

5321--A

Cal. No. 374

2009-2010 Regular Sessions

I N A S S E M B L Y

February 12, 2009

Introduced by M. of A. MAISEL, BROOK-KRASNY, MILLMAN, ALFANO, CARROZZA, DESTITO, PHEFFER, ROSENTHAL, JAFFEE, SPANO -- Multi-Sponsored by -- M. of A. ABBATE, COLTON, DINOWITZ, GORDON, JACOBS, V. LOPEZ, MARKEY, MAYERSOHN, McENENY, J. RIVERA, SAYWARD, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public authorities law, in relation to establishing a lymphedema and lymphatic diseases research grants program; and to amend the state finance law, in relation to creating the lymphedema and lymphatic diseases research fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public authorities law is amended by adding a new
2 section 3153-a to read as follows:
3 S 3153-A. LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH GRANTS PROGRAM.
4 1. THE FOUNDATION SHALL, WITHIN AVAILABLE APPROPRIATIONS, ESTABLISH THE
5 LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH GRANTS PROGRAM, HEREFTER
6 "GRANTS PROGRAM." THE GRANTS PROGRAM SHALL BE ADMINISTERED BY THE FOUN-
7 DATION, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH. SUCH GRANTS
8 PROGRAM FUNDS SHALL BE USED TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM
9 OF GRANTS, NOT TO EXCEED FIFTY THOUSAND DOLLARS PER GRANT, TO NEW YORK
10 STATE BIOMEDICAL RESEARCH INSTITUTIONS FOR WORKING CAPITAL TO FURTHER
11 NEW AND EMERGING RESEARCH AND DEVELOPMENT FOR THE DIAGNOSIS AND TREAT-
12 MENT OF LYMPHEDEMA AND LYMPHATIC DISEASES. SUCH GRANTS SHALL BE AWARDED
13 ON A COMPETITIVE BASIS TO BIOMEDICAL RESEARCH INSTITUTIONS RESPONDING TO
14 REQUESTS FOR PROPOSALS ISSUED BY THE FOUNDATION WHEN FUNDS ARE APPROPRI-
15 ATED.
16 2. (A) "BIOMEDICAL RESEARCH INSTITUTION" SHALL MEAN A NOT-FOR-PROFIT
17 UNIVERSITY, COLLEGE, HOSPITAL, PRIVATE OR FEDERAL RESEARCH LABORATORY
18 LOCATED IN NEW YORK STATE, OR A CONSORTIA OF SUCH ENTITIES, THAT

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD08170-02-0

1 CONDUCTS AN INTENSIVE AND ONGOING PROGRAM OF RESEARCH AND DEVELOPMENT
2 DIRECTLY RELATED TO LYMPHEDEMA AND/OR LYMPHATIC DISEASES RESEARCH.

3 (B) "LYMPHEDEMA" SHALL MEAN AN ACCUMULATION OF LYMPHATIC FLUID IN THE
4 INTERSTITIAL TISSUE THAT CAUSES SWELLING, MOST OFTEN IN THE ARMS AND/OR
5 LEGS, AND OCCASIONALLY IN OTHER PARTS OF THE BODY, FROM ANY CAUSE.

6 (C) "LYMPHATIC DISEASES" SHALL INCLUDE BUT NOT BE LIMITED TO: INSUF-
7 FICIENCY OF LYMPHATIC CIRCULATORY FUNCTION (TO INCLUDE ALL FORMS OF
8 LYMPHEDEMA) LIPEDEMA, COMPLEX CONGENITAL DISEASES OF THE LYMPHATIC
9 VASCULATURE, INCLUDING LYMPHANGIOMATOSIS, LYMPHANGIOLEIO-MYOMATOSIS,
10 LYMPHANGIECTASIAS, LYMPHANGIOMAS, CYSTIC HYGROMAS, GORHAM'S DISEASE,
11 LYMPHANGIOLEIO-MYOMATOSIS, AND COMPLEX VASCULAR/LYMPHATIC MALFORMATIONS.

12 3. IN ADDITION TO SUCH OTHER CRITERIA AS THE FOUNDATION MAY ADOPT IN
13 RULES AND REGULATIONS FOR THE CONSIDERATION OF APPLICATIONS FOR GRANTS
14 PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE FOUNDATION SHALL:

15 (A) DETERMINE THAT THE APPLICANT IS UNABLE TO OBTAIN SUFFICIENT FUND-
16 ING ON REASONABLE TERMS FROM OTHER PUBLIC OR PRIVATE SOURCES TO PERMIT
17 THE INSTITUTION'S PLANNED INVESTMENT TO PROCEED WITHOUT THE REQUIRED
18 ASSISTANCE;

19 (B) GIVE PRIORITY TO THOSE APPLICATIONS FOR ASSISTANCE FROM BIOMEDICAL
20 RESEARCH INSTITUTIONS THAT SECURE PRIVATE SUPPORT FOR RESEARCH OR COMMIT
21 NEW RESOURCES TO THE EXPANSION OF LYMPHEDEMA AND LYMPHATIC DISEASES
22 RESEARCH; AND

23 (C) CONSIDER THE POTENTIAL LONG TERM ECONOMIC BENEFITS TO THE STATE OF
24 AWARDED THE SPECIFIC GRANT AND WHETHER THE GRANT WILL RESULT IN A
25 REASONABLE LIKELIHOOD OF SUCCESS IN MEETING THE PURPOSES FOR WHICH IT
26 WAS SOUGHT BY THE APPLICANT.

27 4. THE FOUNDATION, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, MAY
28 APPLY TO THE NATIONAL INSTITUTES OF HEALTH, THE UNITED STATES DEPARTMENT
29 OF HEALTH AND HUMAN SERVICES, AND OTHER APPROPRIATE FEDERAL, PUBLIC, AND
30 PRIVATE ENTITIES FOR FUNDING. SUCH MONIES SHALL BE DEPOSITED INTO THE
31 LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH AND EDUCATION FUND, ESTAB-
32 LISHED PURSUANT TO SECTION NINETY-NINE-R OF THE STATE FINANCE LAW.

33 5. THE FOUNDATION SHALL SUBMIT TO THE GOVERNOR, THE SPEAKER OF THE
34 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND TO ANY OTHER STATE
35 LEGISLATOR AT HIS OR HER REQUEST, A REPORT ON THE GRANTS PROGRAM BY
36 SEPTEMBER FIRST, TWO THOUSAND TWELVE AND ANNUALLY THEREAFTER. SUCH
37 REPORT SHALL INCLUDE, FOR EACH GRANT AWARDED, THE NAME AND LOCATION OF
38 THE RECIPIENT, A DESCRIPTION OF THE PRODUCT, DEVICE, TECHNIQUE, SYSTEM
39 OR PROCESS BEING RESEARCHED AND DEVELOPED, THE RECIPIENT'S RELATIONSHIP
40 TO THE RESEARCH INSTITUTION, THE AMOUNT AND USE OF THE GRANT, THE TOTAL
41 PROJECT COST, AND SUCH OTHER INFORMATION AS THE FOUNDATION SHALL DEEM
42 APPROPRIATE. SUCH REPORT SHALL ALSO INCLUDE A LIST OF ALL APPLICANTS AND
43 THEIR CONTACT INFORMATION, REGARDLESS OF RECEIVING A GRANT, IN ORDER TO
44 HELP DEMONSTRATE THE NEED FOR FUTURE FUNDS.

45 6. NOTHING IN THIS SECTION SHALL REQUIRE THE FOUNDATION TO DISCLOSE
46 ANY MATTERS INVOLVING CONFIDENTIAL INTELLECTUAL PROPERTY OR WORK PROD-
47 UCT, WHETHER PATENTABLE OR NOT, INCLUDING ANY FORMULA, PLAN, PATTERN,
48 PROCESS, TOOL, MECHANISM, COMPOUND, PROCEDURE, PRODUCTION DATA OR COMPI-
49 LATION OF INFORMATION, WHICH IS NOT PATENTED, BUT WHICH IS KNOWN ONLY TO
50 CERTAIN INDIVIDUALS WHO ARE USING IT TO FABRICATE, PRODUCE OR COMPOUND
51 AN ARTICLE OF TRADE OR SERVICE HAVING COMMERCIAL VALUE AND WHICH GIVES
52 ITS USER AN OPPORTUNITY TO OBTAIN A BUSINESS ADVANTAGE OVER COMPETITORS
53 WHO DO NOT KNOW IT OR USE IT.

54 S 2. The state finance law is amended by adding a new section 99-r to
55 read as follows:

1 S 99-R. LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH AND EDUCATION FUND.
2 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER
3 OF TAXATION AND FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN
4 AS THE LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH AND EDUCATION FUND,
5 HEREFTER THE "FUND."

6 2. SUCH FUND SHALL CONSIST OF ALL MONIES APPROPRIATED, CREDITED, OR
7 TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.
8 NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING
9 GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN
10 THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

11 3. MONIES OF THE FUND SHALL BE EXPENDED ONLY FOR LYMPHEDEMA AND LYMP-
12 HATIC DISEASES RESEARCH AND EDUCATION PROJECTS APPROVED BY THE DEPART-
13 MENT OF HEALTH.

14 4. (A) "LYMPHEDEMA" SHALL MEAN AN ACCUMULATION OF LYMPHATIC FLUID IN
15 THE INTERSTITIAL TISSUE THAT CAUSES SWELLING, MOST OFTEN IN THE ARMS
16 AND/OR LEGS, AND OCCASIONALLY IN OTHER PARTS OF THE BODY, REGARDLESS OF
17 CAUSE.

18 (B) "LYMPHATIC DISEASES" SHALL INCLUDE BUT NOT BE LIMITED TO: INSUF-
19 FICIENCY OF LYMPHATIC CIRCULATORY FUNCTION (TO INCLUDE ALL FORM OF LYMP-
20 HEDEMA), LIPEDEMA, COMPLEX CONGENITAL DISEASES OF THE LYMPHATIC VASCULA-
21 TURE, INCLUDING LYMPHANGIOMATOSIS, LYMPHANGIOLEIO-MYOMATOSIS,
22 LYMPHANGIECTASIAS, LYMPHANGIOMAS, CYSTIC HYGROMAS, GORHAM'S DISEASE,
23 LYMPHANGIOSARCOMA, AND COMPLEX VASCULAR/LYMPHATIC MALFORMATIONS.

24 (C) "LYMPHEDEMA AND LYMPHATIC DISEASES RESEARCH AND EDUCATION
25 PROJECTS" SHALL MEAN RESEARCH BY QUALIFIED RESEARCHERS, AS DETERMINED BY
26 THE DEPARTMENT OF HEALTH, TO STIMULATE RESEARCH ON THE PATHOGENESIS AND
27 NEW TREATMENTS FOR LYMPHEDEMA AND LYMPHATIC DISEASES. EDUCATION PROJECTS
28 ARE THOSE PROJECTS WHICH PROMOTE AND PROVIDE INFORMATION ON LYMPHEDEMA
29 AND LYMPHATIC DISEASES INCLUDING: PREVENTION, DIAGNOSIS, TREATMENT,
30 LONG-TERM CHRONIC CARE, AND/OR RESEARCH BY QUALIFIED ORGANIZATIONS AS
31 DETERMINED BY THE DEPARTMENT OF HEALTH.

32 5. MONIES SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF
33 THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER
34 OF HEALTH.

35 6. TO THE EXTENT PRACTICABLE, THE COMMISSIONER OF HEALTH SHALL ENSURE
36 THAT ALL MONIES RECEIVED DURING A FISCAL YEAR ARE EXPENDED PRIOR TO THE
37 END OF THAT FISCAL YEAR.

38 S 3. This act shall take effect immediately.