ENROLLED

Regular Session, 2011

HOUSE BILL NO. 549

BY REPRESENTATIVES TUCKER, ANDERS, ARNOLD, BOBBY BADON, BURFORD, HENRY BURNS, CARMODY, CARTER, CHANDLER, CHANEY, CONNICK, DOVE, DOWNS, EDWARDS, FOIL, GREENE, GUILLORE, 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.

AN ACT

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

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

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

C. Performance agreements; objectives. Effective beginning with the 2011 Fiscal Year, any public postsecondary education institution, including professional schools, may enter into an initial performance agreement with the Board of Regents in order to be granted limited operational autonomy and flexibility as provided in Subsection F of this Section in exchange for committing to meet established targets for the following performance objectives as applicable to the institution as determined by the Board of Regents:

(1)

* * *

(e) For the purposes of this Section, successful attainment of the student success objectives shall be required for determination by the Board of Regents that

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

* * *

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

* * *

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

* * *

(i) A cost performance analysis to include by institution:

(i) Total operating budget by function, amount, and percent of total, reported
in a manner consistent with the National Association of College and University
Business Officers guidelines.

(ii) Average yearly cost of attendance as reported to the United States
Department of Education.

(iii) Average time to degree for completion of academic programs at all
levels.

(iv) Average cost per degree awarded by degree level.

(v) Average cost per non-completer by degree program entered.

(j) All expenditures of the institution for that year.
(k) Any additional data requested by the speaker of the House of Representatives or the president of the Senate.

* * *

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

(2) The Board of Regents may modify 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.

* * *

F. Autonomies granted. Notwithstanding any other provision of law to the contrary, each institution that enters into a performance agreement as provided in this Section shall be granted the following: shall be granted the authorities and autonomies as provided in this Subsection. However, nothing herein shall suspend 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:

(a) Carrying forward unexpended and unobligated funds from one fiscal year to the next:

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(b) Procuring information technology products and services.

c) Adhering to state travel regulations.

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

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

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

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

(5) Operational autonomies. (a) Base level. Notwithstanding any provision of law to the contrary, any institution that is determined by the Board of Regents to have met the short-term targets established in the performance agreement may be granted the autonomies as provided in this Subparagraph; however, no institution shall be granted such an autonomy until after the division of administration determines that for the following year the institution possesses the capacity relevant
to the autonomy including, at a minimum, a review of the most recent fiscal audit by
the legislative auditor.

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

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

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

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

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

(b) Intermediate level. Notwithstanding any provision of law to the contrary
and in addition to the base level autonomies granted pursuant to Subparagraph (a)
of this Paragraph, any institution that is determined by the Board of Regents to have
met the short-term targets established in the performance agreement may be granted
the autonomies as provided in this Subparagraph; however, no institution shall be
granted such an autonomy until after the division of administration determines that
for the following year the institution possesses the capacity relevant to the autonomy
including, at a minimum, a review of the most recent fiscal audit by the legislative
auditor, and the institution has met the Board of Regents' requirements for
significantly streamlining its academic service delivery to students to meet regional
workforce needs as provided in Item (vi) of this Subparagraph. Any autonomy
granted pursuant to this Subparagraph shall be subject to the prior review and
approval of the Joint Legislative Committee on the Budget.
(i) Notwithstanding the provisions of R.S. 39:1702, authority to procure materials, supplies, equipment, and services through any purchasing agreements established by a not-for-profit cooperative buying organization located in the United States, if such purchasing agreements have been established pursuant to a competitive bid proposal process. Prior to joining a not-for-profit cooperative buying organization, the institution shall publish a notice of intent to join such not-for-profit cooperative buying organization in the official journal of the state and of the parish in which the institution is located. Prior to entering any purchasing agreement with a not-for-profit cooperative buying organization, the institution shall publish a notice of intent to enter such purchasing agreement through a centralized, electronic, interactive environment administered by the division of administration as provided in R.S. 39:1593 and on the institution's website and shall allow fifteen days for interested vendors to submit proposals for the materials, supplies, equipment, or services. The proposals submitted by interested vendors shall adhere to the request for proposal or solicitation issued by the cooperative buying organization. The institution shall review the proposals submitted by interested vendors and compare the proposals to the cooperative buying organization agreement to determine the lowest responsive and responsible vendor. The institution shall utilize the lowest responsive and responsible vendor for the procurement. For purposes of this Item, lowest responsive and responsible bidder shall be defined as set forth in R.S. 39:1591.

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

(iii) Authority to join an existing cooperative purchasing agreement in accordance with R.S. 39:1702 and Item (i) of this Subparagraph. Prior to joining a
the institution shall publish a notice of intent to join such not-for-profit cooperative buying organization in the official journal of the state and of the parish in which the institution is located. Prior to entering any purchasing agreement with a not-for-profit cooperative buying organization, the institution shall publish a notice of intent to enter such purchasing agreement through a centralized, electronic, interactive environment administered by the division of administration as provided in R.S. 39:1593 and on the institution's website and shall allow fifteen days for interested vendors to submit proposals for the materials, supplies, equipment, or services. The proposals submitted by interested vendors shall adhere to the request for proposal or solicitation issued by the cooperative buying organization. The institution shall review the proposals submitted by interested vendors and compare the proposals to the cooperative buying organization agreement to determine the lowest responsive and responsible vendor. The institution shall utilize the lowest responsive and responsible vendor for the procurement. For purposes of this Item, lowest responsive and responsible bidder shall be defined as set forth in R.S. 39:1591.

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

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

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

(aa) The review of all of its programs and academic offerings and appropriate action to improve those programs and academic offerings through
modification, consolidation, or elimination, including consideration of online
delivery of academic offerings to meet workforce needs and maximize resources.

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

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

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

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

(i) Authority to participate in a pilot procurement code as established by the
initial qualifying institution to be in place for an initial period of three years and
approved by the division of administration. The initial qualifying institution shall
establish any pilot procurement code pursuant to rules and regulations adopted in
accordance with the Administrative Procedure Act. An institution granted this
autonomy may use this pilot procurement code in lieu of the Louisiana Procurement
Code as provided in R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551
through 1755, subject to the prior review and approval of the Joint Legislative
Committee on the Budget.

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

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

(cc) Nothing in this Item shall be construed as creating any independent or
separate cause of action against the state. The state shall continue to be sued only
through the exempt institution's management board and cannot be sued in addition
to or separately from the exempt institution's management board in any cause of
action asserted against the exempt institution. Neither the state nor the office of risk
management shall be responsible for payment of any judgment against the exempt
institution's management board. The state's obligation to indemnify a covered
individual as provided in R.S. 13:5108.1 shall not be performed by the office of risk
management.
(dd) Any contract between the exempt institution's management board and its insurer shall name the state as an additional insured. Any provision in any contract between the exempt institution's management board and its insurer that conflicts with the provisions of this Section shall be deemed null and void.

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

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

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

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

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

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

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§3386. Surplus funds; retention; use; exceptions

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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 3121 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 Diplomas Act". 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 citations 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: ______________________

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