

UNIVERSITY OF WISCONSIN SYSTEM  
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### LEGISLATIVE INITIATIVES

LEGISLATION: 2007 Farm Bill (H.R 2419 and S. 2302)

AGENCY: House Committee on Agriculture  
Senate Committee on Agriculture, Nutrition and Forestry

DESCRIPTION: The House of Representatives passed its version of the Farm Bill in July 2007; the Senate passed its version in December 2007. The bills now go to a House-Senate conference committee to work out the differences.

The UW System respectfully requests that conferees accept the House position on two provisions: IFAFS and support for AASCARR institutions.

**The Initiative for Future Agriculture and Food Systems (IFAFS).** The House-passed version of the Farm Bill (H.R. 2419) emphasizes the need for enhanced, designated funding for both the National Research Initiative (NRI) as the basic research arm and IFAFS as the applied research arm of agriculture. IFAFS is a competitive grants program on critical emerging issues and high-priority research. Under current law, \$200 million per year in IFAFS funding is scheduled to resume in fiscal years 2010, 2011, and 2012. And, Title VII of the House-passed Farm Bill includes the \$600 million in IFAFS mandatory funds. We respectfully request that conferees accept the House position on IFAFS.

**Support for American Association of Colleges of Agriculture and Renewable Resources Institutions (AASCARR).** The House-passed version of the Farm Bill authorizes funds to support the educational and outreach needs at AASCARR Institutions. An AASCARR institution is a public college or university that offers a baccalaureate or higher degree in agriculture. AASCARR institutions are non-land grant institutions. In Wisconsin, the two AASCARR institutions are the University of Wisconsin-Platteville and the University of Wisconsin-River Falls and both serve an increasingly important role in agricultural education, research, and extension. We respectfully request that Farm Bill conferees support Section 7107 of House bill.

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IMPACT ON WISCONSIN: Many of the 2007 Farm Bill programs support Wisconsin's more than \$51 billion agricultural industry.

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### LEGISLATIVE INITIATIVES

LEGISLATION: Conference Recommendations for Reauthorization of the Higher Education Act (S. 1642 and H.R. 4137)

COMMITTEES: House Committee on Education and Labor  
Senate Committee on Health, Education, Labor and Pensions

DESCRIPTION: **College Price Provisions:**

S. 1642 and H.R. 4137 both contain numerous provisions related to college prices. As the conferees work to combine these provisions, we urge that the final provisions be designed to provide useful consumer information without creating excessive compliance difficulties for institutions.

***Institutional Lists:*** Both bills would create a list to identify schools with the most significant tuition increases over a multi-year period. The House bill would identify schools with the largest percentage change, while the Senate bill would identify all schools that exceed the increase in a “Higher Education Price Index” to be developed by the Department of Education and the Bureau of Labor Statistics. We prefer the adoption of the House approach because it will be relatively simple and straightforward to implement and because it reduces volatility by measuring change over a three-year period.

***Consequences of Being Placed on the List:*** We recommend that schools with the largest percentage increase in prices be required to prepare the institutional reports included in the new Section 133 (c) of the House bill (H.R. 4137, pg. 44, line 24). Provisions related to the Quality Efficiency Task Forces and to the additional reports required by a new section 801 (c) (H.R. 4137, pg. 659) should be dropped. The task forces and additional reports are duplicative and would impose financial burdens on the schools that exceed any benefits to consumers.

***Consumer Information:*** The bills take different approaches to making information about institutions available to the public. The House proposal is mandatory, requiring institutions to provide a broad array of data that the Secretary must publish on the College Navigator web site. The Senate plan is voluntary for institutions and calls on the Secretary to develop a model document that institutions may use in publishing the information on their web sites. We recommend that the conferees adopt the Senate’s voluntary approach.

Institutions provide a substantial amount of data to the U.S. Department of Education through the Integrated Postsecondary Education Data System (IPEDS) each year, and we applaud efforts to assure that this information is used. However, many data elements specified in both bills are not currently collected through IPEDS in the form specified. Mandating that they be provided would create a significant new reporting burden for institutions. For this reason, we recommend that conferees

make the provisions voluntary for institutions as envisioned by the Senate bill or limit the data elements mandated in the House bill to those currently collected through IPEDS.

#### Accreditation

Both the House and Senate bills include identical language to limit the authority of the Department of Education to use accrediting agencies to regulate the academic affairs of colleges and universities. This language is vitally important given the department's efforts to dramatically strengthen its control over accrediting agencies as part of the regulatory process last year. We ask that this critical language remain in the legislation.

***Rules of Construction:*** The House bill includes two "Rules of Construction" (Section 496(b) of H.R. 4137, pg. 522, lines 6-22) that clarify the roles of accrediting agencies and institutions with respect to setting standards and measuring student achievement. These are an important clarification to the legislation and we strongly recommend that the Senate accept both rules.

***National Advisory Committee on Institutional Quality and Integrity (NACIQI):*** Both bills would modify the provisions related to NACIQI. Among other things, they would change the process by which members are appointed, allowing Congress to make appointments and giving the Committee some independence from interference from the Department of Education's political appointees. We believe that these are vitally important changes and commend the House and Senate for making these modifications.

Congress needs to fix a date on which the current NACIQI will be terminated and a set date on which the new Committee will begin operations. We recommend that the current Advisory Committee terminate on June 30, 2008, and that the new Committee be authorized to hold its first meeting when two-thirds of the new members have been appointed as provided for in this legislation.

***Ombudsman:*** The House bill establishes an "accreditation ombudsman" (H.R. 4137, pg. 523). We are unaware of any problem that merits the creation of this position, the role the position is designed to play, or the scope of its authority to intervene in the accreditation process. As drafted, this individual would stand between institutions of higher education and their accreditors and would therefore allow the department to insert itself into accreditation decisions. Without an obvious need for such a position or any clear boundaries that define its role, we believe this provision is unnecessary and undesirable. We urge the House to recede to the Senate.

#### Regulation

Both bills include a large number of new requirements that would impose regulatory, reporting and recordkeeping burdens on institutions and the Department of Education. We strongly urge Congress to minimize the absolute number of such mandates. These are often complex activities that divert time and energy from academic efforts and increase institutional operating costs. Given the great emphasis on college affordability in this legislation, we ask the conferees to carefully examine each new requirement to ensure that the benefit obtained will more than offset the costs to be imposed. Ultimately, the costs of running any

business are paid by consumers—in the case of higher education, that means students.

**Important Regulatory Initiatives:** While we hope Congress will impose new regulations sparingly, there are several areas where the proposals would be very beneficial. In the House bill, the modifications to negotiated rulemaking (H.R. 4137, pg. 513, lines 10-17) would ensure a smoother and more effective regulatory process, and we ask the Senate to recede to the House on this language. Similarly, the mandated study of regulations by the National Research Council (NRC) would bring the analytic capabilities of a highly respected, independent research organization to bear on this vexing issue (H.R. 4137, pg. 815-816. We recommend the adoption of these House provisions. We also support the provision in the Senate bill calling for a Government Accountability Office (GAO) study of the burden on institutions of completing IPEDS (S. 1642, pg. 42, line 15, through pg. 43, line 11). Both bills mandate the creation of a compliance calendar which would provide a valuable checklist to help campuses ensure that they are meeting all Department of Education reporting requirements.

**Model Financial Aid Form:** We believe that the House legislative language for the model financial aid form (H.R. 4137, pg. 460, line 11 through pg. 463, line 20) is overly specific. The legislation asks the department to study the desirability and elements of such a form but simultaneously specifies what should be included on the form. A detailed analysis of this issue with extensive consultation is likely to determine whether such a form is warranted and, if it is, what the elements of it should be. The best approach for this task is to simply require the Department of Education, working closely with institutions, student advocates and parents, to develop such a form. Therefore, we recommend that the Senate accept (c) 1 (A) of the House bill but delete subparagraph (B) (begins on line 18 of pg. 461).

**Meningitis:** The House bill mandates that institutions disclose their immunization policy for meningitis. We believe that this provision establishes an unwelcome and unnecessary precedent and ask that it be dropped.

**Technology Disposal:** The House bill adds a new requirement to the program participation agreement that requires every institution to develop a policy on the disposal or disposition of all technology assets which may contain personal and sensitive data. Institutions already have such policies as required under state privacy laws and we are unaware of a single case that merits the inclusion of a new regulatory mandate. We ask that this provision be dropped.

**Employment and Graduate School Enrollment:** The Senate bill requires institutions to collect and report information on employment placement of graduates, types of employment obtained, and enrollment in graduate education. The collection and disclosure of such information is complex, costly, impractical, and not comparable across institutions. Colleges cannot compel alumni to participate. We ask that the Senate recede to the House on this provision.

**Lobbying Disclosures:** The Senate bill requires the Department of Education to establish new policies to regulate lobbying activity by colleges and universities and gives the Secretary of Education unprecedented authority to regulate college officials in an area in which she has no expertise. Advocacy activities are clearly defined and regulated under numerous federal statutes. Campus compliance is extraordinarily high on this issue and is unlikely to be improved by imposing new responsibilities from an

agency that has no experience in dealing with them. We ask that the provision be dropped.

***Voter Registration Notification:*** The Senate bill allows only for-profit institutions of higher education to use electronic technologies to transmit voter registration information to students. The House bill allows all institutions to utilize this more efficient and effective means to notify students. We ask the Senate to recede to the House.

#### Peer to Peer File Sharing

Colleges and universities take illegal file sharing very seriously. Each institution deals with illegal file sharing not only as a matter about which to educate its students, but also as a component of network policy, student contracts, network management, and judicial action.

Both the House and Senate bills require institutions of higher education to advise students on institutional policies regarding the illegal use of copyrighted materials and the legal penalties associated with violating copyright law. However, the House bill (Sec. 494 of H.R. 4137, pg. 514) goes further and requires the development of two “plans”: one “for offering alternatives to illegal downloading” and a second “to explore technology-based deterrents to such illegal activity.” Since the word “plans” is not defined in statute, the Secretary would define the elements of these plans in regulation.

Recent investigations and reports for the Joint Committee of the Higher Education and Entertainment Communities concluded that online alternatives and technical deterrents are immature and expensive. The most recent estimates suggest that students using campus networks account for just 3 percent of the losses due to illegal downloading. In short, this particular provision would impose costs and regulatory burdens on the Department of Education and campuses while doing very little to address the problem. Therefore, we ask that the House recede to the Senate with respect to the proposed new Section 494 (pg. 514 through pg. 515, line 18).

#### Campus Safety

Both bills include numerous provisions to ensure that campuses are safe and to provide information to the campus community about safety procedures. All college and university officials want safe campuses. However, it is important that federal mandates in this area can be implemented smoothly and effectively, that they provide information that will benefit the entire campus community, and that the benefits of the new requirements will be commensurate with the costs imposed. We ask that conferees review all of the proposed new requirements carefully using this three-part test.

***Campus Emergencies:*** Both bills require campuses to have a plan to notify the campus community in the event of “a significant emergency or dangerous situation,” to publicize the plans and to test them on an annual basis (H.R. 4137, pg. 475-477; S. 1642 pg. 329-330). The House bill also requires that the campus community be notified within 30 minutes (H.R. 4137, pg. 475, line 24).

A mandatory 30-minute deadline establishes a one-size-fits-all federal standard for every “significant emergency or dangerous situation,” regardless of the facts of the case. How does Congress know that 30 minutes is the right amount of time? When does a “situation” become a “dangerous situation?” How should this be regulated by the Department of Education in a uniform manner that will work equally well for all campuses in all situations?

Emergencies are, by definition, volatile, fast-moving and unpredictable events that can encompass a large range of natural and man-made situations. A single federal standard will not work in every situation for every campus. Indeed, a similar emergency situation may call for a very different response depending on the nature of the campus and when it occurs. Campus security officials are highly trained law enforcement professionals, and we join with the International Association of Campus Law Enforcement Administrators (IACLEA) in encouraging Congress to avoid micromanaging campus emergencies. We are unaware of any other comparable industry where the federal government imposes a deadline on sworn law enforcement officials. For these reasons, we ask the House to recede to the Senate on the mandatory notification deadline.

***Missing Students:*** The House bill requires institutions to establish specific policies and practices to be followed if a student is reported “missing.” Incidents of “missing” students are very rare. For these reasons, we ask that the House recede to the Senate and delete this requirement. If the conferees leave such a provision in place, we ask that they (1) limit the requirements to schools that provide on-campus housing and to students that reside in on-campus housing; (2) delete the details (“on its form for registration or enrollment”) about how a student is to identify an individual to be notified; and (3) incorporate a requirement for the development of “policies and procedures” as opposed to requiring institutions to establish a new set of detailed “protocols.” The language providing that students who elect notification cannot sue based on privacy laws is important and should be maintained.

***Drug and Alcohol Abuse Prevention:*** Both bills would modify Section 120 of the Higher Education Act by requiring institutions “to determine the number of drug and alcohol-related incidents and fatalities” and “to determine the number and type of sanctions imposed.” Since campus security offices will be responsible for implementing this provision, we ask that the language be modified to read “drug and alcohol fatalities and drug and alcohol violations reported to campus law enforcement officials.” “Violations” is the term used in the Clery Act and adoption of this term would cause less confusion than “incidents.”

Both bills also create a new and confusing definition of campus for this provision. We strongly recommend that conferees reference the Clery Act definition in Section 485 (f) (5) (i).

***Retaliation:*** The House bill adds two new sections prohibiting retaliation (H.R. 4137, pg. 477 and pg. 483) against “any individual for the purpose of interfering with the implementation of [the campus safety or fire safety subsections], or any rights or privileges accorded under [those subsections], or because the individual has complained, testified, assisted, or otherwise participated in any aspect of an investigation, proceeding, or hearing.” These provisions create blanket immunity for any person based on his/her participation, no matter how minor, in any investigation related to campus safety or fire issues. As such, they create an open invitation for lawsuits by disgruntled community members including employees who have been

disciplined for entirely valid and unrelated reasons. We are aware of no situation that would justify the need for such sweeping protections and the Higher Education Act is not the place to create two new retaliation claims. In addition, as currently written, these provisions are extremely vague. The language in both provisions references interference with “rights or privileges accorded under [those subsections],” but given the fact that these sections are reporting requirements, we are unclear as to the meaning of this language. We strongly recommend that the House recede to the Senate on these new and open-ended employment actions.

***Fire Safety:*** The House bill makes clear that these provisions (H.R. 4137, pg. 479) only apply to institutions with on-campus housing. Campus residence halls are the biggest source of concern with respect to fire safety. The House provision is limited to institutions with such facilities, and we ask the Senate to recede on this provision.

#### Endowments

The House bill (new section 137 of H.R. 4137, pg 71, line 20, through pg.72, line 4) would require institutions to make annual reports to the Secretary on the expenditures from any endowment funds for the purpose of reducing costs of the programs of instruction offered by such institutions.

As drafted, this provision is complex, confusing and duplicates new requirements about to be imposed by the Department of the Treasury as part of its overhaul of Form 990. The language fails to distinguish between restricted and unrestricted funds, requires extensive detail in reporting categories not kept by institutions (for example, endowment funds used to purchase textbooks), and establishes duplicative categories (for example, requiring separate breakdowns for “meals” and “room and board”).

The Department of the Treasury’s multi-year effort designed to expand endowment reporting is nearly complete and the new requirements will take effect next year. Schools will be required to disclose seven different items, including the amount of student aid provided from endowment funds. In light of this more comprehensive initiative, we ask that the House recede to the Senate on this provision.

#### Title IV – Student Aid Provisions

***IRS Role in Need Analysis:*** The House bill requires the Secretary to implement an IRS income matching system that relies on “prior-prior year” income information in calculating eligibility for federal student aid. While a promising proposal, this idea represents a huge change in the student aid system and it should be piloted and carefully evaluated before full-scale adoption is mandated.

Our concerns about the idea are three-fold. First, “prior-prior year data” has been considered previously and rejected because of fears that it would create serious problems, particularly for independent and nontraditional students whose incomes often fluctuate considerably from year to year. Second, IRS has historically provided only limited and qualified support for federal student aid matters. Section 474 assumes the Service will willingly participate—a risky assumption. Third, even if the IRS is unwilling to participate, Section 474 gives the Secretary the authority to regulate a solution. The Secretary of Education has never had the authority to regulate need analysis and there have been very few controversies. Giving the Secretary of Education authority to regulate need analysis invites

significant changes in student aid policy to meet the policy and fiscal objectives of whatever administration is currently in power.

Finally, since many institutions and all states currently use the FAFSA to award their own student aid funds, under this provision it would be important that they accept “prior-prior year data.” In the past, they have been reluctant to do so. State and institution willingness to do this should be carefully evaluated before the federal government takes this step.

We reiterate that this is a promising idea and is well worth a careful pilot. But we strongly oppose making such a significant change without clear knowledge about the likely impact.

***Work Study Community Service:*** Encouraging students to participate in community service is an important goal of the Work Study Program. While both bills have provisions in this regard, the Senate language—which removes the 7 percent public service requirement for institutions that have at least 15 percent of their students involved in specified types of public service activities listed in HEA—is preferable because it simultaneously encourages and rewards colleges that promote a culture of service on campus for all students, not just those that participate in Work Study. By contrast, the House bill imposes a very specific new mandate for civic education with a priority in emergency training under the 7 percent requirement. This narrow provision, applicable only to a need-based employment program, is excessively prescriptive and enormously complicates efforts to find students appropriate jobs. We ask the House to recede to the Senate on this provision.

***Perkins Loans:*** We support the proposals in both bills to strengthen the Perkins Loan program. We support the provision in the House bill that would return Perkins Loans collected by the Secretary to campus revolving funds to assist future low-income students (H.R. 4137, pg. 432). We also concur with the House proposals to give campus aid administrators added flexibility to deal with borrower repayment needs, to increase Perkins Loan limits, to require disclosure when Perkins Loans are included in consolidation loans, and to improve other administrative aspects of the Perkins Loan program. We ask the Senate to recede on these additional provisions.

***Student Loan Sunshine:*** Both bills include provisions to improve transparency in the relationship between colleges and student loan providers. As these bills have passed through the legislative process, these provisions have been continuously improved. Therefore, we urge the Senate to recede to the House bill, as it contains the greatest improvements to this important legislation. In particular, we strongly support the House provisions related to student protections and information on “private label loans.”

***Students with Intellectual Disabilities:*** Both House and Senate bills expand aid eligibility for students with intellectual disabilities. These changes (H.R. 4137, pg. 468-471, 633; S. 1642, pg. 315-317) appear to represent a departure from the specific, circumscribed criteria generally used to determine student aid eligibility. Moreover, because the House bill authorizes the Secretary to unilaterally adjust institutional and student eligibility provisions that are strictly defined in the HEA

for all other institutions and students, it permits the Secretary to waive income considerations in making these awards.

Given this, we are concerned that Congress may unintentionally create conditions in which the targeted population could be exploited by unscrupulous institutions not bound by the normal controls designed to ensure integrity in Title IV. In addition, given the “notwithstanding” language, these changes, as currently drafted, could prove very expensive.

We believe that Congress should provide greater safeguards to these potentially vulnerable students. Most important, intellectually disabled individuals should only be able to use these funds at Title IV participating institutions. This basic safeguard would ensure that students are mainstreamed in high-quality institutions and not be placed in isolated situations at institutions that do not have their best interests in mind.

***Student Loan Information:*** We are extremely concerned about the expansive authority that Sec. 423 of the House bill (H.R. 4137, pg. 371) would grant to institutions and third party servicers working on their behalf providing them with access to an unprecedented amount of confidential information. The “Notwithstanding...” clause completely sets aside consumer safeguards and privacy protections contained in federal and state laws and regulations and is inconsistent with vigorous efforts underway at all levels of government to limit identity theft and unauthorized uses of personal information.

Default prevention is a critically important goal that we strongly support. But we do not believe that this objective justifies such a widespread, unprecedented action. College and universities have not asked for this authority and do not want it. We believe that current law provides ample access to student information needed to promote student loan repayment. We strongly urge the House to recede.

***Advisory Committee on Student Financial Assistance:*** We ask the House to recede to the Senate provisions amending Section 491(k) (S. 1642, pg. 368, lines 24-25) to authorize the Advisory Committee on Student Financial Assistance through October 1, 2013. The corresponding provision in the House bill sunsets the Advisory Committee’s authorization period two years earlier, in 2011 (H.R. 4137, pg. 513, lines 8-9), which would put the Advisory Committee’s reauthorization period out of sync with the HEA’s reauthorization schedule and create the risk of a premature sunset. We believe that the Advisory Committee has produced and will continue to produce informative, non-partisan, and detailed reports and studies analyzing many important financial aid issues.

#### Title VI – International Education and Area Studies

***Diverse Perspectives:*** The Senate bill mandates that Title VI-funded activities reflect “diverse perspectives and a wide range of views,” requires that a university complaint process be established for resolving disputes, and brings unresolved disputes to the Secretary of Education. Title VI programs are diverse and do not promote a single ideology or point of view. Indeed, the

NRC's 2007 report on Title VI noted that "bias" is a recurring charge from both ends of the political spectrum. It stated, "It is in the nature of scholarship on America's role in the world that at times research will be viewed as too critical and at other times it will be seen as lacking critical perspective."

This provision sets an unfortunate and inappropriate precedent for federal involvement in instruction and curriculum, encourages politically motivated complaints, and duplicates resolution processes already in place on every campus. We ask that the Senate recede.

**Contributions:** The House bill adds a new section (H.R. 4137, Sec. 645, pg. 559, line 16, through pg. 561, line 17) that requires schools receiving Title VI funds to report to the Secretary any contributions that the institution receives from a foreign government, private sector organization, or individual. This language is virtually identical to the Section 117 requirement (Sec 117. "Disclosures of Foreign Gifts") that has been in the Higher Education Act since 1986. But, ironically, the new requirement would cover fewer contributions: current law mandates more disclosure than the proposed amendment. For this reason, we ask that the House recede to the Senate.

#### Teacher Quality Enhancement

Both the House and Senate bills contain provisions that we support to strengthen and improve teacher preparation programs and make them more accountable. However, we strongly oppose the "Teacher Development" provision included in Section 206 of the House bill (H.R. 4137, pg. 175-177), and Section 205A of the Senate bill (S. 1642, pg. 128-130). The House version differs from the Senate version in two respects: It strikes "as a condition of receiving assistance under Title IV," and it substitutes the "state education agency" for the "secretary" for purposes of designating teacher shortage areas. Even with these differences, both bills impose a sweeping new federal mandate on the curriculum of every college in the country with a teacher preparation program. We are also not certain what the "annual quantifiable goals" would look like. For example, while institutions could easily set a goal of how many instructors of "limited English proficient students" they hope to prepare, their ability to achieve the goal is constrained since students choose their own majors. We urge conferees to revise the bill language to remove the direct federal mandate, but to still encourage colleges to address teacher shortage needs in their localities and gather information about the success of their efforts. This can be accomplished by reframing the elements of the "Teacher Development" section and including them directly in the Institutional Report Card under the Teacher Training reporting requirements. This provides a more practical and workable method to gather such information as, for example, the efforts schools are making to link teacher training with the kinds of instructional decisions new teachers will face when they enter the classroom.

#### Textbooks

Section 110 of the House bill (H.R. 4137, pg. 61 through pg. 68, line 18) requires that students be offered "better and timelier access to affordable course materials." As part of this requirement, colleges and universities must, as part of the institution's course schedule, disclose the International Standard Book Number

(ISBN) and retail price information of required and recommended textbooks, related materials and supplies for each course. If the information is not available, institutions are permitted to designate the relevant information “to be determined.”

We strongly oppose such a requirement because it is very likely to have unanticipated consequences. At most universities, preliminary course schedules are compiled months before the start of each academic term in order to help students plan their schedules. In many cases, these preliminary schedules do not even identify the faculty member who will teach the courses. Even where the instructors are identified, they may not be in a position to specify which books, related materials and supplies will be necessary. The choice for institutions will be to publish these schedules with a huge number of “to be determined” designations or to significantly delay publications of the course schedules which will make it more difficult for students to make plans.

A particular problem is the requirement to publish the ISBN. The same textbook can have several different ISBN numbers depending on whether the publisher bundles, customizes, reprints or issues a new edition. If institutions publish this information early before the bookstore verifies the information, it can cause students to purchase the wrong books.

In 2006, the Federal Advisory Committee on Student financial Assistance conducted, at the request of the House Education and Labor and Senate HELP Committees, an extensive study of the issues related to textbook affordability. The Commission’s conclusion was clear and unambiguous: a federal solution directed at colleges and universities in response to this issue is not warranted and will have unintended consequences. The Committee added that “the federal approach should be to advance, integrate, and complement the most effective ongoing state and college initiatives, not to choose one over another, or to replace them with federal ones.” In light of this clear and unambiguous recommendation, we believe it would be a serious mistake for Congress to impose a single federal solution on institutions of higher education. As a result, we strongly recommend that the House recede to the Senate on this issue. If Congress believes it is absolutely essential to regulate in this area, we recommend an approach that will not force colleges and universities to choose between publishing course schedules with a great deal of “to be determined” information or delaying publication and seriously inconveniencing students. One possible approach would be to require campus bookstores to publish electronically a list of required and recommended course materials fourteen days before the start of classes. At that point, most course schedules are determined, most faculty are assigned and most course materials have been selected and their prices are known. Such a step would permit students to look for course materials at other vendors where they might find them for a lower price than will be charged in the on-campus bookstore.

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LEGISLATIVE INITIATIVES

LEGISLATION: No Child Left Behind Act of 2001

AGENCY: U.S. House Committee on Education Labor  
U.S. Senate Committee on Health, Education, Labor, & Pensions

DESCRIPTION: The Improving Teacher Quality State Grants Program—Title II, Part A, Subpart 3 has been invaluable in providing high quality professional development for many thousands of Wisconsin teachers. The ITQ program funds competitive grants to colleges and universities to develop and implement projects aimed at ensuring that every teacher is highly qualified.

The program is successful because of the partnership connections it fosters between higher education and K-12 schools. Federal law offers few such opportunities to mobilize the expert knowledge of postsecondary educators, including content specialists, to directly support K-12 teacher improvement. ITQ promotes research-based, content-focused, high quality, sustainable professional development that is vital to the reform goals of No Child Left Behind. These partnerships are also instrumental to the implementation of Wisconsin's initial teacher license program. PI34.

Congress is strongly encouraged to support retention of the Improving Teacher Quality State Grants Program when the No Child Left Behind Act is reauthorized.

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IMPACT ON WISCONSIN: The University of Wisconsin System has administered the program in Wisconsin since the 1980s. In the past four years, 81 partnership projects have been funded serving 4,086 Wisconsin teachers.

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LEGISLATIVE INITIATIVES

LEGISLATION: Patent Reform Act of 2007 (S. 1145)

AGENCY: Senate Committee on the Judiciary

DESCRIPTION: The bill that was favorably reported by the Senate Committee on the Judiciary made significant improvements in a number of provisions, including first inventor to file, removal of prior user rights, and improving venue provisions. UW System seeks amendments prior to Senate floor consideration, as follows:

A major issue for our Wisconsin economy is the provision for a “second window” and a “third window” in post-grant opposition proceedings. There are over 60 start-up companies in Dane County that are attributable to technology transfer from the UW-Madison to the private sector. An environment that favors transfer is dependent on strong patents. The second and third windows will make all patents susceptible to frivolous patent challenges throughout the life of the patent, and therefore will chill successful technology transfer.

Second, additional concerns center primarily on the proposed changes to the well-established principles used to calculate monetary damage awards and the lack of reform to the inequitable conduct defense. The apportionment of damages provisions in S. 1145 would serve to give infringers a windfall to the detriment of those who have negotiated for licenses at market rates. Such windfalls would discourage venture capital investments in start-up companies. The failure to reform inequitable conduct is especially problematic in light of the newly-mandated search report and analysis (“applicant quality submissions”). This mandate will add 30% to the cost of applying for a patent and do little to improve patent quality.

Third, although institutions of higher education and non-profit patent licensing organizations are exempted, the bill’s change to patent venue would distort the current system to favor defendants, creating backlogs in districts with a concentration of patent-using industries. This would favor out-of-state infringers over Wisconsin companies.

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NOTES:

IMPACT ON WISCONSIN: Economic growth depends upon the continued strength and reliability of the U.S. patent system, which has recognized and protected the rights of inventors for more than two centuries. The consequences of S. 1145 in its current form will be harmful to the economy of Wisconsin and the nation. It is important that the issues outlined above be addressed before the bill becomes law.

## LEGISLATIVE INITIATIVES

- LEGISLATION:** Reauthorization of Small Business Innovation Research (SBIR) Program (September 30, 2008) and Small Business Technology Transfer (STTR) (September 30, 2009).
- AGENCY:** U.S. Small Business Administration. The US Small Business Administration plays an important role as the coordinating agency for the SBIR/STTR Programs. It directs eleven agencies' implementation of SBIR and five agencies' implementation of STTR, reviews their progress, and reports annually to Congress on its operation.
- DESCRIPTION:** The SBIR program was established under the Small Business Innovation Development Act of 1982 (P.L. 97-219), reauthorized until September 30, 2000 by the Small Business Research and Development Enhancement Act (P.L. 102-564), and reauthorized again until September 30, 2008 by the Small Business Reauthorization Act of 2000 (P.L. 106-554).
- The STTR program was established by the Small Business Technology Transfer Act of 1992 (Public Law 102-564, Title II), reauthorized until the year 2001 by the Small Business Reauthorization Act of 1997 (P.L. 105-135), and reauthorized again until September 30, 2009, by the Small Business Technology Transfer Program Reauthorization Act of 2001 (P.L. 107-50).
- The SBIR Program includes the following objectives: using small business entities (SBEs, less than 500 employees) to stimulate technological innovation, strengthening the role of SBEs in meeting Federal R/R&D needs, increasing private sector commercialization of innovations developed through Federal SBIR R&D, increasing SBEs participation in Federal R/R&D, and fostering and encouraging participation by socially and economically disadvantaged SBEs and women-owned SBEs in the SBIR program.
- The STTR and SBIR programs are similar in that both programs seek to increase the participation of SBEs in Federal R&D and to increase private sector commercialization of technology developed through Federal R&D. The unique feature of the STTR program is the requirement for the SBEs to formally collaborate with a non-profit research institution such as a university. Since 1983 the Federal agencies have invested approximately \$22.8 billion of SBIR/STTR funds in SBEs.
- CONTACT:** Philip Z. Sobocinski, Ph.D., Asst. Director, Office of Corporate Relations, UW-Madison (608-441-8005)
- NOTES:** Reauthorize legislation or provide permanent status to SBIR Program. In addition, amend the SBIR legislation to increase funding guidelines to \$500,000 (Phase I) and \$1,000,000 (Phase II) from the current \$100,000 and \$750,000 guidelines, respectively.
- The research costs to demonstrate technical feasibility (Phase I) and prototype development (Phase II) for innovations in topic areas to include biotechnology, nanotechnology, and medical devices have increased substantially since 2000. Similar initiatives, when appropriate, should be considered for the STTR Program funding authorization.

IMPACT ON  
WISCONSIN:

Benefit to Wisconsin. It is a well known fact that, especially in the Midwest, sources of early, early stage high-risk venture capital for investment in firms commercializing nascent technology discoveries is extremely limited and that non-equity investment capital for high-risk ventures is non-existent in the private sector. SBIR/STTR fills that void.

These Programs promote high-tech entrepreneurship and the commercialization of innovation for the social good. In particular, Wisconsin's growth of high-tech clusters owes their origin, in large part, to the availability of these federal funds. Further, these funds are a critical resource to leverage state initiatives such as those provided in WI Act 255 to promote high-tech business growth and economic development through the utilization of intellectual capital and discovery.

During the period, federal FY1983-FY2007, over 210 Wisconsin SBEs have been competitively awarded nearly \$207.3 million. Primary recipients of these funds have been high-tech start-ups. These firms have been the key "seed" to the rapid growth of the state's high-tech clusters in Biotechnology, biomedical, Physical Sciences.