

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
ACCOUNTABILITY IN HIGHER EDUCATION AND ACCESS
THROUGH DEMAND-DRIVEN (AHEAD)
WORKFORCE PELL COMMITTEE
SESSION 2, DAY 2, MORNING
January 6, 2026

On the 6th day of January, 2026, the following meeting was held in-person, from 9:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MS. MACK: Good morning, everyone.

That was a very healthy response for day two of session two of the AHEAD Committee. I'm impressed. I am going to immediately begin with roll call. I will call out the abbreviated constituency name and primary or alternate, and I would love to have each of you just say your name into the microphone for the record and transcript. Let's get started. For our students, our primary?

MR. ATCHISON: Eric Atchison.

MS. MACK: Thank you, Eric. And our alternate?

MR. NOBLE: Magnus Noble.

MS. MACK: Thank you. And for our veterans constituency?

MR. FEEHAN: Matthew Feehan

MS. MACK: Thank you. And our alternate?

MS. HOWELL: Julie Howell. Thank you. And for our employers group, primary?

MR. KAFAFIAN: David Kafafian.

MS. MACK: Thank you. And our alternate?

MR. CARIELLO: Dennis Cariello.

MS. MACK: Thank you. And for legal

aid, our primary?

MS. HOFFMAN: Tamar Hoffman.

MS. MACK: Thank you. And our
alternate?

MS. KEMMERLING: Zoe Kemmerling.

MS. MACK: Thank you, Zoe. For public
institutions, our primary?

MS. HULTQUIST: Kristin Hultquist.

MS. MACK: And our alternate?

MS. WILLIAMS: Tonjua Williams.

MS. MACK: Thank you, ladies. For
private nonprofit, our primary?

MR. LACEY: Aaron Lacey.

MS. MACK: Thank you. And our
alternate?

MS. ROUSH: Joanna Roush.

MS. MACK: Thank you. For our
proprietary institutions, our primary?

MR. ARTHUR: Jeff Arthur.

MS. MACK: Thank you. And our
alternate?

MR. CLAYBAUGH: Ryan Claybaugh.

MS. MACK: Thank you, Ryan. For state
workforce, our primary?

MS. STEPHENS PARKER: Rachael Stephens

Parker.

MS. MACK: Thank you. And our
alternate?

MS. DESANTIS: Andrea DeSantis.

MS. MACK: Thank you. For state grant
agencies, our primary?

MR. MORROW: Ritchie Morrow.

MS. MACK: Thank you. And our
alternate?

MS. MCCLOUD: Elizabeth McCloud.

MS. MACK: Perfect. For state higher
education, our primary?

MR. STAMPER: Randy Stamper.

MS. MACK: Thank you. And our
alternate?

MS. DELANGE: Heather DeLange.

MS. MACK: Thank you. For accrediting
agencies, our primary?

MR. MCCOMIS: Michale McComis.

MS. MACK: And our alternate?

MR. LITKE: Gary Litke.

MS. MACK: Thank you. And for our
taxpayers constituency?

MR. COOPER: Preston Cooper.

MS. MACK: Thank you. And our

alternate?

MR. POLLACK: Ethan Pollack.

MS. MACK: Perfect. And I will not forget this time, as I did in December, our Federal negotiator?

MR. MUSSER: David Musser.

MS. MACK: Thank you. And from the Office of General Counsel?

MR. LALLO: Jake Lallo.

MS. MACK: Thank you. And our Deputy Assistant Secretary?

MR. ANDRADE: Jeff Andrade.

MS. MACK: Thank you very much, everyone. Everyone's accounted for. Welcome. One quick housekeeping announcement. On Thursday, the Wi-Fi password and instructions in here will change. If you could arrive slightly early to make sure that we can get you all connected and start on time, that would be much appreciated. So Wi-Fi changing Thursday. Dave, I'm going to hand it over to you.

MR. MUSSER: Thank you, Kayla. So this morning we would like to go through a few changes that we've made to the amendatory text, first in response to some recommendations by negotiators as well as some issues that we identified ourselves. These are mostly

technical, so hopefully no one gets excited about these changes. We will have likely more changes throughout the week. Then we'd like to go through just a brief summary of the presentations of the proposals that we've received so far. And talk through the ones that we've -- we are -- we will be able to adopt, ones that we are not able to adopt, and then go through at least a quick list of the ones that we're still considering at this moment. So let's start with bringing up the day two changes to amendatory text. So this is being emailed to all of you. Because there are only a few of these changes, we decided not to print the -- all of these. It's just one definition that we're updating. If anyone would like a printout during the break, just let us know, and we can get a printout made for you. But we -- right now we have -- we were emailing them to you so that you can have them virtually. So all of the changes this morning are made to the earnings threshold definition. The first set here is just clarifying the -- that this -- that paragraph one refers to institutions that are in a state of the Union or in the District of Columbia. And the reason that we made these changes is that we realized that the definition of state elsewhere in the Department's regulations and in the Higher Education Act includes the territories. So we needed to be more specific in the

regulations about this -- these provisions only affect institutions that are actually in states of the Union or D.C. If we could scroll down a little bit. Second, we have here -- scroll back up just a tiny bit if you could. Yeah. So the median earnings of individuals who were not enrolled at an eligible institution. And the reason for this is that the Department does not have information about enrollment in ineligible institutions. So we felt it was important to specify here and elsewhere in this definition that the exclusion is for students who are enrolled at eligible institutions. You can scroll down a little bit. The second change is slightly more substantive. And it was recommended by Aaron yesterday. This is in part something that the Department was planning to do anyway and something we had talked about. However, when we -- this section here in romanette (ii) refers to the test that we do to determine whether we use the state-based or national earnings. And here we are saying that we will do this test for the award year in which the calculations are made. And we made this change in several places in this, in this definition. So next, for graduate programs, again, offered by an eligible institution in a state of the Union or in the District of Columbia. Just a little bit more specificity. Here, we made one of the changes that Aaron recommended, which was

just a typo. We added the phrase who worked and who were not enrolled in an eligible institution. This second change about eligible institution versus institution of higher education is technical. Again, institution of higher education is the term used in the Higher Education Act, but it has a unique definition in the Department's regulations in 34 CFR 600.4 and that definition excludes proprietary institutions and postsecondary vocational institutions. So where possible, we made the change in this definition to eligible institution. We will make sure that that's the case elsewhere in the regulations as well as we go through it. Let's scroll down a little bit. Here again, this is the test for whether we use the state-based or national data. And we're just specifying this is for the graduate programs. We're specifying that we're doing it during the award year in which the calculations are made. And we also added here, instead of reside, we changed that term to if fewer than 50% of the students enrolled in the institution are from the state where the institution is located, that was always our intent. The term reside is what's in the statute. However, because of residency issues that we described yesterday, the Department's intent has always been to focus on where students are from rather than try to capture those complicated residency rules, which would

be, frankly, impossible in every case. So if we could scroll down a little bit more. Another instance of eligible institution. Scroll down a little bit further. And again, adding the term eligible institution, scroll down here. Same thing here. And then we are just changing institution of higher education to eligible institution. And if we scroll down a little further, and then we're just referring to eligible foreign institutions here. Is there any -- are there any more changes at the end? Yeah, a few more changes to eligible institution here. And scroll down a little bit more. And that's it. So those are the changes to the definition of the earnings threshold. There is one more change before I open it up for questions and comments. There's one more change that we made, really a drafting error on the Department's part. It was an orphaned cross-reference that referred to a definition that we struck. So I'll point it out when we get to it and it's in the emailed version that you guys have, but it's now -- it now simply refers to the definition of a private loan in part 601, rather than the definition that was in the part 668 regulations. So we'll get to that in that section in topic four. So yeah, I'll now -- I'll open it up for any questions and comments about these changes.

MS. MACK: Please, David.

MR. KAFAFIAN: Thank you. This is helpful. I understand the logistical challenges, but I think the statute does say in any institution for the subsequent enrollment. And so I would love to understand, like are there -- because there are also programs where like an LLM, for example, you do a JD, you go to an LLM that's not accredited by the ABA. I gather that that would not be ineligible.

MR. MUSSER: Well, there's two reasons I -- in our view, that we have to treat we have to define those as eligible institutions. First, when the statute uses institution, it nearly always is referring to an institution of higher education. And I think we would make that inference here that that's what they meant. And the second reason, as I mentioned, is operational in nature. We would have no way of consistently identifying individuals who were enrolled in institutions that don't participate in the Title -- sorry, that are not eligible. Because those institutions don't provide us any data and we don't know -- we would not know where those students are. So for both of those reasons, we have to use the concept of eligible institution there.

MR. KAFAFIAN: Makes sense. And so the specific example, the idea would be while that might not be an eligible program, it would be an eligible

institution. And so it would catch.

MR. MUSSER: That's right.

MR. KAFAFIAN: Thank you.

MS. MACK: There's no more comments or questions at this time, Dave.

MR. MUSSER: Okay. Thanks everyone. So then I just want to go through a quick overview of proposals so far. So first let's talk through the good news. We were able to take some recommendations and are working on changes based on, based on those. Eric recommended a change to the data set, which we've already made. And we are -- we're working -- the other item I believe was, was also addressed. Cody can talk about it if you have any questions later. We are also working on an update to the slides of the presentations requested by Matthew to make it clearer that the information in those slides is for Title IV recipients and might not be a perfect view of the effects on all students, especially in programs that primarily serve veterans, where Title IV recipients are actually quite minimal. So Cody will update those slides and send them around to folks so that you guys can see those too. We -- the more significant item that we're working on is Preston's -- brought up a concern yesterday about severability of the regulations. The Department is still looking at exactly what we would

do to address that. But Jake wanted to talk through, from a legal perspective, our view on that issue and how we might address it in the -- at least in the preamble of the, of the NPRM and final regulations. Go ahead, Jake.

MR. LALLO: Yeah, so we talked about this a bit in caucus yesterday with Preston. So what we're doing here is a little bit nuanced. You know, we're trying to harmonize an existing system with a new system that was created by OBBB. Those two systems, the accountability metrics created in OBBB and the Gainful Employment system that has existed, you know, at the Department for a number of years now, are drawn from separate statutory authorities. We're putting them in the same framework for the purposes of harmonization, to reduce confusion for institutions and administrative burden on ourselves. But we fully recognize that those are separate statutory authorities operating separate programs. Preston raised the concern that, you know, placing those two things together may create some degree of legal risk. Insofar as, you know, if one section was challenged, it could result in the other you know, either GE or non-GE being challenged. It could result in both being impaired in some way. We don't view that as a significant risk. We are very cognizant to, you know, the potential for challenges of -- in any case, certainly GE

is no stranger to litigation. But we believe that those two things can coexist in the same space and that there is the requisite statutory authority for both programs. That being said, we don't believe putting them in the same sections really creates that much risk, so long as we are very clear that they are separate divisions between GE and non-GE, and they live and die under separate statutory authority. We talked about the potential of you know, either splitting those things out or adding a severability clause. Severability clauses, while they're nice to have and they certainly pop up throughout regulation, courts don't necessarily treat them as particularly authoritative. It's really more of a function of contract law in some ways. It's a bit of boilerplate, but a court that does its homework is going to look at whether or not a program or, you know, a regulatory regime has a requisite statutory authority and whether or not its application is being applied within that or being used within that. And we think that even absent the severability clause, we're good to go here. We don't believe that separating it out really adds a lot of benefit. It creates extraneous regulation or -- and creates potential for confusion with schools over what's a GE program, what's not a GE program, and what frameworks that they have to follow. So we're comfortable

with the way it's set up now. I think we'd be open to adding a severability clause if it really makes anybody feel better about it. But we think for ease of administration, we'd prefer to keep everything in one place to just reduce confusion given that we don't think that that's going to add any additional legal risk.

MS. MACK: Please, Preston.

MR. LALLO: Thank you. I really appreciate that very thorough explanation, and I very much understand that. We'd like -- maybe we'll talk about some potential language around severability that we might submit later, if that's all right.

MR. MUSSER: Yep. Thank you, Preston, we appreciate that. Okay. So let me go through then a couple of proposals that we received that we could not adopt, largely for operational reasons. So Jeff submitted a few recommendations that would have treated programs that lead to licensure a little bit differently. And in particular, the proposals were around changes to the definite -- well, defining in regulation the field of -- a field of study, working adult and earnings threshold. So as we talked about yesterday, the Department believes strongly that we need to preserve some flexibility with those definitions. So we don't want to define those in regulation. But the real reason that we don't think we

can adopt those is that the data doesn't exist in most cases to actually incorporate those. We looked into it to see if there were -- if there was a way to do it. And we just don't think that it's workable. So, we don't think we can adopt that one.

MR. ARTHUR: Just, just a quick comment. I think we might have another idea. I mean, it's clear that there are certain master's degree programs that are the entry to a field and there is not an equivalent bachelor degree. When you look at the -- just mental health counseling, for example, I mean, there's no true bachelor's level substitute, but if you use the broad two-digit CIP, you pull in BSN, which from what I've analyzed, is the highest paying field in higher ed period after a couple of years out. And that if you at least -- if you just would consider going to the four-digit CIP for a program like that would probably work much better.

MR. MUSSER: Got it. Yeah, so we are still looking at proposals like that that would treat them differently. I would just go back to our earlier statement that proposals that treat one type of program differently are things that will be challenging for us to accept. We will entertain them. We will look into them. But those are the ones that conflict with the

Department's desire for parity across programs.

MR. ARTHUR: Yeah. And we may get some feedback from state universities and others that have a lot of these programs that would identify if we could pinpoint those programs that are directly entry level at the master's level with licensing. I don't know what all they are, but that was one that stood out.

MR. MUSSER: Okay. Thank you, Jeff. So the other thing that we could not accept was another interesting idea, Jeff, that that you proposed that institutions supplement IRS data during the metric calculation process in certain cases where the IRS data was potentially insufficient for the programs. We are still looking at ideas about appeals on that basis, but we didn't think that it would be workable to introduce another data source at the institution level to the calculation. We just don't think that that -- we can manage that operationally. So that one we cannot accept. Other than that we are still going through the other proposals. Some of them are quite substantive. We are considering proposals about -- that we discussed a little bit yesterday about having the rule affect Pell Grants rather than just Direct Loans if a program fails the metric. I would say again, that that runs counter to the Department's intent to treat all programs alike. However,

it is one of the ones that we're still considering. We are also looking at various recommendations for alternate earnings options for institutions. The Department has in the past expressed strong reservations about alternate earnings appeals for a variety of reasons. We are still entertaining the idea. And looking at the -- our past reasoning on those topics and some of the information that we've obtained over time, we will address that a little bit later this week. We -- we're looking at some proposals related to amendments of the metrics. Again, those are a little bit challenging for the Department because changes to the metrics, those proposals largely would treat certain programs differently. And again, we are focused on maintaining a rule that applies equally to all programs. But we are still looking at those and seeing if any -- if we could accept any of them, especially any that might apply to all programs. We are looking at a variety of a couple of proposals that would have us make changes to the reporting requirements. But because we haven't talked about that topic, we want to hold those for a little bit later this week. And we also have some proposals on the termination appeals and regaining eligibility. And that also is something we'd like to talk about after we've gone through those topics. So for now we're doing our best to get through the

proposals. Thank you all for all of the hard work on those already. I would, I would just say that folks have done a great job of providing rationales so far, and I really appreciate that. You know, there's often a great intro paragraph or pretty clear information about why you guys want to make these changes. It's incredibly helpful to us. So thank you for those who have submitted proposals so far. Please keep it up. That's incredibly helpful to the Department.

MS. MACK: Does anyone have any questions/comments on those before we move forward? Back to you, Dave.

MR. MUSSER: In that case, I will introduce our Chief Economist for the Department, Jason Delisle, to give a presentation on the Department's analysis of the debt-to-earnings metric and its relationship to the OBBB metric, and why we chose to eliminate the debt-to-earnings metric in our proposal. So we're pulling up the slides here, and Jason will come up to the podium.

MR. DELISLE: Okay. So a number of you have asked about the debt-to-earnings test in the current GE rule. The Department has proposed to not include this rule, but, as you know, maintain the earnings test. So I go to the first slide here. Okay, next slide. All right

so sort of a summary here. The GE rule includes two tests an earnings test and the debt-to-earnings test. It's the current GE test. So the Department proposes using only the earnings test and dropping the debt-to-earnings test. So just as a reminder, what is the debt-to-earnings test? So it is -- now, if you fail either test, all right, so the program loses eligibility. So the debt-to-earnings test is -- it's not really a debt-to-earnings test. It's actually a loan payment. It's an annual payment to earnings test. So we have to first calculate what the annual payments would be on that level of debt and then measure it against the earnings. So based on that calculation, the debt can't exceed -- the annual payment on the debt can't exceed 8% of income or 20% of discretionary income, which is the income -150% of the Federal poverty guidelines. So that's the debt-to-earnings test. So we'll do the next slide. So what we did here, and I'll walk through this, it's a little tricky. This is a matrix here. So remember if you fail one test you fail the whole GE rule as a program. So on the top left-hand corner here of this matrix, we had -- these are all the GE programs in the data set that we've released. And so we're -- also just a reminder here, we're defining program at the four-digit CIP. So we don't have the six digit CIP data. So this is a four-digit CIP that we're

calling programs. So we can see that 71.5% of the GE programs pass the earnings test. This is just a straight earnings test. And right below that you can see these are programs that pass the earnings test but do not pass the debt-to-earnings test. And I'm going to emphasize this because essentially this is what the debt-to-earnings test does. By having an additional test, right? You fail any one of these, you fail GE. By having an additional test, these are the -- this is the universe that you are trying to identify. You're saying these programs pass the earnings test but maybe their debt is too high. And so that is, that is that 2% of programs. You can see over on the right-hand side, 2.4% of programs fail the earnings test and the debt-to-earnings test. That doesn't really matter because we're proposing to maintain just the earnings test and they fail anyway. They fail the earnings test. So the debt-to-earnings test here, I guess to sum this up, is not adding a lot of incremental value in terms of the number of programs it's sweeping in, right? The earnings test in terms of failing programs, is sort of doing the heavy lifting, 24.2%. Right? And also 2.4% in the overlap. Okay. So the next slide here, this is just the actual raw number of programs. Again, four-digit CIP, not actually a program, but that's the data we have. And a reminder, this is of -- this universe here is

GE programs that we have earnings data for and we have debt data for. So, there's just 94. That's the total number. So again, the point here is the concept of debt-to-earnings sounds like a big deal and something you would want to guard against, too much debt relative to earnings, but in actuality, the total effect is quite small. So I'm going to also show -- I'll show you some more slides here in a second. But this number, so 2% or 94 of GE programs, so this isn't of all programs, just programs subject to GE, I would argue that this number is actually way too high, this 94 or the 2%. I'll get into that in a minute. But so what we're showing you here is probably the high bar in the number and share of programs that would be affected. So who are these programs? What are they? I can show you on the next slide. I have a few of these -- well, first I'm going to show you these, these matrix. Next slide. This matrix is -- now this is a bar chart. It's the same thing. So you can see this is the -- these are the programs, the additional programs that would fail if the Department were to add back a debt-to-earnings test like in the current GE. So also, I should just remind you that the calculation here of the debt-to-earnings, we're using the same earnings metric as in the rule in the proposed rule and in OB3. So this is fourth-year earnings of students or of graduates who are

working and we're using debt that is aligned with that cohort, so the debt that they took out. So the next slide is -- I'm going to change the denominator here. So this is all -- of all programs. This is those that pass and fail with and without the DTE test. So before I was only showing you programs that are subject to GE. This is programs -- this is all programs including those that are going to pass and fail the OB3 test that aren't GE programs. So you can see now that we've expanded the denominator and made the universe of total programs we're interested in here much larger, the effect of the debt-to-earnings test is even smaller. So the next slide, please. So who are the programs that are at risk of failing the debt-to-earnings test but passing the earnings test remember. So this is the universe of programs that the debt-to-earnings test would be capturing and sort of policing against. This is enrollment by credential level. So now it is 2% of GE programs. But it is almost 40,000 Title IV recipients are in programs that would, would likely fail the debt-to-earnings test. Okay, next slide. This is where are they in the various sectors, right? You can see that heavily concentrated in the for-profit sector. That's largely a function of that. We're only looking at GE programs and GE largely applies to for-profit, although also

certificate programs. So you can see that in the public and the nonprofit sector there are also some certificate programs. Now here I do want to get into this point. So you can see that there are six programs in the public sector that fail. The debt measure that we have in our data set is debt of only borrowers. The GE rule, the one that's currently on the books, measures debt, the median debt of both borrowers and non-borrowers. So if less than half of your students borrow, your median debt is zero. And you automatically pass a debt-to-earnings test. So we aren't accounting for that here. This is what I was saying before, where I actually think our estimate of the number of failing programs, 2%, 94 of them, is very high and unlikely to be the actual number. And so we think our debt number is too high because the debt we are showing is debt of only borrowers. If we were to use the debt of borrowers and non-borrowers, debt would be lower, fewer programs would fail the debt-to-earnings test, and that is most likely to happen at -- in the public undergraduate certificate space. That's because at public institutions, typically community colleges, fewer than half the students borrow. And so those debt numbers would actually drop to zero. And those would pass. So probably those six would fall out. Probably also maybe on the graduate certificate side as well in the public. Okay. So

next slide. What kinds of programs are they? What field of study? Programs that would likely fail the DTE test and those in the 94? This is the field of study. This is at the two-digit CIP. You might ask, well, what is it at the four-digit CIP? Well, I can't get that all in one page. So this is what we have. So it's, you know, mostly in the health, business and psychology and then a few other fields of study. All right, so next slide. Okay. So this is sort of a tricky thing to show, which is why are so few programs, if you think that 2% and 94 programs is few, why are so few affected by adding a debt-to-earnings test on top of the earnings test in GE? So this is tricky because, right, we have to prove a negative. We have to prove why this thing doesn't happen much using data where it doesn't happen much. So I mean to reiterate, remember that the earnings test is sort of doing the heavy lifting here in GE. It's capturing most of the programs. But so then what you're left with, right, are programs that have passed the earnings test. So by definition, these are programs that have higher earnings, right, because they've passed the high school earnings test. So now we're going to apply a debt-to-earnings test to programs that have already passed an earnings test. So we've already sort of narrowed the universe that this is going to apply to. But you also -- these programs also have to

have -- because, right, the earnings are going to be over -- about \$35,000, right, because that's the test. So in order to fail that, the debt has to also be quite high because the earnings are already at \$35,000. So this is why we sort of say this is an unusual situation. You have to be among the lowest earners in programs that pass the earnings test, and you have to be in a program with some of the highest debt in programs that pass the earnings test, right? So, so maybe it's a slight exaggeration, but we're not looking for just one needle in a haystack. We're looking for two. That's why we end up with so few. So I'm going to show you the next slide here. So this will give you a sense of the earnings. These are programs that, that fail and pass. You can see the two lines here. I just want to show you the income distribution, right? These are the percentiles. These are not programs that fail the debt-to-earnings test, right? These are these are the, the programs that fail or pass the earnings test. So we can just see the bottom line here. Programs that pass the earnings test, these are the incomes that we're, that we're working with in terms of determining whether or not a program passes or fail the debt-to-earnings test. You can see that the bottom of this, the bottom 10% is \$37,000. So even at the median, we're at \$54,000. So again, trying to show you why it's sort of

hard to fail the debt-to-earnings test once you've already applied the earnings test. All right, next slide. So here's the debt. Same slide as before. But now here's how much debt they have. So you can see the programs on the bottom that pass the earnings test. These are their debts. These are their -- at the various percentiles. So I already showed you that we're starting with a group where the bottom of the earnings are almost \$40,000. And these are the typical debt levels. So you're applying both of these. Now I would imagine for many people these do not look like -- at the median, \$14,000 is not an extremely high debt level. It's particularly not a high debt level if you are -- if you're at \$38 or \$40,000, which is at the bottom for this group. Okay, so next slide. So this is what I mentioned before, you've got to be in both of these groups. So in order to fail the debt-to-earnings test -- again, this is my point why this happens so rarely in the data set that we have is that you have to be in this bottom earnings group because you've already passed the, the earnings test. You got to be in the bottom of earnings group. And you have to be in one of these top two debt groups. So both these -- sort of this Venn diagrams both things have to overlap for you to fail the debt-to-earnings test. And that just doesn't happen very often, which is what the first slides were

showing. So, next slide. I want to try to illustrate here, like how the -- I think another point that's sort of coming through here in the background, right, is yeah, I'm sure you're all trying to operationalize debt, earnings, annual payment relative to 20% relative to 80%. And you just -- you can't do it. You can't do it in your head. You need several spreadsheets and you have to be doing a lot of calculations and all of this to say, right, the debt-to-earnings test is really complicated, and trying to determine whether or not someone passes or fail is not something you can just sort of intuitively get. So I'm showing you here, these are the -- we're holding income constant here in this analysis. It's \$37,419. That's the lowest earnings group of programs that pass the earnings test. So the group that would -- could be affected by the debt-to-earnings test. And you can see at the various debt levels that programs have, you have to get all the way to the 75th percentile. It's the left-hand side, \$25,000, before you were at risk of failing the debt-to-earnings test. Here, what I've done is we've used the -- for calculating the annual payment in the debt-to-earnings test, you have to -- we have to choose how long someone would be repaying their loan. And this is what the regulation does. And so for shorter term credentials, we calculate the monthly -- we calculate the

annual payment assuming they pay their loan over ten years. But if you have a bachelor's degree or a longer term credential, you calculate your payment over 15 years or even longer. And in this case, I've -- we've just assumed the shortest possible repayment term. And so the highest possible monthly payment, so the highest likelihood of failing DTE, in actuality, having \$25,000 or \$38,000 in debt, that's probably a bachelor's degree. And so they probably wouldn't fail at least at the \$25,000 mark in debt because the annual payments would be lower. All right, so next slide. Okay, so I mentioned how we aren't really -- we don't have the debt statistics for non-borrowers in our calculation. And so we're overestimating how many programs would fail. And our data are also predate the loan limit, the loan caps in OB3 for graduate students. So some of what we're seeing in the programs failing the debt-to-earnings test are programs where borrowers have a lot of debt that they can't borrow anymore because OB3 has loan limits in place for graduate students. So we've solved -- so OB3 with its loan limits for grad students, has actually solved a large portion of what the debt-to-earnings test was supposed to be doing. And I can, I can actually quantify that for you on, on the next slide here. I think it drops out 34 to 94 programs when we have the OB3 test, when we have the OB3

earning -- I'm sorry, loan limits in place. All right, so this is -- I went through and we looked at the programs that fail a debt-to-earnings test. And we look at how much debt they - if they're graduate programs, how much debt they have, and could they get that much debt once the OB3 loan limits are in place. These are those programs. Probably not. Right? A master's degree with \$90,000 in debt if your annual limit is \$20,000, highly unlikely. So we think that drops down to, to 34 out of 94. Okay, next slide. Almost done here, folks. So here's just to wrap up. We're -- the Department is proposing to apply the earnings test, but not debt-to-earnings. Debt-to-earnings test does relatively little in capturing more programs. Only about 2% fail. And I've mentioned earlier that the -- we actually think this is a high mark. Let me say a couple more things about why our number is probably an overestimate of the number of programs that would fail. When we send -- and also speaks to the complexity of a debt-to-earnings test, which I think is some of the reason behind the Department proposing to eliminate it. When we send earnings information over to the IRS, we do not get 100% match because some students aren't working and for other reasons. And so when you run the debt-to-earnings test, you have this issue of you have borrowers in your debt test now who are no longer in your earnings

test because we don't have earnings data for them. It didn't come back from the IRS. The current GE rule, how do they deal with this, well, they kick out borrowers with the highest debt from their calculation. Right? So we haven't accounted for that in here either. So debts would be even lower than what we're estimating here. And there's one more point that we haven't factored in here why our number is probably high and the actual number is even lower than this 2% and 94 programs. The debt is not the total debt that the student has. It's only the debt that paid for their tuition. The debt numbers that we're using here is the total debt the student has. So when GE is actually being operated, and in practice a debt-to-earnings test is calculated on the debt, only the debt that was used to finance the tuition expenses, which would also -- which would significantly reduce, we think, the amount of debt that's here. So in short, we think the DTE test, very complicated. Its total effects on increasing the accountability and quality assurance in the, in the GE rule, pretty minimal.

MS. MACK: Thank you, Jason. Dave, anything you wanted to add before I open it up to questions?

MR. MUSSER: No, we can talk through it.

MS. MACK: Perfect. Do you mind fielding a few questions?

MR. DELISLE: Sure. Cody, you want to come up here and answer (inaudible)?

MS. MACK: Tamar, I'm going to start with you.

MS. HOFFMAN: Thanks for this presentation, I appreciate it. I just had a clarifying question to start. I think it's your second to last slide. You talk about DTE under the new OBBB loan limits. I'd just like to clarify, debt-to-earnings also has to include private loan lending. So these numbers do not account for that. Correct? So it's very possible that the debt numbers here are actually a deep underestimate of what students will come out with. Correct?

MR. DELISLE: I'm -- it does not include private student loans. These numbers don't include private student loans. And you're correct that the debt-to-earnings test would include their private loans.

MS. HOFFMAN: Okay. Thanks for that clarification. The other thing I wanted to clarify is just with the numbers here of how many students are impacted and sort of what the budgetary impact here is. So my understanding is we're talking about 40,000

borrowers who could end up with student loan debt that is completely unaffordable under the debt-to-earnings test. That's about half a billion dollars. That's correct, right?

MR. DELISLE: I think it's about 380 million.

MS. HOFFMAN: 380 million? Do you have the numbers on that? Because I have something higher. And I just would like to make sure that what I have is accurate.

MR. DELISLE: So I guess our preliminary number is 380 million in disbursements in 2025.

MS. HOFFMAN: So that's in disbursements. But that doesn't include all of the interest that will accumulate on those loans.

MR. DELISLE: That's right.

MS. HOFFMAN: So that would actually bring it up to a significantly higher amount, right?

MR. DELISLE: Right. None of the figures that we're using in these discussions include any accrued interest on the loan.

MS. HOFFMAN: I see, okay. Thank you for clarifying that. I think I may have a number of other questions, but I'd like to be considerate of others, so

I'll pause here for a moment.

MS. MACK: Thank you. Preston?

MR. COOPER: Thank you very much, Jason. Really appreciate this presentation. It's very well done. I do think that I buy the argument that, you know, the debt-to-earnings test is going to affect a relatively small number of programs, although I also very much take Tamar's point that 40,000 students is still a very big number in absolute terms. I do think part of the reason for that is that this particular debt-to-earnings test, the first version of it, was kind of designed back in the original Gainful Employment rule when we did not have the earnings premium test. And so the DTE does do -- it was doing much of the heavy lifting. And I think just because, you know, the earnings test does, you know, take care of most of the problem programs, making the DTE test somewhat redundant, that doesn't mean that, you know, we as a society, we as policy makers should give up on the concept of incorporating some measure of debt or price into accountability at all. I recognize that our authority to do so as part of this committee might be somewhat constrained, but I do think that, you know, it's -- we shouldn't give up on the concept of incorporating some measure of debt or price into an accountability system.

MS. MACK: Thank you, Preston. David?

MR. KAFAFIAN: Thank you, Jason. This was really helpful. I guess the only thing I'd say to my colleagues to think about, and it's a private sector concept, but the reality is, when we say that it's totally unaffordable for a student to pay, it really isn't appropriate to look at the 20%. It's important to look at the 80%, right? Because I don't pay for my bills with the portion that goes to debt payments, I pay for my bills with the portion that's left afterwards. And so if we're talking about high-earning people by nature, which is what Jason just showed us, then somebody who's higher earning what that 80% that's left for them is a bigger dollar amount that can pay for their life. Right? And so this is why we don't worry about a medical doctor or an MBA or a JD who's in a high-earning profession breaching 20%, 30%, 40% debt-to-earnings, because the 60%, if you're going to go with 40%, is a bigger dollar amount. And so it's just something to think about, like this was a policy construct that was crafted with the intent of protecting students. I don't know that there's a ton of statutory authority for exactly how it was crafted. And if we're going to be worried about protecting students, which I share that concern, I do think we might want to look to the idea that the 20% number is anchoring on

something that's actually largely erroneous. It's not how any of us pay for our bills.

MS. MACK: Thank you, David. Check in up here and back there before I move on with other cards. Good to go. Tamar, back to you.

MS. HOFFMAN: Thank you. I'd just like to respond to something that David shared here. So I'm looking at this chart, and I'm just wanting to note that the earnings metric here is actually very low. I know we keep on talking about high-earning individuals, but 150% of the Federal poverty line for a family of four is \$48,000. It seems like I don't have the exact percentile here, but we'd be talking about, you know, about 40%, like, 40% people making less than that under this earning -- under GE programs that pass the earnings test. That does not leave a lot of disposable income to pay debt. And it doesn't seem like doctors are really the ones here who are at issue. We can, we can maybe get some more data on that, but I just wanted to respond to that comment.

MS. MACK: Thank you, Tamar. David, I'll get to you in just a moment. Jeff, did you have something on this?

MR. ANDRADE: Yeah. I just wanted to respond to Preston's last point. In terms of the value, I think we -- you know, this whole regulation is about

trade-offs. And you know, in what we just saw and what we saw in the development of this, you talked about value, but you're basically going through a lot of steps and a lot of machinations for very little difference in the result. You know, the common thing in both measures is earnings -- debt -- they're two -- essentially two measures of earnings. And so I guess I'd like a little bit more explanation, maybe from you on, on why you think going through all this calculation for such a little benefit is, is worthwhile.

MR. COOPER: Yeah. So just, just to clarify my points, you know, I do, you know, very much understand Jason's point that if we're talking about 94 programs here, you know, we can't capture everybody. The juice may not be worth the squeeze. I think my point was more that, you know, this particular debt-to-earnings test was designed in a world where the earnings premium measure didn't exist, and the debt-to-earnings test was actually doing the, doing the heavy lifting. And now that we have the earnings premium test, it does make debt-to-earnings a little bit more redundant. But I do still think that, you know, there are a lot of not so great programs out there that we are not capturing in accountability through either the earnings premium test or this debt-to-earnings test that has been proposed. I

mean, David raised the point yesterday, only 1% of bachelor's degree programs, you know, would, would fail. I mean, that's less than 1%, actually 4% of master's degree programs, that seems, you know, extremely, extremely low. And while this particular version of the debt-to-earnings test might not really solve that problem, and for that reason, the juice might not be worth the squeeze, my point is that, you know, as policymakers, we shouldn't give up on the idea of using some measure of debt or price in the -- in accountability systems, even if this particular debt-to-earnings test does not fit the bill.

MS. MACK: Thank you, Preston. Jeff, did you want to respond?

MR. ANDRADE: So, what I'm hearing is that -- I mean, you would agree that the -- this debt-to-earnings in this context in which it will be implemented doesn't -- I mean, you agree with us that it doesn't really get you any -- it may have been designed at a time where it did have more of an impact, but carrying that concept over in this context, with the other changes that, that Jason discussed in OB3 in terms of limiting debt amounts writ large, I guess I'm questioning what's the view on the value in the future context in which this will be implemented?

MR. COOPER: Yeah. And again, you know, I do recognize that, you know, this is a lot of extra administrative legwork to capture a relatively small number of programs. I don't disagree on that. As the taxpayer advocate, of course, I would prefer to have the strongest accountability possible. But I do recognize that not every, you know, administrative burden is going to be worth the extra, you know, benefit in terms of accountability. Again, I just want to say that even if this particular debt-to-earnings test is not, you know, getting us a huge amount of, you know extra benefit in terms of stronger accountability, that doesn't mean that, you know, some version of accountability incorporating data price would not achieve that goal.

MS. MACK: Thank you, Jeff. Thank you, Preston. David, thanks so much for your patience. To you.

MR. KAFAFIAN: I was just going to quickly say, I actually don't know that we need additional data from the Department. We may, but I would be more than interested in collaborating and just sitting down and modeling out basically like a budget across a matrix of opportunities, because I do think affordability matters here. Frankly, not just from a consumer perspective, from an employer perspective. There are plenty of people -- I don't have a statistic, but there

are plenty of people who are disenchanted by how much student debt they have. They don't graduate. They can't afford that debt. That's disproportionately who's defaulting on student loans. And then they fall out of the workforce. And that's somebody who could otherwise be in a, in a role serving society, serving employer, serving themselves. So I would love to work with you on that.

MS. MACK: Thank you, David. Jeff, I'm going to go to you and then I'll be back to Tamar.

MR. ARTHUR: Yeah, I just point out, there's a lot more not so great programs in 94 programs in higher ed. And when you consider other outcomes metrics, this is one outcomes metric -- there's other outcomes metrics, hopefully we'll get some insight into those -- and -- but there's certainly -- this is not about getting to everyone. Getting down to 94 is a pretty, pretty good job. And we can do more when we see other outcomes metrics, I think, and really fine tune this better. To the point about private loans, I know the, the impact on median is going to vary by institution, but I've done a lot of modeling of median debt and for our institution, the students that use private debt, it starts hitting barely about the 60th percentile and it really accelerates into the 90th

percentile. So it -- I mean, for our programs across the board, an institution, it doesn't change a median. I would suspect that's going to be the case with a lot of institutions. Just a statistical observation.

MS. MACK: Thank you, Jeff.

MR. DELISLE: I want to add another point that wasn't in my presentation. There are policies in place in law to limit the amount that students can borrow. So there are caps on the amount that undergraduates can borrow. And I think what's important here is, you know, Preston was mentioning that the debt-to-earnings test which was invented, the concept sort of arose, you know, 15 years ago and student loan limits for undergraduates, Congress hasn't increased them since 2008. So -- and they are not, they are not indexed to inflation. So those loan limits -- I can't do it in my head here -- but you know, almost 20 years of inflation eroding the value of those loan limits, the amount that undergraduates can borrow annually is probably about 25 to 30% less than it was when we first started talking about debt-to-earnings tests. We also have now loan limits for graduate students, which I mentioned earlier. And those are also not indexed to inflation. So going forward in the future, every year the amount that students can borrow in the Federal Student Loan program

is shrinking and has been for some time. So I think that the -- you know, will this be a bigger problem in the future? Under the current set of policies, no, it will be a smaller and shrinking problem in the future, each year as we go forward.

MS. MACK: Thank you, Jason. Tamar, back to you.

MS. HOFFMAN: Thank you. I actually had a question for the Department about this. Jeff, you had asked a question about administrative burden on the Department. It seems to me that the Department already collects all of the data that goes into making this calculation. So I'm curious if you can speak a little bit more as to why this is so burdensome from the Department's perspective? Especially given that you already are doing the earnings premium calculation, which again, involves a lot of overlapping data. And also just how important that is in light of sort of the changing policy environment we're dealing with, and the fact that we anticipate a spike in private lending that we need to be accounting for as well.

MR. MUSSER: So I can speak to that, Tamar. You know, I started working on financial value transparency Gainful Employment issues around the 2020 time frame. And prior to that, I had pretty much the same

view that you did that, you know, we have most of this information in our systems. We can bring it to bear to determine the Federal loan debt. We have the enrollment information that we need. All of that is sort of readily present. All we really need is some information about private loans. And after the changes made in the most recent regulations, we would -- we also needed institutional grants and scholarships. So what I didn't realize at the time was that there is actually, number one, an enormous amount of complexity in determining the amount of Federal loan debt that is associated with individuals who are -- were enrolled at -- or especially in earlier periods. The reason for that is when you're talking about Federal debt borrowed, the data that we have going back to a certain amount of time is a little bit limited. And in many cases, if we didn't have perfect loan records at that time, the Department had to do certain inferences about exactly when the borrowing was occurring and for which program, which made it extremely complicated. There would likely be less of that in this iteration of the rule moving forward because we are moving out of the era when that is necessary. But it would not eliminate it. And even a small number of those cases causes a significant amount of computing complexity that I, again, did not understand at the time that I

started working on it, but it's actually quite costly and quite burdensome for the Department to implement. There are also a lot of very specific and narrow use cases that, believe it or not, increase the cost and complexity and burden substantially. Specifically, cases where institutions go through mergers. When you have to take the debt associated with one program and roll it up into another program, the timing of the merger becomes an issue. The, the specific context in which it was occurring becomes an issue. Which institution merged into which one? All of those things. Although mergers are not incredibly common, actually constitute an incredible amount of time and expense for the Department and its contractors to get correct, because that data is also not perfect in every circumstance. And we have to dig into the underlying information to figure out which program the student was in and which program it translated into when they went into the new institution. The other pieces that are complex are both burdensome on the Department and on institutions. These are specific to the debt-to-earnings calculation. One of those is the private loan debt, which we're currently not proposing to eliminate. But in order to get accurate amounts of private loan debt, the institutions do have to do extra work to pull that information in. We have to make sure that it gets

incorporated into the calculation appropriately alongside the Federal loan debt. The other one that's challenging is the institutional scholarship information. That information, in many cases, schools had a lot of questions about, they struggled to determine which things were institutional and which weren't. They asked the Department an enormous number of questions about what constituted an institutional scholarship versus another type of scholarship. There were issues around the amount of institutional debt that institutions presented to the Department. So there were a lot of resources that the Department invested in terms of answering questions and making sure that institutions understood how those, how those components of the rule worked. Removing all of those components and the entire infrastructure for doing that calculation will be a substantial savings to the taxpayer and to the Department on that side, as well as it will reduce costs to institutions for the various amount of all the various data that they have to pull together on their campuses to do this work.

MS. HOFFMAN: Thank you for clarifying that. That's helpful information. And I'm also understanding from that that the converse of that is that if you get rid of all these systems that the Department has spent so many years building up, it will be very

difficult to get that information back, especially given that we're not actually proposing getting rid of some of this data collection. So it sounds like we have to balance these different needs. And I appreciate you walking us through that.

MS. MACK: Thank you, Tamar. Jeff?

MR. ARTHUR: Yeah. Just a quick comment. Since over the last 15 years, I've been directly responsible for GE reporting. And I can tell you, you talk to any financial aid person that's had to deal with that, and the IT staffs, it was overwhelming. The quality of the data submitted was not good. I recall a now retired Department policy person that was also a negotiator on these topics, commented that, you know, the data was -- a lot of it is garbage that they get. I mean, it was so complex. It was, it was like -- it didn't even work for many calendar systems.

MS. MACK: Thank you, Jeff. That is all the questions and comments. Thank you, Jason. Dave, I will turn it back over to you to see where you'd like to go next.

MR. MUSSER: I think we'd like to take a short break, ten minutes, and then come back, and we'd like to have a substantive discussion about debt-to-earnings, its inclusion or not inclusion, as well as

discussion about some of the other substantive proposals that have been provided by negotiators.

MS. MACK: Okay. Perfect. Thank you for setting that up. Let's take a ten minute break. Welcome back from break, everyone. I would like to say one thing about housekeeping. For this next session -- section, we're going to ask that some folks speak to proposals. I know that certain negotiators have written remarks they want to share. I'm going to be a little lenient and flexible on the three-minute piece. There's a little bit of an art and science to it, though, so if at some juncture I ask you how much more time you need, or if I ask you to pause and go back in the queue, please allow that. But I will be a little bit more flexible with this. With that, Dave, I'll turn it over to you.

MR. MUSSER: Yeah. So at this juncture you know, we want to get into the specifics about the metric calculation in a few minutes. But I think we've reached a point this week where we can talk through the broad strokes of the major concerns that constituencies have about the Department -- the Department's proposed rule, other proposals that have been made, etc. And so we want to have an opportunity for folks to clearly express their proposals, give their reasoning for them at the table and let the other negotiators at the table address

them. And so -- and in addition, so that the Department can hear responses to those proposals from all folks across, across the, the constituencies. Obviously, we just went through a presentation on debt-to-earnings, and we have several statements and proposals that we have received about debt-to-earnings. We are very interested in those. So if folks are willing to discuss their feelings about debt-to-earnings and the Department's proposal to remove it, we'd like to hear that. We've also heard a number of concerns expressed already about the earnings component of the earnings premium calculation and how it affects certain fields of study and certain types of programs. So we'd also like to hear from those constituencies who express those concerns, and what they would propose in order to resolve their concerns. So with that, I will open it up for some discussion.

MS. MACK: Aaron, would you like to get us started?

MR. LACEY: Sure. I don't usually read, but I was writing down my thoughts on this, so I will do my best to move quickly. I just wanted to express support for the elimination of the debt-to-earnings metric. In addition to the reasons cited by the Department regarding the -- I agree with the phrase, the juice isn't worth the squeeze. I had the same thought

when I, when I was listening to that argument. I had several other thoughts. I mean, first, Congress has only endorsed an earnings premium. I think, you know, they had the opportunity to endorse a D rates metric in the One Big Beautiful Bill Act and declined to do so. You know, my takeaway from that is a clear message to the Department is that the earnings premium test is the appropriate basis, at least at this time, for an accountability framework. You know, in a post Loper Bright world, I also think courts -- I think you're right. The GE -- this, this stuff has seen a lot of litigation. I think you can assume there may be litigation in the future. And, you know, courts, I think, are going to examine whether the rule best represents, you know, the best interpretation of statutory directives. And here, for the first time, you have a pretty clear statutory directive. So I think there's a lot to be said for that. The agency under this president, it's worth noting, previously took a pretty grim view of the DE rate metric in writing. I won't give you the whole quote. It's in the submission I provided to the Department, but in its 2019 rescission of the GE rule, this -- again, this agency under this president was very critical of DE rates measures and cited a number of issues with it. Those largely remain valid, you know, and

in addition to the ones that are sort of in the opening of that rescission, the Department also acknowledged the impact geography has on earnings, talked about the negative impact of wage discrimination around race and gender, the inability to obtain tip income. All of those were cited as problems and concerns with the DE rate metric, and they all largely still exist. By the way, I understand several of those concerns also are present in a straight earnings test, but Congress has given us a straight earnings test and statute, and I recognize that. That is not the case for DE. While raising serious concerns, including by this administration and some of the ones I've still expressed, you know, a DE rates metric does not serve any clear policy purpose. And I want to be really clear what I mean by this. I talked about this the other day. A DE rates measure, again, it doesn't measure the quality of an academic program. It's not measuring value-added earnings. It's not measuring lifetime financial value. When the concept was introduced, as was previously mentioned by the Obama administration, it was designed to measure the ability of students to service their loans three years -- three to four years after graduation. It does not do that, now that we have Income Based Repayment Plans, including like the repayment assistance plan included in OBBBA. So, you

know, at this point, it's not even clear to me the policy function that a DE rate metric would serve. I also just want to state, for the record, I'm not suggesting that Congress should give up or policy makers should give up. I agree with Preston. I don't think policy makers should give up on trying to think about how to encourage institutions, to the extent possible, to reduce costs and to manage debt for students. That's not what I'm saying. I'm just speaking strictly to the idea of this debt-to-earnings rate in the context of this accountability framework. The earnings premium test, in contrast, has been endorsed by both parties, which increases the likelihood that the rule limited to earnings premium will withstand future legal challenges and administrative changes, which I think is a very important point here. For over 15 years, as you all have noted, through four administrations, the Department has repeatedly altered course on accountability, with the result that no framework has ever remained in place long enough to be effective. We have yet to get one across the finish line with support from both parties. The earnings premium feature in the current framework, I think has the best chance of surviving future litigation and changes in administration. I think introducing a DE rate metric is going to decrease that likelihood of success. There are

still those on the hill and elsewhere that take real issue with the DE rate. Obviously, Congress did not endorse it. A stable, enduring accountability framework will be better for the Department and schools and students and taxpayers. I mean, we've got to stop the regulatory whiplash, the amount of time and money and cost that both the Department and institutions have endured over the last 15 years, mounting training and systems and putting all these things in place, only to have them stripped away again and never be infected with no benefit to date for any taxpayer or student is a problem. And we've got something here that I think is -- can, can get there and withstand future administration challenges and legal challenges. And adding a DE rates metric, I think has a -- increases the likelihood that that would be derailed and continue that pattern of instability. The current rule provides administrative and operational simplicity for the Department. You've talked about that already. And just to -- I mean, you know, Tamar, I got to tell you, I mean, Dave didn't even hit everything. You talk about, like what schools and the Department were having to do. If you've got students who finish one program, enrolled in another program at the same school, and they have to calculate the roll-up of the of the debt into these different programs, and then

you've got issues with dual enrollment. And, you know, you've got challenges around distinguishing private loans and whether you keep the original principal and -- or whether this is just a charge on the, on the balance sheet when the student actually graduated. Like, it's enormously complex for schools and the Department to try to administer this rule. And the earnings metric is vastly simpler. There's no question about that. The proposed framework represents also for the same reasons, a more reasonable administrative burden for institutions. So I just strongly support the elimination of this, particularly given the 2% add that we're talking about from the Department. But I also just want to restate for the record, I'm not suggesting policymakers should give up on holding -- I won't even say holding institutions accountable. I mean, we just need policy makers to work with institutions to figure out how to make higher education and programing more affordable, because schools, their economic model for most of them, is not working right now. I mean, just to be clear, I think most folks know this, but schools are not -- many of them are losing money on their programs. It's not like they're huge margins on these programs. They're subsidizing these programs already with other revenue streams. So there's definitely a problem here. And I think we need help from

smart people in government and elsewhere to try to figure out solutions. I just want to be clear, I'm just commenting on the use of this DE rate metric in this context.

MS. MACK: Thank you, Aaron. David, are you good? Okay. Tamar, please.

MS. HOFFMAN: Sure. Thank you. So the first thing I'd like to speak to in terms of why maintaining DTE makes sense, is actually the very first point that Aaron started with, which is maintaining consistency with the law. Congress is actually very clear about the fact that the OBBBA does not change Gainful Employment regulations. And in fact, the Senate Health Committee, in their own materials, explained that Gainful Employment should continue to apply to GE programs. That includes debt-to -- debt-to-earnings. And our interpretation is actually that the GE test should continue to apply to all GE programs, including the earnings premium test under GE. However, to the extent that the Department is not open to that which we hope that they will be, but if not, we think that at the very least, debt-to-earnings must remain because it is an important accountability measure. It makes absolutely no sense to think that the Department, with its limited funding, should continue to fund programs that leave

students in a vulnerable position where they cannot repay their loans. And we know that the spending here is significant. We know that we're talking about nearly half a billion dollars in either lost Pell eligibility or student loan disbursements, and that's before we add on interest. We know we're talking about at least 40,000 students or so, which is no small amount of enrollment. We're talking about size of a pretty, pretty big university there. And we also know that the debt-to-earnings metric will remain important in the years to come as the policy landscape shifts. With the new loan limits, we are very concerned in the uptake of private lending, which is -- which leaves students particularly vulnerable to predatory lending schemes, high interest and inability to repay their loans. And by the way, also that includes inability to then pay off their Federal loans because the consequences of defaulting on private loans is also very high, and students often may end up choosing to repay their private student loans before their Federal loans if they cannot actually afford the sum total of their debt. So for these reasons, maintaining debt-to-earnings is both an important accountability measure for making sure that the Department is not wasting valuable resources on funding programs that leave students in a position where they are

unable to pay their debt, as well as to protect students from spending their time, money, resources on programs that are going to leave them in a position where they are vulnerable to being in poverty. The earnings premium test under the Big Bill is a very low standard. It is lower than the current GE standard. Making more than a high school graduate in the area that, that students reside in is a very, very low standard. We're talking about a standard that is often under 150% of the Federal poverty line. So no discretionary income. That is not sufficient to make sure that education is actually adding value to students. So I think that these are a few points that are -- that we really need to strongly consider in thinking about how we are going to hold institutions accountable. I can take a breath here, and I'm happy to also explain more later if that would be helpful.

MS. MACK: Thank you, Tamar, I appreciate that. Jeff, please.

MR. ANDRADE: Sure. I had a question for Aaron. You mentioned the prior Trump administration. And you know, I've been in these programs for a while and have been somewhat of a skeptic on GE with regard to the authority. Do you believe that section 102 specifically authorizes the Department to have the framework that has become GE under the legal authority?

MR. LACEY: Well it clearly does not specifically authorize the Department to do that. I don't think that's a legal leap. I mean, it defines eligible program. And in the context of eligible program, it says, among other things, that institutions if you're qualifying your Title IV program in certain eligible program categories, then you have to meet certain criteria. And for certain of those categories, one of the criteria is that the program prepares students to -- for Gainful Employment in a recognized occupation. I mean, I think there are all kinds of legal questions there. As I mean, for starters, the obligation on institutions is to prepare students. It doesn't say the obligation is to guarantee that they will have Gainful Employment, which I think there's a big question as to whether or not an outcomes based measure that institutions can't control is really a fair measure of their ability to prepare. That seems like a measurement of inputs, not outputs, just for starters. I think there's a real question -- you know, this language even predates the HEA. I'm pretty sure it goes back to GI Bill days, 30s, 40s. I mean, you know, administrative agencies have an obligation, among other things, to act in a way that is not arbitrary and capricious. You know, it does beg the question when you have a phrase that was sitting in the law for six decades

and was never defined and is suddenly defined, I think there's a very open question as to whether or not there's a, you know, a rational basis for doing that. I mean, look, a lot of these arguments have been made in the litigation. But it's clear that there is not a clear directive from Congress for the Department to go define and build a Gainful Employment framework. I mean, whether or not you know the Department in a Loper Bright context has the discretion, and is acting in a way that is consistent with the best interpretation of the statute in building out a framework is a question for the courts, but I think -- I've said previously, I think it is very much an open question, and I also think it's a question -- I mean, let's just be really candid. If you implement a rule that eliminates 92% of cosmetology programs in massage therapy programs, it's a question that will be considered by court. And so I think when the Department is thinking about its approach here and what it wants to do, it does have to be very mindful of that. I also just want to highlight, I mean, I appreciate, you know, the -- I think there was a comment made the other day about sort of prior litigation. I mean, look, the first time this thing was litigated, it lost. The second time it was losing. But that litigation didn't go its course because the, the prior Trump administration eliminated the rule,

right? Most recently it was upheld, but, you know, it will likely be appealed or there will be new litigation. And that litigation was largely thought through and determined, much of it pre Loper Bright, but certainly also before the One Big Beautiful Bill Act. So I think it's -- there's a big open question here as to whether or not, you know, a court, depending on the court you're in, would take the view that there is statutory authority for extending any of this to non-degree programs. You know, but I'm not a court. I -- you know, you have to see what happens.

MR. ANDRADE: No, I appreciate that. And, you know, sort of when I first started here and was working on General Provisions and we had subregulatory guidance that, you know, that Gainful Employment had the same meaning that it has basically in the GI Bill, which is it's not a hobby. And you know, we reference back to the Department of Labor. Now their database, previously their occupational handbook -- so you're right, for 40 years, it was something much, much different than what it currently is now. And I appreciate that because there have been folks who have questioned the legality of this and you know, that is something that I think we ought to be considering is whether to continue on, on GE. So, thank you.

MS. MACK: Thank you both. I'm going to go to Preston.

MR. COOPER: Thank you. Thank you very much. So first of all, just want to say that I fully support the goal that Aaron raised about stopping the regulatory whiplash. We want to have -- you know, we want to build a standard that can last. We want to build something that can be agreed upon across administrations of both parties so that, you know, not only will there be predictability for institutions, but also so that we can actually have accountability, that we won't be changing things every four years and that, you know, we can actually have some sanctions take effect. I do want to discuss a little bit about the current structure of the debt-to-earnings rate. So right now there's kind of an escape hatch in the debt-to-earnings rate the way it's currently designed. There's two tests, the annual earnings test and the discretionary earnings test. Annual earnings test says that your loan payment can't be more than 8% of your total income. Discretionary earnings test says that your loan payment can't be more than 20% of your discretionary income, or income above 150% of the poverty line. This makes kind of a difference for, you know, programs that have relatively high earnings. So programs that are more likely to pass the earnings

premium test because as your earnings go up, the difference between your annual earnings and your discretionary earnings looks relatively smaller. So basically, for higher earning programs that also have a high amount of debt, the discretionary earnings test functions as kind of an escape hatch. So we're talking about like, graduate programs, you know, bachelor's degree programs where earnings are higher, but debt is also higher. These programs are more likely to pass the debt-to-earnings test as currently constructed because of this discretionary earnings escape hatch. And so I ran a few numbers here. And the One Big Beautiful data set, we know that 40,000 students are in programs that pass the earnings premium test, but fail the debt-to-earnings test is currently constructed. If we were to get rid of the discretionary earnings escape hatch and subject -- make the debt earnings test only the annual earnings test, that would almost triple to 110,000 students that would be protected by a debt-to-earnings test. And in that case, the juice might be a little bit more worth the squeeze. And I'm wondering if maybe the discretionary earnings test, that escape hatch is a little bit outdated now that we have the, the earnings premium measure in Gainful Employment and if potentially a debt-to-earnings test that focuses solely on the annual earnings rate and

gets rid of the discretionary earnings rate might be something that the Department would be open to.

MS. MACK: Please.

MR. ANDRADE: I guess my question is where -- when the statute refers to the term program that leads to Gainful Employment and recognized occupation, do you get to the place that you just referred to?

MR. COOPER: I think that, you know, if we've decided that it is legally possible to have a debt-to-earnings test in there, then it wouldn't make a difference whether that is both the annual and discretionary earning -- debt test or just the annual earnings test.

MR. ANDRADE: Thank you.

MS. MACK: Dave, did you want to add something?

MR. MUSSER: Just, just one quick point to make sure that we're all talking about the same things with respect to the debt-to-earnings calculation. So to be clear, we're not just talking about having a debt to -- debt-to-earnings calculation that applies to just certificate programs. We're talking about a debt-to-earnings process that would apply to all proprietary institution programs as well as all certificate programs. That will be from the Department's perspective and from

institutions perspectives somewhat more complicated because institution -- proprietary institutions will then have the two layers of oversight over their degree programs as well as their certificate programs. That's not to say that that is impossible to overcome. Just want to be clear that when we're talking about maintaining the debt-to-earnings calculation, we've talked often about unique treatment of certificate programs, but that's not the scope that we're talking about with the debt-to-earnings calculation because that applies to all GE programs.

MS. MACK: Thank you. Matthew, you are up.

MR. FEEHAN: Yeah, I second the Department's thought on that. And I'd like to kind of take this back 30,000 foot level to Preston's comment about the regulatory whiplash. So speaking on behalf of the constituency for veterans, I would argue that no group has experienced that whiplash more aggressively than student veterans. The reason I'm saying that is because -- and Aaron's -- to Aaron's point, it's not really a secret. Postsecondary educational institutions are looking for additional revenue so that additional revenue streams coming from the GI Bill and tuition assistance, but a good portion of that GI Bill. So you --

just as a general 30,000 foot comment, you're seeing institutions across the United States propping up, you know, military-friendly pages and, and service member-friendly pages and military-friendly pages, badges, what have you. And the reason for this is because they're looking for other revenue streams and sometimes -- and this is to my constituency, so I hope they know this, we're subsidizing what are otherwise failing programs in higher education. So that's a 30,000 foot comment. With respect to the, the whiplash, the regulatory whiplash, I say that because there is a very significant amount of litigation that's been with the GE rule. It's my position, and I've written about this in the past that we can't have the Department and our regulatory process in general, used as a way to inflict what is essentially business pain on a particular demographic, for instance, student veterans or, you know, they can pull their money or can't pull it up based off of a singularly focused or objective-based regulation. So getting back to the point, for our constituency, we've got no problem with the debt-to-earnings staying out as proposed from the Department. But I would add that if they're -- just to my colleagues here, respectfully, if there were an opportunity to put this back in, that's -- that it survives another administration because that's been our problem. We keep

doing this whiplash exercise, and to survive another administration, what that would mean -- would -- if it goes back in, it applies everywhere. Not just the for-profit proprietary institutions and not just to certificate programs. I want to see -- and in light of what the Department is doing now, I want to see regulation that is harmonizing and meets the Undersecretary's previous point when we opened to harmonize all sectors. If we're doing accountability measures, we can't be doing this accountability measures by sectors anymore. We got to do accountability measures for everyone. And that will best protect my constituencies, constituents. And again, as Department's currently regulated debt-to-earnings can stay out. But I would just again advise my colleagues, respectfully, to just think about how it would apply beyond just targeted regulation again.

MS. MACK: Thank you. Jeff, I'm going to go to you.

MR. ARTHUR: Yeah. When we look at the state of higher ed right now, higher ed is losing the trust and confidence of the public. We've seen that. When I look at this package of proposed rules that the Department's put together, it's an opportunity for us to restore. I think they're helping us restore the trust of

the public and higher education. And when you -- they've set a baseline that applies to everybody. A baseline income that applies to everybody. We may not agree with where that is. There are some considerations we've got to discuss about that -- what that benchmark is. But when you look at the other, you know, the other elements that the public wants to understand about programs, they ask, what's it cost, you know -- and we've got an AI platform that we transcribe our prospects, you know what they're asking us, and they're asking -- the most common question is what's the program cost? They're not asking anything else. That's -- what's this going to cost? None of us can answer that. None of us can answer that right now and to -- truly -- and they want to know, you know, how long -- some of the information that's going to inform consumers is in this package. And I think it's going to be tremendously impactful when we get into doing research. I think it's going to help higher education improve. I think we're going to improve our outcomes with the way this has been constructed. And I thank the Department for, for expanding the information that will be available to consumers. And a debt-to-earnings does not -- it's a metric that is not equitable. It doesn't help consumers when it only applies to 5% or 7% or 8% of the students in higher education. The baseline wage metric is something

that is a good starting point. And I think we've got a package here that's going to give -- help students make - or consumers make better decisions, and it's going to help us develop better policy and better identify programs that are not so great and programs that are doing a good job and by institution. And I look back at the prior -- under the previous Trump administration, we were headed down a path of identifying programs that are outliers. And frankly, that to me made sense. I was a little disappointed we abandoned that. But when you are looking -- you know, if you've got a passion for program, you want to go into culinary, you want to go into cosmetology, you want to go into social work services, whatever you want to do to be able to compare the comprehensive transparency framework that you can see what institutions do well -- okay, I want to go into this program. They want to go into it. Okay. Well, you should understand what those outcomes are likely to be. We've got the salary information, but you need to also identify which institution is going to fit me the best. And I think we're -- I think this allows us to get there. And I think a lot of the lack in confidence and trust in higher -- is just simply due to a misunderstanding of what the opportunities are and what we're accomplishing in higher ed. And I really think that this package will help us on

a path to try to restore that.

MS. MACK: Thank you, Jeff. Jeff, I'm going to go to you and then Tamar, I'm coming back to you. Okay. Tamar, please.

MS. HOFFMAN: Sure. Thank you. I'll be very brief, only just because the issue of litigation came back up again. I just thought it might be helpful to sort of remind the room that not six months ago, the Department defended successfully the Gainful Employment rule, and in doing so stated that, and I'm quoting here, Congress could not have possibly intended to waste taxpayer money on programs that leave students in unfavorable debt or no better off than where they started. And it also states that without such protections, it would be a perverse system that wasted taxpayer money in order to impose crippling, credit destroying debt on low income consumers. So I'd just like us to hold that in mind as we move through the rest of this conversation.

MS. MACK: Thank you, Tamar. Jeff?

MR. ANDRADE: I think when we started this whole committee and the Undersecretary made his remarks and then when I opened up this session I think we're at the juncture of we have to decide whether we want to create something new and something that's going

to last and something that everybody can live with, or whether we want to continue this sort of whipsawing process. And you know, I think hanging on to sort of legacy policies that were developed in different contexts with different -- in overall policy goals and environments and not looking at sort of, you know, a new bill which addresses some of the key issues and has an entirely new context. I don't think it's helpful sort of that process to move forward. And we would very much like to work with you on creating something that we can all live with and work with and that will actually result in programs that don't meet the standard being eliminated. You know, I think, you know, that's really the task. I mean, do we want to finally, you know, take action on this stuff or not? I mean, that's really in your hands right now. So, you know, I -- you know, we are at a -- I think we're at an inflection point here. So I would hope that everybody sort of sees where we are at the moment. And you know we can all move forward together. Thanks.

MS. MACK: Thank you, Jeff. Eric, please.

MR. ATCHISON: Thank you. I appreciate the comments from the negotiators and the Department on this topic. As a representative for students on this committee, regulatory whiplash also impacts students more

often than we might think. I know several students who have been in school for more than ten years, and in that case, they've lived through the changes in the regulations. There's been additional conversation at this table already about the need to better understand calendar time by enrollment intensity and looking at full time, part time. And a lot of us, you know, shook our heads on this and thought it was a pretty good idea, I think. But we have to remind ourselves that for students, time is money. And so in that sense, we're alluding to calculating timelines for students to work through programs. But we're also thinking about moving away from measuring the debt that comes from that and their ability to repay that debt after they graduate. And so I do maintain that the debt-to-earnings ratio is very important. And I think that we're actually strengthening the need for that through other changes that are being proposed. And as these students become more informed consumers from this, I think that will help them become better taxpayers to manage their own resources as they think through what this looks like if we are able to maintain some sort of debt-to-earnings ratio, whether it includes the, the discretionary calculation or not. Preston, I'd love to talk to you more about that. But thank you again to the Department for this very good

conversation. But from a student's perspective, I think we need to, to ensure this stays.

MS. MACK: Thank you, Eric. David?

MR. KAFAFIAN: First, I'd like to ask just a procedural question, knowing that I was the hiccup in the first week around tagging in and out with our alternates. We're kind of intermingling topics right now. I'd love to personally comment on the debt-to-earnings piece that we're talking about, but when we get to the kind of how we think about earnings specifically, which was the second one, then bring Dennis in, I just want to make sure that I can do that.

MR. MUSSER: Yeah. I actually think it looks like there's no -- Eric, do you have anything else? I think that there's -- that this may be the last comment on debt-to-earnings, which means, yeah, if you want to discuss that, and then we did ask for a more robust discussion on concerns about earnings more specifically. So then you could bring -- we could bring in Dennis after that.

MR. KAFAFIAN: Terrific. Thank you. I guess I'd say that I'm encouraged meaningfully, by hearing kind of seemingly unanimity around the table, around avoiding whiplash, that that hurts everybody involved. And so I share that. I think, like the Built to

Last is something that I certainly am taking to heart. I want to make sure that I don't just advocate as vociferously as possible to get, you know, as much as possible, but rather that we can end up somewhere that can stick. I think that there's two concepts that we -- that have been historically intermingled in GE and that we keep talking about. One is affordability and one is preparedness. Affordability, regardless of -- debt-to-earnings came out of this preparedness concept. The language is prepared for Gainful Employment. Over history, we've turned it into an affordability test. I think that's reasonable. I don't want to relitigate that. But since then, it is much more analytically, mathematically effective to test and protect affordability through Income Driven Repayment. The reality is, the current DTE standard calculates the D, calculates the debt based on a standard amortization plan. And when we look at the charts that Jason provided us, the person who was in the bottom 10% of income, so \$37,417, and in the top 25, top ten pick a number, borrowing, is paying \$144 a month under RAP. So they're well under 5% of their income is what they're paying. So that is the affordability mechanism that we have been given to protect students. Not saying it protects all things. It doesn't protect taxpayer dollars. There will

still be loss. We won't get full recovery on that principle. Certainly not. But I do want to be clear the student is protected from an affordability perspective based on that structure. So then we get to preparedness. And preparedness, to me, just in a colloquial sense, is whether it has ties to workforce. There's probably plenty of other tests that we could come up with. I don't know that we have latitude to do that, nor time, but certainly earnings itself is much closer of a proxy to that. So that's, I think, where I would sit on here, but I would just want to have everybody resting on. The last piece to just go back to DTE and how just fundamentally flawed it is. Preston, I do hear your point about what you've called an escape hatch. I guess I would say ask most any private lender, it would be typical to lend to a student who had up to 20% of debt payments to their income in aggregate, not just 20% discretionary. And they're certainly not in the business of trying to lose money. And so I guess I would just say that if 8% -- if the 20% of discretionary is viewed as an escape hatch, I think that that is, just to the common person, when you build out a budget, that does leave you with 80% of discretionary, let alone the part that was backed out to get to the discretionary calculation as the protection for you to be able to afford your life. So I guess I

would just encourage us to think about these concepts. I do hope that we can come to something that can be built to last, that creates one size fits all. I think that would be certainly better for society, for accountability. So hopefully some thoughts that are relevant with that in mind, I would --

MS. MACK: Before we swap, it looks like your remarks have solicited a couple of reactions, so I'd like you to stay put for just a moment. Tamar, please.

MR. KAFAFIAN: Can I just let Dennis come deal with the problems I've created?

MR. COOPER: Thank you, Kayla. Yeah, just, just really quickly on kind of the discretionary earnings thing. I think, you know, the point that you raised earlier about RAP is, you know, how I would respond to that you know, people can go into Income Driven Repayment Plans now where they are going to pay a maximum of 10% of their income. If that 10% of their income is not fully covering, you know, their interest payment, then that remaining interest gets waived and they also get a credit towards their principal. You know, I think that that's great. You know, I love the Repayment assistance Plan. I think it's a great innovation. But that is still a taxpayer cost. And I think we should be

cognizant of that when people are dealing with you know, high debt burdens relative to their incomes, you know, the student still has to pay that, but also the taxpayer has to pick up some of the bill there, too.

MS. MACK: Thank you, Preston. Tamar?

MS. HOFFMAN: Thank you. Yeah. I'd just like to remind as well that this chart is based only on Federal Student Loan limits, and it is not based on private student lending. And I think that that's a really critical part of the DTE test. Thanks.

MS. MACK: Reaction?

MR. KAFAFIAN: Yeah, I think -- I don't know if the Department -- I do think it would be very helpful to see this slide 13 inclusive of the two changes because they go in different directions. The private student loans as well as the tuition only component because those do go in opposite directions. And I think that would be helpful. It's an empirical question. I don't know the answer. I would assume that looking at medians honestly normalizes and removes some of that difference, but it's -- I don't want to pontificate. So that would be my first ask there. Overall, look, Gainful Employment, back to the statutory language, preparing for Gainful Employment. Those words have a specific meaning and they aren't protecting

taxpayers from undue payments. And so I guess I would just go back to that initial language where we are today. We have affordability and we have preparedness. And I think we've got a test that the Department's put forward that speaks to preparedness. I think we've heard just the onerous costs. And frankly, the noise that comes from trying to handle these DTE things that are seeking to deal with affordability. I'm very much open to -- I would love to dig into -- I think Aaron's last point maybe is the most prescient. We have to figure out some way societally, I don't know if it can be this committee. I would love for it to be that, to think about the cost of higher education, because people don't borrow just for the kicks of it. They borrow because the cost of goods and services is at a level that requires them to not be able to pay it out of pocket. So I don't want us to intermingle all of these things and think that we can solve them all with one imperfect test.

MS. MACK: I'm going to hear from Dave, and then we'll do the formal exchange for your constituency group.

MR. MUSSER: Yeah, we appreciate the comments from both sides on that. But I would just say we don't -- we would love to have presented data that included the cap on tuition with incorporating the

scholar -- institutional scholarships. And we would have loved to incorporate data on private loans. We don't have those available right this second. Or else we would have brought them for, for our discussion. What we have, you know, while limited, we think is still -- because it cuts both ways in that way, we do believe is a strong indication of the real effects of the debt-to-earnings metric when -- if it were added on -- you know, above, you know, in addition to the earnings premium.

MS. MACK: Thank you, Dave. Jeff?

MR. ANDRADE: And since we're on the topic, I know a couple of the negotiators in our STATS transparency framework had recommended removal of the private loan data. And -- which is something that we've been considering. But in light of this discussion has that changed any of your, your thoughts on -- since that's the only source that we would have in order to look at private student loan debt.

MS. MACK: Does anyone want to speak directly to that? Matthew?

MR. ANDRADE: And I'm specifically looking at people who have proposed to remove it.

MR. ARTHUR: I would still request it to be considered.

MR. LACEY: I don't think I actually

did propose for it to be removed, but I just -- I -- but I think I concurred that it is very complicated for institutions to obtain. There's no doubt about that. On the other hand, you know, to my prior point, I mean, I think that debt information is certainly important for students and borrowers. I would never say otherwise. So, you know what I just don't know is whether it can -- I have the concern-- Jeff made the point earlier, and this has always been a real concern of mine, for any accountability program that involves institutions supplying data to the Department. And I'll say two things for the record. The first is, you know, I've probably worked, I don't know if it's hundreds, but over a hundred institutions. I've had conversations around reporting these things and I've had a lot of grumbling. I've never had anyone say, we don't want to do it right or we don't want to do it. Well, they may have said, we don't want to do it, but I've never had them say, we don't want to get it done and do it right. But it's widespread confusion. I mean, there's so much lack of understanding. And to Jeff's earlier point, and I've said this to clients and publicly, I have a very high level of confidence that the quality of the data that has gone into the Department in the context of this reporting is pretty low. I think there is widespread irregularity, and that's not for lack

of trying on the part of institutions. And I just think, you know, we have to recognize you can require institutions to provide that information to students directly, which I think makes a lot of sense, of course. And they should be, as part of financial aid counseling, already there's requirements like that. You know, if the plan is to try to have institutions take all of this data and put it in batch spreadsheets and upload it to the Department and have the Department try to (inaudible) and put a -- I -- it's a lot of administrative work, and I really have concerns about the quality of that data. It's the garbage in garbage out principle. But I'm not against students having the information. I think the information is important.

MR. ARTHUR: And since we're realizing we're also collecting information on the total cost of a program, that's going to be way more informative and insightful for consumers.

MS. MACK: Procedural really quickly. Please wait till I call you for -- so for purposes of transcript and recording, once I call on you, they know where to go and they know who to attribute it to. So I'm going to adhere to strict procedural processes there. Jeff, please.

MR. ANDRADE: I guess the question is

and I'll defer to Randy if he -- because he appears to be on this point too, is the challenge that the landscape of private loans is too wide and varied or is the challenge in our instructions in terms of what we want to see collected?

MS. MACK: So there's a couple cards going up, Jeff, I'll go to you and then Aaron for response.

MR. ARTHUR: I guess I would say the information you're going to get isn't going to be too insightful and lead to probably some definitive results that are based on very incomplete data. And additionally, the -- I think, well, I kind of lost my train of thought there, but, I'll leave it at that.

MS. MACK: I'm going to go to Aaron and then check in with Randy. Aaron?

MR. LACEY: I think it's both. I mean, I -- you know, I think it's really hard for institutions, first of all, to always know when a payment to them -- I mean, Jeff has spoken to this before, whether it comes from a loan or not. A lot of times they do their private loan certification forms, like, you know, under existing rules, you're supposed to make an effort to understand that. But schools can't guarantee that they do. Someone could show up and just say, here's \$1,000, and you don't

know if it came from a private loan or not. So there's always that noise in the system. And then, then there are sort of questions around like is it in -- you know, is a payment plan over two years of my bachelor's program an extension of credit? Is that actually a loan? Am I counting the entire principal on that? You know, and then what about amounts that are owed at the time they graduate? How's that being treated? And is that also a loan? You know, you have different types of concepts, like a lot of schools, if you went to them and say, do you offer institutional loans would say no and then you say, do you offer payment plans? And they might say, oh yeah. And you know, and then I've had clients say, well, we have some payment plans that are for a semester and some payment plans that are for six years. And like, again, it's -- the problem is schools don't create all these different options for students with -- they're not thinking at the time, how am I going to report this to the Department when they come up with an accountability framework? I mean, that's -- they're thinking about how can we finance our students, right? And so then you come back to them and you say, we want you to try to start gathering all of this information. And I'm not -- I just want to be really clear. I'm not saying this is a reason not to do it. But your question was, is it complicated?

And the answer is, yeah, it's complicated. And the problem is, you know -- and of course, if you're talking about Ohio State, maybe they have the capability to do all this stuff. If you're talking about Miss Betty's Beauty Academy, I don't know if they've got anyone in house that can even think about these things in a meaningful way. And so you end up with just, I think, a ton of irregularity across how things are being thought about. And by the way, Miss Betty's Beauty Academy might do a pretty good job of communicating to their students the cost of the program. The challenge they have is figuring out how it all works and fits into the square that is created by the Department, right? For all the stuff that has to be reported. So I think that's complicated. And then there's just the technical challenges. Like you have to build a portal and people have to start creating spreadsheets and uploading all of that stuff, and then the Department has to figure out how to sort it and represent it to, to students. And, you know, the strength of American higher education, among other things, is that there's extraordinary diversity. The challenge when you're the Department and trying to fit all that diversity into a box is it doesn't work. You know, that's the financial aid programs in a nutshell. So I think the answer to your question is, yes, it's

complicated. And you can try to get schools to do it. I just think you're always going to have lots of irregularity. I think the other option is just to obligate them to disclose this information in the best way that they know to do it, to effectively communicate to their students, given their programs and their student population.

MS. MACK: Thank you, Aaron. Randy?

MR. STAMPER: Thank you. So I'm in the camp no debt-to-earnings ratio. Just to say that up front. However, I do acknowledge that there are predatory lenders, there are bad actors, there are poor programs. Always have been, always will be. And what we are trying to do today is to find a way that is manageable across thousands of institutions, hundreds of thousands of financial aid folks and administrative staff, etcetera, to try to do the best to weed out in, you know, kind of a one fell swoop manner, bad actors, bad programs. All of that said, I remember and Rachael will recognize this phrase, you know, WIOA is all about customer choice among providers, right? And having experienced that, and so is higher ed, right? A lot of implementation of customer choice is not informed customer choice. It's here are your options, go figure it out. So I am all for requiring institutions to talk about total cost of attendance, to

publish as much information about the occupational and career paths and income expectations as is available and accurate. But the fact is that informed customer choice is still going to be a choice. And there are people who are going to choose to go down a path that would, would end up on the bad line of DTE for whatever reason. And going back to the original point that I think what you were after, Jeff, is, you know, do we even have the authority to do this if the law is based on the responsibility of institutions to prepare people for Gainful Employment? A lot of what I hear is holding institutions responsible for the decisions of independent human beings about what they want to do with their lives, about their careers regardless of an understanding of is this a second income in a home? Is it a third income in a home? Regardless of regional labor trends and mores, there's only so much that an institution can do to prepare somebody for a Gainful Employment, and then be responsible for everything else that happens later.

MS. MACK: I appreciate the responses from Jeff, Aaron, and Randy. Jeff, did you have anything else? Okay. At this time, should we swap for the employer's constituency? Are you ready for that?

MR. KAFAFIAN: I see a couple comment cards --

MS. MACK: You want to do that first? Perfect. Jeff, you are next then.

MR. ARTHUR: Well, I'm kind of along the same lines. If we're going to go into the discussion, I think we are about earnings benchmarks and things that, that my -- I would request that I swap with my alternate who is here because his programs fall in that range. And he has specific expertise on the impact of benchmarks on the students that are, that are -- that this applies -- that applies to at the certificate level.

MS. MACK: I'm happy to note those two changes in a moment after we get through the cards. We'll do them both at the same time. Preston, you are next.

MR. LALLO: Very, very quick point just on school certification of private student loans. It used to be relatively common to have non-certified private loans. But according to an Interval Analytics Report that was released this year, school certification is -- rounds to 100%. So almost all private student loans, formal private student loans are certified by the school.

MS. MACK: Thank you. Matthew?

MR. FEEHAN: Yeah, I've seen some really strong arguments for and against the inclusion, removal of the private loans. I don't want to rehash or

open up old wounds from session one. But I did actually make a comment with respect to this for non-Federal Student Aid. I don't think -- it's going to be difficult for the Department to on one hand calculate non-Federal aid, private grants, private loans for purposes of Workforce Pell. Again, different regulatory structure, but still in the same theory here, without collecting the private data. So I don't -- it's a problem for the Department to solve or to think about, I guess. But from the student advocacy standpoint, from my constituents for veterans, I think more data is good. The quality of that data, however, Federal agency regulating down to the lowest level, which could be, which could be a small university college, and to Aaron's point, could be, you know, \$1,000 from, from a family member how an institution is going to track that. God bless them. I don't know how they're going to be able to track that information down. That was my concern in session one. For even how would you try and go after that money if it was an overpayment? But again, I must stress for student veterans that more data is good data. So if it can help inform our decision making with respect to how much private beyond non -- sorry, beyond Federal Aid, that information would be extremely helpful and as currently it's in the regs, so I wouldn't oppose keeping it in

there.

MS. MACK: Thank you, Matthew.

Michale?

MR. MCCOMIS: So I haven't had a lot to say thus far. Accreditation, you know, is going to rely on whatever rule and accountability framework comes from this. And frankly, we've been waiting for it for a long time because we as a community believe that earnings and value are important things to look at. And we don't have access to that kind of information. We can measure things like graduation rates, and we can measure things like employee -- employability or employment. But value is a very different calculus that we just don't have access to that information. So coming up with the right metric, I think is something that, again, you know, as a as a member of the regulatory triad, we're very interested in. Now having -- I've said I've done this a couple of times, I think this is at least a third, if not the fourth time that I've been at this table to talk about Gainful Employment. And I was at the first one. Just a couple observations. One is that was presented less than two years after President Bush signed the Higher Education Opportunity Act. That made no mention of a need to define those three words or two words Gainful Employment, particularly, but prepare for Gainful

Employment. And around the table we had that debate and it did not reach consensus. You know, and it wasn't just one group that was blocking it. There was real concern about, about whether or not there was statutory authority to be able to do that. And it's so interesting today to see the data that were presented because -- and this is a direct quote, what we were told in 2010 was when we asked for data about it, that we wouldn't understand it because it all lived in a messy spreadsheet. And so that's how we, that's how we negotiated and came up with, with those rules. And they, as you know, have, have been unimplementable, have been argued about. And so I think people coming to the table here trying to say, let's come up with the best thing that we can all live with and that we think actually does and moves something forward matters. And I think we have that in our hands to do it. It may not be perfect as is the result of most things that humans touch. But it's the best that we can do with the tools and the resources that we have. I think we've got a real opportunity to think about that and to do that. I'll make one other observation again sidelines. I may be in real trouble for saying this in this room given some of the kerfuffle around the, the FAFSA application. But could that not be -- on the topic of private lending and private loan and loan -- could that not simply be a

question that's added to the FAFSA? And I did I say simply? I didn't mean simply. Could that not be a question added to the FAFSA? We get it directly from the student. How much debt have you taken that you've used for education? Let the student report it. It would be imperfect data like all data is, whether the institution's collecting it or the student is providing it. And, and use that as a measure. It will be directly tied to their FAFSA application, which we're already using for other information that's directly tied to earnings, where they live and you know, where they're from and all that kind of information. You know, part of the -- you know, all the Federal financial aid is an entitlement. It doesn't mean that the student doesn't have some responsibility in participating and providing information that helps us determine or the Department determine as taxpayers determine whether or not the program works. So provide us with the information that helps us understand what it is that we can do for you and with you and, and maybe that's one way to eliminate some of the administrative burden on institutions that have really no opportunity to get that anyway. So if we're interested about what debt burden is on students, let's ask them directly.

MS. MACK: Thank you, Michale. Dave,

did you want to respond to that?

MR. MUSSER: Well, so first, I just want to say thank you, Michale, for the suggestion, for the enthusiasm behind the suggestion. And you can tell at this point in this, in this process. So and I also appreciate your comments about the, the swings that we've experienced with, with respect to the, to the Gainful Employment policy. You know, I would also just mention that that is not inconsequential in terms of the amount of cost that, that the taxpayer and the Department incur and the amount of work that goes into making these changes over time, putting the infrastructure in, taking it out, putting it in again, taking it out, etc. The one thing I would say about the idea of asking the student questions on the FAFSA, unfortunately, we have a statutory impediment to doing that. We are not allowed to add questions on the FAFSA that are not specifically identified in statute or that are required by statute in order to perform the, the calculation. So, you know, as much as I think it's an interesting idea, that one we can't do.

MS. MACK: Thank you, Dave. Randy?

MR. STAMPER: Yeah. I'm not calling for a caucus in any way. But if we're going to do this switch with representatives and such, I do have some

questions that I'd like to ask folks in the room. And I'm wondering, could we, you know, lock the doors so nobody can leave but have five minutes so we can ask some questions, switch some chairs, that kind of thing?

MR. MUSSER: I think it's a good time to take a five-minute break and then come back with the folks who will be speaking at the table.

MS. MACK: I will recognize them formally when we get back to the table. Let's take five.

MR. MUSSER: We had a request for ten minutes, and I think we can do that. I don't, I don't know if we're going to get through the entire next topic before lunch anyway. So let's just do the ten-minute break.

MS. MACK: Yep. And we have one more before we actually break. Go ahead, David.

MR. KAFAFIAN: So I just wanted a narrow point of -- I want to be clear, I am very supportive of continuing to collect private loan data. Disclosure is the best disinfectant. And I do hear that we have to come to the middle here. I also hear that it is hard to provide that data. Both can be true. My instinct is like within an hour of time between 4 and 5 today, I could write for you the subregulatory guidance for how a school could appropriately do this. There's two

major players that schools use to certify 95% of private loans, Elm and Fast Choice. There are only a half dozen players that schools mostly use that comprise 95% of the market share for payment plan providing. So like it is not an impossible problem for us to tackle. And so I do think we should endeavor to make it for schools so that it can be a lot easier to provide that private loan data and so that everybody can have that information, because I do think it is important and I don't know when it will become important. But it's something that we should continue to endeavor.

MR. MUSSER: I just want to say I think the Department would be very interested in that advice. We have been endeavoring to improve our guidance on that topic for quite some time, so the better we can - - information we can give schools, you know, the better the data will be for consumers and policymakers in the future.

MS. MACK: Let's take ten minutes. Please be back and in your seats at the ten-minute mark. Thank you. Welcome back from break, everyone. Before we get started, I'd like to formally recognize that we have the alternate for our employers constituency. Dennis, welcome. And we are also welcoming to the table our alternate for proprietary. Ryan, welcome to the table.

Michale, I see your card so I'm inclined to go to you first.

MR. MCCOMIS: Well, just to announce that Gary's going to come to the table for accreditation.

MS. MACK: Perfect. Let's invite Gary to the table. All right. We've welcomed Gary to the table for accrediting agencies. So we've got those three swaps. Seeing no other cards, Dave, I'll turn it over to you to get us started.

MR. MUSSER: So at this point, we'd like to hear from the negotiators that have concerns about the effects of the earnings premiums on their programs, as well as specifically the concerns related to how earnings are obtained and how they're calculated.

MS. MACK: We've got Aaron, please.

MR. LACEY: Separate my comments into degrees and graduates versus non-degree. Look, I -- it is very hard for me to look at the list of programs that are likely to suffer greatly on the degree and graduate degree level, music, fine arts, studio arts, religion, and not have a strong reaction to that. But I acknowledge that that framework is statutory. I'd like to think a little more about that in the context of appeals, and maybe we can talk about that later. So I'm just going to focus right now on the earnings test as applied to non-

degree programs, meaning under the sort of Gainful Employment rubric. I hear the Department loud and clear about wanting to maintain a unified approach to testing institutions. And I agree with that, especially I think it dovetails with the larger conversation we were just having and the comments we heard about trying to craft something that works and keeping it simple and universal. That having been said, Congress, in the context of the One Big Beautiful Bill Act, while it used an earnings test, has at least three different earnings tests that it applies to different kinds of programs already, right? Graduate programs, you got a certain -- we saw the decision tree. Right? You got a certain decision tree for graduate programs. You got a different decision tree and a different flavor of earnings test for degree programs. And then we saw in Workforce Pell the 150% poverty concept for very short non-degree programs. So I will say there is already in the statute from Congress support for the idea that different types of programs should be measured within earnings premium, earnings test, but that that test can look a little bit differently. Okay. When I -- and right now what's interesting is, we are using the exact same earnings test for Stanford's bachelor's economics degree that we are using for Miss Betty's Beauty Academy. Just saying that out loud sounds to me

like that doesn't make sense. And then when I see that we're going to eliminate 90% plus of cosmetology programs, that also suggests to me that this is not the right metric for these programs. So I just want to start by saying I think there are very strong reasons, congressional support, the design of OB3, the outcomes we've seen for exploring an alternative to the current threshold that's being used. In terms of what that should look like, I've seen a lot of different proposals floated to the Department. I understand that. I mean, one thing you could do is use the 150% poverty guideline that's in Workforce Pell. I appreciate that's a much lower number. Will allow others to discuss that. But I'm -- you know, there is a statutory support for that. But of course, those are very short programs. And the programs we're talking about, the non-degree level would be longer than that. Another opportunity I've heard pushed and supported is instead of using data from ACS for, you know, 25 to 34-year-olds, using the 20 to 24-year-old slot, which I think there's a very rational reason for that. I mean, you're measuring, when you talk about completers, folks who've been into the workforce for four years, if you take 20 to 24-year-olds out of ACS, which we understand, that data point does exist, now you're measuring people who've been in the workforce, assuming they graduated

high school at 18, 2 to 6 years. So four years in the workforce, 2 to 6 years in the workforce. That seems to be pretty rational. And from an operational standpoint, that's just taking another data point from ACS, a slightly different data point. So that should not add administrative burden to the Department. Another thing that I think would make a lot of sense that you could do is you could, like the graduate programs construct, you could say, we're going to do a potentially two-digit CIP in field concept here. Again, you're already doing that for graduate programs. So what you could do is we're going to take 20 to 24, and it's going to be the lesser of that number nationally or that number at the state or whatever are in field nationally or in state. But these are all approaches that already exist somewhere in the statute, right? So you're not having to go outside of what Congress has suggested in the realm of possibility. And, and, and all of them have the potential to give you actually a better apples to apples comparison potentially, certainly with recutting the ACS data for 2024. I think, like I said, there's a really strong rationale for that.

MS. MACK: Aaron, can I ask you to pause there as I move on?

MR. LACEY: I'm done.

MS. MACK: Thank you. Dennis, please.

MR. CARIELLO: And actually, I had -- before I get into comments, I did have a question. So before the week started, I had sent a data request for the Department to do some sort of -- you know, provide some instruction on how the Department captures and what is captured when we're talking about the earnings of, in particular, self-employed individuals. Is there any information on that? Like what line items on the tax forms are we looking at here?

MR. ANDRADE: Yeah, I believe Cody had done -- I'm not sure if he's here or not. We had taken a look at the tax forms as well. It's basically pulling in the data that's reported on schedule C and I think it's like line three on the 1040 where you bring in all the earned income. So there's a, you know, there's a line there for W-2. And then in the case of the, the gig workers that Aaron talks about, you would have the combination of -- it would be the -- you know, it's the combination of their sources of earned income. So the W-2 wages combined with the schedule C income.

MR. MUSSER: So Cody and company are still working on that data request. So if we can get a final answer for you this week, we will. It's one of the things that we're working on and we'll get back to you.

MR. CARIELLO: Do you know if it also includes distributions on a K-1?

MR. MUSSER: I don't think we have that yet. Yeah.

MS. MACK: Thank you. Ryan?

MR. CLAYBAUGH: Thanks. It's good, good to be on the big boy table, I guess. So -- but I appreciate the Department, all the comments from the negotiators. Definitely want to say we do support, you know, uniform accountability framework that was created. But I think accurate measurement is really important to avoid the unintended consequences. If you look at certificate programs -- you know, when we were here at Workforce Pell, we were -- it was kind of drilled into us that Congress wanted to push this through for a reason, that it got people into the workforce quickly. And you look at certificate programs, they're a short duration as well, typically 6 to 12 months. Low cost. Low debt. Rapid workforce entry. High self-employment. High tipping prevalence. And there's a disproportionate service to low income working adults. Minority students. My world of cosmetology, 91% of our graduates are female. So there's a gender disparity with pay as well. So I guess I just want to ask the Department, when you chose, why did you choose the comparison to the high school, like the

bachelor's degree versus the other way with the Workforce Pell based on the comparisons and the similarities between the two?

MR. MUSSER: Yeah. I mean, I think the Department's choice of using the same comparison group for certificate programs was really due to the parity decision to keep it consistent with what else is in the One Big Beautiful Bill. The -- that standard is applied -- was applied to undergraduate degree programs that Congress applied the same standard to graduate degree programs and graduate certificates. So we also applied the same standard to undergraduate degree programs and undergraduate certificates.

MS. MACK: Thank you, Dave. Follow up, Ryan?

MR. CLAYBAUGH: No, I would just follow up -- I mean, I guess I understand that, but again, I see more similarities between the programs at Workforce Pell than I do with, than I do with bachelor's degree. So I think there could be -- you know, I liked Aaron's thought of, you know, the same comparison. And so I'll leave it at that for now.

MS. MACK: Thank you, Ryan. Tamar?

MS. HOFFMAN: Thanks. So, first of all, just in terms of what happens when there are

different benchmarks applied, like, again, I'd like to highlight the fact that Congress actually made pretty explicit that they believed that the current earnings premium test should still apply for certificate programs. So to the extent that the Department would like to create a single standard, I want to highlight that potential risk and would hope that we err on the side of making it more rigorous to align with the current standard rather than less so. And as to sort of the concern about age range and, and how that might impact calculation, I think it's also worth noting that the majority of higher education students are now nontraditional students who are above the age of 22, so I don't think that that kind of adjustment is necessary or useful in this case.

MS. MACK: Thank you, Tamar. Preston?

MR. LALLO: Thank you. Just a note about the Workforce Pell Grant comparison. So Workforce Pell Grants are Pell grants. They're not student loans. And we're talking at least in the Department's current draft, we're talking about eligibility for student loans. So the earnings floor for eligibility for certificate programs under the undergraduate certificate programs that are not Workforce Pell under the current draft is \$0, not the earnings of a high school graduate. And so that's, you know, important context that we need to keep

in mind when we're talking about, when we're talking about comparisons to Workforce Pell, because that is -- those programs are largely not eligible for student loans unless it's the short-term loan program under which a different set of standards applies. So, you know, I would -- I'm strongly supportive of keeping the high school earnings threshold for undergraduate certificate programs. I would also echo Tamar's point about the age ranges. I can't find it right now, but I do believe that, you know, the average age of completion for certificate programs is actually somewhat higher than it is for associate and bachelor's degree programs. So a 25 to 34 age range for certificate programs does seem like the appropriate benchmark.

MS. MACK: Thank you, Preston. Dennis, please.

MR. CARIELLO: Thank you. So I think that there -- you know, we are using the IRS data for purpose for which that data was not really created. Right? People are paying their taxes and they have, in the normal case, an incentive to lower the amount of taxes they pay, and they do so lawfully. And there's nothing wrong with that. But now we are using it in a way, as a proxy for the actual earnings. And I think in most cases, probably 90% of the cases, that works really

well because they get a W-2, they get reported earnings. It's not an issue. But when you have professions that are largely self-employed, you have a number of issues that come into play that really don't lend themselves to the type of analysis. The IRS has recognized this, and the IRS has said that there's a tax gap for of underreported earnings of \$381 billion dollars. Right? That's a that's a huge number. And as a matter of fact, they actually, in their field guide, have a specific chapter, when we're talking about cash intensive businesses, on beauty and barber shops. Right? Because of the challenges there and the likelihood that, that earnings are not going to be reported, whether it's tip income or service income, again, people are paying in cash for their haircut, paying by Venmo, paying by Zelle. These are all real concerns. And while -- it's just that now that we're taking that number and using it to hold schools accountable for how their graduates are, are representing their earnings, is deeply problematic. You know, the Department has recognized this a number of times. I mean, in the 2019 preamble the Department recognized that this was a real issue. Courts have recognized that this was a real issue, and past departments have taken that into account through the appeals process mostly, which I understand it's not as desirable, but they've taken that

into account, and courts have suggested that it has to be taken into account. There has to be some sort of acknowledgment of this issue in a meaningful way for schools to address it. I think the, the paper lays out many of these concerns with, with a fair amount of data about this. Obviously, none of this -- you know, it's you're not going to be able to get from anyone, hey, let's do a survey of all the cosmetologists and how much did you underreport your income? But we've got really good strong data that shows that it does occur. In addition, there are certain professions that lend themselves to part-time work, and that is part of the desired goal of the people going to the schools. That is the case and it is verifiable in ACS data and in survey data the industry, the (inaudible) survey has suggested that I believe it's like 27.5 hours a week is what most cosmetologists are working. The ACS data suggests it's -- I believe it's about 31 hours a week. If we're taking those numbers and comparing to a benchmark that is a 40-hour a week benchmark, we're necessarily going to get a skewed view of where things are. And all of this is to say that, you know, I mean, this is something that, you know, the Department recognized. And I thought it was -- I'm not, like Aaron, not going to try and read too much. But that was an important point where the Department said

penalizing programs because the students they serve may decide, for example, to work fewer hours in order to be with children is absurd, especially since daycare challenges and costs may make it economically advantageous to work part-time when family members can provide free or low-cost childcare. It -- I think that the Department needs to account for the differences of accountability in the undergraduate certificate area. I think that that's -- it's just different. I think, like Aaron talked about, and I remember making the same argument where you had law schools and beauty schools having the same metrics just didn't make a heck of a lot of sense. And I think there is ample flexibility for the Department to look at a different metric that takes into account the concerns that were raised. And I would say, by the way, a lot of the concerns about self-employment and part-time work are concerns of all of the programs that end up failing.

MS. MACK: Dennis, can I ask that you pause there and I'll circle back to you to put you in the queue. Thank you. Jeff, did you want to respond? Who's next? Gary, you were actually next.

MR. LITKE: Thank you. Thank you for this opportunity, Kayla. Mike, wherever you are, I know you're doing stuff. And thank you, Jeff, David, and

Jacob. Your professionalism is truly, truly remarkable. And just a job well done and continue to do it because you got your thinking caps on, and we really appreciate it. Part-time workers, just picking up where Dennis left off, big issue, I think. And to expand where Dennis and a little bit of Aaron were coming from, it's not just self-employed. There's a W-2 workers issue here also. And before I launch, I would want to know the answer to the question, which is at this time, apparently not knowable, which is, which line on a W-2 person's tax return are we pulling in order to get the data? Is it the AGI? Is it above the line? Is it below the line? Is it somewhere in between? I'm not a tax guy, so I just exhausted everything I know about tax returns. But that really makes a big difference. The slides we were shown yesterday indicated that religious studies were going to fail at alarmingly, alarmingly high rates. As I mentioned to one of my constituents yesterday here, this slide is now public information. It's posted on the -- it's -- or it will be soon, whatever. Why don't you just go over to Capitol Hill and show it to the people who voted for the Big Beautiful Bill and ask them if this was their intention to knock out religious schools, you know, out of the programs, out of the student loan programs at least. And you know, I'm quite certain that a very large

number of those who voted in favor of this bill had absolutely no intention of doing that. And so I'm here at this microphone now saying what do we do about that? That was not the congressional intention. Even though it is the congressional word -- words of the bill, that is to say what are we going to do about that? I believe, and I can't prove it because I don't have statistics, but I believe that one of the reasons why the religious programs would fare so poorly is because they're generally W-2 earners. They have parsonage, they have tuition benefit programs, QTRs, they have HSA contributions. Everyone does, or could. And their incomes start, You know, pretty low, but they're better than high school earners. But by the time you knock out the parsonage and some of the above the line stuff, you know, there's not that much left. And they also tend to be the people who go into the religious professions for some reason, tend to be religious. And they tend to have larger families. And so they have a lot of tuition. And they tend to send to private schools. And you all know the whole story. So it's just perhaps a very skewed view of that population's income, perhaps. And again, I don't even know what line we're looking at. And so maybe everything I just said in the last two minutes is irrelevant, because that's not where we're looking

anyway. But it's just giving -- just trying to give a little bit of flavor. I got some more to say, but maybe come up for a little sip of water and some air.

MS. MACK: Thank you very much. We are getting close to lunch, so I'm going to ask everybody to keep their comments briefly, and I will stick to the three minutes until lunch. Aaron, you are next.

MR. LACEY: I just want to follow up. Preston, you had a comment about the age range, and I just want to clarify my point. You know, the reason I think 20 to 24 makes more sense is not because of the actual age of the people who are being measured. It's because of their time in the workforce. Right? So if you assume high school -- folks who graduate from high school are entering the workforce relatively soon after they complete high school, then that 20 to 26 range means they're going to be in the workforce between 2 and 6 years, right? That time that's being measured. The challenge with the AC -- you know, with the -- right now, the way it stands is you're measuring a group of people who graduated from high school and have been in the workforce, conceivably anywhere from like 7 to 15 or 16 years, right? In contrast, the completer group is being measured four years after they reach the workforce. So the -- and of course we're talking about earnings. So

what we're trying to say is look, we want to have an apples to apples comparison. We want to be looking at, you know, completers who are earning about four years into their career and comparing that to folks who also are more or less four years into their career, hopefully. I mean, that would be the ideal. And right now, with 25 to 34, those two are way off when you're talking about non-degree programs. But, but they could be a lot closer if instead you're comparing, you know, the completers who are in the workforce for four years, potentially to high school graduates who have been in the workforce from 2 to 6 years.

MS. MACK: Thank you, Aaron. Preston?

MR. LALLO: Yeah, just, just really quickly on that. So, I mean, when you choose to pursue postsecondary education, there's more of a cost than just tuition, right? There is time that you have to spend out of the labor force or out of the -- usually out of the labor force full-time, you know, not building skills in the labor force. You have to take time out to pursue your education and that comes with a cost. And the promise of higher education is that you are going to earn more over the course of your lifetime, so that you'll be able to recoup the cost of tuition. You'll be able to recoup that opportunity cost of spending time out in the labor force

and then some. So I think that, you know, if you're a 26-year-old who graduated from college, you know, four years ago, you know, you should be compared to other people of the similar age range to ensure that, you know, the benefits you're getting from college are actually justifying, you know, all that time you spent out in the labor force. So that's why I'd argue for keeping, you know, the age range of 25 to 34, because we're looking at a comparable age range to -- you know, what college graduates, recent postsecondary education graduates actually are.

MS. MACK: Thank you, Preston. I'm going to go to Jeff and then I'll circle back.

MR. ANDRADE: Thanks. And this has been helpful. And obviously you, you guys know that we want to get this right. But I think as this discussion is sort of evolving, there's a lot of different topics that are getting conflated. And I'm wondering if maybe we can parse out this discussion. Maybe first start -- because Ryan started -- maybe talk about the reference group first and why the reference group that we chose is in people's, you know, views, not the right one. Again, the basis for our choice was we were looking at the people who were being measured and what their average ages were. The second bucket I think is to Dennis's point, is self-

employed individuals and the -- both -- and I think within that issue there's the issue of underreporting is -- or potential underreporting. And then to Gary's point, also, I think there's the bucket of -- on people who are on the way IRS looks at income, both from a W-2. Does that necessarily reflect earnings in all contexts and maybe -- you know, so we have an apples to apples comparison. If we can get some of those issues, sort of - - you know, take it maybe piece by piece, that might be helpful to us in terms of what we need to go back and take a look at.

MS. MACK: We've got about four minutes left. Do we want to continue to get through a couple more cards, focusing in on that first invite, which I think you said was reference group. Can I have you keep your cards up specifically if you want to speak to that. Everyone, lovely. All right, good. Randy, you are next. Appreciate it. Tamar, reference group.

MS. HOFFMAN: Thanks. Just briefly I wanted to highlight that in the statute it actually makes pretty clear, I think, what the reference group should be, and it seems to comport pretty clearly with what the Department has laid out. So I think that that's just helpful in guiding this conversation. And beyond that, there have been a few mentions about part-time work and

how that plays into this. And I'd just like to highlight that whether you work part-time or full-time, you're carrying the same debt load. So I don't think that that's a helpful distinction here in terms of accountability. And I'd like us to hold that in mind as well. Thanks.

MS. MACK: Ryan?

MR. CLAYBAUGH: Thank you. I just want to -- I won't take too much time. I just wanted to address one of the questions of, you know, why I feel like the Workforce Pell makes more sense with certificate programs. I know it was brought up that the loans -- you know, is definitely a different -- a commonality with the degree programs. But I guess if I would look at the debt level of a certificate program around -- you know, I tried to run the data the best I could, you know, about \$10,000 for certificate level where the bachelor's degree level is at \$40,000. Pretty big disparity, especially if you look at the, the expected income level. After four years, you know, if I go off certificates, you know, it's \$25 to \$30. Bachelor was, you know, \$50 to \$60. If you do the math easy, it seems to me a certificate is much better able to pay off a lower amount of debt than the Bachelor would. And so, again, I feel like that's a differentiator as well, and leans towards the Workforce Pell side a little bit more because of the lower debt

amount.

MR. ANDRADE: But stepping back from Workforce Pell in terms of the age, the reference group for the age, why is the one that we use not the appropriate for the group that we're measuring?

MR. CLAYBAUGH: So you're talking to Aaron's comment of the 20 to 24?

MR. ANDRADE: So, I mean, I guess is your rationale the same as -- Aaron's rationale was you shouldn't look at the -- and I'll -- not to paraphrase you and you can correct me if I get it wrong, that you should be looking at the types of jobs that -- the age group, of the types of jobs that you're training people for, as opposed to the individuals that you are measuring their average age.

MS. MACK: Ryan, do you want to speak to that? And then, Aaron, I did promise I'd circle back to you, and then it'll be lunch time.

MR. CLAYBAUGH: Yeah, I would say certificate level are, in a way, starting over. They're starting a new career. They're, you know, they're quick entry into the workforce. They're not building like a bachelor's degree level, right, job into a job with a constant pay. It's a direct entry into the workforce. In the world of cosmetology, most of our graduates or

students, 19 to 21 years old, so they definitely do fall in that lower level being compared. You know, we have a young woman just out of high school, 20 years old, being compared to someone who's -- you know, works in mining or whatever, high school diploma at age 34. It's just not a fair comparison.

MS. MACK: Thank you, Ryan. Aaron, I promised I'd circle back.

MR. LACEY: Yeah. I mean, the first reason is the outcomes-based reason. Meaning, you know, when you're eliminating, like I said, you've got bachelor -- Stanford -- you know, bachelor's degree at Stanford and Miss Betty's beauty Academy having the same standard. I think again that enough should raise an eyebrow. And then when you're eliminating 90 plus percent of programs in certain industries, I think that also suggests just based on the outcome, that there -- this is not the right standard or there needs to be more nuance or further exploration, but I -- and I apologize. I may just not understand, but I don't really understand the cost, you know, the opportunity cost argument here. You know, first of all, we're not measuring lifetime financial value of these programs. So that's not even on the table. What we're talking about is simply four years after someone graduates, the completers and my completer group, they've

been in the workforce for four years, they're making X is that, you know, what's the standard against which we should be comparing that when we're talking about people who don't have that same education? And it seems to me the appropriate comparison then is to say, okay, if someone who graduated from high school without a college education or any postsecondary has then had four years in the workforce, are they making more than someone who got this credential and has had four years in the workforce? The problem is, if I'm saying I'm going to compare my cosmetology student who's had a 1,000-hour program, graduated when they were 19, is now, you know, 21, 22 -- shouldn't do math on the fly -- and is now out in the workforce for four years, to someone who's been a carpenter, you know, for 16 years. My point is that is not a good comparison. And that's part of the reason this is not working the way I think it's intended to work. So, I mean, the goal should be as a policy to compare to high school students who have a comparable amount of time in the workforce. And ideally, I would -- in a comparable field. I mean, again, I think there's even a bigger question of why are you comparing folks who've had, you know, six months training in cosmetology with someone who has 16 years as a carpenter in the union? Of course, they're going to be making different amounts,

notwithstanding the fact that one has a six-month cosmetology program. So I think the argument is that we should be using a comparison group that has a little more finesse and nuance around it. And, and the point is that Congress, clearly, in the context of OB3, had that same thought because they designed their earnings premiums in the same way and had some nuance when we talked about graduate versus undergraduate versus Workforce Pell. So I'm just saying I think the Department should do the same thing and be thoughtful about when developing an earnings test for non-degree programs, how you can massage that comparison group so that it's a more appropriate comparison for students completing non-degree certificate.

MS. MACK: Thank you, Aaron. Dave, Jeff, I'm inclined to turn it back over to you for any closing remarks before we head into lunch. I've noted the cards that are up and in order, so I'm happy to return there when we return.

MR. MUSSER: Just appreciate the discussion today. We do want to make sure that we continue this conversation after lunch. But thank you guys, and we'll see you after the hour.

MS. MACK: See you all at 1:00.