

A COMPARATIVE FINANCIAL ANALYSIS OF LOUISIANA'S  
LAND-GRANT UNIVERSITIES: THE MORRILL ACTS AND  
*BROWN* REVISITED

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## INTRODUCTION

On September 18, 2023, U.S. Secretary of Education, Miguel Cardona, and U.S. Secretary of Agriculture, Thomas Vilsack, wrote letters to the governors of sixteen states that described the funding disparities between land-grant Historically Black Colleges and Universities (HBCUs) and non-HBCU land-grant universities in their states.<sup>1</sup> The two agency leaders shared estimates from the National Center for Education Statistics that indicated over \$12 billion in funding disparities accumulated between the HBCU and non-HBCU land-grants in the designated states.<sup>2</sup> The period under review was from 1987 to 2020, and the disparities were a product of underfunded per student in-state appropriated funds.<sup>3</sup> These funding disparities represented noncompliance with the Morrill Act of 1890.<sup>4</sup> Both the Morrill Act of 1862 and the Morrill Act of 1890 inform our discussion.<sup>5</sup>

Under the Morrill Act of 1862, the federal government initiated financial support for state land-grant universities to support agriculture and the mechanical arts.<sup>6</sup> The two Morrill Acts explain, in part, the rapid rise of the U.S. to a global economic power in the twentieth century, as the U.S. surpassed the U.K. and other European economies in terms of gross domestic product (GDP) and GDP per capita.<sup>7</sup> Reflecting historically, the Morrill Act of 1862

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1. Press Release, U.S. Dep't of Educ., Secretaries of Education, Agriculture Call on Governors to Equitably Fund Land-Grant HBCUs (Sept. 18, 2023), <https://www.ed.gov/news/press-releases/secretaries-education-agriculture-call-governors-equitably-fund-land-grant-hbcus> [https://perma.cc/LK4Y-APYB].

2. *Id.*

3. *Id.*

4. See Second Morrill Act of 1890, ch. 841, 26 Stat. 417 (codified as amended at 7 U.S.C. §§ 321-26, 328 (1988)). Hereinafter, the Act is referred to as both the Second Morrill Act and the Morrill Act of 1890.

5. See generally *id.*; First Morrill Act of 1862, ch. 130, § 4, 12 Stat. 503, 504 (codified as amended at 7 U.S.C. §§ 301-05, 307-08 (1988)). Hereinafter, the Act is referred to as both the First Morrill Act and the Morrill Act of 1862.

6. 7 U.S.C. § 301.

7. A driver of this economic shift in status was the U.S. advantage in knowledge formation, imperfectly measured by comparatively higher educational attainment. See Isaac Ehrlich, Adam Cook & Yong Yin, *What Accounts for the US Ascendancy to Economic Superpower by the Early 20th Century? The Morrill Act-Human Capital Hypothesis*, 12 J. HUM. CAP. 233, 274-77 (2018).

supported the establishment or enhancement of public higher education institutions that rank among the premier research universities in the world, including: the University of Illinois Urbana-Champaign; University of Florida; Louisiana State University and Agricultural & Mechanical (A&M) College; Auburn University; Clemson University; Texas A&M University; University of Missouri; Virginia Tech; University of Maryland, College Park; University of Georgia; University of Tennessee, Knoxville; University of California, Berkeley; and North Carolina State University.<sup>8</sup>

Through the 1960s, many of the southern land-grant institutions did not fully racially integrate or allow Black residents in their state to participate in agriculture extension programming.<sup>9</sup> Under the Second Morrill Act, a state that did not permit Blacks to attend its land-grant universities—those higher education entities supported by the First Morrill Act—was considered compliant with the legislation if the state created a separate college focused on agriculture and mechanical arts for Black students.<sup>10</sup> The Morrill Act of 1890 allowed states to create separate land-grant institutions for Black students with one major requirement: equitable funding.<sup>11</sup> Federal funds were to be equitably divided and supplemented by the state from its own revenue.<sup>12</sup> Together, the Morrill Acts of 1862 and 1890

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8. The listed universities are among the very top in the United States in terms of research productivity as measured by research expenditures. Carnegie Classifications designates universities with an average output of at least fifty million dollars on research expenditures, and at least seventy research doctorates awarded, as “Research 1: Very High Spending and Doctorate Production.” *2025 Research Designations*, CARNEGIE CLASSIFICATION INSTS. HIGHER EDUC. (2024), <https://carnegieclassifications.acenet.edu/carnegie-classification/research-designations/> [<https://perma.cc/AM7P-ZXS7>]. The Center for World University Rankings (CWUR) ranks universities listed among the top 3 percent in the world. *See Global 2000 List by the Center for World University Rankings*, CTR. FOR WORLD UNIV. RANKINGS (2024), <https://cwur.org/2024.php> [<https://perma.cc/YHZ8-W7BQ>]. Also, two of the premier private universities, Cornell University and Massachusetts Institute of Technology, are beneficiaries of land-grant status. *Cornell’s Land-Grant Mission Serves New York State*, CORNELL UNIV., <https://landgrant.cornell.edu> [<https://perma.cc/F53B-8T6R>]; Addison Killean Stark, *Living up to MIT’s Land Grant Commitment*, TECH (Sept. 21, 2012), <https://thetech.com/2012/09/21/killean-v132-n39> [<https://perma.cc/Y52A-NLRR>].

9. Jim Crow laws informed the admissions decisions of southern land-grant universities for decades, as Black applicants were denied admission on the basis of race. For a comprehensive review of this era, see generally JAMES D. ANDERSON, *THE EDUCATION OF BLACKS IN THE SOUTH, 1860-1935* (1988).

10. 7 U.S.C. § 323.

11. *Id.*

12. *Id.*

represent one of the most important opportunity compacts in the history of higher education in the United States.<sup>13</sup> We submit that the compact remains a work in progress in terms of its potential impact on education and research.

Despite a federal legislative mandate on states to support land-grant HBCUs in a fair and equitable fashion, the funding disparities accrued for decades and ostensibly for more than a century.<sup>14</sup> Our purpose in this review is to explain the history, nature, and scope of this funding disparity. We are particularly interested in how *Brown v. Board of Education* (*Brown I* and *Brown II*) and related litigation and desegregation policy shaped this history.<sup>15</sup> To narrow the scope of the review, we localize the problem to Louisiana. A state perspective is important as higher education desegregation plans and political decisions related to university funding appropriations are state specific.<sup>16</sup>

## I. A CASE FOR LOUISIANA

Throughout the American South, each state chartered a distinct path to determine how the Morrill Act of 1890 would be managed with respect to its land-grant universities and funding equality.<sup>17</sup>

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13. See Press Release, U.S. Dep't of Educ., *supra* note 1; Ehrlich et al., *supra* note 7, at 239-40.

14. See Press Release, U.S. Dep't of Educ., *supra* note 1.

15. See *Brown v. Bd. of Educ. (Brown I)*, 347 U.S. 483 (1954); *Brown v. Bd. of Educ. (Brown II)*, 349 U.S. 294 (1955). Hereinafter, *Brown* refers to both cases.

16. See, e.g., *Federal Role in Education*, U.S. DEP'T OF EDUC., <https://www.ed.gov/about/ed-overview/federal-role-in-education> [<https://perma.cc/85ZQ-F9DT>]; *State and Local Backgrounders*, URBAN INST., <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/higher-education-expenditures> [<https://perma.cc/4ULK-6HCJ>].

17. Professor Nathan Sorber argued:

The real genius of the Morrill Act is that it created opportunities for states to participate in the development of their own colleges and universities. However, because of our country's long-standing reluctance to allow the federal government to get involved in education, it was left to all of these state governments to decipher the Act. Because of that, we don't have a land-grant system; we have a lot of land-grant systems. You have to look at local and regional social and economic conditions first, and then and only then can you get a sense of what the land-grant mission is for each state.

STEPHEN M. GAVAZZI & E. GORDON GEE, *LAND-GRANT UNIVERSITIES FOR THE FUTURE: HIGHER EDUCATION FOR THE PUBLIC GOOD* 41-42 (2018). Louisiana is a model of how local conditions frame the development of a land-grant university. According to Professor Paul Hoffman, the

While fifteen of the sixteen states included in the U.S. Census categorization of the American South were charged by the Secretaries of Education and Agriculture with underfunding their respective land-grant HBCUs, we argue each southern state is worthy of its own analysis.<sup>18</sup> We offer the case of the State of Louisiana as one unique perspective in terms of its history of higher education desegregation and funding. Louisiana experienced one of the largest higher education budget cuts in United States history. The state's per student spending for higher education dropped 38 percent from 2008 to 2018, with only Arizona experiencing a larger percentage reduction.<sup>19</sup> This reduction in funding occurred after major cuts in higher education funding in Louisiana during the 1980s, a period that immediately predates the state's higher education desegregation consent decree.<sup>20</sup> Thus, Louisiana's higher education desegregation consent decree is sandwiched between two major decreases in state financial support for its universities and colleges. The case of Louisiana is an important point of reflection on the legacy of *Brown* and higher education desegregation.

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state missed the original congressionally authorized five-year window to claim land-grants for higher education under the Morrill Act of 1862, as Louisiana was engaged in the Civil War and the turmoil of its aftermath for most of the allotted time. It claimed the land-grant in 1869, and the Reconstruction legislature created the public institution, Louisiana Agricultural & Mechanical (A&M) College, along with race-blind admissions. The A&M College merged with Louisiana State University in 1877, and this included the land-grant endowment but not the race-blind admission requirements. See PAUL E. HOFFMAN, *LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE, 1860-1919: A HISTORY* 37, 60-61 (2020).

18. Delaware was the only state defined by the U.S. Census as a southern state that did not receive the disparity notification. Missouri was the only state outside of the American South included in the notification process. See Press Release, U.S. Dep't of Educ., *supra* note 1; *Geographic Terms and Definitions*, U.S. CENSUS BUREAU (Dec. 16, 2021), <https://www.census.gov/programs-surveys/popest/about/glossary/geo-terms.html> [<https://perma.cc/S62M-CPGU>].

19. Michael Mitchell, Michael Leachman & Matt Saenz, *State Higher Education Funding Cuts Have Pushed Costs to Students, Worsened Inequality*, CTR. ON BUDGET POL'Y & PRIORITIES (Oct. 24, 2019), <https://www.cbpp.org/research/state-budget-and-tax/state-higher-education-funding-cuts-have-pushed-costs-to-students> [<https://perma.cc/38VF-YLDQ>].

20. See Gordon Russell, *Special Report: How Startling, Unique Cuts Have Transformed Louisiana's Universities*, NOLA.COM (Feb. 12, 2016), [https://www.nola.com/news/education/special-report-how-startling-unique-cuts-have-transformed-louisianas-universities/article\\_1c7952d6-09bb-5e62-9812-f7099218de47.html](https://www.nola.com/news/education/special-report-how-startling-unique-cuts-have-transformed-louisianas-universities/article_1c7952d6-09bb-5e62-9812-f7099218de47.html) [<https://perma.cc/AG4A-8EYV>]; *Court Backs College Plan in Louisiana*, N.Y. TIMES (Nov. 15, 1994), <https://www.nytimes.com/1994/11/15/us/court-backs-college-plan-in-louisiana.html> [<https://perma.cc/TK64-2UGJ>].

The relevancy of Louisiana is timely, as in 2023, the U.S. Secretaries of Education and Agriculture notified the Governor of Louisiana and fifteen other states that their land-grant HBCUs were inadequately funded compared to their 1860 land-grant counterparts.<sup>21</sup> Exploring the relationship between the expectations of the Second Morrill Act's equitable funding clause and Louisiana's history of higher education desegregation represents an effort to better understand the tensions between two historically important opportunity compacts: the Morrill Acts and *Brown*. Following prolonged court battles related to the Fourteenth Amendment's Equal Protection Clause, Louisiana settled its *Brown*-related desegregation efforts in 1994.<sup>22</sup> The desegregation settlement preserved the higher education institutions of Louisiana State University and Agricultural & Mechanical (A&M) College (land-grant) and Southern University and A&M College (HBCU land-grant), incorporating programmatic agreements emphasizing each institution's distinctive features.<sup>23</sup> Notably, the settlement did not directly address the deep-seated financial disparities between these institutions associated with the Second Morrill Act's equitable funding clause. Fast-forward fourteen years to 2008, Louisiana experienced one of the most substantial disinvestments in higher education history over an eight-year period.<sup>24</sup> We view the interplay between the Morrill Acts and higher education desegregation as a critical legacy of the *Brown* decision across the American South. Louisiana offers a case to examine this legacy.

We next offer a review of both Morrill Acts. More specifically, we examine these legislative acts considering the *Plessy v. Ferguson* doctrine of "separate but equal."<sup>25</sup> We follow with a concise historical overview of higher education desegregation cases in Louisiana,

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21. Press Release, U.S. Dep't of Educ., *supra* note 1.

22. *Court Backs College Plan in Louisiana*, *supra* note 20.

23. *See id.* Hereinafter, Louisiana State University and Agricultural & Mechanical College equates to the term "LSU," and Southern University and A&M College aligns with "Southern University." Any other institutions sharing aspects of these names will be fully spelled out.

24. Gordon Russell, *The Devastating Impact in the State That's Cut Higher Education the Most*, HECHINGER REP. (Feb. 4, 2016), <https://hechingerreport.org/the-devastating-impact-in-the-state-thats-cut-higher-education-the-most/> [<https://perma.cc/JKF5-VN5P>].

25. *See* 163 U.S. 537, 551-52 (1896). Note that the *Plessy* decision created a different standard than the Second Morrill Act; it used the language "equal" rather than the term "equitable" found in the Morrill Act of 1890. *Id.*

focusing on the state's two land-grant universities. To assess the lasting effects of the state's higher education desegregation settlement and subsequent resource reductions, we utilize the EY Parthenon Risk Factor methodology as a tool to evaluate the financial risk facing Louisiana's colleges and universities. We provide a summary that both compares and contrasts the financial risks faced by these universities, closely examining the effects of budget cuts, and then offer recommendations for future action.

## II. NATIONAL IMPLICATIONS OF THE MORRILL ACTS AND THE *PLESSY* DOCTRINE

Prior to the Civil War, public higher education was in a fledgling situation in the United States.<sup>26</sup> Access and opportunity to attend an institution of higher education was very limited. We argue that there is a relationship between the Morrill Act of 1862, Morrill Act of 1890, and the *Plessy v. Ferguson* decision in 1896, although they pertain to different aspects of American history. All three landmarks impacted opportunity and access to higher education. We develop our argument using the history of these milestones as a guide.

The First Morrill Act was sponsored by Congressman Justin Morrill of Vermont, and it authorized participating states to use revenue from the "sale, rent, and/or royalties" of federally granted lands.<sup>27</sup> States without sufficient federal land within their borders were provided certificates from the sale of federal land in other states or territories to fund their institutions.<sup>28</sup> The First Morrill Act mandated that participating states submit annual reports describing the amount and use of funds.<sup>29</sup> Congressman Morrill advocated for a land-grant program in higher education aimed at practical

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26. NAT'L CTR. FOR EDUC. STAT., 120 YEARS OF AMERICAN EDUCATION: A STATISTICAL PORTRAIT 64-65 (Thomas D. Snyder ed., 1993), <https://nces.ed.gov/pubs93/93442.pdf> [<https://perma.cc/5T7R-P4YZ>].

27. James C. Clinger, *July 2, 1862: President Abraham Lincoln Signs the Morrill Act Establishing Land Grant Colleges*, CONSTITUTING AM., <https://constitutingamerica.org/july-2-1862-president-abraham-lincoln-signs-morrill-act-establishing-land-grant-colleges-guest-essayist-james-c-clinger/> [<https://perma.cc/PG8W-5JEW>].

28. *Id.*

29. *Id.*

fields, such as “agriculture and the ‘mechanic arts,’” now known as engineering.<sup>30</sup> This focus represented a shift in the prevailing philosophy of higher education. Before and during the Civil War Era, many American and European colleges and universities aligned their course of studies with classical education and the humanities, eschewing technical and applied studies.<sup>31</sup> Disciplines perceived as practical and career oriented received little attention.<sup>32</sup> In addition, the successful 1862 legislation included provisions for the teaching of “military tactics.”<sup>33</sup> This emphasis on military training broadened the legislation’s appeal during the ongoing Civil War. Historian David Vaught described the Act and its political support:

The Republican Party, and the Whigs before them, believed in using the power of the federal government to enhance the economy, while the Democrats believed the less government interference the better (just the opposite of today). But with the establishment of the Confederacy, the Democrats lost their majority in the United States, leaving the door wide open for the Republicans—my point being that the Morrill Act was (and is) inherently a political endeavor.<sup>34</sup>

After the Civil War, the First Morrill Act’s funding propelled higher education in the United States to new heights in terms of supporting the building blocks to form major universities.<sup>35</sup> In addition, education-related opportunities were afforded to a less affluent class of white people than seen at private universities.<sup>36</sup> However, African Americans did not experience access to the new

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30. *Id.*

31. See HUGH DAVIS GRAHAM & NANCY DIAMOND, *THE RISE OF AMERICAN RESEARCH UNIVERSITIES: ELITES AND CHALLENGERS IN THE POSTWAR ERA* 16-17 (1997).

32. See NAT’L CTR. FOR EDUC. STAT., *supra* note 26, at 64.

33. ASS’N OF PUB. & LAND-GRANT UNIVS., *THE LAND-GRANT TRADITION* 1 (2012), <https://www.aplu.org/wp-content/uploads/the-land-grant-tradition.pdf> [<https://perma.cc/DW6H-YUM4>].

34. Keith Randall, *The Morrill Act Still Has a Huge Impact on the U.S. and the World*, *TEX. A&M TODAY* (July 2, 2020), <https://today.tamu.edu/2020/07/02/the-morrill-act-still-has-a-huge-impact-on-the-u-s-and-the-world/> [<https://perma.cc/ZT6Z-YNZK>].

35. See Ehrlich et al., *supra* note 7, at 246, 248-49.

36. See *Morrill Act (1862)*, NAT’L ARCHIVES (May 10, 2022), <https://www.archives.gov/milestone-documents/morrill-act> [<https://perma.cc/P7LQ-CPQG>].



higher education opportunities in the same fashion.<sup>37</sup> During the Reconstruction Era (1865-1877), it was rare for African Americans to attend predominately white public schools or universities due to pervasive racial segregation and discrimination.<sup>38</sup> A notable exception included a state flagship, the University of South Carolina, that enrolled African American students from 1873 to 1877.<sup>39</sup> While opportunities were restricted for African Americans, the Reconstruction period provided a brief season of hope when state governments created public schools for Black students in the South with support from the Freedmen's Bureau and religious organizations.<sup>40</sup> These advances were short lived, as by 1876, the federal government did little to intervene against the violence and terror inflicted on Black people by their southern white neighbors to regain political control of the region.<sup>41</sup> The Hayes-Tilden Compromise of 1877 sealed the fate of southern Black citizens because it "promised the South 'Home Rule,' [military] withdrawal of federal troops" from the South, and more significant allocations of economic support to the region.<sup>42</sup> The ability to politically advocate for educational opportunities fell victim to Black voter suppression, escalating with the enforcement of Jim Crow laws—including poll taxes, literacy tests, and grandfather clauses—to prevent the Black

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37. *See id.* We use the terms Black and African American to describe an American Black person of African descent. In light of the historical context of this review, we note a vast majority of the Black people being discussed are descendants of enslaved Black people. However, we acknowledge that descendants of free Black people and Black immigrants faced segregation as well. We recognize the terms Black and African American are not always interchangeable. In this Article, we use the terms interchangeably. For discussion focused on preferences related to usage, see Justin McCarthy & Whitney Dupré, *No Preferred Racial Term Among Most Black, Hispanic Adults*, GALLUP (Aug. 4, 2021), <https://news.gallup.com/poll/353000/no-preferred-racial-term-among-black-hispanic-adults.aspx> [<https://perma.cc/SGE3-6MK8>].

38. C. VANN WOODWARD, *THE STRANGE CAREER OF JIM CROW* 24-25 (3d rev. ed. 1974).

39. Shalama Jackson, *USC Commemorates First Black Student in Reconstruction Era*, UNIV. S.C. (Oct. 1, 2023), <https://sc.edu/uofsc/posts/2023/10/usc-commemorates-first-black-student-in-reconstruction-era.php> [<https://perma.cc/4DQT-Q8T3>].

40. *See Freedmen's Bureau Acts of 1865 and 1866*, U.S. SENATE, <https://www.senate.gov/artandhistory/history/common/generic/FreedmensBureau.htm> [<https://perma.cc/62D3-SQ8S>].

41. *See* W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA: TOWARD A HISTORY OF THE PART WHICH BLACK FOLK PLAYED IN THE ATTEMPT TO RECONSTRUCT DEMOCRACY IN AMERICA, 1860-1880*, at 26 (Routledge 2017) (1935).

42. LERONE BENNETT, JR., *BLACK POWER U.S.A.: THE HUMAN SIDE OF RECONSTRUCTION, 1867-1877*, at 379-80 (1967).

vote.<sup>43</sup> This suppression era included “disenfranchisement, systematically denied education, lawless lynching, and employment discrimination.”<sup>44</sup>

Between 1871 and the passage of the Morrill Act of 1890, many higher education institutions designated for Black students were established in the South.<sup>45</sup> Some of these institutions—such as Alcorn State University, University of Arkansas Pine Bluff, Alabama A&M University, Southern University, and Florida A&M University—were designated land-grant universities as part of the Second Morrill Act.<sup>46</sup> The Morrill Act of 1890 required states with racially segregated public higher education systems to either provide separate land-grant institutions for Black students or to show that their existing institutions were open to all students regardless of race.<sup>47</sup> During the post-Reconstruction period, Jim Crow laws ruled in the American South.<sup>48</sup> Thus, southern states settled on separate universities for Black students to attend, and this further entrenched the system of segregated education.<sup>49</sup> Settling for the existence of Black institutions of higher education did not mean states supported these institutions with equitable funding, as called for in the Second Morrill Act.<sup>50</sup> There was no equitable funding or support for the newly-formed 1890 land-grant universities created for Black citizens in the South.<sup>51</sup>

Six years after the passage of the Second Morrill Act, the U.S. Supreme Court ruling in *Plessy v. Ferguson* established that racial segregation did not violate the U.S. Constitution as long as accommodations for each race were equal in quality, a doctrine referred to

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43. See Amy McKeever, *Voter Suppression Has Haunted America Since It Was Founded*, NAT'L GEOGRAPHIC (Aug. 21, 2020), <https://www.nationalgeographic.com/history/article/voter-suppression-haunted-united-states-since-founded> [https://perma.cc/C95B-L62K].

44. William F. Tate IV, *The Segregation Pandemic: Brown as Treatment or Placebo?*, 53 EDUC. RESEARCHER 10, 14 (2024).

45. For a complete list of the 1890 institutions, see *1890 Land-Grant Institutions Programs*, U.S. DEP'T OF AGRIC., <https://www.nifa.usda.gov/grants/about-programs/program-operational-areas/1890-land-grant-institutions-programs> [https://perma.cc/J9WS-MK3J].

46. *Id.*

47. See 7 U.S.C. § 323.

48. See WOODWARD, *supra* note 38, at 24-25.

49. See ANDERSON, *supra* note 9, at 238.

50. See Press Release, U.S. Dep't of Educ., *supra* note 1.

51. See *id.*

as “separate but equal.”<sup>52</sup> Strikingly, there is little written in the *Plessy* decision regarding the “equal” component of separate but equal.<sup>53</sup> In addition, the decision failed to rectify the major disparities in civil and political rights experienced by Black Americans from the conclusion of the Reconstruction Era to the *Plessy* decision.<sup>54</sup> While many equate the *Plessy* decision with the separate but equal doctrine, it did not create it, but merely legitimized longstanding social, political, and civil practices.<sup>55</sup> Further, the *Plessy* decision served as a force for turning back commitments captured in the Reconstruction Amendments to the Constitution, and it served as a flag of injustice for an emerging civil rights community.<sup>56</sup> For example, the culminating purpose of Thurgood Marshall and Charles Hamilton Houston’s legal strategy to dismantle Jim Crow addressed this historic case.<sup>57</sup> Their litigation strategy included attacking higher education segregation throughout the American South.<sup>58</sup> Why pursue litigation against southern universities? Public land-grant universities in the South embodied state segregationist policies, while they also operated at the uneasy nexus of the Morrill Acts’ expansive vision of broader opportunity, including an equitable funding requirement and *Plessy*’s equality argument. While the Morrill Acts sought to expand opportunity and access to higher education, the Jim Crow laws and the *Plessy* verdict helped to reinforce a dual system of higher education, where segregated HBCU land-grants experienced funding disparities and more limited educational opportunities. Louisiana’s desegregation litigation history offers a case in point.

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52. 163 U.S. 537, 551-52 (1896).

53. JEROME A. BARRON, C. THOMAS DIENES, WAYNE MCCORMACK & MARTIN H. REDISH, *CONSTITUTIONAL LAW: PRINCIPLES AND POLICY* 728-29 (8th ed. 2012).

54. *See id.*

55. *See* William F. Tate IV, Gloria Ladson-Billings & Carl A. Grant, *The Brown Decision Revisited: Mathematizing Social Problems*, 7 *EDUC. POL’Y* 255, 255-56, 270 (1993).

56. *See* John A. Powell, *The Law and Significance of Plessy*, 7 *RSF: RUSSELL SAGE FOUND. J. SOC. SCIS.* 20, 21-22 (2021).

57. *See id.* at 22.

58. *Charles Hamilton Houston*, NAACP, <https://naacp.org/find-resources/history-explain-ed/civil-rights-leaders/charles-hamilton-houston> [<https://perma.cc/WD7E-MR9H>].

### III. HIGHER EDUCATION DESEGREGATION: A TALE OF TWO NEIGHBORING LAND-GRANTS

We offer a brief overview of Louisiana's history of higher education desegregation with a specific focus on LSU and Southern University.<sup>59</sup> Throughout the nineteenth century, and much of the twentieth century, the State of Louisiana maintained a segregated system of higher education.<sup>60</sup> During this period, Black students in the state benefited from the tremendous efforts of one public institution: Southern University.<sup>61</sup> Southern University offered opportunities for Black residents of Louisiana to experience the academic, social, and economic benefits of higher education throughout the decades of the Jim Crow Era in Louisiana.<sup>62</sup> While Southern University provided access to college life, a battle was in the making to desegregate higher education as a part of the legal strategy led by the NAACP's Charles Hamilton Houston to end segregation in education, and more broadly, to eliminate Jim Crow practices in the United States.<sup>63</sup>

In a 1938 decision, *Missouri ex rel. Gaines v. Canada*, the Supreme Court ruled that states that provided a law school for white students must establish an equivalent facility for Black

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59. For a comprehensive review of Louisiana's higher education desegregation litigation, see generally Scott B. Arceneaux, Comment, *Chasing the Dream: Higher Education Desegregation in Louisiana*, 69 TUL. L. REV. 1281 (1995).

60. *Id.* at 1282.

61. Howard J. Jones, *Southern University [Baton Rouge] (1880-)*, BLACKPAST (Nov. 8, 2010), <https://www.blackpast.org/african-american-history/southern-university-1880-0/> [<https://perma.cc/RQG3-EK9P>].

62. *See id.*

63. *See, e.g.*, Nathaniel R. Jones, *Civil Rights After Brown: "The Stormy Road We Trod,"* in RACE IN AMERICA: THE STRUGGLE FOR EQUALITY (Herbert Hill & James E. Jones, Jr. eds., 1993). Nathaniel Jones, former judge of the United States Court of Appeals for the Sixth Circuit and former general counsel of the NAACP, wrote:

It was Charles Hamilton Houston who persuasively argued that one of the most effective means of educating the public, of building political coalitions, and thereby obtaining meaningful change, was through litigation. Moreover, it was his view that litigation under the Fourteenth Amendment could be a powerful means for racial minorities to confront governmental authorities with their duty to act on behalf of those whose constitutional rights were being denigrated. He initiated litigation on a broad front and carried it forward.

*Id.* at 98 (footnote omitted).

students.<sup>64</sup> The equivalency could be attained by integrating the existing law school or establishing a separate but equal facility.<sup>65</sup> In 1946, civil rights lawyers—including A.P. Tureaud, Sr. and Louis Berry—initiated the first university desegregation case in Louisiana.<sup>66</sup> The NAACP strategy banked on the inability of southern states to create separate law schools and open opportunities for Black students to attend existing schools.<sup>67</sup> Initially, the state court ordered LSU to admit Charles Hatfield, a Black law school applicant and graduate of Xavier University of Louisiana.<sup>68</sup> The victory against segregation was temporary. Three days after the state court decision, in an emergency session, the Louisiana Board of Education voted to establish a law school at Southern University.<sup>69</sup> The state appropriated \$40,000 to create the law school, and Southern University Law Center (SULC) opened its doors to Black law students in September 1947.<sup>70</sup> We contend that this decision should be viewed as a victory for opportunity because SULC has educated thousands of lawyers since its inception.<sup>71</sup> Moreover, it has been a mainstay supporting the education of Black lawyers in the State of Louisiana.<sup>72</sup> The historical significance of establishing the SULC put aside, the primary desegregation aim of the litigation had failed. In the aftermath of their state court defeat, A. P. Tureaud, Sr. and Thurgood Marshall turned to federal court to compel Louisiana to admit Black students to LSU Law School.<sup>73</sup> The testimony provided during trial offered comparative insights describing fiscal disparities by comparing the value of LSU's physical plant at more than \$34

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64. 305 U.S. 337, 352 (1938).

65. *See id.* at 350-52.

66. RACHEL L. EMANUEL & ALEXANDER P. TUREAUD, JR., *A MORE NOBLE CAUSE: A. P. TUREAUD AND THE STRUGGLE FOR CIVIL RIGHTS IN LOUISIANA* 127 (2011).

67. *Id.* at 128.

68. Gail S. Stephenson, *The Desegregation of Louisiana's Law Schools: A Slow and Tortuous 23-Year Journey*, 69 LA. BAR J. 220, 221 (2021).

69. *Id.*

70. *A History of the Law Center*, S. UNIV. L. CTR., <https://www.sulc.edu/page/about> [<https://perma.cc/XUP2-SX5C>].

71. *See generally* NAT'L CTR. FOR EDUC. STAT., *IPEDS DATA FEEDBACK REPORT 2022: SOUTHERN UNIVERSITY LAW CENTER*, <https://nces.ed.gov/ipeds/dfr/2022/ReportPDF.aspx?unitId=440916> [<https://perma.cc/UU7J-6QUZ>].

72. *See id.* at 4; *see also* Harold R. Washington, *History and Role of Black Law Schools*, 5 N.C. CENT. L.J. 158, 174 (1974).

73. Stephenson, *supra* note 68, at 221.

million to that of Southern University's plant at a little over \$3.5 million.<sup>74</sup> In addition, the LSU Law Library housed more than five times the book volumes of the Southern University Law Library.<sup>75</sup> Further, relative to the faculty at LSU, the Southern University faculty had limited experience and no advanced academic credentials.<sup>76</sup> On the basis of Supreme Court rulings in other higher education desegregation cases, the federal court ruled that qualified Black applicants were entitled to attend LSU Law School.<sup>77</sup> While three qualified Black students enrolled in the LSU Law School during the fall semester of 1951, with two completing degrees in 1954, the university did not change its admissions policy of excluding Black students for more than a decade following the federal court decision.<sup>78</sup>

Beginning in the 1940s through the 1980s, efforts to desegregate Louisiana's higher education institutions through litigation and negotiation with the courts were ongoing.<sup>79</sup> Throughout the 1950s, the process to desegregate higher education in the state, and LSU in particular, moved with deliberate speed as many of the state's universities remained segregated or only partially complied with the desegregation efforts.<sup>80</sup> Pressed by the courts, LSU admitted its first Black graduate student, Lutrill A. Payne, in 1951, and a year later, Daryle E. Foister became the first Black student enrolled in the LSU School of Medicine.<sup>81</sup> LSU enrolled its first Black undergraduate student in 1953 when A. P. Tureaud, Jr. joined the ranks of

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74. EMANUEL & TUREAUD, JR., *supra* note 66, at 135.

75. *See id.*

76. *Id.*

77. *See* *Wilson v. Bd. of Supervisors of La. State Univ. & Agric. & Mech. Coll.*, 92 F. Supp. 986, 989 (E.D. La. 1950) (first citing *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938); then citing *Sipuel v. Bd. of Regents of the Univ. of Okla.*, 332 U.S. 631 (1948); then citing *Sweatt v. Painter*, 339 U.S. 629 (1950); and then citing *McLaurin v. Okla. State Regents for Higher Educ.*, 339 U.S. 637 (1950)).

78. *See* Stephenson, *supra* note 68, at 221.

79. *See* Arceneaux, *supra* note 59, at 1282-86, 1290.

80. *See* Samuel L. Gandy, *Desegregation of Higher Education in Louisiana*, 27 J. NEGRO EDUC. 269, 274 (1958).

81. George Morris, *Did LSU Really Start Integration in 1953? Curious Louisiana Investigates*, ADVOCATE (July 24, 2022), [https://www.theadvocate.com/curious\\_louisiana/did-lsu-really-%20start-integration-in-1953-curious-louisiana-%20investigates/article\\_99a4b364-f8ae-11ec-a8f9-234c81307788.html](https://www.theadvocate.com/curious_louisiana/did-lsu-really-%20start-integration-in-1953-curious-louisiana-%20investigates/article_99a4b364-f8ae-11ec-a8f9-234c81307788.html) [<https://perma.cc/66T9-EP88>].

LSU.<sup>82</sup> However, he left the university after two months of study, as the judge's ruling that authorized him to enroll was overturned.<sup>83</sup> The university admitted a cohort of six Black students in 1964.<sup>84</sup> While LSU made incremental progress on the desegregation front, the other land-grant university in Baton Rouge, Southern University, positioned itself as one of the most consequential HBCUs in the United States in terms of providing opportunities for Black students to engage the teaching, learning, and research agenda aligned with the Morrill Act of 1890.<sup>85</sup>

A major takeaway from the desegregation history in the State of Louisiana is that, through the early 1980s, the efforts of Southern University represented the primary pathway for Black students to experience the agricultural and mechanical education called for in the Morrill Acts. However, we argue it would be a mistake to view the desegregation effort as a tool to enhance the financial position of Southern University.<sup>86</sup> Ultimately, the negotiations used to guide the desegregation of higher education in the State of Louisiana called for many changes including: (1) HBCU enhancements; (2) comprehensive desegregation plans for each institution; (3) diversification of faculty, staff, and governing boards; (4) program monitoring and compliance; and (5) academic program support to assist students in their transition to higher education.<sup>87</sup> In addition, the plan called for the expansion of community college access, including the establishment of a community college in Baton Rouge.<sup>88</sup> These actions aligned with the aim to desegregate higher education in the state. However, the recommendations did not specifically reward Southern University for the years of maintaining

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82. See EMANUEL & TUREAUD, JR., *supra* note 66, at 141-47.

83. *Id.* at 147.

84. THOMAS J. DURANT, JR., A VIEW FROM THE INSIDE...: THIRTY-SIX YEARS OF DESEGREGATION 35 (2015).

85. See NAT'L CTR. FOR EDUC. STAT., THE TRADITIONALLY BLACK INSTITUTIONS OF HIGHER EDUCATION 1860 TO 1982, at 94 (1984), <https://nces.ed.gov/pubs84/84308.pdf> [<https://perma.cc/352G-UA2U>]; W.E.B. Du Bois, *Education, 1928*, THE CRISIS: A RECORD OF THE DARKER RACES, Aug. 1928, at 259.

86. See Press Release, U.S. Dep't of Educ., *supra* note 1.

87. Darrell K. Hickman, *Realizing the Dream: United States v. State of Louisiana*, 50 LA. L. REV. 583, 587 (1990).

88. *About BRCC*, BATON ROUGE CMTY. COLL., <https://www.mybrcc.edu/about-brcc/index.php> [<https://perma.cc/Z849-ACZF>].

its open doors of opportunity for Black students in the state.<sup>89</sup> Nor did the consent decree address the longstanding fiscal disparities experienced by Southern University as an institution.<sup>90</sup> Rather, it attempted to mitigate the resource problem at the individual level by way of student financial support. Moreover, in the context of limited financial support for higher education in the state, the consent decree called for establishing a new higher education institution in the Baton Rouge footprint.<sup>91</sup> Next, we examine the financial health of Southern University and LSU in the broader context of the higher education market in the state.

#### IV. FINANCIAL ANALYSIS OF LOUISIANA LAND-GRANT UNIVERSITIES AND ITS PEERS

The purpose of this analysis is to compare the financial viability of all of the public four-year higher education institutions in the State of Louisiana, including LSU and Southern University. We included more than Louisiana's two land-grant universities to offer a more complete picture of the financial landscape for higher education in the state. In this Part, we first explain the methodology of the analysis, then provide the results of the comparisons, and finally, interpret the results.

##### *A. Approach to Comparative Design*

###### *1. EY Parthenon Institutional Viability Metrics (IVM)*

We use the IVM framework to guide our comparative assessment of the financial risk of all of Louisiana's four-year public universities, including LSU and Southern University.<sup>92</sup> The framework assigns universities a risk score across six weighted metrics.<sup>93</sup> The

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89. See Press Release, U.S. Dep't of Educ., *supra* note 1.

90. See *id.*

91. See *About BRCC*, *supra* note 88.

92. See *Institutional Viability Metric (IVM) Calculator*, EY PARTHENON, <https://csgxternal.ey.com/2023/2311-4081859/> [<https://perma.cc/D5MQ-E9W9>].

93. See *id.* IVM provides a calculator to assist in estimating scores. We did not use the calculator to generate our estimates. Rather, we used the IVM framework and its weighted metrics to model our data independently of the calculator to ensure reproducibility. For



list of metrics and their respective weights are as follows: Profit Margin (25 percent), Reserve Ratio (25 percent), Five-Year Total Enrollment Compound Annual Growth Rate (CAGR) (20 percent), Five-Year CAGR for Net Tuition and Fees per Full-Time Equivalent (FTE) (15 percent), Six-Year Bachelor's Graduation Rate (10 percent), and Full-Time Retention Rate (5 percent).<sup>94</sup> The IVM framework assigns a 1-to-3 numerical value for each metric based on a set of thresholds.<sup>95</sup> For example, graduation rates below 60 percent earn a value of 1; rates between 60 percent and 80 percent earn a value of 2; and rates above 80 percent earn a value of 3.<sup>96</sup> This scoring strategy is applied across the six metrics, using their respective thresholds.<sup>97</sup> Finally, the weighted average of the values assigned to each metric is calculated to determine the institution's risk score.<sup>98</sup> This process allows us to classify the financial vulnerability of institutions. Universities with a score of 2 or below are labeled as "At Risk," those between 2 and 2.3 are classified as "Monitor," and scores of 2.3 or higher are ranked as "Stable."<sup>99</sup> The IVM framework draws its data from the Integrated Postsecondary Education Data System (IPEDS), and we use the same data source.<sup>100</sup>

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additional discussion on the importance of reproducibility, see NAT'L ACADS. OF SCIS., ENG'G, & MED., REPRODUCIBILITY AND REPLICABILITY IN SCIENCE 56 (2019).

94. Kasia Lundy & Miriam El-Baz, *Six Key Financial and Operational Metrics Pinpoint Higher Ed Risk*, EY PARTHENON (Aug. 22, 2022), [https://www.ey.com/en\\_us/insights/education/strategy-consulting-six-key-financial-and-operational-metrics-pinpoint-higher-ed-risk](https://www.ey.com/en_us/insights/education/strategy-consulting-six-key-financial-and-operational-metrics-pinpoint-higher-ed-risk) [<https://perma.cc/954Q-3R86>]. EY Parthenon's approach draws from Integrated Postsecondary Education Data System (IPEDS) data spanning several years. *See id.* One key input for the IVM Calculator is revenue. *See What is CAGR?*, CORP. FIN. INST., <https://corporatefinanceinstitute.com/resources/valuation/what-is-cagr> [<https://perma.cc/NQT7-TY9Y>]. IPEDS offers two distinct revenue-related metrics: Total Revenue and Additions and Total Operating Revenue. Total Revenue and Additions encompasses revenue from operations and other revenue streams for the institution (for example, investment income and state appropriations). *See 2024-25 Survey Materials: Detailed Instructions*, pt. B, INTEGRATED POSTSECONDARY EDUC. DATA SYS., <https://surveys.nces.ed.gov/ipeds/public/survey-materials/instructions?instructionid=30068> [<https://perma.cc/2AKJ-TWJF>]. In the absence of specific insights from the authors of IVM, we employ the Total Revenue and Additions figure in our viability metric assessment calculation. Notably, this value tends to be greater than the Total Operating Revenue.

95. *See Institutional Viability Metric (IVM) Calculator*, *supra* note 92.

96. *See id.*

97. *Id.*

98. *Id.*

99. *See Lundy & El-Baz*, *supra* note 94.

100. *See Use the Data*, INTEGRATED POSTSECONDARY EDUC. DATA SYS., <https://nces.ed.gov/>

## 2. *Two-Part Analysis*

The IVM framework provides a guide to categorize the risk status of higher education institutions into three categories. In the first part of our analysis, we generate the risk score for each four-year public university in Louisiana. This approach offers a snapshot of each institution's financial standing between the years of 2011 and 2021. To provide a more transparent comparative framework, our analysis includes an additional step in that we calculate and graph the Z-scores associated with each of the risk scores during the years of 2011 to 2021. The Z-scores, or standard scores, show the relative position of each of the university's IVM risk scores as part of the overall distribution of scores. Z-scores are utilized when comparing the IVM risk scores of various universities over time. The standardized scores allow for meaningful comparisons across different scales and variations. By using Z-scores, we can accurately assess relative performance and changes in risk scores, ensuring a more well-rounded evaluation.<sup>101</sup>

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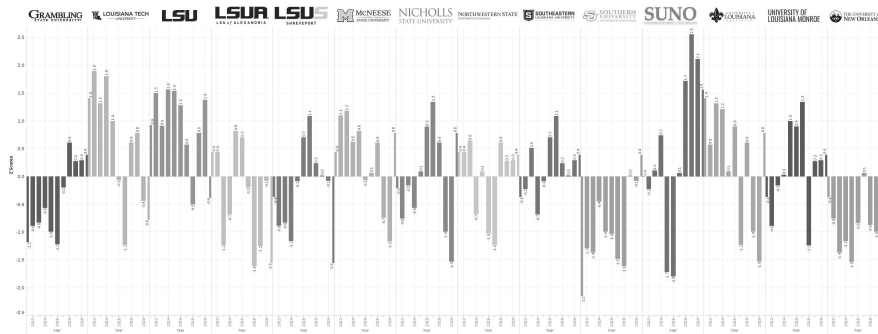
ipeds/use-the-data [<https://perma.cc/69DY-DXKM>].

101. See *Interpretation of Test Scoring Statistics*, UCLA CTR. FOR ADVANCEMENT TEACHING, <https://teaching.ucla.edu/test-scoring/interpretation-of-statistics/#toggle-id-3> [<https://perma.cc/67BM-GA6Z>] (“Z-scores are raw scores expressed in standard deviation units, relative to the mean score. Positive Z-scores indicate a raw score that is above the mean, negative Z-scores indicate a raw score that is below the mean.”).



average IVM risk score for all Louisiana four-year public universities remained in the “Monitor” range (2.0-2.3). By the end of the evaluation period, only one of the fourteen universities was ranked as “Stable.” Both land-grant universities, LSU and Southern University, were categorized as “Monitor.”

Figure 2. IVM Standardized Scores for Louisiana Four-Year Public Institutions: 2011 to 2021<sup>104</sup>



The results of the second analysis in Figure 2 present the Z-scores associated with IVM risk scores over the 2011-to-2021-time horizon for the four-year public universities in Louisiana. The Z-scores offer a standardized comparison of risk scores for these institutions.

The findings reveal that nearly all Louisiana public four-year institutions experienced fluctuations in their IVM risk scores, sometimes being above the mean and other times below it. This indicates a significant level of volatility among these institutions during the observed period. From 2011 to 2021, LSU produced an IVM risk score below the mean for only two years, whereas all other institutions experienced three or more years with risk scores below the mean.<sup>105</sup> Conversely, Southern University and the University of New Orleans generated IVM risk scores above the mean for only two years during the same period. Comparing the IVM risk scores of LSU and Southern University with those of other four-year public institutions provides insight into how these universities fared

104. For a full-color version of this figure, see <https://wmlawreview.org/comparative-financial-analysis-louisianas-land-grant-universities-morrill-acts-and-brown-revisited>.

105. See *supra* Figure 2.

relative to their Louisiana public university peers. The results indicate that LSU consistently had a more favorable risk score over these years, while Southern University generally had one of the least favorable positions among its peer public institutions in Louisiana.

### *C. More Details and Summary*

The focus of this review centers on the status of Louisiana's two land-grant institutions. Before summarizing the findings from the two analyses, we offer additional details to frame the financial situations of LSU and Southern University. The IVM matrix encompasses three overarching categories: Financial Position, Market Demand, and Delivery and Outcomes.<sup>106</sup> Metrics from these categories were utilized to derive the IVM metric, which emphasizes the overall financial health of an institution. We examined the net assets and profit margins of Southern University and LSU to offer more detail focused on the financial aspects of the risk scores. The data indicates that Southern University's net assets were approximately \$104 million in 2011, decreasing to -\$45 million by 2021.<sup>107</sup> Similarly, during this period, LSU's net assets fluctuated from \$699 million to -\$317 million.<sup>108</sup> The results show that both universities demonstrated a significant decline in their net assets. Moreover, when examining profit margins during this same timeframe—which take into account revenues and expenses for each university—LSU had negative profit margins for four years, whereas Southern University experienced negative profit margins for eight of those years.

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106. See Lundy & El-Baz, *supra* note 94.

107. *Compare Southern University, Reported Data: Finance*, INTEGRATED POSTSECONDARY EDUC. DATA SYS. (2011), <https://nces.ed.gov/ipeds/reported-data/160621?year=2011&surveyNumber=6> [<https://perma.cc/VD8Z-5S3H>], with *Southern University, Reported Data: Finance*, INTEGRATED POSTSECONDARY EDUC. DATA SYS. (2021), <https://nces.ed.gov/ipeds/reported-data/160621?year=2021&surveyNumber=6> [<https://perma.cc/U5SD-5AYD>].

108. *Compare Louisiana State University, Reported Data: Finance*, INTEGRATED POSTSECONDARY EDUC. DATA SYS. (2011), <https://nces.ed.gov/ipeds/reported-data/160621?year=2011&surveyNumber=6> [<https://perma.cc/XCD6-CPYB>], with *Louisiana State University, Reported Data: Finance*, INTEGRATED POSTSECONDARY EDUC. DATA SYS. (2021), <https://nces.ed.gov/ipeds/reported-data/159391?year=2021&surveyNumber=6> [<https://perma.cc/8JWC-7H8M>].

Our financial analysis offers two important observations. First, Southern University's financial situation, as measured by the IVM risk model, lacked stability over a significant period. Second, its relative risk has been higher than other universities in the State of Louisiana, including LSU. Our financial risk analysis suggests that Southern University's financial situation warrants monitoring and more importantly, investment. LSU experienced a relatively better financial risk standing than Southern University during our period of evaluation. However, the disinvestment in higher education impacted LSU's financial health over the time horizon of our analysis, and the university experienced increased financial risk. While LSU is not ranked "At Risk," it falls short of a financial position required to realize its full potential. In summary, both land-grant universities are in "Monitor" status. The financial risk status of both universities is inconsistent with the expansive opportunity agenda associated with the Morrill Acts and the hopes aligned with *Brown*-related litigation.

#### CONCLUSION: REVISITING THE OPPORTUNITY COMPACT

Secretaries Cardona and Vilsack's September 2023 letter to Governor John Bel Edwards indicated Southern University experienced over a \$1.12 billion shortfall in per student funding starting in 1987 through 2020.<sup>109</sup> They argued these funds would have enhanced the university's infrastructure, student services, and improved their competitiveness for research grants.<sup>110</sup> In our view, the letter provides a starting point to revisit the opportunity compact associated with the Morrill Acts, *Plessy*, and *Brown*.

In 2020, the 1862 land-grant universities (fifty-seven institutions) received the majority of federal capacity funds to support agricultural research, education and extension, securing 82 percent, with 1890 land-grant universities (nineteen institutions) at 18 percent.<sup>111</sup>

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109. Letter from Miguel Cardona, U.S. Sec'y of Educ., & Thomas J. Vilsack, U.S. Sec'y of Agric., to John Bel Edwards, Governor of La. (Sept. 18, 2023), <https://sites.ed.gov/whhbcu/files/2023/09/Secretary-letter-1890.pdf> [<https://perma.cc/QK3M-7MPQ>].

110. *See id.*

111. ELENI G. BICKELL, CONG. RSCH. SERV., IF11847, 1890 LAND-GRANT UNIVERSITIES: BACKGROUND AND SELECTED ISSUES 1-2, <https://crsreports.congress.gov/product/pdf/IF/IF11847> [<https://perma.cc/639Y-3R8V>].

Capacity grants for research and extension from the Hatch Act of 1887 and the Smith-Lever Act of 1914 granted to the 1862 institutions were not authorized for the 1890 universities until the Agricultural Research, Education, and Teaching Policy Act of 1977.<sup>112</sup> The law required these appropriations equal not less than 15 percent (research) and 4 percent (extension) of the capacity grant appropriations for 1862 universities.<sup>113</sup> Subsequent legislation in 2008 increased the formula to 30 percent (research) and 20 percent (extension).<sup>114</sup> One estimate indicates that Black land-grant universities' federal appropriations for research and extension equate to a \$436 million shortfall between fiscal years 2008 and 2022.<sup>115</sup> Decades of federal disinvestment harmed the infrastructure building of 1890 institutions such as Southern University.<sup>116</sup> There is a need for a new mandatory opportunity funding source for 1890 institutions in support of research, extension, and the related infrastructure. One estimate puts the figure at \$600 million for the nineteen land-grant HBCUs.<sup>117</sup>

Federal capacity grants awarded to 1862 land-grant universities typically necessitate one-to-one nonfederal matching funds.<sup>118</sup> The matching funds often come from state appropriations; however, they may come from other resources, such as the universities themselves or nonfederal organizations.<sup>119</sup> The United States Department of Agriculture (USDA) permits waivers for up to 50 percent of the matching funds for 1890 universities if the state will not provide the one-to-one match.<sup>120</sup> For example, in FY2020, nine of the 1890 institutions granted research or extension capacity awards secured matching fund waivers.<sup>121</sup> One recommendation to incentivize states

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112. *See id.*

113. *See id.*

114. *See id.*

115. Denise A. Smith, *Nourishing the Nation While Starving: The Underfunding of Black Land-Grant Colleges and Universities*, CENTURY FOUND. (July 24, 2023), <https://tcf.org/content/report/nourishing-the-nation-while-starving-the-underfunding-of-black-land-grant-colleges-and-universities/> [https://perma.cc/34AE-T4HK].

116. *See id.*

117. *See id.*

118. 1890 LAND-GRANT UNIVERSITIES: BACKGROUND AND SELECTED ISSUES, *supra* note 111, at 2.

119. *Id.*

120. *Id.*

121. *Id.*

to eliminate historical funding disparities calls for “phasing out the waiver for one-to-one state matching of federal research and extension formula funds to 1890 institutions.”<sup>122</sup> In a Century Foundation report, this recommendation is coupled with others, such as doubling the minimum funding percentages for appropriations for the 1890 institutions’ research and extension programs from 30 percent to 60 percent of annual 1862 institutions’ research appropriations, and for the 1890 institutions’ extension programs from 20 to 40 percent of annual 1862 institutions’ extension appropriations.<sup>123</sup> In addition, the recommendation calls for this increased funding to be appropriated in the yearly Department of Agriculture Appropriations Acts.<sup>124</sup>

Congressman David Scott sponsored legislation to enhance opportunity at the 1890 institutions in the form of a \$100 million scholarship initiative; the bill was written with an aim to broaden participation in agriculture-related fields.<sup>125</sup> While the legislation failed, the concept offers another possibility for a renewed opportunity compact in support of 1890 institutions. A consistent theme of a renewed 1890 agenda is that it must invest in the possibilities associated with more robust investments. Recent legislation in Louisiana offers an example. In 2023, Senator Cleo Fields authored Senate Bill 70 that proposed to create an economic development district for Southern University in the Baton Rouge area.<sup>126</sup> The bill passed into law and authorized Southern University—either through the college or an affiliate private foundation—to operate a political subdivision within the district boundaries.<sup>127</sup> The law permits Southern University to levy the following taxes: ad valorem tax (up to five mills), sales tax (up to 2 percent), and hotel occupancy tax (up to 2 percent).<sup>128</sup> The economic development district aims to

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122. Smith, *supra* note 115.

123. *See id.*

124. *Id.*

125. *See* H.R. 4252, 117th Cong. (2021).

126. S.B. 70, 2023 Leg., Reg. Sess. (La. 2023). The bill was signed into law by Governor John Bel Edwards. LA. STAT. ANN. § 33:9038.76 (2023). Note the bill and law included economic development districts for LSU and Southern University.

127. *See* LA. STAT. ANN. § 33:9038.76 (2023).

128. *Id.* Note that similar legislation sponsored by Senator Gerald Boudreaux was passed to create an economic development district in support of the University of Louisiana at Lafayette. The bill was signed into law by Governor Jeffery M. Landry. *See* LA. STAT. ANN.



support infrastructure improvement and economic growth in the Southern University footprint.<sup>129</sup>

Two pronounced challenges associated with the underfunding of higher education institutions are deferred maintenance and capital improvements.<sup>130</sup> Historically, in the State of Louisiana, the state appropriation process yields what amounts to a triage fund for over \$1.7 billion in deferred maintenance accrued by higher education.<sup>131</sup> Nearly \$121 million of this 2022 deferred maintenance estimate occurred on the campuses of the Southern University System.<sup>132</sup> In the 2024 Louisiana Legislative Session, Representative Christopher Turner sponsored House Bill 940, and it proposed to initiate a multiple year process to address the massive stewardship shortfall problem in the area of deferred maintenance.<sup>133</sup> The Southern University System and its 1890 institution are positioned to address capital improvements with significantly more resources, and in a far more expedited fashion, due to proactive legislation.

The laws and policy recommendations provided in this Part are illustrative of what is required to fully realize the hopes associated with the *Brown* decision and other public policies impacting higher education, such as the Morrill Acts. Seventy years after the historic *Brown* decision, we are afforded a mirror to reflect back in time. A. P. Tureaud, Jr. integrated into the undergraduate ranks of LSU in

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§ 33:9038.79 (2024). This approach to higher education funding offers capacity building possibilities for universities.

129. See LA. STAT. ANN. § 33:9038.76 (2023).

130. It is reported that over the past thirteen years, the higher education sector has underinvested in capital improvements to existing structures at an annual stewardship shortfall rate of 36 percent. GORDIAN, STATE OF FACILITIES IN HIGHER EDUCATION: A CALL FOR ADAPTABILITY AND TRANSFORMATIVE ACTION 6 (10th ed. 2023), <https://www.gordian.com/uploads/2023/03/2023-State-of-Facilities-Report.20230321205652466.pdf> [https://perma.cc/NMG4-PEB5].

131. This is the 2022 estimated cost of repairing deferred maintenance across higher education in the State of Louisiana. See *Facilities*, LA. BD. OF REGENTS, <https://www.laregents.edu/facilities/> [https://perma.cc/F856-YSZ2].

132. *Id.*

133. LA. STAT. ANN. §§ 17:3369.1-.4 (2024). The bill was signed by Governor Jeffrey M. Landry on June 19, 2024, and is now the law that guides deferred maintenance funding in higher education. See Piper Hutchinson, *Plan Advances to Tackle \$2 Billion Repair Backlog at Louisiana Colleges*, LA. ILLUMINATOR (May 31, 2024, 4:57 PM), <https://lailluminator.com/2024/05/31/plan-advances-to-tackle-2-billion-repair-backlog-at-louisiana-colleges/> [https://perma.cc/EKE8-ZEF9] (discussing the investment strategy).

1953.<sup>134</sup> He described his experience as one of social rejection by classmates and professors.<sup>135</sup> In 2023, LSU has over 6,250 Black students enrolled, which represents 17.5 percent of its student body.<sup>136</sup> In 2022, LSU led the nation's flagship universities and the Southeastern Conference in percentage of Black students enrolled.<sup>137</sup> In contrast to Tureaud's experience, one student remarked about LSU, "It's not like a typical PWI [predominately white institution] where you have to try your hardest to find Black people."<sup>138</sup> This is a story of success with respect to *Brown*-related litigation, yet it is an unfinished story in terms of the Morrill Act of 1890 and overcoming the legacy of *Plessy*. There have been many acts of disinvestment that narrowed the scope of opportunity at land-grant HBCUs and for the Black workforce and business leaders in the agricultural and mechanical sectors.<sup>139</sup> It is the current

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134. Edmund W. Lewis, *Honored 58 Years After Integrating LSU*, LA. WEEKLY (Aug. 1, 2011), <http://www.louisianaweekly.com/honored-58-years-after-integrating-lsu> [<https://perma.cc/8RZC-BKW9>].

135. *See id.*

136. *See Louisiana State University Undergraduate Enrollment by Unit, Racial/Ethnic Category, and Gender, Fall 2023*, LA. STATE UNIV., OFF. OF DATA & STRATEGIC ANALYTICS, [https://www.lsu.edu/data/student-data/census-dayenrollment/enrollmentsummaries/3\\_enrollment\\_by\\_unit\\_departmental\\_location\\_racial\\_ethnic\\_category\\_and\\_gender/fall/ensu\\_20241s\\_3.pdf](https://www.lsu.edu/data/student-data/census-dayenrollment/enrollmentsummaries/3_enrollment_by_unit_departmental_location_racial_ethnic_category_and_gender/fall/ensu_20241s_3.pdf) [<https://perma.cc/5KPS-FEHR>].

137. James Wilkins, *LSU Is Among the SEC's Most Diverse Schools: See the Numbers, What Students Think*, ADVOCATE (Nov. 6, 2023), [https://www.theadvocate.com/baton\\_rouge/news/education/lsu-is-among-the-secs-most-diverse-schools-see-the-numbers/article\\_b1671598-74d9-11ee-9864-abc7b9acd84e.html](https://www.theadvocate.com/baton_rouge/news/education/lsu-is-among-the-secs-most-diverse-schools-see-the-numbers/article_b1671598-74d9-11ee-9864-abc7b9acd84e.html) [<https://perma.cc/9K6G-CWVQ>]. We calculated LSU's ranking among flagships using IPEDS data.

138. *Id.* (alteration in original).

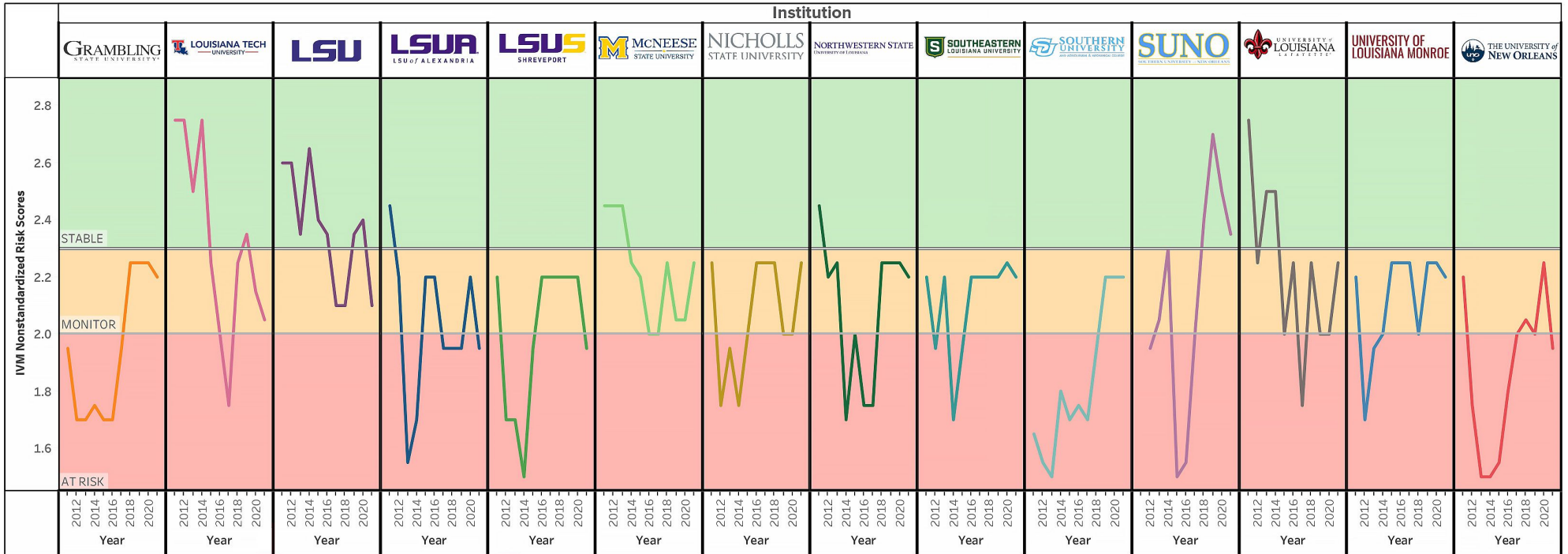
139. For example, the Second Morrill Act positioned land-grant HBCUs to serve as a foundational support for Black farmers. *See* Shelby Vittek, *You Can Thank Black Horticulturist Booker T. Whatley for Your CSA*, SMITHSONIAN MAG. (May 20, 2021), <https://www.smithsonianmag.com/innovation/you-can-thank-black-horticulturist-booker-t-whatley-your-csa-180977771/> [<https://perma.cc/L55G-2KZF>]; Allen Jones, *Improving Rural Life for Blacks: The Tuskegee Negro Farmers' Conference, 1892-1915*, 65 AGRIC. HIST. 105, 105-14 (1991); Wayne D. Rasmussen, *The 1890 Land-Grant Colleges and Universities: A Centennial Overview*, 65 AGRIC. HIST. 168, 171 (1991). The discriminatory funding history associated with the 1890 HBCUs is part of a broader regime of discrimination in agricultural-related funding. The USDA acknowledged the history of discrimination against Black farmers in its farm loan programs. To further expand opportunity, the USDA awarded \$2 billion to Black farmers in light of its history of discrimination. *See LDF Lauds Release of \$2 Billion in Payments to Over 43,000 Farmers as Remedy to Discrimination in USDA Farm Lending*, LEGALDEF. FUND (July 31, 2024), <https://naacpldf.org/press-release/ldf-lauds-release-of-2-billion-in-payments-to-over-43000-farmers-as-remedy-to-discrimination-in-usda-farm-lending> [<https://perma.cc/485K-87BP>]. For a broader treatment of how Black laborers in agriculture experienced discrimination

generation of leaders' moment to commit to a robust opportunity compact in support of 1890 institutions.

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in the distribution of federal resources, see generally IRA KATZNELSON, *WHEN AFFIRMATIVE ACTION WAS WHITE: AN UNTOLD HISTORY OF RACIAL INEQUALITY IN TWENTIETH-CENTURY AMERICA* (2005).

# IVM Risk Scores Louisiana Public Institutions 2011 - 2021



**Institution**

- Grambling State University
- Louisiana Tech University
- LSU
- LSU Alexandria
- LSU Shreveport
- McNeese State University
- Nicholls State University
- Northwestern State
- Southeastern Louisiana University
- Southern University and A & M College
- Southern University at New Orleans
- University of Louisiana at Lafayette
- University of Louisiana at Monroe
- University of New Orleans

