

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
ACCOUNTABILITY IN HIGHER EDUCATION AND ACCESS
THROUGH DEMAND-DRIVEN (AHEAD)
WORKFORCE PELL COMMITTEE
SESSION 1, DAY 2, AFTERNOON
December 9, 2025

On the 9th day of December, 2025, the following meeting was held in-person, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MR. FRAN CZAK: All right. Welcome back from lunch, everyone. We're ready to kick off the afternoon. So appreciate all the discussion and feedback this morning. And so it's my understanding, before we jump into topic five, the Department did ask if there was any further discussion points you wanted to have on any related topics from this morning. If not, we can revisit those at a later point. So what if we dive into topic five, and I'll turn it over to Dave.

MR. MUSSER: Thanks. And we'll have Aaron pull up that language on the big screen.

MS. HOFFMAN: I apologize for the interruption. I just wanted to ask that we switch negotiators for this topic, if that's all right?

MR. FRAN CZAK: Sure. So we're going to recognize Tamar switching out with Zoe. Zoe Kemmerling, the alternate, will take Tamar Hoffman's place as part of legal aid. All right feel free, Dave.

MR. MUSSER: All right. Thanks, everybody. So we are now moving into the final three topics of -- for Workforce Pell. So here we have topic five, the Secretary approval of eligible workforce programs. These are all the components that Congress delegated to the Secretary to -- for the Secretary to

determine. I'm going to -- we are going to go all the way through this section before we take comments. But we can certainly go back to the beginning. Anything that you that needs further explanation, I'm happy to back and talk through. But there are quite a few different provisions here. I do want to make sure that we go through all of it, because there are interrelated concepts here that I want to address. Okay. So starting with (a) after the governor determines that the program meets the requirements under 34 CFR 690.93, the governor's components. The institution must submit to the, to the Secretary, documentation that -- so, pausing right real quick. So the statute was very clear that the Secretary's approval happens after the governor's approval. So that one is non-negotiable. That's just part of what the statute indicates. So now, the --this section says the institution is submitting documentation to the Secretary that, and here are all the specifics. Number one, the program has been in existence for at least one year, from the date that the governor determines that the program met the regulatory requirements. The Secretary considers the program to have been in existence for at least one year if the eligible workforce program has met the conditions under 34 CFR 690.92(a) and (b), and 34 CFR 690.93(a). So just for reference, if you remember,

690.92(a) and (b) are the program length requirements broadly and 690.93(a) are the statutory, specific statutory requirements for the governor approval process. So if -- what this is saying, and I want to hold on this one to give a little bit of additional context. Unlike the existing requirements in the regulations for programs needing to exist for at least one year, these requirements that the Department is proposing are somewhat more flexible. So those of you who are familiar with the Department's requirements in 34 CFR 668.8 for programs being in existence for at least one year will be familiar with requirements such as continuously in operation, requirements that the program essentially be essentially the same for that one-year period. This is not the same provision. What this is saying is, as long as the program met the length requirements generally, so that's not -- that is saying not -- that it was always exactly the same length, but that it -- the length of the program fit within the 690.92(a) and (b) parameters, meaning that it was -- it had the -- between 150 and 599 clock hours and it was between 8 and 14 weeks of instruction. So as long as it fit within those parameters, and it met all of the state approval requirements, and those are extensive, regardless of the fact that the program may have undergone some minor

changes during that period, as long as it met all of those requirements continuously for at least one year, the program could meet this requirement. So this is intended to allow for some minor changes that might be needed in programs that, up until July, did not know -- many -- you know, the providers of these programs, including institutions, didn't know that they needed to have the programs fit into these criteria. But we recognize that there may be a number of programs that actually do meet these criteria and have met it for at least a year and that could come into -- could become Title IV eligible in, in the '26-'27 award year with that one year of existence behind them. So that's the intent here, is to allow for some modifications to programs, as long as they continuously met these requirements for at least one year. The other thing I want to point out about that language is it indicates that -- if you could scroll up a little bit, Aaron -- the year is -- it has to be in existence for at least one year from the date that the governor determines that the program met the regulatory requirements. So this is relying on the governor to determine the, the point at which the program met those conditions. So the length and the governor approval conditions. And it could be before, for example, July 1, 2026. It doesn't have -- the year doesn't have to start

in July 2026 or thereafter. The governor is assigned the role of determining whether the program met the requirements in the past and that it has been in existence under those conditions for at least one year. And the intent behind this is to ensure that there is a way for programs, again, to become eligible on or after July 1, 2026, if they have met all of those conditions. So there was some discussion in the Department about when the, the governor approves these programs, and to be frank, we want to acknowledge that governors won't be able to approve these programs until they are fully apprised of what these regulatory requirements are. So that's why we're giving them the ability to look back in time and determine whether the program met the requirements at an earlier point, before the year of existence clock is started. So now we can scroll down a little bit. Okay. I -- I've spent plenty of time on that. So number two, the program meets completion and placement rate requirements. So starting with Romanette (i), for the '26-'27 and '27-'28 award years only, as determined through a certification from the governor based on the governor's analysis using administrative data, including wage records, that the eligible workforce program meets the following standards. And we've got two as prescribed by the statute, a completion rate of at least 70% within

150% of normal time to completion, and (b) a job placement rate of at least 70%, calculated as the percentage of the -- of students, and that should be an S -- we'll fix that -- that are employed during the second quarter after exiting the program. So that's for the '26 and '27 award years only. Then we move into the '27-'28 award year. For each award year after, the '27-'28 award year, a completion rate of at least 70% within 150% of normal time to completion, as determined under 34 CFR 668.8(f) and I'll pause again. So for context, 34 CFR 668.8(f), it applies to short-term programs that qualify only for Direct Loans. There is a long-standing set of regulatory requirements for how completion and placement rates are calculated for those programs, and this is pointing back to that specific process for calculating the completion rate. It is more specific and less flexible than the general -- the more general language that, that would apply for the '26-'27 and '27-'28 award year. So then we go into (b), a job placement rate of at least 70%, calculated as the percentage of students who are employed in the occupation for which the program prepares students (as identified through the process established under 34 CFR 690.93(b)) or a comparable high-skill, high-wage or in-demand occupation during the second quarter after successfully completing the program

as determined through a certification from the governor based on the governor's analysis using administrative data, including wage records. So I'm pausing again. As you can see, that language is more prescriptive, more specific, and is not intended to be as flexible as the language for the first two award years. And the specific intent of the Department here is to allow for a transition period where the -- we recognize that data may not be available from the -- at the -- from the state and at the governor's level to calculate these things with the level of specificity that's provided for award years -- after '27-'28. So we're trying to make the transition period have somewhat more flexible requirements where programs can qualify. And then we -- once we move into the '27 -- after '27-'28, we would have more prescriptive and more specific requirements that would apply ever after. So it's intended to give states and schools a period during which they can get programs up and running before we prescribe requirements that are much more specific afterwards. Okay. Now we're going into (b), for each award year after the date that the eligible workforce program is approved, the institution must (1) submit to the governor or an entity designated by the governor a list of students that completed the program during the award year, and the information necessary for

the governor to verify the job placement rate for such award year and (2) report the published tuition and fees for the eligible workforce program through a process determined by the Secretary. Now I'm going to (c), the Secretary may waive some or all of the requirements under paragraphs (a) and (b) of this subsection related to submission of completion rates and the governor's certification of job placement rates if (1) the Secretary determines that completion or placement rates will be calculated under a separate process established by the Secretary or (2) in the case of job placement rate certification described in 694.94(a)(2) Romanette (ii)(b), and just for reference, that's pointing to the permanent process after the '27-'28 award year, the Secretary determines that the governor is making progress towards making such certification, but needs an additional award year using the certification described in 690 -- and we need to fix that citation -- so that's 690.94(a)(2) Romanette (i)(b) and that is the transitional rate. So essentially this -- the second provision here says that we will be open to giving states an additional year using the more flexible version of the placement rate if their data systems are not adequate to give us the more specific information required under the permanent version of this. The paragraph one above here

is designed to give the Secretary some flexibility to use other sources of data to calculate these rates if we determine that a better source of data exists than what is otherwise described here. And now I'll pause. I believe that we're at the end of this section. Yep. So I want to open it up now for comments and inevitable questions.

MR. FRAN CZAK: All right. The first folks in the queue, I had Eric first.

MR. ATCHISON: Dave, thanks for the reading. As someone who's (inaudible) IPEDS for about a decade, my first and most primary question here is, are we establishing cohorts of students through this process that must be tracked? And in most ways, institutions are tracking only a subset of students known as first-time, full-time, or first-time in college. And the outcome measures, of course, non-first time equivalents, but that's a very tricky determination and current regs and reporting expectations. So I'd like to hear thoughts from the room as well as from the Department on how we establish cohorts for this kind of modeling and the determination of eligibility students as well as the accountability. And then a second question, if you want to answer that one first.

MR. MUSSER: Let me answer that one

first so I don't lose any part of it. The language as currently written requires that the institution identify all students who enrolled in an eligible workforce program for a given award year. That's the requirement. And that they provide that to the State to calculate the rates and certify them.

MR. ATCHISON: Let's pull that thread. You said enrolled. Does that mean that they initially enrolled on day one, they were still registered or that they stopped out at any point in time? Is there any determination of adjustments to these cohorts?

MR. MUSSER: So the completion rate is based on all the individuals who enrolled. And you would count the number of the individuals who completed within 150% of the normal time to completion of the program. So that does include everybody who enrolled, not just those -- we don't specify in the current language whether we're talking about individuals who began attendance, although I think that is the idea here. We're not talking about those who enrolled and never showed up. Because they -- those individuals in all other parts of the regulations are treated not -- or are not included in outcomes measures.

MR. ATCHISON: Understood. There are -
- in law, there are a couple of exclusions to tracking

cohort outcomes: military service, Peace Corps, death and permanent disability, and religious mission. Death and permanent disability are the only one in regs, not in law. How do those play into this as well?

MR. MUSSER: As written, there are no exceptions to the completion and placement rates.

MR. ATCHISON: Would you be willing to accept a proposal to consider?

MR. MUSSER: We certainly can, can look at it. We're not quite sure how much flexibility we'll have legally, but we can certainly consider it. Yeah.

MR. ATCHISON: It's alright. As I mentioned, those exceptions are already, already in regs, so they may equate pretty well.

MR. MUSSER: When you say the exceptions for which -- for under IPEDS?

MR. ATCHISON: Well, yeah under IPEDS. Most are already in law, but ones in regs.

MR. MUSSER: Yeah. Got it. Okay.

MR. ATCHISON: Second question I had was under Part B, a job placement rate of at least 70%, calculated as percentage of students who are employed in the occupation. And that's a very specific term, not just employed. Most institutions system states that I've

worked with don't have the system. And I know you mentioned this earlier, but I just want to reiterate for everybody that knowing the specific occupation that someone's in is not necessarily tracked back to the person. And so we're looking at broad outcomes here. And not in terms of occupational, really industry, NAICS industry classifications, not necessarily job occupation data.

MR. MUSSER: Yeah. And actually, I'd like my colleague Marek to talk a little bit about this. This portion of the regulations was developed in very close contact with our Department of Labor colleagues. And we definitely recognized your concerns there. But I want Marek to talk a little bit about our reasoning for, for this.

MR. LACO: Yeah. Well, you know, first on the reasoning, I think looking at the existing for the short-term loan programs, the existing 70/70 there, there's a similar focus that's placed on for the term job placement, looking at in an occupation related to the program. I can pull up the specific terminology, obtain gainful employment in the recognized occupation for which they were trained or in a related comparable occupation. And so this utilizes similar language where it's not limiting just to in the occupation for which the student

-- the program prepares students, or a comparable high-skilled, high-wage or in-demand occupation. So that in itself -- so this is the later one that's built in after a couple of years to give states time to develop the systems. It also has that flexibility, because certainly one way to do this is for the states that have some form of enhanced wage records as an administrative data source, would have the ability to do this specifically to the occupation. But we know that that's a minority of states and other states are thinking about that. But that's -- you know, right now that's a significant minority of states. The comparable high-skill, high-wage, or in-demand occupation opens up broader ways that states could contemplate doing this and develop over the course of a couple of years of doing this maybe if they had -- if they understand what that occupation that the program trains an individual for, and they could say this is generally the starting wage for that occupation, they could use a basic wage record on the quarterly and say, well, this is a quarterly earnings we would expect for that occupation. And so they're meeting that. They're either in that occupation or they're in a comparably high-skill or high -- in that case, high-wage occupation. So I think that comparable language provides states some ways to develop a system to compare if they choose not to

pursue enhancing their wage records. And so again, certainly something that you know, we want comments and feedback on, but I think that it was designed to not only build time for states to get there, but also build flexibility for states to develop a process to do what is, you know, viewed as important of developing some connection to that, again, the term job placement, some relation to the occupations that the program is preparing individuals for.

MR. ATCHISON: Understood. Marek, can I just follow up with that? One more thing about the 180 days or two quarters of employment record. Is there -- other states are looking at four quarters out to give students time to, to get employed or finish up other degree programs. We talked about concurrent enrollment in both other degrees as well as the Workforce Pell program. How do we articulate that here?

MR. LACO: I would say in the -- I think with this, the statutory provision 180 days aligns most, you know, directly to that second quarter. That is also the metric in the WIOA system that you're measuring earnings. So only one of our six common indicators is an earnings measure. That's the second quarter after exit. So what we've done in this proposal for that initial one is really make that fit precisely with the WIOA metric.

And so it's a little bit different when speaking to the cohort. It also refers to after exit. And so that is a broader universe that's similar to the completion one. Anyone that's in the program after they exit, whether it's a successful exit or not, and then are they employed? The simple test of are they employed? So any wage record or additional evidence of employment would fit for that one. And it fits precisely with WIOA for a couple of reasons that we can get into later. That's the initial one. The second one is a little bit different, and it's talking about those who complete the program that we moved to. And again, but both using that second quarter knowing that again pushing towards administrative data including wage records, that's quarterly data, and so clarifying that 180 days is really looking at that second quarter. I'll also note that that's similar to the 70/70 metrics for short-term loan programs. And the fact that they talk about 180 days, but also employed for at least 13 weeks prior to that, again, which is indicating that second quarter period is the key measurement period.

MR. ATCHISON: So then, apologies if I wasn't clear on this part, it was my mistake. But I guess I'm assuming if a student is enrolled in a credit-bearing program, a bachelor's degree, something like that, but also in a Workforce Pell program, they may end that

program, but not complete until they complete their bachelor's degree program. And therefore, the timelines don't necessarily line up. They might complete the training, as we discussed earlier, but they may not actually complete the credential for, let's just say, another two or three years. How does that play out in terms of tracking wage outcomes?

MR. LACO: I think we could --

MR. ATCHISON: Really embedding.

MR. LACO: Yeah, I think we could think on that. You know, initial reaction is just on the, the period is looking after they complete that eligible workforce program. And so I think the statute is pretty clear that it's asking with these metrics again, different time periods looking at different horizons and there's different possibilities given stackability and some of the other features we've talked about. So the statutory piece of looking at if this is the eligible workforce program, the measurement period is that set 180 days, or in this case, we're using the close proxy of a second quarter as the measurement period, knowing that there might be students in different arrangements, but certainly could welcome scenarios that we could look at and other feedback.

MR. ATCHISON: One last thing. I

apologize for taking over the mic. But when you say about connecting it back to the wage records or jobs and the occupation, if a student finishes the program, awarded the credential, etc., like you just mentioned, and then is completing like on campus work or coffee -- I'm just going to use coffee shops as an example as they continue to work on their bachelor's degree, will that penalize an institution essentially because they are still enrolled?

MR. LACO: In some cases, when it's -- if it's not a related occupation to the, to the program or a comparable high-wage, high skill, or in-demand occupation, it is possible, yes, that that would not be counted favorably in that metric as currently drafted.

MR. MUSSER: And I think, you know, certainly, Eric, we're -- we would certainly be open to looking at language that you have to mitigate that. But I would say, I mean, I think our understanding is that what Congress had in mind here is that when a -- when an individual graduates from an eligible workforce program, they're moving into the workforce. So any -- anything that we, that we do to, to try to mitigate that, the issue that you're describing, which I can understand is going to be a real issue for programs that are designed in that way, we have to keep in mind that the idea is that when they complete this program, they're going into

the workforce at least relatively soon after that.

MR. FRAN CZAK: Yeah. Eric, I'm -- we do have a number of people in the queue. So I want to give -- be respectful of time as well. Directly to that? Okay, so Aaron, then Randy. Go ahead.

MR. LACEY: This was exactly my comment. So I'm going to push back a little bit, right? So this is not strictly a terminal into the workforce program, right? Like you guys have typically dealt with, I think. Here we've got in the statutory language, the Department or Congress, rather, very specifically saying that it's not optional. A program, to be a workforce development program under statute, must prepare students to pursue one or more certificates or degree programs at one or more eligible institutions by ensuring that a student, upon completion of the program, enrollment in such related certificate or degree program will receive academic credit for the program. So it's not just a terminal concept. They are in statute requiring institutions to make this a pathway program, and they're encouraging that. So I would suggest that is if not implicit authorization, certainly a lot of cover for the Department to defend a concept around its placement calculation that doesn't tank institutions offering good programs, because what's going to happen? Just to be

really clear about this, right? If you set up this great pathway and 60% of your students roll out of your Workforce Pell program and go into that program, and then you're measured as to how many of those guys are employed in an occupation two quarters out, it's going to tank the program. So there are a lot of ways you can address this. You could count that as a placement if they are in that program that's been identified as a subsequent program, you could do a further education exclusion. That's in a lot of the accountability frameworks elsewhere, a lot of optionality around there, how you might approach it. I mean, there are a number of different ways you could come at this. And I think -- but you've got Congress clearly saying that the design of this thing is not just to put people right in the workforce. It is also to prepare people to roll into these programs. So you've got to come up with a way to address this job placement concept that does not tank good programs just because we haven't accommodated that. And I think you've got the statutory cover to do it, and I won't speak for everybody else, but I think this is really -- this is the one thing I flagged before I got here. I mean, it's a really important point. We got to come up with a way to fix that.

MR. FRANZAK: All right. Thank you.

David?

MR. MUSSER: Yeah, I just want to be clear. We are open to those suggestions. My point was we need to just pair that with the desire we think of Congress to get people into whatever it is that they're getting into shortly after completion of the program. So we certainly are interested in your ideas for how best to do that.

MR. FRAN CZAK: Randy?

MR. STAMPER: A couple of things.

First, what he said. You know, stackability is a word that's used throughout. So obviously, the intent is that further education is at least one priority. I would offer, and I think Eric or Aaron alluded to this, that it is a matter of who's in the data set and are there provisions we can provide that would exclude those who were enrolled, those who enter the military, whatever groups we want to talk about from being looked at two quarters hence. And I'll be happy to work on language with anybody who's interested in that. Secondly, in the reporting and Virginia right now, is moving toward paying for the, the expanded wage data records, which will allow us to get a lot more granular. However, thinking about representing multiple states just in Virginia, we're looking at close to \$2 million in raw costs, and then all of the administrative costs around that, so that -- it's

no small thing. And I don't know that if -- it's nice to have two years of runway, it's nice that there's a provision for potentially another year of runway. So I certainly commend the Department on that, and the statute. Finally -- oh, no, two more things and I'll shut up. In the matching for those outcomes, particularly in Virginia, where we have a lot of border states, people who are being employed across borders. And that UI doesn't include, you know, all employers, I would just ask for clarification that those rates would be based on matches to aggregate data that are available.

MR. LACO: Yeah, I think certainly it talks about administrative data and wage records. I will also -- and I want to turn to some of my colleagues who are experts on the WIOA reporting right now, because I think that's very relevant for a few reasons. Because, again, we've always been tackling this issue for a number of years and states are getting more and more familiar. Specifically on that, you know, that interim measure of employment rate, second quarter after, there is something called the State Wage Interchange System that we've set up, and all states are a part of, for them to access those interstate wage records. So I'm going to turn to my colleagues if they want to add, you know, Luke Murren, if he wants to add anything further, specifically on how

states are doing this and how they're approaching using administrative data, both their own, then moving beyond that and then potentially looking at other supplemental sources of data to do the reporting for the WIOA system.

MR. FRAN CZAK: Luke, could you identify yourself as well?

MR. MURREN: Happy to. Hey, everybody. Luke Murren, I'm from the Department of Labor. Great point. So some of the workforce folks probably know that the -- under WIOA, we're using currently SWIS, State Wage Interchange System, for exactly that reason. Letting states get outside of other -- outside of themselves to get other states. Currently, every state has agreed to that agreement, so every state is part of it. So that's definitely one thing that we're already thinking about -- are looking at. Is there a way that we can utilize already existing kind of data architectures, like a SWIS agreement that we could use to add something like this in? Is that something we would need to create a kind of SWIS-like agreement that states could join into? So definitely something that we're already thinking about and trying to plan for.

MR. STAMPER: Thank you, I appreciate that. And I'll -- offline I'd like to follow up with you. Our data folks have indicated to me that there are

regulatory issues around SWIS that would preclude us from reporting things for certain matters, so I'd love to get your update on that. And then the last thing, and I saved the softball until last, I got a lot of feedback from folks who interpreted one year -- they interpreted one year from to mean that the governor approves, and then it's a year. So I would just suggest maybe changing that one year prior to, something like that. Thank you.

MR. FRAN CZAK: Next three in the queue are Zoe, Rachael, and Preston. So I'll go to Zoe next.

MS. KEMMERLING: Thank you. I have a few questions. And I can reserve myself if it goes on too long. The first one is, from the language at -- in (a)(1), and we noticed that you know, the statute specifies the program has been offered. The language in here is slightly different, have been in existence. I think that you provided a good explanation at the outset of why you want to give some flexibility for programs who may be in existence, but modify -- modifying or adapting certain components to meet the Workforce Pell requirements. My concern goes more, I believe, towards programs that may be new. I think in that context, both offered and in existence is a little bit vague. I think our constituency would be interested in specifying that this being in existence includes actually enrolling and

instructing students. So -- and along with that being in existence is in the same modality as the Workforce Pell offering with the idea that if a program is moving, for instance, from in-person instruction to web-based instruction, that could be some significant changes that may change the experience and utility to students. So, one question, is the Department amenable to some specifying language along that line?

MR. MUSSER: Yeah, we'd certainly consider it.

MS. KEMMERLING: Okay. Connected to that, do you have any elaboration as to what kind of documentation you're envisioning the institution submitting to the Secretary for this requirement?

MR. MUSSER: So, you're talking about the one-year-in-existence requirement?

MS. KEMMERLING: Correct.

MR. MUSSER: Yeah. The Secretary would need -- well, there's really two things. I think we are open to specifics about operationally what's collected. And I don't want to get too far into the weeds there because I -- we want to be careful not to be too prescriptive so that we don't end up making this very difficult for our folks who have to oversee this. However, I think what we had in mind is the -- there

would be a description of the program and an explanation of when it started. And then the Department would largely rely on the governor's certification that it had met the requirements for that period, meaning that there is some extent to which the Secretary would rely on the governor to confirm that it has remained in the state that it needs to be in for at least one year. So the certification provided by the governor is what we would, would expect would give us that assurance.

MR. FRANZAK: Sorry, I apologize. So Zoe's going to go back into the queue for her remainder of her questions, then I'm going to go to Rachael next.

MS. STEPHENS PARKER: Thank you. Building on some points made, I do want to just say I also commend the Department on thinking through timelines for implementation of some of these pieces really thoroughly, and in response to some of the feedback I raised yesterday. However, I do also have some new additions or questions. First, I do share the points around stackability and thinking about job placement, and perhaps there's some definitions in WIOA to build on around career pathway definitions, for example, that can inform how we define maybe stackability or instances in which that can be constituted as part of a job placement metric. So a suggestion, perhaps something we can, we can

work together to propose. On job placement, also thinking about programs that serve some of the populations with substantial barriers that we spoke about yesterday in different sessions of discussion, I'm thinking about incarcerated individuals. Transition programs were also mentioned in a similar context and thinking about the job placement metrics second quarter after exit. Wondering if there's any opportunity for special considerations for programs maybe operating to serve those specific populations, if there's openness to that.

MR. MUSSER: There's openness to that, too. I think this is really good information for us. I think we want to consider all of the different populations that that could be affected here. You know, we may not be able to take every single one of those, but we want to at least take it back and think about each of those considerations and whether we can create reasonable carve-outs for those individuals, if it would be very difficult for them to meet the requirements otherwise.

MS. STEPHENS PARKER: I appreciate the consideration. Thank you. Okay. And then one note on this is so thinking -- going kind of back to the data pieces of the conversation and thinking about some of the wage data, performance data. I know that we separated gainful employment from this discussion. We're doing that in

January. Something that my constituency group has been raising is that the Department of Education may have a lot of data between the two departments, as we've been discussing with SWIS, may have a lot of data with which they could make these calculations. And this is placing a very significant burden on states, one that came without resources in HR1. Is there -- has there been consideration, or could there be consideration either for substituting some pieces of this process and putting that burden at the Federal level, or maybe giving states like an opt-out, so states that feel really good about the stuff they're already doing, that they're building for other reasons, could use their process as you're describing here, right? Could use -- could do what you want states to do as of right now. And others could say, hey, we'd like Federal support in calculating this and giving -- sharing that information with us at the state level so we have it.

MR. MUSSER: I mean, so certainly I can say the Department has considered a variety of different ways of calculating these, including some that would be done entirely by the Federal government. And that's part of why we added (c), to give ourselves the ability to transition to something like that that does not require submission of information from an institution

or in some -- or even in some cases from the governor, as long as the Federal government has the information. We weren't -- we didn't feel fully prepared to go down one of those roads. One thing I will say that we did consider -- didn't -- it's not in this draft, but is an option, is the use of the National Student Loan Data System to calculate a completion rate. There is a significant downside to that, which is that that would only include individuals who received Title IV aid and not individuals who did not. And that is not currently contemplated in our proposal here. So I'll say we have -- we certainly are open to those ideas, but recognize that there are downsides to them as well.

MR. LACO: And I could add, I mean, states know this from the WIOA standpoint and eligible training providers, but that all students versus aided students is a common challenge. But there are challenges too, that come with trying to narrow the cohort to only aided students, especially if that's going to be such a small set that, again, the data is not valid or it can't be exposed for PII reasons. So the policy of the Department of Labor for a long time now has been moving away from exceptions to that all-student policy. We need all student data enabled to make this. And the statute does make a distinction in the value-added metric on aid

that isn't -- doesn't exist in the 70/70. That being said, I echo Dave on, you know, welcome considerations.

MR. FRAN CZAK: Okay. Preston, then David.

MR. COOPER: Thank you. I have a -- want to go back to the occupation-specific job placement rate. So you mentioned that this requirement in Romanette (ii) (B), the percentage of students who are employed in the occupation for which the program prepares students as identified through this process or comparable high-wage, high-skill, in-demand occupation. The idea here was that if you can't identify the specific occupation, you can look at the percentage of students who are earning above the median wages for the occupation. Was that the idea?

MR. LACO: The idea would be, yeah, there'd be a couple of ways to do this, a couple proxies, if you didn't have that specific administrative data set with occupation there. Given that it also aligns with the overall premise of these programs to align, to help people, help students enter into high-wage, high-skilled occupations. And so it creates that flexibility on what's comparable. Given that that concept also exists in the existing 70/70 measure of comparable, this adds a little more fine point on what that looks like around the central point of Workforce Pell, which is high-wage,

high-skill, or in-demand occupation.

MR. COOPER: Got it. I would, I would strongly encourage the Department to issue guidance or maybe even spell out in regulations when occupation-specific data is not available through the administrative data system, to spell out exactly how the governor should do those calculations so that nobody gets kind of creative with how they calculate job placement rates. So if there are specific things that you have in mind for alternatives, it would be good for, you know, the Department to issue some guidance saying like, this is an acceptable thing to do to calculate job placements if you don't have the occupation-specific data that we're asking, that we're asking for. I did have one other thought. So on this conversation about students who pursue higher education after completing the Workforce Pell program if they're enrolled at the point that the job placement is measured. I very much take the point about, you know, why, you know, it's important not to have those students count against the program. What I would advise here is so for gainful employment and the do no harm test under OB3, students who are enrolled are completely excluded from the cohort that is used to calculate those earnings. And I would advise something similar here for job placements, that if you have

students who are pursuing a higher degree or credential at that 180-day mark, they should not be in the denominator or the numerator for that calculation. They should just be excluded from the calculation entirely. I do worry about including them in the numerator as quote unquote job placement, which is not a job placement. And just having -- you know, institutions have a bit of a loophole to inflate their job placement rates by simply enrolling them in another program. That's it.

MR. FRANZAK: Great. Thank you. Next, David, then Michale, then Zoe.

MR. KAFAFIAN: Fully echo everything Preston just said. I'm just trying to do a rattle off of quick ones. On the one year, language is the concern with referencing like when the governor determined that the program first was eligible, that the governor may turn a program on and off? I just want to be clear, because I think all of us want to submit something that clarifies what you meant there.

MR. MUSSER: Yeah, the idea was the governor is going to assert when the program met those requirements and then certify that it's met those requirements for at least one year since that time.

MR. KAFAFIAN: Got it. So if you had something like the most recent determination?

MR. MUSSER: Exactly.

MR. KAFAFIAN: Next, throughout there's the reference to during the second quarter, as opposed to 180 days or by the end of the second quarter. I'm just curious how you think about that, because I can think of instances where somebody is placed in the first quarter and then they lose a job. And I honestly don't have a great, frankly, position on what that should look like. But I do want to be clear, that's not what the statute referenced. And I'm curious what the thought process was there.

MR. LACO: I'm going to turn it over to some of my colleagues to talk about how this is done in WIOA generally. But we'd say the statute of 180 days, the second quarter is the closest measurement period, especially aligning with the 70/70 metric for the short-term loan program. And so recognizing that that is a real thing, if they are employed in that first quarter, but not in the second quarter an indication that they are not employed at 180 days after and that failing that prong of the test. But if there's anything to add, Luke, on how this is done currently with WIOA that might be relevant.

MR. MURREN: No, that's really it. I was just going to say. So in that particular case, that first quarter wouldn't be captured. What we did try to do

is give that kind of 90-day window, so it does kind of give that kind of landing space, so to speak. But that specific example (inaudible).

MR. KAFAFIAN: Just to clarify, the reason for choosing a quarter rather than days is because the data is reported at the end of a quarter. And so you need to give some buffer, like you, you can't know, you know, Johnny finished on February 15th. You won't know where he is on -- is that correct?

MR. LACO: Yeah. The administrative data that will be used as wage records, which in most states that do not have hours worked or, you know, if you might not have a date higher with that, you might not be able to pinpoint when in that quarter. But this data set used would be that quarterly wage record, which would be simpler than saying precisely that exactly 180 days. What was the status of that individual? I'm not aware of a data set administratively that would exist to say exactly that.

MR. KAFAFIAN: Helpful. And then the last piece, okay, still green. On the 70% employed in occupation, I am particularly worried throughout the gainful everything around these small rural programs where that is like definitional in demand, right? You have somebody who is an EMT in a remote part of pick a

state. And so I -- I'm concerned about the scarcity of data. And so we just really want to emphasize what Preston had shared around ways that we can define how to gap fill in that instance. The labor market should itself be the determination of in demand. And we should be able to know that if there are a certain number of openings, certain growth of roles, that where there is a program that we have an absence of the ability to certify 70%, that there are -- there is leeway given. So I think we'll talk about that later. But I just want to kind of preempt there.

MR. FRAN CZAK: Michale.

MR. MCCOMIS: Thank you. So the agency, my agency, has been calculating and working with graduation and employment data since 1993 and has had quantitative benchmarks since 1998. And so a lot of the questions that are being asked here are ones that we grapple with even today. There are difficult questions. What I would offer are a couple things. One is, you know, be careful of designing a program that seeks to exclude everybody for some reason or another. And so having very tight definitions around what goes into the calculation and what doesn't, because otherwise you make the data useless. So for example, my agency has five exclusions for employment: death, incarceration, military service, a

medical condition that prevents their ability to work, or enrollment in another program. Now, even within those five categories, however, if that number of those students gets high enough, then you have to ask the question, is this really a workforce development program at this point, when 70% of the students have enrolled in another program immediately? And so then you can begin to ask those questions in a different way. So, you know, just be, be mindful of what triggers are the things that -- it wouldn't exclude it, but in the words of Ricky Ricardo, they would have some explaining to do. And so that, that is kind of the sequential. So you start with a base and it's not going to capture every student, and it's not going to capture every scenario. But you start with a baseline and everybody reports it the same way. And then you can begin to build what kind of goes into the gray areas and what's acceptable and what's not. And that's why even for when we do our quantitative benchmarks, we don't set, you know, the expectation at the mean. We set it at a standard deviation below the mean to try to capture an account for all those nuances. And so it's important to, I think, be thinking along those particular lines. And, and if you would like, I can certainly offer those -- that list of things that we do as just kind of something to think about. Just under --

just a couple other things on this employment rate. It might be useful, and for the governor's process, one of the things to require for that is for them to list related occupations so that you have, again, something against which to compare those folks that are going to be counted as employed. So there's a disconnect right now, you don't have an expectation that the governor has required the institution to kind of establish what that range of occupations might be. I might also suggest under big (B), capital (B), that it's not the occupation, but maybe an occupation because that -- the occupation makes it seem fairly singular or either that or the occupations, because there's probably more than one that might be within an acceptable range.

MR. FRAN CZAK: Michale, the three-minute timer now has gone off. Can we ask you to go back in the queue? (inaudible)

MR. MCCOMIS: Go back in the queue.

MR. FRAN CZAK: Sorry.

MR. MCCOMIS: Yeah.

MR. FRAN CZAK: It's a big queue. Zoe?

MS. KEMMERLING: Thank you. First, I'd like to quickly second a couple of the things my colleagues have said. One, Rachael raised the issue of outcomes, measuring outcomes in prison education

programs, which was a concern of our constituency as well. And also, we agree with Preston's proposal that placement should not include entrance into other educational programs. I'd like to move to section C, the waiver provision. First, it's my understanding from this that the baseline requirements of the statute are, are not waivable. This waiver provision is -- targets the procedures involved.

MR. MUSSER: That's correct.

MS. KEMMERLING: Now, potentially these -- the section (C) leaves a broad swath of procedures. It could be a procedure, a procedure instituted by any of the governors and also this undefined separate process by the Secretary. Could you speak a bit more to the issue of what separate processes the Department might envision?

MR. MUSSER: So one possibility is the Department calculating a completion rate on its own, which might in the future not necessarily include only Title IV recipients if the Department had greater authority to obtain data, for example, on all of the individuals, or if the Department of Labor, in fact, had that, had that ability. There are also other Federal data systems that are -- and I will turn to my Department of Labor colleagues again here that might be used in the

future if there was sufficient state data that that rolled into them that would enable us to calculate placement, for example, that seems it maybe is a long way off, but we wanted to give ourselves the ability to turn to something like that if we felt that it was a better data source. We also just wanted to -- we were contemplating situations where we can obtain this information from valid, reliable administrative data sources that may not currently exist, even today, in any, any law or regulation. So it is open-ended for a reason. But those are some of the things that we considered and discussed when, when we created the exception language. But go ahead, Marek.

MR. LACO: I can just -- yeah, an example of an existing data set that might be contemplated in the future would be HHS. They have the national directory of new hires, and that receives wage data from all states and is used for a variety of Federal purposes already, as well as research purposes. And so, again, something that could be considered down the road, there would be some steps, you know, as Dave mentioned, that would have to happen. But again, we've contemplated and want to keep the door open should there be a simpler way for this to be done by the Federal government. We want to keep the door open for that.

MS. KEMMERLING: Okay. Thanks for the explanation. On the same waiver topic, another wording that is kind of vague is in subsection two about the governor making progress towards a certification. Do you have any elaboration on what making progress might look like?

MR. LACO: I think what was envisioned, given that a number of states would have to develop processes for that more detailed calculation, whether it would be steps to -- if they chose to go the route of enhancing their wage records, making progress on that front, or developing an alternative mechanism where they would look and, and determine what a level of wages would determine high wage. So it is a little open-ended on what it could mean, but it would be a determination the Secretary could make for a state, seeing that they are working towards being able to calculate that metric.

MR. MUSSER: And the only thing I would add there is that like other provisions where the Secretary has allowed for an exception based on progress being made, we would expect that there was some documentation or interaction with the state to get to that so that we have some assurance that they are indeed making that progress before we would grant that exception.

MS. KEMMERLING: Thank you. I have one more comment, but do you want me to go?

MR. FRAN CZAK: You can make --

MS. KEMMERLING: Sure.

MR. FRAN CZAK: You can make the last one.

MS. KEMMERLING: So the last thing I noticed is that in the statute, of course, there are the four requirements that the Secretary determines, with the last one, of course, being the value-added earnings. And we don't see that provision in this section for the Secretary making that specific determination under the statute. Although, of course, in 690.95(e) there is language about providing information to the Secretary upon request, which is not as prescriptive as you know, the, the rest of one, one through three. So is that -- was that an intentional omission?

MR. MUSSER: So I want to make sure I understand which provision are you referring to that -- where we requested the additional information specifically?

MS. KEMMERLING: 690.95(e).

MR. MUSSER: 95. So you're looking into the value-added earnings provisions?

MS. KEMMERLING: That is the most --

the --

MR. MUSSER: Got it.

MS. KEMMERLING: -- closest thing I could find.

MR. MUSSER: And so you're asking why that information doesn't appear in the Secretary determination section?

MS. KEMMERLING: Yes. With the same, you know, mandatory language that the Secretary shall make the determination.

MR. MUSSER: I see. We can consider that. I mean, I -- we -- the assumption on our part is that the Secretary is, is making the value-added earnings determination at this stage. That's the way that it's written in the value-added earnings section. The contemplation, and I want to wait to talk about that in more detail. But the contemplation is that the Secretary would be, would be collecting information that is sufficient to calculate the value-added earnings in -- with -- while working with another Federal agency and that we would establish the value-added earnings for every program that the institutions would then need to comply with regarding their published tuition. So we can talk about that in more detail, but if you feel like it would be more valuable to have a reference to that here,

a cross-reference, I think we're open to that.

MS. KEMMERLING: Okay. Thank you. I may submit something on that.

MR. FRAN CZAK: Okay. The next three in the queue are Kristin, Aaron, and Richie. Kristin?

MS. HULTQUIST: Thank you very much. On page 29, I'd like us to consider the perspective of public institutions two and four-year who predominantly offer associates and baccalaureate degrees. For those students, we are grateful for this on-ramp of the Workforce Pell. But we are also aware that there is a Pell clock that ticks as soon as the Workforce Pell is received. And I'd like to discuss that in addition to, you know, the actions of the Secretary here, we asked the Secretary to notify students when they use 200 and 400% of their Pell eligibility, their annual Pell eligibility, and they do that on their FAFSA submission and via email. What we need to do is be able to have this information in the marketplace for it to function better. I need it as chair of the board to drive the curriculum reform that's necessary. And I have written about in the Manhattan Institute, for instance, that I think the Workforce Pell is a terrific reform strategy for regional comprehensives like mine. But, but not if we don't have this kind of consumer information also in the marketplace about how

that Pell eligibility is being used. So I can submit that if you're open to it. Okay.

MR. MUSSER: Thanks, I appreciate that. And we have received another submission related to disclosures and more consumer information about the effects on Pell Grant lifetime eligibility of this program. So we're certainly open to that.

MR. FRAN CZAK: Aaron?

MR. LACEY: Sure. Two things. First, just quickly in the introductory sections of 690.94, I know we've talked about this date and I'll send you guys this language, but for (a)(1), if I'm understanding you correctly, it seems like maybe a stronger way to phrase this would be at least one year from the date that the program met the regulatory requirements as determined by the governor. Just because then it clearly -- okay. And then -- so I'll send you that. But I think that's what the idea is. On the -- back to the placement exclusion issue. I really appreciated Michale's comments, as I'm sure you guys are very aware, many are. You know, I think the first version of, of GE had exclusions for almost all five of those categories out of the cohorts. If those folks had any of those things were true during the year that earnings were measured. Right? So all of those things and I think the current version still has three or

four of them. A couple may have been dropped, but beyond just the further education exclusion. So I was going to ask, I mean, I certainly get that it's 2:00. I don't know if this is possible, but, but one ask of the Department would be if there's any way to signal over the next couple hours, or maybe shortly after we adjourn, whether you guys are open to a broader set of exclusions beyond just the further education exclusion. I appreciate that. You know, my earlier point was, I think there's a pretty strong statutory sort of implicit authorization argument here to be made for a further education exclusion, because I think the statute clearly says these programs have a dual purpose. One is to put people in the workforce. The other is to put people into further education. And so I think, you know, the -- there's a strong argument there. I think it's harder when you talk about a broader set of exclusions. But there's no question that it is not helpful to hold schools accountable for someone who's deceased shortly after leaving the program. Right? As a, as a failed placement. The other ask would be, I totally agree with Preston. I mean, I think this idea and it sounds like it's got a lot of support around the table for just taking folks out of the cohort completely is probably the easiest way to do it. Again, I think that's how every version of GE that's

ever thought about this kind of thing has treated it. There are other ways you could potentially handle it, though. I mean, you could consider those individuals placed if they're in one of those further education programs that were designed. You know, it's a little weird because that's a job placement. But, you know, you could pull people from the cohort and then measure them after they exit the second program, though, again, that's not really a measurement. But the point is, there's an optionality here. If it were possible also to get just a signal from the Department as to, you know, yes, give us draft language on this particular approach, because that is -- not that you're signing off on anything, but the approach we think would make the most sense. I'm just trying to avoid us drafting language that is dead on arrival and/or with competing approaches. So I understand we only have a couple hours. I think we're all very happy to give you guys something to look at. I don't know when you would do it, but if there's a way to give us a little direction, I think that would be constructive for us so we can give you back something that's more helpful.

MR. MUSSER: Yeah. We'll talk a little bit during the break and come back with the Department's overview of sort of where, where we'd like this to go generally. I will say right at the outset, you know,

we're open to considering exceptions. We just -- we do need some time to think through the implications of that. I also would say, at least at this stage, we're -- you know, Preston's idea about removing individuals from the calculation generally is the lean given our approach to that in accountability elsewhere, including gainful employment. But that doesn't mean that an argument couldn't be made to sway us one way or the other quite yet. We'll come back with a clearer set of sort of general parameters that we're interested in.

MR. FRANZAK: Richie, Michale, Randy, then Eric.

MR. MORROW: I appreciated Rachael's suggestion about maybe allowing or having the Feds calculate the placement rate. The institutions that I've talked to in our state, they are looking at using information provided to our state Department of Labor to calculate placement rate. The issue is a lot of our community colleges are close to state borders, and so they will have people from another state crossing the border, getting educated and then going back home to get their jobs. And our state Department of Labor will not receive any information on those students because they're not in the state. So that could significantly impact the placement rate for these programs that they are concerned

about. And I -- this is definitely not in my wheelhouse, but the information that our Department of Labor collects is pretty limited. So, you know, if there's another way to be able to calculate that placement rate using information that may be at the Department of Education and/or the Department of Labor, as Rachael said, that would significantly cut down some issues trying to meet that rate.

MR. FRAN CZAK: Michale?

MR. MCCOMIS: Marek, you had mentioned a couple of times when describing the wage records you went on to say, or other data, and I wonder if there would be room for that to be included in the definition here, where it talks about the calculation of the, of the, of the job placement rate based on the governor's analysis, using available administrative data, including wage records and adding on to that or other valid, reliable and verifiable sources deemed appropriate by the governor. Would that -- would that be helpful in some way for kind of giving the state some additional guidance and flexibility?

MR. LACO: I think we could review that. The administrative data provision, I think, is intended to be broad. There's multiple ways and multiple ways states could do this. One example would be the rapid

system. For those who are in an apprenticeship, they could quickly determine, you know, through the rapid system if that individual is still employed in that apprenticeship program, which would then be a positive outcome. So ways you can -- as states often do, they layer on and use one set of administrative data, maybe the wage records within the state. Then they'll say, okay, who didn't we catch? Let's go to that State Wage Interchange System, try to capture and address that issue of interstate, those who might be working in a different state, then move to the next set of administrative data, which could be the rapid system, let's capture. And so there's a process states can, can and do use frequently in the WIOA system to capture as much as possible through various administrative data sources, knowing that states are at different points with what type of data sets they have and what capacity. So certainly something we can consider, I think.

MR. MCCOMIS: I'll -- do I have time for -- did he take up all my three minutes or.

MR. LACO: I'll be more concise, I'm sorry.

MR. FRAN CZAK: Yes. We were able to defer it a little longer.

MR. MCCOMIS: Okay. Just quickly.

Under the -- I don't know if this is -- it's a big if, but would, would -- if the separate process established by the Secretary for calculating, you know, will be calculated, could that potentially include an accreditor's processes if again that met expectations set by the Secretary. Like if an accreditor or other kind of party was able to do -- as part of the approval of the program as part of the accreditation requirements, and if so, if you're at least open to looking at that, I'll add some language there as well.

MR. MUSSER: So I think we are -- I think we're, we're open to it. This was intended to be broad-based language that would give the, the Secretary a lot of different options about what to consider. However, I'm not sure that we intend to be explicit or specific in, in the (c) provision just because unless you're thinking of sort of -- it could, it could include --

MR. MCCOMIS: Which may include.

MR. MUSSER: Yeah. I mean, yeah, I think we're, we're certainly open to that, if for no other reason that we'd be interested in what you have in mind and how that might work. Yeah.

MR. MCCOMIS: I'll send it over.

MR. FRAN CZAK: Okay. There are three remaining in the queue. Randy, Kristin, and Preston.

Randy?

MR. STAMPER: Yeah. I want to really quickly revisit the point that Michale brought up. We've talked about earlier how CIP to SOC alignments can have a whole bunch on either side or both. Not to belabor something that's an easy fix, but at the bottom of page 28, where it says employed in the occupation, would the Department like a proposed revision to that that speaks about occupational field or related occupations? Okay.

MR. MUSSER: Yeah, I think that's reasonable. Yeah, we'd be interested in that.

MR. FRAN CZAK: Kristin?

MS. HULTQUIST: I don't know and probably suspect this doesn't fit in a regulatory conversation. But two points as we kind of wrap up this, this section around the Secretary's role. I appreciate the value of teaching people how to fish and of not having to rely on the Feds to do what states we hope will be able to do for themselves over time. But as it's been identified here, there are expenses in setting up these data systems at both the state level and the institution level. Besides the Pell administrative fee, or maybe some of the resources some of us have from Title III and V. Are there any resources available through Education and Labor that can be identified as these are allowable funds

to build our data systems out? I don't know. Again, I'm not saying it belongs here, but I know it's something we're, we're wondering as we're trying to think about, okay, how do we go forward? And then the -- do I have one more? I don't think so. I apologize.

MR. FRAN CZAK: Preston?

MR. COOPER: Thank you. I just want to thank the Department for, you know, I think a very strong proposal to implement this section. And I would strongly encourage keeping the language that allows only the use of administrative data, including wage records, to make the determination of a completion and job placement rates. I'd note in the statute calls for verified completion and verified job placement rates, which would seem to preclude things that are based on non-administrative data sources.

MR. FRAN CZAK: Okay. It looks like our final comment card is Zoe.

MS. KEMMERLING: Thank you. I was looking back again at kind of this on-ramp period that includes award years 2026-'27 and '27-'28 with this kind of interim standard for reviewing completion and job placement rates. I was wondering just kind of in a big picture level, given that this program is addressing very -- Workforce Pell is addressing very short-term programs,

do we -- is there an argument that, you know, accurate and relevant data might be available faster than, than the typical program? And does the Department still believe that the calendar/award years are the proper unit of time to think about when we're making, like, an on-ramp period?

MR. MUSSER: What would you recommend if not the award year? You're thinking calendar years?

MS. KEMMERLING: I think I'd have to give it some more thought. But I'm wondering if that was something you discussed at the Department.

MR. MUSSER: The -- I think we started with award year because that's the unit of measurement that, that I think the Department is most accustomed to, recognizing that here. We are talking about systems that are not working on the Department of Education's schedule. However, using the award year does have the benefit of having a lot of specific policy built around it that has, that has grown up over time that the Department sort of is familiar with. And schools are also familiar with. So any other alternative would need to have some benefits that sort of offset the -- that fact because, you know, when you talk about a calendar year, are you really cutting things off at -- on that exact date when you're talking about the individuals that

graduated? What about programs that have that -- where that's right in the middle of a term? There's a way for that to be dealt with in the Department's rules for crossover periods in an award year. So, you know, when I say that we have a comfort level with award years, that's kind of what I mean. But we -- we're open to other ideas if you have something -- if there is something that has a real benefit to it that we should consider.

MS. KEMMERLING: Thank you.

MR. MUSSER: Yeah.

MR. FRANZAK: Eric, David, and Jeff.

MR. ATCHISON: Zoe, just to your question. The institutions I serve currently, some have one award period for completions or credentials, and others might do it in August, December, and May. But moving into the space, there may be an opportunity for us to actually recognize credential completion in other ways and other frequencies. But as of right now, that's just the typical method in which we identify credentials awarded to then be able to track students.

MR. FRANZAK: David?

MR. KAFAFIAN: I didn't say this as eloquently last time because I was coming up against time. But when I think about small programs, specifically community colleges dealing with a specific cohort that

may never, even a steady state, get to more than like seven or eight students in a cohort, did the Department think about anything where you could have some kind of, I'll say, rolling period where -- and this would require multiple textual edits throughout. So that's why I'm not going to propose a single one, but something where you are effectively saying, until we get to 30, we are willing to look at the last n number of cohorts, three cohorts, to get to an aggregated number that is actually useful because my concern is five of eight is less than, less than 70%. And also, frankly, all noise and no signal. And so I would love to understand how could we can improve upon that.

MR. MUSSER: So I mean, you'll see from our discussion of value-added earnings in a moment that we understand this idea of rolling up into prior cohorts of individuals. And we know that that's an issue. I think here we were focused on trying to coordinate this with state records, where they might be able to get at small cohorts and still calculate it. I hear your point, though, about very small numbers of individuals not being valid measures of the success or failure of a program. So, although I don't want to commit to the Department taking on you know, going back several years for these especially at first, I am interested in if you have an

idea for how that could work practically in this context. I mean, we would certainly look at it.

MR. KAFAFIAN: Yeah. I think the idea is Congress didn't give us a lot of latitude on the number 70%. But, but hopefully we can give the states some latitude for how, you know, within reason -- obviously they can't be picking and choosing cohorts, but how they can get themselves to a bigger number that is actually useful to them and to us.

MR. LALLO: Real quick. I think that's a good point. Congress did not give us a lot of latitude with the actual numbers. You know, there are other places in the HEA that have similar requirements, and they certainly impact small cohorts. I know we see that frequently with foreign medical schools. You know, their eligibility is contingent on USMLE scores. There is some actual leeway baked into the regs there for very small cohorts, which directly flows from statute. But it's certainly something that impacts those schools very heavily. And they routinely take issue with that on the basis of, well, this doesn't seem fair. And the answer is always this is what the statute says. So I think you're exactly right in what you guys are focusing on with, you know, the actual -- what makes up the number rather than attacking the percentage itself. It's a good way of

looking at this, and I think it's helpful framing for what you can and can't suggest to us here.

MR. KAFAFIAN: Yeah. Thank you, Jake. The only thing I would just add is, I think distinguishing from the scenario you just gave is that the nature of high in demand is something where we necessarily have a labor market asymmetry, where there is a shortage of labor. And so actually, like getting a few extra people going into that role, especially in a rural place, is how we exactly need to address these gaps. And so the intent of Workforce Pell is exactly that in demand piece, whereas the example given is obviously something we have broader -- a broader market for.

MR. FRAN CZAK: Jeff, Matt. Jeff?

MR. ARTHUR: Yeah. When I look at the -- this approval process language, I'm challenged trying to translate this into a timeline -- workflow timeline. Could you -- if you have a -- if you have an institution with a program that material meets the Workforce Pell requirement, ready to go, been in existence a year or more, you've got a state that's ready to go and ready to approve that program. What's the first month and year that you may be and have the Department -- any approval process is required there -- what's the first date and month we might see Pell Grant funds disbursed?

MR. MUSSER: The Department plans to have a process for accepting applications for Workforce Pell as of July 1, 2026, as mandated by the statute. Regarding when the first disbursement might occur is a more difficult question to answer. You know, it will take time. Obviously, it will take time for governors to make these certifications based on the rules that they're seeing here. It'll take some time for the Department to over -- to look over the program and make sure that it meets all of the length requirements on all of those other things. Presumably it will take institutions a little bit of time to prepare their systems, to deal with students who are entering and having much shorter programs where they're going to have to calculate Pell a little, you know, using the same rules, but potentially, you know, under somewhat different conditions than they're used to. But I guess the most important point that I can convey is that the Department will be prepared to accept those applications as of July 1st. It's really more a matter of whether all the other pieces fall into place immediately afterward.

MR. ARTHUR: So final rule published, right. And, and, I mean, I don't think the system's things are going to be too much of a challenge. I can see right now how I could configure our system and manually

enter a Pell Grant amount and process through COD, as long as the Department's ready to accept a COD that has a program that is of a length that's not currently authorized.

MR. MUSSER: And I want to be honest, you know, with you, Jeff, about this. You know, there's several different entities that have to sign off on these programs before they'll get to the Department. So I don't want to assert that everything will be in place at a particular place by exactly July 1st. And I don't know if that's really reasonable, given that, you know, an accrediting agency is going to have to approve this program in most cases. The State is going to have to certify that it meets these conditions, and then the Department is going to have to go do its process to approve the program. You know, it's possible that those things could happen quickly. But I think we should -- you know, in being realistic, it will take a little bit of time beyond July 1st. The Department's hope is that we do get programs that are up and running and moving in '26-'27. I think that's a really important factor for the Department. We've obviously organized large parts of the regulations around that idea. But we do all have to be realistic about the time it will take, given that this is a new program for all the entities involved to get those

approvals.

MR. ARTHUR: Then I guess my focus is that we should be focused on prioritizing that timeline to implement. Yeah.

MR. MUSSER: And that part I can say the Department is moving as quickly as we can to get a process ready by July 1st.

MR. FRAN CZAK: Matt?

MR. FEEHAN: Yeah. I'll just second what Jeff said there. I mean, there are states like North Carolina, for example, that's been really ahead of the curve for some of this and very public about it. So David actually took the words straight out of my mouth. There are highly specialized MOS's, Military Occupational Specialties, with very small cohort groups throughout the United States. And I don't want to get into technical details or examples of military technology or that kind of thing, but there's a lot of really small groups out there. So if the Department sounds like willing, I would love to work with you, David, and anyone else on some alternative language to get to that number. I know it's - - we're kind of hands are tied for that 70% from statute. But we do have some pretty small cohorts that I'd like to be able to, to help with their eligibility. And then finally, I would second Preston's comment, the analysis

using administrative data. I think we really need to stick to that. I've heard some proposals where if we, if we go down some of these roads, we might end up with an exception that swells up the rule. So administrative data, I think we should fix and hold on that.

MR. FRAN CZAK: Jeff, is your card still up? Okay, good. All right, so it is 2:24. Would we want to incorporate a ten-minute break before we move into the next topic?

MR. MUSSER: The next topic is a big one. I think a ten-minute break is appropriate.

MR. FRAN CZAK: All right, so what if we take our break? We'll reconvene at 2:35. Thank you. All right. Welcome back from the break. So we're going to pick back up with topic six. So I will turn it over to Dave.

MR. MUSSER: And before we get to topic six, I want to return to one quick thing that we talked about in the prior topic. So Aaron mentioned that there was interest in the Department's broad perspective about what exclusions would look like to the completion and placement rates. So I think if you guys propose language, our -- what we would prefer is something similar to what is currently in the financial value transparency regulations that will -- that we are going

to address in the accountability section of this. But the broad strokes of that idea is something that we, that we are comfortable with. So Aaron is going to project a particular regulatory provision that's in the -- currently in the Code of Federal Regulations. So this is just an example of what that looks like. And here the Secretary excludes a student from the numerator and the denominator of the debt-to-earnings rate calculation if the Secretary determines that one of these conditions applies. But the crucial point here is we exclude the student from both the numerator and the denominator, pulling them entirely out of the calculation, because to do otherwise potentially skews the calculation in a direction that, that is -- that we don't believe is appropriate. So this is sort of the framework. If you guys are interested in proposing language related to exclusions, this is kind of what we have in mind.

MR. FRAN CZAK: Comment has been registered. Michale?

MR. MCCOMIS: Just so I can go look, what is that site?

MR. MUSSER: It's 34 CFR 668.403(e).

MR. MCCOMIS: Thank you.

MR. FRAN CZAK: Anything more on this item? Oh, there, yes, Rachael.

MS. STEPHENS PARKER: Just a quick question, because I'm not familiar with this personally. Is any data collected -- so like if, let's say in this instance, if a student were not in the -- in this calculation at all, would it be possible or considered perhaps for inclusion in the regulation for some sort of data to be gathered? Is that done in cases where this is already applied to understand how many students are going on a different pathway, as opposed to in this case, as opposed to job placement? Or is that gross and hard?

MR. MUSSER: I'd have to ask our Federal student aid colleagues to see if that is something that we could pull from older data sets. We don't, as Cody mentioned this morning, you know, there is data from the most recent iteration of that of this, which is what we have on the screen here. But the Department is not prepared to provide that data at this time. We do have an older data set where some of these exclusions applied. But I don't know the extent to which we could pull that information, so -- but I can check with them. Okay.

MR. FRAN CZAK: David? Randy?

MR. STAMPER: Would the Department consider, and this may be along the lines of what Rachael was talking about, would the Department consider language

that would reflect, not only enrolled full-time at another eligible program, but enrolled and working as well? Because a lot of these students --

MR. MUSSER: To be clear, I wanted -- when I brought up this section, I was focusing on the broad strokes of how we would exclude them, not the individuals who would be excluded. We're interested in your feedback about who those -- and justification for who those would be and why.

MR. STAMPER: Thank you.

MR. MUSSER: Yep.

MR. FRAN CZAK: Ready to go to topic six?

MR. MUSSER: Yes.

MR. FRAN CZAK: Okay.

MR. MUSSER: All right. So Aaron is going to pull up the regulatory language for topic six. And we have finally arrived at the value-added earnings calculation. The event you've all been waiting for. So here we are, 690.95, value-added earnings. So just broadly before I even get into the amendatory text here, I want to say a few things about the Department's perspective on value-added earnings and, and what our what our notion was when we developed this amendatory language. So in looking at the statutory provisions for

value-added earnings, which I would note are not very specific, there's only a small -- one paragraph that deals with this in much detail in the statutory text in the One Big Beautiful Bill Act. But the reading that we had of this is Congress refers specifically to individuals who completed eligible workforce programs and who received Title IV aid for those programs. And they refer to published tuition and fees for an award year that occurs several years after the individual graduated. So in our view, it's -- the Congress is indicating that an individual first has to graduate, several years have to pass given that there's a need for time to get into the workforce, and then the Department would evaluate that the student's median earnings minus the poverty line, to, to arrive at a value-added earnings, and that value-added earnings would set an upper limit on the published tuition and fees for the program. So, in the Department's view, this is a forward-looking, at least as written here, is a forward-looking metric. And again, before I get into all of the details here, what the Department has in mind is that we would be able to provide potentially information to schools and to the wider public on the earnings of individuals before the formal and the effect and the value-added earnings that would actually affect the published tuition of programs

was calculated. We would be able to give preliminary information about earnings so that institutions would be prepared to potentially alter their, their programs' tuition to fall in line with the limitation that the Department has calculated. This is not, in our view, a system that's designed to kick programs out of Title IV eligibility. It's a system that is designed to limit the amount that institutions charge and give institutions the ability to decide whether the amount that they're going to be able to charge is enough to sustain the program. So that's the broad strokes for what you're going to see in this, in this amendatory text. Once I go through the amendatory text, the other thing I want to mention is my colleague Chance Russell will provide an example of what this looks like in practice so that you guys can kind of -- can get a better sense of how it looks like when -- what it looks like when we actually go into a particular program. And that includes the cohort expansion that we've described here. So you can ask questions about that part as well before we get into the substantive discussion. So we've done our best to provide as much information as we can about what is obviously a very complicated process. Okay, so with all that said, let's go through the actual specifics of the amendatory text. So starting with paragraph (a), for each award year, an

eligible workforce program's total published tuition and fees may not exceed the value-added earnings of students who are working -- so this is an important consideration -- received a Pell Grant for enrollment in the program and completed the program during the period described in paragraph B2, which we'll get to in a moment. (b) An eligible workforce program's value-added earnings are determined by calculating the difference between- (1) the median earnings of such students during the most recent tax year, for which data is available at the time of the calculation, as adjusted by the state and metropolitan area regional price parities of the Bureau of Economic Analysis based on the location of such programs, and (2) 150% of the poverty line applicable to a single individual, as determined under section 673(2) of the Community Service Block Grant act for such tax year. So, (b) no later than three months prior to the beginning of the award year the Secretary will publish the value-added earnings that will apply to the eligible workforce program for that upcoming award year. And I'm seeing some paragraph numbering issues that we need to correct here. But then (c), the institution must keep published tuition and fees at or below the value-added earnings calculated for the program for all students who first enroll in the eligible workforce program during the award year that

begins following the annual release of the program's value-added earnings. So, we specifically chose the phrasing for first enrolled, recognizing that there are a lot of different ways that we could have identified the individuals that are subject to this. But the idea here is that there's a very clear and very specific categorization of students. It's the individuals who first enroll are the ones whose tuition and fees must be limited based on the value-added earnings that have been calculated. So then we get into (d) programs that have a calculated value-added earnings of zero or negative value shall not be eligible for Federal Pell Grant funds. And this is an interpretation of the Department's that -- the concept of negative tuition is nonsensical. And the -- there is -- the institution can't charge that. Therefore, programs that are in that situation cannot be eligible for Title IV aid because they can't meet the conditions for, for the value-added earnings here. Going down to (e), the institution must provide, upon request, evidence satisfactory to the Secretary that its published tuition and fees do not exceed the published value-added earnings for that award year. (f) In calculating the value-added earnings for an eligible workforce program, the Secretary uses student completion data that the institution is required to report to the Secretary to support its

administration of, or participation in the Title IV HEA programs to compile a list of students who receive Federal Pell Grant funds and who completed each program during the cohort period, after which the Secretary provides the list of the institutions and allows each institution to correct the information reported by the institution on which the list was based no later than 60 days after the Secretary provides the list to the institution. So I'm going to pause there for a second. That's the process that is currently outlined in the Financial Value Transparency regulations whereby the Secretary calculates a completion list -- student completers list of individuals who completed the program according to our records during the cohort period, provides it to the institution, and the institution makes corrections based on its internal records. So the -- just to be -- just so everyone understands how we're obtaining this information, institutions as part of the normal process of, of administering the Title IV programs have to report enrollment to the Department through the National Student Loan Data System. They report enrollment for all individuals who borrow Direct Loan funds at their institution. They report for individuals who receive Pell Grant funds at their institution. And there are a small number of students for whom they report who receive

Direct Loan funds at a prior institution, even though they have not received funds at the current institution. So the National Student Loan Data System has information on all individuals who will have obtained Pell Grant funds, and therefore, it's a complete list of the individuals that the statute identifies in this case. Okay. So going down to paragraph (2) here, we would then obtain from a Federal agency with earnings data the median annual earnings of the students on each list, as provided in paragraph (g) of this section, which we'll talk about in just a second. And then we would calculate the value-added earnings and provide it to the institution. Okay. Here's the difficult one. In (g) we're describing how the Department would expand cohorts of students and if there were situations where we did not have a large enough cohort to calculate a value-added earnings. The idea here is what we talked about a little bit in the discussion on completion and placement rates. The Secretary is concerned about very small programs and programs that are always likely going to be small not having the information necessary and not having a sufficient number of students necessary to calculate this value, especially since a Federal agency with earnings data is always going to have privacy considerations for very small programs. Therefore, in the Department's view,

we need to have as many students as possible included so that we get a value-added earnings calculated for as many programs as possible. So (1) if the final list of students who completed the program three years prior to the award year includes at least 50 students, the Secretary sends information about those individuals to the Federal agency with earnings data. So that's the cleanest and simplest version of this. (2) If the final list of students who completed the program three years prior to the award year does not include at least 50 students, the Secretary adds students who completed the same program during, during the award year to that list. And then if we don't get to 50, we send -- and if we get to 50 with those two years included, we send that list to the Federal agency. If we still haven't gotten to 50, we include another award year. That's what we're getting to down in paragraph (3) here. And if we have 50 and, and when, when all three of those award years are included, we still send that to the Federal agency with earnings data. If we don't have 50 after three full award years are included, then we will go to number (4). We -- if we still don't have enough completers after all four full award years, we will then go to number (5). In which case, we either do not calculate the value-added earnings if we don't have at least 30 students, and then if we

have at least 30 students, we will send that number of students to the Federal agency with earnings data with the, with the hope that they'll be able to identify a sufficient number of earners to calculate a value-added earnings. So before -- I want to go on next to (h), but then I'm going to pause again. For each list submitted to the Federal agency with earnings data, the agency returns to the Secretary the median annual earnings of the students on the list, whom the Federal agency with earnings data has matched to earnings data in aggregate and not in individual form. (1), and this is the important piece. If the Federal agency with earnings data includes reports from records of earnings on at least 16 students, the Secretary uses those median annual, annual earnings to calculate a value-added earnings for the program. But in (2), if the Federal agency returns less than 16 students -- returns earnings data on less than 16 students, the Secretary does not calculate the value-added earnings for the program for the award year. So I'm going to pause there just for a moment. So the reason that we have the concept of 50 being the threshold for the first three award years and 30 being the threshold for the final award year, is that the -- if at any time the Secretary sends its list of students to the Federal agency with earnings data and the Federal agency with

earnings data does not have at least 16 individuals with earnings, no value-added earnings will be calculated for that program. And that's largely for privacy reasons. The Department practically is unable to go back and forth with the earnings agency. You know, for example, we send over a list, they don't have enough. We come back, we calculate it again, we send over another list, they don't have enough. We go back. It's just practically impossible, especially if we want to get accurate information from the institution about who the completers are in the cohort. Therefore, the idea with 50 for the first three years and 30 in the final year is the Department is attempting to maximize the likelihood that we will calculate a value-added earnings for a program, first, by having larger numbers of individuals that we send to the Federal agency with earnings data, and then in the final year, attempting to send at least some students to the to the Federal agency with earnings data, even though it's not a full 50, in an effort -- in the hopes that they'll be able to obtain earnings for a sufficient number of individuals for us to calculate a value-added earnings for the program. So I know that's a lot, but we've heard a lot of questions about the Secretary's reasoning for 50 versus 30. I wanted to try to give a rationale for why it's designed in this way.

We're certainly open to other ideas, but that's the reasoning for the design that you see in the amendatory text. So now we're going to scroll down to the last part of this. When calculating the value-added earnings, the Secretary includes completers from all eligible workforce programs with the same six-digit CIP code. This is in for a couple of different reasons. First, for practical reasons, the six-digit CIP code is the, is the base unit of program identification in the National Student Loan Data System. But it's also -- the Department's intent is to -- is again, to maximize the number of programs that are -- that receive value-added earnings for a particular award year by including multiple, potentially multiple programs that are within the same CIP code in the calculation, rather than having those stand on their own with a much smaller number of students who are enrolled each year. And now I'll pause and take comments and questions.

MR. FRANZAK: Eric?

MR. ATCHISON: Thank you. I do have three, but I'll try to keep them under a minute each so as to not go over time. Dave, thank you for that walk-through. Thank you for the discussion. I appreciate the Department's reliance on submitting data once to an earnings agency. Just a quick clarifying question. Is the

earnings agency at this point, Federal agency just the IRS?

MR. MUSSER: So we don't establish who the Federal earnings agency is. I will say that we -- because of our past experience with the IRS, we are thinking about them as one of the, of one of the most likely candidates, but we're not committing to that one way or the other at this stage.

MR. ATCHISON: Thank you. In terms of the bottom of page 31, where it says shall not be eligible for Federal Pell Grant funds, I did want to ask at what point would the institution know that they are not eligible, and would they have students that are currently in Workforce Pell programs that would thus be not eligible for that funding?

MR. MUSSER: So we did -- we have talked about this internally. You know, the Department's intent here is to give institutions as much lead time as possible. But first, to know in advance that there is a likelihood that the program could potentially have very -- a very low value-added earnings in a future year, but also to calculate that value in advance of the year to which it applies. So for example, if it's going to apply on July 1st the Department would endeavor to provide the value-added earnings, you know, three to -- at least 3 to

6 months prior and potentially earlier, if we can, so that the institution has some time to work with its students and to take to take steps to prepare to potentially end the program's eligibility or to reduce its tuition, if necessary, to the value-added earnings limit.

MR. ATCHISON: Thank you. I think there's reasonable nature there that would be helpful for communicating with the students. Third, as far as the language at the very end in Roman numeral five, I'm sorry, five, and at the bottom of two under (h) and (f), each of those value-added earnings that are not calculated, does that still impact the ability for the institution to make the program eligible, or does that go against the eligibility of the program?

MR. MUSSER: So if at any stage the Department is unable to calculate the value-added earnings after it goes through all the steps -- I just want to make sure I'm getting your question right. If we go through all the steps and either we can't get at least 30 at the end of four award years' worth of students, or if we send the Completers list to the agency with earnings data and they can't get at least 16 students with individuals with earnings, then there is no value-added earnings calculated for that program, and thus

there is no limit onto published tuition and fees for that program.

MR. FRAN CZAK: Preston?

MR. COOPER: Thank you very much. I really appreciate this very well thought-out proposal to implement the value-added earnings section of Workforce Pell, which I think is probably the most critical component of the, of the new program. I did submit a memo yesterday, yesterday morning, because I do foresee that there is one issue here where at the beginning of Workforce Pell, when no students have gotten Pell Grants yet in the program, and therefore we cannot see them in the earnings data because the Department does not have their Social Security numbers. The Secretary is actually not going to be able to calculate the value-added earnings for the first several years that the program is receiving Workforce Pell grants. For my constituency, which is taxpayers, this is a bit problematic because this could potentially result in programs getting Workforce Pell funding for several years, even if they are not in compliance with the value-added earnings requirement. And so in order to address this, we put forward a proposal to when the Secretary is unable to calculate value-added earnings for whatever reason, either because it's too early or potentially because they

are not able to get to at least 16 students, would allow the Secretary to assess compliance with the value-added earnings standard based on alternative administrative data. We have the regulatory language that would allow the governor to submit data on the earnings of program graduates as part of the certification process for each Workforce Pell program. They could use alternative administrative data sources, such as the state unemployment insurance system or potentially some cross-state consortium if they're able to get that data. Potentially, the postsecondary employment outcomes data set, and the Secretary would then use this alternative data to assess whether the program is likely to be in compliance with the value-added earnings standard down the road based on this, this initial earnings data. The proposal does provide some flexibility for the governor, recognizing that they might not be able to get the value-added earnings exactly the way that it is defined in the law. They would -- it would -- the proposal would allow the governor to substitute earnings one year after graduation instead of three years, in case it's a relatively new program, and they don't want to wait three years, and would also allow the governor to rely on annualized earnings data. So quarterly earnings, which you might see in an unemployment insurance system

multiplied by four to get an annualized figure. But we put forward this proposal because we do recognize that there are going to be some circumstances in which we cannot get a value-added earnings measure, but we still want to be able to get an idea of whether the institution -- the program is going to be in compliance with the VIE standard is likely to be in compliance with the VIE standard based on that alternative administrative data where were available. So we submit that memo for your consideration. And thank you very much.

MR. MUSSER: Thank you, Preston.

Aaron?

MR. LACEY: Just a couple of things.

One is, I do think, understanding it seems you guys have with the data waterfall, I mean, you're giving yourselves a lot of opportunities to build a sufficient cohort. But in theory, there could be times when you're not calculating rates. And you probably do need some language in here, kind of like with the accountability regs where it says, you know, four years that value-added, you know, rate is calculated, etc., just to make clear sort of how the pass works if there's a pass or whatever, and we can help with that. Or -- but I think the mechanism definitely needs to be there. I'm interested in, and maybe this is what Chance is going to cover, but I just

want to understand better what you guys consider three years prior to the award year. And, you know, because I'm sort of just trying to think through, maybe we'll see a graphic up here -- but, you know, if '28-'29 is my award year, is the third year before that, '25-'26, what year for which earnings are actually being measured? Is that what's coming up?

MR. MUSSER: Yeah. And actually, now that you mention it might be a good idea for us to go through the example before further questions? I think that's a good idea. Now, is everybody amenable to having that example? I think that's a good idea. Yeah. So, let's turn to Chance. And we'll turn it over to him. He'll be up at the podium and he'll go through an example of how this would work in practice.

MR. FRAN CZAK: Okay. We're going to pivot to Chance Russell, who's going to speak on behalf of the Department.

MR. RUSSELL: Chance Russell, Department of Education. Get the slides going. And Aaron, if you want to skip to just the third slide I think here, third or fourth slide.

MR. MUSSER: Poor Aaron, I make him turn on a dime all the time. So thank you, Aaron for doing this work.

MR. FRAN CZAK: A digital - I was just going to add, a digital copy has also been submitted to all the negotiators as well.

MR. RUSSELL: Yep. So Dave already went through this piece, so I won't harp too much. This is just, you know, the students that are being concluded and kind of just a brief summary of the value-added earnings metric. Next slide. High-level kind of simple version of the calculation. Adjusted median earnings - 150% of the Federal poverty line. That's how you get value-added earnings, which is going to be kind of the maximum cap on tuition. So the next slide here, example one, this example is applicable to the '29-'30 award year. So we're looking at a hypothetical university in Arkansas where the three-year median, median earnings are \$25,000. And the regional price parity index that Dave mentioned is 86.5. So we can see that we adjust those earnings because that regional price parity index is below one. These earnings are adjusted upward. And then we subtract 150% of the Federal poverty line. So in this example, we are calculating the value-added earnings applicable to the '29-'30 award year. So the maximum that an institution would be able to charge and publish tuition and fees would be \$7,122. Next slide. Another example here. Hypothetical example of a university in

Alaska. You can see that the three-year median earnings are \$29,000. The regional price parity index for Alaska is obviously different than it is in Arkansas. These earnings are adjusted downward slightly. Subtract 150% of the Federal poverty line, and you get a value-added earnings of \$1,200. And I think the next slide is going to answer, I think some of the questions that you had, Aaron. So for the '29-'30 award year, we're going to be looking back at students that first completed during the '26-'27 award year. If that number, as Dave mentioned, is 50, no further rollback. And obviously, in the first year, we wouldn't be able to go back any further, because this is the first year that Pell Grants would be awarded to these programs. So in this example, you have 50 completers in the '26-'27 award year. No need to roll back, no ability to do so. And we thus use that 70 completer list to calculate value-added earnings. The next example in the next slide here. So this is where we start to get into the roll-up. If you could go to the next slide, I think it would be helpful. Perfect. So University of ABC, we're looking at the median or we're looking at the value-added earnings calculation for the 2032-'33 award year. So going three years back, we've got ten completers in the '29-'30 award year. That is not enough to hit our metric of 50. So we move back to the

'28-'29 award year, which had 30 completers. We're still under 50 for those total two cohorts, so we're at 40. So we need to go back yet another year. And in '27-'28, there are 15 completers during that award year. So we hit 55. The process stops. If it were to be the case where, let's say it was ten, we're at 30, we'd need to go back again to the fourth award year. We didn't hit 50, but we are above 30, so thus we would use that 40 number to send to the Federal agency with earnings information. If it were to be, let's say five completers in each of those four award years, we would never hit 30. So thus, the value-added earnings calculation would not be applicable.

MR. MUSSER: So yeah, we'll keep you up there, Chance, for some questions about specifics here.

MR. FRAN CZAK: We'd like to begin. We had the prior queue, I don't want to dismiss those of anyone relative to the calculation, but do we have specific questions for chance? Let's ask those starting with Aaron, then Jeff.

MR. LACEY: So for your example where we're measuring for the '29-'30 award year, what's your earnings year? What's the tax year for which you're sampling earnings?

MR. RUSSELL: So we would be measuring

earnings -- it would be, I guess two and a half years out for some of these students because we're measuring students that completed within the '26-'27 award year. So that would be at least six months, I guess, if we're starting the process at least six months prior, that would be the -- I'm getting my fiscal years and award years mixed up here for a second. It would be the earnings measured within July 1, '28 to June 30, '29.

MR. LACEY: But it's tax year, right? So it's -- we're -- so we're talking about a 12-month calendar year for which earnings are being measured. Correct? I mean it says, it says --

MR. RUSSELL: That's right.

MR. LACEY: It says during the most recent tax year. Okay, so here's my comment, right. So if we're in award year '29-'30, the most recent tax year for which you can probably pull earnings is probably 2028 at best, right? So we're talking about students who may have graduated as late as December 27th. And I just want to make sure we're all really clear that we're going to be measuring the earnings of students potentially 13 months after they completed this program. And you know, my concern here is whether that is -- and I'm looking at the statutory text, I get you, it says three years prior to the award year. And, and yeah, I don't know if Congress

really got this or not. Who knows? But I'm interested in the Department exploring how it might think about interpreting three years prior to the award year. You know, it's always interesting when you talk about how do you count first year before, second year before, third year before. There might be some flexibility there. But I'm concerned about measuring students 13 months out from when they've completed a program. You know, I think most of the accountability frameworks, a lot of the literature I've seen typically contemplates a period that is a little longer than that. And so that's why I ask the question. I just want to make sure we're all real clear. It can be hard to tell when you're thinking about award years and fiscal years and earnings years and all those things to really think about the months and the spaces between, but I think that's a really important consideration here.

MR. MUSSER: Yeah, we can, we can, we can look at it. We -- you know, obviously, like you said, there are statutory constraints here, but we can certainly look at a proposal.

MR. FRAN CZAK: Okay. So we have left Jeff, and Kristin next. Jeff?

MR. ARTHUR: Yeah. Chance, are you looking at the -- when you've got a cohort, say it's been

expanded to four years, are you looking at the one -- the -- are you choosing one tax year for the entire cohort? Or is each year you go back you're going back another tax year for that group?

MR. RUSSELL: I think the latter.

MR. ARTHUR: The latter? I'd say maybe consider the former.

MR. RUSSELL: Did I misspeak there, Dave? So for -- so we're measuring each cohort, you know, x years, right. Same interval.

MR. MUSSER: Yep. That's right.

MR. FRANZAK: All good, Jeff? Okay. Kristin, Zoe, Richie, and Preston. Kristin?

MS. HULTQUIST: Thank you. I don't know if it applies to both the proposed reg and the example. So this is an eligible workforce program' total published tuition and fees. But then we're referring to the institution-level tuition. Does this regulation contemplate that a, a Workforce Pell eligible program might be intentionally priced lower because of this than the -- than, than other programs at the institution? So when we get down to (c), for instance, the institution must keep published tuition and fees at or below. I'm -- do you know what I'm getting at? Differentiated (inaudible).

MR. MUSSER: Yeah. That -- we would be interested in proposed correction to that. I mean, if this was not our intent to limit the institution's overall tuition, and nor would it be possible to do that because programs are priced differently. We're looking at the published tuition for the eligible workforce program only.

MS. HULTQUIST: Right. With, it sounds like -- but tell me if this is wrong with the intent that if I'm offering a short-term credential in a relatively lower paid sector, if I can make that as practically free as possible for tuition, that would meet this criteria, even though my students aren't killing it in terms of wages.

MR. MUSSER: Yes. Yep. One quick clarification to what I just said. If you have two programs that are in the same six-digit CIP code range, we would calculate a value-added earnings that would apply to both of them. So that's the -- that's as wide a net as we would cast for that.

MR. FRAN CZAK: Zoe?

MS. KEMMERLING: Sure. My questions are not specific to the presentation. Are we ready to move on?

MR. FRAN CZAK: Does anyone else have

any questions specifically for Chance? Preston?

MR. COOPER: Yeah, I just wanted to clarify this timeline thing. So if you are combining multiple years' worth of completers, the tax year in which their earnings are measured is not going to be the same calendar tax year. It's going to be the same number of years after completion for all cohorts. So if I complete in '28 and my earnings are measured in 2030, but then you have to combine 27 completers, the 27 completers, their earnings are going to be measured in '29. Do I have that right? Okay. Great. Thank you.

MR. MUSSER: Well, so this one we might have to take it back just to make sure everyone's on the same page here. But when we wrote this, the idea here was that we would use earnings from the same tax year for all the individuals in the cohort. Just make sure -- that-- that's the way that -- and there's, there's various reasons for that. But one of them is practical in nature given the Federal agency with earnings data. So that's the way that we currently contemplate calculating it. We wouldn't necessarily go back and obtain different years of earnings for each set of individuals in the cohort.

MR. COOPER: Could I just say something on that real quick? So right now, we actually

do that in the college scorecard. So we -- the college scorecard currently combines two sets of completers from different years and it actually measures their earnings in different calendar years. So if you have 16, 17 completers and 15, 16 completers and you're measuring three years later, you have both calendar year 2019 and calendar year 2020 earnings for those. So I think we are already doing that for other programs. I think it would be okay to, to replicate that here. And I also just think, for consistency's sake, we should be measuring, you know, the same number of years after completion for all students, because otherwise we're artificially inflating the earnings of programs for which we have to combine more years of students. Because if you are combining four years, potentially you're going back then five or six years to actually measure the earnings for the people who graduated four years prior.

MR. MUSSER: We can take that back.

MR. FRAN CZAK: Ritchie indicated he also has a question for Chance. Ritchie?

MR. MORROW: So the Federal poverty line where you're calculating that, is that coming from the same tax year that you're looking at?

MR. RUSSELL: The year in which earnings are measured.

MR. MORROW: Okay. So if you're going back three, four years calculating that, should we -- should there be an inflation calculation to account for increase in prices over those three or four years?

MR. RUSSELL: I think that's something we can consider as we're taking back the other piece.

MR. MUSSER: Yeah, we can consider that if you guys want to submit some language on it.

MR. FRAN CZAK: Okay. All right. Have we completed -- oh, one more. All right. So we're going to go to David next.

MR. KAFAFIAN: I was just running back through the, the years here, to Aaron's point. And I think it's even worse than we think. So if we have somebody in '26-'27 award year, and now we are looking to measure '29-'30 and we have to start six months prior. So six months prior to '29-'30 is 1/1/29. The most recent tax return at that point in time is 4/1/28 or roughly, which means the tax year's FY '27 for somebody who was a '26-'27 completer. So we are actually dealing with somebody who best case scenario, they have six months of earnings. And so we now not only are not measuring them meaningfully after they placed and completed the program, but we're also measuring them on a year that necessarily has only a partial, you know, has a stub year

effectively. And so I do think it's something that I would really encourage the Department to go back to. I don't think there's a perfect solution here. At the same time, I also would echo the taxpayers' proposal that we need to create on-ramps here because it's not just a '26-'27, '27-'28 as this program gets started, it's like any new program, we will necessarily have an on-ramp every time a new program happens. So it's not just as we get this kicked off. But I would encourage the Department to go back there.

MR. FRANZAK: Okay. Have we completed all our questions related -- or for Chance? Okay. Thank you, Chance. Appreciate it. All right. Next in the queue in terms of revisiting the topic six in its entirety or related topics in topic six, subtopics, we have Zoe and Aaron next. Zoe?

MS. KEMMERLING: Thank you. I have two questions. The first, I'm not sure if you're able to speak on this, but I was wondering if this method for aggregating data for small programs described in subsection G is going to be the same method used in the other accountability frameworks that we will discuss in January?

MR. MUSSER: The Department contemplates a similar process. I can't get further into

it than that. But at least in terms of going back in years we would contemplate a similar process. The statute for the other provision is more expansive. So it will not be exactly the same.

MS. KEMMERLING: Thank you. My second question is, can you explain why in subsection (a), you chose to measure the earnings of students who are working, as opposed to students who are in the labor force, which, to my understanding, would include people who are involuntarily unemployed, which I think would be relevant to the calculation of value-added earnings.

MR. MUSSER: So the reason we chose the term working is we have a process that Preston alluded to obtaining earnings for individuals who have completed a program through the College Scorecard. And the Department's intent, at least at this point, is to, to rely on at least elements of that process to do this calculation. And the concept of working is what we use in that context. So we chose to use that here as well.

MS. KEMMERLING: Are you concerned about capturing in the data people who are not able to find a job after completing the programs?

MR. COOPER: So the way that the current data match works with the IRS, you know, recognizing, of course, it's just a Federal agency with

earnings data, not specifically the IRS, we can't see actually whether people have jobs at the IRS data. We can just see their income. And so the protocol for the College Scorecard is going to take everybody with non-zero earnings in there. And that is how for the purposes of gainful employment and not, not gainful employment, but we've interpreted working for the purposes of the college scorecard is just do you have non-zero income in that calendar year? It is possible, of course, to include people with zero income, but then you'd be capturing a lot of people who are not in the labor force for voluntary reasons, for instance, stay-at-home parents or, you know, people who just might not, not be in the labor force for various reasons. So I think the best compromise, which has been reflected in the College Scorecard is probably, you know, the best way to go forward here is to continue just taking everybody with non-zero income for that, for that calendar year and putting them in the earnings cohort.

MR. MUSSER: I knew Preston would give a good description of that. I know he's done a lot of work on this, but I would also say that in the Department's view, what we're trying to do with this calculation is establish a limit on tuition and fees. How much can be charged given how much individuals are

actually earning later on? We also have a separate placement rate that deals primarily with whether individuals are obtaining work after they graduate. So we feel that this is the most appropriate way to do that.

MS. KEMMERLING: Thank you both for the explanations.

MR. FRAN CZAK: Okay. Remaining in the queue, we have Aaron, David, Richie, and Jeff. So I'll begin with Aaron.

MR. LACEY: Just to be clear, right, there's no accommodation for whether someone is working in field or out of field and the job for which we prepared them, the data just doesn't cut for any of that, right?

MR. MUSSER: No, for this purpose, there's really not a good way to do that.

MR. LACEY: Right. Okay. Yeah. Still thinking about this six months sampling issue, yeah.

MR. FRAN CZAK: David?

MR. KAFAFIAN: That was going to be one of my two. And then I guess the other question is, I would presume, based on what was just said, that we also generally have no way of understanding how many months somebody was working. We find that they earned \$12,000 in a year. We have no idea if that was in one month or 12

months?

MR. MUSSER: I'm not aware of any agency that would have that, that granular data, no.

MR. FRAN CZAK: Thank you. Richie?

MR. MORROW: Dave, I apologize. Did I hear you say you're going to use data from the National Student Data System to obtain these students?

MR. MUSSER: To obtain the list of completers, correct.

MR. MORROW: So if an institution wants to participate in Workforce Pell but does not report to the data system now, will you be requiring them to report to the data system?

MR. MUSSER: Can you give an example of a school that wouldn't be using the National Student -
-?

MR. MORROW: Cosmetology.

MR. MUSSER: So when we say use the National Student Loan Data System, we mean potentially through the National Student Clearinghouse, and who ultimately would report the students to NSLDS. Every individual who receives, as I mentioned, Direct Loans or Pell grants, the, for example, Direct Loan information goes through the Department's Common Origination and Disbursement System, and that system feeds directly into

the National Student Loan Data System, which then prompts the institution to report enrollment information. So I can't think of an instance where an institution would just not participate using that system. The Department has set up a process such that we always have enrollment information, including for Pell Grant recipients.

MR. MORROW: So then they'll just start reporting for these students that are in the Workforce Pell program then?

MR. MUSSER: I take your point that there may need to be some changes in the Department's technical requirements for NSLDS to ensure that institutions are getting the lists of Pell Grant-only students in these cases, but we will ensure that that is the case.

MR. MORROW: Okay. Okay. Thanks.

MR. CARIELLO: Jeff?

MR. ARTHUR: In our presentation earlier today, we identified or there were likely program likely Workforce Pell grant programs identified and a list of like 15 programs, for example. But I mean, and this is just to point it out, I don't know that there's a solution, but at least 6 of the programs of the 15 listed probably aren't going to pass this test. And I think there might be others. If you look -- you could look at

scorecard data for some of those fields to try to get some idea. But certainly, the earnings from Workforce Pell program are going to be less than they are from an associate degree or other diploma programs. So just to highlight that this -- the potential list of programs gets narrower and narrower.

MR. MUSSER: Yeah, that's acknowledged. And Congress decided that they want to have a narrower set of programs. I mean, even if we hadn't included the provision about a program not being eligible, you know, setting the published tuition at zero, for example, would cause the institution likely not to be able to offer it. So that's what we have.

MR. FRANZAK: Eric?

MR. ATCHISON: Going back to the question about lists. In the correction of those lists, does that include institutions adding students that did not receive Title IV aid but still completed the program?

MR. MUSSER: Individuals who did not receive Title IV aid should not be on the list. So we would -- if that were to happen, if they showed up on the list, we -- the instructions to the school would be to correct the information in NSLDS to ensure that they do not appear in the final list. Because the statute provides that it's a completer who received Pell Grant

funds for the program.

MR. ATCHISON: For the program specifically. And just to clarify one more thing, Dave. The 70% of students that are expected to find job placement, we go beyond that group of students for the measure of value-added earnings, correct? Okay. Thank you.

MR. FRAN CZAK: David?

MR. KAFAFIAN: Sorry. Can you just clarify what you just said, Eric? (inaudible)

MR. ATCHISON: Dave, would you like to clarify?

MR. MUSSER: Do you mean --

MR. KAFAFIAN: About going beyond in the 70%? Sorry.

MR. MUSSER: Well, so the individuals who are included in the 70% calculation are not, not the exact same group that we're calculating here because it's a separate set of students. That's what I was getting at. Yeah.

MR. KAFAFIAN: Helpful. The point I was going to ask about and transparently, I'm not necessarily advocating for this because I can see pros and cons here. You've created this long and thoughtful waterfall to try to get us to an end size that matters.

Was there any consideration of, instead of doing that which also now leads to some of the noise we're hearing about comparing kind of disparate time periods that somebody's been out of a program, to instead think about just expanding to not just students who receive Pell, but to any students who completed the program? And I do understand the limitations within the statute, but I could envision a world where -- I mean, the statute doesn't detail the rest of this either. I can envision a world where you could even get maybe comfortable with something that made that comparison, and instead of making it 150%, made it 175%. Again, I'm just throwing darts out there. I'm not even advocating for this, but just curious your thoughts.

MR. MUSSER: Yeah, the practical downside of that is too great for the Department, because we would need a statutory change in order to obtain information about non-Title IV recipients in the National Student Loan Data System. So we'd have to have that data come from some other source. And that's the point at which it would be very, very challenging for the Department. Not, you know, not impossible but extremely challenging.

MR. FRAN CZAK: Jake, did you want to comment?

MR. LALLO: Yeah. I'd also like to follow with that. I think there's an explicit statutory command here. It says the value -- the total amount of published tuition and fees for the program. That really doesn't allow us to open it up for, you know, non -- people in programs outside of that one. It's very specific. I mean, to the extent that you're correct, this is not all enumerated in statute. That's where the -- you know, interpretive duty of the agency. But we also can't, you know, change statute here and where it is specific, we have to stay within those lines.

MR. KAFAFIAN: My point is, maybe like the program is a phlebotomy program at University X. Here we are looking at phlebotomy University X students who receive Pell is my understanding of the ring fence and I'm proposing still phlebotomy, still university X. But students who did not receive Pell and heard, heard that it can't be students who did not receive a loan of any kind because naturally they wouldn't be in the system, but you could envision that there was a broader parameter that brings in more students here. They just aren't Pell students.

MR. MUSSER: Jake, one second, let me take a quick look at the statutory text. So the statute specifically also includes as a criterion for who is

included in this calculation, students who receive Federal financial aid. And yes, although you could look back at individuals who received it at some other institution at some other time, I think that would be an odd way of calculating it because, you know, we don't know who those -- we don't know why those individuals were borrowing at some other institution. We really had in mind here that it's individuals who received aid for the particular program. And we think that's the congressional intent.

MR. KAFAFIAN: Yeah. I'm -- I appreciate how thoughtful you all have been on this. It is a bit of a rock and a hard place. Either way, we're going to have to breach the language of three years prior or received Federal aid under this Title. So one of those two is going to need to get --

MR. MUSSER: And given the number of folks who have, who have brought up concerns about this, if you guys are willing to sort of chat with one another and come up with a shared proposal, it would be -- I think it would be helpful to the Department.

MR. FRANZAK: Aaron?

MR. LACEY: Well, I'll add a little to that, and then we can do that. So the way I read it, the -- you know, with the statutory language says is for each

award year, you're measuring earnings for students who completed the program three years prior to the award year. Those are the, those are the tent poles. My first question for the Department, I'm not putting you on the spot now, but before we draft any language again, it would be helpful to know if the Department would be open to potentially interpreting three years prior, like in your case, where you're determining for '29-'30 to be '25-'26 as opposed to '26-'27, so interpreting in a way that there would be three years between the year that students award year students graduated and the year, the award year for which you're measuring, as opposed to two years. So that's question one. That's --

MR. MUSSER: We would, we would be interested in that language. We could look at how far we could, we could stretch our interpretation of the statute for that.

MR. LACEY: Spectacular, because I think that is the more sensible approach if we -- if you guys can get comfortable with that. The alternative, and it is interesting to me, the statutory language does not speak to the relationship between the earnings year and the award year. Right? It says we got a measure for students who completed three years prior to the award year, and it just says the median earnings of such

students. It doesn't say for the tax year. It doesn't say for the most recently available tax year, the tax year that completed one or two years prior to the award year for which we're measuring, etc. So in theory, there could be opportunity to try to pull earnings or measure earnings on a non-tax year basis. I don't know -- and this is my question for the Department and the data folks here. I don't know if there's any reliable way to do that. But theoretically, again just theoretically, if you could pull earnings for students for the '28-'29 award year, I don't think there's any statutory -- anything in the statute that would prohibit you from doing that. Right? Nothing is mandating a tax or calendar year or any relationship between award years and calendar years. So I think there's flexibility there. I just don't know. I've never seen a system like this that didn't just sample the most recently available tax year earnings. And I assume that's because it's probably very difficult to do. So we'll work on the three years prior proposal. And then I guess my question to the Department may be for another day would just be, or anyone else who's a data person here, Preston, or anyone, you know, is there any reliable way to measure earnings for an award year period for students that would sort of alternatively solve this calendar, you know, calendar tax year issue that's

presented?

MR. FRAN CZAK: Okay. We have Zoe and Eric. Zoe?

MS. KEMMERLING: Thank you. Just have one follow-up to my previous question about working versus labor force. And I realized that there may not be a practical way to implement changes at this point. But part of my concern is that me and many other legal aid lawyers, we find that many of our low-income clients do not file taxes, even if they are possibly entitled to a credit, because they just know that they're not required to if they earn below a certain income level. So I was curious because we do have Department of Labor representatives in the room, and I know that Labor has been working closely with you. If anyone from Labor could speak to methodologies they use to measure income in relation to the entire workforce?

MR. FRAN CZAK: Anyone from labor? Marek?

MR. LACO: Yeah, I'll start, and I'll say that the measurements generally are happening from -- by the states. Wage records are the common source of administrative data used. And so because our metrics look towards a quarter of earnings is one of the metrics employment -- or employment rate second quarter, after

which a wage record can be used to determine if they're employed, and then also their earnings, median earnings of exiters in that second quarter. So it's a quarterly metric that aligns very well with state wage records and wage records gotten from other states. So that's the primary approach used by the WIOA programs for measuring earnings. I don't know, Luke, if you have anything to add?

MR. MURREN: I think that's it.

MR. LACO: Yeah.

MS. KEMMERLING: Thank you.

MR. FRAN CZAK: Randy, then Rachael.

Randy? Nice save.

MR. STAMPER: A couple of questions. So, the regulations speak about the program and the program's value-added earnings, and it also shifts and starts talking about institutions. This is a Virginia-specific question, although it's going to apply to other states. So we have 23 individually accredited institutions. But we are a system with a board that sets policy and tuition rates and such. So with -- for the sake of the definition of institution here, are we rolling up all 23 of our institutions and looking at their outcomes, or is it institution by institution, in which case that value, that value earnings difference

could, could be 23 different numbers?

MR. MUSSER: So it's abundantly clear to me that we need to amend our language a little bit. Because what we're talking about are program-level published tuition values, and that's programs within a particular institution. So, you know, you could have three different eligible workforce programs at the same institution, all of which have different -- each of which has a different value-added earnings that limits its tuition. That's the granularity that we're talking about. It's not an institution-level value. And I think we need to amend our regulatory text to make that a little bit more clear. Yeah.

MR. STAMPER: Follow-up question on that. Then it states that the Secretary will issue the list of value-added earnings. From a timing standpoint, colleges are publishing their enrollment catalogs and that sort of thing. And it states that is, it is for the year after the earnings is established. If -- just stating probably the obvious, if that, if that list is issued in May, it's going to be difficult.

MR. MUSSER: Yeah. The Department -- you know, we're -- we recognize our own technical limitations, we do intend to publish this value as early as we can prior to the award year that it applies to give

institutions adequate time. But we definitely hear you that that, you know, the closer that we get to the point at which the limitation kicks in, the more challenging that we're making it for institutions and potentially the individuals in the, in the, in the program who might not have access to it if the institution decides to discontinue it. So the Department is definitely aware of that, and it is our intent to give that value as early as possible, recognizing that, you know, we still have to wait for the tax information to become available for that particular year. But yeah, so we might -- that's also -- you know, we're keeping all of that in mind in the context of this other discussion that we're having about how many years to go back because I think that could mitigate a little bit of that -- of the timing issues here. But I -- we definitely hear you that we, you know, it's a problem if the Department calculates this too close to the award year to which it applies.

MR. STAMPER: Thank you for that recognition and the work. Appreciate it.

MR. FRAN CZAK: Rachael?

MS. STEPHENS PARKER: Thank you. I now have actually two questions and follow-up to that. In section, I guess it's 690.95. I think there might be two Bs here, but the second (b), it says no later than three

months prior to the beginning of the award year, the Secretary will publish. So is that the minimum? Like you'll do it as soon as possible, but no later than that time frame? (inaudible) question? Okay. So maybe that's something to consider if that's a good enough minimum time frame. And then my main question was going to be, it's not mentioned here, so the answer is perhaps no. But I know some of my constituency was wondering do states need to monitor institutions, publish tuition to make sure that they're not publishing throughout the year at any point, that they're not publishing tuition and fee rates that exceed their value-added earnings, like what they've received back from the Department.

MR. MUSSER: So the Department has not sort of -- in this amendatory text, we haven't contemplated a specific required role for states. That said, states probably would do well to pay attention to what, what is being calculated and provided to the institutions within the state, such that they don't have a surprise that an institute, that a program that they feel is, is getting students out into the workforce is suddenly being limited so much that it can't be offered anymore. But it's not something that's required under the Amendatory text here.

MS. STEPHENS PARKER: Thank you. One

thing my alternate and I are contemplating is a suggestion in this section and in the section on determinations by governors to allow states the opportunity to identify who they'd like to receive this data that sends back to institutions, perhaps partially for this purpose or just for general information. So that's helpful. Thank you.

MR. FRAN CZAK: All right. I don't see any other cards. Oh, I'm sorry. David?

MR. KAF AFIAN: Thank you. Two data-related questions. One is, would it be possible to reference Social -- coming back to what I was discussing last time around, stop periods. Would it be possible to use Social Security data, which I do believe has monthly, for those W-2s that, that come back.

MR. MUSSER: It's possible. But the Department as of today hasn't explored that relationship in any level of detail. We did work with them in an earlier iteration of gainful employment. And we shifted to the Internal Revenue Service for a variety of reasons that I don't want to get into right this second. But the answer is it is a -- it is possible, but is also -- would include some technical challenges. But I'm -- you know, I don't, I don't want to say that we're totally opposed to that idea. But we just recognize that there are some,

some limitations to which agency we work with. The other thing that I would say is that we can't -- we don't intend to specify in these regulations which agency it is because it could happen that we want to change that down the road. And, that's not really something that, that we want to specify here. And the other reason is that we have to establish an agreement with that, with that agency to, to work with this. And because the law didn't specify which agency it is, you know, we are going to have to work with, with them to come to an agreement about exactly how this is all going to play out.

MR. KAFAFIAN: Yeah. And respectful of that, I think I could imagine some language that gave you flexibility there while still saying, like, you know, as adjusted for time period, months worked prorated to the extent such data is available within the administrative data set, something like that. If I could also just go to the price parity piece, I'm glad Congress included that. There are different kind of levels at which price parity is reported. Could you maybe speak to the, to the way in which you are seeking to come to that price parity index? Is it metro, non-metro? Is it the (inaudible)?

MR. MUSSER: So the idea here is that we would use the most specific data that we have. So for example, if we have data by metropolitan area, we would

use that. If that's not available for the location of the, of the institution and the program, we would use the state level data.

MR. KAFAFIAN: Thank you.

MR. FRAN CZAK: I'm Eric, Preston, and then Jeff. And then we also want to save a sufficient amount of time for wrap-up and then planning setup for tomorrow. So what if we take that order and make our assessment from there in terms of next steps? Okay, so let's go with Eric.

MR. ATCHISON: Thank you, Dave. I appreciate the elaboration about the Federal agency. But that also does create the anticipation that it is a Federal agency and not a state agency. Correct? Even though state agencies are the ones that determine program eligibility and through the governor's approval process.

MR. MUSSER: That's true. And, you know, again, we chose this method because the Department has a clear path to doing these calculations with the -- you know, an agency that, that we can establish a working relationship with. And having that numerous different sources of data would, would be much more challenging for the Department to incorporate. But, you know, I'm not taking it totally off the table. I'm just expressing that there are a lot of challenges to using you know, 50

different state, state wages. Now that said, you know, as our colleague from the Department of Labor has pointed out, there may be a point in the future where those state wage data systems can be pulled together, and this information could be gleaned that way, which is another reason that if that, for example, were to go to the Department of Labor, we might be able to get that from them under the language that we have here. So we want to try to keep that language as broad as we can.

MR. FRAN CZAK: All right. My understanding we have two more comments and then David was motioning to potentially swap out.

MR. KAFAFIAN: Yeah. Can I just swap out for Dennis?

MR. FRAN CZAK: For Dennis? Yeah. All right. So we're going to recognize Dennis Cariello, Cariello, alternate for employers. And then we have Preston and Jeff. Preston?

MR. COOPER: Just really quickly on this question of earnings being measured in the same year that students graduate, I think the -- probably the simplest solution here would be to require that earnings be measured in the first full tax year after the student graduates or later. I think that's a much more straightforward solution than potentially trying to go to

other agencies besides the IRS, and we have the ability to do that now.

MR. FRAN CZAK: Jeff?

MR. ARTHUR: Yeah, I'd just comment. I'm pretty sure that the IRS, I would encourage sticking with that. I believe they have a more thorough or accurate picture of individual's income versus the Social Security Administration. I recall going through some iterations of gainful employment where SSA data was a challenge.

MR. FRAN CZAK: Any other comments at this time? Oh, Eric.

MR. ATCHISON: Where do we see these data being stored on these program outcomes?

MR. MUSSER: The Department doesn't want to commit to that specifically. However, I'll tell you that we contemplate having the information stored in the National Student Loan Data System where the calculation would be performed. So it will have to pull in the information from the other Federal agency, obviously. And then it'll be in an environment where we can pull the data together to do the calculation along with the price parities, etc.

MR. ATCHISON: And will that information be available to the public or to students?

MR. MUSSER: What information specifically? All of the factors that were used to perform the calculation?

MR. ATCHISON: No, apologies. The tuition earnings, sorry about missing the terminology on the top of my head, but, you know, topic seven.

MR. MUSSER: You mean earnings, will it be available to the public? So we haven't provided for that here in the amendatory text. We indicated it would go to the institution. So if that's something that you guys feel is important, we -- you know, you can certainly provide a proposal on it.

MR. FRAN CZAK: All right, Dennis, did you want to comment?

MR. CARIELLO: Yes. Again, thanks for all this. It's a tremendous amount of work and the thoughtful way that you've been approaching these comments. I have one that you know, piggybacking on what Randy said, I think is important to consider. You know, if a school is going to publish a tuition rate in first year and that number is going to change, we need to amend the misrepresentation regulation 668.73 to at least allow that if we've got -- if a school tells a student on day X that here's the tuition rate and then on day X plus one, that rate changes, they're not liable for a

misrepresentation. And again, that misrepresentation also would cover borrower defense claims. And so I think that's an important thing that needs to be addressed.

MR. MUSSER: You can certainly -- Dennis, if you want to submit a proposal on that. I'm just trying to think of cases where that -- because this adjusts the tuition downward. It would never adjust upward. I mean, I guess the school could increase its tuition, but if it's committed to a tuition amount that it's charging, it may have to stick with that in order to avoid a misrepresentation for a student. So I'm not sure -- maybe I'm missing it here.

MR. CARIELLO: Well, I think the point is that if an institution has greater flexibility because the program has been successful, they should be allowed to raise their tuition. I mean, again, some of this is set by states, right, that require X percent increase. And, you know, I think that that's something that should be considered.

MR. MUSSER: We can certainly look at it.

MR. FRAN CZAK: Before we go to Randy, Dave, is there any -- a set amount of time you need for wrap-up, from your standpoint?

MR. MUSSER: No, I think especially --

we have a lot of proposals to go through tonight. So I think this -- at this, at this stage, no.

MR. FRAN CZAK: Okay. Thank you. Randy?

MR. STAMPER: Just doubling back. So, so when those calculations are done at the institutional level by a program and there are three institutions offer the same program, that program is in a rural area, suburban area, and an urban area. And I know we have a rate factor. But it is possible then that their caps could be three different caps, which could impact tuition, potentially for one out of three or two or none out of three. But okay. Because, because we have a state-set tuition rate, some could be in violation, some could not be in violation. Correct? Okay.

MR. MUSSER: That's fair. And with risking getting a little too technical here, that would depend on whether the institution is defined at the six-digit OPEID level to include all of the campuses as opposed to each of them having their own six-digit OPEID, which differs by state system. Yeah.

MR. FRAN CZAK: Zoe?

MS. KEMMERLING: Thanks. I just wanted to have a very brief follow-up to Eric's comment suggesting that the Department consider adding a provision in the regs about data transparency.

MR. MUSSER: We're open to that.

MS. KEMMERLING: Thank you.

MR. FRAN CZAK: All right, I do not see any other cards. So looking at the wrap-up for today, the one topic that remains is topic seven, losing and regaining eligibility, so that will be a discussion point for tomorrow. Dave, Jake, or Jeff, is there anything you want to add for purposes of wrap-up today?

MR. MUSSER: I don't think so, except that another incredibly valuable discussion today. Appreciate all of the suggestions that we've gotten. I already -- we know we've already gotten some improvements to the regulatory text, and I believe we're going to get more. So I, again, thank you for a very valuable discussion and for your constructive feedback.

MR. FRAN CZAK: Jeff?

MR. ANDRADE: I will say, when we start going through all these comments in bulk and late at night, just as a reminder to try to build out the rationale a little bit so we can have some context and understand where you're coming from rather than trying to you know, read, read your minds as we're going through this. So, appreciate that.

MR. FRAN CZAK: All right. And then any final comments from the negotiators? All right, seeing

none, I just want to say thank you for today, Committee, for your thoughtful discussion and participation. I thought it was a very productive day. And we really appreciate all you're doing to help along the way. So tomorrow we will start again promptly at 9:00 a.m. Thank you very much. And have a good evening.