CHALLENGES AND OPPORTUNITIES IN HIGHER EDUCATION

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BEFORE THE

COMMITTEE ON EDUCATION AND THE WORKFORCE U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

CHALLENGES AND OPPORTUNITIES IN HIGHER EDUCATION

Tuesday, February 7, 2017
House of Representatives,
Committee on Education and the Workforce,
Washington, D.C.

The committee met, pursuant to call, at 10:30 a.m., in Room 2175, Rayburn House Office Building, Hon. Virginia Foxx [chairwoman of the committee] presiding.

Present: Representatives Foxx, Hunter, Walberg, Guthrie, Rokita, Messer, Byrne, Bishop, Grothman, Stefanik, Allen, Lewis, Rooney, Mitchell, Smucker, Ferguson, Scott, Davis, Courtney, Fudge, Polis, Wilson of Florida, Bonamici, Takano, Adams, DeSaulnier, Norcross, Blunt Rochester, Krishnamoorthi, Shea-Porter, and Espaillat.

Staff Present: Emmanual Guillory, Professional Staff Member; Tyler Hernandez, Deputy Communications Director; Amy Raaf Jones, Director of Education and Human Resources Policy; Nancy Locke, Chief Clerk; Dominique McKay, Deputy Press Secretary; James Mullen, Director of Information Technology; Krisann Pearce, General Counsel; Jenny Prescott, Professional Staff Member; Brandon Renz, Staff Director; Alex Ricci, Legislative Assistant; Emily Slack, Professional Staff Member; Alissa Strawcutter, Deputy Clerk; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Jacque Chevalier, Minority Deputy Education Policy Director; Michael DeMale, Minority Labor Detailee; Denise Forte, Minority Staff Director; Mishawn Freeman, Minority Staff Assistant; Christian Haines, Minority Education Policy Counsel; Stephanie Lalle, Minority Press Assistant; Arika Trim, Minority Press Secretary; Katherine Valle, Minority Education Policy Advisor; and Christopher Zbrozek, Minority Education Detailee.

Chairwoman FOXX. Good morning, everyone. A quorum being present, including Duncan Hunter, the Committee on Education and the Workforce will come to order. We're delighted to have everyone here. I want to welcome everyone to today's hearing on America's higher education system.

These are exciting times in higher education. Institutions across the country are providing their students new opportunities to earn a degree. As a result, we're seeing more diversity on campuses and the idea of a traditional student has been turned on its head. Today's students come from a wide range of backgrounds, they are at various stages in their lives and careers, and they have new, unique, and changing needs.

Perhaps the only thing that hasn't changed in recent years is the importance of a higher education. A post-secondary degree or certificate is still vitally important to helping individuals pursue successful and fulfilling careers. It is also essential in helping many men and women achieve their own dreams and goals and earn success in their lives.

Thankfully, today there are more opportunities for more 0individuals to pursue higher education than ever before. However, America's higher education system is also facing a number of significant challenges.

For one, the cost of college is going up. Since 2005, average tuition and fees have increased by 25 percent at 4-year private nonprofit institutions. At 4-year public institutions, they've increased by more than 40 percent.

And what do we have to show for that rise in cost? Have graduation rates gone up? Actually, it's estimated that among students who started colleges in the fall of 2010, only 55 percent had earned a degree or certificate by 2016.

We've worked in recent years to make changes that will strengthen America's higher education system and help ensure a college degree is accessible and affordable. It's clear that more has to be done.

Fortunately, with reauthorization of the Higher Education Act, we have an opportunity to do just that -- advance bold, responsible, and meaningful reforms. We also have a strong foundation already in place.

Through years of hearings, roundtables, meetings, and legislation action, this committee, including many of the members here today, developed a set of principles that will guide the work ahead.

The first is empowering students and families to make informed decisions. Choosing a college or university is an important decision that will have a lasting impact on a student's life. It's vitally important that individuals have the information they need to choose the right school and make decisions about how to pay for their education.

The second principle is simplifying and improving student aid. There are currently 6 different types of Federal student loans, 9 repayment plans, 8 forgiveness programs, and 32 deferment and forbearance options, each with its own rules and regulations. The current system is too complex and it leaves students and their families confused about their financial options and responsibilities.

Third, we must work to promote innovation, access, and completion. For years, and particularly in the past 8 years, the Federal Government has tied States and institutions up in red tape. That red tape has made it more difficult for students to complete their education quickly and affordably. It has also gotten in the way of innovation that would make it easier for students to pursue and earn a college degree. It's time for the Federal Government to get out of the way.0

The fourth and final principle is providing strong accountability in a limited Federal role. Today, institutions are subject to a great deal of Federal reporting requirements and regulations. In fact, rules and regulations across the Federal Government currently impose an estimated $27 billion in compliance costs on colleges and universities. Unfortunately, those costs are often passed on to students in the form of higher fees and tuition.

We need to repeal unnecessary reporting requirements and address many of the harmful and misguided regulations imposed by the former administration. However, we should do so while also delivering strong, commonsense accountability in Federal programs.

It's clear that we have our work cut out for us, but inaction is not an option. Today marks the beginning of the next phase in our effort to strengthen America's higher education system for students, parents, institutions, and taxpayers. I look forward to the important work that lies ahead. Let's get to work.

With that, I yield to Ranking Member Scott for his opening remarks.

[The statement of Chairwoman Foxx follows:]

Prepared Statement of Hon. Virginia Foxx, Chairwoman, Committee on Education and the Workforce

These are exciting times in higher education. Institutions across the country are providing their students new opportunities to earn a degree. As a result, we are seeing more diversity on campuses, and the idea of a "traditional student" has been turned on its head. Today's students come from a wide range of backgrounds. They are at various stages in their lives and careers. And they have new, unique, and changing needs.

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What do we have to show for that rise in costs? Have graduation rates gone up?

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Mr. SCOTT. Thank you, Madam Chair.

And I thank the witnesses for coming. I look forward to your testimony.

Today's hearing is an opportunity to hear directly from different sectors and voices within the higher education community. It's important for us to continue to work with a diverse array of leaders who will inform the development of research-backed policy solutions as the committee works to reauthorize the Higher Education Act.

Madam Chair, during the last Congress, our committee enjoyed bipartisan cooperation on a number of issues -- Every Student Succeeds Act, juvenile justice, career and technical education, even several bipartisan higher education bills. I think there is room for more bipartisan collaboration in higher education, and

in the past, we've come together to produce bipartisan higher education bills to address specific issues. This past success does not mean that the process of a higher education reauthorization will be smooth and straightforward, but I'm committed to working with you. Let's see if we can't get that done.

And to that end, the House Democrats remain focused on ensuring that the Higher Education Act continues to provide pathways for a better life. Quality higher education must be accessible and affordable to empower America's working families to succeed in our economy, and that means improving the system to work for all students and families.

That was a promise made by President Lyndon Johnson when he signed the Higher Education Act into law in 1965. He said then that this means that a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor.

Unfortunately, for too many working families, the promise of the HEA has eroded. For too many of our students, access to economic opportunity provided through higher education is, in fact, in jeopardy.

Faced with borrowing substantial sums of money in order to enroll, higher education feels out of reach or not worth the cost for too many students. This inequity of opportunity serves to limit lifetime prospects, especially for low-income students, first-generation students, and students with disabilities.

Any action we take in this Congress on higher education should increase the number of students who attend college, lower the cost of those that do, and help students complete a meaningful degree, on time, that will have value in the job market. The logical place to start is a renewed focus on institutions of higher education that enroll 75 percent of the students, that is, 2- and 4-year public colleges. These schools are the only higher education options in many communities and they have a track record of adapting to meet the educational needs of their communities and serving as engines of mobility into higher-income careers. Unfortunately, we've seen a disturbing trend of State support dwindling over the past few years.

Democrats remain committed to a higher education system that has multiple pathways to obtaining a meaningful credential that is not necessarily a 4-year on-campus degree, but we remain committed to protecting access to the 4-year on-campus degree for any person qualified and desiring one. That will likely take sustained increased investment and resources.

And while I understand that many members claim we don't have the money to commit to higher education, I would counter that taxpayer money spent on higher education is a vital investment in our Nation's security and workforce. We live in a global economy where education remains one of the best competitive advantages that we have, and we can't lose that advantage by failing to invest in education.

As the richest country in the world, we have resources to ensure that all students have access to multiple high-quality higher educational opportunities. We can increase the maximum Pell Grant award. We can provide funds to help schools create supports needed to accelerate completion. We can support the important work done at our Historically Black Colleges and Universities and other minority-serving institutions. We can devise loan repayment and forgiveness options that allow student borrowers to repay their loans without surrendering their economic freedom.

We can do all these things, but we have to make them within a system of priorities. You'll remember, Madam Chair, that in 2013, Congress renewed the Bush-era tax cuts at a cost of $3.9 trillion, including significant benefits for the top 1 percent. The next couple of weeks, we actually raised the interest on Federal student loans. We gave tax breaks to millionaires and billionaires and then charged poor students more to borrow money to go to college.

If the American people want our higher education system to remain the envy of the world, we can't do it on the cheap. That means we have to have a priority to find solutions that promote sustained investments at both the Federal and state levels.

Unfortunately, some higher education institutions fail to deliver on quality education. And so to protect the robust and sustained public investment, we need a strong triad of Federal regulation, State authorization, and private accreditation to guarantee institutional and program quality. All three play essential and necessary roles in ensuring the fitness of our higher education system.

Federal regulations protect the sizeable investment of higher education and provide consumer protections for students themselves. State authorizers, those closest to the students, must be a check to ensure that local actors provide quality instruction that is best suited for students in that State. Accreditors must be skilled arbiters of quality education.

We will likely need to assess the duties of all three legs of this triad in a comprehensive reauthorization, but if we're going to protect students and taxpayers effectively, I think we need to realize that deregulation for the sake of deregulation doesn't make any sense.

Going to and graduating from college remains one of the most consistent methods for eliminating many barriers to upward mobility facing millions of Americans. Look at President Obama, raised by a single working mother and her family, parlayed his college education into a successful career, leading all the way to the Oval Office.

Similarly, Madam Chair, you know the power higher education has to change lives, because you dedicated large portions of your life to the pursuit of higher education and its improvement.

One of the members of our committee, the gentleman from New Jersey, Mr. Norcross, a new member of the committee, got his start in higher education at a community college before moving on to what he calls the other 4-year degree, an apprenticeship with the International Brotherhood of Electrical Workers.

All of these examples show what can be achieved when deserving students have the opportunity of a post-secondary education. They and many others like them prove that the opportunities opened by college are limitless. New models that provide skills necessary to succeed in today's global economy may have the potential to be the engines of upward mobility in the future.

But if we focus solely on economic outcomes to write higher education policies and fail to look at the intangible benefits of higher education, we may be missing a lot of opportunities for many people.

A 4-year degree may not be for everyone, but it should be available to all who are academically qualified to attend and wish to pursue it. Protecting that access while incentivizing new models that serve today's students will make higher education work for all of America's working families.

Thank you, Madam Chairman. I yield back.

[The statement of Mr. Scott follows:]

Prepared Statement of Hon. Robert C. "Bobby" Scott, Ranking Member, Committee on Education and the Workforce

Good morning Chairwoman Foxx, and members of the Committee. To the witnesses, thank you for being here, I look forward to your testimony.

Today's hearing is an opportunity to hear directly from different sectors and voices within the higher education community. It's important for us to continue to work with a diverse array of leaders who will inform the development of research-backed policy solutions as the committee works to reauthorize the Higher Education Act.

During the last Congress our committee enjoyed bipartisan collaboration on issues from ESSA to CTE and even on some discrete bipartisan higher education bills. I think there is room for more bipartisan collaboration in higher education, and in the past we have come together to produce bipartisan higher education bills addressing specific policy issues. That past success does not mean that the process of a comprehensive reauthorization will be a smooth and straight forward path, but I am committed to working with you, Madam Chairwoman, over the course of this Congress to see if we can get to a comprehensive bill.

To that end, House Democrats remain focused on ensuring that the Higher Education Act continues to provide pathways to a better life for all Americans. Quality higher education must be accessible and affordable to empower America's working families to succeed in our economy. That means improving the system to work for all students and families.

That promise was made when President Lyndon Johnson singed HEA into law in 1965. He said, "[This] means that a high school senior, anywhere in this great land of ours, can apply to any college or any university in any of the 50 states and not be turned away because his family is poor." Unfortunately, for too many working families, the

promise of HEA has eroded. For far too many of our students, access to economic opportunity provided through higher education is in jeopardy.

Faced with borrowing substantial sums of money to enroll, higher education feels out of reach or not worth the cost for many students. This inequity of opportunity serves to limit lifetime prospects, especially for low-income students, first-generation students, and students with disabilities. Any action we take this Congress on higher education should increase the number of students who attend college, lower the cost for those who do, and help students complete a meaningful degree on time that will have value in the job market.

A logical place to start is with a renewed focus on the institutions of higher education that enroll 75 percent of students: two- and four-year public colleges. These schools are the only higher education options in many communities, and have a track record of both adapting to meet the educational needs of their communities and serving as engines of mobility into higher income careers.

Democrats remain committed to a higher education system that has multiple pathways to attaining a meaningful credential that is not necessarily a four-year on-campus degree, but we also remain committed to protecting access to a four-year on campus degree for any person qualified and desiring of one.

That will likely take a sustained, increased investment of resources. And while I understand that many Members claim we don't have the money to commit to higher education, I'd counter that taxpayer money spent on higher education is a vital investment in our nation's security and workforce. The globalization of the marketplace has altered the way the U.S. and other countries compete for business. With the rapid development of this global marketplace, the U.S. is no longer the single dominant country in the world economy. And in our global economy, the main competitive advantage we have in America is our advantage in education. We certainly can't compete with other countries when it comes to the lowest wages, when many around the world may work for a few dollars or even a few pennies a day. Nor can we compete in terms of location. You no longer have to be located near your co-workers; with today's technology – video-conferencing, smartphones, tablets –if you can work across the hall from your co-workers, you can now work across the globe from your co-workers. Goods can be shipped around the globe in a matter of days if not hours, so there's no advantage for a manufacturer to build his factory near his customers. No, the main reason that America remains strong and continues to attract business investment is because we have well educated workers.

As the richest country on earth, we have the resources to ensure that all students have access to multiple, high-quality higher education opportunities. We can increase the maximum Pell Grant award. We can provide funds to help schools create the supports needed to accelerate completion. We can devise loan repayment and forgiveness options that allow student borrowers to repay their loans without surrendering their economic freedom.

We can do all those things, if we look at the fiscal decisions made here in Washington in the collective, and not as individual choices. In 2013, Congress renewed the Bush-era tax cuts, including significant benefits for the top one percent, and in the next week raised the interest rate on federal student loans. We gave tax breaks to millionaires and billionaires and then charged poor students more to borrow money to go to college. If the American people want our higher education system to remain the envy of the world, we can't do it on the cheap. That means working to find policy solutions that promote sustained investment at both the federal and state levels.

Unfortunately, some in higher education fail to deliver on a quality education, and so, to protect the robust and sustained public investment, we need a strong triad of federal regulation, state authorization, and private accreditation to guarantee institutional and program quality. All three play essential and necessary roles in ensuring the fitness of our higher education system.

Federal regulations protect the sizable investment in higher education, and provide consumer protections for students themselves. State authorizers, closest to students, must be a check to ensure that local actors provide quality instruction that is best suited for students in that state. And accreditors must be skilled arbiters of academic quality.

We will likely need to assess the duties of all three legs of the triad in a comprehensive reauthorization. But if we are going to protect students and taxpayers effectively, I think we need to realize that blind deregulation in service of ideology can be as disastrous as federal overreach and overregulation.

Going to and graduating from college remains one of the most consistent methods for eliminating the many barriers to upward mobility facing millions of Americans. Former President Obama, raised by a single working mother and her family, parlayed his college education into a successful career leading all the way to the Oval Office. Similarly, you

Madam Chairwoman, know the power of quality higher education has to change lives, having dedicated large portions of your life to the pursuit of higher education and its improvement. Mr. Norcross, a new member on this committee, got his start in higher education at a community college, before moving on to what he affectionately calls the "other 4-year degree", an apprenticeship with the International Brotherhood of Electrical Workers (IBEW).

Each of these individuals is an example of what can be achieved when deserving students have access to a postsecondary education. They, and many others like them, prove that the opportunities opened up by a college education are limitless.

New models that provide the skills necessary to succeed in today's global economy may have the potential to be engines of upward mobility in the future. But, if we focus solely on economic outcomes to write higher education policy, and fail to look at the intangible benefits of higher education, we may be placing an insurmountable obstacle in front of the academy door for thousands of students who are taking their first step into higher education. A four-year college may not be for everyone, but it should be available to all who are academically qualified to attend and wish to pursue it. Protecting that access, while incentivizing new models that serve today's students, will make higher education work for all of America's working families. Thank you Madam Chairwoman, I yield back.

Chairwoman FOXX. Thank you, Mr. Scott.

Pursuant to committee rule 7(c), all members will be permitted to submit written statements to be included in the permanent hearing record. And without objection, the hearing record will remain open for 14 days to allow such statements and other extraneous material referenced during the hearing to be submitted for the official hearing record.

We'll now turn to introductions of our distinguished witnesses.

Dr. Beth Akers is a senior fellow at the Manhattan Institute. Previously, she was a fellow at the Brookings Institution Center on Children and Families. Additionally, Dr. Akers was a staff economist with the President's Council of Economic Advisers under President George W. Bush, where she worked on Federal student lending policy as well as other education and labor issues.

Dr. William English "Brit" Kirwan currently serves as chancellor emeritus of the University System of Maryland after retiring from his 13-year chancellorship in 2015. During his time as chancellor, he served as the co-chair of the Task Force on the Federal Regulation of Higher Education. Before serving as chancellor, Dr. Kirwan was the president of Ohio State University for 4 years and of the University of Maryland College Park, for 10 years.

Dr. José Luis Cruz is president of Lehman College of the City University of New York, CUNY. Prior to his appointment at CUNY, Dr. Cruz served at several institutions, including California State University Fullerton and the University of Puerto Rico system. Additionally, he was the vice president of higher education policy and practice at the Education Trust in Washington, D.C.

Mr. Kevin Gilligan serves as chairman and CEO of Capella Education. Previously, he was president and CEO of United Subcontractors, Inc., USI, a national construction services firm, and president and CEO of Honeywell International's second-largest business, Automation and Control Systems.

[Witnesses sworn.]

Chairwoman FOXX. Let the record reflect the witnesses answered in the affirmative.

Before I recognize each of you to provide your testimony, let me briefly explain our lighting system. We allow 5 minutes for each witness to provide testimony. When you begin, the light in front of you will turn green. When 1 minute is left, the light will turn yellow. At the 5-minute mark, the light will turn red, and you should wrap up your testimony. Members will each have 5 minutes to ask questions.

Now, Dr. Akers, you are recognized for 5 minutes.

TESTIMONY OF DR. BETH AKERS, SENIOR FELLOW, MANHATTAN INSTITUTE, NEW YORK, NY

Ms. AKERS. Thank you. Good morning, Chairwoman Foxx, Ranking Member Scott, and members of the Committee on Education and the Workforce.

My name is Beth Akers. I'm a senior fellow at the Manhattan Institute, where I research higher education policy. I've been engaged in research in this field since 2008, when in my role as staff economist at the Council of Economic Advisers, I assisted the Department of Education as they quickly implemented the Ensuring Continued Access to Student Loans Act.

My testimony is also informed by the time I spent researching this subject, first as a Ph.D. student in the economics department at Columbia University, then as a fellow at Brookings, and now at the Manhattan Institute.

Perhaps among the most well-known facts about higher education is that it's expensive and getting more so every year. But it also pays large financial dividends, both to the student in terms of heightened future wages and consistent employment, and to society through greater tax revenue and reduced reliance on social safety nets.

We should be concerned about the trajectory of college costs, but we should also be concerned with building a system of finance that supports students in making investments in themselves, even in the current high-priced environment. Student loans, which allow students to borrow from their futures selves, are an invaluable tool for students to finance investments they would not have otherwise been able to afford, and they are a tool that works quite well for many borrowers.

My research shows that the typical borrower faces loan balances that are modest compared to their lifetime earnings. The large balances we often hear about in the media are, in fact, exceedingly rare, with just 7 percent of young borrowers with balances greater than $50,000 and 2 percent greater than $100,000, and these large balances are most often held by borrowers with advanced degrees that provide the opportunity for very high earnings. The monthly expense of repaying these burdens is also relatively small, with the average borrower paying only about 7 percent of their monthly income on repayment.

But those statistics aren't much of a consolation if you are one of the unlucky students who paid the price for college but saw no return. College is a gamble, it's always been a gamble, but in the current high-cost marketplace, the consequences of making a losing bet on college are bigger than ever before.

We can't say exactly how many students end up underwater on their student loans, but the fact that almost half of those who start college degrees fail to complete them suggests that there is a large pool of former students who will see little to no return on their investment.

In addition to making it possible for young people to borrow from their future to enroll in college, we also need to ensure that adequate safety nets exist to support those who don't experience the anticipated returns. In doing so, we should recognize that it's not the high price of higher education that's the first order problem, rather, it's that some students will pay that price but never see a return.

Rather than using public resources to make college less expensive across the board, Federal funds should be targeted to encourage people to go to college who would not have gone otherwise and to provide relief to those who made a losing gamble on college.

As the committee considers reauthorization of the Higher Education Act, I'd like to encourage you to consider two primary challenges. The first is complexity in the Federal student aid program. Our system of Federal financial aid is needlessly complex, and research has shown that complexity is a significant barrier to college enrollment for students from our lowest-income households.

I believe there are three steps to simplifying our system that are critical. First, rather than requiring potential students to jump through hoops to find out how much they are eligible for in aid, we should use data already collected by the IRS to determine eligibility. We should do away with the FAFSA, or at the very least make it much simpler to complete.

Second, we should eliminate the menu of options for student loans and replace it with a single loan program with terms that are easy to understand.

And third, we should put all student subsidies into a single grant program. This means eliminating tax credits for enrollment, deductions for student loan interest, and combining all Federal grants into a single program. The goal of this proposal is not to reduce subsidies necessarily, but rather to make them more transparent and, therefore, more effective.

The second challenge that should be a priority as you consider reauthorization is our malfunctioning student loan repayment system and safety net. Many are surprised to learn that our Federal student loan program has a robust system of safety nets. This likely stems from the fact that there isn't a single income-driven repayment plan, but rather a set of programs, each with different eligibility requirements and benefits, none of which are the default option for borrowers.

We need to do away with this malfunctioning system and replace it with a universal income-driven repayment plan that is the default repayment option for all borrowers. Ideally, payment would be collected through income withholding so that payments could automatically fluctuate with the borrower's income.

Before closing, I'd like to offer quick remarks on the idea of restoring private sector participation in Federal student lending. Bringing market discipline into Federal student lending isn't a bad idea, but a return to the FFEL program would be a step in the wrong direction. There are good ways to inject market discipline into student lending. The best approach is to redesign the Federal lending program to focus on undergraduate students. Scaling back or eliminating Federal lending to graduate students and parents of college students would organically create an opening for private lenders to participate.

Another smart approach would be to support innovations in the private education finance sector by establishing a regulatory framework for new financial products, such as income share agreements, which have the potential to address many of the financial challenges currently facing students.

Thank you for the opportunity to address you today. I'm very pleased that the committee is devoting its attention to this issue, as a well-functioning system of higher education is critical to our collective economic and social well-being. I look forward to answering your questions today and serving as a resource in the future.

[The testimony of Ms. Akers follows:]

Testimony of Beth Akers
House Committee on Education and the Workforce
February 7, 2017
"Challenges and Opportunity in Higher Education"

Good morning, Chairwoman Foxx, Ranking Member Scott, and members of the Committee on Education and the Workforce. My name is Beth Akers. I am a senior fellow at the Manhattan Institute where I research issues related to higher education policy, with a focus finance. I've been engaged in research in this field since 2008 when, in my role as Staff Economist at the Council of Economic Advisers, I assisted the Department of Education as they quickly implemented the Ensuring Continued Access to Student Loans Act. My testimony is informed by the time that I've spent researching this subject, first as a graduate student in the Economics Department at Columbia University, then as a Fellow at the Brookings Institution and now at the Manhattan Institute.

Perhaps among the most well known facts about higher education is that it's expensive and getting more so every year. Research from the College Board indicates that the average net cost for a year of attendance at a four-year public institution was $3,770 this year, up nearly 30 percent from $2,910 during the 2006-07 academic year (2016 dollars). This means that a student who completes their degree in four years at a public university must come up with $15,000 above and beyond what they need to cover their normal cost of living, all while taking a break from working or reducing their hours to fit in coursework. The tuition inflation that we've observed is a concerning trend, but it's important to realize that even with the large price tag, college is, at least on average, "worth it." The most recent estimates from the Federal Reserve Bank of New York place the rate of return on college degrees at approximately 15 percent; that means students will get back far more, through higher future wages, than they will spend upfront[1].

College is expensive, but it pays large financial dividends both to the student, in terms of heightened future wages and consistent employment, and to society through greater tax revenue and reduced reliance on social safety nets. We should be concerned about the trajectory of college costs, but we should also be concerned with building a system of finance that supports students in making investments in themselves, even in the current, high-price environment.

The "pay first, benefit later" pattern of cash flows for education means that in the absence of federal student loans, students without financial means would be left without access higher education. Student loans, which allow students to borrow from their future selves, are an invaluable tool for students to finance investments they would not have been able to afford otherwise. And they are a tool that works quite well for many borrowers.

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[1] Abel, Jaison R., and Richard Deitz. "Do the benefits of college still outweigh the costs?." (2014).

My research[2] shows that typical borrowers face loan balances that are modest compared to their lifetime earnings. The large balances we often hear about in the media are, in fact, exceedingly rare. Just 7 percent of young borrowers have balances greater than $50,000 and 2 percent greater than $100,000. And the large balances are most often held by borrowers with advanced degrees that provide the opportunity for very high earnings. The monthly expense of repaying these burdens is relatively small for the typical borrower. The average borrower in repayment on their student loans will spend only about 7 percent of their income on loan repayment; that's similar to what households spend on entertainment expenses like going out to the movies[3]. Perhaps needless to say, debt is an important instrument for ensuring that all young people have access to higher education, regardless of their financial means.

But those statistics aren't much of a consolation if you are one of the unlucky students who paid the price for college but saw no return. College is a gamble. It's always been a gamble, but in the current high-cost marketplace, the consequences of making a losing bet on college are bigger than ever before. We can't say exactly how many students end up "underwater" on their student loans, but the fact that almost half[4] those who start college degrees fail to complete them suggests that there is a large pool of former students who will see little to no return on their investment.

In addition to making it possible for young people to borrow from their future to enroll in college, we also need to ensure that adequate safety nets exist to support those who don't experience the anticipated returns. In doing so, we should recognize that it's not the high price of higher education that's a problem. Rather, it's that *some* students will pay that price but never see a return. Rather than using public resources to make college less expensive across the board, funds should be targeted to provide relief to those who made a losing gamble on college.

As the committee considers the reauthorization of the Higher Education Act, I'd encourage you to give consideration to the following challenges facing our system of higher education finance.

A Malfunctioning Repayment System and Safety Net

Many people are surprised to learn that our federal student loan program has a robust system of safety nets that protects borrowers from unaffordable student loans. The set of income-driven repayment plans offers borrowers the option of reducing their monthly payments, sometimes to zero, during periods of low earnings. These repayment plans also offer loan forgiveness to borrowers who maintain low earnings for an extended period. The lack of knowledge about

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[2] Akers, Beth, and Matthew M. Chingos. "Student Loan Update: A First Look at the 2013 Survey of Consumer Finances." *Washington, DC: Brown Center on Education Policy, Brookings Institution, available at http://www.brookings.edu/research/papers/2014/09/08-student-loan-update-akers-chingos* (2014).

[3] Akers, Beth. "The Typical Household with Student Loan Debt." *Washington, DC: Brown Center on Education Policy, Brookings Institution, available at https://www.brookings.edu/research/the-typical-household-with-student-loan-debt/.*

[4] Bowen, William G., Matthew M. Chingos, and Michael S. McPherson. *Crossing the finish line: Completing college at America's public universities*. Princeton University Press, 2009.

these safety nets likely stems from the fact that there isn't a single income-driven repayment plan, but rather a set of programs, each with different eligibility requirements and benefits.

The problem of complexity in the system of safety nets is compounded by the fact that borrowers must opt-in to these plans to reap the benefits. When a borrower enters repayment, they are automatically enrolled in a repayment plan with fixed monthly payments. A borrower who wishes to enroll in income-driven repayment must complete an initial application and then submit new paperwork to certify their income every year. The problem with this opt-in style safety net is that borrowers who are struggling to make loan payments are probably also the least likely to be aware of these benefits or to know how to take advantage of them. Not to mention, borrowers who are already in default are not eligible to enroll.

We need to do away with this malfunctioning system and replace it with a universal, income-driven repayment plan that is the default repayment option for all borrowers. Ideally, payment would be collected through income withholding so that payments could automatically fluctuate with income. This would eliminate the need for the Department of Education to rely on loan servicers to collect payments, a process that has long been plagued with complaints about service. Some object to making income-driven repayment the default option because it might cause some borrowers to pay off their debt more slowly than they would have otherwise, causing them to pay more interest over the life of the loan. This would probably be the case, but seems a small price to pay for getting struggling borrowers, who probably have relatively low levels of financial savvy, automatically enrolled in a program that will prevent them from facing unaffordable student loan payments. Borrowers who wish to pay back their debt more quickly than prescribed should be allowed to make prepayments on their debt.

With the enactment of a universal income-driven repayment plan, we should do away with the forgiveness provisions in the existing plans. Adjusting monthly payments in accordance with a borrower's income should be sufficient to ensure that a borrower never faces an unaffordable monthly payment. Beyond that, borrowers should only have their debts forgiven if they are, in fact, financially insolvent. The existing plans offer forgiveness once borrowers have made payments in an income-driven repayment plan for a fixed number of years. The problem is that this is an inadequate mechanism for identifying insolvent borrowers. Instead, alleviation of student loan burdens should occur through bankruptcy proceedings, which provide a far superior mechanism for determining financial insolvency. Currently, student debt is not dischargeable in bankruptcy.

Eliminate Needless Complexity

Our system of federal financial aid is needlessly complex. This might seem like a small problem, but research has shown that complexity is a significant barrier to college enrollment for students from our lowest income households. Since closing the achievement gap between rich and poor families should be among the highest priorities of federal education policy, simplifying the process of financial aid needs to be on the agenda.

The needless complexity of financial aid begins long before a student steps onto a college campus. Before a student learns about their eligibility for federal aid, they must complete the Free Application for Federal Student Aid (FAFSA). Studies have shown that lessening the barrier created by this aid application process would likely result in increased enrollment among students from low-income households[5]. Many have argued for a redesign of the FAFSA to make it easier to complete, but I believe that the best approach would be to eliminate the application altogether. Rather than requiring potential students to jump through hoops to find out how much aid they are eligible for, we should use data already collected by the IRS to determine eligibility. Information on aid benefits could be mailed directly to potential students and their families, perhaps being triggered by checking a box on the 1040 form. Using tax data to allocate aid would not be able to achieve the same targeting of benefits as the FAFSA because the IRS does not have all the same information on household finances, but research has shown that the loss in precision is extremely small. This cost is more than outweighed by the benefit of enrolling more low-income students[6].

The problem of complexity worsens further when students get to the point of considering the menu of aid available to them. The federal aid system provides subsidies to students through several channels, including: the Pell Grant, tax credits (American Opportunity Tax Credit and Lifetime Learning Credit), tax deductions (for tuition and fees and student loan interest), Federal Supplemental Educational Opportunity Grant (SEOG), and Work Study. The problem with this arrangement is that it makes it very difficult for students to understand how much aid is available and whether college is affordable for them. We subsidize higher education because we want to encourage people to attend college who would not have otherwise, or to encourage students to attend higher quality institutions than they would have been able to without aid. But scattering the federal aid dollars across these different channels is likely diminishing the impact of these dollars on student enrollment behavior. For this reason, subsidies in the tax code should be eliminated, and all federal aid dollars should be packed into a single grant program. The effectiveness of subsidies will be the greatest when they are as transparent as possible.

The lending system is equally complex, with several different loan products, including: Subsidized Stafford loans, Unsubsidized Stafford loans, Graduate Stafford loans, Perkins loans, Graduate PLUS loans, and Parent Plus loans. With this menu of lending options, in combination with the variety of subsidies, it is not a surprise that some students are confused about their college finances. Financial aid professionals often report that students do not always realize the difference between grants and loans. My recent work with Matthew Chingos confirmed the existence of this illiteracy among aid recipients by revealing that about half of all first-year students in the U.S. seriously underestimate the amount of debt they have taken on. And among those students with federal loans, 28 percent reported that they had no federal loans

[5]Bettinger, Eric P., et al. "The role of application assistance and information in college decisions: Results from the H&R Block FAFSA experiment." *The Quarterly Journal of Economics* 127.3 (2012): 1205-1242.
[6] For a detailed discussion of the implications for aid targeting see:
Dynarski, Susan M., and Judith E. Scott-Clayton. *The cost of complexity in federal student aid: Lessons from optimal tax theory and behavioral economics*. No. w12227. National Bureau of Economic Research, 2006.

and 14 percent reported that they had no student debt at all[7]. We should replace this set of programs with a single loan that is available only to students.

With these reforms, we should aim to pare back the federal aid program to satisfy its intended purpose. Subsidies to higher education are important. Without them the nation would suffer from insufficient investment in human capital. Productivity, competitiveness, and growth would suffer. Likewise, the federal loan program plays a critical role in our economy. Without it, welfare-enhancing educational opportunities would be left untaken because of credit constraints imposed by the private credit markets. Access to higher education is an important mechanism for social mobility, but the current system of student aid has expanded in some ways that are not justifiable.

First, we need to eliminate the Parent Plus loan program. Creditworthy parents can obtain financing for college in the private market, which means that the PLUS program simply serves as another mechanism for delivering a subsidy (through the below-market interest rate). The purpose of student loans is to alleviate the credit constraint that prevents young people from making investments in higher education that are likely to pay off. If the borrowing limits in the Stafford program do not achieve that goal, then those limits should be revisited.

Second, we need to eliminate the Public Service Loan Forgiveness program, which offers generous debt forgiveness benefits for borrowers who are employed in the government or at non-profit organizations. Encouragement of workers to participate in professions they would not otherwise have chosen can be a justifiable use of taxpayer dollars, but it should not occur through the federal student aid program. Offering these subsidies through loan forgiveness is unfair to workers who finance their educational investments through alternative means, like savings. If the goal is to increase participation in these sectors of the labor market, the subsidies should be as obvious as possible and available to all workers, not just those who financed their education with debt. Not only does PSLF deliver subsidies for public service in an inefficient manner, it also does a poor job targeting those funds. Studies have shown that most of the benefits of PSLF will go to workers that have earned graduate and professional degrees and have the potential for very high earnings. To make matters worse, these borrowers can anticipate that their debts will be forgiven, which means that they have an incentive to borrow more than is necessary. This will ultimately drive up the cost of graduate programs and put an unfair burden on taxpayers.

Before closing, I'd like to offer some remarks on the notion of restoring private sector participation in federal student lending. Bringing market discipline into federal student lending isn't a bad idea, but a return to the Federal Family Education Loan (FFEL) program would be a step in the wrong direction. Under this program, which was eliminated in 2007, federal student loans were originated by private lenders operating as contractors to the federal government. FFEL did not operate like a market. Interest rates were set by legislation, and lenders had no

[7] Akers, Beth, and Matthew M. Chingos. "Are college students borrowing blindly?." *Washington, DC: Brown Center on Education Policy, Brookings Institution, available at http://www.brookings.edu/research/reports/2014/12/10-borrowing-blindly-akers-chingos* (2014).

discretion over who could borrow or how much to lend. Further, the contracts with lenders were poorly designed such that they were overcompensated and incented to participate in perverse business practices. There are better ways inject more market discipline into federal student lending than returning to a failed policy that created more problems than it solved.

The best approach is to redesign the federal lending program to focus on undergraduate students. Of the $100 billion of loans made by the government each year, $30 billion go to graduate students and another $10 billion to parents of undergraduate students. Scaling back or eliminating federal lending to graduate students and parents of college students would create an opening for private lenders to operate. This would almost surely reduce lending to students who attend graduate programs that are unlikely to produce a large enough economic return to justify the cost and risk. But such an outcome may be more desirable than taxpayers being on the hook for loans to graduate students that go unpaid or are forgiven under current policy.

Another smart approach would be to support innovations in the private education finance sector by establishing a regulatory framework for new financial products such as income share agreements (ISAs). Growth in this sector is currently inhibited by regulatory uncertainty. This is unfortunate because these innovative products, which offer incredible protections to consumers compared to existing products, have the potential to address many of the financial challenges currently facing students. ISAs are likely to remain a niche product, but could play a role in expanding access to higher education financing for some students, such as those who need to borrow more than the federal limits. They could also substitute for federal lending to graduate students if the availability of loans to graduate students were scaled back.

Thank for the opportunity to address you today. I am very pleased that the committee is devoting its attention to this issue, as a well-functioning system of higher education is critical to our collective economic and social wellbeing. I look forward to answering your questions today and serving as a resource in the coming months as Congress works on the long-awaited reauthorization of the Higher Education Act.

Chairwoman FOXX. Thank you, Dr. Akers.

Dr. Kirwan, you're recognized for 5 minutes.

TESTIMONY OF DR. WILLIAM E. KIRWAN, CO-CHAIR, TASK FORCE ON FEDERAL REGULATION OF HIGHER EDUCATION, ROCKVILLE, MD

Mr. KIRWAN. Good morning. I'm Brit Kirwan, chancellor emeritus of the University System of Maryland. I want to thank Chairwoman Foxx and Ranking Member Scott and the members of the committee for the opportunity to speak about streamlining and refocusing Federal regulations impacting higher education today.

I'm here this morning to provide commentary on the report of a commission created by four members of the Senate HELP Committee: Chairman Lamar Alexander and Senators Barbara Mikulski, Michael Bennet, and Richard Burr. The commission consisted of 16 college and university presidents and chancellors from across all sectors of higher education. I was privileged to co-chair the commission with Nick Zeppos, chancellor of Vanderbilt University.

The charge to the commission was to study and recommend ways to reduce the Federal regulatory burden on colleges and universities, while maintaining vitally important protections for students, families, and taxpayers. We in higher education recognize, with deep gratitude, the extraordinary fiscal commitment the Federal Government makes to our enterprise. Therefore, we recognize and embrace our obligation to be transparent, responsible, and accountable stewards of taxpayer money.

Through the task force's work, we learned that many regulations are well developed to address critically important issues and provide appropriate measures of institutional accountability. On the other hand, we also discovered that too many regulations are poorly framed, confusing, overly complex, ill-conceived, or poorly executed.

The problem is exacerbated by the sheer volume of mandates, rules and regulations, and subregulations. There are more than 4,000 pages of text in the Higher Education Act and related documents. Placed on the floor, these pages would rise to a height of between 4 and 5 feet. And the volume grows daily since the Department of Education issues official guidance to amend or clarify its rules at a rate of more than one document sent to our institutions every working day throughout the year.

Over time, requirements have been layered upon requirements, resulting in a tangle of regulations and an ever-increasing cost of compliance, which, quite frankly, is a factor driving rising tuitions and harming affordability efforts.

This last point is very important. Clearly, all colleges and universities, public and private, need to tighten their belts, reduce costs wherever possible, and emphasize efficiency in their operations, and this has been happening at institutions across the country. The reality is that the cost of regulations must either be passed on the students in the form of higher prices or in a reduction of services to them.

The task force report highlighted 10 of the most problematic regulations identified through our conversations with stakeholders. In total, the full report identifies 59 unduly burdensome regulations with proposed streamlining solutions. The Senate HELP Committee, I understand, reached agreement on the vast majority of these recommendations.

I'm pleased to note that the House supported and the Department has already moved forward to address one of our recommendations, namely, the use of prior-prior tax data in the student aid verification process.

In addition to looking at specific regulations of concern, the task force also examined ways to improve the process by which regulations are developed and implemented. Our report contains several ideas for reforms in this area, and I will highlight just two.

First, the Department should recognize when institutions are acting in good faith. Very few violations of Federal regulations are deliberate or reflect negligence by institutions, nor are all violations equally serious.

For example, in the summer of 2014, the University of Nebraska at Kearney was fined $10,000 for mistakenly misclassifying a 2009 incident involving the theft of $45 worth of goods from an unlocked custodian's closet as a larceny rather than a burglary. Because the Clery Act does not require the reporting of larceny, the university did not report the incident on its annual security report. In an audit, the Department ruled that the incident was a burglary, in the Department's opinion, and fined the institution the $10,000.

Second, the Department should be required to act in a timely manner when conducting program reviews and investigating and resolving complaints. While institutions are required to adhere to strict timelines in terms of responding to agency requests, there's no time limits imposed on the Department in terms of issuing a final determination after a program review.

By way of example, in May 2013, Yale University was ordered to repay financial aid funds based on a Department of Education audit undertaken in 1996. The repayment was in 2013. Taking over 17 years to complete a program review and issue fines should not be considered acceptable.

Again, I thank you for the opportunity to present some of the task force's recommendations, and I look forward to your questions.

[The testimony of Mr. Kirwan follows:]

February 7, 2017
U.S. House of Representatives Committee on Education and the Workforce
"Challenges and Opportunities in Higher Education"

Testimony of William E. "Brit" Kirwan
Chancellor Emeritus of the University System of Maryland and
Co-Chair of the Senate Task Force on Federal Regulation of Higher Education

Good morning. I am Brit Kirwan, chancellor emeritus of the University System of Maryland (USM) and co-chair of the Senate Task Force on Federal Regulation of Higher Education. I want to thank Chairwoman Virginia Foxx and Ranking Member Bobby Scott for the opportunity to speak to the committee about the need to streamline and refocus federal regulations impacting higher education today.

In late 2013, HELP Committee Chairman Alexander (R-TN) and Senator Barbara Mikulski (D-MD), along with Senators Burr (R-NC) and Bennet (D-CO), appointed a task force of 16 college and university presidents and chancellors from across all sectors of higher education to study federal regulation of higher education broadly and provide specific recommendations for improvement. For purposes of my testimony today and for purposes of the task force report, we use the word "regulation" in its broadest sense to include not only formal agency rulemaking but also agency guidance and requirements stemming from statutory authorities. I was pleased to serve as a co-chair this effort along with my colleague Nick Zeppos, chancellor of Vanderbilt University.

Our charge was to study and recommend ways to reduce the federal regulatory burden on colleges and universities, while maintaining important protections for students, families, and taxpayers. That last phrase bears repeating—***while maintaining protections for students, families and taxpayers.*** It was not an effort to simply slash regulations in the name of reducing burden. Our goal was to find ways to reduce unnecessary burden while maintaining our obligation to provide high quality and safe learning environments and ensuring effective stewardship of taxpayer dollars. In short, our goal was ***smarter*** regulation.

The task force spent more than a year engaged in extensive consultations and information gathering with campus officials, higher education associations, and other stakeholders. The task force staff visited nearly 60 campuses to hear directly from officials about the impact of regulations on their institution. In early 2015, we delivered our final report to the senators.

We in higher education fully understand—**<u>and support</u>**—the important role that federal regulations play. Students and colleges and universities across this country benefit from the strong federal investment in higher education, including significant funding for student aid programs such as Pell Grants for low-income students, the Federal Work-Study program, TRIO programs, federal loans, and funding targeted to historically black colleges and universities, not to mention federal funding and grants for university-based research and development. We in higher education recognize with gratitude the extraordinary fiscal commitment the federal government makes to our enterprise. Therefore, we recognize and embrace our obligation to be transparent, responsible, and accountable stewards of taxpayer money.

Through the task force's work, we learned that many regulations are well developed, address critically important issues, and provide appropriate measures of institutional accountability. On the other hand, we have also discovered that too many regulations are poorly framed, confusing, overly complex, ill conceived, or poorly executed. Some are even wholly unrelated to the mission of higher education. The problem is exacerbated by the sheer volume of mandates—more than 2,000 pages of text—and the reality that the Department of Education issues official guidance to amend or clarify its rules at a rate of more than one document per work day. Over time, requirements have been layered upon requirements, resulting in a tangle of regulations that too often has a harmful effect on higher education's ability to serve students. Some regulations even restrict rather than contribute to student access to higher education, limit our ability to focus resources on student success, impede organizational efficiencies, and constrain innovation. And, quite frankly, the costs associated with compliance are one of the factors driving rising tuitions and harming affordability efforts.

This last point is very important. For the past several years, our nation has been engaged in a conversation on college affordability. Clearly, all colleges and universities—public and private—need to tighten their belts, reduce costs wherever possible, and emphasize efficiency in their operations. And this is precisely what has been happening at institutions across the country.

But when it comes to costs associated with federal regulations, we are largely powerless. It is all too easy for policymakers to think of regulation as a free good. The reality is that the costs of regulation are almost always passed on to consumers in the form of higher prices. When these costs are not passed on, consumers can expect to see a reduction in services as resources are redirected toward greater regulatory compliance efforts.

This is why this task force report is so important and why I, once again, want to thank the committee for inviting me to testify about our work. The pending reauthorization of the Higher Education Act (HEA) provides a propitious opportunity to not only identify the most burdensome, costly, and confusing federal regulations, but also to develop clear recommendations on how Congress and the Department can streamline and simplify the process by which regulations are made while maintaining—even strengthening—accountability.

Specific Regulations of Concern

The task force report highlighted 10 of the most problematic regulations identified through our conversations with stakeholders. I am pleased to report that the House supported and the Department moved forward to address one of our recommendations, namely, the student aid verification process. The move to allow the use of prior-prior year tax data for populating the FAFSA has the potential to drastically reduce the verification burden—a burden felt not only by institutions but also by the students and families selected to provide additional information. It also has the benefit of allowing students to receive information about available student aid much earlier in the process. While this change is still in its first year of implementation, we believe it will be a positive one.

Aside from this change, other regulatory challenges remain, and I would like to take a few minutes to highlight some of them. It is our hope that these specific concerns can be addressed by Congress as part of the HEA reauthorization or through further action by the Department.

The first item I will highlight is the impact of regulations that unnecessarily stifle innovations in distance education. Historically, the federal requirements for state authorization of distance education programs were limited to the state where the institution was physically located. However, several years ago, the Department fundamentally altered that landscape by notifying institutions that they would need to meet the state authorization laws of every state in which even just one of their students was physically located. As online education continues to cast aside geographical impediments to learning, it is counterproductive to frustrate colleges' efforts by erecting walls of regulation. Congress should clarify the historical and long-standing interpretation of the HEA state authorization provisions so that resources that go to attorneys, compliance officers, and tuition surety bonds to obtain authorizations in state after state can be redirected to target access, affordability, and educational innovations. Institutions can and should be responsible for complying with state laws, certainly. But there is no need for the federal government to be involved with these matters. Nor is there any justification for dictating to states requirements for what their own state laws must address.

Since issuing our report, the Department has continued regulatory efforts in this area, releasing a new distance education rule on December 19, 2016. This new rule has expanded from two sentences in the 2010 regulation to nearly two pages, along with 30 more pages of explanatory text. On top of that, the Department has found it necessary to issue a letter "clarifying" the rule, even though it is not set to take effect until July 2018.

Admittedly, institutional compliance with the web of different state laws affecting distance education has been challenging. Thankfully, many institutions will have an easier compliance process under the National Council for State Authorization Reciprocity Agreements (NC-SARA), a new voluntary process of state oversight for distance education. But I think we need to seriously question whether the federal efforts have yielded a benefit worth the cost. I would argue, they have not.

The next item I will highlight is the inordinate amount of information and data that colleges and universities are required to collect and disseminate. Some of this information is, of course, very useful for students and families to consider, but some of it is not. For example, higher education institutions must report on the number of supervised fire drills they hold in a given year. They have to produce more than **30** "gainful employment disclosures" ***for each covered program offered***. They are required to counsel departing student borrowers on seven different federal loan repayment programs even though the vast majority use either the standard 10-year or the extended 30-year program. Providing all this data makes it difficult to separate the wheat from the chaff. To prevent an overload of information, we recommend that Congress and the Department of Education work together to winnow this list down to require only the information most useful to students and their families. Rather than assume that information will be useful to consumers, we recommend using focus group testing to guide policymakers in determining the information most helpful to making informed decisions and that institutions should be required to provide.

Finally, our report identified a number of requirements placed upon higher education that have nothing to do with our mission. These include enforcing Selective Service registration, monitoring Title IV eligibility for students with drug-related convictions, combating peer-to-peer file sharing, distributing voter registration forms in a ***federally specified*** timeframe and format, and other actions that divert time and resources. These may all be worthy goals, but using colleges and universities as the mechanism to achieve them is costly and inefficient. It is our task force's hope that Congress will use the upcoming HEA reauthorization as an opportunity to review all of the Act's provisions, identify the federal purpose behind their inclusion, and strike requirements that are not clearly related to the core mission and responsibilities of higher education.

Recommended Improvements in the Regulatory Process

In addition to looking at specific regulations of concern, the task force also examined ways to improve the process by which regulations are developed and implemented. When examining process concerns, I stress that the issues identified in the report are not unique to any particular administration or party. All the more reason to find ways to improve the regulatory process and ensure that it is a consultative and collaborative one. Our report contains several ideas for reforms in this area, and I will highlight just a few of them.

First, the negotiated rulemaking process used by the Department should be improved to ensure it achieves its intended goals. It is critical that negotiators are chosen who can speak for the constituency they are chosen to represent. Too often, the Department appoints negotiators who may be sympathetic to their policymaking goals, but do not and cannot represent the views across a wider sector (e.g., an administrator from a large public institution does not represent the views of all public institutions).

Furthermore, negotiators must have the expertise necessary to meaningfully contribute to the topics under consideration. The "bundling" of unrelated issues for consideration during a single negotiated rulemaking has become a serious problem. More specifically, the Department has too often grouped a host of unrelated issues into a single panel, choosing negotiators on a disparate set of issues and thus creating situations in which only a small number of negotiators are knowledgeable enough to engage on any given issue. In such cases, a very small number of negotiators may determine the outcome of rules with broad public policy implications.

The February-May 2014 negotiated rulemaking on "Program Integrity" illustrates this point. A single negotiating committee was tasked with reaching consensus on, among other issues, "cash management" of Title IV funds; state authorization of distance education programs; state authorization of domestic institutions with foreign locations; "clock-to-credit-hour" conversion; the definition of "adverse credit" for borrowers in the PLUS Loan Program; and the effect of retaking courses on student aid eligibility. Given the range of individuals needed for such a panel, it was not surprising that most negotiators were knowledgeable about a limited number of these issues. It was even less surprising that no consensus was reached on the regulatory package, a fact that allowed the Department to write the proposed rules as it saw fit.

Similarly, during the first session of the 2016 borrower defense to repayment neg-reg, the Department added financial responsibility standards to the list of negotiating topics. Despite the complexity of this issue, the long-standing concerns expressed by the higher education community about the Department's application of rules, and objections raised at the table, the Department proceeded to draft changes to these standards without a single non-profit accountant, college financing expert, college or university business officer, or other negotiator with expertise on the subject.

Another obstacle to successful negotiated rulemaking panels in recent years has to do with the panels' facilitators. As the individuals charged with running the negotiating sessions, facilitators should serve as guardians of the process. Unfortunately, that is not the case. In recent years, the Department has given facilitators a limited role, with little authority to resolved difference that arise. This part of negotiated rulemaking should be returned to its original purpose, which involved facilitators who served as arbiters of fairness and who use their skills to help achieve consensus—not by encouraging a particular substantive outcome, but by being more active in exploring areas of agreement.

The result of these and other practices is that the Department exercises an extremely high degree of control over the process, not only selecting all the committee members and limiting the role of the facilitators, but also doing all the drafting and taking a strict view of what constitutes a consensus. These and other concerns about the negotiated rulemaking process and suggestions for improvement are explored further in the report, including an appended white paper.

Second, the Department should limit its reliance on sub-regulatory guidance. Significant changes in policy should not be made without following the Administrative Procedure Act's (APA) notice and comment procedures.

The APA's notice and comment procedures are a valuable, time-tested tool for developing good regulations. Soliciting public comments and incorporating this feedback ensures that the agency has considered a wide range of viewpoints and allows for the opportunity to address unanticipated consequences before the regulation is finalized. When developing formal regulations, the Department is usually careful to follow the APA's requirements. However, as it increasingly turns to sub-regulatory guidance to pursue its policy goals, the agency often imposes significant new requirements without the benefits afforded by the notice and comment process. The Department should always use the notice and comment process. If, in rare circumstances, it determines it cannot, it should articulate a reasonable basis for dispensing with it.

The Department's policies would be better informed and more effective with the benefit of formal comments from all interested parties. In addition, when there is a full and public vetting of policy choices, the chances of good policy being upheld in any future litigation will be greatly increased. Therefore, it is critical that Congress ensure that agencies follow the procedures set forth in the APA so that the public is given a meaningful opportunity to comment before new mandates are imposed.

Third, the Department should recognize when institutions are acting in good faith.

Very few violations of federal regulations are deliberate or reflect negligence by institutions. Nor are all violations equally serious. At present, minor and technical violations are not acknowledged as such by the Department. We believe that the Department ought to recognize when institutions have clearly acted in good faith.

In the summer of 2014, for example, the University of Nebraska at Kearney was fined $10,000 for mistakenly misclassifying a 2009 incident involving the theft of $45 worth of goods from an unlocked custodian's closet as a larceny rather than a burglary. Because the Clery Act does not require the reporting of larceny, the university did not report the incident on its Annual Security Report. In an audit, the Department ruled that the incident was a burglary and fined the institution for failing to report it. We believe that this is an example of an institution being overly penalized for a relatively minor technical violation. In such cases, the size of the sanctions imposed by the Department does not appropriately reflect the weight of the infraction involved. Fines that fail to distinguish the important from the trivial undermine the Department's credibility. Both statute and regulation should ensure that the Department has the flexibility to recognize good faith mistakes by institutions and to mitigate penalties as appropriate.

Fourth, the Department should be required to act in a timely manner when conducting program reviews and investigating and resolving complaints.

Under the HEA, colleges and universities are required to submit documents and other records requested by the Department within a prescribed amount of time. While institutions are required to adhere to strict time lines in terms of responding to the agency's requests, there are no time limits imposed on the Department in terms of issuing a final determination after a program review.

By way of example, in May 2013, Yale University was ordered to repay financial aid funds based on a Department of Education audit undertaken in 1996. The University of Colorado received a similar demand based on a 1997 audit. Even though the universities appealed in a timely fashion, it took 17 and 16 years, respectively, for the Department to take action. Taking over 10 years to complete a program review and issue fines should not be considered acceptable.

Conclusion

In conclusion, effective oversight can help colleges and universities keep costs down, keep students safe, focus on educating students, and be good stewards of federal funds. In that spirit, the task force report concludes with the following list of guiding principles to help govern the development, implementation, and enforcement of regulations by the Department:

- Regulations should be related to education, student safety, and stewardship of federal funds.
- Regulations should be clear and comprehensible.
- Regulations should not stray from clearly stated legislative intent.
- Costs and burdens of regulations should be accurately estimated.
- Clear safe harbors should be created.
- The Department should recognize good faith efforts by institutions.
- The Department should complete program reviews and investigations in a timely manner.
- Penalties should be imposed at a level appropriate to the violation.
- Disclosure requirements should focus on issues of widespread interest.
- All substantive policies should be subject to the "notice-and-comment" requirements of the Administrative Procedure Act.
- Regulations that consistently create compliance challenges should be revised.
- The Department should take all necessary steps to facilitate compliance by institutions.

Apart from our interest in seeing that regulations are coherent and fair, these principles also reflect our belief that all stakeholders—students and taxpayers, as well as colleges and universities—reap the benefit of well-designed regulation. We want to keep costs down, keep students safe, focus on educating students, and be good stewards of federal funds. These principles will help us do that. We hope the committee will find these principles useful as you move forward with reauthorizing the HEA.

Again, thank you for the opportunity to present some of the task force's recommendations to you today. Regulatory reform seems to be an area where we can remove red tape and reduce costs while we continue our prudent stewardship of public dollars and provide students and families the information they need to make informed choices. Universities and colleges have served as drivers of the national interest by promoting education and innovation that provides solutions to challenges we face. We are hopeful that the task force recommendations will advance these goals while maintaining appropriate safeguards for students and for taxpayer money. I look forward to your questions.

Chairwoman FOXX. Thank you very much, Dr. Kirwan.

Dr. Cruz, you're recognized for 5 minutes.

TESTIMONY OF DR. JOSÉ LUIS CRUZ, PRESIDENT, LEHMAN COLLEGE OF THE CITY UNIVERSITY OF NEW YORK, BRONX, NY

Mr. CRUZ. Chairman Foxx, Ranking Member Scott, and members of the committee, thank you for the opportunity to testify this morning. My name is José Luis Cruz. I am the proud president of Lehman College of the City University of New York.

Lehman College serves 13,000 undergraduate and graduate students across 90 degree programs, plus 12,000 students in certificate and workforce development programs. Fifty percent of Lehman undergraduates have a household income of less than $30,000, 80 percent are students of color, and 41 percent speak a language other than English at home.

The perspectives I bring today have been shaped by my personal experiences as a student who benefited from Federal and State aid, a faculty member and administrator at three large university systems, and an advocate for low-income students and students of color.

We can all agree on the importance of our post-secondary education system, particularly in today's economy, but right now our system is far too inequitable. Low-income students today enroll in college at rates lower than high-income students did in the mid-1970s and are far more likely to enroll in institutions that graduate few of their students and create disproportionate debt.

Lehman College and other public 2- and 4-year institutions are tackling these inequities head-on. A comprehensive study by the Equality of Opportunity Project concluded that mid-tier public universities have the highest mobility rate of any sector. The City University of New York alone propelled almost six times as many low-income students into the middle class than all the eight Ivy League campuses, plus Duke, MIT, Stanford, and Chicago combined.

So how are we doing this? Lehman and the City University of New York, like many other 2- and 4-year colleges across the country, are creating alternate and well-coordinated pathways, improving graduation rates, and reducing the time it takes our students to graduate with a degree or a certificate, and establishing public-private partnerships in leading-edge workforce development areas. Programs like the City University of New York's Accelerated Study in Associate Programs, also known as ASAP, and Lehman's adult degree program are just two examples of how colleges and universities are committed to an equity-focused system.

These practices are changing the lives of students, and with the right policy environment and sufficient investment, they could be replicated across more institutions in the Nation. What we need, however, are equity-driven investments and policies to help move the work forward. I've often heard that the Federal Government has no more money left, but from my experience managing budgets, it's all about where your priorities are at.

My written testimony details several investment and policy recommendations to tackle inequities. Specifically, I want to highlight the importance of four of them.

One, establishing a well-thought-out Federal-State partnership focused on renewing State investments, which have decreased by 20 percent since 1990, and focused on ameliorating funding inequities among colleges and universities within a given State.

Two, investing in the Pell Grant program and strengthening it for the future. Pell's buying power has decreased significantly since its inception, forcing low-income students to disproportionately borrow more money for college.

Three, strengthening the direct loan program by reducing interest rates and simplifying and expanding eligibility of repayment options.

And four, improving the quality of data available. With the right infrastructure, the burden would be minimal and the data far more actionable.

We must also ensure strong protection exists for students and families. The gainful employment rule, restrictions on incentive compensation, and enactment of borrower defense have gone a long way to protect taxpayers and students from the worst for-profit colleges. Congress should strengthen these provisions, not weaken them, and improve accreditation to ensure Federal aid goes to the highest-quality institutions.

In closing, I believe that we can and must do a better job of building a system that sustains rather than erodes opportunity. Thank you.

[The testimony of Mr. Cruz follows:]

United States House of Representatives
Committee on Education and the Workforce

Challenges and Opportunities in Higher Education
February 7, 2017

Written Testimony of President José Luis Cruz
Lehman College of The City University of New York

Chairwoman Foxx, Ranking Member Scott, and members of the Committee, thank you for the opportunity to testify before you this morning on the many and varied challenges, and opportunities, in higher education.

My name is José Luis Cruz, and I am the President of Lehman College of The City University of New York. Located in the storied and resilient borough of The Bronx, Lehman College serves as a driver of transformative change to approximately 13,000 undergraduate and graduate students across 90 degree programs, plus 12,000 students in certificate and workforce development programs. Fifty percent of Lehman undergraduates have a household income of $30,000 or less; 80 percent are students of color; and 41 percent speak a language other than English at home.

The perspectives I bring today have been shaped by my personal experiences as a student who benefited from many federal and state aid programs, including the Pell Grant, professional experiences as a faculty member and administrator at three large university systems and advocacy experiences as a former Vice President of Higher Education Policy and Practice at The Education Trust.

I have structured my remarks today as follows. First, I will discuss what in my opinion are the most important challenges facing higher education today. Then, I will reflect on the opportunities available to address these challenges. Finally, I will present high-level recommendations on how federal, state, and institutional policymakers can seize these opportunities and provide examples of how Lehman College and The City University of New York are putting these ideas into action.

Challenges

To preserve our democratic ideals, secure our nation, and compete in the global economy, we must significantly improve postsecondary educational attainment. And because of current demographic and economic shifts, the only way we can do this is by ensuring quality higher education options are accessible and affordable to all members of our increasingly diverse citizenry.

In today's America, this is easier said than done—mainly because of how inequitable policies and practices across each level of the educational pipeline have undermined our ability to fulfill our twin promises of opportunity and upward mobility for all who work hard to reach their full potential. Let me illustrate.

Since the original Higher Education Act (HEA) was passed in 1965, the U.S. has made substantial progress in college access. College-going rates have climbed for students from all economic and racial groups. *Yet despite this progress, low-income students today enroll in postsecondary education at rates lower than high-income students did in the mid-1970's.* [i]

One reason for this gap in college-going—a factor that also manifests itself in gaps in college completion—is that to this day, we as a country give students from historically underserved communities less of all the things they need: less funding;[ii] less access to effective, in-field, experienced teachers;[iii] less access to a college or career-ready curriculum;[iv] and less access to advanced coursework.[v]

Moreover, there's the fact that low-income students and students of color who do enroll in college are *far less likely* than other students to enroll in institutions where most students graduate and *far more likely* to enroll in the institutions, including those in the for-profit sector, that graduate few of their students and create disproportionate debt.[vi]

These disparities are complicated further by the negative impact that increased institutional costs, state disinvestments (down 20 percent since 1990), inequitable state financial aid programs,[vii] and insufficient maximum award levels in the Pell Grant program (down since its inception from roughly 75 percent of the cost of attending a public four-year college to 30 percent)[viii] have had on the total cost of attendance for our lowest income students. The net effect? *Today, low-income students must find a way to finance an amount equivalent to 76 percent of their family's annual income to attend a public university for one year, even after accounting for all grant aid—a far higher burden than the 17 percent figure required for the highest income students.*[ix]

These intergroup inequities have a profound impact on individual lives and our country's competitiveness. For every 100 white kindergartners, roughly 90 end up with a high school diploma, and, of those, 40 get at least a bachelor's degree. There is plenty of opportunity for improvement, to be sure. But the bachelor's degree attainment rate among black adults is just over half that of white adults, and among Latino adults, only just over one-third. Similarly, students from high-income families are approximately three times as likely as students from low-income families to obtain a bachelor's degree by age 24.[x]

It is because of the profound effect this state of affairs has on the ability of working families to succeed, the competitiveness of our economy, the security of our country, and the merit of our meritocracy, that I believe the **eradication of intergroup inequities** to be among the most important challenges that higher education institutions—and our nation—will face in the years ahead. To meet this challenge, we must develop, implement and scale equity-driven policies and practices that will restore faith in Horace Mann's articulation of education being "beyond all other devices of human origin... the great equalizer of the conditions of men, the balance-wheel of the social machinery."

And the fact is that because of who and how many they serve, this responsibility falls primarily, predominantly, and disproportionately on the shoulders of public 2-year and 4-year institutions.

It's a big task. To succeed, higher education institutions must expand access; improve the quality of their programs; increase graduation rates; narrow achievement gaps; reduce the time it takes their students to earn a degree; produce civic-minded, work-force ready graduates in the areas that their region, state, and nation need most; and continue to look for ways to keep college affordable.

And they must do so while managing the effects of the tough administrative decisions they had to make as a result of state disinvestments and increased operational costs in years past: reduced number of full-time faculty; increased reliance on part-time faculty; increased student-faculty ratios; increased deferred maintenance liabilities; outdated equipment; reduced staff levels; and limited access to discretionary funds, among others.

At Lehman College, we embrace our role in meeting this challenge. And we do so because, in the poignant words of Prof. Paula Loscocco, we fully understand that our reason for being is our students, "all of them, first-year or transfer or graduate; Bronx-born or DACA; or from Manhattan, Hawaii, or the Dominican Republic; just out of high school or returning from childcare or another career or ill health or life... [our] mission is to open [our] doors to [our] students, to take them where they're at – SEEK [opportunity] or Macaulay [honors], English-speaking or not, [physically challenged or not], stumbling or soaring – and to train them, ready them, raise the bars of their skills and achievements and ambitions and confidence."

Opportunities

In recent years, the number of books and articles criticizing higher education institutions seem to have grown exponentially. In particular, the public 2- and 4-year institutions seem to be a frequent target of criticism.

So, imagine how gratified I felt two weeks ago when I first learned that a comprehensive study sponsored by The Equality Opportunity Project[xi] concluded that The City University of New York propelled almost *six times* as many low-income students into the middle class and beyond as all eight Ivy League campuses, plus Duke, M.I.T., Stanford, and Chicago, combined; and that Lehman College ranked #4 in the nation for its role in propelling large numbers of students from the bottom 40% economically to the top 40%!

And that pride was increased a few days later when I read a column[xii] in The New York Times written by David Leonhardt that acknowledged the tremendous work schools like Lehman College are doing despite the challenges we face:

> *"Yes, the universities that educate students from modest backgrounds face big challenges, particularly **state budget cuts**. But many of them are performing much better than their new stereotype suggests. They remain **deeply impressive institutions** that continue to push many Americans into the middle class and beyond—many more, in fact, than elite colleges that receive far more attention."* [emphasis added]

It is quite clear: *The much maligned public 2-year and 4-year sector represents our country's best bet to once again lead the world in educational attainment*. As the previously described report illustrates, there are many institutions within the sector that can lead the way; that can model to others how they too can take more intentional action to better serve the millions of students who are coming of age in America today, but who—because of the color of their skin, the balance of their checking account, their place of origin, and/or the tenets of their faith—have historically been underserved as they have sought to meet their full potential.

What we need, however, are equity-driven policies and practices to help move the work forward, particularly as institutions strive to construct frictionless educational pathways for the members of their community and establish innovative workforce development programs. To facilitate this work, I present the following recommendations to federal, state, and institutional policymakers.

Recommendations

Equitable Public Investments

Federal-State Partnerships: The best approach to rectify the inequitable state of affairs in higher education is to drive increases in educational attainment through a well thought-out federal-state partnership that addresses the interplay among issues of college affordability, college completion, and intergroup inequities. The Education Trust[vii] recently developed a comprehensive framework of considerations that should go into developing a partnership that will adequately balance these three dimensions. Specifically, I recommend a partnership, that at a minimum, will lead to renewed state investments in higher education in a way that will ameliorate the per full-time equivalent (FTE) funding inequities among colleges and universities within a state.

FAFSA: The move to "prior-prior year" has gone a long way to simplify the FAFSA application process, but not all eligible students are applying and others fail to reapply. We must do more to ensure that eligible students have the resources they are entitled to in order to succeed. Consideration should be given to the implementation of an early notification of aid in middle or high school, aligning the Expected Family Contribution (EFC) formula with other federal means-tested programs (e.g., SNAP, WIC, etc.), and additional streamlining of the application process.[xiii]

Pell Grants: To make college more affordable for those students who have the least—but can contribute the most—in order to resurrect a strong middle class in our country, more of the dollars allocated through federal financial aid programs should flow through the Pell Grant. The most *immediate* actions you could take on this front are to extend the annual adjustment beyond this year and to reinstate year-round Pell for both part-time and full-time students, as a means to spur greater and faster completion. The most *visionary* action would be to restore Pell to its rightful place as the embodiment of America's promise of upward mobility by raising the maximum grant over time to cover a higher fraction of the recipient's total cost of attendance[xiv] and indexing the auto-zero to inflation needed to ensure the program's standing well into the future.

Student Loans: Congress should explore meaningful ways to ameliorate the burden of debt faced by hard-working Americans, which at a staggering $1.3 trillion,[xv] exceeds credit card and auto loan debt. Specifically, consideration should be given to reducing interest rates, simplifying and expanding eligibility of repayment options, allowing private educational loans to be discharged through bankruptcy, and enacting strong borrower defense policies.[xvi]

Infrastructure: Congress should invest in the physical plant and technological laboratories of 2-year and 4-year public colleges and universities. Years of budget cuts have stalled the build out of campus master plans, dangerously delayed critical maintenance efforts, and limited the ability of campuses to invest in established and emerging technologies for classrooms and labs. The effects have been felt most at the under-resourced mid-tier public campuses serving the largest numbers of underserved and nontraditional students.

Regulatory, Administrative, and Legislative Actions to Protect and Support Students and Taxpayers

Protection against Fraudulent Institutions: In March 10, 2011,[xvii] I testified before the Senate Committee on Health, Education, Labor and Pensions on the issue of for-profit education oversight. I respectfully submit said testimony into today's record. At the time, I unequivocally stated that for-profit college companies demanded new attention and a new approach to regulation, because existing structures were ill-equipped to deal with the aggressive business models that fueled their growth. Since then, the implementation of the gainful employment rule, restrictions on incentive compensation, and enactment of borrower's defense have gone a long way to protecting taxpayers and students from the worst corporate offenders. Consideration should thus be given to strengthening these provisions, not weakening them; requiring accreditation agencies to emphasize student outcomes and measures of academic quality and financial stability in their evaluations and accreditation decisions; and reconsidering federal aid eligibility requirements like the 90/10 rule so that for-profit institutions are not mostly publicly funded.

Data Systems: Good, actionable data is required to allow students to make informed enrollment decisions (e.g., College Scorecard); help institutions track progress and identify areas that need improvement; empower the federal government to better assess the return on taxpayer investment; and enable federal and state governments to design better incentives to improve institutional performance. In September 20, 2012,[xviii] I testified before many of you in the Subcommittee on Higher Education and Workforce Training and provided some specific recommendations regarding the NSLDS and IPEDS data systems and how to ameliorate the reporting burden on institutions. I respectfully submit said testimony into today's record.

BRIDGE Act: Today, as a proud member of The City University of New York, I'd be remiss if I didn't urge you to wholeheartedly support the *Bar Removal of Individuals who Dream and Grow our Economy (BRIDGE) Act*. As you know, this bill has been introduced by a bipartisan group of Senators and Members of the House of Representatives to provide DACA-like protections from deportation to the approximately 750,000 Dreamers who — through their hard work and dedication — are claiming stake to the American Dream and whose undocumented status is simply an artifact of this country's long standing tradition as a beacon of hope. As Chancellor James B. Milliken recently stated, "There are few institutions that have done more to help this country benefit from immigration than CUNY. Today, almost 40 percent of our undergraduates were born in another country, and we are all the beneficiaries of their talent and ambition. Our commitment to protecting and supporting our students, regardless of their immigration status, is unwavering."

Innovative Institutional Practices

Far too often, our public institutions are accused of not innovating. But I submit the following as but a few examples from Lehman College and The City University of New York, of how 2-year and 4-year public colleges and universities are seizing every opportunity available to build an equity-focused higher education system. These practices show how institutions can enhance their stewardship of place by expanding access to a more diverse student body through alternate and well-coordinated pathways; improving graduation rates and reducing the time it takes their students to earn a degree or certificate; and establishing public-private partnerships in leading-edge workforce development areas. These practices are changing the lives of students, and with the right policy environment and sufficient investment, they could be replicated in institutions across the country.

Closing the Opportunity Gap: Lehman College has established an impressive portfolio of initiatives geared toward closing the opportunity gap that affects underserved students in the Bronx. Here are three examples. First, we are increasing the number of teachers who look like the kids they teach: Our School of Education specializes in preparing teachers for the challenges prevalent in urban public schools. MATH UP, a teacher prep program with $7.6 million in funding from public and private sources, provided 79 teachers one-year internships in Bronx elementary schools. They joined 80 math teachers who benefited from the National Science Foundation's Math Teacher Transformation Institute. Second, we are serving the needs of students in our community: The Bronx Institute has served over 3,000 K-12 students and their families with workshops to prepare them for the challenges of navigating the public school system. Our Center for School and College Collaboratives reaches over 1,000 students through STEM courses and weekly college career workshops. Third, we are expanding opportunities for our students and community: Lehman maximizes its relationship with institutions like the New York Botanical Garden, the American Museum of Natural History, the Bronx Zoo, and the Lincoln Center Education to benefit our students and community. Along with two other CUNY colleges, we are creating a K-12 computer science teacher education course of study; and we are developing a coding academy to prepare students for careers in the tech sector.

Lehman's Pathways to Success (PTS) Initiative: Funded by a TRIO Student Success Services grant, PTS aims to increase the number of first-generation students, disadvantaged low-income students, and students with disabilities who successfully complete a program of study at the postsecondary level. PTS provides opportunities for academic, personal, and professional development in group and one-on-one settings; assists students with basic college requirements; motivates students toward the successful completion of their postsecondary education; helps them develop financial and economic literacy; assists them to meet the requirements for graduate school applications; and guides them toward fulfilling careers. To participate in the Pathways to Success Initiative, students must be part of CUNY's SEEK (Search for Education, Elevation, and Knowledge) Program.

CUNY's SEEK Program: Search for Education, Elevation, and Knowledge (SEEK) is a state-funded educational opportunity program that provides access to the University's senior colleges under non-traditional admissions criteria for talented and motivated high school graduates who need academic and financial support. The SEEK Program began as a pre-baccalaureate program at The City College of New York in 1965. It was signed into law by the New York State legislature in 1966 as the City University's higher education opportunity program in the senior colleges. The legislation was a result of the efforts of social activists and progressive politicians whose vision was to provide access to CUNY for poor students, then largely African-American and Puerto Rican, who graduated from high schools that had not prepared them for the rigors of college. Today there are eleven SEEK Programs across the University, including at Lehman College. SEEK Programs have enrolled approximately 230,000 low-income students over the years.

Lehman's Moving Forward in Reverse Program: This initiative, launched in July 2014, allows students at Hostos and Bronx Community Colleges to "transfer back" credits earned at Lehman and apply them toward an associate's degree at their home school. In this manner, students receive a valuable credential and Lehman benefits from the higher retention and graduation rates associated with credentialed students. The program targets students in good academic standing who have earned a minimum of 30 credits at a partner community college and who have completed a combined 60 credits at Lehman College. Students meeting the criteria are identified by Lehman College and reviewed for Associate Degree eligibility by the partner school. Lehman College notifies students of their eligibility and communicates steps for graduation. The program was first of its kind in the state of New York and is now being replicated across The City University of New York.

<u>CUNY's Accelerated Study in Associate Programs (ASAP)</u>: Founded in 2007 with support from the New York City Center for Economic Opportunity (CEO), ASAP is a comprehensive program for associate-degree students at nine CUNY colleges, as of Fall 2015. Key program components include full-time enrollment, block scheduled first-year courses, cohort course taking, financial support, intrusive and mandatory advisement, a student success seminar, career services, and tutoring. The program is committed to graduating at least 50% of students within three years through provision of comprehensive support services and financial resources that remove barriers to full-time study, build student resiliency, and support timely degree completion. ASAP has proven to be one of CUNY's most successful community college initiatives with students in the program graduating at a rate more than double that of similar students. The program has garnered national attention and been rigorously evaluated. The program has been so successful, that as part of CUNY's commitment to double its three-year graduation rate for associate degrees (leading the nation in urban community college attainment), the University will expand it to 25,000 community college students by 2018-19, including full implementation of ASAP for all full-time students at Bronx Community College, and pilot ASAP-like completion programs at senior colleges.

<u>Lehman's Adult Degree Program (ADP)</u>: The Adult Degree Program has been the primary administrative office for nontraditional students at Lehman College for over 30 years. At an average age of 40, ADP students are significantly older and have different needs than typical Lehman students. ADP serves more than 1,000 students annually with student outcomes that typically exceed those for the general undergraduate populations. ADP also serves as the main conduit for building relationships with industry and employers to develop and run sponsored cohort programs. In recent years, Lehman College has developed numerous innovative workforce development partnerships. Most recently, Lehman College joined the Bronx Education – Health Industry Partnership in conjunction with the healthcare union 1199SEIU and Hostos and Bronx Community Colleges. The partnership is focused on strengthening the existing healthcare workforce by developing initiatives to facilitate access and reduce time-to-degree completion for working adult learners—crucial to increasing the number of bilingual workers in professional, patient, care occupations. The partnership is working collaboratively on 1) alternative college admission pathways and math gateway courses; 2) stackable credentials; and 3) reverse transfer agreements. Separately, Lehman is offering an Associate in Science Degree in Nursing (RN) to Bachelor's in Science in Nursing program for 1199SEIU registered nurses, among others.

<u>Lehman's VR/AR Training Academy and Development Laboratory</u>: In 2017, Lehman College launched a virtual and augmented reality training academic and development laboratory as part of a private-public partnership with EON Reality Inc., a world leader in virtual and augmented reality knowledge transfer and content creation. Through this venture, Lehman College will offer an 11-month non-credit training program to be held on nights and weekends at Lehman's School of Continuing and Professional Studies at CUNY on the Concourse to maximize participation. The Academy will provide students with invaluable, state-of-the-art experiential training and position them for career opportunities in the fast-growing VR/AR industry. The program starts with three months of classes in which students will be immersed in

VR and AR content creation and theory. The following eight months will be devoted to real-life lab projects that students can use to develop their entrepreneurial skills. Additionally, the facility includes an *Icube Mobile*, a four-wall immersive VR room that will enable students to experience and test their creations.

Conclusions

In closing, I believe that we can and must do a better job of translating our democratic ideals into policies and practices at all levels that sustain, rather than erode, opportunity. I believe that we can make it not only possible, but probable that more low-income students and students of color can rise to the middle class, paving the way for less inequality, more social mobility, and better overall prosperity in America. And I believe that the best ways to do this is by applying an equity-lens to the policies and practices that shape the work of higher education institutions across our nation and targeting resources to those 2-year and 4-year public institutions that have demonstrated the capacity to transform lives and communities.

As the most important mission-critical senior college of the world's premier public urban university, Lehman College is committed to taking more-intentional action to support those who historically have been underserved in our community and beyond. As such, we more than welcome the opportunity to work with you and other institutions across the country, as we move to do the hard, but important work required to ensure that our higher education system works for all Americans.

Thank you.

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Chairwoman FOXX. Thank you very much, Dr. Cruz.
Mr. Gilligan, you're recognized for 5 minutes.

TESTIMONY OF MR. KEVIN GILLIGAN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CAPELLA EDUCATION COMPANY, MINNEAPOLIS, MN

Mr. GILLIGAN. Thank you, Chairwoman Foxx, Ranking Member Scott, and distinguished members of the committee. My name is Kevin Gilligan, and I'm the chairman and CEO of Capella Education Company. I'm honored to be in front of this committee as a voice for innovation in higher education and the American workforce.

Before I discuss our work in the innovation space, I'd like to echo the comments of my fellow panelists around the challenges presented by the complexity and density of higher education regulation and the barriers they can present to new models and improving outcomes. We have a set of policy priorities that I'd like the opportunity to introduce to the congressional record.

Our strategic focus at Capella is to create the most direct path between learning and career advancement. We want to lead the way in closing the skills gap. We do this through both Capella University, which is an online, competency-based, adult-serving institution where our average-age student is 40 years old and more than 50 percent of our students are learners of color, and offerings outside of the degreed education space focused on providing employers and individuals with job-ready skills needed to compete in the 21st century economy.

In my written testimony, I focus on four areas of innovation we'd like to highlight for the committee. In my opening statement today, I'll touch briefly on two opportunities for innovation.

Three years ago, I came before this committee to discuss our FlexPath program, and I welcome the chance to update you on what we've learned. In 2013, Capella University became the first institution in the country to offer bachelor's and master degree programs approved by the Department of Education that measured learning through the direct assessment of competencies instead of the accumulation of credit hours.

Today we offer eight programs within this competency-based direct assessment model with over 3,000 FlexPath students and more than 500 FlexPath graduates. Students earn the same degree as in our credit hour model, but FlexPath provides a different model for earning the degree.

Direct assessment works by decoupling student learning from time. As you know, the credit hour is the current foundation of higher education used to measure degree progress and around which Federal financial aid is based. In some cases, we do not believe that time-based tools constitute the best measurement of student progress, especially for the adult contemporary student. What matters is knowledge gained, not the amount of time it took to gain it. This decoupling allows students to move through their programs without any wasted time or money.

We have seen firsthand that FlexPath can be a powerful tool for saving students time and money. Our early experience shows that our FlexPath graduates paid 58 percent less for their bachelor's degree than the graduates from our traditional online programs, and FlexPath graduates borrowed 40 percent less in Federal student loan funds than the traditional credit hour graduates.

Competency-based direct assessment programs like FlexPath are a powerful example of how seemingly minor changes to policy can create the space for innovation to help eliminate a barrier to access while providing the potential for significant cost savings to the student and the Federal Government.

During your important work on reauthorizing the Higher Education Act, we hope you will take the opportunity to develop smart, responsible policy around competency-based direct assessment.

Existing Federal financial aid rules are structured around the traditional credit hour format, and those rules stifle the opportunity to fully realize the power of the direct assessment model. Often, schools have to retrofit a direct assessment program into Title IV requirements in ways that create confusion for students, institutional burden, and limits the ability of programs to meet the needs of the contemporary student.

In my written testimony, I've outlined four areas where I believe policy can be changed to ensure direct assessment models are available to students in a way that allows for innovation without lowering the bar on quality or creating the conditions for a race to the bottom.

One innovation I'd like to discuss outside the degreed space is our RightSkill program. RightSkill is a partnership formed with CareerBuilder to build a net new supply of job-ready candidates for positions where significant supply-demand imbalances exist. We're combining CareerBuilder data with Capella's competency-based expertise to create a program aimed at closing the skill gap at scale in critical need areas within the workforce.

While it is still in the early stages, we have now placed over 200 candidates in jobs, and we're partnering with nearly 30 employers, who are showing significant excitement for this program. This partnership is an example of the innovation that can come from the private sector.

These examples of innovation are just a few in a crowded landscape of exciting new models. As policymakers, you're gathering at a moment of unique opportunity to craft Federal policy to remove barriers to innovation, strengthen outcomes, simplify our system of education financing, and highlight innovations in the private sector.

Let me close, Chairwoman Foxx, by thanking you and Ranking Member Scott for the opportunity to come here today and engage in a conversation about innovation and new models.

[The testimony of Mr. Gilligan follows:]

Testimony of Kevin Gilligan,
Chairman and Chief Executive Officer, Capella Education Company
House Education & the Workforce Committee Hearing:
"Challenges and Opportunities in Higher Ed"
February 7, 2017

INTRODUCTION

Chairwoman Foxx, Ranking Member Scott, and distinguished members of the Committee, my name is Kevin Gilligan and I am the Chairman and CEO of Capella Education Company.

I'm honored to be in front of this Committee as a voice for innovation in higher education and the American workforce. Before I discuss our work in the innovation space, I'd like to echo the comments of my fellow panelists around the challenges presented by the complexity and density of higher education regulation and the barriers they can present to new models and improving outcomes. We have a set of policy priorities that I'd like the opportunity to introduce to the Congressional record.

CAPELLA

Our strategic focus at Capella is to create the most-direct-path between learning and career advancement. That's why we exist. We want to lead the way in closing the skills gap. We do this through two separate parts of our business. First, our post-secondary segment consisting of Capella University, which is an online, competency-based, adult-serving institution where our average student is 40 years old and more than 50% of our students are learners of color; and Sophia Learning, a social teaching platform which offers low-cost general education courses recommended for credit by the American Council on Education. The second segment of our business exists outside of the degreed education space and is focused on providing employers and individuals with job-ready skills needed to compete in the 21st century economy. This is made up of Capella Learning Solutions which creates innovative programs aimed at closing the skills gap; Hackbright Academy, a software engineering school for women in San Francisco; and DevMountain, a coding boot camp based in Provo, Utah with offices in Dallas and Salt Lake City.

Changing Landscape of Work and Learning

We are excited to be doing this work at a critical time for America when we see a changing landscape of both work and learning. While our current system of higher education is the envy of the world, it is struggling to keep up with the pace of change in our evolving economy. Simply put, it creates too much debt and isn't creating a workforce with the skills required to drive economic growth and lift up the many Americans struggling for upward mobility. You all know the numbers better than anyone. According the Bureau of Labor Statistics, median weekly earnings of full-time wage and salary workers were $784 in the first quarter of 2014, compared with $787 in the first quarter of 2004.

More effective education models are a key to breaking loose from this crippling stasis. These conditions create a ripe environment for innovation and change.

There are four areas of innovation at Capella that I'd like to highlight in my testimony: our direct assessment program called FlexPath; the alignment of our programs to the needs of employers; a joint offering we have with CareerBuilder called RightSkill; and our software engineering and coding schools.

FlexPath/Direct Assessment

Three years ago, I came before this Committee to discuss our FlexPath program and I welcome the chance to update you on what we've learned. In 2013, Capella University became the first institution in the country to offer bachelor's and master's degree programs approved by the Department of Education that measure learning through the direct assessment of competencies instead of the accumulation of credit hours. We now currently offer eight programs within this competency-based education direct assessment model.

Direct assessment works by decoupling student learning from time. As you know, the credit hour is the current foundation of higher education, used to measure degree progress and around which federal financial aid is based. In some cases we do not believe that time-based tools constitute the best measurement of student progress, especially for the adult, contemporary student. Direct assessment measures student knowledge and learning, rather than focusing on seat time and grades. What matters is knowledge gained, not the amount of time it took to gain it. This decoupling allows students to move through their program without any wasted time or money, but poses complicated problems for federal financial aid policy.

In the almost four years since we first launched the FlexPath program, we have learned a lot. For example, though our hypothesis was that all students would move more quickly through their FlexPath program, what we have found is that this is true for some, but not all FlexPath students. Some FlexPath students move at about the same speed as their traditional online counterparts, but value the flexibility that is built into the model. Our students – around 40 years old, predominantly female and in the middle of their careers – are juggling families and professional responsibilities and for many of these learners, going to school is not an option unless they can find a program that truly works with their schedule. This is the case with FlexPath, which operates on a subscription period basis and provides students with an "all you can learn" model at a lower price point. For these students who value flexibility over speed, we hear consistently that higher education would not have been an option for them unless they were able to find a model like FlexPath.

We have also seen first-hand that FlexPath can be a powerful tool for saving students time and money. We analyzed comparable undergraduate populations of FlexPath and traditional Capella students who enrolled between October 2014 and December 2015. Of the graduates from those two populations, on average, FlexPath graduates paid 58% less for their bachelor's degrees than the graduates from our traditional online programs, and FlexPath graduates borrowed 40% less in federal student loan funds than the traditional graduates. And, comparing those populations, FlexPath graduates on average completed more courses per academic session than graduates from our traditional online programs.

With over 3,000 FlexPath students, and more than 500 FlexPath graduates, Capella University is a pioneer in competency-based education and we believe in the model because we have seen the ways it can revolutionize higher education for the adult, contemporary student. Competency-based direct assessment programs like FlexPath are a powerful example of how seemingly minor changes to policy can create the space for innovation to help eliminate a barrier to access while providing the potential for significant cost savings to the student and the federal government. But there is work to do to make sure this model is available to students in a way that allows for innovation without lowering the bar on quality or creating the conditions for a race to the bottom.

During your important work on reauthorizing the Higher Education Act, we hope you will take the opportunity to develop smart, responsible policy around competency-based direct assessment. Existing federal financial aid rules are structured around the traditional credit hour format and those rules stifle the opportunity to fully realize the power of the direct assessment model. Often, schools have to retrofit a direct assessment program into Title IV requirements that are still based on time and credits. This creates confusion for students, institutional burden, and ultimately means that these flexible programs just can't be as flexible as they need to be to meet the needs of the contemporary student. Additionally, it limits the number of institutions that will be able to offer flexible options.

To address this issue, we recommend the following policy priorities, in order to fully decouple direct assessment from time and credit hour constraints:

- Eliminate the requirement that direct assessment programs must be offered solely through the direct assessment format and allow for "hybrid" programs which would permit students to take credit-bearing courses and direct assessment courses within the same program. We believe the current requirement is limiting access to students who may benefit from an educational experience that draws on both more traditional and more innovative formats.
- Eliminate the qualitative measurement requirement from the Satisfactory Academic Progress (SAP) rules for direct assessment programs, relying instead on a single quantitative measure based on 150% of the expected time to complete the program. Competency-based direct assessment programs are built on a mastery model, ensuring that every student demonstrates each competency upon which the program is built, and thus negating the need for a qualitative measure. The current SAP requirements are confusing to students who are asked to meet a grade-based requirement within programs that do not use a traditional grading methodology.
- Allow self-paced direct assessment programs offered on a subscription period basis to be considered standard term programs for the purposes of administering Title IV aid. Opportunities for an absolutely flexible model for students are stymied by a requirement that truly flexible programs must be offered in a non-term federal financial aid model, which has the effect of creating artificial time and credit hour requirements in a model that seeks to operate wholly separate from seat time and credit hours.

- Work to update the "regular and substantive faculty interaction" requirement for innovative learning models should take care to ensure that an institutional focus on student support and success is maintained while accounting for personalized, flexible delivery formats. We know that you all have heard a lot of talk about competency-based education and the role of faculty. At Capella, faculty is at the center of our FlexPath model, from course and competency creation through formative feedback and the assessment process. We believe this has helped support student success and ensure program quality.

Last week, Capella University released a white paper outlining the history of the direct assessment provision and opportunities for smart policy making, which we have entered into the record and invite you to review. Most important to the work and future of competency-based education is that a high quality standard is upheld to ensure that these programs operate in the best interest of students and provide a high caliber education.

Aligning to Employers

The second area of innovation I'd like to discuss with you is the dialogue between employers and learning institutions about how we better meet the needs of the American workforce. This is critical to our students; it's critical to the broader conversation about American competitiveness; and it's critical to us as a company. Our competency-based infrastructure allows Capella University to assess against the competencies required in specific employment verticals, and map the progress of employees against those competencies. This puts us in position to form strategic partnerships where Capella degree programs are helping to drive improved performance that employers can measure.

One example is a healthcare organization that had a desire to advance the education of its nursing workforce by increasing the number of nurses with bachelors and masters degrees throughout their organization. We created a scalable, high-quality, cost-effective program for their nurses to advance their education, with little to no out of pocket cost, while also overcoming geographic location constraints. We worked with the organization to align their leadership competencies to our program and measured the achievement of these competencies throughout the program. The program demonstrated how an advanced degree could help these nurses lead change, advance health and transform the health system.

Another example of our ability to align to the needs of employers that I think will resonate with this committee is Capella University's designation by the National Security Agency and the Department of Homeland Security as a National Center for Academic Excellence in Information Assurance and Cyber Defense. The designation is intended to help address critical shortages of professionals with needed skills in these areas. Part of the reason we were able to obtain this designation is that our competency-based systems allowed us to demonstrate that we can provide the content and outcomes needed for success in this field.

Additionally, we're working with employers to significantly lower the cost of a degree. Today we have several employers that are participating in a program called Workforce Edge which creates opportunities for highly motivated employees to earn their degree with low to no out-of-pocket costs if they leverage employer tuition reimbursement. Workforce Edge is a tool to help employers attract, support, and retain more productive employees with a competency-based learning solution that is a tool to drive business return-on-investment. We can offer this by using FlexPath, Sophia, and our credit hour programs to allow employers to set themselves apart with a solution that fits their learning objectives and provides reporting to track employees' academic progress.

I've just offered a few examples of how Capella is engaging with employers, but I can tell you it is happening across the country. We don't need federal policy for these conversations to happen, but an important role that this Committee can play is highlighting these partnerships when they take place. A more direct alignment between learning institutions and employers is critical to improving outcomes, driving down costs and strengthening the American workforce.

RightSkill

One innovation outside the degreed space taking place at the nexus of learning and employment is our RightSkill program, a key component of our Capella Learning Solutions business. RightSkill is a partnership formed with CareerBuilder to build a net-new supply of job-ready candidates for positions where significant supply/demand imbalances exist. CareerBuilder provides real-time labor data to identify hard-to-fill roles in the labor markets, recruit candidates for those jobs and we take them through a Capella-designed competency-based education, assessment, and career coaching program to upskill and prepare the candidate for success in their new job. Once the candidate is job ready, CareerBuilder leverages their relationships with employers to place the candidate in a job. Today, we have eight programs in market across a range of 21st century job skills along the employment value chain.

We're only one year into the program but we like the results we've seen so far. Essentially, we're combining CareerBuilder data with Capella's competency-based expertise to create a program aimed at closing the skills gap at scale. It's an example of the innovation that can come from the private sector.

Software Engineering and Coding Schools

A final area of innovation I'd like to highlight for the Committee today is around our software engineering and coding schools, Hackbright Academy and DevMountain. These are both examples of programs that, while very different, provide job-ready skills to learners in high demand employment fields. This is an emerging and exciting sector because it is a high-growth employment field. Salaries are rising and these types of programs provide a pathway to valuable jobs for adults who did not study computer science in college or, in some cases, even complete college. One area of focus where we're seeking to provide leadership is around the measurement of outcomes in this emerging space. If the sector is to grow and establish strong relationships with regulators, we're going to need a standard set of outcomes measurements that give consumers and employers critical data that allows them to make smart choices about the right programs for them. We are currently partnering with others in the sector to push this work forward.

Moment of Opportunity

These examples of innovation are just a few in a crowded landscape of exciting new models. As policy-makers, you are gathering at a moment of unique opportunity to craft federal policy to remove barriers to innovation, strengthen outcomes, simplify our system of education financing and highlight innovations in the private sector.

CONCLUSION

Let me close, Chairwoman Foxx, by thanking you and Ranking Member Scott for the opportunity to come here and engage in a conversation about innovation and new models. Thank you for your national leadership and commitment to strengthening American education and competitiveness. I'm honored to be here representing Capella's workforce which is committed to revolutionizing adult education and I look forward to answering your questions.

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Chairwoman FOXX. Thank you very much, Mr. Gilligan.

I will begin the questioning today and then invite my colleagues to join me in order.

Dr. Kirwan, I read in your report that institutions spend 26.1 million hours annually completing DOE-mandated forms alone. These numbers are staggering. Couldn't this money and time be better spent on serving students?

And if we do our part to reduce meaningfully the burden of Federal regulation and reporting requirements on colleges and universities, do you think that could make a real impact on the cost of college that students and families currently face?

Mr. KIRWAN. Thank you, Chairwoman Foxx.

Absolutely, I do. There is just no question that the regulatory burden and the reporting requirements add significant costs to our institutions. There was a study done at Stanford some years ago, and their estimate was that reporting requirements added 7-1/2 cents to every tuition dollar for a student at Stanford. A study at Hartwick College, a private liberal arts school, produced similar kinds of data.

So there's just no question that this is adding to the cost of operating a university and either requiring increases in tuition or reducing services that we could provide to students. So rather than having staff who are working on regulatory reporting, it would be better to have those same staff advising students about their progress towards a degree. So we definitely have concluded that improvements could be made if there wasn't such a heavy regulatory burden.

Chairwoman FOXX. Thank you.

Dr. Akers, in your testimony you discussed some of the realities around student loan debt. It's a popular topic these days, and with $1.3 trillion outstanding, it's clear why it is. But I agree there's misinformation out there about what's actually happening. Can you speak to who is borrowing the most and who's most likely to default on their loans -- you indicated a little bit of that in your testimony -- and why that borrowing is not always paying off?

Ms. AKERS. Certainly. So I think there's a pretty widely held misconception that, in fact, it's the borrowers who have the greatest outstanding debts who are in the most trouble. Research tells us through a number of different studies that, in fact, it's borrowers who have less than $5,000 in debt who are most likely to be in default or have other measures of financial distress, like being late on other sorts of financial obligations, like cell phone bills and mortgage payments and things like that.

It's important to reconcile this fact with this misconception, because some of the existing policy proposals assume that this is the case. For instance, refinancing would work very well as a solution to help borrowers if it was, in fact, those high-balance borrowers who are struggling the most, but since it's not, refinancing actually would be delivering benefits to people who need it the least.

Chairwoman FOXX. Thank you.

I want to go very quickly with this question, Mr. Gilligan, and see if we can get it answered.

During the Obama administration, we noticed a coordinated attack on the proprietary sector. Gainful employment borrower defense were allegedly created to protect students, but what we saw were policies doing exactly the opposite.

As you and I both know, the proprietary sector tends to serve low-income and hardest-to-serve students, and these policies have forced schools to roll back programs. From your experience, how have these types of regulations and other actions by the Department hindered your ability to serve the needs of your students? Are there any actions in particular by the Department that you believe should either be repealed or modified?

Mr. GILLIGAN. Thank you, Chairwoman Foxx.

So I would start responding by saying that Capella believes strongly that institutions should be transparent about their outcomes and accountable for student outcomes and be good stewards of Federal financial aid. So we need regulation, but the regulation needs to be responsible and commonsense and not lead to unintended consequences. So I'd give you two examples of recent regulations that I think were well intended but would in practice create challenges.

In the case of gainful employment, by establishing a one-size-fits-all debt-to-income metric, it puts pressure on important professional areas for degrees in teaching and counseling and social work where because of programmatic requirements for those degrees there's pressure on costs, but because of an arbitrary debt-to-income ratio, if you don't meet that ratio, those programs cannot be offered through Federal financial aid, and that will ultimately have the impact of limiting access or reducing the number of programs that students can take advantage of. So I would say that's an example of an issue with gainful employment.

With respect to borrower defense repayment, we certainly agree that students who are deliberately misled or defrauded by their institution should have remedies for that and be protected, but our comment on borrower defense, like many institutions, was that the rule was poorly written, it lacks due process, and involves overreach. And we're particularly concerned about the changes made to the financial responsibility requirements and the arbitrary way in which they can be administered.

We've submitted written comments on this, so we invite you to read those if you'd like to understand our concerns better, and we hope that Congress and the Department will revisit these rules to create a more responsible version.

Chairwoman FOXX. Thank you very much, Mr. Gilligan.

Congressman Scott, you're recognized.

Mr. SCOTT. Madam Chair, I told our side, since you always defer to the end, that I'll defer to Ms. Bonamici.

Chairwoman FOXX. I'm sorry.

Ms. Bonamici, then you're recognized.

I'm sorry. Thank you.

Ms. BONAMICI. Thank you, Madam Chairwoman and Ranking Member Scott.

Madam Chairwoman, in your opening statement you brought up a $27 billion compliance cost to make a point about overregulation of colleges and universities. And, unfortunately, this figure comes from a flawed study that does not actually estimate what its promoters suggest. It does not measure actual compliance costs. It actually states no distinction was made in costs that were incremental to what the university would do in the absence of regulation, and very little of what the report describes is actually specific to higher education. In fact, 80 percent of the purported $146 million -- this was at Vanderbilt -- has to do with rules about research, like protecting human subjects in medical research. So we shouldn't rely on this report for policymaking.

And I wanted to follow up on Dr. Kirwan. You talked about a task force. When I was in the state legislature, you we all agree that nobody wants unnecessary regulations, and I sponsored and passed a K-12 mandate relief bill to repeal several statutes and regulations. And it had strong bipartisan support, because we worked with all of the stakeholders, the Department of Education, the teachers, the school boards, the administrators, the school employees association. And I hope we can approach this issue in a similar way with the input of all of the stakeholders.

Like my colleague Mr. Norcross, I started at community college and then worked my way through a 4-year university and law school. And when I graduated, I took a job in public service and still had little difficulty repaying the manageable amount of debt that I accumulated during my 7 years of higher education. So I know that this experience is less common. This is a critical issue to be discussing.

And, Dr. Cruz, I want to ask you, we've heard a lot recently about institutions that have defrauded students and fabricated job placement rates, the sudden closure of ITT Educational Services, for example, and now there are investigations by State attorneys general, the SEC, the Department of Justice. That's one example of an unscrupulous for-profit school that collected Title IV dollars and left students with an education of little value and poor job prospects.

And you mentioned the importance of protecting students from being defrauded. Can you explain the accountability mechanisms that exist for public institutions and how they differ from the for-profit institutions?

And I do want to have time for another question.

Mr. CRUZ. Thank you. So the accountability mechanisms are similar for both, for public and for-profit institutions. What varies is the level of scrutiny to which each of the sectors are held accountable. In the case of the for-profit sector, we have the Federal regulations, we have State authorization, and we have the accreditation of programs, just as we do for the publics.

But the problem is that in the case of the for-profits, State authorization is fairly symbolic. Institutions have to basically state that they in fact exist. And from the standpoint of accreditation, it has not been as strong as we would like in terms of verifying that the programs are, in fact, high-quality programs. In fact, an accreditation agency was recently deauthorized from doing that work because they had been authorizing some of the bad actors that you mentioned earlier.

So basically what we're left with is just the Federal oversight, which is currently primarily enforcing the gainful employment regulations.

On the public side, you have the Federal, you have the State, and you have the accreditation. And the State is much stronger, because they basically go do things like authorize programs and also determine whether or not the institutions can increase tuition.

Ms. BONAMICI. Thank you.

And I want to ask Dr. Akers and Dr. Cruz, last Congress I introduced a bipartisan bill to help borrowers, particularly distressed borrowers, continue to make affordable payments based on their income. And I know, Dr. Akers, you talked about income-based repayment. The bill uses tax data to automatically recertify borrowers' income. It's a response to the research that suggests that more than half of the borrowers don't recertify on time, sometimes causing a sudden spike in payments.

Do you agree that this committee and the Department of Education should take steps to simplify the repayment processes, especially for struggling borrowers, by including automating income recertification for borrowers in income-driven repayment plans? We worked very hard with the Department of Education and the Treasury on this.

Ms. AKERS. I fully support this step, as it's very clear that the complexity in the repayment system is very likely driving many borrowers into default needlessly when there are safety nets that could be supporting them.

Ms. BONAMICI. Thank you.

Dr. Cruz.

Mr. CRUZ. I support it as well.

Ms. BONAMICI. Thank you.

One more thing. In Oregon we have the Oregon Manufacturing Innovation Center. It's an exciting new collaboration of businesses, higher education partners, and workforce development folks. And I just want quick input on how we can support collaborative initiatives like this that recognize the needs of students, workers, and businesses to build on the strengths of our innovation economy.

Dr. Cruz.

Mr. CRUZ. I think providing incentives for more of these collaborations to move forward would be very valuable. As we all know, the skill gaps across the country are primarily regional in nature. So to the extent that we can provide basic support for these coordinating bodies, we will likely be able to see some success.

Ms. BONAMICI. Thank you. I see my time has expired.

Thank you, Madam Chairwoman. I yield back.

Chairwoman FOXX. Thank you very much.

Mr. Walberg, you're recognized for 5 minutes.

Mr. WALBERG. Thank you, Madam Chair. I appreciate the panel being here.

Mr. Gilligan, you focused in the area of competencies in your testimony, and I appreciate that, the skills gap issues that are there, the most efficient way to address this problem. I think in the, I believe, 3 years since you last testified in front of this committee, that's still a problem, and I appreciate the uniqueness that Capella seems to bring to the process. And the fact that you're still around, I think, indicates that as well.

In talking with my manufacturers, with small business all across the spectrum, education as well, we're still finding that skills gap, of actually dealing with what takes place in the marketplace, what takes place on the manufacturing floor, what takes place in the office structure, doesn't always match up with what the student has come out. And, again, in significant debt at times, but a process by which they paid for an education, and yet it doesn't meet the real world situation.

Can you describe the work Capella has done to align the competencies being taught to students with what employers want in order to better meet the needs of the American workforce?

Mr. GILLIGAN. Yes. Thank you for the question, Congressman.

So we do it in two different ways. In our degree programs, we work with employers and professional organizations to understand what are the competencies that individuals need to successfully perform the job that we're trying to re-skill or up-skill them for, and then we design those competencies into our curriculum, and then we teach to those competencies and we assess our students against those competencies.

So when a Capella University student graduates, they not only have a classical transcript that we're familiar with from traditional colleges, but they have a competency portfolio that they can then use with the employer to demonstrate these are the competencies that I demonstrated proficiency or mastery over during my course work at Capella. That's very valuable to the student in being able to articulate what they know and what they can do, which is really what employers want to understand, but it's also valuable to the employer to translate that into the workplace.

So we've been designing our programs that way for over 10 years, and it's one of the reasons, I think, just to go back to gainful employment for a minute, that the income data on our graduates compare so favorably to other institutions. I think we've got very relevantly designed programs aimed at exactly what the employer's looking at.

What we're increasingly seeing, though, is that a degree is not always the answer, and this is why we developed our RightSkill program by focusing with employers on what are jobs you can't fill, what are the skills and competencies needed in those jobs. So an example might be front-end web development or information security. We design learning solutions around those competencies. We then find individuals we think are qualified to be successful in those fields, we train them and place them with the employer.

Mr. WALBERG. Is there continued feedback with the employer as you go through this process as well?

Mr. GILLIGAN. So in the case of our degree-based programs, we're able to track with employers how learners perform based on the competencies we taught them. In the case of RightSkill, and this is a newer model, but we're working with the employer to place. And the employer actually pays us for the placement, and we guarantee the employer that if that person we place doesn't work out within a period of time, we'll replace that person at our cost. So there is an accountability mechanism that goes back to the employer.

Mr. WALBERG. Okay. Let me go on. How can Congress encourage more direct alignments between learning institutions and employers in a way that strengthens the workforce and ultimately drives down the cost of education?

Mr. GILLIGAN. Well, I spoke earlier about our FlexPath program, and we're finding that FlexPath is very innovative, not just for the consumer, because it reduces the amount of time and cost to get the degree, but it also does align to the employer. Anything we can do to create greater flexibility in the system, keeping in mind we're serving working adults. These are people that are working full-time, raising families, maybe supporting extended families, and trying to fit college into their incredibly busy lives. And so the more flexible we can make it the better.

So FlexPath, I think, has gone a long way to doing that, but there's still a requirement in the Federal financial aid system to tie direct assessment programs back in certain ways to the credit hour and to seat time. That creates complexity, it confuses the student, and creates administrative burden. And in our written testimony, I've provided some examples of some simple changes we can make that I think would achieve a higher level of flexibility without compromising academic quality.

Mr. WALBERG. Thank you. My time has expired, and I yield back.

Chairwoman FOXX. Thank you, Mr. Walberg.

Congresswoman Davis, you're recognized for 5 minutes.

Mrs. DAVIS. Thank you very much, Madam Chair. And I greatly appreciate our starting this set of hearings and have the ability to really look freshly, I think, at what we even think of as higher education and how it is moving forward past high school in many different ways. And a lot of you have spoken about that and the multiple pathways.

I wanted, Dr. Kirwan, to just ask you briefly about your experience on the task force. And I know you said that you saw that there were certainly some transparent and responsible ways to work with protections for students and for institutions, and at the same time there are areas where that is a problem, and I certainly understand that. And as a former school board member, I can relate to that as well.

But I wanted to ask you, because recently we've heard that some of the protections might be looked at, and I was concerned about that. Title IX protections regarding sexual assault falls within the important role of the Federal Government that you acknowledged in your statement. I'm wondering what you think about a recent comment, and you may have not seen that, but in Reuters where Mr. Falwell, the recently appointed head of the President's higher education task force, would push to remove these safeguards. Any thought about that?

Mr. KIRWAN. Thank you very much, Congresswoman Davis.

The task force did not in any way suggest the elimination of these protections. In fact, I think there's a consensus, a uniform view in higher education that the goals of the Clery Act and the Uniform Crime Reporting, et cetera, are very important.

The issue we did raise in the task force is the confusion between some of the new reporting requirements and the Clery Act. Activities have been defined as crimes in the Clery Act that are not considered crimes in the Uniform Reporting Act. So the only comment we made on this issue is that we would suggest that the Congress get the Department of Justice to clarify so that there is a consistent definition of what crimes should be reported both in Clery and in the Uniform Reporting Act. But we are 100 percent in support of the goals of these protections.

Mrs. DAVIS. Well, thank you. I appreciate that, and, again, for your service on the task force. We know that can be really valuable time that you're giving, and I appreciate that.

I wondered, Dr. Cruz, if you could share with us a little bit more about the ways in which we are collecting more data today and the importance of that and what you think are those data points that give students the information that they need to help them be the most informed going into this rather lengthy and very important and costly endeavor as they move forward in higher education.

Mr. CRUZ. Thank you. I believe that we can do some improvements with our data systems that, if we do them right, will not be overly burdensome to the institutions but would go a long way to helping students and their families have the right information they need to make those decisions, and also to provide institutions an opportunity to actually have actionable data, data that they can look at and identify potential areas for improvement.

So just in general, I would suggest that, for example, right now with the College Scorecard, we can see data on overall graduation rates, future earnings, debt levels, but that's overall. If I'm a student or the parent of a student, I would want to know what are the odds and what do those statistics look like for students that look like me or my kid. And so if we could disaggregate that data so I can see what are the graduation rates for transfer students, for underrepresented minorities, for low-income students, that would be very helpful.

Mrs. DAVIS. And is that information that the universities, colleges, schools have, even tech schools have?

Mr. CRUZ. Yes, that is information we have and we collect and, in fact, we share. I had the privilege of working with Brit on the Access to Success Initiative where 22 systems across the country with over 312 campuses and more than 3.5 million students collaborated, defined some metrics to disaggregate, collaborated on the definitions --

Mrs. DAVIS. So that would not necessarily be burdensome on the schools to do that, to provide that information?

Mr. CRUZ. Correct.

Mrs. DAVIS. It shouldn't be. All right. Thank you very much. I appreciate all of your testimony.

Chairwoman FOXX. Thank you, Congresswoman Davis.

Congressman Guthrie, you're recognized for 5 minutes.

Mr. GUTHRIE. Thank you very much.

And this is important to me. Eighteen years ago when my young daughter was born, we were all happy and excited. Then I did the math. I said, wait a minute, she and her brother are going to be in the college at the same time. So I've got a senior and a freshman in college this year. And so -- and it's not just my experiences with the expense of college. And we make -- it's that those are the peers. You talk to the parents of your friend's children, and so a lot of them are going through the affordability of college. And so it's something that I hear about quite a bit and experience. And not only experience, but hear about quite a bit.

So I have a few questions first for Dr. Akers. In looking at our Federal aid system, I'm concerned about the perverse incentives to overborrow, and appreciate you raising the issue in your testimony. Can you expand a bit on what those incentives are and discuss ways we could address them in reauthorization?

Ms. AKERS. Sure. So I think the place where this comes into play the most is with the forgiveness provisions and the current income-driven repayment plans that are available to borrowers. So once borrowers hit a particular level of borrowing, they're very likely to anticipate that they will be eligible for forgiveness in the future, which means that any marginal dollar that they borrow is a dollar that they will not have to pay back.

And so the way that forgiveness is structured in the current program does create this perverse incentive for overborrowing. What I proposed is eliminating the forgiveness provisions as they're written; instead, using the bankruptcy system as a means for dissolving borrowers of debts once they become financially insolvent.

Mr. GUTHRIE. Thank you. Thank you for the answer.

And, Dr. Kirwan, I notice your undergraduate University of Kentucky. Go Cats. Hopefully we will get rolling again in the next few weeks. March is approaching so we need to get it going, right?

I have a question for you. We've heard today from Capella about the exciting and innovative opportunities available to students through distance education. And I know the University of Maryland has been doing really great work in this space as well. In your written testimony, you mentioned the State authorization of distance education regulation as one the top ten most problematic regulations. Can you elaborate on why this regulation is so toxic for the growth of innovative online programs?

Mr. KIRWAN. I am happy to do so, Congressman Guthrie. Historically, both Congress and the Department of Education have required that an institution offering a degree program need only seek authorization in within the State with which it's located. What this distance education reg from the Department of Education attempts to do is to require authorization in every State where there is at least one student taking a distance education program.

And the problem this creates is, is that a distance education program from, say, the University of Maryland University College, they would have to expend the funds to go to every State, get a lawyer, go through the process, and get approval for that program in the State. And that's just an unreasonable cost to bear. And so there's, you know, an example already of where Vanderbilt University developed a distance education program. Because of this reg, they decided not to let the program be taken in various States.

So we would very much hope -- you know, this has been a very contentious issue in the higher education community. Congress has spoken out, the House has spoken out about its displeasure with this. And we would very much hope that in the reauthorization process it would be clarified that the requirement for obtaining authorization is only in the State where the institution exists is delivering the program.

Mr. GUTHRIE. Thank you for that answer. I know you've led and you've been president of and led systems in great universities, but your loyalty is always to your undergraduate institution. Right?

Mr. KIRWAN. Go Cats.

Mr. GUTHRIE. So, Mr. Gilligan, in your testimony you mentioned the success you've had with FlexPath program over the last several years. Can you provide a little more detail about how the program works and how it allows students with the opportunity to complete their program more quickly and with less cost than a traditional degree?

Mr. GILLIGAN. Yes, Congressman, happy to. So FlexPath -- the fundamental difference between a FlexPath program and a credit hour program is in the FlexPath program you earn your degree by demonstrating competencies as opposed to accumulating credit hours. So students are decoupled from the credit hours standard, which allows them to move faster. And this is particularly effective for working adults, and that's who we serve. We bring a lot of competency into the course room by virtue of the work experience. So it's the ability to move faster that creates the value for them.

And we offer FlexPath on a subscription pricing basis, so there's 12-week cycles, and we charge between $2,200 and $2,500 a cycle. And in that cycle, students can consume or demonstrate as many competencies as they're able to. So students see the opportunity to go quickly, leverage a subscription model, and that's where we're seeing dramatically lower completion costs.

And I would mention most of our bachelor students are degree completers. It's very rare that a Capella student gets their entire undergraduate degree at Capella. So typically, we're looking at people that are bring some transfer credits in, they never finished their degree at the bachelor level, and they're looking for a way to get it done.

And if I can just quickly mention, a woman at Capella, a FlexPath graduate by the name of Connie Pash recently was at a White House meeting on innovation and higher education, and she was one of four people talking about her experience as an innovative model, and she's an FlexPath graduate. And what she said was, "I would not have gone back to college unless I could take advantage of the flexibility and affordability that FlexPath offered." And what she was really saying is the credit hour model didn't work for me. And I can tell you that there's a lot of Connie's out there.

Mr. GUTHRIE. Thank you. I'm running out of time.

I yield back. Thank you for the answer.

Chairwoman FOXX. Thank you. The gentleman yields back.

Mr. Courtney, you're recognized for 5 minutes.

Mr. COURTNEY. Thank you, Madam Chairman. And thank you for holding this hearing. We're about 3 years late in terms of a higher ed reauthorization. So hopefully this is a good sign we're going to move forward. And again, I want to thank all of the witnesses for your thoughtful testimony this morning.

Professor Akers, in particular I wanted to salute your comments regarding the notion that restoring private sector participation in Federal student lending is really not the best path to move forward on. That idea kind of keeps popping up in the political atmosphere or ether that's out there right now.

But again, just to drive that point home, I mean, to have private lenders originate loans but have the Federal Government there to insure it. I mean, there really is just no logic in terms of protecting the taxpayers with that kind of an arrangement. We sort of went through that whole process both under the Bush administration and the Obama administration, but maybe you could elucidate a little bit more on that.

Ms. AKERS. Sure. Just to clarify my remarks, I did indicate that I thought a return to the FFEL lending program --

Mr. COURTNEY. Right.

Ms. AKERS. -- would be a step in the wrong direction. I don't think that incorporating private -- the private lending industry into student lending more broadly is a bad direction to be headed. I just prefer to see that happen through the paring back or potentially the elimination of loan eligibility for parents and graduate students so that the market can serve those populations independently of participating through a Federal lending --

Mr. COURTNEY. Sure. And I'd like to sort of go into that too. Also, we just passed a measure in terms of loan forgiveness for people going to pediatric subspecialties last year. It was either part of the Cures Act or the -- it was the Cures Act. And, again, that was the result of a painful process post-Sandy Hook, in terms of recognizing that we have an appalling shortage of pediatric psychiatry in the country. That's really being driven by the fact that the reimbursement for people who go into that really important profession just does not make it sustainable in terms of paying back student loans.

So admittedly, it's through the National Health Service Corps and not through the other program, the Public Service Loan Forgiveness program. But I would argue that there are really good reasons why we have set up loan forgiveness that is not creating inefficiencies, it's just making sure that we have critical workforce professions filled for our kids and for other people, particularly in the healthcare system.

Ms. AKERS. There are absolutely good reasons to be providing subsidies to different professions in public service. I'd commend those efforts because it sounds like those were appropriate places to do that. The objection I have is providing those subsidies through the Federal lending programs. We have a problem, huge problem with complexity in this system. Layering subsidies in through the repayment system compounds the complexity of the system. And it's also an inefficient way of subsidizing those types of employment. I'd much prefer to see those subsidies be delivered through a different mechanism, potentially through the Tax Code.

Mr. COURTNEY. All right. Well, I mean, certainly, we're all ears in terms of those kinds of ideas. I just would say that you constructed a while ago in one of the prior questions that people are overborrowing because they know there's loan forgiveness at the process there. I have a hard time sort of really believing that students or families are sort of calculating their borrowing decisions based on having to exhaust the loan forgiveness program which takes decades. I don't think people think that way.

And I think they're doing it because tuition is really high and they believe that there's a gainful employment opportunity that's going to take care of the debt, not that they're trying to game the system in terms of getting loans forgiven.

Ms. AKERS. I think you're right, actually. I do think that there is a perverse incentive that exists for a particular group of borrowers. It's probably a small group of borrowers. I think you're right that the majority of the growth that we've seen in student debt over the past two decades is driven largely by increases in price and not through this type of gaming behavior.

Mr. COURTNEY. Right. Thank you. And so, again, you're an economist who follows the economy closely. Just maybe a pop question, pop quiz, do you know what the 10-year Treasury rate is today?

Ms. AKERS. I do not.

Mr. COURTNEY. Okay. It's 2.46 percent. And one thing -- I raise that point because when people take Stafford loans with a 10-year term, and particularly those who took it out in prior years, there is a legacy interest rate that far surpasses what the government is charging for its borrowing needs. And for the government to be basically making a profit off the differential is just totally unacceptable. And we need to set up a system where people can write down their interest rates at least to a comparable level as the Federal Government. This is not loan forgiveness; this is just refinancing, which we do in other sectors of the economy, whether it's housing, credit cards, et cetera. We need to do it with student loans.

With that, I yield back.

Chairwoman FOXX. The gentleman yields back.

Mr. Messer, you're recognized for 5 minutes.

Mr. MESSER. Thank you, Madam Chair. Thank you for this important hearing.

You know, as we've talked about often in this committee, our Federal higher education policy is largely built on access and providing greater access to every American. By that measure it's been wildly successful. Of course, in today's world a couple of things have changed. One, if you're going to get an economic benefit from college, you've got to complete a degree. And if you don't, you have debt, you're in a lot of trouble.

So part of what this hearing is about is thinking about innovation. I've got three different questions I hope to hit in my 4-1/2 minutes. We'll see if I get to all three.

I want to start with Dr. Akers. And I appreciated in your testimony that you mentioned income share agreements and how that is not a silver bullet but an innovative approach to providing access to college. In my home State of Purdue, under Governor Mitch Daniels' leadership they've created a back boiler program that has been very successful right out of the gate.

And I would ask if you could explain, first, just the concept of what an income share agreement is, some of the legal challenges that is there at the outset of trying to start this new idea, and any thoughts you might have on Federal policy that we could implement to help encourage them.

Ms. AKERS. Sure. So just to give a basic primer, income share agreements are, essentially, a contract between a lender or a financial institution and a student, where the student takes money up front from that lender or from the financial institution to pay their cost of attending higher education. In exchange, they don't make fixed payments but instead, they promise to deliver a fixed portion, a fixed percentage of their income back to the financier.

So the reason that this is a system that works quite well is because it solves two of the problems that students have. First, they need cash up front when they're very likely to have cash in the future because of the heightened employment opportunities that come from going to college. And two, they need risk mitigation. So going to college is a risky thing. Students don't know with certainty what their future employment outcomes are going to look like.

And so if we want to encourage more people to go into college, we need to ensure those outcomes in some way. Income share agreements succeed in doing that because, rather than making a fixed payment, students pay back in proportion to the earnings that they ultimately receive.

So right now, income share agreements are an emerging market. The reason we don't have more growth in this industry, I believe, is because there's lack of certainty around the regulation --

Mr. MESSER. So you can do it by contract, right? And some folks are. But the point you're making is because it's not clear in the law what the boundaries of this agreement is, some folks see as a risky investment.

Ms. AKERS. That's right. So it's on the capital side where this is the problem. So the contracts are sort of clear. My sense is that the institutions that are offering these contracts are having difficulty raising capital to finance them because of the lack of certainty among investors.

Mr. MESSER. And what would we need to do in Congress, I mean, just to essentially clarify that this is a legal way to conduct business and set some boundaries in how --

Ms. AKERS. Exactly right. So in particular, we would want to see what are the boundaries for consumer protections for these types of products. And I think the industry would welcome this clarification.

Mr. MESSER. Great. Thanks.

Next, I'd like to go quickly to Mr. Gilligan and follow up on Mr. Guthrie's questions to you regarding FlexPath and competency-based education. A very exciting story that you told.

Could you talk a little bit about some of the challenges? I think in your written testimony, you mentioned that the regulation requiring regular and substantive faculty intervention creates some challenges with these programs.

Mr. GILLIGAN. Yeah. So let me clarify that comment for you. So there are two things about our direct assessment model that are unique: One is that we are decoupled from the credit hours, as I said. The other is that the faculty's at the center of the model. And what that means is the faculty defines the competencies, develops the curriculum, develops and administers the assessment, and provides instruction to the assessment process.

It's really critical to maintain that to ensure we have a high quality, robust direct assessment model for the future, because we don't want to have a race to the bottom.

Mr. MESSER. Yes.

Mr. GILLIGAN. But as we have advances in new learning methods and educational learning technology, the role of the faculty is being defined. And I think we're at a point where we should be revisiting what do we mean by regular and substantive faculty interactions.

Mr. MESSER. And in 40 seconds, what should we -- how should we clarify that?

Mr. GILLIGAN. Well, I think we should have a conversation around where are the areas that the faculty can create the greatest value in the learning process and ensure that those are reinforced. And if there are technologies available to support one of those other ways, we ought to allow that into the conversation.

Mr. MESSER. Great. Thank you very much.

Mr. Cruz, I have some questions about reverse transfer agreements and how important it is to be able to transfer back. I'll provide those to you in writing. Thank you for that innovative program as well.

I yield back to the chairman.

Chairwoman FOXX. Thank you very much, Mr. Messer.

Mr. Polis, I believe you are next, and I recognize you for 5 minutes.

Mr. POLIS. I want to thank Chairwoman Foxx for convening this important hearing. I know that this is an important priority for Dr. Foxx and it is for me as well.

My district includes two flagship universities, Colorado State University and University of Colorado Boulder, several community colleges, and Colorado Mountain College. I hear almost daily from constituents about the cost of higher education and affordability, everything from student loans to FAFSA, to the intimidating price tag that families face.

I'm very optimistic that today's hearing is the beginning of a thoughtful bipartisan conversation on how we can update the Higher Education Act to make more college more affordable and accessible. And I want to say I look forward to working with my colleagues on both sides of the aisle towards that end.

First, I want to highlight one of the strategies for affordability, dual and concurrent enrollment. In Colorado, about 24,000 students participated in concurrent enrollment last year, students that take courses for college credit usually in partnership with a community college while still in high school. Students who participated were more likely to enroll in college, less likely to seek remediation. We had a number of students who graduated high school with an associate's degree. Concurrent enrollment is truly a proven strategy for bringing down higher education costs.

Dr. Cruz, can you discuss the benefits of concurrent enrollment for first-generation and low-income students, and specifically how exposure to concurrent enrollment in high school can support their access to college?

Mr. CRUZ. Dual enrollment programs are a particularly interesting mechanism to help first-generation and low-income students earn academic credit that can accelerate their work once they get into college. But more importantly, as you mentioned, it provides them an opportunity to engage with the college environment.

The City University of New York has a very strong dual enrollment program called CUNY Now that serves over 400 high schools in the city through 17 of our campuses. Lehman has one of these programs. We are in 60 schools and have around 1,700 students that come after school to Lehman to take classes with Lehman College faculty. And so we have seen directly the impact that this has on their ability to graduate. In fact, 30 percent of the freshmen in City University of New York were at some point part of these programs.

Mr. POLIS. Thank you. And I do have a bipartisan bill we'll be introducing soon with Representative Reed regarding support for dual and concurrent enrollment programs that I hope can be included in the Higher Education Authorization Act.

Next, I want to mention another cost-cutting strategy, and that's open source textbooks. Open source textbooks are openly licensed, free for use. As you know, on average, students spend over $1,200 a year on books alone, one of the big detriments and one of the big components of the cost.

Because tuition at community college is generally lower, the proportional cost for textbooks is even higher than it is at 4-year universities, and for students struggling to make ends meet after paying for tuition, living expenses, thousands of dollars in textbook costs often make college even less affordable than it is.

Dr. Cruz, can you share what CUNY and Lehman College are doing to support access to open textbooks as a way of bringing down costs for students?

Mr. CRUZ. Sure. So just a couple weeks ago, Lehman College announced the first recipients of a faculty fellowship project, a small grant that we're doing to incentivize faculty to develop open textbooks for their courses. So we're doing this for the first time now.

More recently, my previous position was as a provost and VP of Academic Affairs at Cal State, Fullerton. In California, state law created an incentive for institutions to move in this direction, basically providing some grant funding for faculty, not necessarily to create their own materials, but look at existing materials and determine whether or not they could be adapted to their curriculum, particularly courses to have multiple sections and impact thousands of students. So there are ways that we can scale that up and accelerate progress across the country in this field.

Mr. POLIS. Thank you.

For Dr. Akers, I want to discuss income-base repayment. Now, there's a number of proposals. There's broad bipartisan support for income-base repayment, but there is the question of exactly what the parameters will look like. Some proposals suggest students pay 10 or 15 percent of their income above a certain level, some allow forgiveness. I have had a bipartisan bill where repayment is capped at 150 percent of original value, but there's not forgiveness.

Can you speak to the specifics of income-base repayment? What percent is correct? How should we handle capping repayment? What do you think the kind of best practice IBR looks like?

Ms. AKERS. I think, as I mentioned in my testimony, that the first job is to streamline the program into a single program. And I'll have to admit, I'm --

Mr. POLIS. To be clear, I think all of the reform proposals would do that. It's a question of what that single program looks like.

Ms. AKERS. Right. And I'll refrain from commenting on what specific parameters I think would be best today. But I would encourage policymakers to think about setting those parameters with the thought in mind that they would be at least reconsidered in the future after there's --

Mr. POLIS. And perhaps you can follow up with your analysis in writing so you can be more thoughtful about discussion of what those -- pros and cons of those different parameters are. I know that the committee would appreciate that as we move in this direction.

Ms. AKERS. Sure.

Mr. POLIS. I thank the chair, and I yield back.

Chairwoman FOXX. Thank you very much, Mr. Polis.

Representative Lewis, you're recognized for 5 minutes.

Mr. LEWIS. Thank you, Madam Chair. And thank you to the guests for coming today.

There's -- obviously, in a hearing like this, there's a lot of talk about repayment and financing and loan forgiveness, but I want to go back to the cost, especially as regards to taxpayers. As the chair pointed out in her opening statement, we've seen this massive escalation in the cost of higher ed. I've got a graph here in front of me from the Bureau of Labor Statistics showing since 1996, the cost of food and beverage is up 64 percent; medical care, 105 percent; child care, 122 percent. They all pale in comparison to college tuition, up 197 percent. The only thing that beats that are textbooks, up 207 percent.

Mr. Kirwan, you mentioned regulations in your testimony. I want to get a little bit more specific there as to what we can do to lower the cost. And everybody's got these anecdotes, I understand that. But when I was going to undergrad, I think the tuition for a full load in a semester for 16 credits was $350. Now, this was in the early 1970s. That was a lot of fun before running water. It was a while ago.

But the fact is we've got a cost crisis here. So we've spent all day trying to figure out what we're going to do to forgive the loans or to finance it. What are the regulations that you would address that are driving the costs?

Mr. KIRWAN. Well, thank you, Congressman Lewis. In our report, we've identified, and I think I said, 59 regulations that we feel have undue reporting requirements that are definitely driving up the cost. So we have a specific set of 59 recommendations -- regulations in our report that we have identified. And we've also proposed solutions that we think would streamline and lower the cost of compliance.

In no way did the commission feel that higher education should not be regulated or that regulations aren't an important an -- an important tool. We need to be held accountable. But we can streamline this process and take significant cost out of the operation of our institutions.

I've referenced a study from Stanford University that said that regulation could be as much as 7 percent of the tuition costs at the student's experience.

Mr. LEWIS. Actually, there's a study from Vanderbilt that says they spent 11 percent of the University's entire budget complying with regulations.

Mr. KIRWAN. Right, right.

Mr. LEWIS. So that's something we clearly need to look toward and delve into a little more.

I also want to talk -- and I'll address this to Dr. Akers. And I don't know how to describe this, but I used to have a friend, who's sadly passed away, but he was a shop teacher for 30 years in Minnesota. And he was a lifelong Democrat, I'm a lifelong Republican, but we used to lament the fact that so many high schools don't have shop. We're not introducing kids to a vo-tech training. It's cheaper, the loans are lower, and they actually get a job when they get out from under that or out from school.

Is there a general emphasis on a traditional 4-year liberal arts degree, in many cases costing, you know, even in public schools, $60,000, $70,000, $80,000, to the detriment of vo-tech in this current system?

Ms. AKERS. I'm not so sure that policy has been -- played a big role in diminishing the role of vocations in our economy, but I do think that the rhetoric surrounding higher education has overcelebrated the bachelor's degree as a pathway to financial success. It's become in a way part of the American Dream, if you will. And I think that's done a large disservice to students who would have been better served by alternative pathways to employment.

Mr. LEWIS. And what can we do to expose students that may not be best suited or best served by a traditional 4-year liberal arts degree and get them into some sort of technical training?

Ms. AKERS. That's not a question I'm prepared to talk about today, but I'd be happy to follow up with you.

Mr. LEWIS. Anybody else on the panel have an idea there?

Mr. GILLIGAN. Congressman, I would say continue to promote innovative new models. So I mentioned earlier, RightSkill is a model. College isn't for everybody, and employers are having a difficult time finding skilled workers in not only technical categories but nontechnical categories, like customer service reps, entry-level recruiters. And using competency-base learning, you can develop very low cost, affordable learning solutions quickly. And when I say quickly, in a matter of a month equip an adult with the skills that would make them eligible for that job.

Mr. LEWIS. Is that a euphemism for apprenticeships, what we used to call apprenticeship?

Mr. GILLIGAN. No, no. It's basically understanding -- let's just take customer service rep job -- what are the critical competencies that the employer needs the candidate to be able to demonstrate. You map those into a curriculum. You teach the candidate those skills, you assess to validate that the candidates learn those skills, and you put them into the workplace.

Mr. LEWIS. Thank you very much.

I yield back my time.

Chairwoman FOXX. Thank you very much.

Ms. Wilson, you're recognized for 5 minutes.

Ms. Wilson of Florida. Thank you, Madam Chairwoman Foxx and Ranking Member Scott for holding today's hearing on higher education. And I thank the witnesses for sharing their testimony with us this morning.

As a former educator, school board member, and the founder of the 5,000 Role Models of Excellence Project, a dropout prevention mentoring program in the Miami-Dade County public schools, I have been sending hundreds of boys of color to college for nearly 25 years, also training them for the workforce in general. I know how difficult it can be to afford to go to college. That is why I support Pell grants and Parent PLUS loans, and upon graduation being able to pay off these loans in a manner that makes sense.

I've introduced the Student Loan Borrowers Bill of Rights to provide basic protections to student loan borrowers, and the Student Loan Debt Protection Act to allow a borrower to discharge in bankruptcy a student loan. Less student debt benefits not only the student loan borrowers, but our Nation as a whole, since it allows them to have additional purchasing power which in turn boosts our economy, creates jobs, and increases the tax base.

Dr. Akers, the existing Parent PLUS program makes Federal loans available to the parents of undergraduate students who are unable to pay tuition upfront. And these loans are particularly important to students at Historically Black Colleges and Universities. Similarly, Federal loans to graduate students help ensure that graduate education isn't restricted only to those able to pay out of pocket or find a cosigner with sterling credit. You've called for scaling back or eliminating Federal loans to parents and graduate students and turning this role over to private lenders.

Private student loans carry higher interest rates than Federal loans for borrowers who have faced economic challenges in their lives. Furthermore, Federal loans to parents and graduate students already have the lowest default rates across all Federal student loans.

Why, why should we replace this system with one that will charge more to students who already face economic disadvantages, if it doesn't shut them out entirely, Dr. Akers?

Ms. AKERS. Thanks for the question. It's my belief that the role of the Federal Government in student lending is to step in where the private market would fall short. We -- it's a bit up to speculation as to whether or not the parents currently being served by PLUS would be completely served by the private market, but I believe to a large degree they would. And the same is true for graduate students.

We shouldn't necessarily have a system of Federal loans or financing higher education that relies on students having a parent who can borrow for them to access higher education. I agree with you that access is an important issue to solve, but I disagree that providing students loans when they're unlikely to be able to repay them is the best mechanism to do that. I prefer the access mission be addressed through the direct subsidies, through Pell grants, and potentially through the Tax Code.

Ms. Wilson of Florida. Do you agree that existing racial disparities and family wealth and income mean that the private market would charge more on average to minority students and their families? Wouldn't the change you suggest have a disproportionate effect on these students?

Ms. AKERS. Yes, that's exactly right. So any sort of introduction of underwriting in the student loan market would likely have implications for access, and certain groups of disadvantaged students would be impacted more severely. I would argue again that subsidies is the correct place to address that issue and not through the availability of debt.

Ms. Wilson of Florida. Why should we support a policy that would make it harder to close racial gaps in educational attainment? Do you think that's important?

Ms. AKERS. Absolutely.

Ms. Wilson of Florida. But why should we support that kind of policy to make it harder --

Ms. AKERS. I think --

Ms. Wilson of Florida. -- for racial gaps to be closed in higher education?

Ms. AKERS. Because I believe that's the wrong instrument for closing that gap. As I said, I would prefer to see subsidies used for that objective.

Ms. Wilson of Florida. This question is for Dr. Cruz. It's important that we have an understanding of all of the variables and factors affecting the rise of college costs. I understand that State disinvestment has led to tuition increases. What else has driven the cost of colleges public 2- and 4-year institutions, Dr. Cruz?

Mr. CRUZ. Thank you, Congressman Wilson. State disinvestments is the primary driver of cost in public education. Other considerations include compliance, as Dr. Kirwan mentioned earlier, but more importantly we have issues about around personnel costs, the rising cost of health care, and pensions for our employees. We have energy costs, we have increases in the cost of maintaining and upgrading a tech infrastructure on our campus to provide our students with the best equipment, in smart classrooms and whatnot. We have increased costs in our library subscription services for the journals.

But also, we also have increased costs because we realize and we have committed to ensure that our students are successful. And because of the needs that our students have, we have to direct more of our energy toward ensuring that they have the support services inside and outside of the classroom to succeed. So that's also been a primary area where we have had to try to innovate given the State disinvestments in order to make it work all together.

Chairwoman FOXX. The gentlewoman's time has expired.

We will send every member of the committee the link to the report that Dr. Kirwan is referring to, but that's what it looks like. And as he said, there are 59 recommendations. I'm going to read it this week, but I'm told by other people who've read it that you can do it on an airplane ride to a reasonably far away place. So we're going to test that out. But everybody will get a link to this. It actually is in the link -- it's mentioned in the memo that went out about this hearing, but we'll get another one to you.

Mr. Byrne, you're recognized for 5 minutes.

Mr. BYRNE. Thank you, Madam Chairman.

Dr. Kirwan, I am the former chancellor of postsecondary education from the State of Alabama. And I have a great appreciation for the accreditation process. I think it made the institutions that

I was responsible for better. I will admit that there were some interesting interactions between some of my institutions and the creditors, but I think it made the institutions better. I think it also helps in our efforts to safeguard the taxpayers' money.

Therefore, I was really interested in the part of your report that highlighted regulations that impact institutional accreditation. And I wonder if you could expand on that just a little bit and tell us if you have any specific recommendations with regard to that.

Mr. KIRWAN. Thank you very much, Congressman, for that question. Like you, I feel the accreditation process is a very important instrument. It was created to help institutions improve their academic performance.

One of the concerns that the commission expressed in its report is that over time, the accreditation expectations in requirements placed on the accreditors has included a lot of additional requirements unrelated to the academic mission of the institution. I mean, for -- one small example is that accreditors have to certify that institutions are meeting their fire code laws, and that's not an area of expertise of the people doing academic accreditation.

So I think sort of taking accreditation back to its originally intended purpose would be one recommendation in getting rid of some of the excessive requirements imposed on accreditors would be one.

Secondly, I'm a great believer that accreditation needs to ramp up the accountability that institutions must need. Putting greater expectations on improved retention and graduation rates, we need to find the means within the accreditation process to ensure that institutions have improvement plans in place and are under pressure to improve completion rates.

And thirdly, I think we need a system of accreditation that would respect a differentiated accreditation process. Institutions that are high performing, who finances are well placed, shouldn't be expected to jump through the same hurdles as institutions who are underperforming, low graduation rates, challenge financials. So we need to develop in this country, I think, a differentiated system of accreditation that respects and puts emphasis on those institutions that are in the most need of improvement.

Mr. BYRNE. I appreciate that response. I think it's spot on. We talked to one of the accreditors -- two of the accreditors last year. They were talking about how they can make the sort of differentiation that you just alluded to, so I hope they'll do that.

Dr. Akers, I want to talk to you about refinancing for a second. Would a Federal refinancing option actually help struggling borrowers? And are there any refinancing options currently available?

Ms. AKERS. Sure. So refinancing Federal student loans would actually help all borrowers. The problem is that it would help the borrowers who need it the least the most. So it's the borrowers with the very high balances that would benefit the most financially from the refinancing. We know from research that it's the borrowers with less than $5,000, many of whom didn't complete a degree, who are struggling the most to make student loan payments, but also to make other sorts of financial obligations.

If we were to do refinancing, which I don't think is the best approach to moving forward, I think it would need to be a highly targeted program and one that aims to devote resources to supporting the people who are really struggling.

Mr. BYRNE. Madam Chairman, I appreciate this entire panel. I think this has been very useful.

Higher education has been often used as the means of moving up in society, but higher education is highly differentiated in America, which is our strength. We've got not-for-profits, for-profits, religious schools, 2-year colleges, 4-year colleges, and we're not a one-size-fits-all Nation. And we shouldn't have Federal policies trying to put this one-size-fits-all on our institutions of higher education, because that diversity is the great strength of what we provide to our people.

And I yield back.

Chairwoman FOXX. Thank you, Mr. Byrne. We can always count on you for giving us lots to think about.

Congresswoman Adams, you are recognized for 5 minutes.

Ms. ADAMS. Thank you, Chairwoman Foxx, Ranking Member Scott, for hosting this hearing to discuss the importance of higher education. Education is clearly the pathway to a better life and upward mobility. I want to thank the witnesses today for sharing your thoughts on the current landscape of higher education.

I am a former college professor and administrator, 40 years at Bennett College in Greensboro, North Carolina. And I'm a first generation, I was a first-generation college graduate. So I know postsecondary education leads to economic mobility and opportunity. Higher education can open doors, but working families, low-income and minority students feel the burden of student loan debt and the challenges to achieving a high-quality higher education.

Approximately 8 million individuals rely on Pell grants to pay for college. The Pell grant now covers just 29 percent of college costs at public universities compared to 79 percent almost 40 years ago when I got started. As a result, many low- and middle-income students find themselves acquiring loans to finance their education. And to make matters worse, statutory adjustments that make sure the Pell grants keep pace with inflation will soon expire. Republican budget resolutions over the past several fiscal years have proposed making deep cuts to Pell grants, balancing the funding needs on the backs of college students who are working hard, sometimes two and three jobs full-time to pay for school.

Dr. Cruz, can you explain to us the importance of protecting Pell grants for the students where you've worked? And what could policymakers do to responsibly expand and strengthen the program for the next generation of students?

Mr. CRUZ. Thank you, Congressman Adams. It is hugely important, the Pell grant is. I believe that when you think about how much low-income students are expected to contribute towards their education, approximately 76 percent of their household income after all aid is taken into account, you have to realize that the Pell grant program as the foundation upon which they finance their education is of utmost importance.

So there are a few things that I think can be done in the short term. For certain, we should extend the increases due to inflation adjustments moving forward. We should think about bringing year-round Pell back, because it allows students to progress through their degree at a faster pace. We should also consider taking steps over time to try to get the buying power of the Pell grant program back to where it should be. As you know, when it started, it was about 75 percent of the total cost of attendance. It's now around 25 percent. So can we get it to 50 percent in the next 10 years? So those are some of the areas that I think should be given some attention.

Ms. ADAMS. Thank you. In your written testimony, you discuss how inequitable policies and practices impede our ability to fulfill promises of opportunity and upward mobility. Historically Black Colleges and Universities, HBCUs, while they only make up less than 3 percent of our institutions of higher education, graduate 20 percent of all African American undergraduates, 25 percent of African American graduates in the STEM field. These schools enroll a disproportionate number of first-generation, low-income and minority students who must borrow at higher rates.

So what role do you see Historically Black Colleges and Universities and minority serving institutions playing in closing the intergroup inequities in higher education?

Mr. CRUZ. They have a crucial role. One, because they serve the majority of the underrepresented students in our country. And without us being able as a country to educate them better and get them with the degrees they need to be successful, we will never once again lead the world in educational attainment.

Also, it's important that they are resourced adequately so that they can carry out this mission. Because the fact of the matter is that they have the experience dealing with these populations and it is in their mission. So to the extent that we can support these institutions to narrow achievement gaps across the country and also serve as models for others that are now just starting to manage the new demographics of this country, I think we'll be successful.

Ms. ADAMS. Thank you. So in your opinion, the diminished purchasing power of Pell grants and reduced State and Federal investment in higher education does impact students who attend these schools that I'm talking about?

Mr. CRUZ. It significantly does.

Ms. ADAMS. Thank you, sir.

Madam Chair, I yield back.

Chairwoman FOXX. Thank you, Congresswoman Adams.

Congressman Hunter, you're recognized for 5 minutes.

Mr. HUNTER. Thank you, Madam Chairwoman. Good afternoon, everybody.

Dr. Akers, my question is to you. When you opened up, you said that college is a gamble. That's one of the quotes that you made today. One of the ways that you reduce risk off of anything, you buy down risk, is by having knowledge. Right? And the more that you're made aware of the outcomes of students going to any university, the more -- you're more informed in your decisionmaking when kids choose what university that they want to go to.

In a recent publication for the Manhattan Institute titled Five Reforms to Improve Higher Ed, you ranked the repeal on the ban of a student unit-record system as priority number two for the higher ed act. Specifically, your quote is: "As a first step to ensuring that the Federal Government can generate and publish comprehensive data on student outcomes, Congress and the new administration should lift the ban."

As you and many of my colleagues know -- in fact, Mr. Polis is on this bill, Ms. Davis is on my bill, and it's the Student Right to Know Before You Go Act. Marco Rubio was a cosponsor, Speaker Ryan was a cosponsor. That act accomplishes that goal that you mentioned, while at the same time providing program level student outcome data institutions every 2, 6, and 15 years after completion.

So the question is, how would unlocking this data improve our knowledge of student outcomes, and why is it important? That's the first kind of softball opener.

Ms. AKERS. Sure. Okay. I appreciate that. We have a market-based system of higher education, albeit one that has a very large degree of Federal and State intervention. What that means is that we need to rely on consumers to play a role in policing institutions for quality.

There is a huge problem of asymmetry of information in this market. Without access to government data on student outcomes, consumers would have a very difficult time holding institutions accountable for the value that they provide.

Mr. DUNCAN. So right now at this point in time, we use the Integrated Postsecondary Education Data System, IPEDS. How would repealing the ban on the student unit record allow that to work more coherently and have everything work together so my -- I've got a 16-year-old son. He can look at SDSU, UCSD, USD and say if I'm majoring in engineering, in 5 years, I'll be making -- the average kid makes this much money. It takes him 6 months to get a job if going -- getting that degree from that university. We then have knowledge that we're armed with and we can make better decisions.

What would it do with IPEDS if you repeal the ban?

Ms. AKERS. I'm sorry?

Mr. DUNCAN. Specifically. What would repealing the ban, how would that play in IPEDS, which is the Integrated -- that's the way that we do this now.

Ms. AKERS. Sure, sure. So essentially, repealing the ban would create a more comprehensive data system which would capture the universe of borrowers rather than a sample of borrowers currently captured by survey data.

Mr. DUNCAN. Because right now, what do they do? They -- each university has people call out, just call people, right, every day. So you graduated 5 years ago. Do you have a job and how much do you make? Right?

Ms. AKERS. To be honest, I'm not exactly aware of that process.

Mr. DUNCAN. That's how they do it.

Ms. AKERS. Right. So the connection of IRS records on earnings with Department of Education data would create -- rather than a survey level data which is subject to reporting error, it would be more comprehensive and more correct.

Mr. DUNCAN. We would know exactly how much people are making after getting certain degrees from universities, and all anonymously, correct?

Ms. AKERS. That's right. That's right. And the other advantage is because of the greater availability of data, we could have more granular level outcomes. So as was previously mentioned, program level outcomes could be reported in addition to institution level outcomes. The problem with reporting institution level outcomes as it's done currently, it obscures a lot of the information that there is variation outcomes across programs within institutions.

Mr. DUNCAN. And I'm just curious too, you didn't mention this at all in your opening statement, but you rank it as the number two priority to fixing higher education.

Ms. AKERS. Uh-huh.

Mr. DUNCAN. Okay. All right.

Dr. Kirwan, I've got a question. The same question to you but not representing a Task Force on Federal Regulation of Higher Education. But based on your experience at the University of Maryland, what is your take on repealing the ban on the student records?

Mr. KIRWAN. Well, as you -- thank you, Congressman. As you point out, this was not an issue that the Task Force addressed. If you're asking my personal --

Mr. DUNCAN. If you would, just step outside of that. If you would, just answer personally.

Mr. KIRWAN. You're asking my personal view as a former university president. I actually believe that the access to unit-record data would be extremely valuable in higher education because it would provide a means, not just as Dr. Akers mentioned, but also in terms of improving performance. You'd have a real sense of what's working, what isn't working.

Mr. DUNCAN. Competition between universities?

Mr. KIRWAN. Exactly.

Now, I also recognize there, you create an enormous database like that, there are confidentiality issues, and that's a concern that needs to be addressed. But assuming that can be addressed, I think it would be an important tool for improving the performance of higher education.

Mr. DUNCAN. Thank you very much.

Thank you, Madam Chairwoman.

And if you would, please, I would like to meet with you later, go over the bill, the Student Right to Know Before You Go Act, and have you both take a look at it, especially you, Dr. Akers. All right. Thank you.

Thank you, Madam Chairwoman.

Chairwoman FOXX. Thank you, Mr. Hunter.

Mr. Espaillat, you're recognized for 5 minutes.

Mr. ESPAILLAT. Thank you, Madam Chair, for highlighting the American Council of Education's task force report. But let me remind my colleagues that the American Council of Education is the primary lobbying organization for the Nation's colleges and universities.

If we imagine for a moment that we were discussing, for example, the automotive industry instead of colleges here, this task force would be equivalent to a group of auto executives and lobbyists talking about regulations they find often burdensome without anyone speaking, for example, of vehicle safety or the environment.

There may be, of course, things we can learn from the task force report, but we need to remember at all time that this is a document that reflects a single specific set of values and views and cannot represent a broad consensus across higher education.

Dr. Kirwan, you have referred to compliance and you have referred to regulations as a -- reasons for the increase, the spike in the cost of a student's education. If the Department of Education were to eliminate right now all regulations faced by, say, Vanderbilt University, which you cite in the report, would it cut its tuition by $11,000 for students?

Mr. KIRWAN. Thank you, Mr. Congressman. I can't speak for Vanderbilt University, so I don't know what they would do. But I do want to reemphasize that this commission fully supports the need for regulation and accountability. There was no intention in any way to get out from under the expectation of being responsible for taxpayer dollars to the students and families we serve. So this task force was about smarter regulation, not the elimination of regulation.

Mr. ESPAILLAT. But 2 years ago, you and Nicholas Zeppos, the chancellor of Vanderbilt University, coauthored the task force report, and testified before the Senate. During his testimony, Dr. Zeppos highlighted that Vanderbilt spent $146 million annually on Federal compliance, equating it to, and I quote, approximately $11,000 in additional tuition per year for each of his 12,757 students.

So if we eliminate these regulations, will there be in fact a dramatic drop of $11,000 per students at Vanderbilt?

Mr. KIRWAN. Well, again, Congressman, I really can't -- I wasn't part of the Vanderbilt study. That study was not part of our report. And so I really can't comment on that report or what Vanderbilt would do. But I think no one is advocating, that I know of, in higher education the elimination of all regulations. It is -- the whole essence of this report is smarter regulation.

Mr. ESPAILLAT. Dr. Cruz -- thank you, Dr. Kirwan -- can you tell me a little bit about the work that colleges and universities are doing to better train students for jobs of today and tomorrow, particularly in the county of the Bronx where the Lehman College is at, where I know that the healthcare arena is the primary employer of folks in that particular county. Can you tell me what kind of activities, what kind of initiatives you're taking at Lehman College to ensure that there are more jobs available for the young people that attend your college?

Mr. CRUZ. Sure. So we have several initiatives at Lehman College through which we interact with our community college partners, industry, and the labor unions, particularly in the healthcare industry with 1199 SEIU. And so we have a broad portfolio of initiatives through our adult degree program in particular. One of them, for example, involves developing online programs for in-service healthcare workers so that they can access higher-paying jobs that haven't been already identified by the union and the health industry locally.

And more recently, we did a public-private partnership in the high tech area in augmented reality and virtual reality through which we are collaborating with a major vendor in the country to train new coding experts in this area for the growth that we're seeing in the Bronx in the tech field.

Mr. ESPAILLAT. Thank you so much, Dr. Cruz.

Thank you, Madam Chair.

Chairwoman FOXX. Thank you very much.

Mr. Mitchell, you're recognized for 5 minutes.

Mr. MITCHELL. Thank you, Madam Chair. And thank you to everyone for being here.

Let me continue on some of the questions that Mr. Hunter raised during his questioning. Dr. Akers, you referenced in your testimony that, unfortunately, there are many that make a losing gamble in going into higher education, be it postsecondary college or a postsecondary program. Isn't part of the problem that they're facing is exactly what Mr. Hunter references, which is a lack of programmatic success data at college and universities? You have institutional data, but you don't have any data on specific programs within the university.

Ms. AKERS. We do see that there are systematically bad outcomes coming from particular institutions and particular programs. This would lead you to believe that if students were armed with better information on the front end, they could choose institutions where they'd have a higher likelihood of success. So yes, I think that's correct.

Mr. MITCHELL. Does anybody else on the panel have any opinion on that question? Mr. Gilligan?

Mr. GILLIGAN. Yes. So Capella fully agrees that institutions should be transparent about outcomes and be accountable for outcomes. And the more that we can make information available, I think the more competitive the initial will be, the more opportunity for innovation it would be. So we fully support that.

Mr. MITCHELL. Anybody else? Dr. Kirwan?

Mr. KIRWAN. I echo my colleague's comment.

Mr. MITCHELL. Okay. Thank you.

Another question for you. Let's talk a little about gainful employment for the sake of -- you're all aware of the history of it, I won't repeat it, it's got a pretty checkered history. Let's be honest about it. How long are the regs? The new regs are, what, 650 pages or something like that?

Question for you, did the commission -- Dr. Kirwan, did you consider applying some version, albeit maybe irrational version, if you can find one, of GE across the higher education sector that, in fact, for purposes of accountability for all institutions, for all programs, that gainful employment should be applicable for all higher education? Did you consider that, and what were your thoughts?

Mr. KIRWAN. Well, the commission strongly supported the concept of ensuring programs of a vocational nature that prepared students for successful careers of study. There was considerable concern about the gainful performance regulation, not only about the way it was developed, but the fact that it --

Mr. MITCHELL. Let me stop you, Dr. Kirwan.

Mr. KIRWAN. Yes.

Mr. MITCHELL. The distinction of vocational I think for me is troubling.

Mr. KIRWAN. Right, right.

Mr. MITCHELL. It's troubling because, as one of my colleges on the other side of the aisle indicated, that the journal is in school, going to pediatrics, that those are vocations.

Mr. KIRWAN. Right.

Mr. MITCHELL. That people are expecting to get a career, to earn an income and be able to pay their loans and support their families.

Mr. KIRWAN. Right.

Mr. MITCHELL. So I think the vocational distinction that's been made by the Department of Education is at best artificial, and I have other terms for it that probably can't use in this hearing.

Mr. KIRWAN. Right.

Mr. MITCHELL. On a broader scale, across the spectrum of university programs, is there some rationale why it is we don't consider gainful employment the gainful outcome for students?

I see Dr. Akers who is anxious, maybe she has an opinion on it.

Mr. KIRWAN. Well, certainly, I think providing data on the economic gain produced by an institution in its academic programs should be available and could be very useful to parents and students.

Mr. MITCHELL. And that data is currently not available?

Mr. KIRWAN. That's correct.

Mr. MITCHELL. Dr. Akers, your opinion?

Ms. AKERS. It sounds like I need to work on my poker face a little bit. But I think the observation you're making is correct. I have actually suggested at times that gainful employment might be applied across all institutions, but the theme of my recommendation is really more that I'd prefer a more outcome-based system of accountability and one that can be applied across institutions equally.

Ms. AKERS. When we survey students about why they go to college, 90 percent of them report that among the top reason is to have better earnings and planned outcomes in the future. So I'd prefer to see a system of accountability that more better matches what students are anticipating.

Mr. MITCHELL. It certainly was the reason I went to college, I was the first in my extended family to even attend college let alone graduate and it certainly was to be able to pay the bills.

The question for either of you, especially those who are around for gainful employment when it first came out. Do you remember the first data dump that was done by the Department and which institutions topped that list, the first issue of gainful employment, do you remember that one, sir?

Mr. GILLIGAN. I believe so, there were some Ivy league schools I believe that were in that list. Is that what you're referring to?

Mr. MITCHELL. That would be correct. Some very interesting Ivy league schools, and they were on there because of the cost of their tuition, not that we don't think they are valuable programs, correct?

Mr. GILLIGAN. I assume.

Mr. MITCHELL. Thanks very much. My time's almost expired. I yield back.

Thank you, Madam Chair.

Chairwoman FOXX. Thank you very much. Mr. Takano, you're recognized for 5 minutes.

Oh, I'm so sorry. I apologize. It's Ms. Blunt Rochester. I looked at it wrong on the list. I apologize.

Ms. Blunt Rochester. Thank you, Madam Chair and Ranking Member Scott and to the witnesses. This is a very important issue.

As a parent of adult children who are paying student loans, as a former Secretary of labor and State personnel director in the State of Delaware, and also as a person who has a lot of constituents, this is one of our top priorities.

I want to ask, in Delaware we've had some great partnerships between our colleges and our employers. Mr. Gilligan and Dr. Cruz, how is labor market information used in developing courses and programs? And also, do you have suggestions to continue or improve the use of this kind of information?

Mr. GILLIGAN. So thank you for the question. We do use labor market data. We use different sources of data to understand not only where is the job growth today and the demand today, where is the demand going to be in the future, and what are the skills and competencies that are going to be required by employers in those areas. And then we use that to inform the design of our curriculum.

Mr. CRUZ. We have a similar structure through which we have industrial advisory boards and also, as I mentioned in my previous response, we work directly with the local unions to identify what the skill gaps are and what the opportunities are, and with that we drive our curriculum development, particularly in the part of continuing and professional studies.

Ms. Blunt Rochester. Is there anything that can be done to improve the process for you? Anything that -- whether it's the relationship between Department of Labor, economic development, business roundtables, is there anything in particular, any suggestions or strategies?

Mr. GILLIGAN. I don't have any particular suggestions today, but I think it's a good question. If we could think about that and get back to you, we'd appreciate that.

Ms. Blunt Rochester. All right. And then another question I have for Mr. Gilligan. Many of Capella's students are in programs such as education, public policy, nursing and health services, and may stand to benefit from the Public Service Loan Forgiveness program. One of today's witnesses Dr. Akers mentioned that it may make sense to eliminate this option.

Mr. Gilligan, is this benefit important to your students who are pursuing careers in public service?

Mr. GILLIGAN. So I would say most Capella graduates earn a very attractive income. And we know that as a fact from the gainful employment data that's published by the Federal Government. And we experience very low core default rates. So I think our learners are pursuing their degree for career advancements and economic opportunity. They are paying their loans back. I'm not sure income base repayment is -- or loan forgiveness rather is an important consideration up front. That's not to say there aren't some of our graduates that take advantage of it. And I would say as long as it is not creating perverse incentives, it's probably a very productive tool.

Ms. Blunt Rochester. Dr. Cruz, I don't know if you wanted to add to that.

Mr. CRUZ. I think in general loan forgiveness programs are important. One thing that I would look at more from the macro level is who are the winners and who are the losers. Anything inequitable, use the funds, in terms of the lowest income students being able to get their fair share.

Ms. Blunt Rochester. Dr. Akers, I don't know if you want to add any more to it.

Ms. AKERS. Sure. I will just clarify again that, you know, the intention of that policy proposal is not to remove subsidies entirely from public service, but rather to put them into another mechanism that would be more fair, and more effective, at encouraging those types of employment.

Ms. Blunt Rochester. Thank you.

I yield back my time.

Chairwoman FOXX. Thank you very much. Good reason I should recognize you when you are on the line.

Mr. Allen, you're recognized for 5 minutes.

Mr. ALLEN. Thank you, Madam Chair. And coming from the business community and as far as technology and efficiency, it looks like we're doing things the same way we've always done them in education.

My parents were involved in education. In fact, one of the funniest stories that I heard was when I attended the college orientation of one of my children and the Dean of the freshmen said that a father called him and was very upset because his son could not schedule freshman English the first semester. And so the Dean said, well, let me get back with you.

So he called over to the English department and sure enough the 9 o'clock class, and the 10 o'clock class, and the 11 o'clock were full, but the 8 o'clock class was wide open. And I said, wow, we need to figure out some way to motivate folks and get a little more efficient in what we're doing and how we're scheduling things. And of course Stephen Covey said, you've got to begin with the end in mind, in the seven habits of highly successful people.

So with that it looks like, to me, that we've got a long way to go in higher education as far as implementing a lot of the policies that we've implemented to become one of the most productive business and industry institutions in the world. What do we got to do to catch up?

Dr. Akers, did your research look at productivity and efficiencies and how we really turn out folks that we need for -- again the job placement and all that sort of thing?

Ms. AKERS. That's not something I studied explicitly, but I would be happy to follow up in my written remarks.

Mr. ALLEN. Okay. Dr. Kirwan, your commission did you all look at -- I mean, like, our lieutenant governor said that we had over 5,000 liberal arts graduates in the State of Georgia, but about 250 job openings. I said, well, where do these kids go? And you know, mainly service jobs. How do we correct that?

Mr. KIRWAN. Well, this was not an issue we were asked by the HELP Committee to look into. We were focused on existing regulations in the regulatory environment. But I'm actually quite encouraged by what's going on in higher education right now. There is a tremendous amount of innovation bubbling up at our institutions. We have come to embrace the potential of technology in the learning sciences to dramatically improve the way student's courses are taught, students are learning -- adaptive learning, the use of MOOCs, these massively open online courses. The partnership between the two- and four-year sector, the reverse transfer. You know, I feel very confident in the next 5, 6 years we're going to see a significant improvement in completion rates.

Mr. ALLEN. How about cost? How do we reduce cost?

Mr. KIRWAN. Well, you know, I think -- we're in a situation now where I do not anticipate significant increases in cost. I think institutions are working hard to find ways to use technology and innovation to hold down the growth in cost.

The States are not going to be able to invest significant new funds in public institutions. I think most States are putting some kind of limit on increases in tuition. So I honestly believe we've passed through this period of huge, significant tuition increases. And this is encouraging in putting pressure on institutions to find new and better ways to deliver courses. So I actually feel quite optimistic about the future in that regard.

Mr. ALLEN. Yeah. That's good to hear.

Mr. Gilligan, we talk about work study programs. Obviously, when we look at a resume in our business, we would look at not only education, but experience of that student. And it sounds like you -- that's something that you're -- most of your folks already have a job getting --completing their education. How do you see the importance of that?

Mr. GILLIGAN. Well, sir, as you said, most of our students are working adults, they are employed. About 75 percent of them are going on to get a graduate degree. So in that context work study really doesn't come into play.

What they are looking for are competencies and skills, that are in high demand by employers, that are allow them to practice at the top of their profession. So we have a very strong focus on linking our curriculum to the demand side which is the employer.

Mr. ALLEN. Okay. I yield back.

Chairwoman FOXX. Thank you very much.

Mr. ALLEN. Thank you.

Chairwoman FOXX. Mr. Takano, you're recognized for 5 minutes.

Mr. TAKANO. Thank you, Madam Chair.

The Borrower Defense to Repayment Rule protects taxpayers and students alike against fraudulent colleges seeking to profit off Federal funds without providing a quality education. Perhaps more importantly it provides desperately needed relief to students who were scammed by schools that shouldn't have had access to Federal financial aid in the first place.

José Morales, a veteran and student from my State, said, I quote, "I told the recruiter when I signed up that I couldn't afford any payment plan since I didn't have enough financial aid to cover the cost of tuition. After a few minutes the recruiter came back and said I received a scholarship that would cover the costs. When I started class, there was no evidence of any scholarship in my account, but there was a balance due of about $1,400. I called the recruiter and she said she forgot to submit the scholarship application and she would get to it next week. There was a continuous conversation and her scholarship never appeared. The recruiter lied to me to get me to sign up and now I have loans for a degree I can't complete" end quote.

The Borrower Defense Rule is a commonsense protection for students. If the choice is between protecting student borrowers who were lied to by their schools or protecting an industry that wants relief from this rule, I will protect the student.

As Members of Congress, we must ensure that our veterans and Active Duty servicemembers and their families have the information and support needed to succeed in college. It is our responsibility to protect these individuals who have and are currently serving our country. I've heard stories from student veterans all across California who were defrauded by for-profit institutions. Students were told their credits would be transferrable by recruiters or that they would receive scholarships that never appeared.

Dr. Cruz, why do you think veterans are such a target for these institutions?

Mr. CRUZ. I believe they are such a target because of the 90/10 loophole. For-profit institutions are required to secure no more than 90 percent of their revenues from public funds. And because of a congressional oversight many years ago the GI Bill was not considered as a public source of funds. So that created an incentive to try to bring more "nonpublic" public dollars into the equation for the for-profit sector to continue to operate.

As you know, there are more than three dozen Attorneys General across the country now that are looking into this. And I believe that it's important that this loophole be closed to take away that incentive.

Mr. TAKANO. Dr. Cruz, are you telling me this loophole specifically incentivizes for-profit institutions to target our veterans because their money is not counted as part of the total Federal funding that the school receives?

Mr. CRUZ. Exactly. Yes.

Mr. TAKANO. That's incredible. Given that veterans are such a target, what can Congress do to protect these veterans -- these students?

Mr. CRUZ. The same that can be done for students in general through the strengthening of the general of the gainful employment provisions, clamping down in the incentive compensation area and also borrower defense.

Mr. TAKANO. Well, at this time, just this past week the committee received a letter signed by 16 organizations representing service members and veterans across the U.S. urging us not to weaken the gainful employment rule or the defense to repayment regulation and not to eliminate the ban on incentive compensation. I would like to submit this letter for the record. It's down there, Madam Chair.

Chairwoman FOXX. Without objection.

[The information follows:]

February 2, 2017

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education, Labor & Pensions
U.S. Senate

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education, Labor & Pensions
U.S. Senate

The Honorable Virginia Foxx
Chairwoman
House Committee on Education & the Workforce
U.S. House of Representatives

The Honorable Bobby Scott
Ranking Member
House Committee on Education & the Workforce
U.S. House of Representatives

Dear Chairmen Alexander and Foxx, and Ranking Members Murray and Scott,

On behalf of national organizations representing our nation's military servicemembers, veterans, survivors, and military families, we write to urge you to ensure that important laws and regulations protecting students are not watered down or eliminated. We hope that bipartisan agreement is possible in order to protect America's military heroes and their families.

As you may know, veterans, servicemembers, survivors, and military family members are too often singled out and targeted with the most deceptive, fraudulent college recruiting. A loophole in the Higher Education Act's "90/10 rule" has the unfortunate effect of incentivizing proprietary colleges to view veterans, servicemembers, survivors, and military families as "nothing more than dollar signs in uniform, and to use aggressive marketing to draw them," as Holly Petreaus, the former head of Service Member Affairs at the U.S. Consumer Financial Protection Bureau, explained.[1] This is because the loophole caps the federal funds proprietary schools can receive, but fails to list funds from the Departments of Defense (DOD) and Veterans Affairs (VA), and many proprietary colleges target DOD and VA funds to offset the cap on federal funds. As a result, our nation's heroes are targeted with the most deceptive and aggressive recruiting. Thus, it is critical to fully uphold the existing protections that help stop these abuses.

We hope you will stand with America's heroes by opposing any efforts to weaken or eliminate existing protections for student veterans and their families, including:

- The **Gainful Employment Rule**, which enforces the Higher Education Act's requirement that career education programs receiving federal student aid must "prepare students for gainful employment in a recognized occupation." This common-sense requirement applies to career education programs at *all* types of colleges (public, nonprofit, and proprietary) and protects both students and taxpayers from waste, fraud, and abuse. Veterans express anger when they discover that the government knew that a career education program had a lousy record but allowed them to waste their time and GI Bill benefits enrolled in it. The Gainful Employment Rule requires schools to disclose basic information about program costs and outcomes and prevents funding for programs that consistently leave students with debts they cannot repay. Because the rule eliminates funding for wasteful programs, the Congressional Budget Office estimates that repealing the rule would increase spending by $1.3 billion over 10 years.[2]

- **New regulations on federal student loan relief for defrauded borrowers and college accountability**, which make it harder for schools to hide fraud and clarify avenues for students to receive the loan relief they are entitled to under the Higher Education Act. America's heroes are targeted for such fraud because of the 90/10 loophole, and deserve the relief they are entitled to under the law.

[1] Hollister K. Petraeus, "For-Profit Colleges, Vulnerable G.I.'s", *New York Times* (Sept. 21, 2011)
[2] CBO preliminary estimate prohibits the Department of Education from implementing any rulemaking relating to "gainful employment" and from making any future rules related to "gainful employment," July 7, 2016. Estimate includes both mandatory and discretionary spending.

- The **ban on incentive compensation** (sales commissions) in the Higher Education Act, which was enacted more than 20 years ago with broad bipartisan support to reduce high-pressure, deceptive sales tactics. Sales commissions incentivize college recruiters to "do anything and say anything" to get veterans to enroll. Veterans, who are frequently encouraged to enroll on the spot, are particularly vulnerable to high-pressure recruiting: over 60 percent are the first in their family to attend college. In 2015, the Education Department's Inspector General called for greater oversight and enforcement of the ban to prevent fraud and abuse. We urge you to oppose the creation of any loopholes in the ban.

- **The Enforcement Unit at the Education Department**, which is taking steps to protect all students – but has explicitly embraced a goal of prioritizing veterans and servicemembers – from any illegal conduct by any college.

We would be grateful for the opportunity to discuss these concerns with your staff. Thank you for your time and attention.

Sincerely,

Carl Blake
Associate Executive Director
Paralyzed Veterans of America

Bonnie Carroll
President and Founder
Tragedy Assistance Program for Survivors

Joseph Chenelly
Executive Director
AMVETS National Headquarters

Anthony Hardie
Director
Veterans for Common Sense

Anna Ivey
Co-Founder
School 2 Service

Mary M. Keller, Ed.D.
President and Chief Executive Officer
Military Child Education Coalition

Peter James Kiernan
President
Ivy League Veterans Council

Michael S. Linnington, LTG (ret), U.S. Army
Chief Executive Officer
Wounded Warrior Project

Jared Lyon
President & CEO
Student Veterans of America

Jeffrey E. Phillips
Executive Director
Reserve Officers Association of the United States

Joyce Raezer
Executive Director
National Military Family Association

Randy Reid, USCG (ret)
Executive Director
U.S. Coast Guard Chief Petty Officers Association &
Enlisted Association

Kathy Roth-Douquet
CEO
Blue Star Families

John Rowan
National President
Vietnam Veterans of America

Mark C. Stevenson
Chief Operating Officer
Air Force Sergeants Association

Carrie Wofford
President
Veterans Education Success

Mr. TAKANO. I want to turn now to the gainful employment regulations, Mr. Gilligan. There was mention that the Ivy League schools have made it on to this list. And I'm thinking that we're referring here to a program at Harvard University, my alma mater. It's a nonprofit institution of great national repute, but they have an arts program that is really expensive. It's, like, up to $78,000 per year. And the expectation is that graduates, not all of whom will make it to the big league, are paid $32,000 a year.

Do you think that the American taxpayers should shoulder that risk of students admitted to this program -- I understand that Harvard itself has voluntarily put a pause on students coming to this program to reevaluate this program.

Don't you think the gainful employment regulation was very useful, even in detecting within our elite institutions maldesigned programs?

Mr. GILLIGAN. Well, I would say that the gainful employment regulation is designed to ensure that students can earn an income at a high enough level to repay their loans. And the problem that I have with the rule it that it's a one size fits all metric. And I would argue that as an example, a student that attends a vocational school maybe to become an auto mechanic or a cosmetologist, We apply exactly the same debt to income threshold to that student as we do to a say a teacher or a principal of the school who was getting a doctoral degree to become student of schools, who's going to earn a return on investment over a lifetime.

And so part of problem with the rule in my opinion is the one size fits all nature to it. The other is it only applies to for-profit schools. So if we think it's good policy that eligibility for Federal financial aid should be tied to debt to income thresholds, it ought to be, in my view, a level playing field for everyone in the industry, for-profit and not for-profit. And we've got to recognize the difference in programs.

Mr. TAKANO. I wish I could explore it further, but my time has run out.

Thank you.

Chairwoman FOXX. Thank you very much.

Mr. Rooney, you're recognized for 5 minutes.

Mr. ROONEY. Thank you, Madam Chairwoman.

Dr. Kirwan, thank you very much for your testimony here and for working on the task force. You identified and talked about a lot of costly burdensome government mandates that drive up the cost of education. But you didn't mention much about administrative costs.

I've got an article here and few papers I am going to ask Ms. Foxx to put in the record, if that's okay.

Chairwoman FOXX. Without objection.

[The information follows:]

UNIVERSITY VENTURES

UV LETTERS

WHAT WE ALL AGREE ON,

Jan 20,

Volume VII, Special Inaugural Edition

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Last Monday an organization we hold in high regard, the New America Foundation, posted a piece comparing Republicans who defend for-profit colleges to climate change deniers.

There are two fundamental problems with this strain of argument. The first is that while there's only one climate (which is changing), there are thousands of for-profit colleges, some of which remain "predatory," (the pejorative *du jour*), and some producing a higher return-on-investment for students than many traditional colleges. The second is that this piece re-fights yesterday's war. When, in an interview with Politico, Steve Gunderson, the former Republican Congressman from Wisconsin who heads the industry association (Career Education Colleges and Universities) differentiates between schools that are filling real employment gaps and those that offer basic degree programs ("Those schools still exist but they're not part of our sector anymore"), the battle against "predatory" for-profit colleges has been won.

It's easy to see how extreme partisanship could extend beyond for-profit colleges into core higher education. Raucous debates about immigration and freedom of speech are highly relevant to colleges and universities. So as we witness today's inauguration of President Trump, it's important to recognize that the many challenges and opportunities facing higher education lend themselves to bipartisan consensus – perhaps more than any other area of public policy. Because areas of agreement in higher education far exceed areas of disagreement, both sides of the aisle ought to be able to support a reauthorization of the Higher Education Act that will materially improve outcomes – particularly for the nearly half of working adults (and especially young adults) who feel that no matter what they do, they're unable to get ahead and, in fact, are falling behind, and whom traditional colleges and universities are not adequately serving.

One area of agreement is that rankings are far too important in setting direction for America's colleges and universities. To draw attention to this fact (and, cravenly, to draw professions and should be strongly encouraged from a public policy perspective.

#3. Colleges need to do much more to help graduates get great jobs.
The single biggest change in higher education over the last decade doesn't relate to rankings or even MOOCs, but rather the reason students enroll in the first place. According to New America, today's students enroll for very practical reasons: to improve employment opportunities (91%); to make more money (90%); and to get a good job (89%). While studies continue to show terrific premiums for college educated workers, the data in question invariably come from cohorts that have been out of college at least 10, and often 20 or 30 years. Unprecedented unemployment + underemployment rates for new graduates produced by the Great Recession has changed student behavior – likely unalterably given the affordability crisis. As a result, traditional arguments that "college prepares you for your fifth job, not your first job" increasingly fall on deaf ears; students know that if they don't get a great first job, they're much less likely to get a great fifth job. This means colleges need to do more than just increase career services budgets; they must ensure students are equipped with the technical skills employers increasingly require for entry-level positions.

#4. Employers bear much of the blame
If Millennials are having increasing difficulty "launching" into the world of employment and self-sufficiency, blame employers as much as colleges. Employers have blithely and blindly driven credential inflation, insisting on bachelors and increasingly master's degrees as requirements for positions that may not require them. Opaque Applicant Tracking Systems and imprecise job descriptions have turned getting in front of a human hiring manager into a "rigged" game, particularly for new graduates with little to no work experience. And while employers have put up technological walls to employment, they've been content to continue campus-based recruitment at a select number of schools because that's the way it's always been done. In contrast, utilizing new People Analytics technologies to identify competencies that are predictive of success, incorporating these skills into job descriptions, and proactively searching among passive job seekers and current students will become a competitive advantage for farsighted employers. This will facilitate a shift from degree- and pedigree-based hiring to competency-based hiring, which will go some way to ameliorating items #1 – 3 while also increasing workforce diversity.

#5. Accountability shouldn't start and end with for-profit colleges
Returning to yesterday's war, there's no question that many for-profit colleges took the logic of traditional colleges to its logical extreme: enrolling students in programs with an uncertain (and often very poor) return, taking advantage of the bachelor's degree "addiction" enabled over decades by thousands of colleges and universities, and utilizing aggressive marketing and enrollment tactics to do so. There's also no question that Gainful Employment metrics provide a useful (if somewhat flawed) way of filtering out low return-on-investment programs. But if we can agree on desired and measurable outcomes in the HEA reauthorization process, while for-profit schools may need to be held to a higher standard given the potential for abuse, there's zero logic in letting traditional colleges off the hook entirely.

#8. Assessments are needed to save the liberal arts

It's likely that you're a proud product of a liberal arts education and believe it's the best way to prepare students with the core cognitive skills that produce career success across a wide range of professions (such as your own). Nonetheless, over the past several decades we have seen an exodus from liberal arts into pre-professional programs (business, healthcare, education, technology) – one that is more pronounced for lower SES students. Unless and until colleges and universities are able to document that liberal arts programs actually produce the outcomes we've taken on faith, this exodus will continue and liberal arts programs will be increasingly a plaything for rich kids (who'll use connections to get good first jobs, so it doesn't matter what they study). Incorporating assessments demonstrating critical thinking, problem solving and situational judgment is the most likely way to convince employers (and students) of the value of our beloved liberal arts programs. As Purdue President Mitch Daniels has said, "higher education has to get past the 'take our word for it' era. Increasingly, people aren't."

#9. Follow the money

Today, colleges and universities get paid no matter what. If we're serious about accomplishing any or all of the above, the federal government has two choices: it can condition funding on outcomes (à la Gainful Employment) or require schools to put "skin in the game." It's possible the Trump Administration and Republican Congress will do both, but my money is on the latter, which will come in the form of income share agreements (ISAs). Requiring colleges and universities to contribute a defined percentage of federal grants and loans in "risk capital" – sourced internally or externally – for each and every student will do more than any other single change to align institutions' interests with student outcomes. It will be hard to make any progress in changing behavior as long as the current financing regimen remains in place.

#10. Colleges are worth saving (especially the one you attended!)

As enrollment patterns – exacerbated by demographic trends – continue to shift, an increasing number of colleges will experience declining revenue, particularly smaller colleges and universities outside of major urban areas. Because there are natural limits to discounting, out-of-state students, and television revenue for Division I football teams, most of these institutions will seek new survival strategies, including following the Sweet Briar playbook and sending out an S.O.S. to alumni. Recognizing that every college and university – to a greater or lesser extent – represents the apex of civilization, and is both a major asset to (and employer in) the local community and a source of pride for alumni, it's imperative to stay focused on the big picture. We don't have enough resources to save every college (or, for that matter, to discharge every student loan). As higher education changes over the next four and eight years, it's critical that we avoid the myopia that has led to the many challenges plaguing the current system.

There you have it. University Ventures is proud to have produced another higher education ranking – hopefully less deleterious than some others and perhaps a small contribution to new policies that even crazy climate change deniers would have difficulty disputing.

Mr. ROONEY. They talk about administrative costs that have skyrocketed since 1975. Administration to student ratios have skyrocketed while the student to faculty ratios have stayed the same. Administrative costs overall have gone from 9 percent to 15 percent of the college budget since 1975. And the number of administrators in public universities has gone up 66 percent and private ones 135 percent.

So I've got two questions for you. One is what can we do about this, which has got to be part of the excessive cost of education, which has gone up faster than anything except tobacco products since 1980 . And the second question is referring back to one of questions earlier that if those 59 recommendations were taken and that $11,000 a student, could be saved, don't you think the free market would work to drive the tuition prices down and some of that savings would be reaped by students?

Mr. KIRWAN. Thank you, Congressman, for those questions. As I said earlier in my testimony, if we had a more streamlined regulatory system I think it would lower the cost to our universities and would have some positive effect on tuition levels.

You know the issue of -- and obviously excessive growth of administrators is something that needs great scrutiny and should not be tolerated when as we look at the cost of education. On the other hand, sometimes we overlook the fact that the non-instructional staff play a very important role in the institution. I'll just give you one example, Georgia State was one of the first universities to use big data to analyze student retention and graduation rates. And what they learned was using big data is that there were certain moments in a student's time at the university when intrusive advising was absolutely essential in terms of keeping that student on track to graduate. So they invested significant money in bringing on these professional advisers and they increased their graduation rate by 15 percentage points.

So we have to be very careful when we talk about the growth of administration. We need to know what are these administrators doing and are they playing a role in helping students be more successful at our institutions?

Mr. ROONEY. I'm sure there are a lot of important contributions in that respect, but there's also significant increases in salaries of university presidents, vice presidents, vice presidents for vice presidents. And this data is replete with the number of people that are earning over $1 million that run universities and half a million dollars for vice presidents. And maybe it's just that I come from the construction business, but that's a lot of money.

My question for you and for the experts is how do we get it under control rather than just talking about how to finance it all the time, how do we get cost under control?

Mr. KIRWAN. Well, I think the reality of what -- all I can speak to is the public sector. And the reality of the declining investment, by States and public higher education, the great resistance to any kind of significant increase in tuition is putting a new kind of constraint on the growth of cost of administrators and salaries.

And I have to let you know that I never earned a salary of that magnitude and I think that very few people in the public sector do.

Mr. ROONEY. I have got just a few more seconds. I would like to thank Dr. Gilligan for the important contribution that you all are making to preparing people to do the kind of jobs that we have out there right now and that we need, and for the incredible innovation of changing from time-based arbitrary rules to this direct assessment of the students performance.

I am also going to ask to put Clay Christensen's article in the record about mastery-based learning, which is the same thing.

[The information follows:]

[Extensive material was submitted by Mr. Rooney. The submission for the record is in the committee archive for this hearing.]

Mr. ROONEY. And so my question for you is with 50 percent of the people not graduating within 6 years, and another 50 percent defaulting on their loans, don't you think a lot of the space that you're occupying and that regionally applied education colleges occupy could fill that for them?

Mr. GILLIGAN. Is this question for me?

Mr. ROONEY. Uh-huh.

Mr. GILLIGAN. I'm sorry, I didn't quite understand the question.

Mr. ROONEY. The people that are defaulting on loans and aren't graduating within 6 years, would they be better off in a different kind of place?

Mr. GILLIGAN. Potentially. I mean, to be successful on a direct assessment program you need to bring a baseline of competencies into the course room. So it's ideally suited for working adults. It's not necessarily a solution for other segments. But it doesn't mean there isn't room for innovation to address those other segments with other models that are better suited to their needs.

Chairwoman FOXX. The gentleman's time has expired.

Mr. Krishnamoorthi, you're recognized for 5 minutes.

Mr. KRISHNAMOORTHI. Thank you, Madam Chairwoman. Thank you all so much for coming today and testifying about this very, very important topic of how do we improve our higher education system.

Thank you, Congressman Rooney, for asking those questions. I wanted to piggyback off of something that Congressman Rooney just asked. And I would like to direct it to Dr. Akers actually.

Dr. Akers, one of things that my constituents sometimes ask about universities is they are sometimes perplexed by the amount of construction that's happening on college campuses and so forth. I very much care about access and affordability of higher education, but at the same time I have to address their questions about are there ways to curb costs, because we all want to make sure that every student has access to higher education, but at the same time we have to bring transparency and assure them that they are getting value for their dollar.

So can you just speak about that for one moment and then I have some other questions.

Ms. AKERS. Sure. Especially regarding the comment regarding the construction on campuses, I think there's been accusations that a lot of institutions are creating this luxury experience for students, which is driving up the cost of education. Most students are attending public institutions and the cost of education there is quite affordable. So I'd encourage people to think about the variety of options that are available to them and if we can get consumers to be sensitive to price, it will benefit them individually, but also put pressure on institutions to keep their own prices in line with value and maybe reconsider some of those construction projects.

Mr. KRISHNAMOORTHI. I understand. And some of those construction projects are important. And perhaps Mr. Rooney's former firm was able to participate. I don't know. You know, it's one of those things where we just have you to keep an eye on these dollars.

I have a question for Dr. Cruz. givenG that it's in our Nation's best interest to remain globally competitive and to sustain an educated workforce, I feel very strongly the Federal Government must find ways to increase college access and success.

So I just want to ask you, Dr. Cruz, what in your opinion are some, you know, very basic ways that the Federal Government can leverage its resources to improve access and success for students?

Mr. CRUZ. I think there is an opportunity for Federal-State partnerships that will encourage and incentivize the States to reinvest in the public higher ed institutions in the States. And also to do so in a way that's more equitable so that the campuses that are serving the students have traditionally been underserved receive the resources they need to get those students through their degree quicker. So that's one particular area. And then of course, focusing on how to strengthen the existing Pell program and other financial aid vehicles.

Mr. KRISHNAMOORTHI. Now, are there any other ways that the Federal Government can strategically invest in higher education to make our students more successful and what will make the system work better for them?

Mr. CRUZ. I think there might be an opportunity to ensure that the investments that are being made are in fact driving not only the outcomes higher— graduation rates, lower time to degree, reduce achievement gaps— but also are doing it in a way that works for all students. So how do we put the equity variable into those policies and those incentives so that we can in fact leverage the changing demographics of America on behalf of our workforce and our competitiveness.

Mr. KRISHNAMOORTHI. Thank you, sir. I have -- in my remaining time, I had a couple of questions for Dr. Kirwan. You know, over the last couple of weeks, State governors around the country have unveiled their budget proposals for their State. In Missouri the Republican Governor Eric Greitens has announced $146 million in cuts to State higher education funding. And then Kentucky Governor Matt Bevin has made clear that he wants to cut higher education programs as well.

I'm just concerned that when States cut their higher education budgets, public universities must raise tuition in order to keep serving the same number of students. So my question for you, Dr. Kirwan, is would it be safe to say that cuts to State funding are just making it harder for working families to send their kids to college?

Mr. KIRWAN. I would agree -- yeah, absolutely. I think the disinvestment in public higher education is doing great harm to our Nation. Not only do we need to serve the same number of students, we need to educate a lot more people. And the absence of public investment is compromising our capacity to do this.

So, when I think about our country and things that keep me up at night, this is maybe right at the top of the list.

Mr. KRISHNAMOORTHI. Thank you, sir.

I yield back.

Chairwoman FOXX. Thank you very much. Mr. Smucker, you're recognized for 5 minutes.

Mr. SMUCKER. Thank you, Madam Chair.

My district I represent is in Pennsylvania. And Pennsylvania's well-known for its system of higher education. We have excellent schools that range from great research institutes to State system schools, to community colleges, to many private institutions and others.

I was chair of the Senate education committee in the Pennsylvania State Senate. About 40 to 45 percent of our budget, at the State level, was for education, which include K through 12, but as well support for what we called our State related schools and our State system, and our community colleges, and our trade schools.

And I want to talk a little bit about our institutions that provide trade and vocational training, education. We've already had some discussion. But I think this is an area in terms of all the options that are available to students, we have many, many great options that students take advantage of to prepare them for the life, career, whatever it may be.

But I always felt, in Pennsylvania, that we did not provide enough support and emphasis for our trade schools, our vocational training. And students were not aware of the opportunities there.

And Dr. Akers, I think you mentioned the over celebrated bachelor's degree. I would never discourage anyone from a bachelor's degree. We know there's a lot of value to that, but there are other options that people -- that students and families at times are not familiar with.

And I just want to talk, just very briefly, about an institution in my district, Thaddeus Stevens school of technology, this is a 2-year school. The demand for their students far outpaces the number of students that are graduating. In fact, it is so bad that for a job skill or job fair for about 200 students available, there are 450 companies at this job fair. They lose students because they get job offers before they graduate.

I was at an event there, turned around talked to some students who were behind me. One student had been there for 3 weeks and already had an outstanding job offer. Their placement rating is 98 percent for the field for which they were trained, their average salary leaving -- average earnings, leaving the school, is well over $45,000, some students earning $100,000 within a year of leaving the school.

I think we need many, many more institutions that are providing those kind of services. And, you know, I'm not sure that as a public policy that we place enough emphasis on that. And as we are reauthorizing the higher education system or Higher Education Act, I should say, Dr. Akers, are there particular ideas, suggestions that we would have -- that you would have for us to help elevate the importance or at least the opportunity that's available with the trades education?

Ms. AKERS. Sure. I agree that we do need to put generally more emphasis on vocational and trades. As I said earlier, I'd be happy to follow up in my written remarks with specific recommendations for how policy can achieve that.

Ms. AKERS. It's worth noting that currently those intensive programs are eligible for Federal student aid, which is one way of supporting it, there may be others and I would happy to think more about that.

Mr. SMUCKER. This is also an unmet need for our businesses. And to the point I made in regards to the job fairs is that there's a huge need. We're not meeting the needs of business, and we're not providing sufficient applicants to fill their positions.

I was in the construction industry. Our number one issue was always finding qualified people who are able to do the work for the jobs that we had available.

Any other comments from maybe Mr. Gilligan, any comments at all in regards to the question?

Mr. GILLIGAN. Well, I just would encourage Congress to continue to think about new models, you know. We have a historical perspective on what the degree looks like. A very different way to think about a degree is an accumulation of competencies over period of time. And so rather than the focus being on getting a degree, the focus is on, what are the skills and competencies someone would need to achieve gainful employment and economic opportunity.

And in an environment where technology is moving so fast and upskilling and reskilling is going to be required, education is not going to be a one and done event, it's going to be over a professional lifetime. We need flexible models that working adults can take advantage of to stay current with skills that are in demand.

Mr. SMUCKER. Thank you. And I look forward to learning more about your programs. And I think another aspect -- and I see I'm out of time, but another aspect is we need more communication, interaction between the business community and the education community to ensure that we are preparing students for the jobs that are available.

Thank you, Madam Chair.

Chairwoman FOXX. Thank you. Mr. DeSaulnier, you're next for 5 minutes.

Mr. DESAULNIER. That sounds ominous, Madam Chair.

I just want to thank you and the ranking member for a wonderful hearing and all the witnesses. It's nice when public policy actually gets discussed here so thank you very much.

For what is -- I agree with Dr. Kirwan, one of the real key issues for this country, coming from the San Francisco Bay area, we talk a lot with a sense of urgency about keeping our innovation edge, and our patent edge. And of course a lot of that comes from our -- not just Stanford and Berkeley, but the State colleges and the private colleges.

So along with that, though, and Dr. Cruz and maybe Dr. Akers, one of our challenges, and I talk to people particularly because I am from the East Bay, at the Cal State East Bay campus, is young people who are waiting for housing. And we heard this at Berkeley as well. Not so much at Stanford, but it is still an issue at Stanford.

So these young people who can't get on-campus housing, obviously it is a very high cost area. I assume it is the same from what I've read in your case being in metropolitan New York. How do we help -- I had a bill last session to try to include a little more flexibility in Pell grants so that with appropriate level of oversight, so people don't abuse it, allow some of these kids who are going to take 6 years to get through school -- most of them are students whose parents didn't go to college, they are from disadvantaged communities, but they are incredibly talented based on the merits. So things that you're doing maybe to address this issue that I know is impactful in your institution?

Mr. CRUZ. So from a practical perspective, public institutions are left at this point in time to try to identify other revenue streams that they can then use to help students through scholarships from alumni, and philanthropists, through grant programs and contracts to allow us to supplement the inability of Pell in particular to meet the full cost of attendance.

I mentioned earlier that of Lehman College students, 50 percent of them have less than $30,000 of family income a year. While our tuition in the City University of New York is fairly affordable, around $6,500, the total cost of attendance because of the cost of living is closer to $22,000.

So to the extent that Congress can look at ways to return the purchasing power to Pell that it had when I was a student, when I could not only pay for my tuition and fees, but had a little money left over to buy my books and pay my dorm, if we could get closer to that we'll be in much better shape. Maybe 50 percent of the average total cost of attendance in 10 years might be a goal to think about.

Mr. DESAULNIER. Dr. Akers, have you looked at this in your work?

Ms. AKERS. Not explicitly, but I will sort of echo Dr. Cruz's remarks in essentially emphasizing that we need to remember that the cost of attendance far exceeds tuition and fees. And in many cases the living expenses are in fact much larger than the tuition and fees.

When we think about what Federal support should be for higher education, this is an important aspect to consider. I think this weighs into the discussion about Pell grant funding and continuing to keep Pell grant purchasing power along with prices, but also emphasizes the importance of Federal student loans in playing a role for covering the expense for student.

Mr. DESAULNIER. Thanks. Mr. Gilligan, I see you went to school in Chestnut Hill.

Mr. GILLIGAN. Yes, I did, proudly.

Mr. DESAULNIER. Oh. Well, I went to school at a Jesuit college in Worcester and we used to -- and we used to think fondly of Boston College.

Mr. GILLIGAN. I'm familiar with that.

Mr. DESAULNIER. Yes. So maybe one of the challenges I think for me to understand the return on investment, for what you have done, is the innovation and certainly the public sector can learn from the private sector. But maybe compare your experience at Boston College with your experience now after being in the private sector, and particularly what I would imagine is a challenge for you to sustain for your investors a return on investment, whereas Boston College doesn't necessarily need to do that.

Mr. GILLIGAN. Yeah. So are you getting at how can a for-profit school align the interests of students and tax payers with shareholders? Is that what you're after?

Mr. DESAULNIER. That was a succinct way --

Mr. GILLIGAN. Yeah, I got it.

Mr. DESAULNIER. andAnd on an ongoing basis, because if you're looking at return on investment growth, all the time, to get that investment, it seems to me to be a struggle, counterintuitive.

Mr. GILLIGAN. Yeah. So -- but it's what we do. And I'm not a educator, I'm a businessperson. So if I could just describe education as a service business, I've got many years of experience in service business. The fundamental principle is you don't have a sustainable business model unless you're delivering high quality service to your customer. And so that's translatable into an education environment. And so we run Capella with a very simple principle, if our learners succeed, we succeed. And the best brand building investment we can make is in the success of our learners.

Mr. DESAULNIER. The only thing is you've got to have growth, right --

Mr. GILLIGAN. But the way we get the growth it is a virtual cycle. As our learners succeed, our brand grows. As our brand grows, more people know about us, more people enroll, it creates a virtuous cycle.

And our opportunity to earn a profit really comes from our ability to drive efficiency and innovation in ways to deliver increasing value to students and learners, at the same time creating value for shareholders. You know, we've got at 25-year track record of doing -- we're very proud of it. I think we are an example that for-profit institutions can play very a constructive role in the future of higher education.

Mr. DESAULNIER. Thank you. I appreciate that.

Thank you, Madam Chair.

Chairwoman FOXX. Thank you. Mr. Scott, you're recognized for 5 minutes.

Mr. SCOTT. Thank you, Madam Chair.

Madam Chair, we've had a lot of talk about the regulations, there are good regulations and bad regulations, everybody's good regulations. And in this case, we have the unusual situation rather than just a bunch of complaints, Dr. Kirwan has presented 59 specifically identified regulations that are problematic and recommendations to fix them. So I would recommend that we have a hearing on those so that we can save the good regulations and deal with the problematic regulations.

Chairwoman FOXX. We'll see if we can find the time.

Mr. SCOTT. Sounds good.

Mr. Gilligan, I went to law school in Chestnut Hill. And that actually dates me, because they moved the law school from Chestnut Hill to Newton in the late 70s. But back to gainful employment, one, I think the gainful employment measure applies not just to for-profits, but for all career schools.

But one of the things you left out was the fact that it also measures the demographics of the student body. If you start off with a bunch of high income students, they are going to do better than if you start off with a bunch of low-income students. And so the measure of gainful employment unfortunately measures the demographics of the student body as much as the quality of the education.

But you know there are some good ones and some bad ones. If we don't use gainful employment, what do you recommend putting in its place to separate the good from the bad?

Mr. GILLIGAN. Yes. So first of all I agree that we need to risk adjust metrics to reflect the populations that we serve, otherwise we will only serve the only the highest potential students, and the people that need education will be left behind so I certainly support that comment.

You know, I think -- it starts in my mind it starts with transparency. I think the higher education system in the United States would work better if all institutions were transparent about the outcomes that they were delivering for students. Completion rates, graduation rates, income rates. And when we begin to see the data, I think that creates a cycle of innovation.

There are existing regulations in place that the Department can enforce today, that the Department could have enforced, before gainful employment, to address let's call it, let's say the bad actors in the space. I mean, if you are deliberately misleading students about your programs or defrauding students, there are mechanisms in place where that can be addressed.

So the idea of saying we expect institutions to be accountable for outcomes and we want to create debt to income thresholds, I wouldn't say it's a totally objectionable idea, but I think it needs to be done with more thought.

Mr. SCOTT. Thank you. Dr. Akers, you mentioned the FAFSA form. We know that a lot of people fail to apply for student aid because they can't get through the form. And a lot fail to reapply. You mentioned that we should use Internal Revenue Service information. Is there information on the FAFSA form that's necessary that you do not find in your tax information?

Ms. AKERS. Yes. The FAFSA is more comprehensive than the information that the IRS would have to be able to do aid allocations. There would be some cost in terms of targeting of the aid that would occur.

It's my belief, based on some research that I observed, that the tradeoff of getting more students into college would outweigh the cost of any --

Mr. SCOTT. So that information that you don't get is not -- there's more harm in the complication of the form than not getting that information?

Ms. AKERS. I think that's right.

Mr. SCOTT. Dr. Cruz, you mentioned -- well, all of you have mentioned completion rates. Has TRIO been helpful in increasing your completion rates?

Mr. CRUZ. TRIO is an important component of the work that we do from the standpoint of wraparound services for the students, first generation students, and low-income students that need support beyond the classroom.

The fact of the matter is that many of our students across the country that come from these populations, when they drop out of college or stop out of college, they are still in good academic standing. So it's not necessarily they can't manage the academics, but that they have other issues that they need support with. So TRIO programs allow us to provide those counseling, financial and personnel services that they need.

Mr. SCOTT. There is a question about credit hours and non-credit hours as eligibility for student aid. Should those who need remedial work be able to get credit in terms of access to financial aid, non-credit remedial education, as well as actual credit hours towards a degree?

Mr. CRUZ. I think that if the question is from the perspective of providing financial aid to cover those remedial courses, if I understand correctly, then I would suggest yes, because if the K–12 system failed the students from the perspective of preparing them for the college work that the institution has admitted them to do, then I believe the student should have the resources needed to be successful.

Mr. SCOTT. Thank you, Madam Chair.

Chairwoman FOXX. Mr. Scott. Would you like to make your closing remarks?

Mr. SCOTT. Thank you, Madam Chair. One thing that I would like to just mention is the bachelor's degree. I think Mr. Smucker mentioned that there is value in the 4-year, on-campus liberal arts degree that's very difficult to monetize. But it certainly is a key to upward mobility in our society. And if it's overrated, well, that's the way it is. And that should not be disparaged. There is something about that 4-year, on-campus liberal arts experience that transforms a person in such a way that we shouldn't denigrate.

One of the things that this hearing has not talked a lot about is the importance of education. And I think that's just because we all know how important it is and so you can get right to access and completion as the focus of the hearing.

We've had specific targets, one, the FAFSA form and the other is the State reinvestment. So I hope we can work on these issues, Madam Chair, as we reauthorize the Higher Education Act.

Thank you and I yield back.

Chairwoman FOXX. Thank you very much, Mr. Scott. And I want to thank our witnesses again for coming to testify today and for the valuable information that you've shared with us. I told you at the beginning I thought this would be a very good hearing and I think it has been an excellent hearing.

I don't talk about this all the time, but Mr. Scott alluded to it in his opening comments. I don't think there's anybody in this Congress who appreciates more the value of completing a degree, a 4-year degree than I do. It took me 7 years to get my undergraduate degree and I was just about to move without having it and realized I've got to get this degree, I've got to get it now, it might not happen again. And so I'm very conscious of that. And I have a degree in English an AB in English. One of the probably -- people figure the probably the most useless degree you can have, you know, is an AB in English. Not qualified to teach, not qualified to do a lot of things that are necessary to do, but I'm very proud to be one of those closet English majors.

So again, I don't say that at the beginning of every -- a lot of our hearings, but I think it's assumed by all of us and I appreciate Mr. Scott bringing it up that 4-year degrees are important and they have been always the step to increasing our mobility in this country.

We have as Congressman Byrne said, the greatest diversity in education institutions anywhere in the world. And people come here all the time to get a degree because we have such wonderful educational institutions and we all appreciate that. But I do think that we have to bring more accountability to all of our educational institutions in this country.

You know, I appreciate Dr. Cruz your saying we just need to increase Pell funding. Well, we see the studies that show the more money the Federal Government puts in to higher education, the higher the costs go.

Now, if you only look at what Pell does in terms of paying for tuition and fees, as Dr. Akers pointed out, it's not so bad anymore. So anyway, there are a lot of things that we need to look at that most of us again, if I put a glass up here with -- an 8 ounce glass with 4 ounces of water, I'm going to say it's half full, somebody is going to say it's half empty. So we look at things differently.

We've had competency based credits since I was an assistant Dean of the general college at Appalachian State University and was able to give people credit for life experiences. My goodness, why has it taken us so long to get to the point where that is widespread?

Concurrent enrollment brings down the cost of higher education. Why don't we do more of that?

Your program, Dr. Cruz, moving forward in reverse, that's catching on around. Appalachian State University did something similar to that years ago. So we have lots of things that have been done, distance education, 40, 50, 60 years ago that have not simply caught on in higher education.

But I hope that Dr. Kirwan is right, that people are going to start voting with their feet, and they are going to go to where they can get the best bargain for their money and their time.

And I want to really, really commend Mr. Gilligan and other schools like his who are working at what you said, and I think it's a point that maybe not a lot of people heard you say, a degree should be the accumulation of competencies over time. And in too many cases, students are graduating with a degree and no competencies. So what used to be an education is no longer for everybody.

And then the last thing, I cannot get out of this meeting today without talking about, is Representative Scoot's alma mater, Harvard, which began as a vocational school. Harvard began to educate ministers. It was a vocational school. And I take real exception with using the term vocational, because I'm assuming somebody said 90 percent of people graduating from college want to get a job.

I'm assuming it's 100 percent of people who graduate from college want a job.

And so in my opinion, all education is vocational education. And I think one of the problems that we have with the issues that were brought up by Mr. Smucker, Mr. Gilligan and other people is that we have created tiered systems in our country where we give a lot more credit to the over celebrated 4-year degree and not quite enough credit to the other programs which are helping people accumulate competencies over time, that could much later in life, you know, develop into a 4-year degree, and we know many people doing that.

So you all have brought up many, many issues today that I think are real food for thought for the members of our committee. I think you've done a lot to educate all of us. You've given us some great phrases today from my perspective.

So I want to thank you again. And you have behind you a very patient audience that has paid attention all day. So thank you all very much for your time.

And there being no further business and the bell ringing to vote, this committee stands adjourned.

[Additional submission by Ms. Bonamici follows:]

The Honorable Suzanne Bonamici, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

I want to expand upon my remarks about the studies from Vanderbilt University that purport to measure federal regulatory compliance costs in higher education, and point out some of the reasons why the results of the studies are problematic. Nobody supports unnecessary regulation, but any argument for deregulation because of the cost burden needs to be based on facts that can be verified.

These studies count any activity that touches federal requirements as a compliance cost, even if the university would voluntarily perform the activity on its own absent the regulation. It makes no sense to call something a "compliance cost" when a university would incur the same expense if all federal regulations were repealed tomorrow—yet that is something these studies do.

Even taking these exaggerated estimates at face value, a significant portion of the costs are unrelated to regulations of higher education. Fully eighty percent of the purported costs at Vanderbilt relate to rules governing research, which are outside of this committee's jurisdiction. Another ten percent relate to rules that apply in any workplace, whether a grocery store, a gas station, or a university.

Within the sliver of costs that are specific to higher education, the study still manages to lump in \$6 million for additional program accreditations at Vanderbilt beyond what is required to access federal financial aid. After accounting for all this, the headline "\$150 million" in compliance costs at Vanderbilt shrinks to about \$8.4 million, less than 6 percent of the reported total. Again, even that figure contains costs Vanderbilt would voluntarily choose to incur in the absence of federal regulation, either because of state regulation or because the action that gave rise to the costs is something that benefits the university.

To arrive at an alleged \$27 billion cost across all of higher education, the authors apply this flawed methodology to a small and unrepresentative sample of 13 schools. They extrapolated nationwide compliance costs for community colleges, for example, from a single community college. These studies might make for good talking points for those pushing a deregulatory agenda, but they are not accurate or meaningful, and we should not rely on them.

[Additional submission by Mrs. Davis follows:]

The Honorable Susan Davis, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

Veterans, low-income students, and students of color have been disproportionately harmed by predatory colleges. Multiple investigations have revealed that federal taxpayers are subsidizing schools and programs that consistently leave students and veterans with loans they cannot repay and credentials they cannot use. Some schools have gone so far as to recruit people who are homeless, enroll students without their consent, and use tactics that invoke "pain" and "fear" to pressure students into enrolling. Fraudulent schools such as Corinthian Colleges, a corporation that inflated its job placement rates and made false employment promises; ITT Technical Institutes, a school that falsely claimed its credits would transfer to other schools; and American Career Institute that inflated job placement rates and falsified student signatures and enrollment records, have defrauded and deceived too many students. This is why protections for students and taxpayers should be strengthened, not scaled back.

In light of these abuses, more than 50 organizations have written to Congress on behalf of students, consumers, veterans, servicemembers, faculty and staff, civil rights, and college access conveying strong support for the continued implementation and enforcement of important Department of Education accountability provisions designed to protect students and taxpayers from unmanageable student debt and waste, fraud, and abuse in higher education.

I am submitting the attached letter for the record.

March 22, 2017

Dear Members of Congress:

As organizations working on behalf of students, consumers, veterans, servicemembers, faculty and staff, civil rights, and college access, we write to convey our strong support for the continued implementation and enforcement of important Education Department accountability provisions designed to protect students and taxpayers from unmanageable student debt and waste, fraud and abuse in higher education. In particular, we oppose all actions to delay, weaken, or repeal the gainful employment, incentive compensation, or recent "borrower defense to repayment" and college accountability regulations. Each of these accountability measures is essential to protecting students and taxpayers from sudden school closures and other misconduct by unscrupulous colleges, and to maintaining the integrity of our federal aid program.

We believe protections for students and taxpayers should be *strengthened*, not scaled back. Veterans, low-income students and students of color have been disproportionately harmed by predatory colleges. Last month, 16 organizations representing millions of military servicemembers, veterans, survivors, and military families voiced their strong support for these protections and urged Congress to fully uphold them. In addition, 20 state attorneys general recently wrote Congress expressing concern that rollbacks of recent protections "would again signal 'open season' on students for the worst actors among for-profit postsecondary schools." That is because multiple investigations have revealed that federal taxpayers are subsidizing schools and programs that consistently leave students and veterans with loans they cannot repay and credentials they cannot use. Some schools have gone so far as to recruit people who are homeless, enroll students without their consent, and use tactics that invoke "pain" and "fear" to pressure students into enrolling.

Gainful Employment

The gainful employment regulation finalized in 2014 enforces the Higher Education Act's requirement that all career education programs receiving federal student aid "prepare students for gainful employment in a recognized occupation." This rule requires all career education programs receiving federal funding at public, non-profit and for-profit colleges to provide basic program information to help students decide where to enroll, such as what share of students graduate on time, what share get jobs in the field, and how much graduates typically earn and how much debt they have. It requires the worst-performing career training programs —those consistently leaving their graduates with more debt than they can repay—to improve or lose eligibility for federal funding. The 2014 rule has been reviewed and upheld in its entirety by two different federal courts and affirmed by the U.S. Court of Appeals for the D.C. Circuit.

The regulation has already had a significant positive impact. The mere threat of sanctions under this rule prompted many colleges to eliminate their worst performing programs, to freeze tuition and implement other reforms to improve outcomes for their graduates. In part due to these reforms, nine in ten colleges with rated gainful employment programs have no failing programs, and even among for-profit colleges eight in ten have no failing programs, including American Public University, Capella University, Concorde Career College, ECPI University, Empire Beauty School, Grand Canyon University, and Strayer University. At the same time, the gainful employment rule has uncovered scores of failing programs that taxpayers are subsidizing—like the Medical Assisting associate's degree program at McCann School of Business and Technology in Hazelton, PA, which is still actively recruiting new students and charging $31,000 despite abysmal outcomes, including a 7% on-time completion rate, a 46% job placement rate, and median graduate earnings of only $20,000. The typical graduate of this program at all McCann School locations in 2014-15 had over $26,000 in student loan debt.

Delaying, weakening, or repealing the gainful employment rule would lead to a new race to the bottom as unscrupulous schools compete to enroll as many students as possible without regard to the quality of the training, the student's preparation, or the job prospects. Investment analysts have reiterated this concern, saying a reversal on gainful employment "definitely would be something to worry about." A repeal would be costly as well, to the tune of $1.3 billion over 10 years according to a July 2016 Congressional Budget Office analysis.

Compensating Victims, Preventing Future Harm

Too many students have been defrauded and deceived by predatory schools, such as Corinthian Colleges that inflated its job placement rates and made false employment promises, ITT Technical Institutes that falsely claimed its credits would transfer to other schools, and American Career Institute that inflated job placement rates and falsified student signatures and enrollment records. It is crucial that neither defrauded students nor taxpayers be left on the hook for wrongdoing by schools. The "borrower defense" rule finalized in October 2016 codifies a process for providing student loan relief to defrauded borrowers. The regulation also ensures that students at schools that close suddenly know their options and that their loans are automatically discharged if they do not continue their studies within three years of the school's closure.

The borrower defense rule also protects taxpayers by making it harder for schools to hide fraud and evade accountability by blocking students' access to courts. Corinthian Colleges and ITT Technical Institutes used mandatory arbitration clauses and class action bans to force students to sign away their rights to dispute wrongdoing in court, and most for-profit colleges continue to require students to sign such agreements, allowing fraud to continue undetected for years. The rule is also aimed squarely at protecting taxpayers from abrupt school closures. As the Education Department's Inspector General recently concluded, "If the new borrower defense regulations are enforced, [the Education Department's Office of Federal Student Aid] should receive important, timely information from publicly traded, private for-profit, and private non-profit schools that experience triggering events or conditions," and "make it easier for FSA to obtain financial protection...from Title IV schools that may be at increased risk of potential closure." Had Corinthian students had access to the courts and the Department of Education obtained a letter of credit from the company, taxpayers would not now be on the hook for the more than $550 million in federal student loan discharges for former Corinthian students.

Incentive Compensation

The Higher Education Act's ban on incentive compensation (commissioned sales) was enacted more than 20 years ago with strong bipartisan support to reduce high-pressure, deceptive sales tactics. In 2010, the Department of Education closed regulatory loopholes that incentivized employees and contractors to say or do just about anything to get students to enroll, including resorting to unfair, deceptive, and abusive tactics. To protect students and taxpayers, in 2015 the Education Department's Inspector General called for greater oversight and enforcement of the ban on incentive compensation. We agree on the need for increased oversight and strongly oppose the creation of any loopholes in the statutory ban on incentive compensation.

We strongly support swift implementation and enforcement of these important, common-sense regulations to ensure that students are not saddled with student debt they cannot repay, that taxpayer dollars are spent wisely, and that students receive a quality education. We need to be cutting wasteful spending, not subsidizing schools that engage in predatory behavior.

Sincerely,

Admiral Garry Hall on behalf of the Association of the United States Navy
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
Air Force Sergeants Association
American Association of University Professors (AAUP)
American Association of University Women (AAUW)
American Federation of Teachers
Americans for Financial Reform
Center for Law and Social Policy (CLASP)
Center for Public Interest Law
Center for Responsible Lending
Children's Advocacy Institute
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers Union, the policy and mobilization arm of Consumer Reports
Demos

East Bay Community Law Center
The Education Trust
Equal Justice Works
Faculty Forward Network
Generation Progress
Higher Ed Not Debt
Housing and Economic Rights Advocates
The Institute for College Access & Success
Institute for Higher Education Policy (IHEP)
The Leadership Conference on Civil and Human Rights
League of United Latin American Citizens
Maryland Consumer Rights Coalition
National Association for College Admission Counseling
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Council of La Raza (NCLR)
National Education Association (NEA)
New Jersey Citizen Action
New York Legal Assistance Group
Project on Predatory Student Lending of the Legal Services Center of Harvard Law School
Public Citizen
Public Counsel
Public Good Law Center
Public Higher Education Network of Massachusetts (PHENOM)
Public Law Center
SEIU
Student Debt Crisis
Student Veterans of America
U.S. PIRG
United States Student Association
University of San Diego School of Law Veterans Legal Clinic
Veterans Education Success
Veterans for Common Sense
Veterans' Student Loan Relief Fund
Vietnam Veterans of America
Young Invincibles

cc: The Honorable Betsy DeVos, Secretary of Education

[Additional submission by Mr. Scott follows:]

THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON, DC

Trachtenberg School of Public Policy & Public Administration

February 21, 2017

The Honorable Bobby Scott
Ranking Member
House Committee on Education and the Workforce
U.S. House of Representatives

Dear Ranking Member Scott:

There has long been a belief that higher education institutions capture federal aid by increasing tuition. Known as the "Bennett Hypothesis," many policymakers have used this theory as rationale for maintaining or reducing funding in the Pell Grant, instead of investing in the program. In fact, during the Committee on Education and the Workforce hearing held on February 7, 2016, Chairwoman Foxx asserted that studies "show the more money the federal government puts in to higher education, the higher the costs go." Having studied higher education policy for more than a decade as an Associate Professor of Public Policy, Public Administration, and Economics at George Washington University, I would like to clarify the record. My reading of the literature is that there is no compelling evidence of a causal relationship between federal student aid and tuition among public and non-profit colleges.

However, my own research on the for-profit sector suggests that for-profit institutions increase their costs to take in federal aid. For-profit colleges have very different incentives and structures than public and non-profit colleges, making them more likely to engage in strategic behavior to capture federal aid dollars.

In a 2014 paper published in the *American Economic Journal: Economic Policy*, Claudia Goldin (Harvard University) and I compare the tuition of for-profit colleges that receive Title IV federal aid to the many for-profit colleges that do not participate in Title IV programs.

We find that for-profit colleges that receive federal student aid charge tuition that is 78 percent higher than for-profit institutions with similar programs that do not participate in Title IV programs. We further demonstrate that these differences are unlikely to be driven by differences in institutional quality between Title IV and non-Title IV for-profit institutions: our results hold even when we compare eligible and ineligible programs within the same Title IV institutions, and in our most restrictive sample when we control for the pass rate on cosmetology exams as an indicator of institutional quality.

Our findings suggest that Title IV-eligible for-profit institutions raise gross tuition above the cost of education, as reflected in the tuition of the non-Title IV institutions. Further, the magnitude of the tuition premium (about $3,900) is roughly equal to average student grant awards and our estimate of student loan subsidies under Title IV.

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WASHINGTON, DC

Trachtenberg School of Public Policy & Public Administration

In light of this research and my more recent work on for-profit institutions, it is critical for the federal government to create nuanced policy that addresses differences in behavior by institutional sector and protects students and taxpayers.

I would be happy to answer any question you may have on this paper or my other work on the economics for-profit higher education. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Stephanie Riegg Cellini
Associate Professor of Public Policy and Public Administration, and of Economics
George Washington University
scellini@gwu.edu

[Additional submission by Mr. Takano follows:]

The Honorable Mark Takano, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

The Higher Education Act of 1965 requires that all career education programs that receive Title IV funds "lead to gainful employment in a recognized occupation." Until the 2014 final rule, "gainful employment" had not been defined, making the provision difficult to enforce. This regulation applies to programs in all sectors of higher education, which includes public, non-profit and for profit institutions, and is needed to protect students and taxpayers from institutions that fail to make students career ready while saddling them with insurmountable debt.

The data overwhelmingly show that for-profit sector vocational programs underperform when compared to programs in the public sector. On average, graduates of certificate programs at for-profit institutions earn $9,000 less than their peers graduating from public institutions. Additionally, students attending certain for-profit college programs have to borrow huge sums that they consistently are unable to repay. According to data released on the debt-to-earnings ratio, over 800 programs fail to meet accountability standards set by the U.S. Department of Education, which measures the ability of graduates to repay their federal loans. Of those 800 programs, 98 percent were for-profit initiations.

As a teacher of predominantly low-income and minority students for more than 20 years, I know what these students need from postsecondary education. They need access to affordable degrees and certificate programs that lead directly to good jobs. However, too often, for-profit colleges get away with using predatory and deceptive tactics to bully our most vulnerable students – including minority, veteran, and low-income students – into "career" programs that fail to make them prepared for the workforce.

With the recent closure of ITT Technical Institute Campuses, and the Department of Education's recommendation to shut down the Accrediting Council for Independent Colleges and Schools (ACICS), we need regulations like Gainful Employment more than ever to protect our nation's students from these bad practices and bad actors.

[Questions submitted for the recorded and their responses follow:]

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

March 20, 2017

Dr. Beth Akers
Senior Fellow
Manhattan Institute
PO Box 8038
Jackson, WY 83002

Dear Dr. Akers:

Thank you, again, for testifying before the Committee on Education and the Workforce at the hearing entitled "Challenges and Opportunities in Higher Education" on Tuesday, February 7, 2016.

As a follow-up to your testimony, please find enclosed additional questions for you submitted by Committee members after the hearing. Please provide your written responses to Education Legislative Assistant Alex Ricci **no later than April 10, 2017**. His number is (202) 225-6558 should you have any questions about this request.

We appreciate your time and insight, and we remain grateful for your contribution to the Committee's work.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosure

Rep. Phil Roe (R-TN)

During your testimony, you mentioned innovations in the private education finance sector such as Income Share Agreements (ISAs). What are some of the regulatory issues that are preventing a more widespread adoption of these instruments? Do you have any thoughts on Purdue University's Income Share Agreement (ISA)? What are some other innovations in the vein of ISAs that could help reduce the reliance on federal lending?

Rep. Glenn Thompson (R-PA)

Much of Pennsylvania's 5th district, which I represent, can be classified as rural. In your testimony, you discussed the possibility of improving our higher education system by streamlining the financial aid process. In your research, have you identified any trends in student loan repayment issues specific to students in rural areas? Do you think the suggestions you presented today will be more or less beneficial to students in rural areas, or will they have the same impact across the board?

Rep. Elise Stefanik (R-NY)

Today's students are coming of age during a turbulent time in American history. Within an economy that offers limitless potential there remains a climate of rapidly rising tuition, institutions that are catering to a 20th century idea of education and crushing levels of student debt. With articles in the Wall Street Journal reporting that 43 percent of Americans with federal loans are not making payments and Bloomberg News reporting on a study finding 59 percent of students have "no idea" when they will be able to repay their student debt, the tremendous weight of the nation's student debt portfolio seems even more back breaking. Fortunately, as the Wall Street Journal also reported, and some of our witnesses have discussed, students who complete their education are far less likely to find themselves held back by debt. It is critical that we as legislators and leaders in higher education find solutions to this crisis while also understanding that the challenges facing our higher education system are not limited to just affordability and financing. We must empower our students with the access, flexibility, technology and information needed to make sound decisions for their future.

- In your testimony, you state that federal aid programs are far too complex to effectively serve students. Last Congress, with the support of many of my colleagues on this Committee — including former Chairman Kline and Ranking Member Scott — I introduced the *Flexible Pell Grant for 21st Century Students Act*. This legislation would allow students to draw down their Pell funds at an accelerated pace in order to pay for additional courses within an award year. Allowing them to complete their education at a lower cost and more rapid pace. This legislation is particularly important for the North Country where an average of 52 percent of the students attending seven of the state higher education institutions in my district are offered Pell Grants. Do you think that a federal aid program that incentivizes timely completion is an effective way to help more Americans enter the workforce and lessen their levels of student debt?

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

March 20, 2017

Dr. José Luis Cruz
President
Lehman College of the City University of New York
250 Bedford Park Boulevard West
Shuster Hall, Room 350
Bronx, NY 10468

Dear Dr. Cruz:

Thank you, again, for testifying before the Committee on Education and the Workforce at the hearing entitled "Challenges and Opportunities in Higher Education" on Tuesday, February 7, 2016.

As a follow-up to your testimony, please find enclosed an additional question for you submitted by a Committee member after the hearing. Please provide your written responses to Education Legislative Assistant Alex Ricci **no later than April 10, 2017**. His number is (202) 225-6558 should you have any questions about this request.

I look forward to your prompt response to these important questions.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosure

Rep. Luke Messer (R-IN)

Mr. Cruz, I appreciate the work your institution is doing in promoting reverse transfers that enable individuals who previously attended a community college to "transfer back" their credits that they earned at your institution to earn an associate's degree from the community college. Although our hope is that all students who transfer credits from a community college in pursuit of a bachelor's degree ultimately earn a bachelor's degree, we know that life sometimes gets in the way. And for some students who are working their way through school, earning an associate's degree could immediately increase their earning potential.

1. Can you explain some of the other benefits of setting up a program like this for students?
2. What challenges do you think other institutions might face, legally or otherwise, in setting up a reverse transfer programs like this?
3. Do you believe there should be legislative changes made to FERPA to better facilitate credit information sharing in order to increase the amount of associates degrees awarded through reverse transfers?

The Honorable Robert C. "Bobby" Scott, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

Question for the Record:

During the Great Recession, states made difficult budgetary decisions that reduced direct support to public colleges and universities. This state disinvestment in higher education led colleges to increasingly rely on tuition revenue.

Dr. Cruz, during the hearing, you listed several factors that have contributed to the increase in tuition. Can you please expand on your answer and specifically address whether the increase of federal student financial aid leads to an increase in tuition?

Response:

During the hearing, I clearly stated that the main driver of tuition increases in public higher education is state disinvestment. The other sample factors I listed (i.e., increased costs due to personnel health and pension benefits, energy, technology infrastructure, compliance, and student support services) impact tuition insofar these factors contribute to an institution's total operational cost. In the absence of sufficient state investment, tuition and other revenue streams must cover this cost.

Compliance costs are not a major driver of tuition increases. First, the outrageous compliance costs claimed by Vanderbilt University highlighted in the Recalibrating Regulation of Colleges and Universities: Report of the Task Force on Federal Regulation of Higher Education discussed at the hearing have been previously contextualized and its effect on tuition costs discounted. Second, the costs associated with compliance must be evaluated against the value brought to students and taxpayers by the corresponding regulation. For example, a few years ago, increased scrutiny regarding Title IX and sexual assault led many institutions across the country to strengthen their efforts to educate and protect their campus communities. These changes increased institutional costs but did so in areas deemed to be important by students and taxpayers.

During the hearing, Chairwoman Foxx stated that studies "show the more money the federal government puts in to higher education, the higher the costs go." However, experts have found that there is no causal relationship between federal aid (Pell Grants and federal student loans) and tuition at public and not-for-profit colleges.[i] In my experience, when administrators at public institutions discuss increases in federal and state student financial aid, they do so from the standpoint of how those increases would help offset their students' total cost of attendance–not from the standpoint of how said increases could help justify increases in tuition.

Again, state disinvestment is the main driver of tuition increases. Consider, for example, the justification guiding the California State University's (CSU) first potential tuition increase since 2011, publicly available <u>here</u> and summarized below:

Over the last two decades, state tax revenues that support public higher education institutions have significantly fluctuated—with a trend toward a decrease in real dollars—across the country and within California. This decline came as states responded to the condition of the economy and shifted public dollars to other priorities.

The decrease in public investment has come at a time of increased student and industry demand for bachelor's, master's and other advanced degrees. Universities—including the California State University—have responded over the past two decades by making programmatic cuts while increasing tuition and fees in order to balance budgets. These cuts, coupled with shifting of costs from states to students and the connected reduction in educational opportunities for students were unfortunate, yet necessary, steps to continue to operate quality programs.

State investment in support of the CSU has moved from approximately 80 percent in the mid-1990s to closer to 50 percent by 2016-17, with the remaining revenue provided by tuition and fees. In spite of this fiscal trend, the CSU has remained committed to providing students a high-quality education and admitting qualified students from California's high schools and community colleges.

The [California State Student Association] CSSA has been a dedicated partner advocating with the CSU for increased state investment. Over the last four years, these advocacy efforts have coincided with an important increase in state tax revenues, which recovered by $33.2 billion between the low point of the recession and today. However, the CSU is only now, as of 2016-17, funded at prerecession levels of 2007-08—despite serving 20,000 additional students.

Also over the past four years, the CSU consistently made support budget requests that would reinvest in our most critical priority areas, yet only once in the last four years since the worst days of the recession has that request been fully funded. Put another way, the state did not fund a total of $425 million of recurring funding requested by the CSU since the recovery began (see below figure).

The governor's multi-year funding plan for the CSU from 2013-14 through 2016-17 provided increases in general fund support with a caveat requirement that tuition be held at 2011-12 levels. These state funds have allowed modest recoveries in course sections, faculty and staff hires, technology and infrastructure, while providing employees with salary increases for the first time since the beginning of the recession.

Based on recent information from the governor's administration, the governor will likely propose an increase of $157.2 million to the CSU support budget for 2017-18. This will continue the limited and incremental nature of investment that has dominated state funding for the CSU during California's recovery.

The impact of state disinvestment on students and families cannot be understated. State support has declined by 20 percent per student since 1990.[ii] Due to this disinvestment, student tuition now accounts for a larger percentage of revenue at public two- and four-year institutions than do state dollars.[iii]

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[i] http://www.acenet.edu/news-room/Documents/Paper-Archibald-Feldman-Federal-Financial-Aid-Policy.pdf
Note: This conclusion does not hold for for-profit institutions. See Cellini and Goldin:
http://scholar.harvard.edu/goldin/publications/does-federal-student-aid-raise-tuition-new-evidence-profit-colleges

[ii] Santos, J. L. and Kati Haycock, Fixing America's College Attainment Problems: It's About More than Affordability, September 2016, https://edtrust.org/wp-content/uploads/2014/09/FixingAmericasCollegeAttainmentProblem_EdTrust.pdf

[iii] United States Government Accountability Office, Report to the Chairman, Committee on Health, Education, Labor, and Pensions, United States Senate: Higher Education State Funding Trends and Policies on Affordability, December 2014, http://www.gao.gov/assets/670/667557.pdf

The Honorable Robert C. "Bobby" Scott, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

Question for the Record:

It is in our country's best interest to promote access to and through higher education for all students, particularly for those who have been traditionally underserved in higher education. To that end, the federal government invests in colleges and universities, along with providing direct funding to students. This funding, known as Title IV financial aid, can be used at any Title IV eligible institution, regardless of sector.

Dr. Cruz, during the hearing, you mentioned a few ways that for-profit institutions are different than public institutions. Can you further explain how the sectors differ?

Response:

The differences among institutions in the for-profit and public higher education sectors are structural in nature and affect how these institutions govern themselves, how they measure success, and how they are held accountable.

Public institutions are generally governed by a board of trustees comprised of members who are appointed by elected officials and charged with fiduciary responsibility over an institution or system of institutions. The fiduciary responsibility of board members is to the taxpayers living in the cities and states that support the institution(s). The operations of the institution(s) are highly scrutinized through the political process and subject to state and local laws and regulations. For example, public institutions rarely have the authority to increase tuition rates without state gubernatorial and legislative approval, and are increasingly subject to outcomes-based funding formulas that link state and/or city investments to institutional performance based on student outcomes. These institutions are also subject to state audits and investigations, and must seek approval from state agencies for the creation and/or elimination of academic programs and services.

In contrast, although for-profit institutions must be authorized by the state to be eligible for federal aid, states do not have a governing relationship with these institutions. For example, for-profit institutions are not tied to the state's appropriations process, and thus, oversight through budget authority does not exist. Instead, corporate boards, with fiduciary responsibility to the shareholders of the corporation, govern for-profit institutions. Additionally, the operations at for-profit institutions are not subject to any meaningful state oversight, and the accreditation agencies charged with reviewing the quality of their academic programs have failed. Indeed, the primary for-profit accreditor, the Accrediting Council for Independent Colleges and Schools (ACICS), was recently stripped of its authority because many for-profit colleges found guilty of defrauding students and having poor student outcomes were still accredited—suggesting that ACICS had failed to fulfill its accountability function. The for-profit sector's lobbying efforts against any meaningful federal regulatory oversight have allowed bad actors to access a disproportionate amount of federal dollars in exchange for woefully inadequate student outcomes.

Another critical difference between the public and for-profit sector is transparency. Public institutions like the California State University (CSU) and The City University of New York (CUNY) are subject to Open Meeting Laws. All, but the most sensitive personnel issues, are subject to public scrutiny—often in real-time through the live streaming of board of trustee's meetings. Anyone interested in understanding why the boards of CSU and CUNY—facing increased operational costs and insufficient state investments—have proposed tuition increases for Fiscal Year 2017-18 need to simply go online to review archived video of meeting proceedings and relevant supporting documentation. These electronic files also show how the boards hope to limit the impact of tuition increases on the most vulnerable students.[i] The same cannot be said of for-profit institutions as their opaque governance structures can lead to unscrupulous operations that prioritize corporate profits over student outcomes.

As I stated in my March 10, 2011 testimony before the U.S. Senate Committee on Health, Education, Labor and Pensions, the fact is that for-profit college companies demand a different type of attention than public institutions because the existing regulatory triad is ill-equipped to deal with the aggressive business models that have fueled the growth of even the worst corporate offenders. Today, this means strengthening, not weakening, the gainful employment rule, restrictions on incentive compensation, and the enactment of borrower's defense as means to provide adequate protection to taxpayers and students.

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[i] California State University. (2017, January 31). *Meeting of the Committee on Finance.* Retrieved from https://www2.calstate.edu/csu-system/board-of-trustees/past-meetings/2017/Documents/january-31-2017-finance.pdf

The Honorable Suzanne Bonamici, U.S. House of Representatives
Committee on Education and the Workforce
Full Committee Hearing: Challenges and Opportunities in Higher Education
February 7, 2017

Question for the Record:

I appreciate your comments on the opportunities to increase college attainment among groups of students who have been historically underserved in higher education. In addition to your recommendations to support federal-state partnerships, strengthen the Pell Grant program, and simplify student loan repayment, I would like to hear your recommendations for modernizing the Federal Work-Study program to help low-income students cover the full cost of attendance at higher education institutions and participate in high-quality work-based learning opportunities that open doors to successful careers.

I am pleased to be working on bipartisan legislation that redesigns the Federal Work-Study program's allocation formula—directing a larger share of the federal funds to institutions that are enrolling the largest share of low-income students and supporting those students through completion. The legislation also provides colleges and universities with flexibility and encouragement to connect Work-Study recipients with employers that offer work-based learning opportunities that align with students' academic and career interests and set them on the path to well-paying, in-demand jobs. Finally, the legislation creates new reporting requirements, so institutions and policymakers have accurate information about the program, including information on the satisfaction of students who receive Work-Study awards.

Dr. Cruz, how can the Federal Work-Study program be strengthened to make sure it is providing a meaningful benefit to historically underserved students and helping them gain valuable work experience?

Response:

Researchers have found that a large share of Federal Work-Study (FWS) funds are allocated to institutions based on when the college joined the program, not on the amount of funds students at each institution need.[i] As a result, a lot of institutions providing upward mobility for low-income students only receive a small share of FWS funds.

I would support a revised formula that puts more FWS dollars in the hands of Pell Grant recipients and students with considerable need, who may not enjoy the same access as their peers to valuable internships and the work experiences that can translate into first careers.

Additionally, I believe there is room to gather more complete data on the FWS program, so policymakers and university administrators can better gauge the satisfaction of students in FWS-supported employment. Better, more consistent data can also help institutions continuously improve its programs and connect more students with work-based opportunities, including internships, that align with students' interests.

Overall, I agree there is potential to strengthen the FWS program and help level the playing field in the workforce for students coming out of higher education institutions.

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[i] National Association of Student Financial Aid Administrators (2014). NASFAA task force report: The campus-based formula. Retrieved from https://www.nasfaa.org/uploads/documents/ektron/02449fc6-a14e-40f4-b9de-e22d19252947/80d69b186d124195b22a59471714e3d14.pdf

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

March 20, 2017

Mr. Kevin Gilligan
Chairman and Chief Executive Officer
Capella Education Company
225 South Sixth Street, 9th Floor
Minneapolis, MN 55402

Dear Mr. Gilligan:

Thank you, again, for testifying before the Committee on Education and the Workforce at the hearing entitled "Challenges and Opportunities in Higher Education" on Tuesday, February 7, 2016.

As a follow-up to your testimony, please find enclosed an additional question for you submitted by a Committee member after the hearing. Please provide your written responses to Education Legislative Assistant Alex Ricci **no later than April 10, 2017**. His number is (202) 225-6558 should you have any questions about this request.

We appreciate your time and insight, and we remain grateful for your contribution to the Committee's work.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosure

Rep. Glenn Thompson (R-PA)

Can you elaborate on the work Capella has done to align coursework with employer needs? Is it important for the federal government to provide institutions like yours with flexibility to meet the needs of the American workforce?

COMMITTEE ON EDUCATION
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U.S. HOUSE OF REPRESENTATIVES
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March 20, 2017

Dr. William E. Kirwan
Co-Chair
Task Force on Federal Regulation in Higher Education
4312 Bretton Rd
Rockville, MD 20853

Dear Dr. Kirwan:

Thank you, again, for testifying before the Committee on Education and the Workforce at the hearing entitled "Challenges and Opportunities in Higher Education" on Tuesday, February 7, 2016.

As a follow-up to your testimony, please find enclosed an additional question for you submitted by a Committee member after the hearing. Please provide your written responses to Education Legislative Assistant Alex Ricci **no later than April 10, 2017.** His number is (202) 225-6558 should you have any questions about this request.

We appreciate your time and insight, and we remain grateful for your contribution to the Committee's work.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosure

Rep. Phil Roe (R-TN)

Vanderbilt University's "The Cost of Federal Regulatory Compliance in Higher Education" and the "Task Force on Federal Regulation of Higher Education's Recalibrating Regulation of Colleges and Universities" are two reports that have highlighted the burdensome regulations impacting institutions of higher education. The Vanderbilt reports attempted to systematically quantify the cost of federal regulatory compliance in higher education. Are there other ways to quantify the costs of regulations on institutions of higher education? The Taskforce report highlighted 59 regulations that are particularly in need of reform. Would you be able to indicate which of these regulations have significant fiscal costs associated with them?

Beth Akers
Senior Fellow
Manhattan Institute for Policy Research

April 24, 2017

Response to Additional Inquiries Following Testimony on February 7^{th} 2017

Questions from Rep. Phil Roe (R-TN)

"During your testimony, you mentioned innovations in the private education finance sector such as Income Share Agreements (ISAs). What are some of the regulatory issues that are preventing a more widespread adoption of these instruments?"

The primary regulatory issue standing in the way of faster growth in the ISA market is uncertainty. Without legal clarity on enforceability of ISA contracts and guidelines on consumer protections, some investors may be wary of making the investments needed to fund new contracts. For additional information on the challenges or regulating ISAs and specific policy prescriptions I would recommend a policy report on this issue authored by ISA experts Kevin J. James and Alexander Holt and published by the American Enterprise Institute: "New tools, new safeguards: Why traditional loan protections don't work for Income Share Agreements—and what should replace them."

"Do you have any thoughts on Purdue Universities' Income Share Agreement (ISA)?"

The "Back a Boiler" program is well designed. It succeeds in creating a better option for students who have exhausted their eligibility for federal loans, but does so at what seems to be a sustainable expense to the institution. The advantage of ISAs is that both these features can be attained simultaneously. The ISA program being piloted at Purdue University will serve as a model for other institutions or financial institutions who wish to offer this innovative product.

"What are some other innovations in the vein of ISAs that could help reduce the reliance on federal lending?"

Near term innovations in the financial market are unlikely to impact reliance on federal lending. The terms in the federal lending program are so generous that private financiers cannot offer products that are as attractive to borrowers. Under the current regime of federal lending programs, ISAs and related products may only be able to compete with traditional private student loans and in some cases parent PLUS loans.

Question from Rep. Glenn Thompson (R-PA)

"Much of Pennsylvania's 5^{th} district, which I represent, can be classified as rural. In your testimony, you discussed the possibility of improving our higher education system by streamlining the financial aid process. In your research, have you identified any trends in student loan repayment issues specific to students in rural areas? Do you think the suggestions you presented today will be more or less beneficial to students in rural areas, or will they have the same impact across the board?"

I have not identified any issues that are specific to rural regions. However, I would imagine the problem of incomplete information about eligibility for federal student aid is worse in areas with lower rates of college-going, which would likely include many rural areas as well as some urban ones. The objective of financial aid simplification is to remove the information barriers that keep some of the lowest income people in our economy from enrolling in some form of postsecondary education. In this sense, simplifying the financial aid process both on the front and back end would likely have a greater impact on rural communities than on more affluent suburban and urban areas.

Question from Rep. Elise Stefanik (R-NY)

"In your testimony, you state that federal aid programs are far too complex to effectively serve students. Last Congress, with the support of many of my colleagues on this Committee – including former Chairman Kline and Ranking Member Scott – I introduced the Flexible Pell Grant for the 21st Century Act. This legislation would allow students to draw down their Pell funds at an accelerated pace in order to pay for additional courses within an award year. Allowing them to complete their education at a lower cost and more rapid pace. This legislation is particularly important for the North Country were an average of 52 percent of the students attending seven of the state higher education institutions in my district are offered Pell Grants. Do you think that a financial aid program that incentivizes timely completion is an effective way to help more Americans enter the workforce and lessen their levels of student debt?"

It certainly makes sense to create incentives for students to complete their degrees more quickly. But students already have tremendous incentives to complete as quickly as possible. Longer enrollment means a greater tuition bill and more delay in reaching the heightened earnings that likely follows degree completion. However, I have argued that making the Pell Grant more flexible would be a step in the right direction. Even if it does relatively little to encourage faster completion, it brings the federal system of student aid more in line with the reality that today's students are not necessarily having the traditional college experience that many tend to imagine.

For additional discussion on this issue please see my recent article published on The Hill.com: "Congress Should Support Year-Round Pell Grants."

[Dr. Cruz's response to questions submitted for the record follow:]

Rep. Luke Messer (R-IN)

Mr. Cruz, I appreciate the work your institution is doing in promoting reverse transfer that enable individuals who previously attended a community college to "transfer back" their credits that they earned at your institution to earn an associate's degree from the community college. Although our hope is that all students who transfer credits from a community college in pursuit of a bachelor's degree ultimately earn a bachelor's degree, we know that life sometimes gets in the way. And for some students who are working their way through school, earning an associate's degree could immediately increase their earning potential.

1. Can you explain some of the other benefits of setting up a program like this for students?

   In addition to increasing their earning potential, studies suggest that retention rates improve for those who receive an associate's degree through reverse transfer once enrolled at a four-year institution. This has been the experience at Lehman College, where the associate's degree represents an important milestone for those that achieve it through reverse transfer. For example, in Fall 2014, 42 Lehman students received an associate's degree via reverse transfer. Since then 73.8% have earned their bachelor's degree or are still enrolled making progress toward graduation. Reverse transfer programs can also (indirectly) benefit students by helping institutions make a better case for public investments through increased graduation rates for community colleges, the documentation of "productive" units by four-year colleges, and increased levels of educational attainment for the communities served.

2. What challenges do you think other institutions might, face, legally or otherwise, in setting up a reverse transfer programs like this?

   For reverse transfer programs to be effective, sufficient resources need to be invested at each one of the participating institutions to administer the program. Program administration is currently a labor-intensive process that requires, for each potential student graduate, significant communication among multiple offices at each of the participating institutions and manual drill down processes to ascertain adherence to residency requirements and course requirements. A preliminary analysis of associate degrees awarded through reverse transfer at CUNY's seven community colleges suggests that only 66% of students eligible for review in spring of 2016 were actually reviewed due to staffing limitations. Of those reviewed, 20% were deemed eligible to receive their associates degree and notified; 45% of those notified ultimately received their degree. While steps are being taken to streamline procedures, and adopt technology systems that will facilitate data exchange among institutions and reduce the time required to evaluate each student that is deemed eligible for review because of their total credit accumulation, the fact remains that for reverse transfer programs to meet their full potential, additional public investment is needed.

3. Do you believe there should be legislative changes made to FERPA to better facilitate credit information sharing in order to increase the amount of associate degrees awarded through reverse transfers?

   I believe language should be added to FERPA explicitly stating that schools may disclose a student's records to a school to which the student is transferring or to which course credit is being sent to a previously-attended institution. This would help eliminate some of the concerns that are often expressed by those advocating against reverse transfer programs and accelerate progress towards the enactment of regional and/or state collaborative agreements that would allow for significant expansion of these programs.

[Mr. Gilligan's response to questions submitted for the record follow:]

Rep Glenn Thompson (R-PA)

Can you elaborate on the work Capella has done to align coursework with employer needs? Is it important for the federal government to provide institutions like yours with flexibility to meet the needs of the American workforce?

Capella's response: Capella has established a process to integrate labor market information and employer needs into our course and program design. This process creates professionally-aligned, real world education through identifying skill gaps, workforce challenges, and emerging sector trends.

Capella is a leader in this area and we accomplish this in two ways through our curriculum development process:

1. **Utilization of labor market data to inform design of courses and curriculum**
   Our curriculum development process begins by looking at the external market (job market data, standards, field expectations, literature) to drive the development of outcomes and competencies.
   Examples are included below:
   - **Labor Market Data:** Addressing the skills gaps reflect the dynamic nature of the evolving needs of the workforce. We utilize the Bureau of Labor statistics data that include the Occupational Outlook Handbook https://www.bls.gov/ooh/ and Department of Labor quarterly reports; provide data points by occupational groups that effectively identify and categorize the most in-demand skills. We also use labor market insights, such as Burning Glass data, to understand trends and skills employers are looking for. We then incorporate those competencies in our curriculum outcomes.
   - **External Data Sources:** We use products from Economic Modeling Specialists International (EMSI) , The tool helped with understanding not only the current job market but also future trends base upon data collected through government sources . It provides combined data from sources like Quarterly Census of Employment and Wages (QCEW), Occupational Employment Statistics (OES), job postings analytics, workforce & alumni insights as well as compensation to make decisions about what direction to go with programs.
   - Another example is using the Classification of Instructional Programs (CIP) taxonomy provided by the Department of Education Institute of Education Sciences (IES) to ensure our developed programs are consistent and align to the needs of students. The Standard Occupational Classification (SOC) by the Department of Education also provides a crosswalk of occupations https://nces.ed.gov/ipeds/cipcode/resources.aspx?y=55 that classify workers into occupational categories.
   - **Government data:** We utilize USAJobs (official website for federal government jobs).
   - **Scholarly journals and trade publications:** Each profession is supported by one or more professional societies that publish peer-reviewed journals. These help bring research-based best practices to course development. For example, the Journal for Public Administration Education (JPAE) dedicated several articles in their last issue to developing competencies that help meet the needs of city government. Another example of using trade publications is an article in the Federal Times that led us to the

Program Management and Accountability Act, which is intended to create a new career path for project/program managers in the federal government.

- **Alignment to bodies of knowledge.** There are varying bodies of knowledge and commissions that provided governance and guidance for curricular development along with the continuous review, recommendations and enhancement of particular criteria, policies or procedures. Such bodies in the computing domain include the Association for Computing Machinery

2. **Formal consultations with employers and professional organizations on competencies, skills gaps, retention and workforce needs**
We gain input from respected employers, professional organizations, state licensing boards, and professional and regional accreditors to pinpoint the most desired skills and knowledge in each field.

- **Employer Advisory Boards:** Our advisory board within the School of Nursing and Health is composed of leading health care strategists and influencers; the board provides insight into current and emerging trends, market needs, decision-making evidence, and workforce competencies. Capella leaders and faculty, collaborate with board members to ensure curricula effectively build the competencies needed in today's complex health care environment.
- **Professional organizations:** Professional organizations provide research and other reports on needs in the industry they support. For example, it was from the International Public Management Association that we found the HR2020 report that is influencing our public administration restage. We also use their job boards (for example, IAEM's http://www.iaem.com/page.cfm?p=jobs/intro) to get a sense for roles that are trending and new competencies that are in demand.
- **Specialized accreditation alignment:** We utilize the expertise of Industry Advisory Councils that ensure employer perspectives are considered when developing courses and programs. For example, the School of Technology at Capella holds accreditation with the Accrediting Board for Engineering Technology (ABET), Project Management Institute (PMI) and designate by the National Security Agency as a National Centers of Academic Excellence in Cyber Defense Education.

It is important to provide flexibility to institutions like Capella to meet the needs of the American workforce. Congress can help facilitate opportunities to align workforce needs with educational pathways by creating a feedback process back to Bureau of Labor to assist universities in better predicting future workforce trends through a formalized employer input process. This process could improve the direct connection between academic program development and industry needs across the sector.

UNIVERSITY SYSTEM OF MARYLAND

OFFICE OF THE CHANCELLOR EMERITUS

1807 University of Maryland, Baltimore
1856 University of Maryland, College Park
1865 Bowie State University
1866 Towson University
1886 University of Maryland Eastern Shore
1898 Frostburg State University
1900 Coppin State University
1925 Salisbury University
1925 University of Baltimore
1925 University of Maryland Center for Environmental Science
1947 University of Maryland University College
1966 University of Maryland, Baltimore County

April 7, 2017

The Honorable Virginia Foxx, Chairwoman
Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairwoman Foxx:

Thank you again for inviting me to testify before the Committee at the hearing entitled "Challenges and Opportunities in Higher Education" on Tuesday, February 7, 2017. I am responding to the additional question for the record submitted by Congressman Phil Roe.

Congressman Roe asked the following:

"Vanderbilt University's "The Cost of Federal Regulatory Compliance in Higher Education" and the "Task Force on Federal Regulation of Higher Education's Recalibrating Regulation of Colleges and Universities" are two reports that have highlighted the burdensome regulations impacting institutions of higher education. The Vanderbilt report attempted to systematically quantify the cost of federal regulatory compliance in higher education. Are there other ways to quantify the costs of regulations on institutions of higher education? The Taskforce report highlighted 59 regulations that are particularly in need of reform. Would you be able to indicate which of these regulations have significant fiscal costs associated with them?"

In response, I should first note that quantifying the cost of all federal regulation or specific regulations is a difficult and time-consuming endeavor, and for that reason, attempts to do so have been few and far between. Nonetheless, the Task Force conducted a comprehensive environmental scan of research in this area in an attempt to determine the cost of regulations for colleges and universities and identified a number of studies on this topic, which I will describe.

There was an early effort undertaken by Stanford University in 1997, which estimated conservatively that the university spent approximately 7.5 cents of every tuition dollar on regulatory compliance. Given the increased volume of federal regulations over the past 20 years, we expect this number would be

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significantly higher today.

A more recent and comprehensive effort to quantify these costs was undertaken by Hartwick College in 2011-12. Under the direction of President Margaret Drugovich, Hartwick prepared a self-audit of its compliance-related activities. The report concluded that the actual cost of compliance might be as high as 7 percent of its non-compensation operating budget. Other institutions have used the Hartwick report as a model for conducting their own campus estimates.

The Task Force also looked at a publication from the American Action Forum (AAF), which relied on data available under the Paperwork Reduction Act of 1995. The AAF report estimated that institutions spend 26.1 million hours annually to complete Department of Education-mandated forms. This method was an interesting analytical approach, although it did not include regulatory burdens that go beyond completing forms, meaning that, for example, it did not consider the time required to develop and implement compliance policies.

Finally, as you mentioned, Vanderbilt University worked with an independent consulting firm in 2014 to conduct a far-reaching analysis of the costs related to complying with various federal mandates, including those stemming from the Higher Education Act as well as research related regulations. Like the Hartwick study, the Vanderbilt methodology also has been tested by other institutions to estimate regulatory costs on their campuses.

The Task Force did not attempt to quantify the specific costs of the 59 regulations cited in its report, due to the difficulty and time required for such an effort. These difficulties include the fact that the costs of a particular regulation can vary widely from campus to campus, due to size, location, and characteristics of the student population. Additionally, the duties and functions associated with a new regulation are often absorbed by existing staff, simply adding to their workload. Finally, estimates of the cost of a complying with a new regulation may fail to take into account the complicated interplay between new and existing requirements. Regulations do not exist independently of each other, and this interplay can add exponentially to the cost, making it impossible to separate which costs stem from which requirements.

Despite these challenges, I would refer the Committee to the 10 regulations highlighted in section III of our report. These are: (1) Verification of Student Eligibility for Financial Aid; (2) Return of Title IV Funds; (3) Financial Responsibility Standards; (4) Institutional Accreditation; (5) State Authorization of Distance Education Programs; (6) Uniform Definitions of Clery Crimes; (7) Timely Warnings about Threats to Campuses; (8) Definition of "Noncampus Property;" (9) Consumer Information; and (10) Regulations Unrelated to Education, Safety, or Stewardship.

We highlighted these 10 regulatory issues because they were the ones most frequently cited as unnecessarily burdensome during our visits with campus officials. The Vanderbilt study identified many of these same regulations.

Finally, as I mentioned in my testimony, even when a regulation has only a limited fiscal impact, it can produce other costs by redirecting resources toward compliance that would be better used educating and supporting students. This is why it is important that we work to ensure a system of smarter regulation—one that minimizes the burden to institutions while maintaining essential protections for students and taxpayers.

I hope this letter sufficiently answers Congressman Roe's question. Please let me know if I can be of further assistance in the important work of the Committee as it continues the effort on streamlining federal regulations and accountability reporting for higher education.

Sincerely yours,

WE Kirwan

William E. Kirwan
Chancellor Emeritus

[Whereupon, at 1:21 p.m., the committee was adjourned.]

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