

ENROLLED

Regular Session, 2011

ACT No. 418

HOUSE BILL NO. 549

BY REPRESENTATIVES TUCKER, ANDERS, ARNOLD, BOBBY BADON, BURFORD, HENRY BURNS, CARMODY, CARTER, CHANDLER, CHANEY, CONNICK, DOVE, DOWNS, EDWARDS, FOIL, GREENE, GUILLORY, HARDY, HARRISON, HOFFMANN, HUTTER, KATZ, LIGI, LITTLE, LOPINTO, LORUSSO, NOWLIN, PEARSON, PONTI, PUGH, RICHARD, RICHARDSON, SCHRODER, SEABAUGH, SMILEY, GARY SMITH, JANE SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIBAUT, AND WILLIAMS AND SENATORS NEVERS AND THOMPSON

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

1

AN ACT

2 To amend and reenact R.S. 17:3139(B), (C)(3)(a) and (5)(introductory paragraph) and (i),
3 (D), (F)(introductory paragraph), (4), (5), and (6), and (G)(1), (2)(introductory
4 paragraph) and (iii), and (3)(introductory paragraph), and 3386(E), and to enact R.S.
5 17:3139(C)(1)(e) and (5)(j) and (k), and (G)(4), relative to the Louisiana Granting
6 Resources and Autonomy for Diplomas Act; to provide for additional operational
7 autonomies to be granted to public postsecondary education institutions, including
8 but not limited to authority and exemptions relative to budgetary management,
9 capital outlay, risk management, and procurement; to provide relative to legislative
10 review and approval of the granting of certain autonomies; to provide relative to
11 required reporting by public postsecondary education institutions and certain cost
12 data to be included in such reports; to provide relative to renewal periods of
13 institutions' performance agreements by the Board of Regents; to provide relative to
14 the termination of autonomies in certain circumstances; to require achievement of
15 certain standards for retention of first-year students; to require the Board of Regents
16 to report on the standardization of student tracking and records systems and the
17 performance of institutions relative thereto; to provide relative to the retention of
18 certain unused funds by certain institutions; to direct the Louisiana State Law

Institute to redesignate certain statutory provisions; to provide for applicability; to provide for an effective date; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 17:3139(B), (C)(3)(a) and (5)(introductory paragraph) and (i), (D),
5 (F)(introductory paragraph), (4), (5), and (6), and (G)(1), (2)(introductory paragraph) and
6 (iii), and (3)(introductory paragraph), and 3386(E) are hereby amended and reenacted and
7 R.S. 17:3139(C)(1)(e) and (5)(j) and (k), and (G)(4) are hereby enacted to read as follows:

8 §3139. Louisiana Granting Resources and Autonomy for Diplomas Act; purpose;
9 agreements; monitoring and renewal; reporting

10 * * *

11 B. Purpose. The purpose of this Section is to support the state's public
12 postsecondary education institutions in remaining competitive and increasing their
13 overall effectiveness and efficiency by providing requiring that the institutions
14 achieve specific, measurable performance objectives aimed at improving college
15 completion and at meeting the state's current and future workforce and economic
16 development needs, by improving the quality and type of data available on these
17 objectives and institutions' respective progress towards them, and by granting the
18 institutions limited operational autonomy and flexibility in exchange for achieving
19 such objectives.

27 (1)

* * *

1 an institution has met the short-term targets of the performance agreement as
2 provided in this Subsection. An institution which has failed to meet its
3 same-institution graduation rate, program completer, and retention rate targets, as
4 appropriate for the mission of the institution, shall not be deemed by the Board of
5 Regents to have met the requirements of its performance agreement for the year.

6 * * *

7 (3) Workforce and economic development. (a) Eliminate academic program
8 offerings that have low student completer rates as identified by the Board of Regents
9 or are not aligned with current or strategic workforce needs of the state, region, or
10 both as identified by the Louisiana Workforce Commission and Louisiana Economic
11 Development.

12 * * *

13 (5) Submit a report to the Board of Regents, the legislative auditor, and the
14 legislature containing certain organizational data, including but not limited to the
15 following: Each institution annually shall submit a report to the Board of Regents,
16 which shall publish the report on its website, the legislative auditor, the legislature,
17 and the division of administration containing certain organizational data, including
18 but not limited to the following:

19 * * *

20 (i) A cost performance analysis to include by institution:
21 (i) Total operating budget by function, amount, and percent of total, reported
22 in a manner consistent with the National Association of College and University
23 Business Officers guidelines.
24 (ii) Average yearly cost of attendance as reported to the United States
25 Department of Education.
26 (iii) Average time to degree for completion of academic programs at all
27 levels.
28 (iv) Average cost per degree awarded by degree level.
29 (v) Average cost per non-completer by degree program entered.
30 (j) All expenditures of the institution for that year.

1 (k) Any additional data requested by the speaker of the House of
2 Representatives or the president of the Senate.

* * *

4 D. Annual review; revocation; modifications. (1) The initial performance
5 agreement and each subsequent agreement shall be a six-year agreement and shall
6 be reviewed annually by the Board of Regents. The Board of Regents may revoke
7 an agreement at any time if it determines that an institution has failed to abide by the
8 terms of the agreement.

(2) The Board of Regents may modify lower the established targets for performance objectives contained in an institution's performance agreement only in the event extraordinary circumstances prevent the institution from meeting such targets. Such modifications shall be subject to approval by the Joint Legislative Committee on the Budget. The Board of Regents, in consultation with the institution and its management board, may raise, at the time of the annual review, the established targets for performance objectives contained in an institution's performance agreement to continue institutional progress and shall notify the House Committee on Education and the Senate Committee on Education, in writing, of any such increases.

* * *

20 F. Autonomies granted. Each Notwithstanding any other provision of law to
21 the contrary, each institution that enters into a performance agreement as provided
22 in this Section shall be granted the following: shall be granted the authorities and
23 autonomies as provided in this Subsection. However, nothing herein shall suspend
24 the requirements of R.S. 39:1593.1.

* * *

(4) A base level of operational autonomy as determined by the Board of Regents subject to the approval by the division of administration which, at a minimum, shall include greater flexibility in:

1 (b) ~~Procuring information technology products and services.~~

2 (c) ~~Adhering to state travel regulations.~~

3 (5) ~~The Board of Regents, in collaboration with the division of~~
4 ~~administration, shall identify additional operational autonomies, including but not~~
5 ~~limited to exceptions from procurement and construction regulations. However, no~~
6 ~~exception from any provision of the Louisiana Procurement Code or from Chapter~~
7 ~~10 of Title 38 of the Louisiana Revised Statutes of 1950 shall be granted, and, unless~~
8 ~~specifically authorized by the legislature, no design-build contract shall be~~
9 ~~authorized pursuant to this Paragraph. The Board of Regents may grant such~~
10 ~~autonomies to an institution during the initial agreement period if all of the following~~
11 ~~are met:~~

12 (a) ~~After three years, the institution has achieved a sufficient number of the~~
13 ~~performance objectives provided in Subsection C of this Section as determined by~~
14 ~~the Board of Regents.~~

15 (b) ~~The institution has demonstrated the ability to successfully operate with~~
16 ~~the base levels of autonomies granted by this Section as determined by the Board of~~
17 ~~Regents.~~

18 (6) ~~(4) Each postsecondary education management board shall establish~~
19 ~~criteria for waiving any tuition or mandatory fee increase as authorized in this~~
20 ~~Subsection in cases of financial hardship. Information relative to such waivers and~~
21 ~~the criteria and procedures for obtaining a waiver shall be made available to all~~
22 ~~prospective students in a timely manner such that each student is informed of the~~
23 ~~availability of a waiver prior to the student making a final decision concerning~~
24 ~~attendance at any public institution of postsecondary education.~~

25 (5) Operational autonomies. (a) Base level. Notwithstanding any provision
26 of law to the contrary, any institution that is determined by the Board of Regents to
27 have met the short-term targets established in the performance agreement may be
28 granted the autonomies as provided in this Subparagraph; however, no institution
29 shall be granted such an autonomy until after the division of administration
30 determines that for the following year the institution possesses the capacity relevant

1 to the autonomy including, at a minimum, a review of the most recent fiscal audit by
2 the legislative auditor.

3 (i) Authority to retain any funds which remain unexpended and unobligated
4 at the end of the fiscal year for use at the institution's discretion pursuant to R.S.
5 17:3386, and subject to the prior review and approval of the Joint Legislative
6 Committee on the Budget.

7 (ii) Authority to execute contracts up to a value of forty-nine thousand nine
8 hundred ninety-nine dollars within a twelve-month period in accordance with the
9 delegation of authority by the office of contractual review pursuant to R.S. 39:1488.

10 (iii) Authority to identify and dispose of obsolete equipment, excluding
11 vehicles and items deemed by federal law to be of a dangerous nature, up to an
12 original acquisition value of five thousand dollars.

13 (iv) Authority to be excluded from oversight or review by the office of
14 information technology, as provided in R.S. 39:15.3, for purchases with an academic
15 research or classroom instructional purpose.

16 (v) Authority to exclude from its table of organization any position that is
17 fully funded by nonappropriated funds.

18 (b) Intermediate level. Notwithstanding any provision of law to the contrary
19 and in addition to the base level autonomies granted pursuant to Subparagraph (a)
20 of this Paragraph, any institution that is determined by the Board of Regents to have
21 met the short-term targets established in the performance agreement may be granted
22 the autonomies as provided in this Subparagraph; however, no institution shall be
23 granted such an autonomy until after the division of administration determines that
24 for the following year the institution possesses the capacity relevant to the autonomy
25 including, at a minimum, a review of the most recent fiscal audit by the legislative
26 auditor, and the institution has met the Board of Regents' requirements for
27 significantly streamlining its academic service delivery to students to meet regional
28 workforce needs as provided in Item (vi) of this Subparagraph. Any autonomy
29 granted pursuant to this Subparagraph shall be subject to the prior review and
30 approval of the Joint Legislative Committee on the Budget.

1 (i) Notwithstanding the provisions of R.S. 39:1702, authority to procure
2 materials, supplies, equipment, and services through any purchasing agreements
3 established by a not-for-profit cooperative buying organization located in the United
4 States, if such purchasing agreements have been established pursuant to a
5 competitive bid proposal process. Prior to joining a not-for-profit cooperative
6 buying organization, the institution shall publish a notice of intent to join such not-
7 for-profit cooperative buying organization in the official journal of the state and of
8 the parish in which the institution is located. Prior to entering any purchasing
9 agreement with a not-for-profit cooperative buying organization, the institution shall
10 publish a notice of intent to enter such purchasing agreement through a centralized,
11 electronic, interactive environment administered by the division of administration
12 as provided in R.S. 39:1593 and on the institution's website and shall allow fifteen
13 days for interested vendors to submit proposals for the materials, supplies,
14 equipment, or services. The proposals submitted by interested vendors shall adhere
15 to the request for proposal or solicitation issued by the cooperative buying
16 organization. The institution shall review the proposals submitted by interested
17 vendors and compare the proposals to the cooperative buying organization agreement
18 to determine the lowest responsive and responsible vendor. The institution shall
19 utilize the lowest responsive and responsible vendor for the procurement. For
20 purposes of this Item, lowest responsive and responsible bidder shall be defined as
21 set forth in R.S. 39:1591.

22 (ii) Authority to directly administer minor facility capital outlay projects
23 without oversight or control by the office of facility planning and control. For
24 purposes of this Item, minor facilities projects shall mean, in addition to the authority
25 provided in R.S. 39:128, those that do not require the use of and coordination
26 between more than two trades or that do not require the use of the professional
27 services of an architect or engineer pursuant to the provisions of R.S. 39:1482 and
28 1484.

29 (iii) Authority to join an existing cooperative purchasing agreement in
30 accordance with R.S. 39:1702 and Item (i) of this Subparagraph. Prior to joining a

1 not-for-profit cooperative buying organization, the institution shall publish a notice
2 of intent to join such not-for-profit cooperative buying organization in the official
3 journal of the state and of the parish in which the institution is located. Prior to
4 entering any purchasing agreement with a not-for-profit cooperative buying
5 organization, the institution shall publish a notice of intent to enter such purchasing
6 agreement through a centralized, electronic, interactive environment administered
7 by the division of administration as provided in R.S. 39:1593 and on the institution's
8 website and shall allow fifteen days for interested vendors to submit proposals for
9 the materials, supplies, equipment, or services. The proposals submitted by
10 interested vendors shall adhere to the request for proposal or solicitation issued by
11 the cooperative buying organization. The institution shall review the proposals
12 submitted by interested vendors and compare the proposals to the cooperative buying
13 organization agreement to determine the lowest responsive and responsible vendor.
14 The institution shall utilize the lowest responsive and responsible vendor for the
15 procurement. For purposes of this Item, lowest responsive and responsible bidder
16 shall be defined as set forth in R.S. 39:1591.

17 (iv) Authority to use reverse auctions. For purposes of this Item, reverse
18 auction means a competitive online solicitation process on the Internet for products,
19 supplies, services, and other materials in which vendors compete against each other
20 in real time in an open and interactive environment.

21 (v) Authority for the director of purchasing at a college or university to make
22 a determination to use a competitive request for proposal process as provided in R.S.
23 39:1593(C) without the approval of the commissioner of administration or the
24 director of state purchasing.

25 (vi) For purposes of this Subparagraph, for an institution to meet the
26 requirement of significantly streamlining academic service delivery, the institution
27 shall have acted on at least two items from a list approved by the Board of Regents,
28 which shall include the following:

29 (aa) The review of all of its programs and academic offerings and
30 appropriate action to improve those programs and academic offerings through

1 modification, consolidation, or elimination, including consideration of online
2 delivery of academic offerings to meet workforce needs and maximize resources.

3 (bb) The review and streamlining of all course offerings to align with
4 program requirements and facilitate on-time graduation.

5 (cc) If a two-year institution, the review of nonacademic programs and
6 degrees and appropriate action to improve such programs and degrees through
7 modification, consolidation, or elimination, including consideration of online
8 delivery of academic offerings.

9 (dd) If a four-year institution, raised the minimum composite score on the
10 American College Test required for admission to at least two points higher than the
11 Board of Regents baseline appropriate for its type of institution. This requirement
12 shall be notwithstanding a student's grade point average. Opting not to participate
13 in this requirement shall not preclude an institution from implementing minimum
14 admission standards in accordance with Board of Regents policy.

15 (c) High level. Notwithstanding any provision of law to the contrary and in
16 addition to the base level and intermediate level autonomies granted pursuant to
17 Subparagraphs (a) and (b) of this Paragraph, any institution that is determined by the
18 Board of Regents to have met the short-term targets established in the performance
19 agreement may be granted the autonomies as provided in this Subparagraph;
20 however, no institution shall be granted such an autonomy until after the division of
21 administration determines that for the following year the institution possesses the
22 capacity relevant to the autonomy including, at a minimum, a review of the most
23 recent fiscal audit by the legislative auditor and has a one hundred fifty percent of
24 normal-time Integrated Postsecondary Education Data System graduation rate within
25 five percent of the average graduation rate for its classification according to the
26 Southern Regional Education Board.

27 (i) Authority to participate in a pilot procurement code as established by the
28 initial qualifying institution to be in place for an initial period of three years and
29 approved by the division of administration. The initial qualifying institution shall
30 establish any pilot procurement code pursuant to rules and regulations adopted in

1 accordance with the Administrative Procedure Act. An institution granted this
2 autonomy may use this pilot procurement code in lieu of the Louisiana Procurement
3 Code as provided in R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551
4 through 1755, subject to the prior review and approval of the Joint Legislative
5 Committee on the Budget.

6 (ii)(aa) Exemption from participation in the state's risk management program
7 established by R.S. 39:1527 et seq. and administered by the office of risk
8 management, pursuant to a phased-in plan of implementation as determined by the
9 institution in collaboration with the attorney general and the division of
10 administration, subject to the prior review and approval of the Joint Legislative
11 Committee on the Budget. This exemption shall not include the coverage provided
12 by the state's risk management program pursuant to R.S. 40:1299.39.

13 (bb) Nothing in this exemption shall abrogate, amend, or alter the authority
14 of the attorney general or the Department of Justice under Article IV, Sections 1 and
15 8 of the Constitution of Louisiana or any other provision of law to represent the state
16 and all departments and agencies of state government in all litigation arising out of
17 or involving tort or contract. Any institution that is granted an exemption under this
18 Item shall enter into an interagency agreement with the attorney general and pay the
19 attorney general reasonable attorney fees and expenses incurred in representing the
20 institution.

21 (cc) Nothing in this Item shall be construed as creating any independent or
22 separate cause of action against the state. The state shall continue to be sued only
23 through the exempt institution's management board and cannot be sued in addition
24 to or separately from the exempt institution's management board in any cause of
25 action asserted against the exempt institution. Neither the state nor the office of risk
26 management shall be responsible for payment of any judgment against the exempt
27 institution's management board. The state's obligation to indemnify a covered
28 individual as provided in R.S. 13:5108.1 shall not be performed by the office of risk
29 management.

1 (dd) Any contract between the exempt institution's management board and
2 its insurer shall name the state as an additional insured. Any provision in any
3 contract between the exempt institution's management board and its insurer that
4 conflicts with the provisions of this Section shall be deemed null and void.

5 (ee) Nothing in this Item shall be construed to adversely affect any of the
6 substantive and procedural provisions and limitations applicable to actions against
7 the state, including but not limited to the provisions of R.S. 13:5106, 5107, 5108.1,
8 and 5112, and R.S. 9:2800 which would continue to apply equally to any exempted
9 institution. Those provisions that will not apply are those that are specifically
10 excluded in this Section. Upon transfer of each line of coverage to the exempted
11 institution under this Section, the provisions of R.S. 39:1527 et seq., as well as the
12 provisions of R.S. 13:5106(B)(3)(c), shall not apply to the line of coverage so
13 transferred, nor to any claims asserted against the exempted institution within the
14 transferred line of coverage.

15 (iii) Notwithstanding the provisions of R.S. 39:113, authority to administer
16 all facilities projects funded with self-generated revenue, federal funds, donations,
17 grants, or revenue bonds, including all projects falling under R.S. 39:128; however,
18 excluding those projects falling under R.S. 39:128, these projects shall not be
19 exempted from the capital outlay budget or any requirements as pertains thereto.

20 (iv) Authority to invest funds as defined by R.S. 49:327(C), in addition to
21 those instruments laid out in R.S. 49:327(B)(1), in tax exempt bonds and other
22 taxable governmental bonds issued by any state or a political subdivision or public
23 corporation of any state, provided that such bonds are rated by a nationally
24 recognized rating agency as investment grade. The investment policy governing
25 such investment as defined by R.S. 49:327(C)(1)(b) shall define the allocation of
26 funds among instruments and the term of maturity of the instruments, subject to the
27 prior review and approval of the investment advisory committee. If an institution
28 pursuant to the Board of Regents' annual review is either no longer meeting its
29 short-term targets or is determined by the division of administration to no longer
30 possess the capacity relevant to this autonomy, or both, authority to invest additional

1 funds shall be limited to those instruments defined by R.S. 49:327(B)(1) and (C), and
2 shall exclude further investments in tax exempt bonds and other taxable government
3 bonds issued by any state or a political subdivision or public corporation of any state.

4 (6)(a) Any operational autonomies granted to an institution pursuant to this
5 Subsection shall terminate immediately upon revocation of the institution's six-year
6 performance agreement by the Board of Regents. The Board of Regents shall notify
7 the Joint Legislative Committee on the Budget of any such revocation of a
8 performance agreement.

9 (b) Any operational autonomy granted to an institution pursuant to this
10 Subsection shall terminate immediately upon determination by the division of
11 administration that an institution has failed to maintain the operational capacity
12 relevant to that autonomy. The division of administration shall notify the Joint
13 Legislative Committee on the Budget of any institution's failure to maintain the
14 operational capacity relevant to any previously granted operational autonomy.

15 G. Monitoring; reporting; renewal. (1) The Board of Regents annually shall
16 monitor and report to the legislature and the governor on each participating
17 institution's progress in meeting the established targets for performance objectives
18 as specified in Subsection C of this Section. At the end of the ~~initial agreement~~
19 period ~~first six years~~ and each subsequent ~~agreement~~ ~~six-year~~ period, the Board of
20 Regents shall determine whether to recommend renewal of an institution's
21 performance agreement subject to the approval of the Joint Legislative Committee
22 on the Budget. Such determination shall be based on the recommendations of a
23 review panel established by the Board of Regents to conduct a comprehensive review
24 and evaluation of the institution's progress in meeting the performance objectives.
25 The composition of the review panel shall be the same as is provided in R.S.
26 17:3138(C) with the addition of two representatives from the business community,
27 who each possess a postsecondary degree, one recommended by the speaker of the
28 House of Representatives and one recommended by the president of the Senate.

(2) If an institution's initial performance agreement is renewed for a second six-year period, after six years, the institution in exchange shall:

* * *

(iii) A graduation rate of at least fifty percent for any institution classified as a "Four-Year 3", "Four-Year 4", or "Four-Year 5", or "Four-Year 6" institution by the Southern Regional Education Board.

* * *

(3) If an institution's performance agreement is renewed for subsequent periods following the first renewal period, after six years, the institution in exchange shall:

* * *

(4) The Board of Regents shall inventory all institutional student records systems and recommend a plan to standardize and integrate such systems to include student transcript analysis and degree auditing components. This system shall include all undergraduate students and at a minimum and by student, the number of course credits earned, the number of course credits needed for degree completion, a time line for successful degree completion that shows if the student is behind, on track, or ahead, and course credits needed as determined by the student's declared area of concentration. The Board of Regents shall report on the progress of such standardization to the legislature and the division of administration sixty days prior to the 2012 Regular Session of the Legislature of Louisiana and annually thereafter on the performance of qualifying institutions at achieving on-time graduation based on the student tracking and records system. The report shall be posted on the Board of Regents' website and shall be made easily accessible to the public.

* * *

§3386. Surplus funds; retention; use; exceptions

* * *

E. The provisions of this Section requiring at least fifty percent of retained funds to be maintained in a reserve fund and used only for preventative maintenance purposes and prohibiting more than two percent of certain state general fund

~~appropriations or allocations from being carried forward shall not apply to any public postsecondary education institution entering into a Notwithstanding any provision of law to the contrary, an institution that is determined by the Board of Regents to have met the short-term targets established in the performance agreement entered into pursuant to R.S. 17:3139 if the agreement so provides. may retain any funds appropriated or allocated to such college, university, or consortium thereof, excluding those as specified in Subsection C of this Section, which remain unexpended and unobligated at the end of the fiscal year, in accordance with R.S. 17:3139(F)(5)(a)(i) and such funds shall be used at the institution's discretion.~~

Section 2. The Louisiana State Law Institute is hereby directed to designate Sections through 3138 of Chapter 24 of Title 17 of the Louisiana Revised Statutes of 1950 as "Part I. General Provisions" and Section 3139 of Chapter 24 of Title 17 of the Louisiana Revised Statutes of 1950 as "Part II. Louisiana Granting Resources and Autonomy for the Care of the Mentally Ill". The institute generally shall designate each Subsection in R.S. 17:3139 as a section in Part II of Chapter 24 and make appropriate adjustments to designations and sections throughout.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____