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WISCONSIN STATE REPRESENTATIVE

41ST ASSEMBLY DISTRICT

Date: January 14, 2016

To: Senate Committee on Universities and Technical Colleges
Assembly Committee on Colleges and Universities

From: State Senator Sheila Harsdorf and State Representative Joan Ballweg

RE: Senate Bill 511 and Assembly Bill 632

Dear Committee Members:

Thank you for your consideration of Senate Bill 511 (SB 511) and Assembly Bill 632 (AB 632) that creates a Distance Learning Authorization Board that may, on behalf of the state, enter into a regional distance learning reciprocity agreement.

The U.S. Department of Education has issued federal program integrity rules to require post-secondary institutions offering distance education to be authorized in each state where a student taking on-line courses resides. As interest and participation in on-line courses grows, requiring authorization from every home state of those students taking an on-line course will create higher costs and a tremendous administrative burden on our institutions.

In response to the federal rules, the National Council for State Authorization Reciprocity Agreements (NC-SARA) was created and developed based on input from stakeholders. The creation of NC-SARA was to establish a state-level reciprocity process to help reduce the administrative burden and costs on higher education institutions offering online courses while ensuring consumer protection for students. Administration of SARA is taking place through already existing regional higher education compacts. Wisconsin is one of 12 states belonging to the Midwestern Higher Education Compact (MHEC) here in the Midwest.

SB 511 and AB 632 provides the statutory authority for Wisconsin to apply to become a member state in M-SARA through MHEC and lays out provisions required for participation in the reciprocity agreement. Specifically, this legislation would establish the Distance Learning Authorization Board (DLAB) which would serve as the portal entity required of member states. DLAB would be administratively attached to the Higher Education Aids Board and have representation from University of Wisconsin System, Wisconsin Association of Independent Colleges and Universities, Wisconsin Technical College System, Educational Approval Board, and Tribal Colleges. Agencies represented on DLAB would be responsible for staffing the board. Additionally, SB 511 and AB 632 would direct DLAB to list authorized institutions based in Wisconsin in the administrative register which is currently done through an Executive Order of the Governor.

Participation in M-SARA requires establishing a process for processing student complaints, providing greater consumer protection for students taking on-line courses.

It is important to note that this legislation does not require participation by any post-secondary institution.

We urge your support for this legislation to provide institutions of higher education the ability to work more efficiently as well as save costs. Thank you for your consideration of this legislation.

ALVERNO COLLEGE
BELLIN COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL UNIVERSITY
CARTHAGE COLLEGE
COLUMBIA COLLEGE OF NURSING
CONCORDIA UNIVERSITY
EDGEWOOD COLLEGE
LAKELAND COLLEGE
LAWRENCE UNIVERSITY
MARIAN UNIVERSITY



WISCONSIN'S PRIVATE, NONPROFIT COLLEGES AND UNIVERSITIES
WORKING TOGETHER FOR EDUCATIONAL OPPORTUNITY

MARQUETTE UNIVERSITY
MEDICAL COLLEGE OF WISCONSIN
MILWAUKEE INSTITUTE OF ART & DESIGN
MILWAUKEE SCHOOL OF ENGINEERING
MOUNT MARY UNIVERSITY
NASHOTAH HOUSE
NORTHLAND COLLEGE
RIPON COLLEGE
ST. NORBERT COLLEGE
SILVER LAKE COLLEGE
VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

TESTIMONY
by
Rolf Wegenke, President
Wisconsin Association of Independent Colleges and Universities
on
SB 511 / AB 632
to
Assembly Committee on Colleges and Universities
and
Senate Committee on Universities and Technical Colleges
January 14, 2016

Chair Harsdorf, Chair Murphy,

My name is Rolf Wegenke. I am President of the Wisconsin Association of Independent Colleges and Universities, or WAICU, the official organization representing Wisconsin's 24 private, nonprofit colleges and universities and their nearly 60,000 students.

I want to speak about the **collaborative process** that lead to this legislation, the **objective** for the proposed Distance Learning Authorization Board, the **impetus** for the legislation, the proposed **solutions**, and **alternatives**.

SB 511 and AB 632 are the result of a years' long collaboration involving me, Dr. Ray Cross, President of UW System, Dr. Morna Foy, President of the Wisconsin Technical College System, Senator Harsdorf, Representative Ballweg, other legislators and their staff, and with the staff of the Midwest Higher Education Compact.

Our **objective** is to position all of Wisconsin's postsecondary sectors to be entrepreneurial in delivery of distance learning in a way that is non-bureaucratic, cost-effective, and, above all, protects students from fraudulent training programs. In addition, it was our **objective** to protect the state prerogative to oversee higher education in the way its elected leaders feel best serves the citizens of this state.

The federal government was the **impetus** for this legislation. In 2010, the U.S. Department of Education issued a set of regulations known as the Program Integrity Rules. These rules required institutions wanting to provide distance education to students in another state to be approved on a state by state basis. This led to a costly and unworkable patchwork of regulations. Colleges and universities across the

country offering on-line degrees were subjected to the complex and often contradictory regulatory requirements of all 50 states—in some cases, paying exorbitant fees. I understand my colleagues will give specific information/examples of these problems. I personally know of one WAICU-member university that had to ask students taking a course in a state to drop out because the fee was prohibitive.

The proposed **solution** the three of us are advocating is for Wisconsin to apply to join the State Authorization Reciprocity Agreement or SARA. The SARA is a nationwide network being established among the regional higher education compacts. Wisconsin is a member of the Midwest Higher Education Compact or MHEC. I serve as a Commissioner for MHEC along with Senator Harsdorf and Representative Ballweg. Wisconsin joined MHEC by a statutory enactment in 1994. I have served as a MHEC Commissioner ever since.

The National Council of State Authorization Reciprocity Agreements was created as well as policies for states to create a uniform structure with regard to online distance education. The adopted policies essentially allow institutions authorized by their home state to have reciprocity to offer online distance education in another state that has also joined SARA. To date, 36 states have joined and seven states are pending, eight if we now count Wisconsin.

To participate in SARA, each state must create a portal entity that would serve the purpose of authorizing institutions wanting to offer distance education in states other than their home state and to handle consumer complaints. The legislation before you creates that portal entity in Wisconsin. It would be known as the Distance Learning Authorization Board or DLAB. The legislation sets forth the responsibilities and duties of the DLAB in a manner consistent with the uniform SARA agreement. The legislation simply creates the structure for the state of Wisconsin and Wisconsin higher education institutions to participate in reciprocity. It will be administratively attached to the Higher Educational Aids Board or HEAB but no additional tax dollars will be required. There will be much work that needs to be done to formalize the structure of the DLAB should this legislation be enacted, but the sectors have committed to providing the resources necessary to carry out the duties successfully. Each institution of higher learning will decide on its own whether to “opt-in” or “opt-out” of SARA. Those “opting-in” would be regulated exactly as they are now under Wisconsin laws and regulations, but if Wisconsin joins SARA they would be exempt from regulation and fees in the other states participating in reciprocity in which these Wisconsin institutions provide distance education.

Another requirement of the federal program integrity rules is that each institution must be listed by some formal action of the state. Currently this action is done through an Executive Order of the Governor. Under this legislation, this function would be transferred to the Distance Learning Authorization Board and the listing of institutions would be annually published in the Wisconsin Administrative Register.

It is not definitely known which WAICU institutions would apply for reciprocity to offer online distance education, but in a survey to our members we learned that every WAICU institution is supportive of joining the SARA effort so they will at least have the opportunity. For our part, we would work collaboratively with the institutions in our sector to ensure they can meet the requirements of SARA. WAICU has experience in assisting its private, nonprofit members in meeting various state and federal requirements including collecting member information for input into the Integrated Postsecondary Data System or IPEDS and assisting members in meeting federal requirements such as environmental and safety compliance. We would model our past success in this area to the new requirement under SARA.

One natural question is what are the **alternatives** that achieve the same **objectives**?

- Maintain the *status quo*. This would have Wisconsin in an island—see the map—and make our distance learning programs uncompetitive.
- Limit educational options for our citizens.
- Impose Wisconsin regulation on colleges in the other states.
- Let the federal government take over.



STATE OF WISCONSIN EDUCATIONAL APPROVAL BOARD

ASSEMBLY BILL 632/SENATE BILL 511

Assembly Committee on Colleges and Universities and
Senate Committee on Universities and Technical Colleges

January 14, 2016

SUMMARY

- There is great concern that SARA will erode the level of Wisconsin oversight, and fundamentally alter the consumer protection of students enrolled in online degree programs. It is critical that efforts to reduce oversight of distance education are thoroughly vetted.
- Students in distance learning programs at out-of-state institutions will not have the consumer protections and student complaint resolutions currently provided by the EAB under SARA. Students will have to work with the state in which their institution is located, the vast majority of which have few consumer protections in place, to resolve issues with an institution's home state SARA agency across the country rather than the EAB in Wisconsin.
- The EAB has a history of success resolving student complaints and responding to catastrophic events, such as unplanned school closures or serious allegations.
- By joining SARA, Wisconsin would be delegating its authority to oversee online programs at out-of-state institutions to other states and non-governmental entities. It is not in the best interest of Wisconsin's citizens to remove consumer protections and delegate our authority to other states and non-governmental entities.
- Analysis finds that for-profit online, out-of-state institutions have the worst student outcomes with more than half of students dropping out. SARA doesn't require institutions to report student outcomes data.
- Of the 40,000 students attending EAB-approved institutions, 17,000 attend online programs. Of all students who began an online program in the last three years, 55% have dropped out.
- The majority of students enrolled in EAB-approved schools are non-traditional, working adults – many of whom face economic and financial challenges – and are in need of the consumer protections afforded them by the EAB. At a time when we are inundated with report after report providing evidence of the poor performance of for-profit, online institutions and calls for tighter regulations of the sector, it is concerning that efforts are being made to loosen them.

TESTIMONY

by Jo Oyama-Miller, Vice Chair
Educational Approval Board

Good morning. Chairman, Madam Chair and members of the committees, my name is Jo Oyama-Miller and I am the Vice Chair for the state's Educational Approval Board (EAB). I was appointed in 2005 and have served under several administrations. I appreciate the opportunity to be here today to testify on Assembly Bill 632 and Senate Bill 511 for informational purposes.

The EAB is an independent state agency responsible for protecting Wisconsin students by regulating for-profit and certain non-profit postsecondary schools, colleges and universities. Its oversight, however, does not include the UW and technical college system institutions; nor does it include non-profit institutions incorporated in the state prior to 1992, such as Marquette University, Lakeland College, Cardinal Stritch University, and other institutions that are members of the Wisconsin Association of Independent Colleges and Universities.

Currently, the EAB oversees more than 260 active institutions that annually enroll approximately 40,000 – primarily adult – students in 2,700 degree and non-degree programs. Of these institutions, there are 119 that have an online presence that enroll more than 17,000 students. There are 102 headquartered out of state and operate entirely online in Wisconsin. An additional 12 operate both within Wisconsin and online, while 5 institutions headquartered in Wisconsin operate entirely online.

The bills being considered today create the new Distance Learning Authorization Board (DLAB), related to the State Authorization Reciprocity Agreement (SARA) as developed by the National Council and the four regional higher education compacts including the Midwestern Higher Education Compact, of which Wisconsin is a member. SARA is a clear effort to limit the amount of state regulation that exists for accredited, degree-granting institutions offering programs via distance learning. Participation in SARA will fundamentally alter how distance education is regulated in Wisconsin and renders the EAB incapable of continuing to provide crucial protections to students enrolled in online, out-of-state programs.

Despite the many reservations that have been raised surrounding SARA, the effort is moving forward. I am here today to outline those concerns for consideration and to detail possible unintended consequences. If Wisconsin chooses to participate in SARA, it would be delegating its authority to oversee online programs at out-of-state institutions to other states and non-governmental entities. I don't believe it is in the best interest of Wisconsin's citizens to remove consumer protections and delegate our authority to other states and non-governmental entities.

I acknowledge that SARA is a potentially good deal for the vast majority of states with few if any consumer protections for students, and in which institutions operate in a wild west-type environment. However, the evidence is overwhelmingly clear that SARA is a bad deal for forward-looking, good government states like Wisconsin with a long history of protecting student interests and ensuring large for-profit, out of state institutions are operating on a level playing field with Wisconsin-based, on-ground institutions.

State higher education regulators have taken considerable effort to examine and fully understand the implications of SARA on the states' ability to protect consumers, as well as the states' regulatory role. The National Association of State Administrators and Supervisors of Private Schools wrote to the four compact presidents in May of 2013 to express the concerns state regulators have with SARA. The group stated that "SARA raises a number of important questions about states' ability to protect consumers, perform quality program reviews, collect student outcomes data, and hold institutions accountable for malfeasance."¹

There is great concern that SARA, an institutionally-led initiative, will erode the level of state oversight, and fundamentally alter states' consumer protection of students enrolled in online degree programs. In the rapidly evolving online environment of higher education, it is critical that any effort that reduces the oversight of distance education is thoroughly vetted and understood.

Section 4 of the bill, as it pertains to the EAB's statutory exemptions, indicates that any program offered online by an institution that maintains its headquarters in Wisconsin is no longer under EAB oversight and will now need to be authorized by the newly created DLAB. Further, any

¹ <http://eab.state.wi.us/resources/NASASPSCorrespondence.pdf>

institutions located in a SARA-member state that provide online programs to Wisconsin students will not be regulated by the EAB, but will be subject to that state's regulatory structure. Essentially, participation in SARA means that Wisconsin would be delegating its authority to oversee online programs at out-of-state institutions to other states and non-governmental entities.

Under SARA, the ability of states to protect their residents who attend out-of-state institutions offering online degree programs will be significantly reduced. This system of reciprocity will be administered by the four non-governmental regional higher education compacts, which lack any statutory power and have no legal enforcement capability. In a state such as Wisconsin that oversees distance learning and measures the success of online students, SARA stands to undermine and perhaps completely eliminate important consumer protections for students. By joining SARA, consumer protection functions will be delegated solely to the state in which an institution is located, which may only have minimal or inadequate protections in place.

At a time when we are inundated with reports from the U.S. Department of Education, consumer protection organizations and other states that provide evidence of the poor performance of for-profit, online institutions and calls for tighter regulations of the sector, it is concerning that efforts are being made to loosen them.

Complaints and Student Protection

The EAB has a history of success resolving student complaints and responding to catastrophic events, such as unplanned school closures or serious allegations. In doing so, the EAB has earned a strong reputation nationally for its ability to protect students. However, under SARA, students attending distance learning programs at out-of-state institutions will not be provided with the consumer protections and student complaint resolutions currently provided by the EAB. Those students will be required to work with the state in which their institution is located, the vast majority of which have few consumer protections in place. Consequently, Wisconsin students will be working to resolve complaint issues with an institution's home state SARA agency across the country rather than the EAB.

An example of how Wisconsin residents could receive different protections is illustrated by a look at one of the larger institutions operating in the state. A student attending the University of Phoenix in Milwaukee would be able to work with the EAB over complaints, but a Wisconsin student enrolled in a University of Phoenix online program would be required to work with the SARA agency in Arizona. While SARA policies state that nothing precludes students from working with their state's SARA agency, resolution is ultimately determined by the institution's state agency.

Although the role of investigating and resolving student complaints is important, the EAB plays an even more important role in managing catastrophic school closures. Considering the number of closures in the last several years, the EAB's ability to protect students is more crucial than ever. Instances where schools simply close their doors providing little to no notice to students leaves them unable to complete their education/training at the institution where they were enrolled.

In the case of the Anthem College closure that occurred over the course of a few days following bankruptcy in 2014, the EAB was able to act quickly to help those students. The EAB used \$400,000 from its student protection fund to arrange a teach-out, help students transfer to other institutions and reduce private student loans. Many states sought guidance from Wisconsin's efficient actions to implement in their own states. Anthem College was a large for-profit company not headquartered in Wisconsin. Under SARA, the EAB would not have the authority to assist the Wisconsin students in that school's online programs, leaving students with nothing but debt and no state agency to help them. Responsibility would fall to the other state's SARA agency not only for students in its own state, but also for students in all SARA-member states in the country. The EAB is able to respond immediately to such situations and is concerned over the ability of a single state's SARA agency to resolve the onslaught of problems that result from catastrophic closures.

Student Outcomes and Accountability

The topic of student outcomes is relevant to the discussion of the SARA. If SARA is adopted, Wisconsin would defer to the states in which the school headquarters are located for the

evaluation and approval of online institutions. Under SARA, the EAB would lose oversight of the institutions identified in EAB's annual data analyses as most in need of oversight due to poor student outcomes. Wisconsin students enrolled in online programs at out-of-state institutions are desperately in need of consumer protection. Analysis finds that for-profit online, out-of-state institutions have the worst student outcomes with more than half of students dropping out. These are precisely the institutions that benefit from reduced oversight. Under SARA, institutions are not required to report student outcomes data, so Wisconsin students enrolled in these programs would have no protections relating to high student drops.

The data collection at the EAB is unique in the level of detail it provides specific to Wisconsin students. While federal data reporting requirements are useful, they are limited only to institutions participating in Title IV Federal Student Aid. These data sets exclude information on the smaller schools operating in Wisconsin that choose not to participate in Title IV. Perhaps more importantly, the institutions that do report under Title IV eligibility rules are only required to report many measures on first-time, full-time students. Considering what is known about the student population attending EAB-approved institutions, a large percentage of students do not fall into the "first-time, full-time student" category. The majority of students who enroll in EAB-approved schools are non-traditional, working adults – many of whom face economic and financial challenges – and are in need of the consumer protections afforded them by the EAB.

In many instances, the EAB is the only entity examining all student outcomes for this population. Under SARA, student outcomes would not be collected to the degree EAB collects student outcomes presently. It is likely that online, for-profit institutions outside of Wisconsin with consistently poor outcomes will not be held accountable for student results.

Sector Support

We believe that the support of SARA is based on a general misunderstanding of what is currently required of institutions to obtain state approval and the impacts SARA would have on student protections. Proponents of SARA frequently state that postsecondary institutions must undergo a cumbersome and costly process to seek state approval in all states in which they choose to operate. However, most states exempt public institutions from state authorization for distance

learning. Among the few states that do require something of public institutions, some states require nothing more than a completed form.

A review of information available on the State Higher Education Executive Officers Association's website reveals that only a handful of states require approval of public institutions and some of those states will approve an entire system rather than requiring a separate approval of each individual institution. For example, the entire UW System could be approved as a single unit for distance learning in Minnesota, as opposed to requiring each of UW-Eau Claire, UW Rock County, UW-Milwaukee, etc., to be approved separately. Similarly, all of the Wisconsin Technical Colleges could be approved in one application.

As I noted earlier, the EAB approves 119 institutions that provide distance learning programs. In regards to costs, those institutions very recently reported \$150.5 million in tuition revenue solely from Wisconsin students in the last year. To operate in Wisconsin and generate that substantial revenue, these institutions paid fees that amounted to less than 0.2% of their revenue.

While SARA proponents claim it will reduce the burden and cost associated with an institution being approved in multiple states, there is no evidence that it will actually reduce costs for institutions since a comprehensive fiscal analysis of SARA has never been conducted and much of the justification for SARA continues to be conjecture. A more thorough examination may still be necessary to ensure that all stakeholders understand the nuances and complexities behind state authorization of higher education.

Conclusion

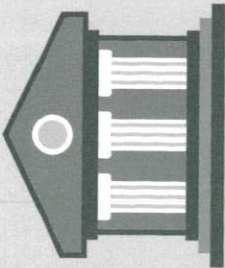
SARA is a gift to large, out of state, for-profit institutions offering an increasing array of online programs despite poor outcomes. SARA is, at best, a disservice to Wisconsin students enrolled in online programs who will no longer have a level of consumer protection that will enable them to get complaints investigated and resolved fairly and quickly.

It is not in the interest of Wisconsin residents for our state to delegate its authority to oversee online programs to other states and non-governmental entities. If Wisconsin becomes a SARA

state, we will be swapping out a highly effective system of consumer protection and regulation of online academic offerings for a minimalist, barely existent system whose operation has yet to be fully defined, and about which, education administrators are already asking questions and identifying problems. Wisconsin adoption of SARA is not in the interest of Wisconsin residents or Wisconsin-based institutions.

I hope the committees will take into consideration the many real concerns and unknowns about how SARA will be implemented as they move forward with legislation and I encouraged them to entertain alternative policies that put Wisconsin first. I would like to recommend that the committees consider the need for further examination of the impacts of this policy to ensure that Wisconsin adopts evidence-based policy. It may be in Wisconsin's best interest to allow the EAB to continue providing consumer protection to students at the distance learning institutions that it currently oversees while allowing the public and private, non-profit institutions to participate in SARA. Those institutional sectors of higher education have student protections in place that are not inherently available for students at private, for-profit schools. The EAB provides those protections.

Thank you again for the opportunity to testify. I would be happy to answer any questions you may have.



STATUTORILY-CREATED

MHEC is an interstate compact legislatively established in 1991 that acts as an instrumentality of state government.

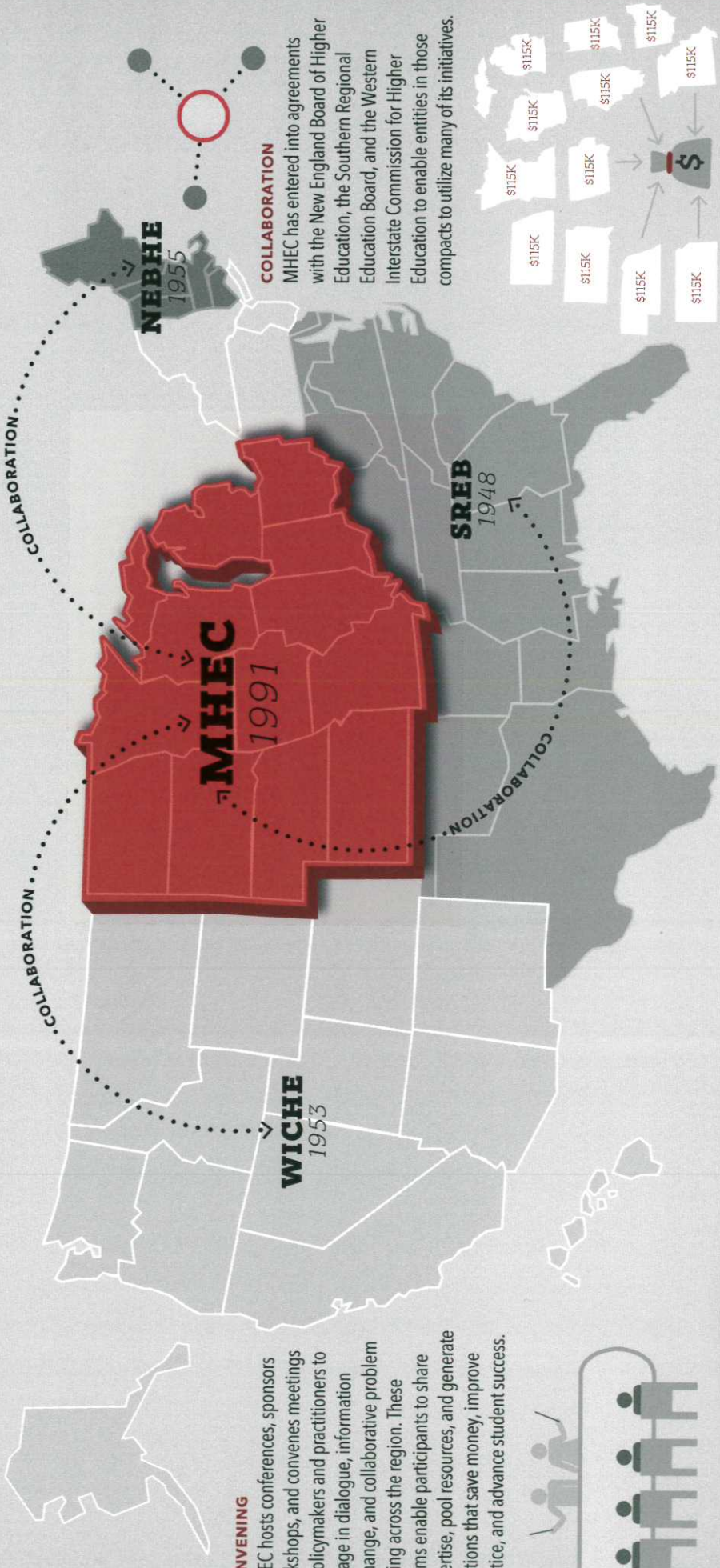
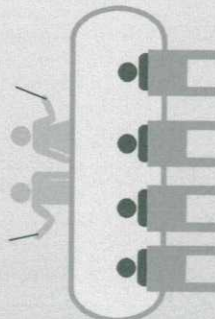


MHEC IS GOVERNED BY 60 COMMISSIONERS (5 IN EACH STATE)

GOVERNED BY COMMISSIONERS
The Compact is governed by five commissioners from each state. This governing body is composed of legislators, higher education leaders, and governors' representatives.

CONVENING

MHEC hosts conferences, sponsors workshops, and convenes meetings of policymakers and practitioners to engage in dialogue, information exchange, and collaborative problem solving across the region. These forums enable participants to share expertise, pool resources, and generate solutions that save money, improve practice, and advance student success.



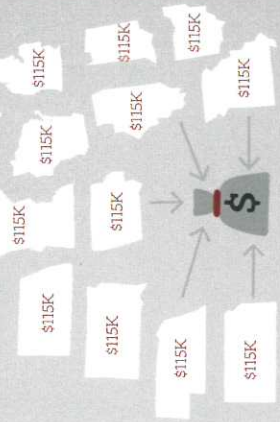
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Minneapolis, MN 55401
612-677-2777 or 855-767-MHEC
www.mhec.org | mhec@mhec.org

MIDWESTERN HIGHER EDUCATION COMPACT:

The Midwestern Higher Education Compact is a nonprofit regional organization assisting Midwestern states in advancing higher education through interstate cooperation and resource sharing. MHEC seeks to fulfill its interstate mission through programs that expand postsecondary opportunity and success; promote innovative approaches to improving institutional and system productivity; improve affordability to students and states; and enhance connectivity between higher education and the workplace.

COLLABORATION

MHEC has entered into agreements with the New England Board of Higher Education, the Southern Regional Education Board, and the Western Interstate Commission for Higher Education to enable entities in those compacts to utilize many of its initiatives.



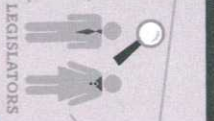
FUNDED BY EACH STATE

MHEC activities are funded through annual member state commitments, program fees, grants, and sponsorships. MHEC's annual state compact commitment is \$115,000 for FY 2016 and FY 2017.

Advancing Education Through Cooperation

LAST UPDATED 10/9/15

POLICY RESEARCH



CHANGE

ALL STUDENTS STAY HEALTHY

EXPLORATORY INITIATIVES



STATES



STAKE-HOLDERS

CAMPUS LEADERS



MORE THAN \$9M SAVED FY15



MORE THAN \$24M SAVED FY15

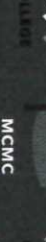


IDEAS FLOW

PROPERTY INSURANCE



MORE THAN \$59M SAVED FY15



MORE THAN \$24M SAVED FY15



SERVICES

OVER 160 CAMPUSES WITH OVER \$105B IN TOTAL INSURED VALUES

IMPROVED ASSET PROTECTION

AFFORDABLE COVERAGE TO HELP

STUDENT INSURANCE

ACCELERATING SERVICEMEMBER TRANSITIONS

SOFTWARE

MOBILE DEVICE MANAGEMENT

TECHNOLOGY

HARDWARE

SECURITY

STATES

IDEAS FLOW

OPPORTUNITY OPPORTUNITY OPPORTUNITY OPPORTUNITY PRODUCTIVITY PRODUCTIVITY PRODUCTIVITY PRODUCTIVITY AFFORDABILITY AFFORDABILITY AFFORDABILITY AFFORDABILITY CONNECTIVITY CONNECTIVITY CONNECTIVITY CONNECTIVITY

MIDWESTERN HIGHER EDUCATION COMPACT INITIATIVES

POLICY RESEARCH: Resources to inform decision making, advance research, and improve practice for legislators, governors, trustees, and college and university leaders. Data, benchmarking studies, topical briefs, policy analysis, and information on promising initiatives and trends. mhec.org/resources

PROPERTY INSURANCE PROGRAM: A premier property insurance program that broadens property insurance coverage, reduces costs, and encourages improved asset protection strategies for colleges and universities. mhec.org/programs/property-insurance

(MSEP) MIDWEST STUDENT EXCHANGE PROGRAM: A multi-state tuition reciprocity program that makes attending out-of-state colleges and universities more affordable for non-resident students. By enrolling in a MSEP program at a participating institution, students receive a reduced tuition rate giving them a wider range of education options for their education dollars. msep.mhec.org

STUDENT INSURANCE PROGRAM: A comprehensive insurance plan created in response to increasing costs and concern for student health. Benefits and services include coverage for intercollegiate athletes, international students, and students studying abroad as well as a commitment to promote the value of student health and student insurance to higher education leadership. mhec.org/programs/mhca

(MCMC) MULTI-STATE COLLABORATIVE ON MILITARY CREDIT: An interstate collaboration of 13 states to translate competencies acquired by veterans through military training and experience toward college credentials. States will exchange information and share best practices in the areas of articulation of credit, certification and licensure, communications, and technology. mhec.org/mcmc

E-TRANSCRIPT INITIATIVE: A mechanism to facilitate the transfer of student information in consistent formats between public and private high schools to public and private colleges and universities, as well as facilitate the transfer of student information among all participating postsecondary institutions. mhec.org/programs/e-transcript-initiative

EXPLORATORY INITIATIVES: The advancement of education through interstate cooperation is a priority of the Midwestern Higher Education Compact. Over MHEC's history, this charge has allowed MHEC the opportunity to explore initiatives with regional solutions. mhec.org/exploratory-initiatives

TECHNOLOGY PROGRAMS: Efforts guided by institutional experts such as chief information officers, telecommunications directors, computing service directors, and procurement officers that leverage the combined volume of as many campuses as possible, to negotiate favorable agreements with technology vendors. mhectech.org

(SARA) STATE AUTHORIZATION RECIPROCALITY AGREEMENTS: A nationwide initiative of states that will make distance education courses more accessible to students across state lines and make it easier for states to regulate and institutions to participate in interstate distance education. mhec.org/sara





January 14, 2016

State of Wisconsin
Combined Senate & Assembly Committee on Colleges and Universities

**Re: Senate Bill 511 and Assembly Bill 632
Relating to the Creation of a Distance Learning Advisory Board**

I speak today on behalf of Maranatha Baptist University in Watertown. Thank you for your outstanding service in Wisconsin's legislature. The current *status quo* threatens to disadvantage Wisconsin higher education institutions' ability to offer distance education if the legislature does not act soon. **Maranatha Baptist University supports the swift enactment of AB 632/SB 511.**

Regulation of online higher education is a complex patchwork, with each state enforcing its own individual requirements for online courses offered to students located in the state. Maranatha has a robust catalog of well-respected online courses and degree programs. MBU is accredited by the Higher Learning Commission and approved to offer online courses and programs at the undergraduate and graduate levels. Maranatha's distance learning programs have received special commendation by the Higher Learning Commission, and MBU's online bachelor's programs were just recently rated by U.S. News & World Report **143rd** which places MBU in the **top 3% of colleges and universities in the United States**. That makes **MBU the highest rated private institution in Wisconsin**.

In spite of the academic quality and integrity of its programs, the growth of Maranatha's distance education offerings has been stunted by incredibly complex and expensive demands from other states. Because Wisconsin is not part of the SARA consortium, Wisconsin schools must submit to the demands of 50+ other jurisdictions (including all the other states, Guam, Puerto Rico, the District of Columbia, etc.) Our spreadsheet cataloguing the requirements of every jurisdiction is over 270 pages long! The environment outside of SARA gives each state authority and incentive to create its own regulations and impose fees on "foreign" schools offering online courses in the state. It is the worst possible scenario—so many different (and often contradictory) regulatory regimes, increased compliance burdens, and registration fees that are frequently excessive or prohibitory.

Our compliance confidence level at any given moment is low because of the ever shifting landscape. Some states require foreign schools to register with more than one agency

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as in Alabama and California. Information provided by the states regarding application processes, exemptions, and fees from one agency often contradict information from other agencies in the same state. An exemption offered by one agency may not be recognized by another agency. Some states have been proactively hostile to foreign institutions. Maryland famously sent cease and desist letters to colleges across the nation. As a result, Maranatha restricted Maryland students to degree programs which are offered residentially on our campus; Maryland students may not enroll in any of our online programs. Michigan chose to join SARA in June of 2015, and thereafter ordered Maranatha to pay \$10,000 or join SARA if we intend to enroll students from Michigan in online education.

SARA brings the benefit of reciprocity. Once a state joins the compact, **institutions reported to SARA are automatically approved to offer online education in all member states.** This completely solves our regulatory nightmare. We will no longer have to track compliance in all those other states or pay fees and seek approval for our distance offerings.

Unfortunately, despite meaningful support in Wisconsin's higher education community, we are one of only **TWO STATES** that have not yet undertaken the process to join SARA (or a similar cohort)—Wisconsin and Massachusetts. At a time when the Higher Learning Commission and the U.S. Department of Education have made specific appeals for **innovation in the manner and methods by which higher education services are provided**, Wisconsin institutions are severely hampered in our efforts to do just that.

Assembly Bill 632 will establish Wisconsin's higher education institutions in a position to offer competitive online programs.

AB 632 creates a portal agency with fair representation from the three higher education sectors: public, technical, and private. This approach is worthy of consideration, but also raises concerns for implementation in Wisconsin. WAICU, the Wisconsin Association of Independent Colleges and Universities, is proposed as the private college representative. Not all of Wisconsin's private institutions are members of WAICU (24 of Wisconsin's 31 private authorized institutions of higher education have joined.) Maranatha appreciates WAICU and generally supports its policies and positions, but MBU is not a member. Having met with WAICU leadership and gained the assurance that WAICU will diligently represent the interests of members and non-members alike and that membership is not a requirement for DLAB qualification under the proposed statutory language, MBU supports the legislative language now under consideration. **The principle that public benefits should not be conditioned on private membership is foundational to our support of this proposal.**

The proposed bill is a win-win-win. #1.) It unleashes the potential for Wisconsin's higher education institutions as outlined above. #2.) It opens up much wider opportunities for the citizens of Wisconsin to seek online college opportunities from institutions outside Wisconsin. (Currently this state is a very difficult place for such institutions to operate. Let me put it this way, if MBU was not located in Wisconsin, it would be on our list of top states to avoid because of the red tape we would have to cut through. #3) It maintains important protections for



consumers to pursue a remedy if they believe their rights have been injured. The complaint process included with the legislation strikes an appropriate balance in mediating potential disputes between colleges and those they serve.

In summary, Maranatha is thankful for the legislature's action in this critical area:

- AB 632/SB 511 will restore Wisconsin's colleges and universities to the leading edge of innovation in higher education services.
- Wisconsin's entrance into the SARA consortium through the creation of the portal organization outlined in the proposed bill creates a minimal footprint of bureaucracy and prevents additional layers of unnecessary regulation with regard to higher education.
- The proposed bill explicitly outlines the requirements for qualification and does not require membership in a private organization in order to be approved.

Thank you again for your service. We appreciate your dedication to principles of freedom and fairness that will truly move Wisconsin forward.

Sincerely,

Maranatha Baptist University

Dr. Matthew J. Davis

Executive Vice President & Corporate Counsel

Admitted to Practice in Illinois, Florida, and Wisconsin



*SB 511/AB 632: Distance Learning Authorization Board Legislation
benefits students and improves efficiency*

The Problem: The federal program integrity rules issued by the U.S. Department of Education require postsecondary institutions offering distance education (e.g. online degrees) to be authorized by any state where the student, not the institution, is located if the state has such requirements. Individual states vary widely in statutory, regulatory and cost requirements governing higher education distance learning services provided to their residents by out-of-state colleges and universities. This is cumbersome and costly to both colleges and to students.

The Solution: The regional higher education compacts (Wisconsin is a member of the Midwest Higher Education Compact or MHEC) have organized a network of State Authorization Reciprocity Agreements or SARAs. Under these agreements, participating states will recognize the regulations of the home state of postsecondary institutions offering distance learning. Wisconsin law pertaining to Wisconsin institutions will similarly be recognized by other states participating in the reciprocity agreements, thereby exempting Wisconsin colleges and universities from bureaucratic hurdles and costs.

Intent of SB 511/AB 632: Ensure that Wisconsin public and private higher education institutions can offer high quality educational opportunities to out-of-state students and comply with requirements in serving these students in an efficient and cost-effective way by entering into a SARA.

What SB 511/AB 632 does: The bills establish the Distance Learning Authorization Board (DLAB) to represent Wisconsin higher education institutions for SARA.

- The State of Wisconsin must enact legislation to join the national reciprocity efforts. If Wisconsin does not join, no higher education institution based in Wisconsin can choose to participate.
- Reciprocity for state authorization is an extension of Wisconsin's participation in the MHEC, which is authorized in s. 39.80, *Wis. Stats.*, and which is one of four regional compacts creating distance education reciprocity nationwide.
- DLAB will be attached administratively to the Higher Educational Aids Board (HEAB) but will not require additional staff or any state GPR funding.
- DLAB will be staffed and operated cooperatively by WAICU, UWS, WTCS, and the Educational Approval Board (EAB).
- This bill also enables DLAB to list authorized institutions based in Wisconsin in the administrative register. Currently this is done through an Executive Order of the Governor; under the bill, this function would be transferred to DLAB.

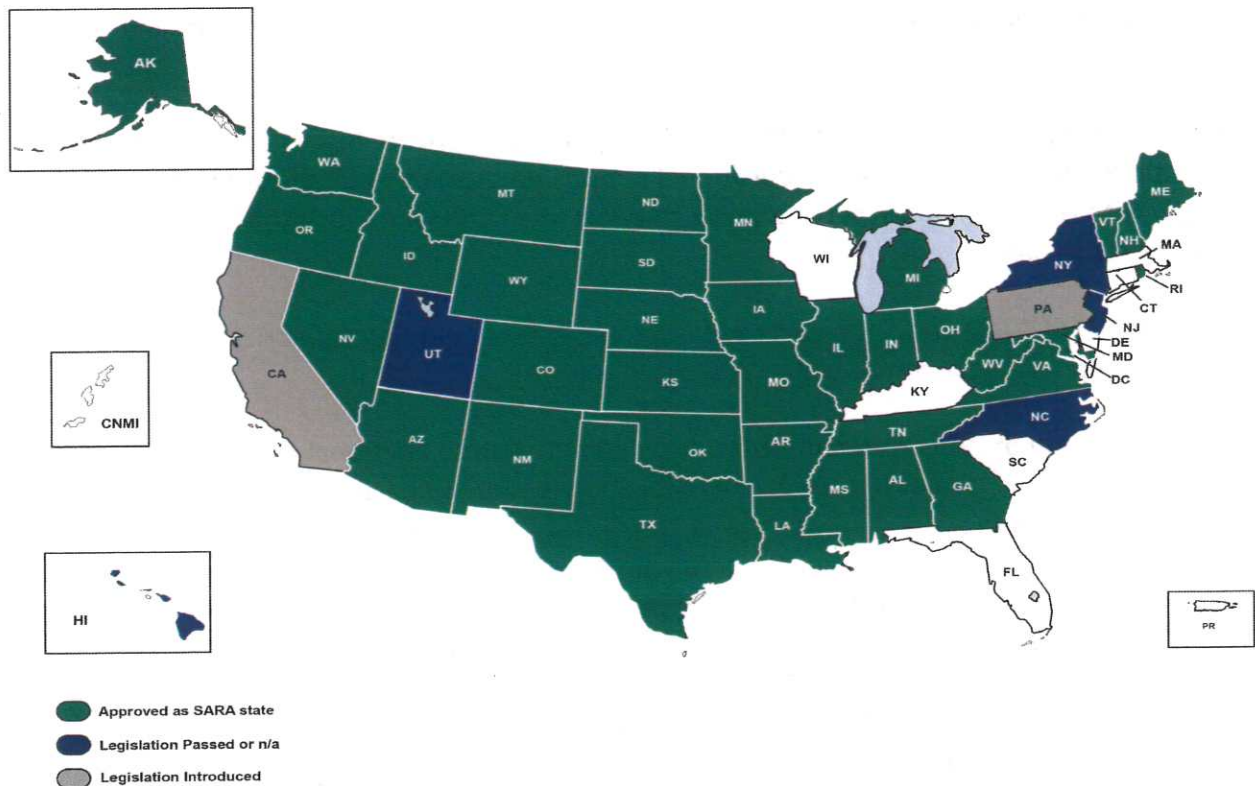
What SB 511/AB 632 don't do: Neither the bills or DLAB will require any state GPR funding nor mandate participation from any individual institution.

- Individual institution participation is completely voluntary but no institution can join unless the Legislature first establishes the DLAB.
- A program revenue appropriation included in the bill will be funded with fees that may be needed in the future and paid by participating colleges and universities.
- EAB's existing authority remains unchanged to regulate out of state institutions that choose not to join SARA but that offer post-secondary education to Wisconsin residents.
- EAB's existing authority remains unchanged over for-profit institutions headquartered in Wisconsin.

How the bills improve efficiency: Adopting the bills will create a streamlined and less costly way for Wisconsin higher education institutions to comply with requirements from other states.

How the bills benefit and protect students: Students from other states who enroll in distance education offered by a participating Wisconsin institution will be ensured high quality experiences. Wisconsin residents who choose distance education offered outside of Wisconsin will be protected through participation of other states in the national reciprocity efforts.

What's happening nationally: 36 states are already participating in a reciprocity group.



For more information on DLAB or distance education reciprocity, please contact:

WAICU: Rebecca Larson, Senior Vice President for Advocacy, 256-7761 ext. 234

UWS: Paige Reed, Senior System Legal Counsel, 265-5319

WTCS: Nancy Merrill, Senior Policy Advisor & Federal Relations Officer, 267-9514



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Prepared Remarks
Senate Committee on Universities and Technical Colleges
January 14, 2016

MSARA

Let me begin my remarks by offering a few words of gratitude to those responsible for bringing this bill forward. Representative Ballweg and Senator Harsdorf deserve much credit, for their service to the State as Commissioners of MHEC and for their leadership on this bill.

I want to thank Paige Reed from the UW System Office of General Counsel. Paige has worked closely with the authors and the drafters throughout this process and has played a critical role in getting this bill drafted and before you today. Thank you, Paige.

I also want to thank my partners here at the table, the Wisconsin Technical Colleges and WAICU. This is truly a collaborative effort, and the fact that we've all agreed to share in the costs of this venture and to not ask for any additional GPR should send a strong signal to all of you just how important this is for our institutions.

As my colleagues have explained, this legislation is critical to our ability to offer online and distance programming throughout the country. From 2011 to 2014, UW System schools spent over \$162,000 in fees and associated costs to become registered and authorized to provide distance learning opportunities in other states. That does not count staff time. For example, the distance learning coordinator at Stevens Point estimates that he has spent over 30% of his time on authorizing issues alone since he began last July.

Without this bill, that cost of both time and money will only increase. Michigan and Alabama are planning on charging any non-SARA school \$10,000 in fees for the first year and \$5,000 annually thereafter to offer distance learning in their state. If we are authorized to participate in SARA, the fee for most of our schools would be \$4000 annually and would provide access to at least 37 other states.

Of course, this bill will also make it easier for other states to offer programming to Wisconsin students. In a way, it's a free market approach to distance learning. Campuses will have to compete for students in their own states and throughout the country. That type of competition will drive innovation and create opportunities for students.

Instead of staff spending 3 hours a day processing paperwork from other states, they will be working to find ways to improve the programming their campuses offer.

It is for all of these reasons that I join my colleagues here today and ask you to support this legislation. The full Board of Regents has also expressed their support and I know many of our Chancellors are eager for this bill to pass as well.

With that we would be glad to answer any questions.

Thank you.