SB78

202087-2

By Senators Orr, Allen and Whatley

RFD: Finance and Taxation Education

First Read: 05-MAR-19
ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. The Legislature hereby finds and declares that the health, safety, and welfare of the people of this
state are dependent upon the continued encouragement, development, growth, and expansion of the private sector within the state. The Legislature finds that expanding upon current research and development activities in the state would improve the employment opportunities, products and services available to the citizens of the state. Therefore, it is declared to be the purpose of this act to encourage new and continuing efforts to conduct research and development activities within this state.

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

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

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

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

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

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

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

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

a. Is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
b. Is predominantly engaged in research and non-commercial development activities undertaken for the purpose of discovering information that is technological or biotechnological in nature, involves a process of experimentation, and the application of which is intended to be used in the development of a new or improved product, service or treatment;

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

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

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

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

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

(3) A target of the state's economic development efforts pursuant to either of the following:
   a. The Accelerate Alabama Strategic Economic Development Plan adopted in January 2012 by the Alabama Economic Development Alliance, created by Executive Order Number 21 of the Governor on July 18, 2011, or any amended version or successor document thereto or
   b. A type listed in a regulation adopted by the Department of Commerce.

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

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

   (1) Consortium research expenses; or
   (2) Expenses for research activities performed outside Alabama.
(f) NAICS CODE. Any sector, subsector, industry
group, industry or national industry of the 2012 North
American Industry Classification System, or any similar
classification system developed in conjunction with the United
States Department of Commerce or Office of Management and
Budget.

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

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

(b) The program shall be administered pursuant to
policies developed by ADECA in compliance with this act. The
policies shall provide for the awarding of grants to Alabama
research entities that have qualified research expenses in
Alabama in a fiscal year exceeding a base amount.
(c) There is hereby created the Alabama Research and Development Enhancement Fund in the State Treasury. The fund is subject to appropriations by the legislature and gifts, grants, and other donations received by ADECA for the research and development grant program or fund. ADECA may not spend appropriations for the program for purposes other than those listed in this section. Any monies appropriated to ADECA for research and development grants that are unspent at the end of a fiscal year shall be carried over for use by the program in the next fiscal year. ADECA shall develop rules ensuring that expenses incurred to administer the program must not exceed three percent (3%) of the total amount appropriated for the program in any fiscal year. Moneys in the fund shall be invested by the State Treasurer for the sole benefit of the fund.

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

(1) 10 percent of the following:

a. Contract research expenses for qualified research conducted in Alabama during the fiscal year preceding the fiscal year for which grant funds are being awarded, minus
b. Fifty percent of the contract research expenses conducted in Alabama, on average, over the 3 fiscal years preceding the fiscal year for which the grant amount is being determined.

(2) 25 percent of the following:

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

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

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

(e) The first annual commencement date to submit grant applications shall be within ninety days of the effective date of this act, and shall be March 1 in each subsequent year. ADECA shall accept applications within a 150-day grant window after the annual commencement date. Applications for eligible expenses will be evaluated according to a scoring system developed by ADECA that incorporates the priorities listed in this section, with grant awards published within ninety days after expiration of the filing window.
Section 5. (a) There is created the Alabama Research and Development Enhancement Oversight Committee. The oversight committee shall consist of the Chair of the House Ways and Means Education Committee or designee, the Chair of the Senate Finance and Taxation Education Committee or designee, two members appointed by the Speaker of the House of Representatives, two members appointed by the President Pro Tempore of the Senate, and the Director of ADECA or his or her designee. The oversight committee shall be charged with meeting at least annually and providing general oversight of the implementation of this act and the grant awards determinations, and recommending further statutory changes to promote research and development within Alabama. 

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

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

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

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

(b) As applications are submitted, the department shall approve any the department deems sufficient, until the total approved applications represent the total available grant funds for the applicable fiscal year. All applications received on the day that the total for the applicable fiscal year is reached shall receive approval for a pro rata share of the credits available at the start of that day. To the extent that the applications are not approved, the portion not approved shall be conditionally denied by the department.
Research entities may continue to submit applications after the total for the applicable fiscal year is reached, and applications that the department deems sufficient shall be conditionally denied but maintained in the order received.

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

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

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

Section 9. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Mac McCutcheon

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

APPROVED 6-6-19

By: Senator Orr

TIME 9:30 AM

Kate Ivy
Alabama Secretary Of State
GOVERNOR

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Bill Num....: S-78

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HOUSE OF REPRESENTATIVES

R. 3 at length and passed

Yea. 103 Nays 0 Abs. 0

Date 5-21-01

JEFF WOODARD, Clerk