

LIMITATIONS TO STATEWIDE REACH OF LAND GRANT UNIVERSITIES – FLORIDA AS A CAUTIONARY TALE

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ABSTRACT

This article engages the question of legal boundaries to state-imposed limits to the federal land grant university system’s statewide mission in the areas of research, extension, and teaching, using Florida as an example case. We review the evolution of the legal and regulatory context at both the federal and state levels for Florida, alongside the history of the state’s land grant universities. Our analysis provides a useful context for understanding the extent of legal boundaries on state action in this context.

I. INTRODUCTION

State regulations restricting land grant universities from physically operating in certain geographical regions of the state could conflict with the legislation for the federal land grant system that mandates these universities serve the people of their home state.

On November 9, 2011, the Board of Governors of the State University System of Florida approved its Strategic Plan for 2012 through 2025, calling for the, then 11, state universities that make up the State University System to become “internationally recognized as a premier public university system.”¹ At this time, Florida State University entered into a joint venture project with Digital Domain Media Group to build a film and animation school in West Palm Beach, Florida,²

1. STATE UNIV. SYS. OF FLA., BD. OF GOVERNORS, STRATEGIC PLAN 2012-2025, 11 (Nov. 10, 2011), https://www.flbog.edu/wp-content/uploads/2011-11-28_Strategic_Plan_2012-2025_FINAL-1.pdf [<https://perma.cc/B2BX-BSZG>] [hereinafter STRATEGIC PLAN 2012-2025].

2. John Kennedy, *FSU treading on FAU turf has all state universities feuding over regionalization proposal*, PALM BEACH POST (Aug. 22, 2011, 1:57 AM), <https://www.palmbeachpost.com/news/state—regional/fsu-treading-fau-turf-has-all-state-universities-feuding-over-regionalization-proposal/IPsBo3aDmfWmBLj1L4fQgl/> [<https://perma.cc/A4GP-LAKG>].

just 29 miles north of Florida Atlantic University's film school, which triggered a conflict between the state universities. The resulting dilemma brought the continued struggle between the state universities over future expansion projects as older, more established state universities located in non-metropolitan areas seek to cultivate partnerships with business and industry by expanding their geographic footprint into the metropolitan areas where newer universities are located.³

To quell this conflict and to accommodate a future twelfth state university, the Board of Governors approved Regulation 8.004.⁴ As originally drafted, Regulation 8.004 placed each state university into an economic development region, requiring any university wishing to expand into another region to seek approval from the lead state university located there.⁵ Ultimately, Regulation 8.004 was amended to eliminate the economic development region concept and instead requires approval by the Board of Governors whenever a state university wishes to offer a college degree or certificate program that would require a substantial presence at a location other than the university's established campuses.⁶ While it is not a *de facto* limitation on geographic expansion, Regulation 8.004 provides grounds for the Board of Governors to prevent a state university from offering a degree or certificate program in a new location, which can severely limit the future expansion efforts of the state universities.⁷ The impact of Regulation 8.004 remains to be seen, but undoubtedly, this regulation raises serious questions about the authority of the state to establish and sustain these limits with respect to its land grant universities.

While the Board of Governors was implementing this vision for Florida's public university system, the United States celebrated the 150-year anniversary of a landmark event in higher education.⁸ Signed into law by President Abraham Lincoln on July 2, 1862, the Morrill Act represented the culmination of United States Representative Justin Smith Morrill's campaign to foster higher education in the fields of agriculture and mechanics—two subjects considered critical to the developing economy and to the growing middle class but generally ignored by American universities.⁹ Aided by subsequent federal legislation that expanded on

3. *Id.*

4. See FLA. BD. OF GOVERNORS, DRAFT FOR DISCUSSION DURING STRATEGIC PLANNING COMMITTEE MEETING OF 8.004, (1) (Comm. Print 2011) [hereinafter JUNE 6, 2011 DRAFT FOR DISCUSSION OF 8.004].

5. *Id.* at 1-2.

6. FLA. BD. OF GOVERNORS, REG. 8.004, ACADEMIC PROGRAM COORDINATION (2011).

7. *Id.*

8. *History of APLU, ASS'N OF PUB. & LAND-GRANT UNIVERSITIES* (Nov. 12, 2020, 6:25 PM), <http://www.aplu.org/about-us/history-of-aplu/> [https://perma.cc/3RZB-YVCT].

9. *Id.*

the First Morrill Act,¹⁰ Justin Morrill's dream of having a federal upper level education system that would provide accessible education to working class Americans was realized. Today, there are over 100 land grant universities and colleges throughout the United States, many of which are the predominant universities of their state.¹¹

The land grant university idea was one of democratizing higher education, creating universities of the people with a focus on service to the working classes, and improving lives through applied research, education, and outreach. This idea, deemed the only uniquely American idea in higher education,¹² resulted from the passage of various federal acts. The first Morrill Act, of 1862, granted 17.4 million acres of federal land to be used to establish and fund colleges "to teach such branches of learning as are related to agriculture and the mechanic arts . . . to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."¹³ This Act granted broad access to upper-level education, eroding the class distinction of college education the university system had helped perpetuate. The second Morrill Act, of 1890, which required states to either demonstrate race was not a factor in admissions or designate a separate land grant institution for persons of color, was a landmark step in expanding college education to African Americans.¹⁴ The Hatch Act of 1887 funded the creation of agricultural experiment stations at the land grant colleges to support research consistent with the land grant mission.¹⁵ Later, the Smith-Lever Act of 1914 created the cooperative extension service system to inform and educate the general public through demonstrations and courses provided via the land grant colleges.¹⁶ Together, the federal legislation that created the land grant university system has had a profound impact on higher education and on the country as a whole.¹⁷

This legislation, particularly the Hatch and Smith-Lever Acts, acknowledged the need for "the people's universities" to have statewide reach through its

10. See Hatch Act of 1887, 7 U.S.C. § 361; see also Morrill Act of 1890, Pub. L. No. 51-841, 26 Stat. 417. See generally Smith-Lever Act of 1914, 7 U.S.C. § 341.

11. *History of APLU*, supra note 8.

12. Hiram E. Fitzgerald et al., *The Centrality of Engagement in Higher Education*, 16 J. OF HIGHER EDUC. OUTREACH AND ENGAGEMENT 1, 8-9 (2012).

13. Morrill Act of 1862, 7 U.S.C. § 304.

14. Morrill Act of 1890, 7 U.S.C. § 322.

15. Hatch Act of 1887, 7 U.S.C. § 361(a).

16. Smith-Lever Act of 1914, 7 U.S.C. § 341.

17. George R. McDowell, *Engaged Universities: Lessons from the Land-Grant Universities and Extension*, ANNALS OF THE AM. ACAD. OF POL. & SOC. SCI. 585 HIGHER EDUC. IN THE TWENTY-FIRST CENTURY 31, at 35 (Jan. 2003).

research, extension, and education efforts.¹⁸ To fulfill this land grant mission as intended by federal legislation, many land grant universities built multiple campuses in their respective states. Continued expansion of these efforts now appears to be in conflict with the interests of new universities located in metropolitan areas, as exemplified by the Florida situation.¹⁹

With approval of Regulation 8.004, Florida is trying to structure its public university system to accommodate future needs of a rapidly growing and urbanizing population and manage limited budgetary resources. At question is whether placing geographic limits on research and education efforts on Florida's two land grant universities, the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU), is preventing these universities from effectively fulfilling their land grant university mission of being the "universities of the people" for the state of Florida. If the geographic limits are affecting the ability of these universities to carry out their land grant mission, are the geographic limits in conflict with federal law? This article will address this question.

Part II of this Article will provide a detailed account of the establishment of the land grant college system, beginning with Justin Morrill's personal mission for establishing the land grant university system, followed by a detailed description of the main federal acts that led to its creation. Part III will explain how the state of Florida implemented its land grant university system by providing a history of the formation of the state's two land grant universities. Part IV will provide an overview of Regulation 8.004 and what led to its creation. Finally, Part V will assess the legal merits of limiting Florida's land grant universities to geographical regions of the state in possible conflict with intent of the federal land grant university legislation.

II. THE CREATION OF THE LAND GRANT COLLEGE SYSTEM²⁰

One hundred and fifty years ago, colleges were much more limited in their scope of instruction.²¹ Following the European model at the time, colleges catered only to those interested in the professions (e.g., medicine, law).²² Naturally, this

18. *Id.*

19. Joey Flechas, *Officials Oppose Confining UF to Local Counties*, 105 INDEP. FLA ALLIGATOR 1, 1 (June 28, 2011).

20. See generally JAMES T. BONNEN, *The Land-Grant Idea and the Evolving Outreach University*, in *University-Community Collaborations for the Twenty-First Century* 25, 25-70 (Richard M. Lerner & Lou Anna K. Simon eds., 1998).

21. See *id.*

22. *Id.*

meant upper-level education was a luxury for an elite few.²³ The creation of the land grant universities was meant to democratize education, embracing a principle that *anyone* from *any* walk of life can achieve upper-level education in *any* field he or she desires—a material representation of the American Dream.²⁴

As referenced above, the land grant university system was created through several federal acts—the most substantial being the Morrill Act of 1862, the Morrill Act of 1890, the Hatch Act of 1887, and the Smith-Lever Act of 1914—all of which can trace their existence to a United States Representative from Vermont, Justin Morrill.²⁵ Justin Morrill envisioned a university system that could serve everyone so people with humble beginnings, like himself, could live out the American Dream by improving their position in life with a traditional academic education—therefore, a university of the people.²⁶ This section will begin by detailing the story of Justin Morrill and what led to his mission for creating a university of the people. Subsequently, it will detail the historical context of the federal legislation that helped Justin Morrill’s vision come true.

A. Justin Morrill’s Personal Struggles to Achieve Upper-Level Education

Justin Morrill became a passionate advocate for the creation of a university of the people in large part because of his own personal struggle to achieve higher education.²⁷ On April 14, 1810, Justin Morrill was born the son of a blacksmith in Strafford, Vermont.²⁸ By all accounts, Morrill was a very intelligent child who had a passion for reading and learning early in life.²⁹ Although Morrill had an interest in the law, a university education was not accessible.³⁰ While Morrill’s father could afford to send him to college, he could not afford to send all of Morrill’s brothers to college as well, so Morrill honorably decided to end his formal education at secondary school.³¹ Although Morrill would go on to become a successful merchant, his passion was with the law, and he continued to educate himself through reading scholarly books borrowed from the judge’s office where he had

23. *Id.*

24. *Id.* at 27-29, 49.

25. CRAIG L. LAMAY, *Justin Smith Morrill and the Politics and Legacy of the Land-Grant College Acts*, in *A Digital Gift to the Nation: Fulfilling the Promise of the Digital and Internet Age* 73, 73 (2001).

26. BONNEN, *supra* note 20, at 16, 29.

27. LAMAY, *supra* note 25, at 75.

28. *Id.* at 74.

29. COY F. CROSS II, *JUSTIN SMITH MORRILL* 5 (Mich. State Univ. Press ed. 1999).

30. *Id.* at 6.

31. *Id.*

clerked.³² Morrill lamented that this manner of obtaining “moderate education” seemed unreasonably difficult.³³ It was this personal struggle to achieve higher education that led Morrill to propose the establishment of the land grant system.³⁴

Morrill’s difficulties in achieving a college education were not uncommon for his time. There were three major barriers that prevented a majority of Americans from attending universities in the early nineteenth century. First, cost of attendance and obvious discrimination prevented many from attending college; as such, colleges in the United States were almost universally attended by wealthy white males.³⁵ Second, attending college was impractical for many given the instructional focus of the colleges at the time was primarily concerned with teaching the professions of law, medicine, or theology.³⁶ Those students who sought a more “practical” education were left with few options, if any.³⁷ Few colleges across the country taught any significant amount of science or agriculture, which was needed to support a rapidly industrializing country³⁸ and to meet the needs of the large percentage of the population that was still engaged in farming as a profession.³⁹

B. The Morrill Act of 1862

Morrill’s first step in implementing an overhaul of the United States’ university system began with the idea of colleges that could better serve the needs of the average working man who supported himself and his family with mule and plow.⁴⁰ He drew inspiration from the proponents of the agricultural movement that was gaining momentum in the United States at the time. These proponents advocated for better education of American farmers to help improve productivity, which lagged behind the productivity of farms in Europe.⁴¹ Since a majority of Americans at the time were employed in the farming business, improving farming productivity would be a major boom to the country’s economy. Those responsible for the agricultural movement looked to the productivity methods in Europe,

32. *Id.* at 7.

33. *Id.* at 5.

34. *Id.* at 6.

35. LAMAY, *supra* note 25, at 76.

36. *Id.*

37. *See id.*

38. *Id.* (noting that the 1860 census data indicated only three percent of the 397 colleges throughout the country had a science or agriculture department).

39. *Id.* at 75 (indicating that during the first half of the 1800s approximately sixty percent of Americans were engaged in farming as their profession).

40. *Id.*

41. *See id.*

including workman's colleges geared toward training farmers in the use of scientific-based methodology.⁴² In 1850, Jonathan Turner, a professor at Illinois College, lobbied for similar institutions to be implemented in the United States by the federal government to provide for better productivity in the fields of agriculture and mechanics.⁴³ Morrill was attracted to the agricultural college method as a way of providing a more practical, as well as obtainable, system of upper-level education.⁴⁴ He became a trustee of Norwich University in 1848, one of the very few colleges in the country that had established a department of agriculture.⁴⁵

In 1854, Morrill was elected to the United States House of Representatives from Vermont, riding the Whig Party's stronghold in Vermont's second congressional district into Washington, and started what would become a 44 year career in Congress.⁴⁶ Three months after arriving in Washington D.C., Morrill proposed his idea for a people's university system by asking Congress to create agricultural universities akin to the military academies and grant free tuition to one student from each congressional district.⁴⁷ When this idea failed to gain momentum, Morrill reintroduced the concept by adding the land grant component as a way to finance his vision, whereby every state would receive 20,000 acres of federal land for every state representative and senator.⁴⁸ For states that did not have enough federal land located within their borders, the bill proposed these states be provided land scrip certificates, entitling them to purchase land in other states or territories.⁴⁹ Proceeds from state sale of federal land were to be put in trust, the income for which would provide help to found and support the universities.⁵⁰

The bill met significant opposition in Congress. Some thought the establishment of a system of colleges with federal land exceeded the scope of the federal government's power.⁵¹ Additionally, as the bill allowed for more populated states to cherry pick prime public lands, most southern Congressmen disliked the bill's general purpose despite the importance of agriculture in the South.⁵² Western Congressmen resented the idea of granting land scrip as land from western states

42. *Id.*

43. *See id.* (noting Turner is credited as being the first to propose the idea of using federal land grants to fund the establishment of agricultural colleges).

44. *See id.*

45. *Id.* at 76.

46. *Id.* at 74.

47. *Id.* at 76.

48. *Id.* at 76.

49. *Id.* at 79.

50. *Id.*

51. *See id.* at 77.

52. *See id.*

would be used to help establish universities in the eastern states.⁵³ Nevertheless, the bill narrowly made it through the House and the Senate in 1859.⁵⁴ However, President James Buchanan vetoed the bill, stating it was unconstitutional as higher education was a traditional power reserved to the states.⁵⁵ When Morrill reintroduced the bill in 1861, it again passed both houses despite much opposition.⁵⁶ President Abraham Lincoln signed the bill into law on July 2, 1862.⁵⁷

With the passage of the bill, each state was allotted 30,000 acres of public land for “each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860.”⁵⁸ For Western states comprised of a large amount of public land open to private entry, this meant a direct allocation of land within their borders that they could select and sell. However, most Eastern states did not have enough federal public land available to satisfy the land granted under the Act.⁵⁹ As a solution, these Eastern states were allotted land scrip from the sale of public land for the cost of \$1.25 per acre.⁶⁰ To prevent one state from owning the land of another state, land scrip had to be sold to assignees under the Act who could then redeem the land scrip for land in other states.⁶¹

Pursuant to the land grant act, specific instructions were given as to what to do once the land or land scrip was sold. Proceeds were to be used to create a perpetual fund, the corpus of which was to be comprised of “bonds of the United States or of the States or some other safe bonds . . . yield[ing] a fair and reasonable rate of return . . .”⁶² Interest income was then to be applied toward the “endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts . . .”⁶³ However, expenses arising from the “management, superintendence, and taxes” of the land after its selection and prior to its sale and expenses incurred in managing the fund had to be paid by the

53. *See id.*

54. *Id.*

55. *See id.*

56. *Id.* at 77-78.

57. *Id.* at 78.

58. 7 U.S.C. § 301 (1862).

59. LAMAY, *supra* note 25, at 79.

60. 7 U.S.C. § 302 (1862).

61. *Id.*

62. 7 U.S.C. § 304 (1862).

63. *Id.*

States.⁶⁴ Additionally, none of the interest from the fund could be allocated “to the purchase, erection, preservation, or repair of any building or buildings,” nor to the purchase of land on which to build the schools.⁶⁵ States had five years from expressly accepting the Act to ensure one of these colleges was established within the states’ respective borders.⁶⁶ While the timeline was clear, the Morrill Act of 1862 was void of any language defining what actually qualified as instruction in agriculture and the mechanic arts.⁶⁷ Both were eventually defined through rulings of the Secretary of the Interior.⁶⁸ Schools did not have to provide courses in all of the listed subject areas, but land grant funds had to be allocated to these specific fields.⁶⁹

By creating a system of colleges that was designed to promote agricultural and scientific knowledge, the Morrill Act of 1862 opened the possibility of a college education to a wide array of people who previously never had the opportunity.⁷⁰ Up until the passage of the Act, colleges had focused mainly on teaching the professions, alienating a large percentage of the population who sought education that was more practical to their livelihoods.⁷¹ By focusing on teaching agricultural and mechanical arts, the land grant colleges appealed to a demographic that had been ignored by the seemingly elitist professional-centric universities at the time.⁷² The Act allowed people to attend universities who would not have had the opportunity to do so otherwise.⁷³

64. 7 U.S.C. § 303 (1862).

65. 7 U.S.C. § 305 (1862).

66. *Id.*

67. *See generally* 7 U.S.C. §§ 301-349 (1862).

68. HENRY S. BRUNNER, U.S. DEP’T OF HEALTH, EDUC., & WELFARE, LAND-GRANT COLLEGES AND UNIVERSITIES 1862-1962: BULLETIN NO. 1962-13, 63 (1962) (citing Ruling of U.S. Secretary of the Interior (Dec. 7, 1900 & May 23, 1916)) (“Instruction in agriculture” was defined to include courses in agriculture, horticulture, forestry, agronomy, animal husbandry, dairying, veterinary medicine, and poultry husbandry. “Instruction in mechanic arts” was defined to include courses in mechanical engineering, civil engineering, electrical engineering, irrigation engineering, mining engineering, marine engineering, railway engineering, experimental engineering, textile industry, architecture, machine design, mechanical drawing, ceramics, stenography, typewriting, telegraphy, printing, and shop work.).

69. *See id.*

70. LAMAY, *supra* note 25, at 81.

71. *Id.* at 76.

72. *See id.*

73. *Id.* at 81.

C. The Morrill Act of 1890

The passage of the Morrill Act of 1862 was initially met with limited success.⁷⁴ Many states received far less money for the land or land scrip than Congress had initially required in the Act.⁷⁵ In addition, the Morrill Act of 1862 specifically provided that none of the income from the sale of land or land scrip could be used to construct buildings.⁷⁶ As such, states without suitable pre-existing colleges in place needed to construct a new college with their own funds.⁷⁷ This was especially difficult for some states in a post-Civil War economy.⁷⁸ Consequently, many states, including Florida, were slow in implementing their land grant universities. Additionally, once the schools were open, the programs were limited in extent and success due to insufficient funds.⁷⁹ Justin Morrill did not stand by idly while his vision sputtered in its early stages; he constantly fought in Washington to win additional federal support for the program.⁸⁰ Morrill won this fight on August 30, 1890, when President Benjamin Harrison signed into law the Morrill Act of 1890.⁸¹

The Morrill Act of 1890 was enacted to provide “for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts” by granting each state an additional \$15,000 to aid in this mission.⁸² This amount would increase by \$1,000 each successive year for ten years, yielding a final total of \$25,000 a year in 1900.⁸³ These funds had to be used in their entirety every year and they could not be “accumulated or converted into an interest-bearing fund.”⁸⁴ Like the Morrill Act of 1862, states were prohibited from using any of the funds to construct new buildings or adapt preexisting buildings.⁸⁵

Unlike the Morrill Act of 1862, the 1890 Act provided that allocated funds could be used to promote areas outside of agriculture and the mechanic arts.⁸⁶

74. *Id.* at 79.

75. *Id.*

76. 7 U.S.C. 305 (1862).

77. LAMAY, *supra* note 25, at 79.

78. *See id.*

79. *Id.* at 79-80.

80. *Id.* at 80.

81. *Id.*

82. 7 U.S.C. § 322 (1890).

83. LAMAY, *supra* note 25, at 80.

84. BRUNNER, *supra* note 68, at 62 (citing Decision of Attorney General (June 20, 1899)).

85. 7 U.S.C. § 305 (1862); 7 U.S.C. § 322 (1890).

86. 7 U.S.C. § 322.

Specifically, the Act provided the funds could be used for the instruction of “the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life”⁸⁷ Although not originally defined in the Act, these terms would later be defined by rulings of the Secretary of the Interior.⁸⁸ A school was not required to offer all of these courses, but the federal grant money could only be used toward the advancement of these courses.⁸⁹

Another issue faced by early land grant universities was the fact that most African Americans had not been provided the opportunity to share the benefits of the Morrill Act of 1862.⁹⁰ The broad purpose of the Morrill Act was to provide education for “those at the bottom of the ladder who want to climb up.”⁹¹ In a post-Civil War society, those words could not more clearly embrace the newly freed slaves; however, very few African Americans were able to attend a land grant college. The United States university system was still very segregated after the passage of the Act, with separate universities for white and black students.⁹² Only three African American universities received land grant funding as of 1890.⁹³ The majority of states opted to develop agricultural and mechanical schools catering to white students.⁹⁴ The Morrill Act of 1890 addressed this issue of de facto

87. *Id.*

88. BRUNNER, *supra* note 68, at 63-64 (citing Rulings of Sec’y of the Interior (Dec. 7, 1900 & May 23, 1916), the term “Instruction in English language” was held to include courses in the “English language, English literature, composition, rhetoric, and oratory.” The term “Instruction in mathematical sciences” was held to include courses in mathematics, bookkeeping, and astronomy. “Instruction in natural and physical sciences” included courses in “chemistry, physics, biology, botany, zoology, geology, mineralogy, metallurgy, entomology, physiology, bacteriology, pharmacy, physical geography, and meteorology.” “Instruction in economic sciences” consisted of courses in “political economy, home economics, commercial geography, and sociology.”).

89. *See id.*

90. LAMAY, *supra* note 25, at 73.

91. Justin S. Morrill, Representative of Vermont, Speech on the Educational Bill at the United States Senate (Dec. 15, 1880) (transcript available in the University of Michigan library).

92. *Morrill Act of 1890*, ALA. A&M UNIV. (Jan. 27, 2021, 7:19 P.M.), <https://www.aamu.edu/about/our-history/morrill-act-1890.html> [<https://perma.cc/TVB6-ZUDW>].

93. Marcus M. Comer, *Cooperative Extension and the 1890 Land-Grant Institution: The Real Story*, 44 J. OF EXTENSION 1, 1 (June 2006) (noting the three universities - Alcorn State University, Hampton University, and Claflin University).

94. Fred Humphries, *Land-Grant Institutions: Their Struggle for Survival and Equality, in A CENTURY OF SERVICE: LAND-GRANT COLLEGES AND UNIVERSITIES, 1890-1990*, 3, 4 (Ralph D. Christ & Lionel Williamson eds., 1992).

segregation; the Act provided that “[n]o money shall be paid out under this subchapter . . . for the support or maintenance of a college where a distinction of race or color is made in the admission of students.”⁹⁵

However, what the Morrill Act of 1890 gave, it also took away. States wishing to avail themselves of not making race or color a factor in the admission of land grant schools could satisfy another one of the Act’s requirements through the “establishment and maintenance of such colleges separately for white and colored students.”⁹⁶ Essentially, the Morrill Act of 1890 was Congress’s and the President’s endorsement of “separate-but-equal” and was later endorsed by the United States Supreme Court in *Plessy v. Ferguson*.⁹⁷ The creation of separate land grant colleges for white students and black students was permissible only if there was a “just and equitable division of the fund,” as determined by the Secretary of the Interior.⁹⁸

The Morrill Act of 1890, much like its predecessor, was met with limited success at the onset. When the Morrill Act of 1890 was passed, African Americans had only been free for 25 years, which meant there was an even larger dearth of possible candidates for agricultural and mechanical collegiate level courses than faced by the 1862 land grant colleges.⁹⁹ It was particularly troublesome in the South, where four-year high schools for African American students were all but a nullity at the time of the passage of the Act.¹⁰⁰ As most of the 1890 land grant student bodies were originally comprised of elementary and secondary school students, it would take up until 1931 for the 1890 land grant colleges to have more collegiate level students enrolled than secondary level students.¹⁰¹

Even though one objective of these colleges was to provide education in agriculture and mechanical arts, most of the black land grant universities offered few courses in these areas.¹⁰² Instead, a large number of the 1890 schools focused on the classics so graduates could teach. Two reasons existed for this teaching focus. First, there was a severe shortage of African American teachers in the black grade schools.¹⁰³ Second, because of the grade school focus, few resources were

95. 7 U.S.C. § 323 (1890).

96. *Id.*

97. HUMPHRIES, *supra* note 94, at 4.

98. 7 U.S.C. § 323 (1890).

99. HUMPHRIES, *supra* note 94, at 4.

100. *Id.* (noting there were only 45 African American high-schools offering a four-year curriculum in 1915).

101. *Id.* at 5.

102. *Id.*

103. *Id.*

left to provide significant instruction in the fields of agriculture and mechanics.¹⁰⁴ The lack of funding for these programs was further compounded by the fact many black land grant colleges were not getting an equitable share of federal grant money compared to their white land grant counterparts.¹⁰⁵ Subsequently, training students to be teachers would be the primary focus of many black land grant colleges even up into the 1950s.¹⁰⁶ Not until 1967, when the United States Department of Agriculture began allocating discretionary funds to black land grant colleges, did many of the 1890 land grant colleges actually begin to fulfill their purpose of providing upper-level education in agriculture and mechanics.¹⁰⁷

The legacy of the Morrill Act of 1890 in helping to build a university system of the people is two-fold. First, it provided additional aid that helped many of the start-up land grant colleges suffering from budgetary constraints not covered under the Morrill Act of 1862.¹⁰⁸ Second, and more importantly, while it took years to accomplish, it was the first substantial federal effort to balance out the educational inequality between whites and African Americans.¹⁰⁹ By providing funding that disallowed discrimination based on color, the Morrill Act of 1890 was a substantial step in the land grant university mission of being the universities of the people and making upper-level education available to anyone who sought it, regardless of his or her skin color.¹¹⁰

The initiative of the Morrill Act of 1890 of providing collegiate education to a minority population would, a century later, be applied to strengthen Native American tribal colleges, as well.¹¹¹ In 1994, Congress bestowed land grant status on 29 tribal colleges in an effort to strengthen the underserved Native American population's educational needs while respecting the Native Americans' sense of community.¹¹² Much like the 1890 land grant colleges, tribal colleges provided high school level courses, as well as other non-collegiate level educational courses, for much of the tribal community.¹¹³ Considering these expansions, not only has this legislation had a lasting impact, but the impact has been far-reaching.

104. *Id.*

105. *Id.* at 6.

106. *Id.* at 5.

107. *Id.* at 7.

108. NAT'L RES. COUNCIL, COLLEGES OF AGRICULTURE AT THE LAND GRANT UNIVERSITIES: A PROFILE 1 (Nat'l Acad. Press 1995), <https://www.nap.edu/read/4980/chapter/1> [<https://perma.cc/Y6GH-5CEC>].

109. *Id.*

110. *Id.*

111. LAMAY, *supra* note 25, at 81.

112. *Id.*

113. *Id.*

*D. Extending the Land Grant College Beyond the Four Walls of the School—
The Hatch Smith-Lever Acts*

Justin Morrill continued to crusade for his vision of the attainable college education up until his death on December 28, 1898.¹¹⁴ Along the way, Morrill would inspire others who would join his cause during and after his lifetime to see that the land grant universities would get the additional funding needed to ensure their original intent was fulfilled. As a result, Congress passed several laws that would build upon the land grant university framework established by the Morrill Acts in a continued effort to develop the university of the people.¹¹⁵ The Hatch Act and the Smith-Lever Act provided the most significant amount of headway in fulfilling Morrill's goal.¹¹⁶ The Hatch Act, passed in 1887, established agricultural experiment stations at each of the land grant colleges.¹¹⁷ Experiment stations are experimental farms conducting agricultural research; these allowed the land grant colleges to conduct scientific-based agricultural research that was published and distributed to the masses as Justin Morrill had wished.¹¹⁸ The Smith-Lever Act, passed in 1914, established cooperative extension programs at each of the land grant colleges.¹¹⁹ Cooperative extension programs provided a means to pass on information harbored within the land grant colleges and experiment stations.¹²⁰

1. The Agricultural Experiment Station Movement

From the onset, land grant universities were plagued with numerous hardships other than simply not having enough money. They faced immense skepticism from the general public.¹²¹ Many questioned the need for such schools, while others pointed out the slow success rates many land grant colleges had in the early years.¹²² Farmers in the South were particularly doubtful as to the impact the colleges would have on their viability, and these farmers were very vocal in expressing their concerns.¹²³ In addition, professors of newly-constructed land grant college programs quickly discovered they had a limited amount of scientific-

114. *Id.* at 80.

115. *Id.* at 90-91.

116. *See id.*

117. *Id.* at 90.

118. *Id.*

119. *Id.* at 91.

120. *Id.*

121. David G. Morrison, *History of the Hatch Act of 1887* (Nov. 12, 2020, 6:28 PM), <http://www.lsuagcenter.com/portals/communications/publications/agmag/archive/2012/spring/history-of-the-hatch-act-of-1887> [https://perma.cc/QMU2-BBRT].

122. *Id.*

123. *Id.*

based subject matter at their disposal that would serve to practically improve agricultural methods.¹²⁴

Land grant colleges turned to the agricultural experiment station concept to address some of these issues. The experiment station concept began in Germany in the mid-nineteenth century.¹²⁵ The German experiment station sought advances in agriculture through scientific research, which eventually was disseminated to the public to help farmers become more effective.¹²⁶ Land grant colleges began to incorporate some of these ideas in an effort to silence criticism and provide professors with additional science-based material to investigate and disseminate; demonstration and model farms were added to their facilities to assist in these endeavors.¹²⁷ While schools began to conduct basic research experiments on these farms, due to funding constraints, the land grants were undeveloped compared to their overseas counterparts.¹²⁸

Many sensed a need to synergize the land grant college framework with the agricultural experiment station concept and began arguing for the creation of agricultural experiment stations at each land grant college.¹²⁹ In an effort to get federal support to fund the project, the Carpenter Bill was presented to Congress in May of 1882 by Representative Cyrus Carpenter of Iowa.¹³⁰ Additional bills were submitted in the following years that further outlined and detailed the proposal.¹³¹ These bills would languish for several years until the congressional chairmen of the agricultural committees in the House and in the Senate, William Hatch of Missouri and James George of Mississippi respectively, were convinced by the presidents of the land grant universities to back the latest version of the experiment station bill in early 1886.¹³² Representative Hatch was able to get the bill through the House with relative ease, while Senator George faced challenges in the Senate.¹³³ Several senators voiced strong concerns that the Department of Agriculture's oversight in the establishment of the experiment stations would violate state autonomy.¹³⁴ After a subsequent redraft of the bill, which minimized

124. *Id.*

125. HAROLD CARL KNOBLAUCH, ET AL., STATE AGRICULTURAL EXPERIMENT STATIONS: A HISTORY OF RESEARCH POLICY AND PROCEDURE 14 (U.S. Government Prtg. Office 1962).

126. *Id.*

127. Morrison, *supra* note 121.

128. *Id.*

129. KNOBLAUCH, ET AL., *supra* note 125, at 43.

130. *Id.*

131. *Id.* at 45-47.

132. *Id.* at 50.

133. *Id.*

134. *See id.* at 50-51.

the Secretary of the Department of Agriculture's oversight in the experiment stations to nothing beyond the ability to aid and assist, the Hatch Bill passed through the Senate.¹³⁵ On March 2, 1887, President Cleveland signed the Hatch Act into law.¹³⁶

The Hatch Act was practical and detailed in its application; it specifically stated that its purpose was "to aid in acquiring and diffusing among the people of the United States useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiment respecting the principles and applications of agricultural science."¹³⁷ In order to fulfill this purpose, it allocated \$15,000 in funds annually to each of the 1862 land grant colleges in order for each college to establish "a department to be known and designated as an 'agricultural experiment station.'"¹³⁸ Unlike the Morrill Act, which did not define agricultural and mechanical arts studies, the Hatch Act detailed what was to occur at the experiment stations, listing specific research projects on plants, animals, soil, water, and fertilizers.¹³⁹ For states having two land grant colleges, the Act provided that federal funds be divided equally among the colleges unless state legislatures directed otherwise.¹⁴⁰

The Hatch Act also contained reporting requirements regarding research conducted in order to disseminate that knowledge to the public.¹⁴¹ The Act required the station to draft progress bulletins or reports at a minimum of once every three months.¹⁴² A copy of these reports had to be sent to each newspaper in the state and any person engaged in farming who requested a copy.¹⁴³ Additionally, each experiment station had to deliver an annual report to the governor detailing its operations, including a list of expenditures and receipts.¹⁴⁴

The Hatch Act addressed many of the issues plaguing the land grant colleges during their fledgling years. By providing the land grant colleges with additional funding to produce agricultural advancement via the experiment stations, the Hatch

135. *See id.* at 52.

136. *See id.*

137. *Act of 1887 Establishing Agricultural Experiment Stations (Hatch Act)*, OARDC (Jan. 23, 2021, 6:29 PM), <https://oardc.osu.edu/about/history/hatch-act> [<https://perma.cc/92EW-9G5S>].

138. *Id.*

139. *See* Hatch Act of 1887, 7 U.S.C. § 361a (1998).

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

Act helped silence many critics of the Morrill Act of 1862. Farmers who had been especially critical of the lack of success of the Morrill Act in its initial years were placated by published information gleaned from efforts within experiment stations, which gave them tools to advance their farming practices.¹⁴⁵ In addition, the establishment of an experiment station on the campus of each land grant college provided students with new channels of scientific-based agricultural advancement. Finally, by providing the framework to disseminate information and foster advances in agricultural practices, the Hatch Act helped to fulfill Morrill's grand purpose of providing upper-level education to the masses.

2. The Marriage of the Land Grant Colleges with the Cooperative Extension Movement

Justin Morrill's goal of establishing a system of upper-level education of the people was largely fulfilled once the land grant colleges were established and had a few decades to solve their earlier challenges. However, the success of the colleges to provide upper-level education was dependent upon people attending the brick-and-mortar foundations as college students. For many people, that was simply not an option. To truly provide a scientific-based agricultural education on a statewide basis, a need existed to provide demonstration or training to those that did not have the luxury of enrolling in programs offered by the institutions. This need gave rise to the agricultural extension movement.

The goal of the agricultural extension movement was to educate farmers locally through instruction and practical demonstrations.¹⁴⁶ The agricultural extension movement first began in the United States in 1785 when the Philadelphia Society was founded with the purpose of keeping its members informed of the newest advances in agriculture via publications and lectures.¹⁴⁷ Similar state and county wide organizations sprung up over several decades.¹⁴⁸ The emergence of farmers' institutes provided the catalyst for state support of the extension movement toward the end of the nineteenth century.¹⁴⁹ Farmers' institutes were public meetings where agricultural researchers, through lecture, passed along practical knowledge to the attending farmers.¹⁵⁰ Most institutes were managed by

145. See generally KNOBLAUCH, ET AL., *supra* note 125, at 40-41.

146. See ALFRED CHARLES TRUE, A HISTORY OF AGRICULTURAL EXTENSION WORK IN THE UNITED STATES, 1785-1923, 3 (U.S. Government Prtg. Office 1928).

147. *Id.*

148. *Id.*

149. See *id.*

150. See *id.*

state boards of agriculture in conjunction with state land grant colleges, though some were managed solely by the state land grant colleges.¹⁵¹

Establishment of land grant colleges enhanced the agricultural extension movement.¹⁵² In addition to their participation in the farmers' institutes, some land grant colleges actively participated in additional extension programs.¹⁵³ In the late nineteenth century, several land grant colleges established extension programs and departments of agricultural extension.¹⁵⁴ Program courses were taught through home reading with land grants providing the books.¹⁵⁵ Some programs were technical and provided examinations and certificates, while others were more informal and provided elementary education in agriculture.¹⁵⁶ As a result of the success of these programs, other land grants followed suit and, by 1910, land grants in 32 states offered some facet of agricultural extension education independent from the farmers' institutes.¹⁵⁷

Because of the success of these extension programs, people began turning to the federal government for funding and a unified framework for the agricultural extension movement, analogous to the Hatch Act experiment station movement.¹⁵⁸ On June 19, 1911, Representative Asbury Lever of South Carolina introduced a bill in the House calling for federal aid to be given to land grant colleges for the promotion of agricultural extension work.¹⁵⁹ A modified version of this bill was then submitted by Georgia Senator, Hoke Smith, on January 16, 1912.¹⁶⁰ A debate ensued in both Houses over competing ideas on how to provide practical training through federal aid, causing the bills to languish without a vote.¹⁶¹ After an election and several redrafts and amendments, the House of Representatives approved the Lever Bill on April 27, 1914, followed by the Senate's approval of the Smith Bill on May 2, 1914.¹⁶² President Woodrow Wilson signed the Smith-Lever Act into law on May 8, 1914.¹⁶³

151. *Id.* at 14.

152. *See generally id.*

153. *Id.* at 43.

154. *Id.* at 44.

155. *Id.*

156. *Id.* at 45.

157. *Id.* at 53.

158. *Id.*

159. *Id.* at 108.

160. *Id.*

161. *Id.* at 109.

162. *Id.* at 113.

163. *Id.*

The Smith-Lever Act called for the “development of practical applications of research knowledge and giving of instruction and practical demonstration of existing or improved practices or technologies in agriculture . . . , home economics, and rural energy” to those people not attending one of the state land grant colleges.¹⁶⁴ The Act was premised on a cooperative extension model, establishing a partnership between the land grant colleges and the United States Department of Agriculture (USDA), whereby there would be mutual agreement by both parties on how to conduct the process.¹⁶⁵ Originally, the Smith-Lever Act allocated \$10,000 to each state annually, with an additional amount calculated on the basis of a state’s rural population.¹⁶⁶ The cooperative model extended to the funding of the Act as well, which required the additional amounts contributed by the federal government to be offset by appropriations from the state legislature or by contributions from within the state.¹⁶⁷ The Smith-Lever Act did not change the agricultural extension work that was being conducted by parties other than land grant colleges, nor did it change the extension work conducted by land grant colleges that exceeded the scope of the Act.¹⁶⁸ Each state that accepted the Smith-Lever funds chose one of its land grant colleges to receive the funds.¹⁶⁹ County agents, the people who conducted the agricultural demonstrations, were quickly designated throughout the counties of each state.¹⁷⁰ Through this framework, land grant colleges would spread their impact across every county of the state in which they were located.

Through the establishment of a framework that allowed those not attending the land grant universities to reap the benefit of the agricultural knowledge contained therein, the Smith-Lever Act completed the university of the people concept by extending the educational benefits of land grant universities to all. Citizens wanting additional information regarding improved agricultural techniques could take courses or attend lectures provided by local cooperative extension programs. They could obtain the educational benefits generated by the land grant colleges and experiment stations without being enrolled. By providing this link between land grant universities and the people not attending the universities, the Smith-Lever Act was an important step toward completing the vision the Morrill Act of 1862 set out to accomplish.

164. 7 U.S.C. § 342 (1914).

165. *Id.*

166. TRUE, *supra* note 146, at 114.

167. 7 U.S.C. § 343 (1914).

168. TRUE, *supra* note 146, at 122.

169. *Id.* at 120.

170. *Id.* at 127 (stating that at the end of 1914, there were 1,136 county agents for the 2,920 agricultural counties in the United States).

III. FLORIDA'S IMPLEMENTATION OF ITS LAND GRANT UNIVERSITY SYSTEM

Each State has a unique experience when it comes to the creation of its land grant university system. While the Morrill Acts imposed a few general mandates on the states accepting the benefits of the Acts, most of the important decisions regarding the creation and implementation of the land grant colleges were left up to the legislative authority of the individual states. The state of Florida has two land grant universities: the University of Florida and Florida Agricultural and Mechanical University.¹⁷¹ Located in Gainesville, Florida, UF is the state of Florida's land grant university established under the Morrill Act of 1862.¹⁷² Located a mile south of the Capitol in Tallahassee, FAMU is Florida's 1890 land grant university.¹⁷³ Florida initially had a difficult time establishing its land grant university system because of budgetary issues the state faced post-Civil War.¹⁷⁴ Today, both institutes are often considered academic superiors, not only amongst the other universities in the state, but amongst other public universities in the country. This section provides the history of Florida's two land grant universities by first detailing the foundation of UF, followed by an overview of the creation of FAMU.

A. University of Florida: The State's 1862 Land Grant University

When the Morrill Act was passed in 1862, Florida had seceded from the Union.¹⁷⁵ The Morrill Act of 1862 expressly stated that “[n]o State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act.”¹⁷⁶ Following the war, the ex-Confederate states were given an opportunity to avail themselves to the Morrill Act after it was amended; the amendment allowed an additional three years for states to expressly

171. Steve Gavazzi, *Florida's Land-Grants: University of Florida and Florida A&M*, OHIO STATE UNIV. (June 19, 2018, 12:17 PM), <https://u.osu.edu/gavazzi.1/2018/06/19/floridas-land-grants/#:~:text=FLORIDA'S%20LAND%20GRANTS%3A%20University%20of%20Florida%20and%20Florida%20A%26M,-June%2019%2C%202018> [https://perma.cc/T4EL-SEF8].

172. *Id.*

173. *Id.*

174. Leedell W. Neyland, *HISTORICALLY BLACK LAND-GRANT INSTITUTIONS AND THE DEVELOPMENT OF AGRICULTURE AND HOME ECONOMICS 1890-1990*, 55 (1990).

175. *Florida Secession*, NAT'L PARK SERV. (Dec. 20, 2019), <https://www.nps.gov/articles/florida-secession.htm> [https://perma.cc/T9HR-5V2W] (noting Florida seceded on January 10, 1861).

176. Morrill Act of 1862, 7 U.S.C. § 305.

accept the Act, which Florida did in 1870.¹⁷⁷ Florida received 90,000 acres—30,000 acres for each of Florida’s two senators and Florida’s then one representative.¹⁷⁸ Not having enough federal public land within its borders to satisfy the 90,000 acre grant, Florida received land scrip, mostly from California and Colorado,¹⁷⁹ which it sold on the market.

In March of 1873, Florida sold the land scrip for \$80,000, which was approximately \$0.89 per acre.¹⁸⁰ This was well below the \$1.25 per acre desired threshold established by the Act for land scrip and was a common problem experienced by many of the Eastern states receiving land scrip.¹⁸¹ The initial fund established in 1874 was \$100,000, which represented funds from the land scrip sold in addition to funds contributed from the State.¹⁸² Four years after expressly accepting the federal land grant, Florida invested the money in state bonds as required by the Act.¹⁸³

While several states decided to invest the land grant funds into existing schools, Florida decided it would charter a new school to serve as the state’s agricultural college, endowing it with the land grant funds.¹⁸⁴ Initially, a site was selected for the college in Alachua County in 1873, but the idea was abandoned.¹⁸⁵ The following year, a site was selected in Eau Gallie in Brevard County, and a temporary building was constructed on the site.¹⁸⁶ However, as was the case with many land grant universities, the land grant fund proved to be small compared to the expense of founding a new college, and no classes commenced at the site.¹⁸⁷ Nearly a decade would pass before the state would take any further action.¹⁸⁸ Although the Morrill Act of 1862 specifically stated that failure to establish a

177. *Morrill Act (1862)*, OURDOCUMENTS.GOV (Jan. 27, 2021, 7:54 PM), <https://www.ourdocuments.gov/doc.php?flash=false&doc=33> [<https://perma.cc/QGH4-FXW5>].

178. *See id.*

179. *See* BENJAMIN F. ANDREWS, *THE LAND GRANT OF 1862 AND THE LAND-GRANT COLLEGES* 15 (Wash. Gov’t Printing Off. 1918).

180. *Id.*

181. *Id.* (noting that Kentucky sold its land scrip for an average of \$0.50 an acre).

182. *See id.*

183. *See id.* at 15.

184. *Id.*

185. ORLAND KAY ARMSTRONG, *THE LIFE AND WORK OF DR. A.A. MURPHREE* 39 (1928).

186. *Id.*

187. *Id.*

188. *Id.* at 16.

school within five years would require a state to return money, the federal government did not enforce this provision.¹⁸⁹

In 1883, the state legislature chose a site in Lake City to begin construction.¹⁹⁰ Lake City provided the school with 100 acres of land and \$15,000 to begin the construction.¹⁹¹ The school was named the Florida Agricultural College and the first classes commenced in the fall of 1884.¹⁹²

Many of the original land grant universities ran into the issue of finding students to attend¹⁹³ and Florida was no exception. While the Morrill Act provided attainable collegiate education to many for the first time, grade school education was still very underdeveloped in many of the states.¹⁹⁴ This led to a dearth of students who had completed high school and were able to pursue upper-level education. As a result, many of the land grant universities offered preparatory classes early on, in addition to collegiate-level classes, essentially becoming high schools in the process.¹⁹⁵ Florida had a particularly difficult time finding a student body to attend its new agricultural college as the entire inaugural class of 38 students who attended in 1884 were all enrolled in preparatory courses.¹⁹⁶ By the turn of the century, only a little more than 50 students were enrolled in collegiate-level courses.¹⁹⁷

The state of Florida then decided to make several changes to the Florida Agricultural College early in the twentieth century. In 1903, the Florida legislature passed “An Act Changing the Name of the Florida Agricultural College,” renaming the school to the University of Florida, a name that had been designated for a college in Tallahassee but never used.¹⁹⁸ Two years later, the Florida legislature passed the Buckman Act, which abolished the University of Florida, as well as five other state colleges,¹⁹⁹ in order to create a more unified state university

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.* at 39-40.

193. Eldon L. Johnson, *Misconceptions About the Early Land-Grant Colleges*, 52 J. HIGHER EDUC. 333, 336 (1981).

194. *Id.*

195. *Id.*

196. *Id.* at 337.

197. *Id.* (noting that in 1898 only 57 students were enrolled in collegiate courses).

198. ARMSTRONG, *supra* at 185, at 41.

199. *Id.* (“Florida State College at Tallahassee, the Normal School at DeFuniak Springs, the East Florida Seminary at Gainesville, the South Florida Military College at Bartow, and the Agricultural Institute in Osceola County were abolished.”).

system.²⁰⁰ In their place, two schools were created, the University of the State of Florida and the Florida Female College.²⁰¹ On July 6, 1905, Gainesville was selected to be the new location of the University of the State of Florida, and construction began on the new campus while classes continued to be conducted at the Lake City campus until completion.²⁰² On September 26, 1906, the doors to the newly constructed Gainesville campus opened.²⁰³ In 1909, the name of the school was shortened to the University of Florida.²⁰⁴

The University of Florida was originally comprised of four different colleges: the College of Arts and Sciences, the College of Agriculture, the College of Engineering, and the College of Law.²⁰⁵ This conformed to the guidelines set by the Morrill Act, which allowed colleges receiving the land grant fund to include studies outside of agriculture and mechanic arts.²⁰⁶ The College of Agriculture began with courses in agronomy, botany, horticulture, zoology, and bacteriology.²⁰⁷ The College of Engineering, which housed the University of Florida's mechanic arts programs, began by offering degrees in civil and electrical engineering, with degrees being awarded in mechanical engineering a few years later.²⁰⁸

B. Florida A&M University: The State's 1890 Land Grant University

For its second land grant college, Florida decided not to create a new institution, but instead to endow an established college with the 1890 Morrill Act funds.²⁰⁹ The Florida Agricultural and Mechanical University began life as the State Normal College for Colored Students²¹⁰ and was the initiative of State Representative Thomas Gibbs. In 1884, Representative Gibbs successfully lobbied for the passage of a bill establishing a school for African Americans in

200. *Id.*

201. *Id.*

202. *George A. Smathers Libraries Historical Timeline*, UF COMMS. (Jan. 19, 2021, 12:03 PM), <https://communications.uflib.ufl.edu/at-a-glance/smathers-library-history/library-timeline/> [<https://perma.cc/EEH8-MFHF>].

203. ARMSTRONG, *supra* note 185, at 43.

204. *See id.* at 42-43.

205. *Id.* at 48.

206. *See* The Morrill Act of 1862, 7 U.S.C. § 304 (1862).

207. *See* ARMSTRONG, *supra* note 185, at 53.

208. *See id.* at 58.

209. *History of Florida Agricultural and Mechanical University (FAMU)*, FLA. AGRIC. & MECH. UNIV. (Nov. 12, 2020, 6:32 PM), <http://www.famu.edu/index.cfm?UniversityHistory> [<https://perma.cc/6P4Y-KG3A>].

210. *Id.*

Jacksonville, although, the state decided to ultimately build the school in Tallahassee.²¹¹ A few years later, on October 3, 1897, the State Normal College for Colored Students opened its doors to a class of 15 and a professor count of two.²¹²

Florida sought to avail itself to the additional federal funding of the Morrill Act of 1890 as soon as the Act passed, which required the state to either integrate its 1862 land grant college or create a separate school for African American students.²¹³ Integration of the Florida Agricultural College was not considered because the Florida Constitution at the time provided that “[w]hite and colored children shall not be taught in the same school.”²¹⁴ Subsequently, the state decided the State Normal College for Colored Students would be the land grant in order to receive the additional 1890 funds.²¹⁵ In 1891, the State Normal College for Colored Students became Florida’s second land grant college and began receiving \$7,500 per year—half of the additional money allotted to the state under the Morrill Act of 1890.²¹⁶ To reflect its new status as a land grant college, the name of the school was changed to the State Normal and Industrial College for Colored Students.²¹⁷

With the passage of the Buckman Act in 1905, the Florida Board of Education relinquished management of the State Normal and Industrial College for Colored Students and transferred it to the Board of Control, which “officially designated the College as an institution of higher education.”²¹⁸ To reflect this change a few years later, the name of the school was changed to the Florida Agricultural and Mechanical College for Negroes (FAMC).²¹⁹ The college began awarding its first degrees in 1910.²²⁰ The Buckman Act, mandating segregation like many acts of the time, expressly stated “[n]o person . . . except white male students”²²¹ would be admitted to the University of Florida, thereby making FAMC the only land grant college that could be attended by African Americans.

211. *Id.*

212. *Id.*

213. *See Morrill Act of 1890, supra* note 92.

214. FLA. CONST. of 1885, art. XII, § 12.

215. *See History of Florida Agricultural and Mechanical University (FAMU), supra* note 209.

216. *Id.* (noting that The Florida Agricultural College received the other \$7,500 per year).

217. *Id.*

218. *Id.*

219. *Id.*

220. *Id.*

221. FLA. STAT. § 5384.23 (1905).

Like many of the black land grant colleges during this time, FAMC's federal grant allocation was significantly below that of its state's white land grant university. Although the original funding allocated by the Morrill Act of 1890 was split evenly between FAMC and the University of Florida, prior to the passage of Public Law 89-106, federal grants allocated to land grant universities would often go to the University of Florida.²²²

With the completion of FAMC, the state of Florida now had two land grant universities. As additional initiatives for the land grant colleges were passed by the federal government and additional funding began to trickle in, both universities would witness incredible growth in its statewide footprint and success. Today, UF is considered the state's flagship university in terms of academic metrics and is one of the top 30 public universities in the country.²²³ FAMU, which was renamed from FAMC, has cemented its place as one of the premier historic black colleges in the United States.²²⁴ The success of both universities has had a profound statewide educational impact by providing the opportunity for those who never had a chance to receive upper-level education, and by providing those attending either school a first-class university education rivaling the best in the country.

IV. REGULATION OF THE FUTURE GROWTH OF FLORIDA'S STATE UNIVERSITIES

The Buckman Act of 1905 rearranged and re-established the public universities of the state of Florida, creating a unified public university system for the state that consisted of three state universities: UF, FAMU, and Florida State University (FSU).²²⁵ However, as a result of an increasing population, by the middle of the twentieth century the number of people seeking college degrees increased dramatically.²²⁶ Three public universities no longer adequately served the educational needs of the state's population. To meet these needs, the Florida legislature began authorizing the creation of several new state universities.²²⁷ By the turn of the twentieth century, Florida's state university system consisted of 11

222. See The Morrill Act of 1890, Pub. L. No. 51-841, 26 Stat. 417.

223. *University of Florida*, U.S. NEWS & WORLD REPORT (Nov. 12, 2020, 6:43 PM), <https://www.usnews.com/best-colleges/university-of-florida-1535> [<https://perma.cc/4TGJ-8KHE>].

224. *Florida A&M University*, U.S. NEWS & WORLD REP. (Nov. 29, 2020), <https://www.usnews.com/best-colleges/florida-am-university-1480> [<https://perma.cc/WB7B-NDWW>].

225. *Timeline*, FLA. MEMORY (June 11, 2008), <http://www.floridamemory.com/timeline/> [<https://perma.cc/A7A3-BV9K>].

226. NAT'L CTR. FOR EDUC. STAT., 120 YEARS OF AMERICAN EDUCATION: A STATISTICAL PORTRAIT 78 (1993), <https://nces.ed.gov/pubs93/93442.pdf> [<https://perma.cc/WKT7-3VFG>].

227. See *Timeline*, *supra* note 225.

universities, with an intention to create a twelfth.²²⁸ While the state universities were initially located some distance apart and little overlap in territory, off-site campuses, joint ventures with private businesses, and online course programs began to deteriorate the geographical distance between the schools.²²⁹ The prospect of adding an additional state university had many wary about the state universities competing against one another for students and joint venture projects.²³⁰ As a result, Regulation 8.004 was drafted in 2011 to provide guidance as to the future of state university growth.²³¹ While the final version of Regulation 8.004 does not place an absolute prohibition on state universities from entering markets outside of their historical geographical areas, it does require certain future expansion projects to be approved by the Chancellor of the Board of Governors.²³² This section begins by detailing the catalyst that led to the creation of Regulation 8.004, followed by an account of the drafting history of the regulation.

A. Competition Amongst the State Universities

In a quest to develop its downtown into the film industry hub of South Florida, the city of West Palm Beach offered Digital Domain Media Group a substantial incentive package to establish an animation school within the city, with an August 2012 projected start date.²³³ Digital Domain Media Group, a digital production company, created digital animation visuals for several Academy award-winning movies.²³⁴ Digital Domain had launched an animation studio in Port St. Lucie in 2009 and was looking to expand its operation in South Florida.²³⁵

228. *History of Florida Agricultural and Mechanical University (FAMU)*, *supra* note 209.

229. See e.g., Barry Ray, *Film School teams up with top digital media production group in innovative public-private collaboration*, FLA. STATE UNIV. (April 18, 2011), <http://fsu.edu/news/2011/04/18/digital.media/> [https://perma.cc/2CL2-M43T].

230. See FLA. BD. OF GOVERNORS, INDEX OF MINUTES: STATE UNIVERSITY SYSTEM OF FLORIDA 30 (Nov. 9-10, 2011) [hereinafter INDEX OF MINUTES].

231. See generally JUNE 6, 2011 DRAFT FOR DISCUSSION OF 8.004, *supra* note 4.

232. *Id.*

233. Jeff Ostrowski, *FSU's new West Palm Beach film school to launch with 30 students paying \$28,000 a year*, PALM BEACH POST (Aug. 14, 2012), <http://www.palmbeachpost.com/news/local-education/fsu-new-west-palm-beach-film-school-launch-with-students-paying-000-year/SMQf2IJW6ui1u8jdqtEcWI/> [https://perma.cc/K3BZ-M6JL].

234. See, e.g., Carolyn Glardina, *'Benjamin Button' is VFX's Holy Grail*, HOLLYWOOD REPORTER (Feb. 22, 2009, 11:14 PM), <https://www.hollywoodreporter.com/news/benjamin-button-vfxs-holy-grail-79676> [https://perma.cc/4D64-6P73].

235. Kennedy, *supra* note 2.

The proposed plan called for Digital Domain Media Group to partner with a Florida university that would be able to teach the courses at the new school.²³⁶

Digital Domain chose FSU as their partner, which was home to the highly-accredited College of Motion Picture Arts.²³⁷ The partnership was a major boon for the university with its promised state-of-the-art facility, an incentive package pledged by West Palm Beach consisting of land on which to build the school, a \$10 million grant, \$15 million in loans secured by bonds, and the possibility to work with a powerhouse in an rapidly booming industry.²³⁸ The joint venture would also expand the university's footprint into a metropolitan area 400 miles away from its main campus and open up to a new pool of students and potential donors.²³⁹ In addition, the degree program would be lucrative in and of itself, costing students \$28,000 per year, with FSU receiving \$18,500 of that total, and a forecasted enrollment of 300 students.²⁴⁰

The decision to choose FSU was met with criticism, particularly from Florida Atlantic University (FAU).²⁴¹ Located in Boca Raton, less than 30 miles south of West Palm Beach, FAU understandably opposed the plan that would allow another state university to enter a geographical location it considered its own; the university feared that adding an animation school just a short drive from its campus would undermine its own educational mission.²⁴² Florida Atlantic University's School of Communications and Multimedia Studies was already offering programs in video production and computer animation that were similar to some of the proposed courses to be taught at the West Palm Beach facility; therefore, the University argued it made no economic sense to have state universities offering competing programs within the same geographical region.²⁴³

To many, the decision not to partner with FAU seemed counterintuitive. The University's School of Communications and Multimedia Studies would have provided a platform for the partnership with Digital Domain. A partnership with FAU would have made sense from a logistical standpoint by allowing students and faculty at the animation school to reap the benefits as the University's main campus was a mere 30 miles away, not 400. Yet, these logical considerations presumably were not the driving force behind FAU wanting to be part of the animation school.

236. See Ostrowski, *supra* note 233.

237. See *id.*

238. *Id.*

239. See *id.*

240. *Id.*

241. Kennedy, *supra* note 2.

242. *Id.*

243. See *id.*

Instead, the partnership would have brought FAU a great deal of prestige and allowed it to take center stage in nearby West Palm Beach's aspirations of attracting a vital film industry, not to mention the added income from tuition.²⁴⁴ While Digital Domain Chairman John Textor tried to silence this particular criticism by emphasizing FSU's nationally recognized film school and the fact that the deal would not have been considered without its involvement, it did little to change FAU's condemnations.²⁴⁵ Public upper-level education is a business, and FAU felt it was unfairly denied a major opportunity.²⁴⁶

Much of the criticism of the Digital Domain-FSU project was rooted in the fear of what precedent the deal would establish.²⁴⁷ Although joint venture projects between Florida's public universities and private firms were not uncommon, the degree of the private firm's involvement in the joint venture project was unprecedented.²⁴⁸ Digital Domain masterminded the idea and "had to sell [the proposal] to every one of the academic deans at FSU."²⁴⁹ While students attending the program had to meet the general academic requirements imposed by FSU, Digital Domain had input in the courses taught.²⁵⁰ It was a unique pairing of a public university and a private sector business²⁵¹ and opened the door for similar arrangements in the future.

In Florida, the implications of this event were even more significant. Florida's historic state universities UF, FAMU, and FSU were all located in north or north-central Florida, far away from the major metropolitan population centers of the state. All of Florida's major metropolitan centers had one of Florida's newer state universities located therein: University of Central Florida, University of South Florida, FAU, Florida International University, and University of North Florida. These universities have all opened within the last 50 years and are vying with Florida public university flagships in terms of academics and clout.²⁵²

244. See Andrew Abramson, *FSU, studio expand plans for digital animation college in West Palm Beach*, PALM BEACH POST (April 17, 2011), <https://www.palmbeachpost.com/article/20110417/NEWS/812034338> [<https://perma.cc/24HK-CGYW>].

245. See Kennedy, *supra* note 2.

246. See Abramson, *supra* note 244.

247. See *id.*

248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Timeline, supra* note 225.

An advantage newer state universities have in growing program credibility is their geographical locations in metropolitan markets, providing a large pool of resources over which they have a monopoly. However, with the Digital Domain-Florida State University partnership, the precedent was set for businesses located in the metropolitan areas of the state to seek out partnerships with historic universities located hundreds of miles away, even though there was a local state university offering a similar program.²⁵³ In effect, this took away some of the advantages the newer state universities had because of their geographical locations.

In the end, the Digital Domain joint venture was not as promising a venture as it first appeared to be. The program launched on August 27, 2012, and a month later Digital Domain filed for bankruptcy.²⁵⁴ Although FSU attempted to keep the infant program with its 28 inaugural students located in West Palm Beach, on February 21, 2013, the Florida Board of Governors voted to close the West Palm Beach campus and have FSU move the program to its main campus in Tallahassee.²⁵⁵ While the deal ultimately went bust, it had a major impact on the State University System. It launched a debate about the geographical boundaries of the state universities that would pit the older universities against the newer and spur regulations restricting future growth of all the state universities.

B. The Rivalry Over Geographic Regions

Florida State University's decision to build a permanent establishment in West Palm Beach raised a huge concern amongst the Board of Governors regarding future expansions of the state universities.²⁵⁶ As the governing body of the State University System, the Board of Governors' concern stemmed from the Board never formally voting on the plan, essentially giving them no input in the creation of FSU's West Palm Beach school.²⁵⁷ The right to create a new campus was beyond the purview of the Board of Governors.²⁵⁸ The Board of Regents,

253. See Kennedy, *supra* note 2.

254. See Ostrowski, *supra* note 233; see also *FSU efforts fail to keep Digital Domain film school in West Palm Beach*, S. FLA. BUS. J. (Feb. 22, 2013), <http://www.bizjournals.com/southflorida/blog/morning-edition/2013/02/fsu-efforts-fail-to-keep-digital.html> [<https://perma.cc/P9BT-7DRQ>].

255. *FSU efforts fail to keep Digital Domain film school in West Palm Beach*, *supra* note 254.

256. See Kimberly Miller, *FSU's digital program should move to Tallahassee, committee decides*, PALM BEACH POST (February 9, 2013), <https://www.palmbeachpost.com/article/20130209/BUSINESS/812037573> [<https://perma.cc/KLG6-NHYG>].

257. *Id.*

258. *Id.*

which had been the administrating body of the State University System until 2001, possessed very strong authority concerning the future expansion of state universities.²⁵⁹ This strong authority to curb future expansion partly led to its demise when it was abolished by the state legislature shortly after it rejected a popular plan to build a medical school at FSU.²⁶⁰ When created in 2003, via constitutional amendment, the Board of Governors was allocated much less authority than the Board of Regents in curbing state university expansion, giving the state universities essentially *carte blanche* when it came to expansion projects.²⁶¹ The Digital Domain partnership raised a huge red flag as to the repercussions of such a lack of authority.

Although the Digital Domain-FSU partnership was publicly announced on April 18, 2011,²⁶² the Board of Governors began discussing the ramifications of the deal as it was playing out behind the scenes. Members of the Strategic Planning Committee of the Board of Governors discussed the issue of “[state universities] offering of academic programs in close proximity to other institutions” during a meeting on September 16, 2010, brought on in large part by the impending Digital Domain partnership.²⁶³ It was the latest and largest rivalry between state universities in Florida regarding one state university creating a permanent establishment to teach degree courses in close proximity to another state university. Notably, other conflicting agendas have arisen recently between UF and Florida International University regarding UF’s exploration in creating a program in Miami in conjunction with Miami Dade College and also between the University of West Florida and FAMU regarding FAMU’s creation of a pharmacy school extension program in Crestview.²⁶⁴

259. Scott Powers & Karla Schuster, *Senate Agrees to Abolish Regents*, SUNSENTINEL (April 26, 2001), <https://www.sun-sentinel.com/news/fl-xpm-2001-04-26-0104260094-story.html> [https://perma.cc/HRF9-8F84].

260. Jeffrey J. Selingo, *Florida Moves to Scrap Board of Regents in Favor of Local Control of Universities*, CHRON. OF HIGHER EDUC. (May 11, 2001), <https://www.chronicle.com/article/florida-moves-to-scrap-board-of-regents-in-favor-of-local-control-of-universities/> [https://perma.cc/C4JX-9DFT].

261. *About the State University System of Florida*, UNIV. OF WEST FLA. (Jan. 20, 2021, 3:17 PM), <https://uwf.edu/offices/government-relations/government-agencies/board-of-governors-information/#:~:text=Government%20Relations&text=As%20a%20result%2C%20the%20Florida,consisting%20of%20eleven%20public%20universities> [https://perma.cc/F9V7-7KPH].

262. Ray, *supra* note 229.

263. Fla. Bd. of Governors, *Strategic Planning Committee, Part 1*, YOUTUBE (Nov. 4, 2010), <https://www.youtube.com/watch?v=jA2ZgMzTp44&feature=youtu.be> [https://perma.cc/7TV9-324H] [hereinafter *Strategic Planning Committee, Part 1*].

264. *See id.*

Although the Digital Domain partnership was the major catalyst for the Board of Governors wanting to provide formal guidance for the expansion of the state universities, another reason was the desire to create a twelfth university in the State University System.²⁶⁵ The idea to split off the University of South Florida Polytechnic, a branch campus of the University of South Florida, located in Lakeland, into an independent state university had been proposed. However, before an additional state university could be created one in close proximity to two other state universities the Board felt that a system had to be in place to ensure the state universities would not step on each other's toes.²⁶⁶ Discussions about the twelfth university were set to take place in 2011 and the Board wanted to have a policy in place before that date.²⁶⁷

The Board of Governors officially began to discuss future expansion guidelines at a meeting on November 4, 2010.²⁶⁸ At this meeting, Chancellor Frank T. Brogan addressed the issue by acknowledging the state universities were moving beyond their historical boundaries;²⁶⁹ he felt the Board needed to have a process in place for consideration of these opportunities so as to not create duplication or inefficiencies.²⁷⁰ Chancellor Brogan noted certain State University System staff members had begun drafting a regulation that would govern future site creation procedures.²⁷¹ He emphasized the purpose of said regulation was not to prevent universities from exploring business ventures in different markets, but to ensure expansion activities were undertaken in the best interest of the State University System as a whole.²⁷²

Drawing upon its authority under article IX, section 7(d) of the Florida Constitution, the Board of Governors decided to promulgate regulations that would provide guidance for future expansion efforts of the state universities and announced notice of such promulgation on June 23, 2011.²⁷³ The new regulation

265. STATE UNIV. SYS. OF FLA. BD. OF GOVERNORS, 2025 SYSTEM STRATEGIC PLANNING 5 (Oct. 2019), <http://www.flbog.edu/pressroom/strategicplan.php> [<https://perma.cc/7CKA-V4LH>].

266. *Id.*

267. *Id.*

268. *Strategic Planning Committee, Part 1*, *supra* note 263.

269. *Id.*

270. *Id.*

271. *Id.*

272. *Id.*

273. FLA. BD. OF GOVERNORS, PUBLIC NOTICE OF INTENT TO PROMULGATE BOARD OF GOVERNORS REGULATION 8.004 – ACADEMIC PROGRAM COORDINATION (June 23, 2011), <https://www.flbog.edu/wp-content/uploads/Agenda-item-for-Board-action-64.pdf> [<https://perma.cc/9ME5-RQ26>].

was given the title “Regulation 8.004. Academic Program Coordination” and was adapted from an old Board of Regents regulation that regulated future university expansion based on the service areas for the universities.²⁷⁴ The service area concept meant that sole locations would serve as hubs for specific programs in their general area.²⁷⁵ Rather than confine the state universities to a 50 mile radius, the original draft of Regulation 8.004 confined the universities to economic development regions. The justification for broadening the jurisdiction of the universities to economic development regions was that the state universities would be able to provide both economic and community engagement in their surrounding regions.²⁷⁶

The original draft of proposed Regulation 8.004 operated by requiring the presidents of different universities to “collaborate in order to avoid unnecessary duplication of academic programs” whenever a state university was considering “offer[ing] a college-credit degree or certificate program...that require[d] a substantial physical presence in another university’s region.”²⁷⁷ If the presidents of the impacted state universities could not reach an agreement, the decision regarding the future expansion was to “be referred to the Chancellor to mediate and/or request a final resolution from the Board.”²⁷⁸ The proposed regulation went on to define “substantial physical presence” as “maintaining continuously beyond the length of a single course, for any purpose related to offering a degree or certificate program, a physical location in the proposed region, to include classrooms, teaching laboratories, administrative services, or student services.”²⁷⁹ The original draft did not contain any exclusion for the agricultural extension programs that were conducted by UF and FAMU.²⁸⁰

However, we observed that a carve out was added during the drafting edits conducted during the meeting of the Strategic Planning Committee held on June 23, 2011, so that the Florida Cooperative Extension programs were to continue

274. Fla. Bd. of Governors, *Strategic Planning Committee Conference Call*, YOUTUBE (June 6, 2011), <https://www.youtube.com/watch?v=4FqKCsaxH-Q&feature=youtu.be> [<https://perma.cc/QY6R-5WN7>].

275. See JUNE 6, 2011 DRAFT FOR DISCUSSION OF 8.004, *supra* note 4, at (2).

276. *Id.*

277. *Id.* at (2)-(3).

278. *Id.* at (3)(b).

279. *Id.* at (3)(c).

280. See generally *id.*

“without regard to the economic development region in which those activities occur.”²⁸¹

The idea to create geographical regions was criticized by some of the state universities due to the geographical locations of those state universities. The historic state universities UF, FAMU, and FSU were all zoned within the less populated regions of the state, while other state universities enjoyed the benefit of having a large metropolitan area within their zones. The established state universities felt their mission was to serve the entire state, not just some of the lowest populated regions.²⁸² To confine the historic state universities to the lowest populated regions would hinder their ability to engage areas of large population growth and taking part in new business ventures in an effort to educate the population.²⁸³

According to the historic universities, confining the state universities to a geographical region would economically disservice the state and universities.²⁸⁴ The historic state universities argued requiring state universities to deal with a heavy bureaucratic process whenever new programs or courses were created with businesses had the potential to prevent such valuable joint ventures from taking place—thus, denying the people positive benefits of these initiatives.²⁸⁵ Florida State University President, Eric Barron, argued that “this proposal has the potential to stifle growth in Florida at a time when that’s one of the state’s top priorities. Will a company think twice about relocating to Florida if it isn’t going to be located in the same region as the university it hopes to work with?”²⁸⁶ Florida Agricultural and Mechanical University President, James H. Ammons, worried such a bureaucratic delay would keep his university from being able to take action as quickly as it would like, stating that “[w]e need to be flexible enough and nimble enough that when opportunities arise, we can respond in a timely fashion.”²⁸⁷

281. FLA. BD. OF GOVERNORS, NOTICE OF PROPOSED NEW REGULATION OF 8.004, ACADEMIC PROGRAM REGULATION (2) (July 14, 2011) [hereinafter JULY 14, 2011 NOTICE OF PROPOSED NEW REGULATION OF 8.004].

282. See Flechas, *supra* note 19, at 1 (quoting University of Florida Trustee and Faculty Senate Chair, Scott Nygren, as saying “Our region is Florida”); see also Doug Blackburn, *Barron, Ammons Decry BOG Proposal*, TALLAHASSEE DEMOCRAT 1 (Aug. 16, 2011) (quoting Florida State University President Eric Barron as declaring, “Florida State has a statewide mission”).

283. See Blackburn, *supra* note 282, at 1.

284. See *id.*

285. See *id.*

286. *Id.*

287. *Id.*

The backlash against the geographical region requirement led to the Board of Governors subsequently redrafting proposed Regulation 8.004. The redraft eliminated the geographical region requirement completely.²⁸⁸ However, the bureaucratic process for future expansion projects was left intact, necessitating that

[w]hen a state university desires to offer a college-credit degree or certificate program, or substantial parts of a program, that requires a substantial physical presence, at a location in Florida other than an existing Main Campus, Type I Campus, Type II Campus, or Type III Campus, the university shall provide to the Chancellor and the Chair of the Board of Governors a letter of intent to expand program offerings as soon as practicable.²⁸⁹

Whether an education site fell within a certain classification was detailed in corresponding Regulation 8.009.²⁹⁰

Once the Chancellor receives the letter of intent, the regulation states he or she has 20 business days “to determine whether the proposed program is market-driven, mission-justified, and would not constitute an unnecessary duplication of academic programs or a waste of state resources.”²⁹¹ If the Chancellor determines the program is not market-driven or mission-justified, and would constitute an unnecessary duplication of academic programs or a misuse of state resources, then the expansion program cannot go forward, unless, on appeal to the Board of Governors Appeals Committee, the decision is reversed.²⁹²

The redraft of proposed Regulation 8.004 proved to be enough to silence some of the critics. On November 10, 2011, the Board of Governors approved Regulation 8.004, thereby creating a binding process to which the state universities of Florida would have to adhere to when contemplating offering future courses at physical locations other than their respective main campuses.²⁹³ However, while the final version of Regulation 8.004 was enough to pacify those opposing an absolute prohibition on geographical expansion, it still left an important question unanswered as to the ability of state universities to expand. If a state university wishes to offer a new degree or certificate program requiring a substantial physical presence at a location other than one of its current campuses, it must get approval

288. See generally FLA. BD. OF GOVERNORS, REG. 8.004, ACADEMIC PROGRAM COORDINATION (2011).

289. *Id.* at (b).

290. See generally FLA. BD. OF GOVERNORS, REG. 8.009, ACADEMIC PROGRAM COORDINATION (2011).

291. REG. 8.004, ACADEMIC PROGRAM COORDINATION (1).

292. *Id.*

293. INDEX OF MINUTES, *supra* note 230, at 30-31.

from the Chancellor.²⁹⁴ If the Chancellor does not approve the expansion, it cannot go through without the Board of Governors Appeals Committee reversing the decision.²⁹⁵ While not a per se prohibition on expansion, this process does reinstate a roadblock for state universities wishing to expand.

V. REGULATING THE GROWTH OF FLORIDA'S PUBLIC UNIVERSITIES AND THE LAND GRANT UNIVERSITY SYSTEM

The true intent of the land grant university system was to create a system of higher-level education that was available to anyone who so desired: the materialization of the American Dream.²⁹⁶ In order to effectively satisfy the intent, land grant universities must be able to provide educational access to the people of the state, which in many cases could require the construction of a physical satellite campus. Unfortunately, Regulation 8.004, in both its originally proposed form and its final form, prevents Florida's land grant universities from effectively fulfilling their land grant mission. In its original form, the creation of geographical regions confining UF and FAMU directly conflicts with the statewide reach that both universities have as land grant schools.²⁹⁷ Regulation 8.004 interferes with the Morrill Acts by allowing the Chancellor of the State University System of Florida to determine if UF or FAMU are allowed to add a new college credit degree or certificate program that requires a substantial physical presence at a location in Florida other than on an existing campus.²⁹⁸ Therefore, while Regulation 8.004 is permissible as applied to the other public state universities, its application to UF and FAMU interferes with both schools' ability to carry out the intent of the federal land grant system to create universities of the people.

A. *The True Intent of the Land Grant Universities: Universities of the People*

Although the land grant university system set out to establish a framework for providing agricultural and mechanical arts education to better serve the needs of the average working person, in many ways there was a far more wide-reaching

294. REG. 8.004, ACADEMIC PROGRAM COORDINATION (2).

295. *Id.* at (3)(b).

296. See Justin S. Morrill, Representative of Vermont, Speech on the Educational Bill at the United States Senate (Dec. 15, 1880) (transcript available in the University of Michigan library).

297. INDEX OF MINUTES, *supra* note 230, at 30-31.

298. FLA. BD. OF GOVERNORS, REG. 8.004, ACADEMIC PROGRAM COORDINATION (2) (2011).

agenda.²⁹⁹ Morrill had a vision that extended beyond simply providing for a working-class education; his vision was grander and more altruistic. Speaking decades after the Morrill Act of 1862, Morrill made clear the true purpose of the Act was to serve “those at the bottom of the ladder who want to climb up, or those who have some ambition to rise in the world, but are without the means to seek far from home a higher standard of culture.”³⁰⁰ Morrill wanted to create universities of the people, where those rich or poor, black or white, anyone who so desired, could attend with the only requirement being the desire to learn.³⁰¹ This foundational purpose of the Morrill Act of 1862 was clearly understood by those other than Morrill.³⁰² When President Abraham Lincoln signed the Act, he stated, “the land-grant university system is being built on behalf of the people.”³⁰³

The concept of the people’s university stood in defiance, not only to everything the university system in the United States at the time represented, but also to the social views held by many throughout the nation. As such, proposing the entire concept in one stage would have been met with certain defeat.³⁰⁴ Instead, the first step in creating universities of the people had to be one met with the least resistance. Using the advancement of agricultural education as the initial step in creating universities of the people was a clever way for Morrill to begin to lay the groundwork for his vision. The advancement of agricultural education was of utmost importance to the South, and the criticism of the classical university system was a seemingly implied attack on the Ivy League schools of the North.³⁰⁵

While the Morrill Act of 1862 appeared to simply provide for a wider range of subjects to be taught at colleges that would better serve the working person, it, in fact, was the first step in a major socio-economic overhaul of the United

299. See Justin S. Morrill, Representative of Vermont, Speech on the Educational Bill Granting Lands for Agricultural Colleges 38 (Apr. 20, 1858), https://archive.org/stream/speechofhonjusti01morr/speechofhonjusti01morr_djvu [<https://perma.cc/395Q-BB6G>] [hereinafter *Speech on the Bill Granting Lands for Agricultural Colleges*].

300. Justin S. Morrill, Representative of Vermont, Speech on the Educational Bill at the United States Senate (Dec. 15, 1880) (transcript available in the University of Michigan library).

301. *Id.*

302. See *Speech on the Bill Granting Lands for Agricultural Colleges*, *supra* note 299, at 38.

303. Abraham Lincoln, Remarks at the Signing of the Morrill Act of 1862 (July 2, 1862).

304. See Ray V. Herren & Craig Edwards, *Whence We Came: The Land-Grant Tradition – Origin, Evolution, and Implications for the 21st Century*, 43 J. OF AGRIC. EDUC. 88, 92-93 (2002).

305. See *Speech on the Bill Granting Lands for Agricultural Colleges*, *supra* note 299, at 38.

States.³⁰⁶ There was a large class divide in the United States at the time between those in the professions and those engaged in farming and labor,³⁰⁷ and the university system simply perpetuated this class and wealth distinction between white and blue collars by being cost prohibitive and instructing only in classical studies.³⁰⁸ Without the proper education or training, it was exceptionally difficult for one to climb the socio-economic ladder.³⁰⁹ This was the very issue Morrill himself faced growing up as he was unable to afford college in order to become an attorney.³¹⁰ The Morrill Act of 1862 sought to revolutionize the university educational system, challenging its position as an exclusive luxury available to a select few and placing it within the reach of anyone who wished to avail themselves.³¹¹

Once the Civil War ended and the 13th, 14th, and 15th Amendments passed, Congress advanced subsequent legislation to help land grant colleges promote the people's university agenda. The second stage of the people's university concept launched with the Morrill Act of 1890, which gave most African Americans their first opportunity to receive high school or collegiate education.³¹² This was a monumental step in trying to give the newly-freed slaves a semblance of equality by way of education. The Hatch and the Smith-Lever Acts would serve to tear down the walls of the land grant colleges, relaying information, and providing courses for those that did not have the ability or desire to attend a four-year college program.

The legacy of land grant universities as schools of the people is what Justin Morrill envisioned. The Morrill Acts were the first steps in eliminating the barrier that prevented women and people of different races from obtaining higher-level education.³¹³ As the land grant colleges continued to grow, many became the premier schools of their respective state, providing college educations on par with the best private colleges in the country and further helping to level out the socio-

306. Herren & Edwards, *supra* note 304, at 90.

307. *Id.* at 90-91.

308. *Id.* at 91.

309. *Id.* at 90.

310. CROSS, *supra* note 29, at 6.

311. LAMAY, *supra* note 25, at 73.

312. *Id.*

313. *Id.* at 81 (noting the land grant college system continues to strive for racial equality in education, most recently with the passage of the Elementary and Secondary Education Reauthorization Act, which provided land grant status and funding for 29 tribal colleges on Indian reservations).

economic disparity via education of a similar quality.³¹⁴ Federal acts supported the land grant colleges in distributing educational information to the people of the state who did not have the ability to attend formal college courses at the schools, providing upper-level education through publication and demonstration throughout the state.³¹⁵ These advancements combined to overhaul the upper-level educational system in the United States from a system that perpetuated class distinctions to one that helped people achieve the American Dream.

B. The Statewide Reach of Land Grant Universities

To effectively fulfill the people's university mission, the land grant universities must, of course, be accessible to the people. Consequently, land grant universities have a statewide mandate to deliver education, research, and community education.³¹⁶ Morrill's vision was to educate the masses, and the infrastructure was eventually put into place to accomplish that objective. If the land grants cannot easily be accessed by the people, the vision is but a fallacy. Providing access to a land grant university was a difficult task when the land grant university had only one brick-and-mortar location within a geographically large, highly-populated state. Recognizing the land grant mission could not be effectively carried out through one physical location, the Smith-Lever Act expanded the physical footprint of the land grant universities to the county-wide level.³¹⁷

Land grant universities' statewide mandate to deliver education, research, and community education has led to many of the land grant colleges establishing multiple campuses throughout their respective states.³¹⁸ Pennsylvania has perhaps been the most thorough in statewide outreach. The Pennsylvania State University, Pennsylvania's only land grant university, has 24 campuses throughout the state.³¹⁹ Campuses are located in close proximity of virtually every citizen, to the extent possible.³²⁰ While, traditionally, most of these campuses only engaged in lower division instruction, recently, there have been efforts to add flexibility in order to offer additional degree programs to address the needs of the community.³²¹ Other states have taken a similar approach, albeit on a smaller scale, and have created

314. GEORGE R. MCDOWELL, *LAND-GRANT UNIVERSITIES AND EXTENSION: INTO THE 21ST CENTURY* 129 (2001).

315. *See id.* at 7.

316. *Id.*

317. *See* The Smith-Lever Act of 1914, 7 U.S.C. § 341.

318. *See. e.g.,* NAT'L RES. COUNCIL, *supra* note 108, at 1.

319. Graham B. Spanier, *Enhancing the Quality of Life: A Model for the 21st Century Land-Grant University*, 3 *Applied Developmental Sci.* 199, 200 (1999).

320. *See id.*

321. *Id.*

multiple satellite campuses of their land grant universities in order to provide for statewide outreach. Some have gone as far as using their land grant colleges as foundations for their statewide public university systems.³²²

C. The Necessity for Florida's Land Grant Universities to Offer Statewide Programs

While Florida is a large geographical state, its two land grant universities' locations originally served the entire state sufficiently. When the Florida College of Agriculture was founded in Lake City in 1884, the population of Florida was only 269,493, of which 142,605 were Caucasian.³²³ The lower-half of the state was sparsely populated at this time, with fewer than two inhabitants residing per square mile on average.³²⁴ Even by the turn of the century, the majority of Florida's population resided in the upper half of the state, with less than one-twelfth of the population residing in the lower half.³²⁵ In addition, attending college in the 1880s was a rarity afforded by few with only about 1.6% of the country's population between the ages of 18 and 24 attending four-year college programs.³²⁶ Considering these metrics of Florida's small population, the population distribution of the state, and the few number of people attending college programs at the time, the Florida College of Agricultural was positioned to adequately serve as the university of the people. When the State Normal College for Colored Students became a land grant college in 1891, the bulk of the population remained in the northern half of the state and the Panhandle.³²⁷ As such, the location of the college in Tallahassee was still centrally located to effectively provide for the education of the state's 126,690 African Americans.³²⁸

322. *Map of Land Grant Universities*, NE. SUSTAINABLE AGRIC. WORKING GRP. (Mar. 9, 2021, 2:18 PM), <https://nesawg.org/resources/map-land-grant-universities> [<https://perma.cc/Y3W7-N2AM>] (listing the states that have multiple degree-granting satellite campuses of their land grant universities: Alaska, Arkansas, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Massachusetts, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Washington, West Virginia, and Wisconsin).

323. Edward C. Williamson, *Independentism A Challenge to the Florida Democracy of 1884*, 27 THE FLA. HIST. Q. 131, 131 (1948).

324. *Distribution of Population, 1880*, MAPS ETC (Nov. 12, 2020, 7:06 PM), <http://fcit.usf.edu/florida/maps/pages/2400/f2455/f2455.htm> [<https://perma.cc/CSS5-AUWL>].

325. STANLEY K. SMITH, *FLORIDA POPULATION GROWTH: PAST, PRESENT AND FUTURE 3* (June 2005).

326. NAT'L CTR. FOR EDUC. STAT., *supra* note 226, at 76.

327. *Distribution of Population, 1880*, *supra* note 324.

328. Williamson, *supra* note 323 (using 1880 census data because the 1890 census data was destroyed in a fire in 1921).

During the twentieth century, Florida's population would drastically change.³²⁹ By the end of the first half of the century, 2,771,305 people resided in the state, more than 10 times the population in 1880.³³⁰ Most of this population growth between 1900 and 1950 occurred in central and southern Florida, which rapidly outpaced the population growth of northern Florida.³³¹ The percentage of the nation's population attending college also skyrocketed by 1950, with 14.3% of the country's male population between the ages of 18 and 24 attending four-year college programs.³³²

As a result, UF and FAMU were no longer centrally located amongst the population distribution of the state.³³³ Rather, they found themselves located in the least populated portions of the state, hundreds of miles away from where the majority of the population of the state resided.³³⁴ Consequently, beginning in the 1950s, the Florida legislature established several other public universities that were primarily located in the state's population hubs.³³⁵ The second half of the century experienced the same rapid growth, with 15,982,378 people calling the state home as of the year 2000.³³⁶ The population shift continued to move southwards, further away from the land grant universities up until 1980.³³⁷ In addition, more than 50% of the country's population between the ages of 18 and 24 was attending college programs by 1991.³³⁸

As Florida's population continued to grow and shift southward, its land grant universities faced the challenge of how to fulfill their roles as universities of the people. With locations in the northern half of the state some distance from most large metropolitan areas, the land grant universities were not viable options for many Floridians seeking a college education. In order to address these issues, UF began to offer degree and certificate programs at satellite campuses throughout the

329. See generally *Resident Population and Apportionment of the U.S. House of Representatives*, U.S. CENSUS BUREAU (Dec. 2, 2020), <http://www.census.gov/dmd/www/resapport/states/florida.pdf> [https://perma.cc/8KJY-JYH3].

330. *Id.*

331. SMITH, *supra* note 325, at 3.

332. NAT'L CTR. FOR EDUC. STAT., *supra* note 226, at 76.

333. See SMITH, *supra* note 325, at 3-4.

334. See *id.* at 4.

335. See, e.g., *History of Florida Agricultural and Mechanical University (FAMU)*, *supra* note 209.

336. *Resident Population and Apportionment of the U.S. House of Representatives*, *supra* note 329.

337. SMITH, *supra* note 325, at 3.

338. NAT'L CTR. FOR EDUC. STAT., *supra* note 226, at 77.

state.³³⁹ In August of 2002, the University of Florida College of Pharmacy created three campuses located in Jacksonville, Orlando, and St. Petersburg.³⁴⁰ Additionally, the University of Florida's Warrington College of Business Administration began offering an MBA program in Sunrise, Florida, where students could attend graduate courses taught by UF professors without ever leaving south Florida.³⁴¹ In 2010, UF entered into an agreement with Miami-Dade College where students could obtain a Bachelor of Science in Microbiology and Cell Science from UF by attending Miami-Dade College's North Campus Science Complex.³⁴² Florida Agricultural and Mechanical University has begun expanding as well by offering pharmacy degree programs in Crestview, Davie, Jacksonville, and Tampa.³⁴³

As Florida's population grows, both UF and FAMU need to expand their degree and certificate programs in order to comply with their statewide land grant mandate. Although online courses could be sufficient in some cases to satisfy this statewide mandate, online college education is not a viable option for every degree program; some programs and some students require hands on teaching. Both schools should have the ability to create physical locations to satisfy the intent of the federal acts for which they were created. If either school's land grant mandate is not being carried out effectively by the absence of a degree or certificate granting physical location, their land grant mandates are not being met as envisioned by Justin Morrill and mandated by the passage of land grant legislation.

339. *See generally Off-Campus*, UNIV. OF FLA. (Jan. 21, 2021, 8:25 PM), <https://distance.ufl.edu/prospective-students/off-campus-programs/> [https://perma.cc/WPP5-G7G8].

340. *History*, UNIV. OF FLA. COLL. OF PHARMACY (Dec. 3, 2020, 1:24 PM), <https://pharmacy.ufl.edu/the-college/college-facts/history/> [https://perma.cc/QZ4M-332N].

341. *Weekend Professional: Two-Year South Florida*, WARRINGTON COLL. OF BUS. (Nov. 17, 2020, 3:31 PM), <http://floridamba.ufl.edu/professional-south-florida/> [https://perma.cc/F664-F5H2].

342. *Miami Dade College Announces New Agreement With the University of Florida to Benefit STEM Students*, MIAMI DADE COLL. (Oct. 25, 2010), https://www.mdc.edu/main/sas/activities/mdcannounces_new_agreement_with_the_univ.aspx [https://perma.cc/9WWN-G87W].

343. *FAMU College of Pharmacy and Pharmaceutical Sciences*, FLA. AGRIC. AND MECH. UNIV. (Nov. 18, 2020, 3:53 PM), <http://www.famu.edu/index.cfm?housing&FAMUCollegeofPharmacyandPharmaceuticalScience> [https://perma.cc/8LPP-3F7B].

D. Future Growth Regulations Prevent UF and FAMU from Fulfilling their Land Grant Mission

Having established that land grant universities have a mission to be universities of the people by providing educational access to all Floridians, any regional restrictions on their future growth will hinder them from fulfilling the mission envisioned by Morrill and his peers. On its face, proposed Regulation 8.004, confining Florida's state universities to geographical regions, directly violates the intent of the land grant university system by nullifying UF's and FAMU's statewide outreach.³⁴⁴ Additionally, even in its final form, Regulation 8.004 still undermines the land grant university system by giving the Chancellor of the State University System of Florida the ability to prevent either land grant university from expanding to new geographical locations based on certain criteria.³⁴⁵ If UF or FAMU seek to offer a new degree or certificate program that requires a physical presence at a location that is not one of the schools' current campuses, the Chancellor can prevent them from doing so.³⁴⁶ The Chancellor can do so if he or she determines the proposed program is not market-driven or mission-justified and it would constitute an unnecessary duplication of academic programs or a waste of state resources.³⁴⁷

Exactly how this new regulation will prevent UF or FAMU from expanding remains to be seen, especially since the criteria the Chancellor's decision is based on is ambiguous and not defined within the regulation.³⁴⁸ However, analyzing UF's MBA program in Sunset, Florida under Regulation 8.004 sheds some light on how the regulation could operate. If UF hoped to offer a degree program that required a substantial physical presence at a location in Florida other than an existing campus, it would have to provide a letter of intent to expand the program offering to the Chancellor and the Chair of the Board of Governors.³⁴⁹ The Chancellor would then approve the expansion only if they determined the MBA program was "market-driven, mission-justified, and would not constitute an unnecessary duplication of academic programs or a waste of state resources."³⁵⁰ The sticking point in this determination would be whether the MBA program constitutes an unnecessary duplication of academic programs because Florida International

344. See JUNE 6, 2011 DRAFT FOR DISCUSSION OF 8.004, *supra* note 4.

345. FLA. BD. OF GOVERNORS, REG. 8.004, ACADEMIC PROGRAM COORDINATION (2) (2011).

346. *Id.*

347. *Id.* at (2)(a).

348. See *id.*

349. See *id.*

350. *Id.*

University already offers an MBA program in Broward County.³⁵¹ Offering another MBA program in the same county could easily be seen as an “unnecessary duplication of academic programs” and as such, the Chancellor could deny UF from expanding its MBA program into a physical presence in South Florida.³⁵²

Denying UF the ability to provide an MBA program in South Florida would directly conflict with the school’s land grant mission to be the university of the people. The University of Florida’s MBA program is highly accredited, ranked 28th out of all the MBA programs offered in the United States as of 2020.³⁵³ People in Miami-Ft. Lauderdale, a major metropolitan area and the leading business and financial market of Florida, might wish to avail themselves to UF’s highly ranked MBA program in order to advance in their careers.

However, attending courses several hundred miles away in Gainesville might not be practicable for many. A satellite location in Broward County would be an effective means of providing these people the opportunity to receive an MBA from the University of Florida. Although potential students could attend MBA courses at Florida International University (FIU), FIU’s program is not as highly ranked as UF’s program.³⁵⁴ In addition, UF’s MBA program could provide unique joint venture partnerships within the area, similar to the Digital Domain project. Regulation 8.004 would deny Floridians the educational benefit UF, as a land grant institution, is mandated to provide.

In addition to preventing UF and FAMU from creating degree and certificate programs at new locations throughout the state, Regulation 8.004 also prevents them from offering new college credit or certificate programs at preexisting cooperative extension locations.³⁵⁵ Cooperative extension offices are not classified as an existing Main Campus, Type I Campus, Type II Campus, or Type III Campus under Regulation 8.009;³⁵⁶ subsequently, any new degree or certificate program that either school wishes to offer at their preexisting extension offices must be authorized by the Chancellor.

351. *Chapman Graduate School of Business*, FLA. INT’L UNIV. (Nov. 12, 2020, 6:31 PM), http://business.fiu.edu/chapman/mba_programs.cfm [https://perma.cc/DTS7-LJPE].

352. REG. 8.004, ACADEMIC PROGRAM COORDINATION (2)(a).

353. *2021 Best Business Schools*, U.S. NEWS (Mar. 9, 2021, 3:03 PM), <https://www.usnews.com/best-graduate-schools/top-business-schools/mba-rankings#BigSixResult0> [https://perma.cc/G37C-8CWR].

354. *Id.* (noting that at the time of this writing, FIU’s business program is unranked).

355. *See* REG. 8.004, ACADEMIC PROGRAM COORDINATION (2)(a).

356. *See* FLA. BD. OF GOVERNORS, REG. 8.009, ACADEMIC PROGRAM COORDINATION (1)(b)(1)-(3) (2011).

Although regulation 8.004(2)(e) states

[t]he activities of Florida land grant cooperative extension services that do not include college credit degree or certificate programs will continue to be the responsibility of the Institute of the Food and Agricultural Sciences of the University of Florida and the College of Engineering Sciences, Technology and Agriculture of Florida Agriculture and Mechanical University and are not subject to the requirements of this regulation,

this exemption does not apply to any college credit degree or certificate programs.³⁵⁷ This prevents either school from maximizing the potential of a preexisting educational infrastructure already in place through the Smith-Lever Act.

Other than violating the true intent of the land grant mission, regulations imposing restrictions on the future expansion of Florida's land grant universities raise the question of whether Florida is utilizing its land grant universities to their fullest capacity. In light of the ongoing desire by the Florida Board of Governors for the State University System to become "internationally recognized as a premier public university system", limiting the future expansion of the state's two renowned flagship land grant universities is questionable.³⁵⁸ Such a decision seems counterintuitive to the goal they are seeking. As noted in Part B of this section, multiple states have used their land grant institutions as the foundation for statewide university systems, allowing their land grant universities to establish several satellite campuses. These states utilize their established and highly accredited land grant universities and their statewide outreach to build a state system of first class higher-level education. Rather than prohibiting UF and FAMU from expanding into future geographical areas, perhaps the State University System of Florida should be encouraging the two universities to venture into new territories in order to meet the needs of Florida as the population and percentage of people attending college continues to increase.

This paper does not advocate there should not be any rules in place regulating the future growth of the state universities. It should be noted that Regulation 8.004 is completely permissible as applied to the other state universities of Florida. As the state universities of Florida continue to grow and valuable joint venture projects glitter like jewels in a desolate sea of state budget cuts, it makes sense to have a system in place that helps to regulate future expansion projects of the state universities so that another Digital Domain fracas does not occur. However, these regulations must exempt UF and FAMU because as Florida's land grant

357. REG. 8.004, ACADEMIC PROGRAM COORDINATION (2)(e).

358. STRATEGIC PLAN 2012-2025, *supra* note 1, at 11.

universities, they have a mandated statewide reach and an educational responsibility to the people of the entire state.

VI. CONCLUSION

Justin Morrill had a vision to revolutionize the university system of the United States by converting it from an enabler of class distinctions to one of promoting the American Dream.³⁵⁹ The implementation of his vision was the Morrill Act of 1862 establishing the land grant system.³⁶⁰ While the Morrill Act of 1862 appears to simply foster upper-level education of agriculture and mechanical arts,³⁶¹ it is, in fact, the cornerstone of a concept of universities of the people.

An essential component of this concept was access to the land grant universities, necessitating the statewide outreach to all Floridians. Imposing restrictions on the future expansion of land grant universities is inconsistent with the universities of the people concept and prevents the schools from effectively fulfilling the intent of the federal legislature. The State of Florida is fortunate to have two highly acclaimed land grant universities, UF and FAMU. While the Board of Governors searches for ways to synergize its 12 state universities into a premier public university system, it must do so by accommodating the intent of the federal acts that created the two cornerstones on which the State University System was founded.

359. See ANDREWS, *supra* note 179, at 15.

360. See *id.*

361. See *id.*