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# NIK RETTINGER

STATE REPRESENTATIVE · 83<sup>rd</sup> ASSEMBLY DISTRICT

## **TESTIMONY ON SENATE BILL 596** **Senate Committee on Universities and Revenue** **January 31, 2024**

Good morning, Chairman Hutton and other distinguished members of the Senate Committee on Universities and Revenue. I appreciate the opportunity to testify on Senate Bill 596 today.

This past year, the Supreme Court of the United States (SCOTUS) ruled in a 6-3 decision which found that the University of North Carolina and Harvard College violated the U.S. Constitution through the use of race as a criteria in admissions. The United States Constitution demands equal treatment for all. Race based discrimination is illegal and violates the principles of the equal protection clause of the 14th Amendment. All students should be given an equal opportunity to attend college and not be accepted or denied because of the color of their skin, nor should access to college aid programs be also guided by these backwards, morally wrong practices.

This legislation would remove race as criteria in how the programs we have in Wisconsin assist in covering costs and accessing the halls of our higher education institutions. Many in the media and in this Legislature have claimed that this bill is shuttering these program and that the goal must be to shut them down. That kind of hyperbole couldn't be further from the truth.

To be clear, this bill moves us to new criteria for disadvantaged individuals to determine eligibility. It ensures that every applicant is evaluated solely on their individual merits, which is what these decisions should be based on – academics, extracurricular involvement, and true financial need.

It was claimed in the Assembly Committee Public Hearing that adjusting the criteria for these programs, for example the minority teacher loan program, would directly lead to less teachers in the classroom only exasperating our teacher shortage. Shockingly, it was revealed by committee member, State Representative Wittke, that a Speaker's Taskforce has investigated the program and found that only one applicant had been provided assistance. One. Now this taskforce was before my time here as a State Representative, but whether it was one in total or one each year, that's abysmal. We can do better. We must do better.

It would seem that by ending the use of these selective, exclusive, not inclusive criteria, we would be helping so many more disadvantaged individuals in need, whether they be future teachers or pursuing any of the other critical fields we are falling short in. By eliminating race as a factor in admissions and aid programs, we would actually align with the principles of equality and fairness.

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A recent YouGov survey found that nearly two-thirds of American adults believe colleges and universities should not consider race at all in admissions. The State of California tried to amend their Constitution a few years ago to include race-conscious affirmative action. It lost by a shocking margin, voted down by 57%. Individuals, even in the bluest of states, have affirmed that they wish to move the United States closer to the colorblind constitution that John Marshall Harlan spoke of in his famed dissent in *Plessy v. Ferguson* (1896).

In the decision (*Grutter v. Bollinger* (2003)) that *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* overturned, former Justice Sandra Day O'Connor wrote for a 5-4 majority that "race-conscious admissions policies must be limited in time," adding that the "Court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

That day has come, and it's time for our state and nation to turn that page on these morally wrong, unconstitutional practices of dividing us by our race and progress forward. I again appreciate the Committee for holding a Public Hearing today and I would ask for your support in passage of SB 596 and its Assembly Companion. Thank You.



STATE SENATOR

**Eric Wimberger**

DISTRICT 30

**State Senator Eric Wimberger  
Testimony before the Senate Committee on Universities and Revenue  
Re: race-based higher education programs and requirements.**

Thank you Senator Hutton and committee members for holding a hearing today on Senate Bill 596/Assembly Bill 554 which removes race as a factor for determining financial aid, and creates a structure to help all disadvantaged students, regardless of race.

In a 6-3 decision, the Supreme Court of the United States found that the race-based admission policies of the University of North Carolina and Harvard College violated the Constitution's equal protection clause. Currently, Wisconsin statutes are filled with grants and programs for our universities that focus on an applicant's race, rather than merit or any other factor. Race-based discrimination has no place in our society, our schools, or our universities, and we must work to ensure that all students are given an equal opportunity to attend college and not be accepted or denied because of the color of their skin.

This legislation aims to accomplish that goal by focusing on the "disadvantaged" status of students, rather than having race as a factor for determining financial aid and admissions policies for our institutions of higher education. By focusing on the disadvantaged status, we hope to end the university's state-sanctioned role in perpetuating racist stereotypes connecting an immutable characteristic to behavioral and socioeconomic traits.

This bill aligns state law with the US Constitution by ending state-sanctioned racial discrimination at our universities and ultimately getting financial aid to students in need, regardless of their race or ethnicity. I hope you will join me in support of this legislation.

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Sen.Wimberger@legis.wi.gov

I am unable to attend this committee's January 31 public hearing in person. Here is my written testimony on **AB554 (-4893)** relating to: race-based higher education programs and requirements. There has been extensive research on the benefits of diversity in the teaching workforce. Minority students having at least one classroom teacher who looks like them is linked to positive academic and social outcomes, such as higher teacher expectations and lower rates of student absenteeism and suspensions.

In health care, studies show having a provider with similar life experiences – including racial experiences - correlates with greater patient adherence to health care guidelines, higher patient satisfaction, better patient understanding of cancer risks, and a reduction in infant mortality. One recent study found that the life expectancy of Black residents increased in counties with greater percentages of Black primary care physicians.

Yet – for whatever reason - we have a demographic mismatch in Wisconsin. Students of color comprise an increasing share of the state's total public K-12 student population, growing from 23.6% in 2009 to 30.7% in 2019, but Wisconsin teachers who are white has remained at around 95% for the past decade.

Black residents are 6.6% of Wisconsin's population; Hispanic residents are 7.6%. Yet only 2.9% of physicians are black. 3% are Hispanic

If we can increase the number of minority teachers, doctors, dentists to a level proportionate to the share of Wisconsin's minority population as a whole, this state will have a healthier and better educated workforce. The Minority Teacher Loan Program, the minority student enrollment programs at Medical College of Wisconsin and Marquette University School of Dentistry, and other minority and disadvantaged student programs are designed to correct this demographic mismatch. AB554 will take away a tool designed to increase minorities in the teacher and health care pipeline and will harm Wisconsin's future workforce.

While helping disadvantaged students is a laudable goal, there are other ways to meet that goal. AB554 is a bad option. Do not use the guise of helping disadvantaged students to blow up this badly needed workforce development strategy.

Wisconsin is changing. Our workforce needs to reflect those changes. If this bill is passed, it will harm Wisconsin's workforce by perpetuating demographic mismatch, with harmful results. I urge the committee to reject this bill.

Please add my comments here to the public comments for this bill.

Sincerely,

Mary Buelow  
Janesville, WI

#### **Resources**

[https://wispolicyforum.org/wp-content/uploads/2020/06/TeacherWhoLooksLikeMe\\_FullReport.pdf](https://wispolicyforum.org/wp-content/uploads/2020/06/TeacherWhoLooksLikeMe_FullReport.pdf)

<https://www.aamc.org/media/58366/download>

<https://www.aamc.org/news/do-black-patients-fare-better-black-doctors>



DATE: January 31, 2024  
TO: Members of the Senate Committee on Universities and Revenue  
FROM: Universities of Wisconsin Office of Government Relations  
RE: Written Testimony for Information Only on Senate Bill 596

Thank you, Chair Hutton and committee members, for providing the Universities of Wisconsin (UWs) an opportunity to submit testimony on Senate Bill 596 (SB 596).

SB 596 makes changes to minority-based financial aid programs at the Universities of Wisconsin, the Wisconsin Technical College System Board (WTCS), and the Higher Educational Aids Board (HEAB). This legislation would modify the criteria for these programs from race-based to disadvantaged students. Assembly Amendment 1 (AA1) defines "disadvantaged" as experiencing any unfavorable economic, familial, geographic, physical, or other personal hardship. Additionally, AA1 states that race, ethnicity, national origin, gender, sexual orientation, religion, or a student's identity as a member of a group, may not be considered either directly or indirectly for financial aid awards. Due to these changes, SB 596 may change the overall average disbursement of aid.

In 2021-22, the most recent year we have a finalized report for, overall student financial aid for all UWs students was an average of \$12,070 disbursed to 122,469 individuals. That number includes all sources of aid, including federal, state, and local. Specifically for underrepresented minority students, 20,497 received financial aid and nearly 80% of those students had demonstrated financial need based on the Federal Needs analysis methodology.

Underrepresented minority students on average had greater financial need (\$19,665), than non-underrepresented minority students (\$16,755). Of the aid awarded to underrepresented racial/ethnic minority students, 32% was in the form of loans and 59% was in the form of grants, with the remaining consisting of work and remission aid. In contrast, 51% of aid was in the form of loans and 41% was in the form of grants for non-minority students. These numbers reflect all sources of financial aid, not solely race-based programs.

The two UWs systemwide programs that SB 596 would alter are the Lawton Grant Program and minority and disadvantaged student programs.

The Lawton Grant Program is a statutorily required grant program for undergraduates who are Black American, American Indian, Hispanic, or Hmong. SB 596 would modify this statutory program so that Lawton grants would be given to disadvantaged undergraduate students instead of minority undergraduate students. In 2021-22, 2,694 underrepresented minority students received this grant with an average award of \$2,380.

(Cont.)

Minority and disadvantaged student programs are also statutorily required for the UWs Board of Regents (BOR) to implement. The BOR is required to fund programs for minority and disadvantaged students enrolled in a UW campus, and to fund programs to recruit minority and disadvantaged students. The Advanced Opportunity Program (AOP) is the only systemwide state-funded minority and disadvantaged student financial aid program. In 2021-22, 404 underrepresented minority students received aid through the program with an average award of \$8,928. SB 596 would delete the language concerning minority students and retain the language surrounding disadvantaged students to be eligible for these AOP funds.

This past summer, the U.S. Supreme Court ruled that universities cannot use race as a determining factor in admitting prospective students. The Supreme Court case did not include a ruling on race-based financial aid programs. As such and since we are required to administer these grants by state statute, these programs have continued to operate under current law. The Universities of Wisconsin is committed to adhering to the U.S. Constitution and will continue to follow the law.

Thank you again for allowing the Universities of Wisconsin to provide testimony on Senate Bill 596.





**Testimony to the Senate Universities and Revenue Committee  
Senate Bill 596/Assembly Bill 554  
Wisconsin Education Association Council**

**January 31, 2024**

The Wisconsin Education Association Council is strongly opposed to Senate Bill 596.

Wisconsin Public School students need and deserve to have a diverse representation of teachers and education support professionals throughout their academic careers. A highly qualified education workforce that reflects a student's family and community inspires and encourages, but it takes intention and resources to build a diverse staff in every school.

Of the licensed teachers in Wisconsin, 94 percent are white, just over 2 percent are Hispanic and 1.8 percent are Black, according to 2021-22 data from the state Department of Public Instruction. However, 13 percent of public school students were Hispanic students and 9 percent were Black.

Wisconsin has taken some steps to attract and retain teachers of color, including the Minority Teacher Loan Program, which has been successful in helping future teachers of color achieve their dreams to help students learn. This bill would deal a devastating blow to that and other programs designed to increase the number of minority educators in Wisconsin's public schools. Additionally, it would harm overall efforts to recruit more professionals into the teaching profession.

Most alarmingly, ending programs to recruit and keep teachers of color would have a negative impact on every Wisconsin student. All students benefit from a diverse and representative school staff, opening new ways to look at the world and shaping attitudes in a positive way.

Students tend to benefit from having teachers who look like them, especially nonwhite students who are more likely to be affected by disadvantages like poverty and racism and by positive influences like high-quality schools and role models. Research shows the effect is more marked as students get older.

Research also shows that teachers of color help close achievement gaps for students of color and are highly rated by students of all races. The National Assessment of Educational Progress (NAEP) reports that even with intentional efforts like the Minority Teacher Loan Program and the other programs affected by this bill, the pace of increasing the minority teaching force is slow and attrition rates are high, leaving growing gaps between the demand for a representative staff of teachers and the number who enter the teaching workforce.

In a time when schools are struggling to attract enough qualified professionals, Wisconsin should be moving forward to build a diverse teacher workforce – not backward by ending successful methods to address this critical problem. University of Wisconsin data and research show that students of color are more likely to drop out and less likely to graduate than their white peers. High costs and a lack of

Peggy Wirtz-Olsen, President  
Bob Baxter, Executive Director

financial aid are part of the problem, and this bill would make that problem worse. Greater diversity in schools can keep more teachers of color in the profession, preventing feelings of isolation, frustration and fatigue that can cause individual teachers of color to leave the profession.

Instead of making sure Wisconsin is doing everything it can to staff schools with qualified professionals by standing by proven programs to increase the teaching workforce, this legislation will set Wisconsin back for generations as enrollment in teacher preparation programs would drop even more.

Wisconsin Public School educators want every child to feel they belong in their school communities and to see the endless possibilities public education provides. This bill would do the opposite. We urge you to join Wisconsin Public School teachers in opposing Senate Bill 596.





WISCONSIN INSTITUTE  
FOR LAW & LIBERTY

January 31, 2024

## Testimony in Support of Senate Bill 596

Chairman Hutton and Members of the Senate Committee on Universities & Revenue,

I am Dan Lennington, Deputy Counsel at the Wisconsin Institute for Law & Liberty. I direct WILL's Equality Under the Law Project, which advocates for a colorblind society through litigation and policy reforms.

Today I am pleased to speak in support of Senate Bill 596.

The United States Constitution and the Wisconsin Constitution both include a pledge of racial equality and a mandate that all laws must be colorblind. This is especially important in the field of education. Last June, the United States Supreme Court decided that affirmative action policies at Harvard and the University of North Carolina were illegal. Those policies granted racial preferences in admission to some races but not others. Harvard defended the program saying it was necessary to ensure racial diversity in the student body. But the Supreme Court rejected that argument, explaining that racial preferences are a zero-sum game, always benefiting some students at the expense of others and relying on racial stereotypes. In short, the Court ruled there was no justification for race discrimination in higher education, and that so-called "diversity" does not justify race-based decision making.

Unfortunately, Wisconsin law fails to live up to the principle of equality for all. Dozens of Wisconsin programs—from grant programs to government contracting to drug treatment—discriminate against Wisconsin citizens based on race. These preferences must all be reformed and opened to all races. If they are not, courts will eventually strike down these programs, potentially resulting in awards of damages and attorneys' fees against state officials.

Today, the Legislature is considering a series of reasonable and necessary reforms to make some of our laws colorblind. These reforms are long overdue.

The bill focuses on two general areas: (1) race-based scholarships and loans to students, and (2) racial enrollment incentives for certain educational institutions.

These existing laws create racial categories based on stereotypes, and then dole out preferences to some races over others. This is unconstitutional race discrimination, pure and simple. Today's bill fixes that.

Consider two existing grant programs: the Minority Undergraduate Retention Grant Program and the University of Wisconsin's Lawton Minority Undergraduate Retention Grant Program. Under these programs, only "minority undergraduates" are eligible for scholarships. White students are ineligible for a scholarship, but you may be surprised to learn who is "white" under existing law. Students from North Africa—Egypt, Morocco, Libya, Tunisia, and Algeria—are ineligible for these scholarships because of their race. Students from Gaza, Yemen, or the West Bank are likewise ineligible for scholarships because of their race. Same with all students from Turkey or any Middle East country, from Saudi Arabia to Afghanistan. Wisconsin law considers all these students "white" and therefore not worthy of a scholarship.

What about Asians? Nearly all Asians are excluded from these Wisconsin scholarship programs. Students who are from (or whose parents or grandparents are from) India, Pakistan, China, Japan, Thailand, and Indonesia are ineligible based on race. There are 48 countries in Asia, and only students who can trace their ancestry to three countries (Laos, Cambodia, and Vietnam) are eligible for scholarships. Even Hmong students are targeted by these racial classifications. While these scholarships attempt to benefit Hmong students, some Hmong students are ineligible if their parents or grandparents emigrated from the wrong country or in the wrong year.

We at WILL are challenging the Minority Undergraduate Retention Grant Program in court. Our clients include a white man and his wife, who is from Thailand. They have a biracial child. No one in this family is eligible for the grant because of their race.

What about Latinos? State law only grants racial preferences to "Hispanics." "Hispanics" are narrowly defined under state law as those from a country "whose culture or origin is Spanish." This would exclude students who come from Brazil, Guyana, Suriname, or French Guiana, and would likely exclude students from English-speaking countries such as the Bahamas, Jamaica, and Belize.

In short, Wisconsin's legal definitions of who is a "minority" simply don't make sense even if you are in favor of racial preferences. Considering all the laws at

issue in this reform package, each of them discriminates against students from the Middle East, North Africa, Central Asia, and those who are non-Hispanic Latinos.

The solution, however, is not adding more racial categories. All racial categories are illegal and would be unworkable even if they were permissible. More importantly, racial distinctions are just plain wrong: "It's a sordid thing, divvying us up by race," as the Supreme Court has explained. All racial classifications are pernicious and demean the dignity of all individuals.

The proposed bill fixes these laws and erases these racial preferences. And instead of eliminating these programs, the bill wisely opens the programs to all students who are disadvantaged. The bill considers students as they ought to be considered: as individuals, not as members of racial groups.

As a final matter, it is important to note that the Universities of Wisconsin publicly announced in December that they will abandon all race-based scholarships that are not in state law. The Universities of course cannot amend state law, but they can reform their own non-statutory scholarships, which is what they have done. This is on the heels of the Universities of Wisconsin removing race as a factor in admissions, hiring, promotion, and agreeing to eliminate mandatory diversity statements and many DEI positions.

The tide is clearly turning towards race neutrality and away from DEI. Twenty-five states have now approved or introduced bills prohibiting DEI. And public support strongly supports equality. A recent Gallup poll indicates that 68% of Americans support the Supreme Court's decision to end affirmative action, including 63% of Asian Americans, 52% of African Americans, and 68% of Hispanic Americans.

WILL strongly supports programs that benefit students based on their individual needs, not on racial stereotypes. Today's bill takes an important first step in making our laws colorblind, as required by federal law and the Constitution.

Thank you for your time today, and I'd be happy to answer any questions.

**Testimony Exhibit**  
**Racial Group Exclusions in Current Law**

**Grants**

**1. Minority Teacher Loan Program (Wis. Stat. § 39.40, HEAB)**

This program offers loans of up to \$10,000 per year for students pursuing a teacher's license in teacher shortage areas. Loans may be forgiven. The current law only benefits the following racial groups: Black American, American Indian or Alaskan Native, Hispanic, Asian or Pacific Island origin, or two or more races.

**Exclusions:** Latinos from non-Spanish countries, African students on visas, North Africans, Middle Eastern students

**Proposed Law:** Open to all disadvantaged students.

**2. Minority Undergraduate Grants (Wis. Stat. § 39.44, HEAB)**

The program awards grants of up to \$2,500 to students enrolled at least half-time in independent, tribal, or technical colleges. The current law only benefits the following racial groups: Black American, American Indian, Hispanic, persons with ancestors from Laos, Vietnam, or Cambodia.

**Exclusions:** Students from North Africa, the Middle East, and Asia (with the exceptions of Laos, Vietnam, and Cambodia), Latinos from non-Spanish countries, African students on visas, aboriginal students who do not identify as "American Indian," such as Native Hawaiian.

**Proposed Law:** Open to all disadvantaged students.

**3. Minority/Disadvantaged Graduate Grants (Wis. Stat. § 36.25(14), UW)**

This law allows UW to set up a grant program for minority and disadvantaged graduate students. UW has established this program under the name "Advanced Opportunity Program" or "AOP." The statutes do not define "minority." UW's application for this program provides only the following are eligible: 1) Students from the following racial/ethnic groups: a) African American; b) American Indian or Alaskan Native; c) Hispanic/Latino; d) statutorily defined Southeast Asian; 2) Students who participated in one of the following programs: Upward Bound, TRIO, Talent Search, or 3) First-generation college students.

**Exclusions:** Based on UW's administration of this program, it is likely that most Asians are excluded, as are students from North Africa, the Middle East, and Native Hawaii.

**Proposed Law:** Open to all disadvantaged students.

#### 4. Lawton Grants (Wis. Stat. § 36.34, UW)

The program awards grants of up to \$3,000 to UW students. The current law only benefits the following racial groups: Black American, American Indian, Hispanic, persons with ancestors from Laos, Vietnam, or Cambodia.

**Exclusions:** Students from North Africa, the Middle East, and Asia (with the exceptions of Laos, Vietnam, and Cambodia), Latinos from non-Spanish countries, African students on visas, aboriginal students who do not identify as "American Indian," such as Native Hawaiian.

**Proposed Law:** Open to all disadvantaged students.

### *Enrollment Targets*

#### 1. Medical College and School of Dentistry – (Wis. Stat. §§ 39.15, 39.46)

Law mandates that "every effort" shall be made to "ensure that at least 5 percent of the total enrollment of the college consists of minority students." The law does not define "minority," but if other definitions in Chapter 39 are applied this would exclude nearly all Asians, students from North Africa and the Middle East, and Latinos from non-Spanish countries.

**Proposed Law:** Eliminate this requirement so that all students are considered as individuals, not as members of racial groups.

#### 2. Tech Colleges: Minority Student Plans, Special Programs, and Incentive Grants (Wis. Stat. §§ 38.04(8), 38.26, 38.27, Tech Colleges)

Three separate sections provide for minority enrollment plans and incentive grants to cater specifically to minority students. The laws adopt a narrow definition of "minority" as follows: Black, Hispanic, American Indian, Eskimo, Aleut, Native Hawaiian, Asian Indian, and "a person of Asian-Pacific origin." "Person of Asian-Pacific origin" means a person whose ancestors originated in Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas. "Asian-

Indian" means a person whose ancestors originated in India, Pakistan, or Bangladesh. "Black" means a person whose ancestors originated in any of the black racial groups of Africa. "Hispanic" means a person of any race whose ancestors originated in Mexico, Puerto Rico, Cuba, Central America, or South America or whose culture or origin is Spanish

**Exclusions:** Based on the accompanying definition listed below, minority students from North Africa, the Middle East, Central Asia, and North Asian are excluded. Other Asians, such as individuals from Indonesia, Thailand, Malaysia, and Singapore, are excluded.

**Proposed Law:** Eliminate this requirement so that all students are considered as individuals, not as members of racial groups.