

**ACT No. 320**

Regular Session, 2013

HOUSE BILL NO. 549

BY REPRESENTATIVES LEGER, ABRAMSON, BARROW, BILLIOT, WESLEY BISHOP, BROSSETT, TIM BURNS, BURRELL, CARTER, CHAMPAGNE, CHANEY, FOIL, GUILLORY, HUNTER, JAMES, LEBAS, LEOPOLD, MORENO, JIM MORRIS, SIMON, ST. GERMAIN, STOKES, THIERRY, AND PATRICK WILLIAMS AND SENATORS BROOME, BROWN, BUFFINGTON, CORTEZ, CROWE, DORSEY-COLOMB, ERDEY, HEITMEIER, JOHNS, KOSTELKA, MILLS, MORRELL, MORRISH, MURRAY, NEVERS, PETERSON, RISER, GARY SMITH, TARVER, AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 36:651(CC), 802.23, and Chapter 37-A of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:2211 through 2216, and to repeal Chapter 37 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2201 through 2205, relative to a fund for support of scientific research and development; to establish the MediFund as a special fund for advancement of biosciences, biomedical, and medical centers of excellence; to provide for purposes of the fund; to create and provide for the composition of a governing board for the fund; to provide for duties and authority of the governing board; to provide guidelines for programs and projects to be funded by the MediFund; to establish a termination date for the MediFund; to repeal provisions relative to the Dedicated Research Investment Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:651(CC) and 802.23 are hereby enacted to read as follows:

§651. Transfer of boards, commissions, departments, and agencies to Department of Education; boards, commissions, and agencies within Department of Education

\* \* \*

1                    CC. The MediFund Board (R.S. 51:2214) is hereby placed within the Board  
 2                    of Regents and shall exercise and perform its powers, duties, functions, and  
 3                    responsibilities in the manner provided in R.S. 36:802.23.

4                    \*       \*       \*

5                    §802.23. Transfer; MediFund Board

6                    The MediFund Board, transferred by the provisions of R.S. 36:651(CC), is  
 7                    transferred to and placed within the Board of Regents and shall continue to be  
 8                    composed and selected as provided by law, and shall continue to exercise all of the  
 9                    powers, duties, functions, and responsibilities as provided in Chapter 37-A of Title  
 10                   51 of the Louisiana Revised Statutes.

11                   Section 2. Chapter 37-A of Title 51 of the Louisiana Revised Statutes of 1950,  
 12                   comprised of R.S. 51:2211 through 2216, is hereby enacted to read as follows:

13                                    CHAPTER 37-A. LOUISIANA MEDIFUND

14                   §2211. Purpose and goals

15                                    A. The provisions of this Chapter establish the MediFund as a special fund  
 16                                    within the state treasury to support advancement of biosciences, biomedical, and  
 17                                    medical centers of excellence in Louisiana. The MediFund governing board shall  
 18                                    endeavor to achieve this purpose by coordinating and deploying public and private  
 19                                    resources to strategically develop and enhance this state's competitiveness in  
 20                                    biosciences, biomedical, and medical centers of excellence.

21                                    B. The goals of the MediFund shall include all of the following:

22                                    (1) Create regional and national medical centers of excellence for  
 23                                    biosciences and biomedicine in order to promote destination health care.

24                                    (2) Contribute to improvement of health outcomes for consumers of health  
 25                                    care services in Louisiana.

26                                    (3) Support strategic research and clinical partnerships.

27                                    (4) Facilitate a competitive process for funding program proposals and  
 28                                    projects based on an objectively determined potential for positive economic  
 29                                    development impact.

1           §2212. Definitions

2                   As used in this Chapter, the following terms shall have the meanings ascribed  
3           to them below:

4                   (1) "Biosciences" means any of the branches of natural science dealing with  
5           the structure and behavior of living organisms, including but not limited to  
6           translational and regenerative research, development, manufacture, testing,  
7           marketing or distribution of pharmaceuticals, biotechnology products, biotechnology  
8           and health-related software, and medical devices that will eventually be used by  
9           health care providers to treat, cure, prevent, or mitigate disease or health conditions.

10                  (2) "Board" means the MediFund governing board.

11                  (3) "Fund" means the MediFund created by the provisions of this Chapter.

12           §2213. MediFund: creation

13                   A. The MediFund, hereafter referred to as the "fund", is hereby created as  
14           a special fund in the state treasury. The source of monies for the fund may include  
15           but shall not be limited to any appropriation by the legislature, including federal  
16           funds; any public or private donations, gifts, or grants from individuals, corporations,  
17           nonprofit organizations, or other business entities; venture capital; and any other  
18           monies which may be provided by law.

19                   B. All money received by the fund, except as otherwise provided by Article  
20           VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and  
21           Redemption Fund, shall be deposited immediately upon receipt into the state  
22           treasury.

23                   C. The monies in the fund shall be invested by the state treasurer in the same  
24           manner as monies in the state general fund. Interest earned on the investment of  
25           monies in the fund shall be credited to the fund following compliance with the  
26           requirements of Article VII, Section 9(B) of the Constitution of Louisiana. All  
27           unexpended and unencumbered monies in the fund at the end of each fiscal year shall  
28           remain in the fund.

29                   D. Subject to appropriation by the legislature to the MediFund Board  
30           through the Board of Regents, the monies in the fund shall be used solely for the

1 purposes provided in this Chapter. The monies appropriated by the legislature and  
2 disbursed from the MediFund shall not displace, replace, or supplant funding for  
3 higher education for a purpose for which a general fund appropriation was made in  
4 the previous year unless the total appropriation for that fiscal year from the state  
5 general fund for such purpose exceeds general fund appropriations for the previous  
6 year.

7 E.(1)(a) Except as provided for in Paragraph (3) of this Subsection, in no  
8 fiscal year shall the amount transferred or appropriated to the MediFund exceed  
9 twenty percent of any increase in state general fund and dedicated funds in the  
10 aggregate in the operating budget as contained in the general appropriation bill for  
11 higher education from the prior fiscal year.

12 (b) Increases in the appropriation for the Louisiana Taylor Opportunity  
13 Program for Students, the administrative costs of the management boards of higher  
14 education, the Louisiana Education Quality Support Fund, and the Louisiana Marine  
15 Consortium shall not count as increases for higher education for purposes of this  
16 Section.

17 (2) Except as provided for in Paragraph (3) of this Subsection, state  
18 appropriations and transfers into the fund shall not exceed twenty-five million dollars  
19 in any fiscal year.

20 (3) The restrictions on transfers and appropriations to the fund provided for  
21 in this Section shall not apply to the following:

22 (a) Any tax or fee enacted after June 30, 2013, which provides by law for  
23 deposit into the fund; and

24 (b) An initial, one-time deposit of up to two hundred fifty thousand dollars  
25 of state funds as required for deposit in treasury in Article VII, Section 9 of the  
26 Constitution of Louisiana, notwithstanding the provisions of Paragraphs (1) and (2)  
27 of this Subsection; and

28 (c) Non-state funds.

29 (4) State monies received by the fund may be allocated to public and not-for-  
30 profit institutions, provided that no grant shall be made to a not-for-profit institution

1 if the grant does not include a public institution with a substantial role unless no  
2 public institution possesses the expertise or interest necessary to participate.  
3 Likewise, any such grants awarded by the fund to a public institution, as the primary  
4 applicant, shall include a not-for-profit institution as a collaborative grant partner,  
5 with a substantial role, unless no not-for-profit institution in this state possesses the  
6 expertise necessary or the interest to participate in such collaboration. This  
7 limitation shall not include non-state funds.

8 F. Three percent of the balance of the fund or an amount not to exceed six  
9 hundred thousand dollars, whichever is lesser, shall be used for administrative fees  
10 to accomplish the purpose of this Chapter, as approved by the MediFund board.

11 §2214. Governing board: authority; duties

12 A. There is hereby established within the Board of Regents the MediFund  
13 Board, hereafter referred to as the "board", which shall be composed as provided in  
14 Subsection B of this Section. The commissioner of higher education shall take such  
15 actions as are necessary to have the roster of initial board members compiled on or  
16 before September 1, 2013, and to convene the first meeting of the board on or before  
17 November 1, 2013.

18 B. The board shall be composed of thirteen members, each of whom shall  
19 possess significant experience in biosciences, biomedical, translational, or  
20 regenerative research, or applications, and none of whom may be employed by an  
21 entity that is eligible to receive MediFund grants: as follows:

22 (1) One member appointed by the commissioner of higher education,

23 (2) Four members appointed by the governor,

24 (3) One member appointed by the secretary of the Department of Health and  
25 Hospitals,

26 (4) One member appointed by the secretary of the Department of Economic  
27 Development,

28 (5) One member appointed by the speaker of the House of Representatives,

29 (6) One member appointed by the president of the Senate.

1                   (7) Three members appointed in the number of one member apiece by each  
2                   of the following organizations which collectively represent the top three regions of  
3                   the state for National Institutes of Health funding amounts:

4                   (a) Baton Rouge Area Chamber.

5                   (b) Greater New Orleans, Inc.

6                   (c) North Louisiana Economic Partnership.

7                   (8) One member appointed by the Sponsored Programs Committee of the  
8                   Board of Regents.

9                   C. Board members shall serve without compensation and shall receive no per  
10                  diem.

11                  D. A simple majority of the members of a board shall constitute a quorum  
12                  for the transaction of business. At its first meeting and annually thereafter with at  
13                  least two-thirds of the members present, the board shall elect one of its members as  
14                  chairman, one member as vice chairman, and one member as secretary.

15                  E. The board shall adopt bylaws to provide for the governance of the board.  
16                  The bylaws shall include but not be limited to procedures and grounds for the  
17                  removal of any board member. Grounds for removal shall include conviction of a  
18                  felony and may include failure to meet board attendance rules as provided in the  
19                  bylaws.

20                  F. Procedures for filling a vacancy created by the removal, resignation, or  
21                  death of any board member prior to the end of the board member's term shall follow  
22                  those used for initial appointments.

23                  G. The board shall have the authority to take all of the following actions:

24                  (1) Form a Research Advisory Council composed of representatives of the  
25                  Louisiana State University System Research Technology Foundation, New Orleans  
26                  BioInnovation Center, BioDistrict New Orleans, Pennington Biomedical Research  
27                  Center, Ochsner Health System, Tulane University, Xavier University, Louisiana  
28                  State University Health Sciences Center at New Orleans, Louisiana State University  
29                  Health Sciences Center at Shreveport, Willis Knighton Health System, and the  
30                  BioMedical Research Foundation of Northwest Louisiana to determine priority

1 research concentrations and commercialization strategies, or other matters as may  
2 be requested by the board.

3 (2) Form special committees, advisory councils, or similar bodies to study  
4 and make policy recommendations to the board concerning priority research areas,  
5 research commercialization strategies, or other matters as may be requested by the  
6 board.

7 (3) Enter into contracts as necessary, through the Sponsored Programs Unit  
8 of the Board of Regents, for development of proposal evaluation criteria,  
9 coordination of a proposal evaluation process, or other functions related to evaluation  
10 of funding proposals and applications for funding submitted to the board.

11 (4) Promulgate all such rules, in accordance with the Administrative  
12 Procedure Act, as are necessary to carry out the programs and functions of the  
13 MediFund.

14 (5) Sue and be sued in the name of the board.

15 H. On or before January 1, 2015, and annually thereafter, the board shall  
16 submit to the House and Senate committees on education, the House and Senate  
17 committees on commerce, and the Louisiana Innovation Council a report which  
18 addresses funding activities undertaken and performance outcomes by the MediFund  
19 in the most recent one-year period and any other information which the board deems  
20 appropriate to convey a clear understanding of the operations and impact of the  
21 MediFund on commercialization of bioscience research, improvement of health  
22 outcomes, number of new jobs created, grants, patents, spinoff companies, scientific  
23 discoveries, published research, and total economic benefit.

24 §2215. MediFund program guidelines

25 A. The MediFund Program shall be administered by the Board of Regents  
26 through its Sponsored Programs Unit, in accordance with the policies promulgated  
27 by the MediFund Board. All grant application review and grant selection processes  
28 shall follow the competitive request for proposals process and external review  
29 process as may be utilized by the Sponsored Programs Unit, including published  
30 criteria, so as to ensure impartial and merit-based grant selection.

1           B. The board shall promulgate rules and regulations governing the use of  
2           monies of the MediFund and shall adopt policies for governance of any program or  
3           funding action that it implements prior to initiation of the program or funding action.  
4           The rules and regulations of the MediFund shall establish a maximum amount or  
5           percentage of total funds that may be awarded to any individual project recipient or  
6           that may be utilized by the board for administrative expenses. The rules and  
7           regulations provided for in this Section shall be adopted in accordance with the  
8           Administrative Procedure Act. The use of all grant funds shall be subject to audit by  
9           the legislative auditor.

10           C. The board shall delineate the programs which it implements and the  
11           functions that each program fulfills. For this purpose, the board shall implement a  
12           tiered system of funding to consist of awards known as "planning grants", "program  
13           grants", and "proof of concept grants", with corresponding monetary ranges for each  
14           grant type.

15           D. Grants and other funding of the MediFund shall be committed only to  
16           public or not-for-profit entities.

17           E. The board shall apply the following guidelines for proposal selection,  
18           project monitoring, and matching funds:

19           (1) Proposal solicitation, review, selection, and monitoring processes shall  
20           be implemented in such a manner as to ensure efficient operations and the attainment  
21           of the following objectives:

22           (a) A proposal solicitation process which involves publicizing of board  
23           programs among academic, clinical, and research institutions and within relevant  
24           industries.

25           (b) A proposal review process which assures complete, competent, and  
26           objective review of all proposals.

27           (c) A grantee selection process which assures that funding will be awarded  
28           on a competitive basis, with emphasis on public-private collaboration.

29           (d) A project monitoring process which assures that each project is carried  
30           out according to plan and budget.

1                    (e) Project data and outcomes tracking, including any grant monies spent,  
 2                    research activities, job creation, local and regional economic impact, published  
 3                    papers, patents, spinoff companies, scientific discoveries, new grants, and published  
 4                    research.

5                    (2) For all grants other than those classified by the board as "planning  
 6                    grants", the board shall establish through its rules and regulations certain criteria for  
 7                    matching resources to be contributed by MediFund grantees to support the respective  
 8                    program or project funded by the MediFund. Such matching resources may include  
 9                    cash, in-kind donations, other grant monies received to support the respective  
 10                    program or project funded by the MediFund, and any other resources as the board  
 11                    deems appropriate.

12                    §2216. Termination

13                    The provisions of this Chapter shall terminate on December 31, 2018.

14                    Section 3. Chapter 37 of Title 51 of the Louisiana Revised Statutes of 1950,  
 15                    comprised of R.S. 51:2201 through 2205, is hereby repealed in its entirety.

16                    Section 4. This Act shall become effective upon signature by the governor or, if not  
 17                    signed by the governor, upon expiration of the time for bills to become law without signature  
 18                    by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 19                    vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 20                    effective on the day following such approval.

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_