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3 HOUSE WAYS AND MEANS EDUCATION COMMITTEE SUBSTITUTE FOR SB78,  
4 AS ENGROSSED

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9 SYNOPSIS: Under existing law, there are no economic  
10 incentives extended to Alabama businesses for  
11 qualified research expenses incurred by Alabama  
12 companies that spend funds and resources in-house,  
13 or pay Alabama research companies to conduct  
14 qualified research for new or improved products or  
15 services.

16 This bill would establish the Alabama  
17 Innovation Act that would provide for research and  
18 development enhancement grants to certain Alabama  
19 companies. The grant would be based on in-house  
20 research and contract research expenses conducted  
21 in Alabama and consortium research expenses for  
22 qualified research conducted in Alabama.

23 This bill would limit the research and  
24 development enhancement grants to no more than \$8  
25 million of grants in the 2020 fiscal year, and \$5  
26 million each fiscal year thereafter through the  
27 2024 fiscal year; and no eligible company or

1 business can be awarded more than 20% of the  
2 maximum amount awarded in a single fiscal year. The  
3 grants would be claimed on a first-come,  
4 first-served basis.

5  
6 A BILL  
7 TO BE ENTITLED  
8 AN ACT

9  
10 To enact the Alabama Innovation Act; to allow a  
11 research and development enhancement grant for qualified  
12 research expenses in Alabama; to provide that no more than \$8  
13 million of grants could be awarded for the 2020 fiscal year,  
14 and \$5 million each fiscal year thereafter through the 2024  
15 fiscal year, and no eligible company or business can be  
16 awarded more than 20% of the maximum amount awarded in a  
17 single fiscal year; to require that the grant only apply to  
18 research falling within certain industries; to direct the  
19 Alabama Department of Economic and Community Affairs to  
20 develop rules to administer the program; to establish the  
21 Alabama Research and Development Enhancement Fund; to provide  
22 the fund to receive appropriations from the legislature, or  
23 from the receipt of gifts, grants, or federal funds to be  
24 expended for the purpose of the program; to provide for the  
25 criteria under which grants are to be given; and to require an  
26 annual report on the progress of the program.  
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

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

1           a. Is exempt from federal income tax under section  
2 501(c)(3) of the Internal Revenue Code of 1986, as amended;

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

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

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

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

17           (1) Described by NAICS Code 1133, 115111, 2121,  
18 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,  
19 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,  
20 511, 5121 (other than 51213), 51221, 517, 518 (without regard  
21 to the premise that data processing and related services be  
22 performed in conjunction with a third party), 51913, 52232,  
23 54133 (if predominantly in furtherance of another activity  
24 described in this article), 54134 (if predominantly in  
25 furtherance of another activity described in this article),  
26 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 (c) CONSORTIUM RESEARCH EXPENSES. Any amount paid or  
15 incurred by the taxpayer to any Alabama research entity for  
16 qualified research, but not including any expenses for  
17 research activities performed outside Alabama.

18 (d) CONTRACT RESEARCH EXPENSES. Any amount paid or  
19 incurred by the taxpayer to any person (other than an employee  
20 of the taxpayer) for qualified research, but not including any  
21 of the following:

22 (1) Consortium research expenses; or

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

25 (e) IN-HOUSE RESEARCH EXPENSES. The meaning given in  
26 U.S.C. § 41(b)(2), but not including wages paid or incurred  
27 to employees residing 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 (g) 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 taxable year exceeding a base amount, provided  
26 that the business enterprise for the same taxable year claims

1 a research credit under Section 41 or the Internal Revenue  
2 Code of 1986, as amended.

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

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

23 (1) 10 percent of the following:

24 a. In-house research expenses and contract research  
25 expenses for qualified research conducted in Alabama during  
26 the taxable year preceding the fiscal year for which grant  
27 funds are being awarded, minus

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

5           (2) 25 percent of the following:

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

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

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

18           (e) The first annual commencement date to submit  
19 grant applications shall be within ninety days of the  
20 effective date of this act, and shall be March 1 in each  
21 subsequent year. ADECA shall accept applications within a  
22 150-day grant window after the annual commencement date.  
23 Applications for eligible expenses will be evaluated according  
24 to a scoring system developed by ADECA that incorporates the  
25 priorities listed in this section, with grant awards published  
26 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. Within 12  
22 months of the effective date of this act, ADECA shall produce  
23 a report on the increased research and development activities  
24 supported by grant funds.

25           Section 6. The amount of research and development  
26 enhancement grants awarded by ADECA shall be subject to the  
27 appropriations of the Legislature. No taxpayer shall receive a

1 research and development enhancement grant of more than 20% of  
2 the maximum amount awarded in a single fiscal year. The grants  
3 shall be allocated among various taxpayers using the  
4 procedures in this section.

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

11 (b) As applications are submitted, the department  
12 shall approve any the department deems sufficient, until the  
13 total approved applications represent the total available  
14 grant funds for the applicable fiscal year. All applications  
15 received on the day that the total for the applicable fiscal  
16 year is reached shall receive approval for a pro rata share of  
17 the credits available at the start of that day. To the extent  
18 that the applications are not approved, the portion not  
19 approved shall be conditionally denied by the department.  
20 Taxpayers may continue to submit applications after the total  
21 for the applicable tax year is reached, and applications that  
22 the department deems sufficient shall be conditionally denied  
23 but maintained in the order received.

24 (c) If grant funds for the corresponding fiscal year  
25 are returned for any reason or if additional grant funds  
26 become available, the department shall approve, in the order  
27 they were received, the applications that were conditionally

1 denied until the approved applications represent total of  
2 available grant funds for the applicable fiscal year and  
3 timely notify benefiting taxpayers.

4 Section 7. The grant program established under this  
5 act shall be effective for the fiscal year ending September  
6 30, 2020.

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

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