

Regular Session, 2011

SENATE BILL NO. 266 (Substitute of Senate Bill No. 183 by Senator Appel)

BY SENATORS APPEL AND MURRAY

POSTSECONDARY ED. Transfers the University of New Orleans to the University of Louisiana System. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:3217, to enact R.S. 17:3230, and to repeal R.S. 17:3215(2),  
3 relative to postsecondary education; to provide for the transfer of the University of  
4 New Orleans to the University of Louisiana System; to provide relative to the  
5 transfer of the facilities, resources, funds, obligations, and functions of the institution  
6 and related foundations; to provide for the transition responsibilities of the impacted  
7 institution and management boards and the division of administration; to provide for  
8 cooperative agreements; to provide relative to accreditation issues; to provide  
9 relative to funding; to provide relative to employees; to provide for effectiveness;  
10 and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:3217 is hereby amended and reenacted and R.S. 17:3230 is hereby  
13 enacted to read as follows:

14 §3217. University of Louisiana ~~system~~ **System**

15 The University of Louisiana ~~system~~ **System** is composed of the institutions  
16 under the supervision and management of the ~~Board of Trustees for State Colleges~~  
17 ~~and Universities~~ **Board of Supervisors for the University of Louisiana System** as

1 follows:

2 (1) Grambling State University at Grambling.

3 (2) Louisiana Tech University at Ruston.

4 (3) McNeese State University at Lake Charles.

5 (4) Nicholls State University at Thibodaux.

6 ~~(5) Northeast Louisiana University of Louisiana at Monroe.~~

7 ~~(6)~~**(5)** Northwestern State University of Louisiana at Natchitoches.

8 ~~(7)~~**(6)** Southeastern Louisiana University at Hammond.

9 ~~(8) University of Southwestern Louisiana at Lafayette.~~

10 **(7) The University of Louisiana at Lafayette.**

11 **(8) The University of Louisiana at Monroe.**

12 **(9) The University of New Orleans.**

13 ~~(9)~~**(10)** Any other college, university, school, institution or program now or

14 hereafter under the supervision and management of the ~~Board of Trustees for State~~

15 ~~Colleges and Universities~~ **Board of Supervisors for the University of Louisiana**

16 **System.**

17 \* \* \*

18 **§3230. The University of New Orleans; transfer to the University of Louisiana**

19 **System**

20 **A. (1) Not later than August 1, 2011, the chancellor of the University of**

21 **New Orleans shall submit a letter to the president of the Southern Association**

22 **for Colleges and Schools, Commission on Colleges, stating his intent for a**

23 **change in governance for the institution from the Board of Supervisors of**

24 **Louisiana State University and Agricultural and Mechanical College to the**

25 **Board of Supervisors of the University of Louisiana System.**

26 **(2) The chancellor, faculty, and administration of the University of New**

27 **Orleans shall take every action necessary to efficiently and expeditiously comply**

28 **with all established timelines, requirements, and procedures to ensure that the**

29 **requested change of governance may be effected immediately upon receipt of**

1           commission approval.

2           B.(1) Pursuant to the authority granted to the legislature by Article  
3           VIII, Section 5(D)(3) of the Constitution of Louisiana to transfer an institution  
4           from one board to another by law enacted by two-thirds of the elected members  
5           of each house, the University of New Orleans, and the assets, funds, obligations,  
6           liabilities, programs, and functions related thereto, are hereby transferred to  
7           the University of Louisiana System, and shall be under the management and  
8           supervision of the Board of Supervisors for the University of Louisiana System.

9           (2) The provisions of this Subsection shall become effective immediately  
10           upon receipt of approval from the Southern Association for Colleges and  
11           Schools, Commission on Colleges, for the requested change in governance.

12           C. The Board of Supervisors for the University of Louisiana System  
13           shall develop policies and procedures to resolve issues related to the status and  
14           tenure of employees of the University of New Orleans which may arise from the  
15           transfer of the institution to the University of Louisiana System. However, such  
16           policies and procedures shall maintain the tenure policies and procedures which  
17           are in place for University of New Orleans employees who have already been  
18           awarded tenure or who occupy a tenure-track position on the date the transfer  
19           of the University of New Orleans to the University of Louisiana System becomes  
20           effective.

21           D. The Board of Supervisors of Louisiana State University and  
22           Agricultural and Mechanical College shall:

23           (1) Continue to exercise its authority to supervise and manage the  
24           University of New Orleans until such time as the Southern Association for  
25           Colleges and Schools, Commission on Colleges, grants approval for the  
26           requested change in governance and transfer of the University of New Orleans  
27           to the University of Louisiana System.

28           (2)(a) Work cooperatively and collaboratively with the Board of  
29           Supervisors of the University of Louisiana System to ensure that the requested

1 transfer may be effected immediately upon receipt of commission approval for  
2 the change in governance.

3 (b) Prior to receipt of such approval, enter into agreements to transfer  
4 as many administrative and supervisory functions as possible with respect to the  
5 University of New Orleans to the University of Louisiana System, without  
6 adversely impacting the accreditation status of the institution.

7 (3) Upon receipt of such approval, immediately transfer all assets, funds,  
8 facilities, property, obligations, liabilities, programs, and functions relative to  
9 the University of New Orleans to the University of Louisiana System.

10 E. The Board of Supervisors of Louisiana State University and  
11 Agricultural and Mechanical College shall not:

12 (1) Interfere with, or impede in any way, the processes to transfer the  
13 University of New Orleans to the University of Louisiana System.

14 (2) Sell, transfer, or otherwise remove any asset or thing of value,  
15 movable or immovable, tangible or intangible, attributable to or owned by the  
16 University of New Orleans, or owned, leased by, or operated by any foundation  
17 related to such institution on the effective date of this Section. In addition,  
18 access to any asset leased to any foundation related to the University of New  
19 Orleans shall not be restricted or denied.

20 (3) Incur, transfer or assign any debt or other responsibility or  
21 obligation to the University of New Orleans that is not properly attributable to  
22 the institution on the effective date of this Section.

23 (4)(a) Disproportionately reduce or reallocate the level of funding that  
24 would otherwise be allocated to the University of New Orleans pursuant to the  
25 postsecondary education funding formula.

26 (b) Until such time as the University of New Orleans is transferred to the  
27 University of Louisiana System, impose any budget reductions or changes in  
28 funding allocations upon the institution without prior review and approval from  
29 the Joint Legislative Committee on the Budget.

1           **(5) Take any personnel action with regard to any instructional or**  
2           **administrative employee of the University of New Orleans without the prior**  
3           **approval of the Board of Supervisors for the University of Louisiana System.**

4           **F. The commissioner of administration shall ensure that sufficient funds**  
5           **and resources are available to fully effect the transfer of the University of New**  
6           **Orleans to the University of Louisiana System. The Board of Regents and the**  
7           **state of Louisiana shall indemnify and hold harmless the Board of Supervisors**  
8           **for Louisiana State University and Agricultural and Mechanical College and**  
9           **Board of Supervisors for the University of Louisiana System for any liability**  
10           **and costs which may result from the transfer of existing contracts, financing, or**  
11           **immovable property. For one year after the effective date of the transfer, the**  
12           **fees previously paid by the University of New Orleans to the Board of**  
13           **Supervisors of Louisiana State University and Agricultural and Mechanical**  
14           **College which become due after the effective date of the transfer shall be paid**  
15           **to the Board of Regents. The Board of Regents shall use the proceeds of the fees**  
16           **collected to defray the costs of the transfer of the University of New Orleans,**  
17           **including insurance to pay for any indemnification costs arising from the**  
18           **transfer. Such funding and resources shall not impact the Board of Regents'**  
19           **formula for equitable distribution of funds to institutions of higher education.**

20           **G. The legislature shall appropriate sufficient funds to the Board of**  
21           **Supervisors to fully effect the transfer of the University of New Orleans to the**  
22           **University of Louisiana System.**

23           Section 2. R.S. 17:3215(2) is hereby repealed.

24           Section 3.(A) This Act is not intended to nor shall it be construed to impair the  
25           contractual or other obligations of any agency, office, board, commission, department, or  
26           political subdivision, or of the state as a result of the transfers of obligations in accordance  
27           with this Act. Upon the effective date of the transfer of the University of New Orleans, all  
28           such obligations of the Board of Supervisors of Louisiana State University and Agricultural  
29           and Mechanical College related to the University of New Orleans shall be deemed to be

1 obligations of the Board of Supervisors for the University of Louisiana System to the same  
2 extent as if originally incurred by it.

3 (B) All funds and revenues previously dedicated by authority of the constitution and  
4 laws of this state to the payment of any bonds related to the University of New Orleans shall  
5 continue to be collected and dedicated to such payments unless and until other provision is  
6 made for such payments in accordance with law. Upon the effective date of the transfer of  
7 the University of New Orleans, all acts relating to such bonds by the Board of Supervisors  
8 of Louisiana State University and Agricultural and Mechanical College shall be deemed to  
9 be the acts of the Board of Supervisors for the University of Louisiana System in the same  
10 manner and to the same extent as if originally so done.

11 (C) No provision of this Act shall preclude a Memorandum of Understanding (MOU)  
12 under which a bonded indebtedness obligation of the Board of Supervisors of Louisiana  
13 State University and Agricultural and Mechanical College existing on the effective date of  
14 this Act would remain in force after an agreement that the Board of Supervisors for the  
15 University of Louisiana System would be responsible for all payments, costs, and other  
16 covenants contained in said bonded indebtedness. If the maintenance of bonded indebtedness  
17 by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical  
18 College for properties or assets to be transferred to the Board of Supervisors for the  
19 University of Louisiana System is advantageous to the state of Louisiana, then the Board of  
20 Supervisors of Louisiana State University and Agricultural and Mechanical College shall  
21 make every effort to maintain such bonded indebtedness under a Memorandum of  
22 Understanding as described herein.

23 (D) The provisions of this Section shall have the full force and effect of law.

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

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The original instrument was prepared by Jeanne Johnston. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

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#### DIGEST

Appel (SB 266)

Proposed law provides for the transfer of the University of New Orleans from the Louisiana State University System to the University of Louisiana System as follows:

1. Requires the chancellor of UNO to submit a letter to the president of the Southern Association for Colleges and Schools, Commission on Colleges (SACS), not later than August 1, 2011, stating his intent for a change in governance from the Bd. of Supervisors for the LSU System to the Bd. of Supervisors of the UL System.
2. Requires the chancellor, faculty, and administration of UNO to take every action necessary to efficiently and expeditiously comply with all SACS timelines, requirements, and procedures to ensure that the requested change of governance may be effected immediately upon receipt of commission approval.
3. Transfers UNO to the UL System, pursuant to the authority granted to the legislature by the La. constitution to transfer an institution from one board to another by law enacted by two-thirds of the elected members of each house. Also transfers the assets, funds, obligations, liabilities, programs, and functions related to the institution. Provides that such transfer will become effective immediately upon receipt of SACS approval for the change in governance.
4. Requires the Bd. of Supervisors for the UL System to develop policies and procedures to resolve issues related to the status and tenure of UNO employees which may arise from the transfer. Requires the board to maintain tenure policies and procedures that are in place for UNO employees who have already been awarded tenure or are in a tenure-track position on the date the transfer becomes effective.

Provides that the LSU Bd. of Supervisors shall:

1. Continue to exercise its authority to supervise and manage UNO until such time as SACS grants approval for the requested change in governance and transfer of the institution to the UL System.
2. Work cooperatively and collaboratively with the UL System board to ensure that the transfer may be effected immediately upon receipt of SACS approval.
3. Enter into agreements to transfer as many UNO administrative and supervisory functions as possible to the UL System, prior to receipt of SACS approval, without adversely impacting the accreditation status of the institution.
4. Immediately transfer all assets, funds, facilities, property, obligations, liabilities, programs, and functions relative to UNO to the UL System, upon receipt of SACS approval for the transfer.

Provides that the LSU Bd. of Supervisors shall not:

1. Interfere with or impede in any way the processes to transfer UNO to the UL System.
2. Sell, transfer, or otherwise remove any asset or thing of value, movable or immovable, tangible or intangible, attributable to or owned by UNO, or owned, leased by, or operated by any foundation related to UNO on the effective date of

- proposed law. Further provides that access to any asset leased to any foundation related to UNO shall not be restricted or denied.
3. Incur, transfer or assign any debt or other responsibility or obligation to UNO that is not properly attributable to either institution on the effective date of proposed law.
  4. Disproportionately reduce or reallocate the level of funding that would otherwise be allocated to UNO pursuant to the postsecondary education funding formula. Provides that until UNO is transferred to the UL System, no budget reductions or changes in funding allocations for the institution shall be imposed without prior review and approval from the Jt. Legislative Committee on the Budget.
  5. Take any personnel action with regard to any instructional or administrative employee of UNO without the prior approval of the Bd. of Supervisors of the UL System.

Proposed law requires the commissioner of administration to ensure that sufficient funds and resources are available to fully effect the transfer of UNO to the UL System. Further requires the legislature to appropriate sufficient funds to the Bd. of Supervisors to fully effect the transfer.

Proposed law requires the Board of Regents and the state of Louisiana to indemnify and hold harmless the transferee and transferor management boards for any liability and costs which may directly result from the mandated transfer. Further provides that such funding and resources shall not impact the Board of Regents' formula for equitable distribution of funds to institutions of higher education.

Proposed law provides that for one year after the effective date of the transfer, fees previously paid by UNO to the Bd. of Supervisors of the LSU System and which become due after the transfer shall be paid to the Board of Regents, who will use the proceeds to defray transfer costs, including indemnification insurance.

Proposed law clarifies that the proposed law does not preclude a Memorandum of Understanding (MOU) between the boards under which an existing bonded indebtedness of the LSU System. Board would remain in force after an agreement that the Bd. of Supervisors for the UL System would be responsible for all payments, costs, and other covenants contained in the bonded indebtedness. Requires the Bd. of Supervisors of the LSU System "to make every effort" to maintain such bonded indebtedness under an MOU if it is advantageous to the state.

Present law (R.S. 17:3215(2)) places the University of New Orleans in the Louisiana State University System.

Proposed law repeals this provision.

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

(Amends R.S. 17:3217; adds R.S. 17:3230; repeals R.S. 17:3215(2))

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Adds requirement that the commission of administration indemnify and hold harmless the transferee and transferor management boards for any liability and costs which may directly result from the transfer.



2. Clarifies that proposed law does not impair contractual obligation of an entity as a result of the transfer.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill.

1. Provides that funding of transfer shall not impact the Board of Regents' formula for equitable distribution of funds to institutions of higher education.

Senate Floor Amendments to reengrossed bill.

1. Changes who will indemnify the transferee and transferor management boards from the commissioner of administration to the Bd. of Regents and the state.
2. Prohibits changing tenure policies and procedures in place for UNO employees who are already tenured or who occupy a tenure-track position at time of transfer.
3. Requires legislative appropriation to fully effect the transfer.
4. Requires UL System board approval prior to personnel action on UNO employees by the LSU Bd. of Supervisors.
5. Provides for agreements between the boards relative to maintenance of bonded indebtedness existing at the time of transfer.