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TO THE SENATE HIGHER EDUCATION COMMITTEE:

Legislation proposed in the Texas Senate in the form of S.B. 177 has the aim of improving the governance of higher education institutions in Texas. Any cursory analysis of this legislation would conclude that it does no such thing and if put in practice would have the effect of further complicating an over-regulated field and placing additional burdens on institutional managers.

Colleges and universities in Texas and their officials are controlled and regulated by state and federal laws, state and federal regulations, the Texas and U.S. Constitutions and common law generated over many years of legal interpretations. Adding a host of new rules and regulations such as proposed would clearly cause serious contradictions and confusion in this complex legal structure.

Nationally, there is a wide and growing consensus that one of the most onerous burdens in higher education is **too much regulation**. Recognition is growing that much change is needed to deal with increasing threats to higher education coming from many directions. Managers in the future will need to be able to take risks and perhaps make controversial changes. Adding more words to the existing laws – even with the best intentions – usually results in creating the opposite kind of environment.

In many other economic sectors today, we are dealing with onerous federal regulations created in the aftermath of crises – often created in frustration by the same policy makers whose actions caused or contributed to these crises.

The Texas Legislature might closely examine its own motivations and behavior in the context of this proposed legislation. S.B.177 seems designed to limit critical regent authority – the normal fiduciary oversight which allows a regent or regents to bring to light serious misbehavior such as occurred recently at a major institution. This is a serious step backward in any responsible system of governance.

I recommend a vote *against* this legislation and any likely version of it without a careful long-term study of the issues.

Respectfully,

*Charles Miller*

**Former Chairman -- The University of Texas System Board of Regents**  
**Chair -- Secretary of Education's Commission on The Future of Higher Education**  
**Member -- Association of Governing Boards Commission to High Education Governance**