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## Texas House Bill 51—An incognito performance-based funding policy: Implications for access and equity in Texas

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### Abstract

Higher education policy discussions are largely shaped by competing viewpoints regarding who benefits from higher education—society or the individual (Bowen et al., 1997). This tension around who higher education most benefits informs decision-making for policy makers who might ultimately decide who should pay for higher education—the individual or state and federal governments (Labaree, 1997). Most importantly, the aforementioned premise undergirds policy makers' perceptions of higher education as a justifiable public investment, which shapes their beliefs regarding their role in determining the function of public universities as state institutions (Labaree, 2013).

### Disciplines

Accessibility | Disability and Equity in Education | Higher Education

### Comments

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Funding Policy: Implications for Access and Equity in  
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Implications for Access and Equity in Texas**

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Higher education policy discussions are largely shaped by competing viewpoints regarding who benefits from higher education—society or the individual (Bowen et al., 1997). This tension around who higher education most benefits informs decision-making for policy makers who might ultimately decide who should pay for higher education—the individual or state and federal governments (Labaree, 1997). Most importantly, the aforementioned premise undergirds policy makers’ perceptions of higher education as a justifiable public investment, which shapes their beliefs regarding their role in determining the function of public universities as state institutions (Labaree, 2013).

There is little consensus considering the function of higher education (Jongbloed, Enders, & Salerno, 2008). Many stakeholders hold firm fundamental beliefs that higher education functions solely as a benefit to individuals who can afford the luxury of such pursuits (Labaree, 2013). Others stakeholders hold firm beliefs that higher education is of most benefit as a function of the state’s political, social, and economic development, and thus a viable public investment and of special interest to state legislators (Labaree, 1997). However, most stakeholders miss the interrelated nature of each argument, which ultimately justifies higher education as a public good with some private benefits, worthy of investment (ideologically and fiscally) by both the state and the individual student. No different than any public policy issue, as discussed by Stone, (2002), the contemporary function of higher education must be understood not in terms of contradiction but in terms of its dual nature. To assess the true value of education and determine its most appropriate function across the P-20 pipeline, one must understand the purpose of education as a purpose rife with duality (related to its public and private functions). This duality reflects the perspectives of a diverse group of stakeholders across various public domains, including students and their families, governmental agents, and private industry. Through their imposed values and influences, each of these stakeholders play key roles in (re)shaping and (de)legitimizing every fundamental aspect of higher education, not excluding macro matters surrounding institutional mission and funding.

Yet, policy makers with significant influence often fail to consider the interest of disenfranchised stakeholders. This happens when policymakers prioritize the policy interests of some stakeholders at the expense of others. Thus, the outcome leads to policy blind spots at the policy development and policy implementation stages of the process, which ultimately leads to inequity. This policy outcome comes at the risk of alienating or disenfranchising one or more groups considered as primary stakeholders in the field—students and their families, governmental agents, and/or private industry. Unchecked asymmetric power relationships between policy stakeholders constrains the ability of policy makers to historicize and situate the disparate outcomes of a policy within a contemporary racialized context (Jones et al., 2017). This then limits their ability to acknowledge the endemic, systemic racism and elitism prevalent in the societal context in which these policies exist, even when these ends are the aim of the policy (Gillborn, 2005).

Specific to the issue of performance-based funding models in higher education, administrators and thought leaders of higher education have been woefully limited in their ability to develop policy solutions with the potential to eradicate (rather than mitigate) concerns of racial and class in-

equity (Fairclough, 1993; Ladson-Billings & Tate, 1995). These limitations exist due to insufficient attention to the needs and experiences of low-income and racially marginalized student stakeholders at the policy development and implementation phases (Gillborn, 2005; Umbricht et al., 2017). Nearly 10 years ago, following the enactment of Texas House Bill 51 (TX HB 51) of the 81st legislature, the Texas Legislature initiated a state appropriations policy that offers an example of the policy politics and policy inequity previously mentioned.

In 2009, the THECB designated eight of its most accessible and reasonably priced public universities as emerging research universities (THECB, 2017). These institutions are now referred to as emerging tier-one or emerging research universities across Texas and the policy has since taken on a similar nomenclature as the tier-one university bill or the emerging research university bill. Since the enactment of the policy, which can be thought of as an opt-in performance-based funding model, the designated universities have been fiscally incentivized to join a state-sponsored race that is predicated on institutional transformation, which has been predefined by accountability metrics outlined by the THECB. Winning this race means that administrators of the university will have succeeded, not only, in advancing its prestige on a national level but also in securing substantial amounts of state appropriations and positioning the university to be recognized as Texas' third public flagship university. By 2016, five of those universities rose to the Carnegie classification of Tier One "highest research activity" status, but none have been recognized as a Texas flagship institution. Those five universities include Texas Tech University, University of Houston, University of North Texas-Denton, University of Texas at Arlington, and University of Texas at Dallas (THECB, 2017).

### **The Purpose**

To understand the impact of Texas House Bill 51 (TX HB 51), which has gone largely unidentified as a performance-based funding policy governing four-year institutions in Texas, we analyzed TX HB 51 as a performance-based funding model at the state level with an understanding that higher education is a public good with some private benefits. With that understanding we work from an underlying assumption that state universities ought to work for the benefit of both the good of the polis as well as the private good of those who make up the polis—the polis in this case being the state of Texas. Therefore, we emphasized not only the microeconomic gains or losses resultant from performance-based funding but also (and primarily) the social repercussions related to such policy decisions at the macro level.

Because TX HB 51 is not a statewide mandate that universally affects all public Texas universities, it cannot be stated without qualifiers that Texas has a higher education performance-based funding model. However, this policy uses state appropriations, beyond the state's base funding formula, to incentivize its regional comprehensive institutions towards high research activity in pursuit of academic excellence and nationally recognized prestige (Crisp, Horn, Dizinno, & Wang, 2010). Because of the unique role regional comprehensive institutions have historically played in meeting the needs of low-income and racially marginalized students (stakeholders with considerably less political influence than those who developed the policy), we use a critical policy analysis to consider at what costs these priorities have been pursued and at whose expense. By employing this lens, we offer critical interrogation of the potentially negative economic and social impacts of this funding mechanism, while considering historical and persistent racial inequity and power differentials across dominant and non-dominant groups within U.S. society.

In the sections that follow, we first synthesize the impact of long standing performance-based funding models outside the state of Texas. We then discuss similar trends related to TX HB 51 that might warrant further exploration as it relates to the specific needs of various stakeholders

and policy goals within the state of Texas. Finally, based on our analysis, we encourage the reframing of TX HB 51 in ways that better align with Texas' equity focused vision for higher education, as espoused in its statewide strategic plan at the macro level and sustainable policy recommendations to eliminate (un)intended impacts to marginalized student populations at the micro level.

### **Literature Review**

To trouble the dominant discourse surrounding the influence of TX HB 51 on the organizational mission and enrollment management practices concerning low income and racially marginalized student populations, we first liken TX HB 51 to performance-based funding policies, a category of policies demonstrably proven to change the organizational inputs and outputs of higher education institutions (Dougherty, Natow, Bork, Jones, & Vega, 2013). Performance-based funding models in higher education are not new funding mechanisms, nor are they unique to the state of Texas (Dougherty et al., 2013). There are a variety of performance-based funding models. Some models incorporate performance metrics into the base formula that determines an institution's expected state appropriation within a given fiscal year. Other models offer an added bonus to the base appropriation.

Performance-based funding models originated as early as 1979 in Tennessee and continued to develop throughout the following decades across the nation, serving primarily as accountability policies in the higher education policy arena (Dougherty, Jones, Kahr, Pheatt, & Reddy, 2014; Massy et al., 2013). These policies have been historically more punitive than incentivizing, primarily because most performance-based funding models do not allocate new funds as an incentive. To the contrary, the incentive is typically a reallocation of funds that institutions would have otherwise received as a portions of their base funding if the performance metric had never been introduced (Petrick, 2012). In addition, institutions most often only receive funds on the basis that they follow an unfunded, unmanned state mandate (Dougherty et al., 2014), which is to say that they are meeting performance metrics or reporting data in accordance with a non-optional state law. This is in line with simple compliance, rather than a reaction to a worthy incentive, as the idea of performance-based policy implies. But above all, institutions are commonly compelled by law to produce additional labor in order to record and report the degree to which they offer more of the same services (Petrick, 2012). Taking all of these points into consideration, the mechanisms of the earliest and longest standing performance-based funding, budgeting, and reporting models are threats of penalization for failure to improve, rather than incentives to improve.

### **The National Context: Performance-Based Funding Models**

The makeup of state legislative bodies, higher education governance structures, as well as the inter- and intra-state economic and political climate in which institutions are situated largely determine if a state will adopt a performance-based funding model (McLendon, Hearn, Deaton, 2006). Dougherty et al. (2014) qualitatively studied the uptake and implementation of performance-based funding models across multiple states. Like McLendon et al. (2006), Dougherty et al. (2014) found that Republican domination of state legislative bodies and governors with Republican party affiliations increased likelihood of adoption of performance-based funding models. In addition to the partisan distribution of the legislative body or the party affiliation of state governors, government (de)centralization and the level of authority held by the governor were also found to have significant influence on the development of performance-based policies (Dougherty et al., 2014). Specifically,

states with centralized higher education governance (such as a state coordinating board) were more likely to adopt performance-based reporting models (McLendon et al., 2006).

### Typically-Cited (Un)intended Consequences

We use a critical policy analysis to move beyond the typical preoccupation with “governance, elite leaders, and field dynamics” (Bastedo, 2012, p. 5). Instead we consider the implications of organizational changes and the effects researchers have shown these changes to have on educational outcomes in multiple state contexts, which further perpetuate educational inequities. Across the nation, several consistently or potentially negative repercussions of performance-based funding models have emerged (Dougherty et al., 2014; Lahr et al., 2014). The issues of most concern in the literature among scholars and policymakers are three fold: the cost of compliance, weakening academic excellence, and diminished faculty voice in academic governance (Dougherty et al., 2014; Massy et al., 2013; McLendon et al., 2006; Petrick, 2012). These issues relate to dominant, White normative conceptualizations of institutional legitimacy, accountability, and efficiency. As a result of the attention these effects receive in the literature, most policy makers easily accept them as critical priorities, and they take precedent at the policy agenda setting and implementation stage. Moreover, they are more likely to undergird the decision-making processes surrounding what priorities are measured and rewarded in performance-based funding models (Massy et al., 2013), which ultimately guides the priorities of colleges and universities under the mandate of the policies.

Other documented repercussions of performance-based funding models include the narrowing of institutional mission and restriction of student access to higher education through enrollment management decisions that affect equity in the admissions process, financial aid awards, and institutional resources for student development (Dougherty & Reddy, 2013; Dougherty et al., 2014; Petrick, 2012; Umbricht et al., 2017). These consequences disproportionately impact low-income and racially marginalized students. Yet, policy makers and those who implement policies pay considerably more attention to preventing and mitigating the consequences mentioned in the previous section (cost of compliance, weakening academic excellence, and diminished faculty voice in academic governance) at each stage of the policy making process than they do the unintended consequences related to access and equity (Umbricht et al., 2017).

With the exception of Tennessee and Ohio, little has been done to reconfigure performance-based funding models to deal with these aftershocks. Instead, it is commonly suggested that the diminished equity can be made up for by the community college sector, which will presumably absorb students who might be shut out of the four-year sector due to performance-based funding mechanisms that incentivize more exclusionary enrollment management practices (Dougherty & Reddy, 2013; Dougherty et al., 2014; McLendon et al., 2006). Such conclusions support the reliance on community colleges to resolve the residual issues of equity and access within the four-year sector and support the status quo of inequity pervasive across the P-20 pipeline (Pizarro Millian, 2016). As open-access institutions, community colleges are intended to be accessible to all people, while four-year institutions are not held to the same standards of equity (Dougherty, 1988; Labaree, 2016), despite the impact on students’ private lives or implications for society more broadly. However, these repercussions do not appear to rise to the level of concern that would suggest to policy makers that the formula itself, undergirding the performance-based funding model, might have a fatal flaw and should therefore be reconfigured based on more equitable assumptions.

The inequitable consequences of performance-based funding mechanisms are consistently discussed in the literature as unfortunate, residual, after-effects—the metaphorical bride price—for a more efficient and legitimized system of higher education (Dougherty & Reddy, 2013; Dougherty et

al., 2014; McLendon et al, 2006). Only recently have scholars taken up the task of empirically demonstrating the deleterious impact of such policies with the sole intention of highlighting the level of impact on access for racially marginalized and low-income students pursuing higher education in a performance-based funding state context (Jones et al., 2017; Umbricht et al., 2017). Jones et al. (2017) offered an alternative model to performance-based funding that centralizes and prioritizes equity in higher education. Their model includes five key components: (1) Mandatory Equity Metrics, (2) Equity Metrics Inclusive of Race, (3) Additional Weights for Low-income & Racially Marginalized Students, (4) Dis-incentives for Creaming at the Expense of Low-income and Racially Marginalized Students, and (5) Investment in Low-resourced Institutions (Jones et al., 2017).

Together, the findings of our literature review have implications related to the values most often reflected in the metrics of performance-based funding models (Massy et al., 2013). Policy makers, analysts, researchers, and other powerful constituents, who determine which functions of higher education are worth measuring, ultimately have the privilege of legitimizing new priorities and delegitimizing other priorities. This means they have substantial power to systematically change the most fundamental functions of a given college or university. As Jones et al., (2017) pointed out, legislators' resistance to incorporate standards of equity into funding models and scholars' reluctance to critically interrogate the repercussions of said models only perpetuate the systemic racism and economic oppression endemic within and beyond the academy writ large (Apple, 1993). Whether intentional or not, the repercussions of these stakeholders' actions have real consequences for the students and other stakeholders immediately affected by their decisions.

### Research Questions

In the following sections, we employ a form of critical policy analysis identified by Gale (2010) and Sheurich (1994) as policy archeology. Though Sheurich (1994) discussed this method of analysis comprehensively and from within a U.S. policy context, in this study we are concerned specifically with the type of policy archeology that Gale (2010) described from an Australian policy context. Gale (2010) posited that policy archeology is a specific variety of critical policy analysis, derived from policy sociology, which asks a variety of questions, such as:

(1) Why are some items on the policy agenda (and not others)?; (2) Why are some policy actors involved in the production of policy (and not others)? and (3) What are the conditions that regulate the patterns of interaction of those involved? (p. 387-388)

In this study we specifically ask two questions in line with this inquiry:

- (1) What were the institutional priorities of Texas House Bill 51?
- (2) What does documented discourse reveal regarding the intended and unintended influences of those priorities on regional, comprehensive four-year institutions as it relates to the educational opportunities of low-income and racially marginalized student populations?

### Analytical Theoretical Framework

The methodological underpinnings of this work are firmly rooted in the fertile (evolving) soil of critical policy analysis (CPA). According to Diem, Young, Welton, Mansfield, and Lee (2014), CPA is often concerned with: 1. "the policy, its roots, and its development," 2. "the space between policy development and implementation," 3. "the policy tools and processes that facilitated policy institutionalization and/or internalization," and 4. "the distribution of power, resources, and knowledge...[with special attention to] the creation of winners and losers" (p. 1072). In line with CPA methodology (Diem et al., 2014), we situate TX HB 51 within the context of the most recent

and current higher education agenda put forward by the Texas Higher Education Coordinating Board (THECB)—Closing the Gaps and 60x30TX Plan, respectively. In doing so, we begin our analysis by speaking to the origins, funding mechanisms, and reporting metrics gleaned directly from a document analysis of TX HB 51, state coordinating board documents, and news articles that cover the development of TX HB 51. We briefly contextualize TX HB 51 within the historical context of comprehensive regional institutions in an effort to illuminate the unseen social effects of the policy. We finally analyze the development of TX HB 51 (explicitly conceptualized here as a performance-based funding model) in ways that challenge unquestioned notions of academic excellence, prestige, and acceptable residual outcomes. Ultimately, in the following sections, we present our archeological findings to our research questions that consider the function of Texas' regional comprehensive institutions, the institutional priorities of TX HB 51, and the influence of those priorities on regional, comprehensive four-year institutions as the findings pertain to low-income and racially marginalized student populations.

### **Texas HB 51: Origins, Funding Mechanisms, & Reporting Metrics**

In 2000, nine years prior to TX HB 51, the state of Texas explicitly identified symptoms of what Ladson-Billings (2006) refers to as “the educational debt,” which continues to go unpaid to students from racial groups who have been historically excluded from educational opportunities—those symptoms being academic achievement gaps between racially minoritized students and their White counterparts across the pipeline. The THECB introduced a new strategic plan for higher education entitled *Closing the Gaps*, which might be usefully interpreted as a step towards repayment of that debt. TX HB 51 was originally developed under this strategic plan, and reflects two of its primary priorities for the state, but at varying degrees. Early on in its plan, *Closing the Gaps* pointed out, “At present, a large gap exists among racial/ethnic groups in both enrollment and graduation from the state’s colleges and universities. Groups with the lowest enrollment and graduation rates will constitute a larger proportion of the Texas population” (THECB, 2000, p. 4). The need to effectively close the gaps between white students and students of color, particularly African-American and Latinx students, was named as vital to the future economic viability of the state. In its 15 years as the state strategic plan, gains were made in minoritized student enrollment and graduation; for example, Black students actually exceeded target enrollments by approximately 45,000 students in 2015 (THECB, 2016).

Along with access, *Closing the Gaps* did in fact discuss institutional prestige. With the hope of increasing the prestige of programs and missions at Texas institutions, the plan put forth the point, “Most universities should not strive to be research institutions, but rather focus on strengthening their own unique missions” (THECB, 2000, p. 14). Interestingly, the plan directly addressed a specific excellence goal regarding public institutions; in order to do that, the state would: increase the number of research institutions ranked in the top 10 among all research institutions from zero to one, and two additional research universities ranked in the top 30 by 2010; increase the number of public research universities ranked in the top 10 among all public research universities from zero to two, and four ranked among the top 30 by 2015. (THECB, 2000, p. 14)

Notably, the state’s public flagship institutions, The University of Texas at Austin and Texas A&M University, contributed to developing this goal. Further, *Closing the Gaps* described plans to help Texas colleges and universities grow in quality according to their institutional type (THECB, 2000).

While the addition of a small number of public institutions was needed to help the state meet its benchmarks for excellence, a statewide and systematic program for incentivizing multiple

institutions across the state was not obvious when Closing the Gaps was introduced in 2000. It was not until 2008 when TX HB 51 was adopted by the Texas Legislature to fulfill this latter vision of the Closing the Gaps strategic plan. However, the former goal, articulated in the name of the strategic plan, to improve equity between racial groups, was incorporated in TX HB 51 to a much lesser extent, indicating that equity might have been lost in its implementation.

### **TX HB 51: Origins**

In 2009, TX HB 51 mandated that THECB designate seven regional, public, comprehensive, four-year institutions across the state as emerging tier-one research institutions (THECB, 2009). Those institutions then became eligible to compete for access to millions of dollars in state appropriations from several newly developed (not newly generated) pots of money following the 81st Legislature. Two of those pots are referred to as the Texas Research Incentive Program (TRIP) and the Research University Development Fund (RUDF). The final pot, which will be given the most attention for the scope of this work, was deemed the National Research University Fund (NRUF) (Legislative Budget Board, 2009; TEC 62.145; THECB, 2009; THECB, 2017; THECB, 2018).

When early competition revealed winners and losers for TRIP funds, especially given that alumni and fundraisers could generate matching funds for the universities, legislators' priorities for national competition and economic improvement were evident (Hamilton, 2010). One of the leading advocates for higher education in the Texas Legislature, Senator Judith Zaffirini, scolded University of Houston officials who fell short in fundraising: "All of the hometowns of these [emerging] universities should want a national research university, not for the status but because of the economic multiplier" (Hamilton, 2010, para. 13). In testimony to the Texas Legislature, Daniel (2008) argued that it was no coincidence that research universities were clustered around important innovation centers like Silicon Valley, Los Angeles, and Boston. It was argued that more research universities would add to Texas's economic competition against other states. Hamilton (2010) called Texas's three research universities "a source of some embarrassment and a drag on economic development," (para. 4) considering that California had nine top-tier research universities and New York had seven (Daniel, 2008). This discourse surrounding progress towards tier-one research status further fueled the desire for institutions to maintain endurance in the race to high research activity.

### **TX HB 51: Funding Mechanisms**

In total, TX HB 51 was projected to cost the state of Texas close to three million dollars (\$298,965,652) through the initial biennium following its enactment (Legislative Budget Board, 2009). Annually, that was reported to be an approximate \$147,500,000 each fiscal year from 2010 until 2014 (Legislative Budget Board, 2009). When TX HB 51 was enacted, Texas legislature abolished the prior Texas Higher Education Fund (HEF) and reallocated the \$256,000,000 balance to fund the NRUF (THECB, 2009; THECB, 2017; TEC 62.145). To qualify for NRUF benefits, each eligible institution is required to meet qualifying benchmarks in practice, collect institutional data, and submit data reports to the THECB demonstrating their commitment to increased research activity across legislated categories outlined in sections (d)(1)(c) (iii-vi) of TX HB 51.

### **TX HB 51: Reporting Metrics**

In addition to making THECB responsible for designating the first emerging research institutions, TX HB 51 mandated that the Board also delineate the eligibility criterion qualifying institu-

tions for performance-based appropriations distributed from the NRUF (TEC 62.145; THECB, 2009; THECB, 2017; THECB, 2018). THECB came up with eight criteria to reflect state priorities around excellence and prestige.

Mandatory Criteria	Four out of Six Additional Criteria
1. Emerging Tier-One Designation by THECB  2. Two Consecutive Years of Research Expenditures $\geq$ \$45 million	1. Endowment Funds $\geq$ \$400 Million  2. Doctoral Degrees $\geq$ 200  3. Increases in Freshman Academic Profile  4. Increases in Faculty Profile  5. National Recognition by Professional Associations  6. High-quality Graduation Rates

Figure 1. THECB NRUF eligibility criterion.

First, institutions must be designated by the Coordinating Board as an emerging research institution and have spent a base of \$45,000,000 dollars in research expenditures in the last two years prior to applying to receive NRUF appropriations (TEC 62.145 (C); THECB, 2009; THECB, 2017; THECB, 2018). In addition to meeting two mandatory criteria, institutions must also meet four out of six optional criteria in the two years prior to applying. Institutions can (1) demonstrate endowment funds in excess of \$400,000,000; (2) award more than 200 doctoral degrees; (3) achieve membership in one of three nationally recognized research associations; (4) recruit high-quality faculty—determined by the number of Nobel peace winners, tenure-track or tenured faculty, and the professional association to which they belong; (5) enroll a high-achieving freshman class—determined by whether the institution enrolls a freshman class comprised of 50 percent or more students from the top 25 percent of their high school class, or whether the institution enrolls a freshman class whose 75th percentile reflects standardized test scores at or above 1210 on the SAT or 26 on the ACT, or whether they demonstrate commitment to closing the gaps between underrepresented first time in college (FTIC) students by offering federal support programs such as TRIO or McNair Scholars; or (6) demonstrate high-quality graduate education by having 50 or more graduate level programs, or having at least a 56 percent master’s graduation rate or at least a 58 percent doctoral graduation rate (THECB, 2009; THECB, 2017).

### The Targets of TX HB 51: Comprehensive Research Universities

In order to understand the potential impact of TX HB 51 to equity in higher education, it is critical that we briefly explain the historical context of the institutions it affects—comprehensive research universities. To do that effectively, we must consider these institutions through the framework put forth at the beginning of this analysis, which recognizes the dual function of higher education as a public good with some private benefit.

The eight institutions designated as emerging tier-one campuses by TX HB 51 were Texas State University, Texas Tech University, University of Houston, University of North Texas-Denton, University of Texas at Arlington, University of Texas at Dallas, University of Texas at El Paso, and University of Texas at San Antonio (Hamilton, 2010). These universities, as regional, comprehen-

sive state universities, emerged from historical roots that tie them to a category of institutions that the state and federal government fiscally and ideologically invested in out of interest in the success of the surrounding regional economy and the localized needs of citizens who wanted access to advanced learning through post-secondary education opportunities (Harclerod & Ostar, 1987; Henderson, 2007; Orphan, 2015; Pizzarro Millian, 2016). As a result of their inclusive nature for academically underserved populations (e.g., low-income, racially minoritized, and historically female student bodies geared towards applied professions), they are also part of a category of institutions with far reaching roots in the race for status, prestige, and state resources (Harclerod & Ostar, 1987; Henderson, 2007). Nonetheless, they have been identified as crucial institutions for providing access and developmental opportunities for growth for students who might never be able to access selective or highly selective institutions based on admissions practices foundationally rooted in exclusion (Carnegie Foundation, 2014; Crisp, 2016; Kirst, Stevens, & Proctor, 2010).

According to Harclerod & Ostar (1987) comprehensive regional institutions have been at the mercy of governing bodies and accreditation agencies since their inception. This history positioned the institutions as universities with malleable priorities over the course of several decades as they sought legitimation and public prestige (Harclerod & Ostar, 1987). Their ability to secure such status, (largely determined by their ability to emulate research universities) has always affected their ability to garner fiscal support from private investors (students) and public investors (state governments) alike (Harclerod & Ostar, 1987; Crisp, Doran, & Reyes, 2018). Crisp et al., (2018) acknowledge that the accountability measures currently applied to these institutions are of particular concern in a fiscal culture where policy makers are increasingly tying funding for higher education to high-stakes, performance-based funding models. Because these policies are devoid of knowledge about what actually makes these institutions democratizing spaces of higher learning, the policies leave the missions of the institution vulnerable to distortion.

### **TX HB 51: Unintended Consequences**

The THECB benchmarks, which qualify these institutions for as much as \$35,000,000 (as in the case of University of Houston), have little to do with direct impact on students' academic/social development or equitable educational opportunities for access (Legislative Budget Board, 2009). Instead, the major priorities of the policy incentivized growth in the areas of research efforts, research expenditures, faculty research productivity, and badges of prestige, which often reflect hegemonic White normative values of knowledge production, which delegitimize the scholarship and stifle the professional advancement of faculty of color (Baez, 1998; Fenelon, 2003; Frazier, 2011; Gonzales, Murakami, & Núñez, 2013; Gonzales, Núñez, Clemson, 2014; Gonzales & Rincones, 2012; Griffin, 2013; Lee & Leonard, 2001).

Because TX HB 51 requires universities to strive for benchmarks that ask them to reach beyond their current missions in pursuit of not only prestige but also state funding, several scholars have called into question whether these identified emerging research universities will be able to maintain their commitment to access (e.g., Crisp, Horn, Dizinno, & Wang, 2010; Doran, 2015). Critics of the policy raise these concerns because comprehensive regional universities have long served the societal function of supporting the educational needs of racially marginalized, low-income, and otherwise non-traditional students (Crisp et al., 2010; Doran, 2015; Lipson, 2011). In addition, these institutions are required to bet on themselves as they strive to meet the benchmarks of TX HB 51, meaning institutions are not provided start-up funds to meet the research goals for NRUF eligibility (THECB, 2018). Instead, they must raise the money or shift it from other priorities. This could mean institutions have to reallocate monies that may have once funded equity-focused initiatives or

that the institutions are passing the expenses on to students through increases in tuition (Doran, 2015). Furthermore, it implies that institutions might be likely to respond to TX HB 51 by reallocating funds or refocusing development efforts to increase research expenditures and their ability to recruit top faculty members committed to research activity, as opposed to student development and/or teaching (Milem, Berger, Dey, 2000; Neave, 1979; Riesman, 1958).

Beyond the potential shift in mission described above, one of the greatest shifts in priorities among some of these institutions could be their commitment to serving community college transfer students. Because of this reality, TX HB 51 has the potential to have significant negative impacts on racially marginalized students who primarily use community colleges as their starting point for accessing reasonably-priced, broad-access, regional, four-year universities (Dougherty & Kienzl, 2006; McLendon, Hearn, Hammond, 2013). For example, University of Houston, University of Texas at El Paso, University of Texas at San Antonio, and University of North Texas-Denton each have strong reputations for serving community college transfer students (Crisp, Horn, Dizzino, & Wang, 2010), but now the universities find themselves monetarily incentivized to shift their focus or have a more intense focus on FTIC students as a result of the eligibility benchmarks of TX HB 51 (Crisp, Horn, Dizzino, & Wang, 2010).

### **Discussion and Implications for the State of Texas**

Monetary incentives, such as TX HB 51, operate to increase the performance of some functions and therefore, by definition, decrease the function of others (Lahr et al., 2014). Sometimes these effects disparately impact the most vulnerable and marginalized stakeholders, including low-income and racially minoritized students (Dougherty & Reddy, 2013; Dougherty et al., 2014; McLendon et al., 2006). This is because these stakeholders are most likely to have the seat furthest away from the decision-making table during the policy development stage. In the literature, these effects are palatably described in most cases as “unintended” outcomes of performance-based funding models (Dougherty & Reddy, 2013; Dougherty et al., 2014; McLendon et al., 2006 Umbricht et al., 2017). However, if not taken into consideration during the development and implementation phases of performance-based policies, despite existing evidence warning stakeholders of the common negative consequences mentioned above, these effects can only be considered intentionally neglected at best.

With the passage and enactment of TX HB 51, state agents and external stakeholders responsible for funding and legitimatizing universities in Texas have decided to hone in on the idea of academic prestige. Based on the eligibility benchmarks stated in the policy, prestige has been disproportionately predicated on an ideal that directly and exclusively maps onto values and norms associated with institutional rankings, rather than concern for meeting the needs of those served by Texas’s broad access colleges and universities. The concept rests firmly on a foundation primarily concerned with faculty research endeavors, restricted research expenditures and endowments, and traditional notions of academic excellence that privilege White, affluent students at enrollment (such as ACT and SAT scores and linear, well-resourced pathways from high school straight to a 4-year institution) and consider racially minoritized students as liabilities who will require additional support and resources once accepted (Iverson, 2007).

The institutions designated as “emerging institutions” include those who have been cited in the field within the stratified system of higher education as the best at engaging in the function of teaching and academically developing students from marginalized backgrounds (Crisp et al., 2010; Doran, 2015; Lipson, 2011). These institutions have more resources than community colleges and create better access points for achievement of a four-year degree and, ultimately, access to greater

socioeconomic mobility (Astin & Oseguera, 2004; Chetty et al., 2017; Hemelt, & Marcotte, 2011; Henson, 1980). Despite minimal efforts to encourage the maintenance of support programs geared toward students of color, low-income backgrounds, and/or first-generation students, the benchmarks of TX HB 51 are primarily benchmarks that aim to draw these institutions away from that mission by making the institutions more selective.

If TX HB 51 is found to have the same negative impact on equity and access as other state performance-based programs (Umbricht, 2017), it will not only poorly affect students' individual ability to access their best opportunity for economic and personal growth, but it will also be a travesty for the Texas economy and social climate as articulated by the 60x30 state agenda. The 60x30 state agenda espouses to increase the number of college graduates in Texas to 60 percent by the year 2030 to meet labor market needs. The agenda recognizes that an integral component to achieving this goal is related to increasing access among low-income and racially marginalized students through improved college-readiness initiatives and efforts to improve ease of community college student transfer (THECB, 2015). While the agenda does not purport to be concerned with equity as it pertains to accessing specific sectors of education, it is unlikely that a student stakeholder would not be acutely concerned with this factor. Though research is certainly one of the purposes of American higher education, the extent to which it is recognized as a function of the state by TX HB 51 pits it against other longstanding purposes of higher education—teaching, student development, and equity in access (Astin, 1993; THECB, 2000). When the Texas legislature further incentivizes comprehensive regional institutions to abandon those missions, it ought to think critically about whether it can afford the economic tradeoffs and the ethical optics of such tradeoffs. Further research is needed to determine the degree to which these institutions have protected their mission on these fronts or succumbed to the forces of TX HB 51, which propel them away from those traditions, particularly in the case of transfer-intending students from racially and/or financially marginalized backgrounds.

### Conclusion

Performance-based funding models (and similar funding mechanisms, such as TX HB 51) often have the potential consequence of changing the missions of institutions and curbing access to institutions of higher education for racially marginalized and low-income students (Dougherty & Reddy, 2014; Dougherty et al., 2014; Schudde & Grodsky, forthcoming). Unfortunately, in response, the majority of attention has been allocated to relying on the stratified nature of the field or support programs to address such consequences (Dougherty et al., 2014; Massy et al., 2013; McLendon et al., 2006). Legislative bodies imposing higher education accountability policies must do more to incorporate equitable access and success metrics into the performance-based funding formulas that have the greatest ability to move institutions of higher education towards behavioral change, like TX HB 51 (Jones et al., 2017).

Scholars concerned with equity and access must offer serious inquiry into the societal repercussions of ahistorical, color- and need-blind performance-based funding models. It is crucial to critique the widely accepted reality of high concentrations of racially minoritized and low-income students within broad access and/or under-resourced institutions of higher education, particularly when funding models (un)intentionally exacerbate this issue (Jain, Bernal, Lucero, Herrera, & Solórzano, 2016; Winston, 1999). This taken for granted (and sometimes glorified) reality is in fact evidence of considerable historical educational inequity across the P-20 pipeline, rooted in racism and elitism (Bowles & Gintis, 2002; Brint & Karabel, 1989; Carnevale & Strohl, 2013; Davis & Moore, 1945; Gundaker, 2007; Labaree, 2013; Watkins, 2001). As a result, the stratification of racially marginalized

and low-income people, in both education, and the workforce, often goes untroubled by those in power to benefit from such inequity, such as industry stakeholders and wealthy legislatures, who often have lucrative ties to or financial footing in a state's industry sector.

Returning to the idea that higher education has an obligation both to public and private citizens, colleges, and universities must be simultaneously preoccupied with fulfilling the needs of all its stakeholders. That includes meeting the concrete needs of their immediate consumers (students), as well as the more abstract and distant needs of the society in which they are situated (such as legislatures, public and private industry, and socially vulnerable populations). Dependent upon the perspective of the onlooker, it can often appear that these needs are pitted against one another in competition for limited sweat equity and scarce financial resources. However, the needs of Texas's various stakeholders are not inherently at odds with each other—it is ideological tensions within higher education policies that create this contentious atmosphere within the polis.

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