The meaning given in 26
23 U.S.C. § 41(d), if conducted in Alabama in pursuit of an
24 approved activity. In applying any terms in 26 U.S.C. § 41,
25 "qualified research" shall have the meaning given herein.

1 "§41-23-253.

2 "(a) The Director of ADECA may establish and
3 administer the research and development enhancement grant
4 program for the purpose of encouraging new and continuing
5 efforts to conduct new or expanded research and development
6 activities within Alabama. By September 4, 2019, the director
7 shall adopt rules and policies to administer the program and
8 begin to accept applications for grants, and shall adopt such
9 rules as may be necessary to meet the future needs of the
10 grant program.

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

16 "(c) The Director of ADECA may adopt rules to
17 develop a faculty and student intern partnership program to
18 enhance the grant program by providing interns with increased
19 experience with research and development. The research and
20 development enhancement grant program will provide a maximum
21 of one dollar (\$1) of grant funding for each non-state dollar
22 of matching funding for one-year or two-year projects
23 requiring a minimum of ten thousand dollars (\$10,000) per year
24 and a maximum of fifty thousand dollars (\$50,000) per year in
25 grant funds. Projects shall involve one or more students,

1 faculty, or both, working at an Alabama research entity. The
2 required matching funds shall be cash, grants, or contracts
3 specifically provided for the proposed research project.

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

19 "~~(d)~~ (e) Individual grants awarded by ADECA under
20 this section may only be awarded for qualified research
21 expenses and may not exceed the lesser of: ~~(1)~~ 20 percent of
22 the total grant funds awarded in a single fiscal year, or 50
23 percent of the budgeted project costs. Indirect costs and
24 administrative costs may not exceed 10 percent of the grant

1 ~~amount awarded (2) an amount equal to the sum of the~~
2 ~~following:~~

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

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

7 ~~"b. Fifty percent of the contract research expenses~~
8 ~~conducted in Alabama, on average, over the three fiscal years~~
9 ~~preceding the fiscal year for which the grant amount is being~~
10 ~~determined.~~

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

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

15 ~~"b. Fifty percent of the consortium research~~
16 ~~expenses conducted in Alabama, on average, over the three~~
17 ~~fiscal years preceding the fiscal year for which the grant~~
18 ~~amount is being determined.~~

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

23 ~~"(e) (f) The first annual commencement date to~~
24 ~~submit grant applications shall be September 4, 2019, and~~
25 ~~shall be March 1 in each subsequent year. ADECA shall accept~~

1 applications within a 150-day grant window after the annual
2 commencement date. Applications for eligible expenses shall be
3 evaluated according to a scoring system developed by ADECA
4 that incorporates the priorities listed in this section, with
5 grant awards published within 90 days after expiration of the
6 filing window.

7 "(g) Funding awards will be made based on the
8 competitive scoring system developed by ADECA. Partial awards
9 may be made at ADECA's discretion if funds do not allow a full
10 award to be made. Scoring to be developed by ADECA will
11 consider the following:

12 "(1) New research.

13 "(2) The amount of financial commitment of an
14 industry partner.

15 "(3) Research to benefit Alabama business and
16 industry.

17 "(4) Research to benefit small- and medium-sized
18 business and industry.

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

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

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

25 "(8) Other criteria, as appropriate.

1 "§41-23-255.

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

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

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

1 ~~fiscal year is reached, and applications that ADECA deems~~
2 ~~sufficient shall be conditionally denied but maintained in the~~
3 ~~order received.~~

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

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB298

Senate 16-MAR-21

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 17-MAY-21

By: Senator Orr