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3 HOUSE FLOOR SUBSTITUTE FOR SB78
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8 SYNOPSIS: Under existing law, there are no economic
9 incentives extended for qualified research expenses
10 incurred by Alabama research entities that spend
11 funds and resources to conduct qualified research
12 for new or improved products or services.

13 This bill would establish the Alabama
14 Innovation Act that would provide for research and
15 development enhancement grants to certain Alabama
16 research entities. The grant would be based on
17 research and contract research expenses conducted
18 in Alabama and consortium research expenses for
19 qualified research conducted in Alabama.

20 This bill would limit the research and
21 development enhancement grants to the
22 appropriations of the Legislature; and no eligible
23 research entity can be awarded more than 20% of the
24 maximum amount awarded in a single fiscal year. The
25 grants would be claimed on a first-come,
26 first-served basis.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

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

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 Section 2. The Legislature hereby finds and declares
25 that the health, safety, and welfare of the people of this
26 state are dependent upon the continued encouragement,
27 development, growth, and expansion of the private sector

1 within the state. The Legislature finds that expanding upon
2 current research and development activities in the state would
3 improve the employment opportunities, products and services
4 available to the citizens of the state. Therefore, it is
5 declared to be the purpose of this act to encourage new and
6 continuing efforts to conduct research and development
7 activities within this state.

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

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

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

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

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

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

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

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

22 a. Is exempt from federal income tax under section
23 501(c)(3) of the Internal Revenue Code of 1986, as amended;

24 b. Is predominantly engaged in research and
25 non-commercial development activities undertaken for the
26 purpose of discovering information that is technological or
27 biotechnological in nature, involves a process of

1 experimentation, and the application of which is intended to
2 be used in the development of a new or improved product,
3 service or treatment;

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

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

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

11 (1) Described by NAICS Code 1133, 115111, 2121,
12 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,
13 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,
14 511, 5121 (other than 51213), 51221, 517, 518 (without regard
15 to the premise that data processing and related services be
16 performed in conjunction with a third party), 51913, 52232,
17 54133 (if predominantly in furtherance of another activity
18 described in this article), 54134 (if predominantly in
19 furtherance of another activity described in this article),
20 54138, 5415, 541614, 5417, 55 (if not for the production of
21 electricity), 561422 (other than establishments that originate
22 telephone calls), 562213, 56291, 56292, 611512, 927 or 92811.

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

25 (3) A target of the state's economic development
26 efforts pursuant to either of the following:

1 a. The Accelerate Alabama Strategic Economic
2 Development Plan adopted in January 2012 by the Alabama
3 Economic Development Alliance, created by Executive Order
4 Number 21 of the Governor on July 18, 2011, or any amended
5 version or successor document thereto or

6 b. A type listed in a regulation adopted by the
7 Department of Commerce.

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

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

16 (1) Consortium research expenses; or

17 (2) Expenses for research activities performed
18 outside Alabama.

19 (f) NAICS CODE. Any sector, subsector, industry
20 group, industry or national industry of the 2012 North
21 American Industry Classification System, or any similar
22 classification system developed in conjunction with the United
23 States Department of Commerce or Office of Management and
24 Budget.

25 (h) QUALIFIED RESEARCH. The meaning given in 26
26 U.S.C. § 41(d), if conducted in Alabama in pursuit of an

1 approved activity. In applying any terms in 26 U.S.C. § 41,
2 "qualified research" shall have the meaning given herein.

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

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

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

1 expenses incurred to administer the program must not exceed
2 three percent (3%) of the total amount appropriated for the
3 program in any fiscal year. Moneys in the fund shall be
4 invested by the State Treasurer for the sole benefit of the
5 fund.

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

11 (1) 10 percent of the following:

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

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

19 (2) 25 percent of the following:

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

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

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

5 (e) The first annual commencement date to submit
6 grant applications shall be within ninety days of the
7 effective date of this act, and shall be March 1 in each
8 subsequent year. ADECA shall accept applications within a
9 150-day grant window after the annual commencement date.
10 Applications for eligible expenses will be evaluated according
11 to a scoring system developed by ADECA that incorporates the
12 priorities listed in this section, with grant awards published
13 within ninety days after expiration of the filing window.

14 Section 5. (a) There is created the Alabama Research
15 and Development Enhancement Oversight Committee. The oversight
16 committee shall consist of the Chair of the House Ways and
17 Means Education Committee or designee, the Chair of the Senate
18 Finance and Taxation Education Committee or designee, two
19 members appointed by the Speaker of the House of
20 Representatives, two members appointed by the President Pro
21 Tempore of the Senate, and the Director of ADECA or his or her
22 designee. The oversight committee shall be charged with
23 meeting at least annually and providing general oversight of
24 the implementation of this act and the grant awards
25 determinations, and recommending further statutory changes to
26 promote research and development within Alabama.

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

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

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

22 (a) Each research entity who wishes to apply for a
23 grant shall file an application with the department showing
24 the amount of grant funding which the research entity expects
25 in good faith to qualify for during the applicable fiscal
26 year. No application shall show an expected claim in excess of

1 20% of the maximum amount to be awarded in a single fiscal
2 year.

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

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

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

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

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