Norm Bedford: Well, welcome to Session 53. My name is Norm Bedford. I am the hometown person. I'm the director of financial aid and scholarships here at the University of Nevada, Las Vegas, and also the chair of this committee. And today, my colleague, Anthony is going to provide a summary here in a few moments of the higher education regulation study, and it's a good one. It's something that we ask for a lot of feedback from the community, which is you, and so this is really your report and I hope that you find it informational and confirms a lot of suspicions that you had or maybe adds something else to your collective wisdom.

So this report was released this morning. Some of you may actually have this in your inbox, based off of some LISTSERVs that you subscribe to. If you don't, that's okay. Don't fret. It will be out on the advisory committee website sometime next week, so give it a bit of time.

So what I would like to do is introduce two of the committee members. I did say Anthony is right to my *[laughs]* – well, he's right up here. He's the director of policy research, and he's also the director of this higher education regulation study. And in the back is Janet Chen. She will be raising her hand, and she's director of the government relations on the committee.

So we'll review by giving a brief overview of this, followed by – whoops, thank you. I knew I'd forget – followed by the discussion, the study approach, some background issues, and five research questions. We'll also close with the findings and recommendations from the final report, and the community-specific proposed solutions, which I think you'll like, for both individuals, regulations cited in the study, and the overall system of regulation.

Now on this slide, I'd like to talk about this just a brief moment. The committee was established in 1986, and it was authorized by congress. And we serve as independent and objective source of advice to congress and the Secretary of Education. Now before you think, "Oh, brother. How can they really be an independent and objective source?" we really are. Any of the research that we do is reviewed by committee members, which are made up by people like myself, peers that represent you, and also advisory committee staff.

And so the data that we look at and summarize, that's all reviewed before it goes Congress and the Secretary of Education, and so we give a lot of feedback. There's a lot of research, and a lot of

opportunities to provide a final report, and the Congress and the Secretary of Education, they'll see that report and the data suggest whatever the data suggests. And so if it's a positive outcome, it's a positive outcome. If it's negative, then it's negative. If it's neutral, it's neutral. So we are independent and we'– like to think that we are objective. So I just wanted to point that out. The committee has 11 appointed members, and we do serve 4-year terms. Three were appointed by the Secretary of Education, four were appointed by the US Senate, and four appointed by the House of Representatives.

I would like to recognize Allison Jones. He was the past chair. His term expired I think September 30th. John McNamara is also on the this committee, Kathleen Hoyer. There's me, David Gruen, Sharon Wurm, and William Luckey, and a few more. Bear with me. Helen Benjamin, Anthony Guida, Jr., and Deborah Stanley. And I think I turn it over to you.

All right. So without further ado, I'm gonna let Anthony, the real expect of this, because he directed the study, he's gonna come up here and summarize. And there'll be a chance for questions and answers late. So thank you. Anthony.

Anthony Jones: Thanks, Norm, and thanks, everybody for your attention and attending the session. As Norm indicated, we received this study in the HEOA back in 2008, where Congress asked us to determine which regulations are duplicative, no longer necessary, inconsistent with other federal regulations, or overly burdensome. And to some folks who are a little more of the seasoned individuals among us, you may recall some of that similar language under the Fed Up initiative, 'cause it was very, very similar to that. But this study has been going on since 2008, so it's a three-year study. And as Norm indicated, we did release the final report this morning.

What I'm gonna do is kind of give you an overview. I promise I'm not gonna take more than ten minutes. But after we've done some briefings to members of Congress as well as the Secretary of ED, and other members of the community, such as NASFA and NACUBO and other organizations, some questions arose that we wanted to address 'cause it helps give the context of not only why we did what we did, but how we did it, and then we'll get to the findings and the solutions.

Pursuant to this mandate, these were the following steps that we took to pursue studying review and analysis of the regs under the

Higher Education Act that are impacting institutions. We did limit the scope to just those regs under the HEA, which as you all know are primarily under Title IV, but do include other titles as well.

We were required to convene two review panels of experts who had relevant experience with the regulations. We did convene 2 of those comprised of 16 individuals who helped us not only identify regs and put us in touch with folks who might know of regs and give us more information about the burden level, but also how we should approach the community in finding this information, so they helped us guide the study as well.

We developed and maintained we website. We were required to do that in order to provide information about the regulations to the community, and include an area where the community and the public at large could make recommendations of regs that were burdensome, or that they felt were in need of streamlining improvement or elimination.

As a general rule, the committee also holds public hearings before the appointed members in order to provide testimony about pertinent topics. For this study, we held two, one in June of 2010, where nine administrators spoke about five different regulations and gave the reasons from their campus perspectives why these regs were burdensome, and what the particular problems were. The most recent public hearing was on September 30th of this year, following the release of our preliminary findings report, and we had nine folks who spoke with us and provided testimony, then three were executives from campus, a president, a legal counsel, and a vice president at an institution, as well as six other administrators from financial aid, registrar and institutional research as well.

We also designed and conducted an anonymous and confidential Web-based survey that was conducted earlier this year in May and June. In that survey, we created that in order to help us understand we had identified a set of regulations that had come in through the website, the review panels, all of these different sources. And we identified 15 that seemed to rise to the surface, but we wanted to gather a little bit more information because the information that we were getting wasn't allowing us to prioritize them with a lot of confidence. We didn't have detailed calculations of the burden hours that it took to comply, or the cost that it took to comply with each of those regulations, so we wanted to do this survey of perceptions.

We were going to have it where there was a log in feature so we could set the sampling frame and do confidence intervals around it. But we got a lot of feedback from the community that said, "If you're gonna ask us about how we're complying and what are the most burdensome regs, and possibly be critical of some of the Department of ED processes, we don't want to be identified. We'll give you the information, but we don't want to be identified, and if you make us be identified, we're not gonna participate." So we took the identification part out, let it be completely anonymous, and partnered with the associations ACE, NASFA, NACUBO, all those folks to send that out. Some of you may be even been among the ones who responded to that survey. But it was more of a perception survey rather than something that did a lot of the detailed calculations.

We were pleased that the survey generated over 2,000 responses. We have calculated that it came from probably over 700 institutions with over 4,000 written comments. We know that it had over 4,000 written comments 'cause we went through *[laughs]* every one of them. But we used this to confirm and validate the findings from the review panel, the public hearings, and the website interaction.

From that, from the survey, as well as everything else, we identified a set of perceived problems and proposed solutions about he set of regulations, but also the overall system. That includes negotiated rule making, the burden calculations, and the monitoring processes because we felt if some of those weren't as effective as they could be and needed improvement, that could impact the burden as well. As a follow up to the survey, once we tabulated all the data from it, we identified the perceived problems and proposed solutions, and sent that to over 200 people of which over 100 responded, refining some of the proposed solutions that we had, and that I'll be presenting here for you, so we that we were making sure that we were capturing the essence of what those problems and possible solutions would be.

This is just sort of a visual to kind of explain how we went about the process. As you can see, the first review panel was sort of kicked off in late 2008-early 2009. They helped us inform the website launch which helped us identify a set of regulations that we heard more from on the second review panel, and held our first public hearing on a set of regs, which helped us narrow it even further to get a perceived problems and proposed solutions of which we asked a little bit more about on the survey. Held a second public hearing to make sure that we were kind of on the

right track and this was reasonable, which was confirmed from all the folks there, and then validated all this with a set of folks from the community who volunteered to give us feedback.

So just a few questions that we received from some of briefings. Why did we conduct the study? Well, we were charged to by Congress to do the study. And how many individuals from the community were involved in the study, and what were their levels of knowledge and experience? Through direct contact of giving feedback or participation in the study, we had more than 50 individuals with a total of over 1,000 years of experience in financial aid and the regulations on those panels as consultants, as field testers for the survey, et cetera.

For those reviewing the final report, Norm was talking about the appointed members of the committee. Five of the advisory committee members are or were directors of financial aid with over 100 years of experience combined, and 4 of our members are either presidents, chancellors or vice presidents, and they as well have over 100 years of experience? And we received unanimous approval from those members, so we feel it's been reviewed quite well by folks in the community.

What were the methodologies used and were there any limitations? I sort of talked about the review panels, the public hearings and website interactions which are very similar. In fact, they're the same as some of the protocols that the Department of ED uses, especially through the negotiated rule-making process. We also conducted the survey which of those 2,000, more than 1,200 were financial aid administrators, including over 800 of them being directors of financial aid. So we had a large response from the financial aid community, which isn't too much a shock since the bulk, as I've said, of the regulations under the HEA are related to financial aid. There were some limitations which I'll talk about. We clearly spelled those out in the report.

We did, for every perceived problem, associated with the regulation or the regulatory system, identify what the problem or problems were, and identified at least one solution that we would propose based on what we heard back from the community. And folks have asked us if our findings are consistent with other reports that are out there, and NASFA, in 2010, did an administrative burden survey and these fall in line with those results, which basically stated that financial aid offices are finding their resources are diminished and are being drained and the burden has been increasing dramatically over the last few years.

So we'll talk a little bit about the limitations of the study. As I kind of mentioned, we weren't able to collect the data necessary to conduct detailed calculations of burden hours and cost. It's simply not occurring out in the community right now. People in some cases, told us, "Look, we're too busy complying to calculate how long we're taking to comply with the regs," so we understood. But that is a limitation in that we don't have that level of quantifiable data to give back to Congress or the Secretary to say, "These are the burden hours," and use this to do a cost benefit analysis. So we have to recognize that that is a limitation of the study. And doing that, would take a lot of time and a lot of money to do that.

Now as we march towards possibly doing that in the future, we'd need to keep that in mind; however, that is one of the limitations to the study. And it is a limitation that the survey that we conducted did not have a sampling frame, so we can't say it was representative with certainty of the entire population of Higher ED institutions. However, we feel we have a strong qualitative voice here of what the characterization of the problems are, and the feedback we get is this is representative of the problems that are out there.

So our lessons learned, just real quickly, we've learned that – and I think this will be no shock to anyone, regulatory agency management and staff such as the department, have very different views of regulatory burden and system weaknesses than those who are regulated. I think anytime you do a study that those do the regulating see burden as very different than those who are being regulated.

When assessing burden, basing the assessment of regulatory burden and cost estimates and the evaluation of overall system effectiveness on internal regulatory agency surveys alone, will underestimate burden and cost, and overrate system net benefits. This was a concern that the department's current retrospective review of regs, their plan, is looking at doing internal surveys of management and staff within the department to identify regs that are overly burdensome, and we think they really need to involve the completely more in hearing back what those problems may be, and which regs should be identified as burdensome and in need of improvement.

In eliminating bias, identifying the regs must begin with a survey of those being regulated, one that is anonymous and confidential to avoid series selection bias, similar to what we experienced. Either

they make it anonymous and confidential, or there needs to be a trusted external entity, Gallup, or an agency that doesn't have ties to the federal government that will keep the names and identifier information anonymous and confidential from the regulatory agency, that that's necessary, and that review panels assembled by the regulating authority are also susceptible to selection bias. People will self-select out if they're forced to go on the record, sometimes for fear of reprisal or how the information may be used.

We do think that to begin this process of collecting the data, the detailed quantifiable data, you would need to start with case studies at institutions in order to start collecting this, and that if that's gonna be done, those institutions need to be held harmless for those activities any information identified during that process.

The ideal approach. This was just sort of a summary that you could sort of read level. It's just to talk about how if you're gonna do that, you need to develop a detailed model of how regs impact institutions and go about that in a very methodical way in order to start that process. But that's for down the road.

We were pleased to see the president's executive order about reg reduction. This is just something that sort of compliments the study. It came along earlier this year after we'd been in there throes of the study. But it talks about looking at alternative approaches, that you need to quantify burden hours, et cetera, in order to proceed.

So lastly, before I get into some of the overall recommendations, these are the five research areas that we use for the study. Regulatory burden, how burdensome does the higher education community perceive the regs under the HEA, and which ones are perceived as the most burdensome. On regulatory improvement, can they be streamlined or eliminated without adversely affecting program integrity, accountability, and student access and success? This was something that was very critical in the survey and all the discussions that we had is that if modifying or eliminating the regulation would negatively impact one of these, it has to be off the table, it had to remain as is so that at least those weren't negatively impacted.

The next one was our key components of the system of regulation under the High Education Act perceived as needing change, are there certain components that may be impacting burden. Would doing some of these modifications to the regs achieve cost savings, and how should future regulatory reform go forward? So these are

what framed all of our research under the study.

So culminating with everything that we reviewed, our overall findings are that the higher education community perceives regulations under the HEA to be unnecessarily burdensome. I don't think that's gonna be a surprise to anyone. I do think what was a bit of a surprise is the strength with which the numbers – it was over 80 percent of folks felt it was either burdensome, the regs, as a whole, not individually regs, but the regs under the HEA as a whole were burdensome or very burdensome.

The majority view is that most of the specific regulations cited in the study can be improved without adverse effects on those areas that need to be maintained. This a strong sense in the community that the overall one-size-fits-all system of regulation requires improvement, that certain components within there need to be improved, or there need to be alternative approaches. And most important, that the majority opinion is that the improvements to the individual regulations and the system will not only lower regulatory burden without adverse affects, but also generate savings which could be used to expand student access and success. And I'll talk a little bit about some of those, but those were our four main overarching findings related to the study.

When we look at the recommendations that came out in the final report, now I said we have perceived problems and proposed solutions which I'll go through specifically, but we came down to two explicit recommendations. One is legislative and one is regulatory. Under legislative, the committee has recommended that Congress direct the Secretary of Education to convene at least two review panels of higher education representatives to provide advice and recommendations on three things.

One would be the set of 15 individual regulations that we identified in the study as among the most burdensome, that they also investigate the feasibility of using alternative approaches to the current one-size-fits-all system of regulation, and they also investigate the feasibility providing regulatory relief based on appropriate performance measures. This would be similar to the concept of with the loans where if you have cohort default rates over a successive number of years below a certain threshold, that you're relieved from doing the dual disbursements or the 30-day delay. It's that concept of using certain performance thresholds to relieve you from having to comply with the regs.

We also recommended that these panels be incorporated into

current and future retrospective reviews so that these would become routine. So that is another source of advice that it's the department seeking counsel from members of the community as they proceed with some of these retrospective reviews.

The regulatory recommendation is we recommend that the Secretary of Education conduct an immediate review of the 15 regs cited in the report to include an analysis of the feasibility of implementing the proposed solutions that I'm about to talk to you about, and identify any potential adverse affects that those solutions may have on program integrity, accountability, access, and success, as well as any cost of the compliance, 'cause if it's gonna drive up the cost of the compliance, that may be less beneficial.

Also, we said that as existing retrospective review plans should routinely incorporate scientific and comprehensive reviews and analysis that occurs no less frequently than biannually, which basically they've already put that into place that there are current plans that reviews would occur every other year as is.

So before I move onto the perceived problems and proposed solution, any questions about the methodology or the findings? Okay. Let's jump right in.

All right. Under the proposed solutions, the first regulation, these are gonna be presented alphabetically by the title that we have, so I'm not insinuating a certain priority here. These are just in alphabetical order.

The first was the conflict information regulations which require an institution to have a system to resolve discrepancies or conflict among all sources of information related to a student's application for Federal Student Aid. Now across the board, the feedback was folks supported the concept of you've gotta resolve conflicting information in order to give the right amount of aid to the right students at the right time. But the community clearly felt that the regs and the guidance are overly prescriptive, particularly in that the guidance requires institutions to know and enforce IRS rules related to tax filing statuses.

They also suggested that a successful IRS data match be a viable source of a resolution if there's ever a conflict. So, example, if you've got data match that gives you a certain set of information, but a copy of a tax transcript or a tax return in the file conflicts, that you should just automatically be allowed to have the data

match 'cause that's the data that the IRS has accepted resolve that conflict and not have to pursue it any further.

So our proposed solution is that the community suggested the department look to allow results from established data matches that are recognized by the department to serve as a source of resolution for conflicting information. Now this would included the IRS match, but they should expand this to other data matches that they have, whether it be with Selective Service, IRS, the immigration services, that the data matches themselves are the arbiter of any conflicting information.

We did receive a number of comments that folks said, "Look, we don't want this to be confused with that we're saying this should alleviate our responsibility to investigate fraud, that if we think something is wrong, we still want the right to be able to go after folks or report folks to the Inspector General if we believe there's fraud involved." And this would not diminish that capacity in the least. It's just saying that it should eliminate any requirement that a campus official must interpret and apply another federal agency's rules unless it's specifically required under the HEA.

On the next topic, we have crediting Federal Student Aid to non-allowable institutional charges. As you are aware, current regs require an institution to obtain written authorization from a student to credit Federal Student Aid charges to certain charges that are non-allowable, such as student health center charges, library fines, parking fines, those types of thing. A lot of folks said that this confuses students because they assume it's gonna pay any charges that are out there, and why would you get a bill – or they'll assume a bill's paid and then they get a refund check and they think everything's fine, and then regulations are cancelled, things such as that, that can cause problems.

Our proposed solution that we've heard from the community is to replace the written authorization requirement and permit institutions to use an opt-out system, so in essence the institutions would automatically apply, but students could give you written requests to opt out of that system. And if the institution does choose to use an opt-out system to this policy, it would be required to notify the student at least annually of the right to opt out. And we note on here throughout when legislative changes may be necessary to accommodate this.

On entrance counseling – and this was one where the community was relatively divided on not only was there need for change, but

how change should occur. As you know, institutions must provide entrance counseling before delivering a disbursement to a first-time student loan borrower in order to inform the students their rights and responsibilities.

The main concern was folks felt that the format and timing needed to be modified, especially a lot of individuals wanted to tailor when they gave entrance counseling to their students, that it could be later in the process, that it didn't have to always be at the beginning. Some members felt that it applied one standard to all students and didn't address the unique needs of different populations. And some felt that they should be allowed to determine when to fill this requirement based on the profiles of their students. No one really challenged that entrance counseling should exist.

So based on some things that we heard, we believe that they standard require entrance counseling as part of the master promissory note process so that it ties it closer to the action of signing up for a loan, and they get the basic information on rights and responsibilities, and that schools could be allowed to supplement that in any way they see fit, even if they want to delay disbursements themselves, even though they've complicated requirement, in order to provide financial literacy or more detailed or different types of entrance counseling to supplement.

FSEOG priority awarding criteria. This is statutory language, not just regulation requires FSEOGs to be awarded to students with the lowest expected family contributions as a priority. Some were concerned about this because forcing the lowest order of EFC as a priority, often students in those lower categories have larger grant aid, so they have less unmet need than other Pell recipients who didn't receive as much grant aid and wanted to be able to turn that out. Folks were very adamant, though, that it not be just on highest unmet need, that it had to be highest unmet need of Pell recipients in order to really target those who neediest.

Those who responding to the survey perceived this regulation as having the lowest level of burden of the 15 that were identified in the study, and they really favored modifying the criteria rather than eliminating it.

So in the line with those findings, we're suggesting that they require an institutions to award FSEOG funds first to its Pell grant recipients with the highest unmet need, so it ties it together. However, we're further suggesting that unmet need for this

purpose be defined as cost minus EFC, minus grant aid, and not loans, so that it really targets those folks who are the most neediest after grants and scholarship aid are considered.

On over-awarded, overpayment tolerances, as you're aware, an over-award occurs when a student receive aid in excess of demonstrated need or beyond an amount for which the student is other eligible. Primarily, these over-award tolerances exist in the campus-based programs. They don't exist in the Pell grant program at all. If there's any change in Pell grand eligibility, you must adjust the aid. And for the most part, it doesn't occur for loans except to the extent that once a loan is fully disbursed if aids you weren't aware about came in, you don't have to return the loans. But tolerances do exist within different Federal Student Aid programs, and overpayments occur when resolution of an over-award isn't feasible.

A lot of folks said the overpayments restricted students' eligibility for further student aid, and really, that it often required multiple calculations and it was a very manual process to resolve all these conflicting issues of different over-award policies and proposals. So the suggestion has been to modify the regulations to allow a single aggregate tolerance that applies across all federal programs except for Pell, since it has the strict rules, and it changed the legislative language may be required to accommodate this. So that was the resolution for the over-award tolerances issue.

When we look at prior year award charges, the current regs provide authority for an institution to apply current award year federal aid to allowable charges from a prior award year up to a maximum of $200.00. This is automatic. Used to, you had to get a student's permission to apply it to a prior year, but the regs changed a while back to allow you to do that automatically up to $200.00.

The concern is that if students have an unpaid balance from a prior year due to a variety of reasons, that it prevents enrolment in current and future period of enrollment. A number of individuals advocated for raising the cap, rather than eliminating it because they recognized that could create a cycle, that if you're using current year to pay past year, then it leaves you with a negative on the current year, and it just can cycle on into an ever-ending battle. Most often, folks suggested the amounts be raised to between $500.00 and $1,000.00 to revise that maximum to accommodate this issue.

this was one where there was lot of differences of opinion, so

we're saying one of these two should be pursued to either raise the maximum to a certain level, or modify the regs to eliminate the maximum, consider whether elimination should be replaced with a requirement to have written authorization or an opt-out provision if you're going to eliminate it, that there should be some level of protection there and the students need to have a voice in how their funds are used in order to have sufficient funds to pay for current year costs, not just institutional charges.

All right. Proration of annual _____. This is the one that that last bullet on the slide shows you received the highest percentage of votes for being able to be eliminated without losing necessary protections.

[Laughter]

Folks felt very strongly about this one. And this is what I want to clarify is the proration of annual loan limits where a student who's in a program that's longer than an academic year, is enrolled for a period less than an academic year, this doesn't apply to programs that are less than an academic year. So those were that final period of enrollment.

Folks felt that the rule limited financial assistance, penalized students who were closes to the program completion, led to unnecessarily borrowing from usually private loans which have high interest rate, less beneficial terms, and was overall just an administrative burden 'cause it was so manual and rarely are there any systems out there that can handle this in an automated fashion.

They also felt it was duplicative because annual and aggregate loan limits already limit folks, and there was a real concern over not understanding why you're gonna limit someone who's getting ready to graduate, and you don't limit, for example, a sophomore who's chosen to go only one semester out of a two-semester year. So that was the concern heard loud and clear. We say, "Eliminate the requirement to prorate the annual loan limit for a student borrower enrolled in a program longer than one academic year and in a final period enrollment." Clean and simple. It doesn't seem to have any negative effects, and it doesn't seem that it would raise the deficit any significant amount, because the students are gonna go to different borrowing, anyway.

Now sort of the biggie *[laughs]*, the reporting and consumer disclosure requirements. As you know, there's an entire variety of reporting that the institutions must do, and disclosures that you

must make. And this was really two different regulations in one. We had this as two separate issues on the survey, 'cause as we heard and as we've tried to sort through, well, some felt this was unnecessary. Others felt this duplicative. And rather than pick apart one or the other, we looked at it in aggregate. And it really came down to two major issues, the overlapping and inconsistent timeframes that are involved in all of these reporting and disclosure requirements, as well as the expanding volume and scope of all of these.

So regarding issues of overlapping and inconsistent timeframes, there was a suggestion that federal reporting and disclosure requirements often overlap and duplicate similar requirements from state agencies or non-governmental organizations, so the similar data to multiple places. This includes different deadlines for submitting the reports, as well as timeframes for data collection, so it's not only are you collecting the data on a calendar year basis for the state and reporting it as award year data for the feds, but also you're having to when you submit those reports, sometimes often during very busy times of the year, or you're doing multiple times and it's just a very difficult process to sort those different timeframes out and report during different timeframes.

And others suggested the consumer disclosures from all sources, federal or state, need to be combined and standardized in order to minimize overlap, inconsistency, and duplication, and, ultimately, confusion for students and families.

Many suggested that additions to and modifications – this is sort of moving to the second topic now – have just added to the volume and scope of reports and disclosures that must be made and this volume and scope is overwhelming for students and families, and contributes to confusion rather than awareness, which was the goal of reporting the data and disclosing the information to begin with. Many felt that an overhaul was necessary to ensure appropriate information data are brief shared as effectively as possible, and they started the regs, provide useful information to students or parents, and, furthermore, that the data definitions, what's going into, how the data are defined, what they mean, needs and overhaul.

To that end, we made I believe it's four recommendations. This is the first one. Yep. Set one of four. The first thing that needs to happen is to conduct an audit of all, first, data collection timeframes to assess the periods covered in each requirement in

order to align the timeframes and reduce duplication. We say ensure collection, produce information to students and families needed and can easily understand. Really, what this is look at is to ensure if it's reported elsewhere, can we use that data. If it's reported to the state, can state become the collection or if the feds are collecting it and the states wanted, to just align those different timeframes and the different data sources.

Second, would be the data submission and disclosure dates to ensure appropriate distribution across the calendar and award year for the institutions to have to do their submission and disclosures. The goal should be efficient timing for submission of data and release of information, with also a consideration of the consumers, of when they need that information most, so that it's there at the appropriate times. And that, also, there should be an audit of all the reporting and disclosure requirements in order to reduce redundant or conflicting information requested or reported. That would be in duplication to different agencies, and determine whether that data's available in other areas and could be used or centralized.

The second of the four solutions is to synchronize and combine data reporting to one location to the extent practicable. For example, the number one recommendation that came from the community was make IPEDS a central repository so that everybody uses a similar process and data is collected and gathered and sense and access from a central repository. And it could be another one. That was just an example.

The third on was to examine the feasibility of adjusting data collection definitions to include all types of students enrolled in all degree or certificate program types and formats, rather than just for a number of the federal data reporting requirements, those who are full time and enrolled in the fall, that it really starts to get a picture so that there's data out there for everybody who's enrolled as a non-traditional formats and non-traditional students have really exploded.

Also, to conduct focus groups with students and families regarding what information they need and want to make college=going decisions, and how they identify and process it. As well know, technology has changed dramatically in the way people access information. And there needs to really be just step back and look at how students and families, both nontraditional and traditional are consuming information, what they want, and what they need in order to make college-going decisions.

Hopefully, we also recommend that as these audits or focus groups are conducted, that they actually include students and families, and not necessarily just representative of associations, but actual students and families who are going through the process.

Return of Title IV funds. I don't think anybody's shocked to see this one on the list, either.

As you know, when a student withdraws, the institution must determine an amount of aid that must be returned in proportion to the percentage of attendance that the student attended. Member of the committee clearly said this has become confusing, very complex, very burdensome to administer, not only for institutions, but for students, to know what the expectations are. But I want to get across the point, and folks asked to make sure we were very clear on this, nobody's saying they don't think that a student who withdraws shouldn't have to pay something back. They're not saying get rid of the return of Title IV. The collective voice was, "Please simplify it. Make it much more streamlined."

And the other aspect to it, just simply then the overhaul, is that it should rely less on prescriptive formulas, and allow for more institutional discretion, such as flexibility in the order of return of funds. A very specific example came up on that where if you're at an institution and you know a student who has a TEACH Grant isn't gonna fulfill their requirements and it's convert to a loan with capitalized interest, that you be allowed to return that ahead of returning thing to a subsidized loan, to minimize the impact on what will happen when that student has to start repaying that.

Therefore, because this was so broad in asking for simplification, this was another one where we're suggesting that the department conduct a focus group of representatives from all sectors of Higher ED, as well as students to review all the requirements for the return of Title IV so that they can recommend areas for streamlining and simplification, because it just seems that there's not simply one area, that the whole set of regs needs to be looked at and reviewed, and that there should be a modification to allow for discretion when a change of the order that exists would benefit the student, that it's not random discretion, that it has to be demonstrated that would benefit the student, and that's why they're changing the order.

For the next regulation which is the return of uncashed credit balance checks, the current _____ require that a check written t a

student or parent for a credit balance of Federal Student Aid funds be negotiated within 240 days of the date of the check or the funds must be returned to the student aid programs as opposed to being allowed to a sheet, or what's called revert back to the staff. A number of members of the community suggested this time frame to chose, because of the of states or even financial institutions have different deadlines that make the 240-day deadline too short, and wanted it to be at least 365 days.

Others said, "Wait a minute. No, 365 or more is too long." But they recognized there needs to be something in between those two because of those states or financial institutions that have different deadlines. So the suggestion that we received to sort of breach the two is allow the deadline to be extended to meet the longer of 240 or the state or financial institution's deadline. And then possibly pursue the idea of allowing the option for a Title IV credit balance that are about a sheet, to be used first to reduce the students federal education loan bid, then any remaining amounts would be returned to the Federal Student Aid programs.

This is really because those funds would be returned and lost for the student, and there are restrictions right now of using Federal Student Aid funds to pay down debt, so it would probably require legislative action if that's gonna be pursued. If those fund were gonna be lost anyway, and the student had earned them, then they could be used to pay down debt if you couldn't get those funds into the students' hand.

Self-certification of non-Title IV student loans. Folks maybe remember this, the change in the TILA, the Truth in Lending Act, made some changes where institution participating in the Federal Student Aid programs had to provide an applicant for a non-Title IV, so a non-direct loan, or not a Perkins loan, with a self-certification form and the information to complete the form as well as some disclosures if the institution has that information.

Members of the committee express that this doesn't apply to all forms of student loans, that there are other federal loans that are student loans that aren't Title IV, such as the Health Professions loans. They're given a disclosure that says you should pursue other federal loans when that is a federal loan, that it create redundancy inconsistency, and confusion for students, and that also all student loans, federal or otherwise, should be certified by its designated official at the institution, and not the student, so that the institution is aware of any loans that are being used for educational purposes.

The proposed solution is that the regs exclude all federal student loans from these disclosures. Simply what that means is that it says, "Please avail yourself of all federal loans that are available to you." If you're getting a federal loan, you really are.

That the department should require certification of all non-Title IV student loans by the institution's designated official for administering student financial aid programs. We heard some feedback that folks were saying, "Well, it's not always in the financial aid office that continuing ED students who aren't gonna be eligible for any Title IV student loan it's handled by the continuing ED office. That's fine. We're saying whoever the institutions designates, but that it should be an institutional officials who's authorizing and certifying eligibility for loans.

And the third one is exempt institutional loans from the students self-certification requirement as long as the institution's designated official is administering. We heard from a number of folks who said that they had large institutional loan programs and they had to get the student to certify the loan that they were going to then process. Just it doesn't make sense in that situation, so we believe – we heard and are expressing that the way the community feels.

TEACH Grants, on this one we really tried to work out whether folks just didn't like the program, versus they thought it was burdensome, because we were focusing on burden. As you know, the TEACH Grant provides grant assistants to students in exchange for agreeing to teach in a high-need field, in elementary or a secondary school serving low-income students for a number of years after they complete their program. If the student doesn't meet all those terms, it converts to an unsubsidized loan with interest, capitalizing back to when the grant was awarded.

Some suggested that the inconsistency of means through which they can realize the benefits makes it difficult to determine this award is appropriate for. Others have suggested that intensive counseling and research is necessary to administer the programs and that makes it burdensome. A lot of folks said a lot of that essence of counseling is partly that folks need to be aware that this is really a loan, not a grant.

And finally, the terms of the benefits are very complex and misunderstood by students even after the intensive counseling.

So the proposed solution is to at least modify the TEACH Program

so it is identified as a loan initially, with the possibility of the loan being forgiven or canceled if the student fulfills terms of teaching service, and then extend the term of qualifying service for exceptional circumstances due to no fault of the student, such as the closing o an eligibility school. There are certain circumstances that already exist, but this is a further clarification that if it can be proven that it's no fault of the student, it should be extended.

For I think is our next to last one, the written authorization to open a bank account on behalf of the student. This is for an institution with a policy of delivering any Title IV credit balances through electronic means only, that the regs requiring institution to obtain the student's written authorization in order to open a bank account on the student's behalf if the student doesn't designate a bank account with an established timeframe. We heard from a lot of folks that this was a burdensome because it was costly to mail the checks to these students, and that it was also burdensome when the vast majority of folks are receiving electronic payments and for the few who don't get back to them, that it creates a burden for them to deliver those checks.

However, a lot of folks and a significant number said, "Wait a minute, I don't think schools should be opening a bank account on a student's behalf without their knowledge, "and that it needs to remain in place in order to protect the consumer. So hearing lots of both sides, we sort of said, "There needs to be more discussion on this 'cause if it's really that big of a burden, both sides need to get together and talk about what needs to be done." So have a focus group of representatives from the hiring community, especially students, and especially students now who are using so many different means for accessing their accounts, et cetera, to discuss the perceived burden, because we just didn't feel comfortable advancing one side of the argument over the other, because it was really pretty much split, but everybody seemed to agree it was a little bit of a problem.

The last one has already been eliminated, but this is the year-round Pell, the two Pells in award year. But folks said, "Please don't leave the out of the report, 'cause we want our voice heard on this, especially because," they said it was so prescriptive and that the definitions, especially for acceleration, were so problematic and burdensome on institutions that they wanted Congress and the department to hear their voices once again about their concerns over regulating in this way, and should these regs ever be reinstated, to please minimize this.

So our advice, based on what we heard from the committee is to make the provisions less prescriptive. For example, allow acceleration to be determined by the percentage of federal Pell grant funds used during the current award year, and if a student goes over that 100 percent, then you start the second, that it's not a prescriptive calculation beginning with the 25th credit hour, et cetera, that you have to do those types of calculations.

And then also to revise those regs, should they come back, to allow institutions to establish a policy for defining to which award year a crossover period goes, and use that policy consistently rather than having to d a per-student calculation to determine which ones gonna give them the largest award. Understanding that if folks want to do that, ultimately it's in the best interest of the student to receive t he larger award, but sometimes that can throw the student off of when they're gonna be getting additional funds.

All right. Those were the need of the 15 regs. So I'm gonna now move onto the system components. The first one was eligibility and compliance monitoring, and really, what we mean by this are the processes where schools are recertifying their strategy to participate in the programs, as well as the accreditation processes, and in addition, program reviews and audits. So those types of processes, are those identifying problem areas and being taken back to inform negotiated rule making to say, "You know what? This may be too complex, because these keep overpayment integrating up in our audit areas.

The majority of comments said, "Overall, we think these processes are working," but you the plurality of respondents said it was only marginally effective. And most folks said they felt the department could better use findings from these processes to propose changes to the regs. So in essence, that's what we're recommending, to use the monitoring processes to better emphasize, also, while they're doing them, that it's an institution-wide responsibility, not just a financial aid office responsibility to comply with the regs, and that the department should routinely send communications to individuals listed on an institution's application to participate in the Title IV programs to describe that institutional wide compliance.

Also, be sure to incorporate those problem areas identified in the monitoring processes in negotiations, or the retrospective reviews as well. For negotiated rule-making, as most of you know, negotiated rule making is the process where the Department of ED sets an agenda after public comment with members of the

community who are called non-federal negotiators to discuss proposed changes to the regs or new regs.

And then try to reach what's called consensus, which really is a lack of dissent, so all the non-federal negotiators and the federal negotiators at the end, nobody can dissent on what that proposed language is in order for it to pass, or if there's even one dissent and the department can be the dissenter, the department can write whatever they want when they propose the reg for the proposed stage for the comment to comment at large survey respondents and all the debrief we received throughout the study felt that overall negotiated rule-making was a good thing. We gave the survey-takers the option to say, "It doesn't work at all. Scrap it. Start with something new." And they pretty much rejected that and said, "No, we think overall it worked, but there's certain components that are need to be tweaked or improved. And it failed around three areas. One was how that consensus is reached on the proposed regulatory packages, how participation and feedback occurs during the negotiated rulemaking sessions, and then issues related to the master calendar process.

The first proposed solution is that they allow majority consensus, or even super-majority, maybe 67 percent of the folks around the table to help minimize – folks really commented on how over the years the process has degraded. When negotiated rulemaking began in the '90s consensus was reached on every one of the packages. And recently, it's rare if any consensus is reached on a package, so there's a concern that the process has degraded, and they want to pursue the concept of a super majority process for gaining consensus.

Also, to limit the number of topics per committee. I think there was a concern over at least the last couple of rounds that the number of topics each committee was having to deal with to research, to process, to understand, to talk to their constituents, and fellow colleagues in order to get feedback on was so broad that they didn't feel there was a strong enough analysis in order to reach agreement.

Also, modify the selection of non-federal negotiators to require a minimum percentage of practitioners at the table in order to provide that practical level advice.

Consider alternative observation and participation, such as providing streaming video because not everybody can pay the cost to attend, or devote the time, but now with the Internet advances as they are, streaming video would allow people to review and

possibly participate in other ways.

The one that received the most support was this next one, to put guidance on a master calendar, that the guidance such as the Dear Colleagues, and Federal Student Aid handbook should be put on a master calendar that is if the guidance has to be published by a certain date in order to be effective by a following date, similar to the way the regs are. If the regs aren't published by November 1, they're not effective until two July 1s later. So it's similar that the guidance needs to be published in a more timely way.

To modify the master calendar itself, to require a minimum timeframe of one year from the publication of a final rule, to when implementation would occur, if that new or proposed reg would require significant systems or procedural modifications. I think a lot of folks said, especially the two Pells in an award year, ACG and SMART, and all of those changes, it was just too rapid-fire and the systems couldn't handle it with everything else that was going on. And, also, to expand the timeframe for public response from a minimum of 30 days to a minimum of 60 days to ensure that folks have sufficient time to review the regs. Understand that the department generally has been giving 45 days, but I think folks were looking for a minimum of 60.

The other system issue was the federal burden calculations. As you may be aware, we had two groups of folks in the survey, office administrators and senior executives. We only asked office administrators about the federal burden calculations, and these are calculations that the department or the Office of Management and Budget, publish in the Federal Register whenever there's a new or changed regulation to inform the community of what their anticipation is of what the burden would be to comply with this regulation. They also do this if you must submit data, if there's any data collections, there's burden hour calculations of what it would take to complete or submit that data.

This was interesting one in that on the survey, 35 percent of the office administrators who responded said they were unfamiliar with the regulatory burden calculations, and an additional 35 percent didn't even know they existed. So that's 70 percent of the 1,600 folks who responded as an office administrator said they were either unaware or unfamiliar. Of that list and a third, that remaining 30 percent who said they were familiar, more than 70 percent of that group found them inaccurate or highly inaccurate, indicating that they either seldom or never matched the burden hours that they experienced on their campus.

So with that in mind, because that was such a large percentage of folks who weren't even aware that they existed or weren't familiar with them, we think first there needs to be an awareness campaign conducted by the department, and/or Office of Management and Budget to educate the Higher Education community as to when and where such calculations are published, and how they're derived just so that they become more practical and so that they can be judged, because then the next thing would be to really kind of settle down to see, are these accurate calculations, because if that can be a mechanism to help the community be prepared for what this reg may entail, we think that would be much more helpful.

Use of savings. This is not gonna follow the sort of perceived problems, proposed solutions one because we really were trying to reach out on this one to see did the community believe that savings from reform to either the system of regulation or changes to the individual regulations, if they were modified or eliminated, would there really be any appreciable savings generated from those changes. As the slide notes, when we looked at the survey responses, pretty much across the board, folks felt that cost and time, not just cost savings, but timesaving would occur if the regs and the system were reformed.

Most likely the use of savings would be expanding counseling or customer services, which was an indicator that time would be the biggest saver from alleviating some of the burden, and also increasing student focus programs such as financial literacy programs, that those could be expanded on campus if they didn't have to spend so much time on some of these regs. And then also if there were some cost savings, those most likely would go to institutional need-based financial aid programs.

Of the ones we gave, we gave a list of 13, the ones that were least likely and least supported as a result of cost and timesavings, would be – wait a minute. I got confused. I'm on the performance indicators, but not this one – that these would not negatively impact accountability, program integrity, student access, or student success.

All right. We also were trying to ask about alternatives to the current one-size-fits-all approach that exists under the regs, that it applies to all sectors, with one type of reg. And resoundingly, folks said that the community felt this one-size-fits-all approach is a significant factor of creating this overly burdensome perception

in the community. In looking at alternatives, we presented performance-based, sector=specific, and research-based waivers, similar to the experimental sites initiative. And no matter what sector the respondents came from the number one support was for performance-based measures, those triggers that would give you regulatory relief if you met a certain performance threshold.

There were very strong differences of opinion regarding the use of sector-specific, and that's really not a surprise 'cause I think each sector thinks the other should be held more accountable, et cetera. So there was a lot of enthusiasm, and then there was a lot of negative feedback, but everybody tended to support performance-based.

And regarding the research-based waivers, similar to the experimental sites, folks said, "You know what? We really like these, but we don't really see any changes coming out of them, so we're not sure that they would be handled, so why do the extra work of conducting the research?" and some folks say, as we saw in this morning's presentation, the experiments now seem to be geared towards policy proposals and less towards regulatory relief. So looks like the way is performance based.

To that end, we say that the community suggested exploring the feasibility of using alternative regulatory structures, and we're saying it's primarily performance-based. They should also look at expanding the use of regulatory compliance related _____ based on research, and sector-specific to look at it, but that largely is probably gonna be performance based.

And on performance indicators, we kind of kept this as a separate issue, and this is the one that I started to think I was on. We gave list of 13 different performance indicators to senior executives. These were presidents, vice presidents, provosts, and said, "What do you think would be the most appropriate performance indicators at your institution that could say for performance measures that could trigger regulatory relief?" And the ones that received the most support were, as you can see there consecutive years of audit with no material findings. The general concept that means if you're administering the programs without any findings, you're obviously doing something right, and may be able to get some regulatory relief.

Others are if you're meeting goals of retaining students, or graduating students, or retaining them all the way through to graduation, whatever those different rates are, those are the ones

that most senior executives seem to rally around.

The ones that received the least amount of support were the cost-per-FTE student that as long as there weren't large rises in those, the diversity of the graduating class, job placement rates, rates of acceptance to grad or professional programs, and student test score benchmarks. A lot of folks felt that those weren't appropriate. And there've been other discussions, and people have raised other benchmarks, and that's why in essence, we're saying the department should consider improving the system by engaging the Higher Ed community in a policy discussion of which measures may be the ones that are most suitable, and to which regulation a measure should apply. So which regs should each performance measure relieve if it's implemented.

And for advancing future regulatory reform, the community agreed overwhelmingly that – 'cause we gave 'em – how should things occur in the future, and one of the options was, "Nothing. There should be no more future reg reform efforts," and everybody got behind that that was the most unhelpful thing to do. The three at the bottom were the ones that folks gave the most support to, having a comprehensive study of all regulations, not just the HEA regs, but all regulations, IRS, OSCHA, all those many regs.

A second one would be to further study the HEA regs. Could take this and go on a little further with it, or do a thorough review of the HEA regs by adding partnership with the Higher ED community, which is sort of what we were talking about with the recommendation of expanding the retrospective reviews, and having the review panels there.

So based on that, we're saying that the department or an independent entity, and this kind of gets at the issue of folks' hesitance to go on the record, that maybe an independent entity should conduct a comprehensive, scientific review and analysis of all regs. Now Congress has charged this study to be conducted by the National Research Council, but it's not received any funding. So it's on the books, but it hasn't been funded yet. And we're also saying that the existing retrospective review plan should incorporate such a review and analysis and be carried out no less frequently than biannually.

With that, I have wrapped up the essence of the final report of the Higher ED reg study. Hope that it comes across that we've listened a lot. We've tried to refine the recommendations, and put forth some proposals so that the department and Congress can look

at these and see if there's anything that can be moved forward to alleviate some of the burden and at least continue the conversations of not only individual regs, but the reg system and how to modify it.

With that, I'll let Janet help me monitor who has questions.

Janet Chen: Yes, we have a little less than 20 minutes left, in this session, and we're happy to answer any questions that you may have, so feel free to raise your hand, if you have a question, and we can get started. Yes.

Audience: *[Inaudible comment]*

Anthony Jones: Thank you. Justin Drager so NASFA asked, "As soon as it's released, can we know about it?" Said, "Absolutely." So we've already forwarded that to him and hope that – 'cause this is really the study 'cause we've listened to the community and tried to put that into this report and characterize it this way of this is what the community is saying. So as of now, it's out of our hands, so hopefully, you're right, it will be heard, but appreciate the feedback.

Anybody else.

Audience: *[Inaudible comment]*

Anthony Jones: That's always – you never know what's gonna happen when you release a study. We did a briefing on Capitol Hill and 25 folks were there from the HELP, the Higher Ed Labor and Pensions Committee on the senate side, and the ED and workforce committee on the House side. Seemed to be very interested. So we'll see what happens, 'cause it's fairly benign to say charge some panels to sit with the department to review these and make further recommendations. But there's a lot going on right now, fingers crossed, we hope.

Our sense is we've had positive feedback. In fact, some folks, especially on the senate side said, "Wow, this is exactly what we were wanting. We were wanting some specific solutions." So hopefully, this will help.

There was somebody over here.

Audience: I just want to applaud _____ about your group and documented _____ Pell Grant _____ legislation taking place. The frustrating

part is that how much time and money went into _____ to implement that just to be told _____.

Anthony Jones: It's gone.

Audience: So I don't know if that's something further that can be identified _____ feel like this isn't gonna work out _____.

Anthony Jones: Sure. We can pass it along, 'cause folks said that similar to ACG and SMART and then two Pells as well. There was somebody else I thought, over at this side.

Audience: Since we're in Vegas, I just wanna know your projection _____ odds on _____ will go away.

[Laughter]

Month and year.

Anthony Jones: *[Laughs]* I'm not a betting man. *[Laughs]* No, who knows. Of course, there would have to be an analysis of would it raise the costs and by how much. So when any of this would be taken up, that's why we sort of recommended there be an immediate review, because that one in particular would require legislative action because the department's legal council had reviewed that before and said, "No, it seems to be clear in the statute," that requires us to do the proration. So it seems the department couldn't make that one on their own, that they would need Congress' help.

Audience: It's just that there are years and years of experimental _____ very frustrating _____.

Anthony Jones: True. It is. And that is a true characterization of exactly what we've heard throughout about _____ and why it was the number one rated for elimination without causing negative effects. Anybody else? Yes, ma'am.

Audience: As of right now, this study ended as of this morning, with the release of the final report, and we've briefed all the parties in advance of its release. So as far as the reg study, without any future action from Congress, Congress can at any time give us an ad hoc request to do additional work, so it's always up to that. But as of right now, we don't have any other requests to proceed further than this.

All right. Well, we thank you for your time and attention, for your

good questions. And, again, as Norm said, it'll be up on the website next week. If you want a copy of it sooner than that, our e-mail information is on the slides. Thank you so much.

[Applause]