

2015 Regular Session

HOUSE BILL NO. 766

BY REPRESENTATIVE ADAMS

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

COLLEGES/UNIVERSITIES: Provides relative to the operations of public colleges and universities and exemptions from specified regulations

1 AN ACT

2 To amend and reenact R.S. 17:3139.2, 3139.5, and 3139.6(1), relative to public colleges and  
3 universities; to remove institutional performance criteria as conditions on institutions  
4 receiving certain exceptions and exemptions from state regulations of their  
5 operations; to provide certain financial solvency criteria on the receipt of such  
6 exceptions and exemptions; to provide relative to the exceptions and exemptions that  
7 an institution may receive; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:3139.2, 3139.5, and 3139.6(1) are hereby amended and reenacted  
10 to read as follows:

11 §3139.2. Performance agreements; objectives

12 ~~Effective beginning with the 2011 Fiscal Year, any~~ Any public postsecondary  
13 education institution, including professional schools, may enter into an initial  
14 performance agreement with the Board of Regents in order to be granted limited  
15 ~~operational~~ tuition autonomy and flexibility as provided in R.S. ~~17:3139.5~~  
16 17:3139.5(A) in exchange for committing to meet established targets for the  
17 following performance objectives as applicable to the institution as determined by  
18 the Board of Regents:

19 \* \* \*

1           §3139.5. ~~Autonomies granted~~ Tuition autonomy; operational autonomy contingent  
2                           on audit findings

3           A. Notwithstanding any other provision of law to the contrary, each  
4 institution that enters into a performance agreement shall be granted the authorities  
5 ~~and autonomies~~ as provided in this Section Subsection. ~~However, nothing herein~~  
6 ~~shall suspend the requirements of R.S. 39:1593.1.~~

7                       (1) For the 2010-2011 Fiscal Year, pursuant to policies adopted by the  
8 institution's management board and in addition to the authority provided in R.S.  
9 17:3351(A)(5)(e), the authority to increase tuition and mandatory fee amounts by up  
10 to five percent annually.

11                      (2) For the 2011-2012 Fiscal Year, if the Board of Regents has determined  
12 that the institution has met the short-term targets established in the performance  
13 agreement, in addition to the authority provided in R.S. 17:3351(A)(5)(e), the  
14 authority to increase tuition and mandatory fee amounts by up to five percent  
15 annually.

16                      (3) Beginning with the 2012-2013 Fiscal Year and thereafter, if the Board  
17 of Regents has determined that the institution has met the short-term targets  
18 established in the performance agreement and demonstrated progress on long-term  
19 targets, the institution shall be authorized to:

20                      (a) Increase tuition and fee amounts by up to ten percent annually, without  
21 legislative approval, until the institution reaches the average tuition and fee amounts  
22 of its peer institutions. Tuition and fee amounts for peer institutions shall be  
23 weighted based upon the median household income in Southern Regional Education  
24 Board states in which respective peer institutions are located. The median household  
25 income in such states shall be compared with the median household income in  
26 Louisiana, and any differences between the average of the states shall be factored  
27 into the allowable tuition and fee amount increase for the respective institution.

1 (b) Upon reaching the average tuition and fee amounts as specified in  
2 Subparagraph (a) of this Paragraph, increase tuition and fee amounts as necessary to  
3 maintain tuition and fee amounts as close to that average as practical.

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

11 B. (5) Operational autonomies: (1)(a) Base level: Notwithstanding any  
12 provision of law to the contrary, any institution that ~~is determined by the Board of~~  
13 ~~Regents to have met the short-term targets established in the performance agreement~~  
14 ~~may be granted the autonomies as provided in this Subparagraph; however, no~~  
15 ~~institution shall be granted such an autonomy until after the division of~~  
16 ~~administration determines that for the following year the institution possesses the~~  
17 ~~capacity relevant to the autonomy including, at a minimum, a review of the most~~  
18 ~~recent fiscal audit by the legislative auditor~~ meets the requirements of this Paragraph  
19 may exercise the autonomies provided by this Subsection subject to the limitations  
20 provided in this Paragraph.

21 (b)(i) The division of administration shall approve the exercise of such  
22 autonomies only if the institution received, for the majority of the previous five  
23 years, a financial audit with an unmodified opinion, where the financial statements  
24 are free of material misstatements and material weaknesses, and the financial  
25 position, results of operations, and cash flows are represented fairly in accordance  
26 with Generally Accepted Accounting Principles.

27 (ii) Notwithstanding Item (i) of this Subparagraph, an institution that  
28 received a financial audit in 2013-2014 with an unmodified opinion, where the  
29 financial statements are free of material misstatements and material weaknesses, and

1 the financial position, results of operations, and cash flows are represented fairly in  
2 accordance with Generally Accepted Accounting Principles shall be granted all of  
3 the autonomies as provided in this Subsection effective July 1, 2015.

4 (c) The autonomies provided for in this Subsection shall be granted for a  
5 period of not less than five years, and the division of administration may renew such  
6 grant. The grant of authority to exercise autonomies shall be withdrawn and shall  
7 not be renewed any time the institution does not, in the majority of previous five  
8 years, meet the following requirements: received a financial audit with an  
9 unmodified opinion, where the financial statements are free of material  
10 misstatements and material weaknesses, and the financial position, results of  
11 operations, and cash flows are represented fairly in accordance with Generally  
12 Accepted Accounting Principles.

13 (d) In the first year after a grant of authority to exercise autonomies by the  
14 division of administration or after a renewal of such a grant, a postsecondary  
15 management board may contract with the state to return any autonomy provided for  
16 in this Subsection back to the state, by notifying the division of administration in  
17 writing, if the postsecondary management board determines an institution under its  
18 control does not have the operational capacity to perform this service. For the 2015-  
19 2016 school year, such request shall be submitted by June 15, 2015. In any  
20 subsequent year, such request shall be submitted by January first of the year after the  
21 division of administration grants authority to exercise autonomies.

22 (2) The operational autonomies that may be granted pursuant to this  
23 Subsection are:

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

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

4           (iii) (b) Authority to identify and dispose of obsolete equipment, excluding  
5           vehicles and items deemed by federal law to be of a dangerous nature, ~~up to an~~  
6           ~~original acquisition value of five thousand dollars.~~ Prior to exercising this autonomy  
7           with respect to electronic devices, the postsecondary management board shall  
8           provide certification to the division of administration that all such devices are  
9           sanitized of any personally identifiable information.

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

13          (v) (c) Authority to ~~be exclude~~ excluded by the division of administration  
14          ~~from its~~ any table of organization ~~any position that is fully funded by~~  
15          ~~nonappropriated funds.~~

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

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

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

23           ~~(v) Authority for the director of purchasing at a college or university to make~~  
24           ~~a determination to use a competitive request for proposal process as provided in R.S.~~  
25           ~~39:1593(C) without the approval of the commissioner of administration or the~~  
26           ~~director of state purchasing.~~

27           ~~(vi) For purposes of this Subparagraph, for an institution to meet the~~  
28           ~~requirement of significantly streamlining academic service delivery, the institution~~

1 shall have acted on at least two items from a list approved by the Board of Regents,  
2 which shall include the following:

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

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

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

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

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



1 ~~five percent of the average graduation rate for its classification according to the~~  
2 ~~Southern Regional Education Board.~~

3 (d)(i) Authority to participate in a pilot the higher education procurement  
4 code as established by the initial qualifying institution in each postsecondary  
5 educational system Louisiana State University and Agricultural and Mechanical  
6 College to be and as in place for an initial period of three years and approved by the  
7 division of administration. The initial qualifying institution in each Each  
8 postsecondary educational system management board may establish a pilot adopt the  
9 higher education procurement code pursuant to rules and regulations adopted in  
10 accordance with the Administrative Procedure Act. An institution granted this  
11 autonomy Any entity whose budget is appropriated through Schedule 19-Higher  
12 Education or 19E-LSU Health Sciences Center- Health Care Services Division may  
13 use this pilot the higher education procurement code in lieu of the Louisiana  
14 Procurement Code as provided in R.S. 39:15.3, 196 through 200, 1481 through 1526,  
15 and 1551 through 1755, subject to the prior review and approval of the Joint  
16 Legislative Committee on the Budget. Any extension beyond the initial period of  
17 three years shall be submitted to the Joint Legislative Committee on the Budget for  
18 review and approval for a period not to exceed three years. Any changes to the pilot  
19 procurement plan after the approval for any three-year higher education procurement  
20 code period shall be submitted to the Joint Legislative Committee on the Budget for  
21 approval. With the approval of the division of administration and the Joint  
22 Legislative Committee on the Budget, a pilot procurement code may provide that  
23 other institutions under the same postsecondary education management board as the  
24 initial qualifying institution may utilize the pilot procurement code, provided the  
25 procurement is conducted under the auspices of a shared services model managed by  
26 the qualifying institution.

27 (ii) The division of administration shall maintain a list of all institutions  
28 participating in the higher education procurement code, which shall be published on  
29 its website.

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

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

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

25           ~~(dd)~~ (iv) Any contract between the exempt institution's management board  
26 and its insurer shall name the state as an additional insured. Any provision in any  
27 contract between the exempt institution's management board and its insurer that  
28 conflicts with the provisions of this Section shall be deemed null and void.

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

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

16           (g) Notwithstanding the provisions of R.S. 38:2316, the authority to select  
17 architects for professional service contracts in which the estimated project budget  
18 cost is the same amount authorized under R.S. 39:128 or less.

19           ~~(iv)~~ (h) Authority to invest funds as defined by R.S. 49:327(C), ~~in addition~~  
20 ~~to~~ in municipal bonds issued by any state or political subdivision and those  
21 instruments laid out in R.S. 49:327(B)(1), in tax exempt bonds and other taxable  
22 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

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

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

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

16 (3)(a) Nothing in this Subsection abrogates, amends, or alters the authority  
17 of the attorney general or the Department of Justice under Article IV, Sections 1 and  
18 8 of the Constitution of Louisiana or any other provision of law to represent the state  
19 and all departments and agencies of state government in all litigation arising out of  
20 or involving tort or contract. Any exempt institution under this Section shall enter  
21 into an interagency agreement with the attorney general and pay the attorney general  
22 reasonable attorney fees and expenses incurred in representing the institution.

23 (b) Nothing in this Subsection shall be construed as creating any independent  
24 or separate cause of action against the state. The state shall continue to be sued only  
25 through the exempt institution's management board and cannot be sued in addition  
26 to or separately from the exempt institution's management board in any cause of  
27 action asserted against the exempt institution.

1 §3139.6. Monitoring; reporting; renewal

2 (1) The Board of Regents annually shall monitor and report to the legislature  
3 and the governor on each participating institution's progress in meeting the  
4 established targets for performance objectives as specified in R.S. 17:3139.2. At the  
5 end of the first six years and each subsequent six-year period, the Board of Regents  
6 shall determine whether to recommend renewal of an institution's performance  
7 agreement subject to the approval of the Joint Legislative Committee on the Budget.  
8 Such determination shall be based on the recommendations of a review panel  
9 established by the Board of Regents to conduct a comprehensive review and  
10 evaluation of the institution's progress in meeting the performance objectives. The  
11 composition of the review panel shall be ~~the same as~~ similar to that is provided in  
12 R.S. 17:3138(C) with the addition of two representatives from the business  
13 community, who each possess a postsecondary degree, one recommended by the  
14 speaker of the House of Representatives and one recommended by the president of  
15 the Senate.

16 \* \* \*

17 Section 2. This Act shall become effective upon signature by the governor or, if not  
18 signed by the governor, upon expiration of the time for bills to become law without signature  
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
21 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 766 Engrossed                      2015 Regular Session                      Adams

**Abstract:** Provides relative to exceptions and exemptions from state laws and regulations for certain public colleges and universities.

Present law (the GRAD Act) authorizes public postsecondary education institutions, including professional schools, to enter into performance agreements with the Board of Regents in order to be granted limited operational autonomy and flexibility in exchange for committing to meet established targets for performance objectives as applicable to the

institution. Such objectives are categorized relative to student success, articulation and transfer, workforce and economic development, and institutional efficiency and accountability. Institutions may receive authority to increase tuition and various exemptions and exceptions from state regulations of their operations (operational autonomies) pursuant to such performance agreements.

Proposed law, with respect to the operational autonomies, removes the performance agreement conditions on their exercise. Requires instead that an institution that meets certain financial conditions is granted a modified list of operational autonomies. Financial conditions provided by proposed law are a financial audit with an unmodified opinion, where the financial statements are free of material misstatements and material weaknesses, and the financial position, results of operations, and cash flows are represented fairly in accordance with Generally Accepted Accounting Principles. Provides that the authority to exercise the autonomies is withdrawn if an institution does not meet the specified audit requirements for a majority of the previous five years.

Proposed law, with respect to the operational autonomies that an institution may exercise, adds, retains, modifies, or removes autonomies as follows:

- (1) Present law authorizes an institution to retain funds which are unexpended and unobligated at the end of the fiscal year for use at the institution's discretion subject to the prior review and approval of the Joint Legislative Committee on the Budget. Proposed law removes the stipulation that such autonomy is subject to approval by the legislative budget committee.
- (2) Present law authorizes an institution to 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 \$5,000. Proposed law removes the value limit and requires that the postsecondary management board provide certification to the division of administration that electronic devices are sanitized of any personally identifiable information.
- (3) Present law authorizes the exclusion of positions fully funded by nonappropriated funds from the institution's table of organization. Proposed law authorizes the division of administration to exclude the institution as a whole from any table of organization.
- (4) Present law authorizes exemption from participation in the state's risk management program. Proposed law retains present law.
- (5) Present law generally authorizes an institution to administer facilities projects funded with self-generated revenue, federal funds, donations, grants, or revenue bonds. Proposed law retains present law.
- (6) Proposed law increases the dollar limit under which institutions have the authority to select architects for professional service contracts.
- (7) Present law provides for pilot procurement codes as an alternative to the state procurement code. Proposed law authorizes adoption of a higher education procurement code which has been developed by LSU.
- (8) Present law authorizes investment of certain funds in governmental or public corporation bonds. Proposed law additionally authorizes investment of funds in municipal bonds.
- (9) Proposed law removes the following present law autonomies:

- (a) To execute contracts up to a value of \$49,999 within a 12-month period in accordance with the delegation of authority by the office of state procurement.
- (b) To join a not-for-profit cooperative buying organization and to procure materials, supplies, equipment, and services through purchasing agreements established by such an organization under specified conditions.
- (c) To directly administer certain minor facility capital outlay projects without oversight or control by the office of facility planning and control.
- (d) To use reverse auctions.
- (e) For the director of purchasing to make a determination to use a competitive request for proposal process pursuant to present law without the approval of the commissioner of administration or the director of state purchasing.

Present law provides that the exemption from participation in the state's risk management program does not alter the authority of the attorney general and the Dept. of Justice to represent state agencies in litigation arising out of tort or contract. Proposed law provides similarly with respect to all autonomies granted by present law and proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3139.2, 3139.5, and 3139.6(1))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Were primarily technical.
2. Remove a deadline for submitting a request to exercise autonomies to the division of administration and add a deadline for requesting that an autonomy be removed.
3. Remove a proposed autonomy authorizing audits by private accountants rather than the legislative auditor.