SB298

210607-2

By Senator Orr

RFD: Finance and Taxation Education

First Read: 03-MAR-21
ENROLLED, An Act,

To amend Sections 41-23-252, 41-23-253, and 41-23-255, Code of Alabama 1975, relating to the Alabama Innovation Act; to provide further for the criteria under which grants are to be given; to clarify the maximum individual grant awards, and the indirect costs and administrative costs of the grant amount awarded; to authorize the Alabama Department of Economic and Community Affairs (ADECA) to establish a competitive scoring system to determine how grants are awarded; and to allow research and development grant funds to be used to compensate interns on projects.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-23-252.

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

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

"(2) ALABAMA RESEARCH ENTITY. One or more of the following:
"a. A public or private university in the state in partnership with a private sector applicant.

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

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

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

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

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

2. 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.

3. Has its headquarters and principal place of business in the state.
"4. 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.

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

"a. 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.

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

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

"1. 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.

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

"(4) 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.

"(5) 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 either of the following:

"a. Consortium research expenses.
"b. Expenses for research activities performed
outside Alabama.

"(6) (4) 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.

"(7) (5) 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.
"§41-23-253.

(a) The Director of ADECA may 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. By September 4, 2019, the director shall adopt rules and policies to administer the program and begin to accept applications for grants, and shall adopt such rules 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 article. 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) The Director of ADECA may adopt rules to develop a faculty and student intern partnership program to enhance the grant program by providing interns with increased experience with research and development. The research and development enhancement grant program will provide a maximum of one dollar ($1) of grant funding for each non-state dollar of matching funding for one-year or two-year projects requiring a minimum of ten thousand dollars ($10,000) per year and a maximum of fifty thousand dollars ($50,000) per year in grant funds. Projects shall involve one or more students.
faculty, or both, working at an Alabama research entity. The required matching funds shall be cash, grants, or contracts specifically provided for the proposed research project.

"(e) The Alabama Research and Development Enhancement Fund is created 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 of the total amount appropriated for the program in any fiscal year. Moneys Monies in the fund shall be invested by the State Treasurer for the sole benefit of the fund.

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

"(1) Ten 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 three fiscal years
   preceding the fiscal year for which the grant amount is being
determined:

"(2) Twenty-five 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 three
   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 41-23-252.

"(e) (f) The first annual commencement date to
submit grant applications shall be September 4, 2019, 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 shall be evaluated according to a scoring system developed by ADECA that incorporates the priorities listed in this section, with grant awards published within 90 days after expiration of the filing window.

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

"(1) New research.
"(2) The amount of financial commitment of an industry partner.
"(3) Research to benefit Alabama business and industry.
"(4) Research to benefit small- and medium-sized business and industry.
"(5) New and continuing efforts to conduct new or expanded research and development activities within Alabama.
"(6) Research to improve the employment opportunities available to the residents of the state.
"(7) Research to improve the products and services available to the residents of the state.
"(8) Other criteria, as appropriate.
§41-23-255.

(a) 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 percent of the maximum amount awarded in a single fiscal year. The grants shall be allocated among various taxpayers using the procedures in this section.

(b) Each research entity who wishes to apply for a grant shall file an application with ADECA 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 percent of the maximum amount to be awarded in a single fiscal year.

(c) As applications are submitted, ADECA shall approve any ADECA 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 ADECA. Research entities may continue to submit applications after the total for the applicable
fiscal year is reached, and applications that ADECA deems sufficient shall be conditionally denied but maintained in the order received.

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

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
SB298

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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

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TIME 1:30 pm

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