

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Sapien **ORIGINAL DATE** 2/17/2015
LAST UPDATED 2/20/2015 **HB** _____

SHORT TITLE Interstate Distance Education Act **SB** 446/aSEC

ANALYST Hartzler

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	(\$25.0)	(\$25.0)	Recurring	Private/ Proprietary Schools Fees, HED
	Unknown	Unknown	Recurring	Institutional I&G Tuition/Fee Revenues

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$100.0	\$100.0	\$200.0	Recurring	Private/Proprietary Schools Fees, HED

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act, Section 4J Higher Education, Higher Education Department, Policy Development and Institutional Financial Oversight

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)
Eastern New Mexico University (ENMU)
Western New Mexico University (WNMU)
University of New Mexico (UNM)

SUMMARY

Synopsis of Senate Education Committee (SEC) Amendment

The SEC amendment included New Mexico Military Institute in the definition of “public post-secondary educational institutions.”

Synopsis of Bill

Senate Bill 446 adds a new chapter to Section 21 NMSA 1978, called the Interstate Distance Education Act. The bill authorizes HED to enter an interstate compact that provides uniform standards and parameters for the interstate provision of post-secondary distance education courses and programs. Should HED enter such a compact, (1) New Mexico private and post-secondary institutions will be able to provide online education programs more easily, cheaply, and effectively to students residing outside New Mexico and (2) New Mexico students enrolled in programs offered by out-of-state institutions will receive the benefit of consumer protection laws against fraudulent institutions or programs.

The bill defines applicable institutions, “complaint”, “distance education,” “physical presence” in the state, and “state authorization reciprocity agreement” (SARA). SARA is the “agreement developed by the National Council for State Authorization Reciprocity Agreements that provides uniform standards and parameters for the interstate provision of post-secondary distance education courses and programs.” (See Attachment 1 for more information on national effort to organize states.)

SB 446 requires HED to establish a program that facilitates (1) receiving distance education for students residing in New Mexico and (2) provides distance education by New Mexico institutions to students residing outside the state. To accomplish this responsibility, the bill authorizes HED to enter into an agreement with the Western Interstate Commission for Higher Education (WICHE) to administer and participate in one of the four regional higher education compacts or SARAs.

Once HED has entered into SARA, it may offer New Mexico institutions – both public and private, proprietary ones – the opportunity to participate in the interstate distance education program pursuant to obligations set forth in SARA. The bill requires accredited institutions apply to HED to provide distance education.

SB 446 includes a complaint process for students enrolled and completing distance education courses. The provisions governing the complaint and resolution process reflect model processes included in other states and as included in the SARA.

The bill requires HED to report annually to the Legislative Finance Committee (LFC) and Legislative Education Student Committee (LESC) on the progress of the interstate distance education program.

Unrelated to SARA, the bill expands HED's planning and budgeting functions for the University of New Mexico Hospital to anything that arises under Chapter 21 NMSA 1978, and not just those matters arising from the Post-Secondary Educational Planning Act.

The bill explicitly exempts entities offering types of educational delivery from the Interstate Distance Education Act. Among these exempted entities are the Public Education Department (PED) to comply with the Compulsory School Attendance Law, courses offered by an employer for the benefit of his/her employees, and courses offered as part of the Interstate Distance Education Act.

FISCAL IMPLICATIONS

Implications for HED and the state. HED reports that its private and proprietary schools division may lose fee revenue if the department enters the compact. Currently, the department assesses out-of-state institutions a fee for the authority to offer distance education programs to New Mexicans. The department charges individual institution a fee in exchange for a contractual right to offer a program to in-state students. The department notes that it does not charge institutions the maximum amount authorized for the institution to provide in-state education opportunities. If SB 446 is enacted and HED enters the compact, total fees from individual schools seeking to do business in New Mexico could decline as more states enter SARA at reduced fee levels.

Implications for Institutions. If the state enters SARA, individual public institutions may apply to receive SARA benefits – the right to provide distance education in other SARA states for a reduced fee. UNM states that it could cost the university \$300 thousand annually if it sought to provide distance education in most states, whereas, the fees under SARA could approach \$6 thousand annually to provide distance education to SARA states. ENMU notes that it could offer more courses to students in other states at a reduced cost to the university.

SIGNIFICANT ISSUES

Consumer protection. HED notes that the New Mexico Attorney General, which normally addresses consumer complaint matters, has determined that, in the case of delivering distance education, HED has the authority and responsibility to address complaints or variations of consumer protection issues. The department can penalize institutions that have failed to abide by New Mexico's stated complaint and resolution process. HED reports that it currently cannot determine which out-of-state institutions are educating New Mexicans without entering an agreement with the state. In 2014, HED received nearly 680 inquiries from out-of-state institutions of higher education seeking to educate New Mexicans. Of these, 240 came from the proprietary school sector and the remainder came from public institutions.

Costs for compliance. SARA helps to reduce costs to institutions that offer degree programs to students where the institution lacks a physical presence. Currently, each institution must negotiate or complete the registration process for each state where it seeks to offer academic programming. This is a costly and time-consuming process. Should New Mexico enter a SARA, institutions would be able to apply one time, at a lower fee, to provide academic programming to students in participating SARA states. Institutions would still need to apply to states that do not participate in SARA – New York and Texas – if they wish to offer programming to students in those states.

Currently, 19 states are members of SARA, with legislation similar to SB 446 pending in 4 states. WICHE projects 40 states will be members by end of 2015. The Western Interstate Commission on Higher Education (WICHE) projects nearly 40 states will have signed SARA by the of 2015.

ADMINISTRATIVE IMPLICATIONS

HED notes that it will be time-consuming to implement institutional participation in SARA. Should SB 446 be enacted, the department would be required to undertake a rulemaking. The department would have to review every New Mexico institutional applicant's student complaint process to ensure it complies with SARA membership requirements.

TECHNICAL ISSUES

The bill defines “public post-secondary educational institutions” to include branch community colleges, community colleges, and technical or vocational schools. The statutory references may need to be revised.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Institutions will continue to seek approval from every state where it seeks to offer distance education, at great expense. HED will continue to approve and register out-of-state institutions seeking to offer distance education in New Mexico.

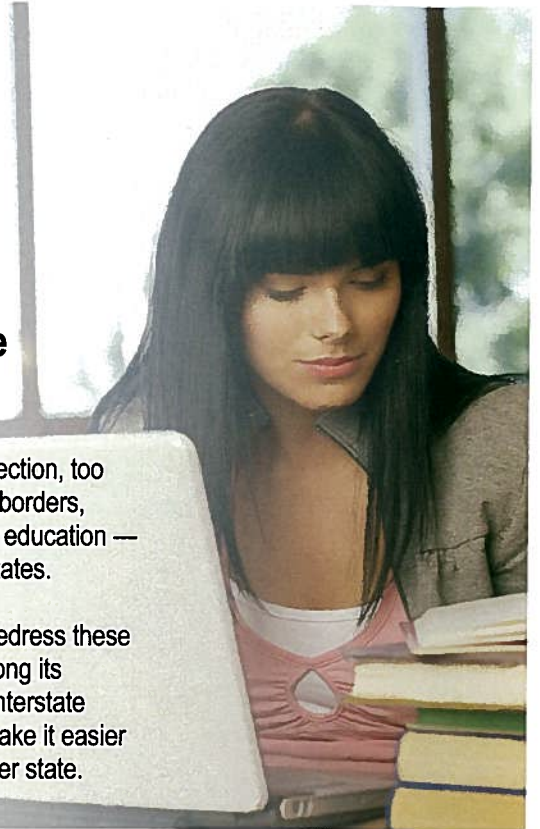
TH/je/aml

The State Authorization Reciprocity Agreements: SARA

Higher Education needs a new way for states to oversee the delivery of postsecondary distance education.

The current process is too varied among the states to assure consistent consumer protection, too cumbersome and expensive for institutions that seek to provide education across state borders, and too fragmented to support our country's architecture for quality assurance in higher education — the quality assurance “triad” of accrediting agencies, the federal government, and the states.

A new, voluntary process of state oversight of distance education has been created to redress these problems. The State Authorization Reciprocity Agreement is a voluntary agreement among its member states and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance-education courses and programs. It is intended to make it easier for students to take online courses offered by postsecondary institutions based in another state.



Problems

- States and territories regulate higher education within their borders, with varying requirements for out-of-state institutions that want to do business in the state.
- Cross-state online education offered by colleges and universities is expanding dramatically.
- At present there is no alternative to each institution separately pursuing any needed approvals (state authorization) in each state and territory where it enrolls students.
- Consequently, thousands of institutions are required to contact and work through as many as 54 states and territories, and, sometimes, with multiple regulatory agencies in those states.
- That process is inefficient, costly, and not effective in supporting access to high quality distance education throughout the country.

Solution

The State Authorization Reciprocity Agreement (SARA) establishes a state-level reciprocity process that will support the nation in its efforts to increase the educational attainment of its people by making state authorization:

- more efficient, effective, and uniform in regard to necessary and reasonable standards of practice that could span states;
- more effective in dealing with quality and integrity issues that have arisen in some online/distance education offerings; and
- less costly for states and institutions and, thereby, the students they serve.

Key Points

- SARA is voluntary for states and institutions.
- Administered by the four regional higher education compacts (Midwestern Higher Education Compact, New England Board of Higher Education, Southern Regional Education Board, and the Western Interstate Commission for Higher Education), which began accepting applications from states in their regions in early 2014. Once states are approved, they can begin to enroll eligible institutions.
- Membership is open to degree-granting postsecondary institutions from all sectors (public colleges and universities; independent institutions, both non-profit and for-profit) accredited by an agency recognized by the U.S. Secretary of Education.

Benefits to States

- Expands educational offerings to state residents.
- Allows SARA states to focus on their home-state institutions, rather than on institutions from many other states.
- Maintains state regulation of on-the-ground instruction offered by out-of-state institutions.
- Other SARA states will help resolve complaints. (SARA states commit to resolving complaints from distance ed. offered by their institutions.)
- Reduces costs for institutions, lessening this particular need to raise fees and thereby supporting affordability.
- No cost to states.

Benefits to Institutions

- Enables more efficient provision of distance education to a broader market.
- Reduces number of other-state regulations to continually monitor and track.
- Reduces number of applications and individual state requirements.
- Reduces costs.
 - » Applications, surety bonds, agent licenses, etc.
 - » Staff (payroll and time).
 - » Reduced costs = potentially lower fees for students.

Benefits to Students

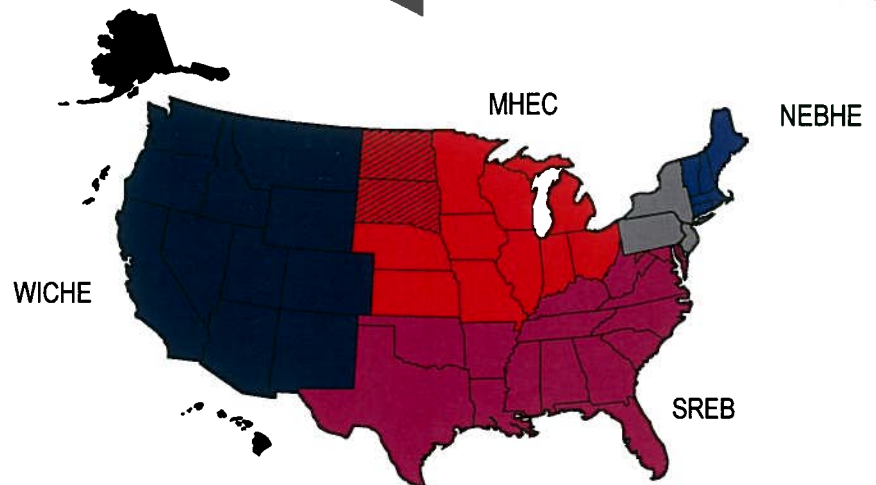
- Expands access to educational offerings.
- Should lead to better resolution of complaints from students in SARA states.
- Reduces a rapidly growing institutional cost that is passed along to students.
- Should enhance overall quality of distance education.

For more information, contact:

Marshall A. Hill, Ph.D.
Executive Director
National Council for State
Authorization Reciprocity Agreements
3005 Center Green Drive, Suite 130
Boulder, CO 80301
303.541.0283 • mhill@nc-sara.org
www.nc-sara.org

Sandra J. Doran, Esq.
Director, N-SARA
New England Board of Higher
Education (NEBHE)
45 Temple Place
Boston, MA 02111
617.533.9524 • sdoran@nebhe.org
www.nebhe.org

Mary A. Larson, M.Ed.
Director, S-SARA
Southern Regional Education Board (SREB)
592 10th Street N.W.
Atlanta, GA 30318-5776
404.875.9211 ext. 219 • mary.larson@sreb.org
www.sreb.org



John Lopez, Ph.D.
Director, W-SARA
Western Interstate Commission
for Higher Education (WICHE)
3005 Center Green Drive, Suite 130
Boulder, CO 80301
303.541.0277 • jlopez@wiche.edu
www.wiche.edu

Jennifer L. Parks, M.A.
Director, M-SARA
Midwestern Higher Education Compact (MHEC)
105 Fifth Avenue South, Suite 450
Minneapolis, MN 55401
612.677.2770 • jennyp@MHEC.org
www.mhec.org



National Council for State Authorization Reciprocity Agreements

*A voluntary, regional approach
to state oversight of distance education*

STATE ACTIONS REGARDING SARA

3005 Center Green Drive, Suite 130
 Boulder, Colorado 80301
 information@nc-sara.org
 www.nc-sara.org
 303.541.0283

United States and Territories (regional compact)	Legislation introduced	Legislation passed	Application to regional compact	Approved as SARA state
Alabama (SREB)				
Alaska (WICHE)	✓	✓	✓	05/13/2014
American Samoa				
Arizona (WICHE)	✓	✓		
Arkansas (SREB)	n/a	n/a		
California (WICHE)				
Colorado (WICHE)	✓	✓	✓	05/13/2014
Connecticut (NEBHE)	✓			
Delaware (SREB)				
District of Columbia				
Florida (SREB)				
Georgia (SREB)				
Guam				
Hawaii (WICHE)	✓	✓		
Idaho (WICHE)	n/a	n/a	✓	05/13/2014
Illinois (MHEC)	✓	✓		
Indiana (MHEC)	✓	✓	✓	02/21/2014
Iowa (MHEC)	✓	✓		
Kansas (MHEC)	✓	✓		
Kentucky (SREB)				
Louisiana (SREB)	✓	✓	✓	
Maine (NEBHE)				
Maryland (SREB)				
Massachusetts (NEBHE)				
Michigan (MHEC)				
Minnesota (MHEC)	✓	✓		
Mississippi (SREB)				
Missouri (MHEC)	✓	✓		
Montana (WICHE)	n/a	n/a	✓	08/13/2014
Nebraska (MHEC)	✓	✓	✓	08/09/2014
Nevada (WICHE)	✓	✓	✓	05/14/2014
New Hampshire (NEBHE)	✓	✓		
New Jersey				
New Mexico (WICHE)				
New York				
North Carolina (SREB)	n/a	n/a		
North Dakota (MHEC)	✓	✓	✓	04/03/2014
N. Marianas Islands (WICHE)				
Ohio (MHEC)	✓	✓		
Oklahoma (SREB)	n/a	n/a		
Oregon (WICHE)	✓	✓		
Pennsylvania				
Puerto Rico				
Rhode Island (NEBHE)				
South Carolina (SREB)				
South Dakota (WICHE)	✓	✓		
Tennessee (SREB)				
Texas (SREB)				
Utah (WICHE)	✓	✓		
Vermont (NEBHE)	✓	✓		
Virginia (SREB)	✓	✓	✓	
Virgin Islands				
Washington (WICHE)	✓	✓	✓	05/13/2014
West Virginia (SREB)	n/a	n/a	✓	
Wisconsin (MHEC)				
Wyoming (WICHE)				

Regional SARA Directors

MHEC
 Jennifer L. Parks, M.A.
 Director, M-SARA
 Midwestern Higher Education Compact
 105 Fifth Avenue South, Suite 450
 Minneapolis, MN 55401
 612.287.5131
 jennyp@mhec.org
 www.mhec.org/sara

NEBHE
 Sandra J. Doran, Esq.
 Director, N-SARA
 New England Board of Higher Education
 45 Temple Place
 Boston, MA 02111
 617.533.9524
 sdoran@nebhe.org
 www.nebhe.org/sara

SREB
 Mary A. Larson, M.Ed.
 Director, S-SARA
 Southern Regional Education Board
 592 10th Street N.W.
 Atlanta, GA 30318-5776
 404.875.9211 ext. 219
 mary.larson@sreb.org
 www.sreb.org/sara

WICHE
 John Lopez, Ph.D.
 Director, W-SARA
 Western Interstate Commission
 for Higher Education
 3005 W. Center Green Drive, Suite 130
 Boulder, CO 80301
 303.541.0277
 jlopez@wiche.edu
 www.wiche.edu/sara



National Council for State Authorization Reciprocity Agreements

A voluntary, regional approach to state oversight of distance education

