

**RECALIBRATING REGULATION OF COLLEGES AND  
UNIVERSITIES: A REPORT FROM THE TASK  
FORCE ON GOVERNMENT REGULATION OF  
HIGHER EDUCATION**

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**HEARING**  
OF THE  
**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS**  
**UNITED STATES SENATE**  
**ONE HUNDRED FOURTEENTH CONGRESS**

FIRST SESSION

ON

EXAMINING RECALIBRATING REGULATION OF COLLEGES AND UNIVER-  
SITIES, FOCUSING ON A REPORT FROM THE TASK FORCE ON GOV-  
ERNMENT REGULATION OF HIGHER EDUCATION

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FEBRUARY 24, 2015  
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**RECALIBRATING REGULATION OF COLLEGES  
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**TUESDAY, FEBRUARY 24, 2015**

U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:02 a.m., in room 430, Dirksen Senate Office Building, Hon. Lamar Alexander, chairman of the committee, presiding.

Present: Senators Alexander, Burr, Murray, Mikulski, Bennet, and Warren.

OPENING STATEMENT OF SENATOR ALEXANDER

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order.

This morning we're having our first hearing in this Congress of the reauthorization of the Higher Education Act which will focus on the final report of the Task Force on Government Regulation of Higher Education.

Senator Murray and I will each have an opening statement, then we'll introduce our panel of witnesses. Senator Mikulski will introduce one of the witnesses and at that time make whatever comments she would like to make because she has to leave at about 10:30 for another hearing. After our witness testimony, Senators will have 5 minutes of questions.

Sometimes it's best to approach a subject with examples, so let me use three. More than a year ago, Vanderbilt University had the Boston Consulting Group determine how much it cost the University to comply with Federal rules and regulations on higher education. The answer: \$150 million, or 11 percent of the University's total non-hospital expenditures last year. Let me repeat that. In 1 year, \$150 million, or 11 percent of the University's total non-hospital expenditures.

Vanderbilt Chancellor Nick Zeppos, who will testify today, says that this adds about \$11,000 in additional tuition per year for each of the University's 12,757 students. I met a parent this morning, Chancellor Zeppos, who said he's sending his \$11,000 already.

The second example. Each year, 20 million American families fill out a complicated, 108-question form called the FAFSA, Free Application for Federal Student Aid, to obtain a grant or loan to help pay for college. Experts who testified before this committee last

year, a hearing Senator Harkin presided over, said that answering just two questions would tell the Department of Education 95 percent of what it needs to know to determine a student's eligibility for a grant or a loan: one, what is your family size; and two, what is your family income.

In January, a bipartisan group of six Senators introduced legislation to simplify the student aid application and process, including reducing the 108-question FAFSA form to just two questions. If our legislation becomes law, then families, guidance counselors and admissions officers would save millions of hours. Most importantly, according to financial aid expert Mark Kantrowitz, the complicated 108-question form discourages up to 2 million Americans each year from applying for aid. Last fall, the president of Southwest Tennessee Community College in Memphis told me that the complex form turns away from his campus 1,500 students a semester.

Tennessee has become the first State to make community college tuition free for qualifying students, but first each student must fill out the FAFSA. Now that tuition is free, the principal obstacle for qualified Tennessee students to obtain 2 years of education after high school is not money. It's this unnecessarily complicated Federal form.

And finally, 10 years ago—the third example—then 3 years ago, surveys by the National Academy of Sciences found that principal investigators spend 42 percent of their time associated with Federal research projects on administrative tasks instead of research. I then asked the head of the National Academy what a reasonable percent of time would be for a researcher to spend on administrative tasks. He replied perhaps 10 percent, or even less.

How many billions could we save if we reduced that administrative burden? Taxpayers spend more than \$30 billion a year on research and development at colleges and universities. This year the average annual cost of a National Institutes of Health research project is \$480,000. If we reduce spending on unnecessary red tape by just \$1 billion, the NIH could potentially fund more than a thousand new multi-year grants.

These examples should not be excused as normal, run-of-the-mill problems of government. These examples and others like them represent sloppy, inefficient governing that wastes money, hurts students, discourages productivity, and impedes research. Such waste should be an embarrassment to all of us in the Federal Government, and let me make it clear, let's just not blame President Obama or Secretary Duncan. They have contributed to the problem, but so has every president and every education secretary, and that includes me, since 1965 when the first Higher Education Act was enacted; and the list of those embarrassed should also include the Congress of the United States for year after year adding to and tolerating a pile of conflicting, confusing regulations.

The Higher Education Act totals nearly 1,000 pages. There are over 1,000 pages in the official Code of Federal Regulations devoted to higher education and, on average, every work day the Department of Education issues one new sub-regulatory guidance, directive or clarification. No one is taking time to weed the garden.

The result of this piling up of regulations is that one of the greatest obstacles to innovation and cost-consciousness in higher edu-

cation has become us, the Federal Government. Since all of us created the mess, then it's up to all of us to fix it. That's why more than a year ago four members of this committee, two Democrats, two Republicans, asked a group of distinguished educators to examine the current state of Federal rules and regulations on colleges and universities. We asked them not just to tell us the problem but to give us specific solutions.

They have done so in a remarkable document entitled "Recalibrating Regulation of Colleges and Universities" in which they outline 59 specific regulations, requirements and areas for Congress and the Department of Education to consider, listing 10 especially problematic regulations. I thank Vanderbilt Chancellor Nick Zeppos and Maryland Chancellor Brit Kirwan for leading the effort.

It's a remarkably good report. You did exactly what we asked. Instead of sermons, it was very specific. It was written in plain English. Perhaps we should get whomever wrote your report to write the regulations of the Federal Government. It reminds me of the "Rising Above the Gathering Storm" report of 10 years ago that gave us 10, really 20 things we should do to increase American competitiveness, and because they were specific—and both Senator Murray and Senator Mikulski were involved in this—they eventually got adopted.

This is a blueprint for the future. The report makes clear that colleges and taxpayers expect appropriate regulation, but neither taxpayers nor colleges are well served by the jungle that exists today. Consumer information that is too complicated to understand is worthless. Colleges must report, for example, the amount of foreign gifts they receive, disclose the number of fire drills that occurred. Gainful employment disclosures require 30 different pieces of information for each academic program subject to the regulation. When a student withdraws from college before a certain time, a student's Federal money must be returned by the government. That's a simple concept. Yet the regulation governing this is 200 paragraphs of regulatory text accompanied by 200 pages in the Federal Student Aid Handbook.

The University of Colorado reports they have two full-time staff devoted to this issue, one to do the calculation, the other to recheck the other one's work. Institutions offering distance education are subject to an additional set of bureaucracy that can result in additional cost of a half-million to a million dollars for compliance.

All of these are examples of colleges and universities spending time and money on compliance with Federal rules and not on students. Senator Murray and I will discuss how to develop a bipartisan process to take full advantage of the recommendations in this report and to include many of them in the reauthorization of the Higher Education Act, which we plan to do this year. We'll schedule additional hearings to gather comment on the report from institutions who are not directly involved with the report, and we'll hear from consumers of higher education, including parents, students, and taxpayers.

Some of the recommendations require change in the law. Many can be fixed by the Department itself. I've talked with Secretary Duncan several times about this, most recently on Friday. He's eager to do his part. I look forward to working with him and Presi-

dent Obama on eliminating unnecessary red tape, saving students money, and removing unnecessary regulatory obstacles to innovation in the best system of higher education in the world.

This is not a new subject for me. One of the first things I did as a U.S. Senator in 2003 was to try to simplify student aid, and I'm told the net result of my efforts was the reduction of approximately seven questions on the Federal Student Aid form. Those have been replaced by many more now.

I authored a provision in the bill of the Higher Education Act of 2008 that required the Secretary of Education to publish a compliance calendar so schools could see all of their deadlines month-by-month, day-by-day. Unfortunately, 7 years later, the Department of Education has been unable to produce such a calendar. With bipartisan support and this groundbreaking report, the one we have today, I'm counting on this effort to get a lot farther than the one 10 years ago.

Now we'll go to Senator Murray for her comments, and then to Senator Mikulski to introduce a witness and to make comments.

Senator Murray.

#### OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Well, thank you very much, Mr. Chairman. This is, of course, our first hearing on higher education, and I'm really glad that we're beginning our conversations on this topic.

Higher education and job training is really critical to making sure we have the economic strength of our middle class, and I personally know this is true because I saw it with my own family growing up. My dad was diagnosed with multiple sclerosis when I was a teenager. It wasn't long before he couldn't work, and without warning my own family had fallen on hard times. But because of strong Federal investments, my brothers and sisters and I got a good public education and we were able to afford to go to college with the help of Pell Grants and other Federal aid programs.

Higher education and training was critical for my family to succeed and ensure we had a foothold into the middle class. I continue to believe it is a crucial part of building an economy that works for all families, not just the wealthiest few.

In my new role here on this committee as Ranking Member, I'm going to continue to focus on making sure that students have access to a college education and safe learning environments. I'll be looking for ways to make college more affordable. I'll be working to reduce the crushing burden of student debt that limits so many families across the country today.

Today, we are going to be talking about the recent report from the Task Force on Federal Regulation of Higher Education. I, too, want to really thank Senators Alexander and Burr, Mikulski and Bennet for spearheading the creation of this Task Force. I'm also glad the two co-chairs of the Task Force could join us today to discuss their findings and recommendations.

I'm also looking forward to our next hearing that will bring in the voices of students and more diverse types of institutions that provide postsecondary opportunities.

At colleges and universities, we need to make sure that students and families have accurate consumer information, that students

have a safe learning environment, and that the \$150 billion in Federal taxpayer dollars we invest in these institutions each year are well spent.

Of course, it is important to make sure colleges and universities can work efficiently and effectively, and I am open to ways to improve our rulemaking process. At the same time, it would be a mistake to roll back important protections for faculty, students, and families.

We should also be improving our current protections. Right now, families and students aren't able to access basic, but essential, consumer information on their college or university, like useful graduation and transfer rates, average student debt, or expected earnings.

When students are deciding where to attend, they should have the tools to find out if their college or university will give them a good return on their investment and hard work. They have a right to know before they go. I was glad to see the report shine a light on the need to improve the Federal data systems that we have.

Today, more and more students and families are dealing with the crushing burden of student debt. Colleges and universities should be accountable for high-quality outcomes that don't leave students with debt they struggle to repay.

The report highlights the need to focus our rules of the road on risky institutions, and I welcome our witnesses' suggestions in this area.

And finally, as I mentioned, I'm very focused on making sure students have a safe learning environment, especially when it comes to preventing violence and sexual assault on campus. Both the Clery Act and title 9 work to build safer campuses and protect students. Last year, important strides were made through the Violence Against Women Act that will help prevent crimes like stalking and domestic violence and dating violence on campus. We shouldn't move in the wrong direction by unraveling these core protections that provide our students with a safe learning environment. In fact, we need to build on our work because all students have the right to further their education without the fear of sexual assault.

Here on this committee, I'm looking forward to working with Chairman Alexander and our committee members over the next several months to reauthorize the Higher Education Act in a bipartisan way so we can make sure that hard-working Americans, regardless of where they live or where they went to school, or where and if their parents went to college, or how much money they make, can continue to have access to the opportunities that my family did.

I look forward to hearing from our witnesses today. Again, I thank all of you for your tremendous work on this important issue.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murray.

During the last Congress, we had a number of very good hearings on higher education, and this is our first one in this Congress, as Senator Murray said and as I said. It will probably be April before we can get to another one, and between now and then Senator

Murray and I will talk about how to develop the bipartisan process that we both hope to create.

I will introduce Chancellor Zeppos and then turn to Senator Mikulski to introduce her witness and to make whatever comments she would like to make at that time since she may have to leave a little early.

Nick Zeppos was born in Milwaukee, WI. He's Chancellor of Vanderbilt University in Nashville, TN. He's held that position since 2008. He was well prepared for it, having been at Vanderbilt for 28 years prior to that, starting as an assistant professor in the law school. He later was provost, and now he is the chancellor.

I want to express my appreciation to Chancellor Zeppos, as well as Chancellor Kirwan, for giving so much of their valuable time to leading this report.

Senator Mikulski.

#### STATEMENT OF SENATOR MIKULSKI

Senator MIKULSKI. Thank you very much, Mr. Chairman, for your leadership on this, and also the leadership of Senator Murray.

This morning, the Judiciary Committee is also holding a hearing on human trafficking, and all the women of the Senate on a bipartisan basis have joined together to work with our colleagues on really very important legislative steps. I'll be joining Senator Collins to testify and might have to leave here.

This is going to be a great hearing and a wonderful report. When you, Senator Alexander, and I were working on the reauthorization of Higher Education in 2009, we looked at the issue of two things: how can we make sure young people got a very good education when they went to college, to make college more available and make it more affordable; we have focused also on student aid, reforming student aid, improving student aid for the students.

What we also looked at was how can colleges and universities, public and private, control their costs. What emerged in our discussion, and I know in subsequent meetings I had in my own State, the issue of regulation and the regulatory aspects of some regulations that are either outdated or get in the way of each other increased the cost but did not improve either outcome in terms of graduation rates, didn't necessarily improve outcome in terms of quality or innovation, or make sure that our schools were opportunity-driven like title 9, and also the safety concerns that many of us have.

This is where this task force came from, how could we take a look at the regulations and identify the 10 most serious ones that impact the administration of these. These recommendations, just reading them very briefly, really offer a road map on how we can improve quality, improve innovation, what you get when you come to the classroom, make sure that the whole student aid process really works on behalf of the student and that it does lead to jobs, but not necessarily more jobs at the Department of Education to write more regulations requiring job training so that you can get a better job and come to work at the Department of Education so you too can write more regs.

This is no laughing matter. We look forward to hearing this testimony, and I would like to thank both Drs. Kirwan and Zeppos, all

the members of the task force, for their hard work on this. They have done this on their own time. They have put considerable effort, thought, and expertise into this, and I mean to value it.

I'd like to bring to the committee's attention my Chancellor from the University of Maryland, Dr. Kirwan. Dr. Kirwan has been a member of the University of Maryland faculty and administration for 24 years. He's been a distinguished chancellor for 13 years. Before that, Ohio State also was able to claim him.

When you look at all of the wonderful work that the University of Maryland does in educating students here and around the world, because we have something called University College which has served our military since the end of World War II and is now the largest online university run by a land-grant college, it is stunning what has been done.

I would say this to the committee: We would not have Google in the United States of America without Dr. Kirwan. Now, Barbara, where does this come from?

[Laughter.]

Dr. Kirwan, in addition to being such an able chancellor, really is a gifted mathematician. In his work as a mathematician, he went to global conferences or international conferences. There, there was a man named Dr. Brin. Though he could not leave the Soviet Union, he was allowed to attend international mathematical conferences. During the Jimmy Carter era and while we were working on legislation called Jackson-Vanik and the window opened and some people could get out, Dr. Brin knew Dr. Kirwan and said do you think you can help me?

Dr. Kirwan responded. The Board of Regents responded. Not only could Dr. Brin get out of Russia, but he could come to the University of Maryland.

He had a little boy named Sergey. Sergey was really brilliant, a little difficult. He had a unique ability to get out of college by the time he was 17. Then finally, he went through our public schools, goes to the University of Maryland, graduates, goes off to Stanford to work in one of those garages we all hear about.

Well, the rest is history. Sergey Brin, of course, is Google. Had it not been for Chancellor Kirwan meeting Dr. Brin, us doing Jackson-Vanik, the University of Maryland providing a home for Dr. Brin, we would not have Google. That's a fabulous story which shows what good immigration policy can do—

[Laughter.]

Senator MIKULSKI [continuing]. Also, what a gifted, talented, dedicated humanitarian can do. That's Dr. Kirwan.

The CHAIRMAN. Well, that was—thank you, Senator Mikulski.

[Laughter.]

I'll have to give Chancellor Zeppos an even better introduction a little later.

[Laughter.]

We have several Senators who are here who also joined in commissioning the report—Senator Burr and Senator Bennet. If you're going to be able to stay, you'll have a chance. Would you like to make comments just before we start?

Senator BENNET. No. I'd like to hear the witnesses. I want to thank you, Mr. Chairman, and Senators Murray and Mikulski, for

your leadership, putting the commission together. For once, we have a committee that actually works in order. We put the commission together, we're having hearings, and then hopefully we're going to pass a bipartisan bill. Thank you very much for that work.

The CHAIRMAN. Senator Burr, do you want to make any comments?

Senator BURR. Mr. Chairman, only that I felt that Senator Mikulski was going to highlight the entrepreneurial spirit of Google being created with Dr. Kirwan. I welcome our witnesses. I thank the Chair.

The CHAIRMAN. Thank you.

Usually we ask our witnesses to summarize their remarks in 5 minutes, but since there are just two of you, and since you led the report and we're anxious to hear from you, why don't you take up to 10, if you would, please, and then that will give us a chance to ask questions.

Let's start with Dr. Kirwan.

**STATEMENT OF WILLIAM E. "BRIT" KIRWAN, CHANCELLOR,  
UNIVERSITY SYSTEM OF MARYLAND, ADELPHI, MD**

Mr. KIRWAN. Thank you very much, Chairman Alexander. And thank you, Senator Mikulski, for that very nice introduction.

Unfortunately, I didn't get any stock in the Google Corporation as part of that recruitment effort.

In any case, we want to thank Chairman Alexander and Ranking Member Patty Murray for the opportunity to come and make some comments on the report today, and thank the four of you for your vision and leadership in creating this task force.

As Chairman Alexander noted, the task force was charged with studying and recommending ways to reduce Federal regulatory burden on higher education, but—and this is a very critical point which Senator Murray just emphasized—to do so in a way that ensures students, families, and taxpayers all have relevant protections, and ensures Congress that funds are being spent for their intended purpose.

In sum, we were asked to determine smarter regulations and a streamlined process while maintaining a high level of transparency and accountability.

In just a moment my co-chair, Nick Zeppos, will, of course, make some comments, but we agreed that I would lead off.

The task force consisted of 16 presidents and chancellors representing all sectors of higher education. In addition, as part of our work, we visited and interviewed campus officials at 60 different institutions. I also want to acknowledge at the outset the excellent staff support that we received from the American Council for Education. Molly Broad is here, who is president of that task force; and Terry Hartle, who was a key member of the staff that worked with us on this report.

Through the task force's efforts, we've learned that many regulations are well-conceived, address critically important issues for parents, students, and the general public, and provide appropriate means of timely and transparent accountability.

On the other hand, we also discovered that too many regulations are overly complex, confusing to both students and institutions,

and result in costly compliance efforts that are really not helpful to the public or to Congress.

What has happened over the years, in effect, is that measures, regulations, and interpretations have been layered on existing measures and rules, creating a maze of sometimes confusing if not conflicting reporting requirements.

One way to illustrate this fact is that the Higher Education Act is now 1,000 pages long. The regulations supporting this act are another 1,000 pages, and on average the U.S. Department of Education sends one “dear colleague” or other guidance document to higher education institutions, on average, every working day throughout the year.

The substance of our report is really contained in sections 2, 3, and 4. Section 2 addresses the challenges that higher education faces in the current regulatory environment. Section 3 is the list of 10 most problematic regulations, with recommendations for how they could be improved. The final section is recommendations for improvement to the overall process, although it doesn’t do much if we correct 10 regulations but leave a process that could regenerate more problematic regulations in the future. That’s what the final section is about.

I offer just brief comments on Section 3. That’s the list of 10 most problematic regulations, and mention two or three of them, and then Nick Zeppos will comment on the other two sections.

The first regulation I want to speak to is the FAFSA, the form that Chairman Alexander held up just a few moments ago that parents and students must fill out. There’s been, of course, considerable discussion about simplifying this form, which, if possible, would be a great benefit to students and their families, not to mention our higher education institutions. There is a particular requirement with the FAFSA that causes families and institutions enormous problems. Let me explain.

A student currently seeking aid, let’s say for next fall, must provide tax data for calendar year 2014. They’re going to school in the fall of 2015; they have to supply the tax data for calendar year 2014. This creates a significant timing problem because the IRS due date for receiving tax information is not until April 15, a date after the financial aid deadline has passed.

This leads to enormous frustration on the part of students and their parents, and to errors by institutions in rushing to verify tax data. The task force offers what we think is a simple fix to this problem: allow the student in this example to submit 2013 tax information. In other words, not the prior year tax information but the prior-prior year tax information.

The second of the 10 most problematic regulations I’ll mention is one that stifles innovation in higher education delivery, and this is particularly relevant for my institutions in the University of Maryland System because, as Senator Mikulski noted, it includes University of Maryland University College, which is the largest not-for-profit online education institution in the United States.

Now historically, the State requirements for State authorization of distance education were limited to the State where the institution was physically located. In our case, the University of Maryland University College needed State authorization in Maryland.

However, a few years ago the Department of Education fundamentally altered the authorization rules. It now requires that institutions get authorization in every State where a student lives, even if it's only one student in that State. You can imagine the cost and time required for an institution to send lawyers and other staff to each State where one of its online programs enrolls students and go through the timely process of getting authorized in that State.

The task force recommends that Congress re-codify the long-term practice of requiring authorization by the State where the institution exists, not where students reside.

One final recommendation in our top 10 list that I'll just briefly cite, and this is the issue, again one that Chairman Alexander mentioned, and this is the return of title 4 funds, and there is a very sound regulation requirement that says if a student who is getting title 4 funds leaves the institution before the semester is over in which they got the support, they are only entitled to funds for the portion of the semester in which they were enrolled, a very sensible requirement and regulation.

The difficulty arises if a student leaves the institution and there is no record of that student leaving the institution. If the student on departure from the institution actually goes through the process of de-enrolling, withdrawing, then there is a clear record of when the student left and a precise formula about what proportion of the funds that student is entitled to. For many students who leave an institution, they don't formally withdraw. As a result, it becomes very difficult to determine how the funds should be recaptured.

It's a complicated issue and, as Senator Alexander mentioned, there are hundreds of paragraphs describing the process to make this determination, and we think that we need to take out a clean sheet of paper and go back and revisit this regulation, and we have some suggestions and thoughts about how that might occur.

Before turning to my colleague, Chancellor Zeppos, let me return to a very important point. Higher education recognizes, with deep appreciation, the enormous investment the Federal Government makes in higher education through Federal financial aid programs and to our universities' research enterprise. I want to offer special words of appreciation to Senator Mikulski and all of you who have worked so hard to ensure ample research and financial aid funding during these fiscally challenging times.

Federal funds are public funds, and the task force strongly and unanimously supports a rigorous, efficient, and transparent system of accountability to ensure Congress, parents, students, and the general public that these funds are being spent appropriately and to accomplish their intended purpose. Our Nation deserves nothing less.

The task force has endeavored, in effect, to separate the wheat from the chaff through recommendations and processes that can both strengthen and streamline higher education's accountability obligation. Thank you very much for letting me make these comments.

Before I turn to Nick, I just want to recognize Michael Locke from Rasmussen College who is here, and he is a member of our task force, and we appreciate your being here, Michael.

Mr. Chairman, this completes my initial comments.

[The prepared statement of Dr. Kirwan follows:]

PREPARED STATEMENT OF WILLIAM E. "BRIT" KIRWAN

SUMMARY

Chairman Alexander, Senator Murray and committee members, this Task Force was charged to recommend ways to streamline and refocus the Federal regulations impacting higher education. We were asked to identify smarter regulations and improved processes. The task force was comprised of leaders from all sectors of higher education, and conducted visits and interviews with campus officials from more than 60 different institutions.

We in higher education fully understand—and support—the important role that Federal regulations play. Students, colleges, and universities across this country benefit from the strong Federal investment in higher education, including significant funding for student aid programs such as Federal loans, Pell Grants for low-income students, the Federal Work-Study program, TRIO programs, funding targeted to historically black colleges, not to mention Federal funding and grants for university-based research and development.

Many regulations are well-intentioned to address critically important issues. Many regulations are poorly framed, confusing, overly complex, ill-conceived, or poorly executed. Some are even wholly unrelated to the mission of higher education. 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. And, the costs associated with compliance are one of the factors driving rising tuitions and harming affordability. For the past several years, our Nation has been engaged in a conversation on college affordability. All universities and colleges—public and private—need to tighten their belts, reduce costs wherever possible, and emphasize efficiency in their operations.

This report contains broad process reforms ideas as well as recommendations to address 10 specific regulatory areas that have proved particularly challenging. The much-maligned Free Application for Federal Student Aid, or FAFSA. Many students and parents have repeatedly pointed out, their complete tax information isn't available until after the financial aid application deadline has passed. We recommend that FAFSA be revised to allow applicants to submit tax information from 2 years prior rather than the previous year.

The impact of inappropriate regulations often stifle innovations in distance education. The Department altered that landscape by requiring institutions to meet the State authorization laws of every State in which a student—even just a single student—was physically located. As the ability of online education to cast aside geographical boundaries increases, it is counterproductive to erect walls of regulation. Congress should clarify a return to the long-standing interpretation of State authorization so that the resources that now go to attorneys, compliance officers, and tuition surety bonds to get authorization in State after State can be redirected to target access, affordability, and educational innovations.

The next 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 ed 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 every one of the seven different Federal loan repayment programs applicable even though the vast majority use either the standard 10-year or the extended 30-year program. 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.

Many requirements are placed upon higher education that have nothing to do with our mission. These include enforcing Selective Service registration, 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.

The pending reauthorization of the Higher Education Act (HEA) provides a propitious opportunity to not only identify the most costly, burdensome, and confusing Federal regulations, but also develop clear recommendations on how Congress and the Department of Education can streamline and simplify regulatory policies and practices while maintaining—even strengthening—accountability. I want to thank the committee for this opportunity to testify and for the significant time and attention you have given to this important matter.

Good morning. I am Brit Kirwan, Chancellor of the University System of Maryland (USM). I want to thank Chairman Lamar Alexander and Ranking Member Patty Murray for the opportunity to speak to this committee about the need to streamline and refocus the Federal regulations impacting higher education in America today.

As you know, just over a year ago a bipartisan group of U.S. Senators—including Chairman Alexander and HELP Committee members Senator Michael Bennet, Senator Richard Burr, and Senator Barbara Mikulski—charged a task force with studying and recommending ways to reduce the Federal regulatory burden, while still maintaining important protections for students, families, and taxpayers. In short, we were asked to identify smarter regulations and improved processes. The task force was comprised of presidents and chancellors from across all sectors of higher education, and conducted visits and interviews with campus officials from more than 60 different institutions.

I am joined today by my task force co-chair, Vanderbilt University Chancellor Nicholas Zeppos. I would also like to acknowledge the excellent support that the American Council on Education (ACE) provided to our efforts.

My co-chair has asked me to lead off our joint testimony.

By way of background, the University System of Maryland comprises 12 institutions, including research I institutions, comprehensives, historically black institutions, one totally on-line university, and a specialized research institute. We are, in many ways, a microcosm of public higher education and—as such—have first-hand experience with the ramifications of the extensive variety and volume of Federal regulations.

Let me begin my testimony by making a very important point: We in higher education fully understand—and **support**—the important role that Federal regulations play. Students, colleges, and universities across this country benefit from the strong Federal investment in higher education, including significant funding for student aid programs such as Federal loans, Pell Grants for low-income students, the Federal Work-Study program, TRIO programs, funding targeted to historically black colleges, not to mention Federal funding and grants for university-based research and development. I can't let this point pass without thanking my senior Senator from Maryland, Senator Mikulski, for her exceptional efforts with regard to these funding issues. 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 have learned that many regulations are well developed, address critically important issues, and provide appropriate means 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. In addition, 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 universities and colleges—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. The increasing volume and velocity of Federal regulation are captured by one simple metric: The U.S. Department of Education issues more than one document **per workday** providing official guidance to amend or clarify existing rules.

This is why this task force is so important and why I, once again, want to thank the Senators for creating it and supporting it. The pending reauthorization of the Higher Education Act (HEA) provides a propitious opportunity to not only identify the most costly, burdensome, and confusing Federal regulations, but also develop clear recommendations on how Congress and the Department of Education can streamline and simplify regulatory policies and practices while maintaining—even strengthening—accountability.

The task force report contains broad process reforms ideas as well as recommendations to address 10 specific regulations that have proved particularly chal-

lenging. I will outline some of those specific recommendations and Nick will followup with others.

The first I want to speak to is the much-maligned Free Application for Federal Student Aid, or FAFSA. Under existing FAFSA regulations, students are required to enter tax data from the previous year. But as many students and parents have repeatedly pointed out, their complete tax information isn't available until after the financial aid application deadline has passed. To address this problem, we recommend that FAFSA be revised to allow applicants to submit tax information from 2 years prior rather than the previous year. Moving to a so-called "prior-prior year" system would drastically simplify the current Federal rules regarding verification of information, which happens to be one of the common compliance mistakes made by institutions. Prior-prior year would also help students and families, who can be frustrated and confused by the additional requests for information that come with the verification process.

The second recommendation I will highlight looks at the impact of inappropriate regulations that stifle innovations in distance education. Historically, Federal requirements for State authorization of distance education programs were limited to the State where the institution was physically located. However, a few years ago, the Department of Education fundamentally altered that landscape by requiring institutions to meet the State authorization laws of every State in which a student—even just a single student—was physically located. As the ability of online education to cast aside geographical boundaries increases, it is counterproductive to erect walls of regulation. Congress should clarify a return to the long-standing interpretation of State authorization so that the resources that now go to attorneys, compliance officers, and tuition surety bonds to get authorization 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.

The next item I want to 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 ed 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 every one of the seven different Federal loan repayment programs applicable 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.

The final issue I will highlight before turning things over to Nick is the number of requirements placed upon higher education that have nothing to do with our mission. These include enforcing Selective Service registration, combating peer-to-peer file sharing, distributing voter registration forms in a *federally specified* time-frame 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.

Chancellor Zeppos will now share with the committee his experiences and perspectives and provide additional information on the Task Force Report. So, let me close by once again thanking the committee for this opportunity to testify and for the significant time and attention you have given to this important matter.

The CHAIRMAN. Thanks, Dr. Kirwan.

Chancellor Zeppos, if you could summarize your comments in about 10 minutes, we'll then go to the Senators for questions and comments.

**STATEMENT OF NICHOLAS S. ZEPPOS, CHANCELLOR,  
VANDERBILT UNIVERSITY, NASHVILLE, TN**

Mr. ZEPPOS. Thank you, Chairman Alexander, Ranking Member Murray, and members of the committee. Thank you for inviting me

to testify before you today in my capacity as co-chair of the Task Force on Federal Regulation of Higher Education.

It's been my privilege to serve in this capacity, and I'm honored to be here with my co-chair and esteemed colleague, Brit Kirwan, to discuss ways that we might improve the regulatory structure for colleges and universities.

The underlying premise of our work is the belief that smart, better regulations protect students and families, keep them safe, and hold colleges and universities accountable for the considerable public dollars we receive. Taxpayers and the government, I want to stress, have the right to know that these funds are being spent wisely. Thus, we embrace the need for Federal regulations.

We are not here in any way to ask for any deregulation of higher education. Rather, at your invitation, we wanted to bring to you and bring to your attention the fact that over time, we believe oversight of higher education has expanded in many ways that undermines the ability of our institutions to best serve students, accomplish our missions, and innovate in this dynamic economy.

Many of the Department's regulations are well-intended but unnecessarily voluminous, too often ambiguous, and the cost of compliance has become unreasonable. It is having a real impact on costs of college and tuition. Even more troublesome, we are very concerned that these regulations stand as a barrier for students' access to college education.

For years, I'm sure you know, colleges and universities have complained to policymakers about the burdensome nature of Federal regulations. We've gotten quite good at it, and I would put myself in that category, which is why I accepted this assignment. We have often found sympathetic ears on Capitol Hill, but the higher education community has not, I believe, been as transparent as we are in presenting the data in support of this position and to really work closely with you for proposed solutions.

This report, as Brit discussed, offers concrete suggestions for reform. I will say as a cautionary comment, Senator Alexander did not mention it but I was a lawyer in Washington, DC, practicing administrative law, representing probably every government agency before I joined the Vanderbilt Law School faculty. I know that simply revising regulations is really not the way to address some of the underlying problems with the process by which the Department promulgates these regulations. We believe changes are needed in how the Department develops, implements, and enforces regulations, working closely with colleges and universities. Our report offers recommendations to improve each phase of the regulatory process.

For example, the negotiated rulemaking process is very well intended, but we believe it has to be reformed to make sure it achieves its purpose. Unrelated issues are often bundled together in a complex process. Facilitators are really not permitted to serve as arbiters in reaching a consensus on good, smart regulations from a group of informed citizens.

The Department should provide clear regulatory safe harbors to help institutions that abide by their standards meet their compliance obligations. Such safe harbors exist in other areas of the law that pertain to universities. As Chairman Alexander mentioned,

Congress required the Department in 2008 to produce an annual compliance calendar. We believe that that would be a great step forward if they were to do so.

The Department should also recognize when institutions are acting in good faith according to the guidelines set forth by the Department that are clearly stated. There should be some sort of statute of limitations for enforcement of Department regulations. We've given examples where it's taken more than 10 years to complete a program review and issue fines. If we are going to have an effective system where universities are held accountable through a return of funds, through a system of fines, we simply have to have a better timeline to make sure that the message is heard.

Finally, we suggest Congress consider developing and implementing, as Senator Murray mentioned, risk-informed regulatory approaches, where appropriate.

Let me discuss the issue of cost that was brought up by Chairman Alexander. We've heard many numbers knocked around over the decades, literally. What is the real number?

Over the course of the last 6 months, we at Vanderbilt conducted an in-depth analysis to look at the cost of Federal regulatory compliance, excluding those related to our very large clinical health care mission. To give you a sense of size, that left about \$1.36 billion in the university's budget by excluding the clinical enterprise.

We wanted to know not only the total cost but we actually tried to identify what are the areas that we could look at to reduce our own cost of spending. We found regulatory compliance and costs, interestingly, that are centralized in many parts of the university but, not surprisingly, particularly for the larger universities, are spread across all lines of activities in the university.

We found that Vanderbilt spends approximately \$146 million annually on Federal compliance. As Chairman Alexander noted, that represents about 11 percent of our non-clinical expenses. Put another way, this equals \$11,000 in additional tuition per year for our 12,757 students.

As a major research institution with nearly \$500 million in federally supported research, I want to emphasize that a significant share of this cost is in complying with research regulations, and I commend the committee for looking at that area as well.

We also calculated that we spent approximately \$14 million annually in compliance with higher education-related regulations such as accreditation and Federal financial aid. One of the things we believe is happening is we're not asking for all the costs, but as a large institution we're able to spread a number of the costs over a pretty large base of activities. We hear a lot from some of our smaller institutions and colleagues that they just don't have that chance.

Again, I want to thank you for this opportunity to co-chair this task force and to present what I believe is the first step in moving forward with our collective recommendations.

Regulatory reform represents an area where we can remove red tape, hopefully reduce some costs while we continue our prudent stewardship of tax dollars and provide a safe and welcoming environment for all of our students, faculty and staff. We also believe it's incredibly important for students and faculty to receive the in-

formation they need to make the informed choices before they enroll in a school and accept the financial obligations associated with that.

I think you will agree that the recommendations report includes some fairly clearly written, commonsense proposals that will hopefully benefit the greater society at large. Historically, universities and colleges have served as drivers of the general national interest. They promote education, they promote discovery, and they provide solutions to face the challenges that we all face.

We talk about the American Dream on our campus, and we believe it happens every day as we see young people coming to attend our university.

We all benefit from Federal funding, and it is spent for the national interest. We want to be good stewards, but we'd also like to see that money reinvested more in core missions of aiding and advancing society.

I look forward to your questions, and I look forward to further participation in advancing our recommendations. Thank you very much.

[The prepared statement of Dr. Zeppos follows:]

PREPARED STATEMENT OF NICHOLAS S. ZEPPOS

SUMMARY

Key Points in Chancellor Zeppos' testimony:

- Our underlying premise is the belief that smart regulations protect students and families and hold colleges and universities accountable for the considerable public dollars they receive. Tax payers and the government have the right to know that these funds are being spent wisely. We are not here to ask you to de-regulate higher education.
- Over time, oversight of higher education has expanded in ways that undermine the ability of our institutions to serve students and accomplish our missions. Many of the Department's regulations are unnecessarily voluminous and too often ambiguous, and the cost of compliance has become so unreasonable that it is having a real impact on college costs. Even more troublesome, some regulations are a barrier for students' access to a college education.
- Change is needed to address how the Department develops, implements and enforces regulations. Our report offers recommendations to improve each phase of the regulatory process. For example:
  - The negotiated rulemaking process should be reformed to ensure it achieves its purpose. Unrelated issues should not be bundled together. Facilitators should be permitted to serve as arbiters in reaching consensus.
  - The Department should provide clear regulatory safe harbors to help institutions that abide by certain standards to meet their compliance obligations. Such safe harbors exist in other areas of law that pertain to universities.
  - Congress required the Department in 2008 to produce an annual compliance calendar. They have yet to do so.
  - The Department should recognize when institutions are acting in good faith.
  - There should be a statute of limitations for enforcement of Department regulations. Taking over 10 years to complete a program review and issue fines should be unacceptable.
  - Congress should consider developing and implementing "risk-informed" regulatory approaches where appropriate.
- Following an in-depth look at the cost of Federal regulatory compliance, excluding those related to our healthcare mission, we determined that we spend approximately \$146 million annually on Federal compliance, representing about 11 percent of our non-clinical expenses. While a significant share of this is in complying with research-related regulations, we spend approximately \$14 million annually in compliance with higher education-related regulations such as accreditation and Federal financial aid.

- We are now working with a number of other institutions across the country to measure and compare our findings. We will have conclusive data from these studies this spring.
- Regulatory reform represents an area where we can remove red tape and reduce costs while we continue our prudent stewardship of tax dollars and provide students and families the information they need to make informed choices. The recommendations in our report are common sense proposals that will benefit the greater good and society at-large.

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Chairman Alexander, Ranking Member Murray, members of the committee, thank you for inviting me to testify before you today in my capacity as the co-chair of the Task Force on Federal Regulation of Higher Education. It has been my privilege to serve in this capacity, and I am honored to be here with my co-chair and esteemed colleague, Chancellor Kirwan, to discuss ways we might improve the regulatory structure for colleges and universities.

Let me echo what Chancellor Kirwan stated in his remarks. The underlying premise of our work is the belief that smart regulations protect students and families and hold colleges and universities accountable for the considerable public dollars they receive. Tax payers and the government have the right to know these funds are being spent appropriately, thus we embrace the need for Federal regulations. We are not here to ask you to de-regulate higher ed. Rather, we want to bring attention to the fact that, over time, oversight of higher education has expanded in ways that undermine the ability of our institutions to serve students and accomplish our missions. As we conclude in our report, many of the Department's regulations are unnecessarily voluminous and too often ambiguous, and the cost of compliance has become so unreasonable that it is having a real impact on college costs and tuition. Even more troublesome, some regulations are a barrier for students' access to a college education.

For years, colleges and universities have complained to policymakers about the burdensome nature of Federal regulations—we've gotten quite good at it. And we have often found sympathetic ears on Capitol Hill. But the higher education community has not been as transparent—until now—in presenting data in support of our position and proposed solutions. This report provides concrete suggestions for reform.

#### RECOMMENDED IMPROVEMENTS IN THE REGULATORY PROCESS

As an administrative lawyer, I know that simply revising existing regulations is not sufficient to address the underlying problems with the process by which the Department promulgates regulations. Change is needed to address how the Department develops, implements and enforces regulations. Our report offers recommendations to improve each phase of the regulatory process; some of those recommendations follow.

***• The negotiated rulemaking process should be reformed to ensure it achieves its purpose. Unrelated issues should not be bundled together. Facilitators should be permitted to serve as arbiters in reaching consensus.***

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 institutions with foreign locations; “clock-to-credit-hour” conversion; the definition of “adverse credit” for borrowers in the PLUS Loan Program; and the retaking of courses. 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.

Another serious 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 resolve differences that arise. This

part of negotiated rulemaking should also return 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 practices is that the Department exercises an extremely high degree of control over the entire process, not only selecting all the committee members and limiting the role of the facilitators, but also doing all the drafting and taking a very strict view of what constitutes a consensus. These and additional concerns about the Department's process for negotiated rulemaking and other ways to improve the process are explored further in the report, including in an appended white paper.

• ***The Department should provide clear regulatory safe harbors to help institutions that abide by certain standards to meet their compliance obligations. Such safe harbors exist in other areas of law that pertain to universities.***

The Department's requirements are so complicated in many areas that it is impossible for colleges and universities to be certain they are in compliance, even when they take carefully considered steps they believe are necessary. Clear safe harbors—provisions in the law that will protect institutions from liability as long as certain conditions have been met—should be established to help institutions meet their compliance obligations.<sup>1</sup>

Safe harbors currently exist in other areas of law that apply to institutions of higher education. For example, colleges and universities hiring foreign nationals through the H-1B visa program must pay those individuals wages that are equal to or higher than the prevailing wage in the occupations for which they were hired. If an institution uses Department of Labor-determined prevailing wage levels, it has a safe harbor against challenges to its prevailing wages. The Federal “deemed export” rules prohibit certain individuals from receiving controlled information and/or controlled technologies without the required license(s), exception, or exemption, even if those individuals are otherwise authorized to work within the United States. However, the “fundamental research exclusion” creates a safe harbor from such requirements.<sup>2</sup> In addition, under the terms of a governmentwide policy, entities that receive Federal funds above a certain amount must undertake an independent audit annually. This process, commonly referred to as an A-133 audit, was designed as a safe harbor against excessive audits by Federal agencies.

Congress should instruct the Department to make use of safe harbors whenever possible.

• ***The Department should not make significant changes in policy 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.<sup>3</sup> 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 Con-

<sup>1</sup> Definition adapted from *Black's Law Dictionary Free Online Legal Dictionary*, 2d ed., available at: <http://thelawdictionary.org/safe-harbor/>.

<sup>2</sup> Fundamental research means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons. See: <http://www.ucop.edu/ethics-compliance-audit-services/compliance/international-compliance/on-campus-research-with-foreign-nationals.html>.

<sup>3</sup> The “notice and comment” process has been adopted by a number of other countries, including China. Jeffrey S. Lubbers, “Notice-and-Comment Rulemaking Comes to China,” *Administrative and Regulatory Law News* 32(1): 5–6, fall 2006, available at: [http://www.law.yale.edu/documents/pdf/Intellectual\\_Life/ch\\_Lubbers-Administrative\\_comment.pdf](http://www.law.yale.edu/documents/pdf/Intellectual_Life/ch_Lubbers-Administrative_comment.pdf).

gress 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.

• ***Congress required the Department in 2008 to produce an annual compliance calendar. They have yet to do so.***

Institutions of higher education have an obligation to comply with regulations that the Department of Education is obligated to enforce. Compliance is enhanced and the need for audits and fines is greatly reduced if institutions are made clearly aware of the requirements they face. That was the rationale behind the compliance calendar created by Congress in the 2008 HEA reauthorization legislation.

Under that legislation, Congress mandated that the Department of Education publish an annual “compliance calendar” that lists all compliance requirements and their corresponding deadlines. The goal is straightforward: Institutions should receive a clear checklist of regulatory and information collection deadlines that documents their regulatory obligations. Armed with this information, institutions—especially small, thinly staffed ones—will be in a much better position to comply than they are at present. Given that regulations and requirements continue to grow, the compliance calendar should be updated annually and made easily available to institutions. This will allow institutions to know what is expected of them instead of playing catch up and defense.

• ***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.<sup>4</sup> Because the Clery Act does not require the reporting of larceny,<sup>5</sup> 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.

Some agencies, including the Internal Revenue Service and Securities and Exchange Commission, utilize voluntary correction programs. Under those programs, regulated entities identify instances of non-compliance and report them to the agency. The agency then reviews the self-report, collects evidence of correction, and issues a confirming letter. Congress and the Department should consider the benefits of developing a similar voluntary program in appropriate circumstances—for example, in cases involving technical violations where an institution was acting in good faith.

• ***There should be a statute of limitations for enforcement of Department regulations. Taking over 10 years to complete a program review and issue fines should be unacceptable.***

Under the Higher Education Act, 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.<sup>6</sup> 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

<sup>4</sup>According to one article, the stolen items were a bag of potato chips, Little Debbie Nutty Bars, and a set of walkie-talkies. Ben Miller, *Roll Call*, August 25, 2014, available at: [http://www.rollcall.com/news/how\\_unnecessary\\_data\\_reporting\\_requirements\\_turned\\_a\\_44\\_theft\\_into\\_a\\_10000-235831-1.html?pg=1&dczone=emailalert](http://www.rollcall.com/news/how_unnecessary_data_reporting_requirements_turned_a_44_theft_into_a_10000-235831-1.html?pg=1&dczone=emailalert).

<sup>5</sup>To be precise, larceny is only reported under Clery when it occurs in connection with a hate crime.

<sup>6</sup>Federal Student Aid Programs, *Program Review Guide for Institutions*, 2009, available at: <http://www.ifap.ed.gov/program-revguide/attachments/2009ProgramReviewGuide.pdf>.

the universities appealed in a timely fashion, it took 17 and 16 years, respectively, for the Department to take action.

• ***Finally, we suggest Congress consider developing and implementing “risk-informed” regulatory approaches where appropriate.***

All colleges and universities are regulated in the same manner, regardless of the level of risk involved. This forces the Department to expend energy on institutions that should command relatively little attention, while simultaneously skimping on those where more oversight is warranted. Painting all institutions with the same broad brush does not serve anyone well.

A white paper the task force commissioned to look at this issue in greater detail is appended to our report. It includes the suggestion that a risk-informed regulatory approach could be applied to requirements for financial aid reporting; accreditation; and program reviews by the Federal Student Aid office.

While a risk-informed regulatory system is not appropriate for every issue, there is growing consensus that institutions with greater levels of risk to students and taxpayers should be regulated by the Department more closely. After extensive consultations with the higher education community, Congress should require the Department to develop and implement risk-informed regulatory systems wherever appropriate. A more risk-informed approach—rather than a one-size-fits-all—would represent a smarter way of regulating.

#### COMPLIANCE WITH REGULATIONS IS COSTLY

While government regulation can confer significant benefits and protections, the costs associated with heavy-handed and poorly designed regulations can be enormous. Unfortunately, calculating the precise benefits and costs of regulation is both difficult and time-consuming. One reason for this is that duties and functions associated with a new regulation are usually absorbed by staff who already perform other duties, simply adding to their workload. Similarly, estimates of the cost of 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 the interplay of multiple requirements can add exponentially to the cost of compliance. For these and other reasons, attempts to systematically quantify these costs have been few and far between.

Over the course of 6 months last year, Vanderbilt conducted an in-depth analysis to look at the cost of Federal regulatory compliance, excluding those related to our healthcare mission. We wanted to know not only the total cost but to identify areas where we could reduce our own internal costs. What we found is that regulatory compliance and costs are spread across the University.

We found that Vanderbilt spends approximately \$146 million annually on Federal compliance. That represents about 11 percent of our non-clinical expenses. Put another way, this equates to approximately \$11,000 in additional tuition per year for each of our 12,757 students. As a major research institution with nearly \$500 million annually in federally supported research, a significant share of this cost is in complying with research-related regulations. But we also calculated that we spend approximately \$14 million annually in compliance with higher education-related regulations such as accreditation and Federal financial aid.

We are now working with a number of other institutions across the country—from all sectors of higher ed—to measure and compare our findings. We will have conclusive data from these studies this spring. We are hopeful that our efforts will help inform the committee’s work in reforming regulations and the regulatory process.

#### 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 developed the following 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. Mr. Chairman, under your leadership we hope this committee will also adopt these principles as you move forward with reauthorizing the Higher Education Act.

Again, thank you for the opportunity to co-chair this Task Force and to present our collective 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. I think you will agree that the recommendations in our report are common sense proposals that will benefit the greater good and society at-large. Historically, universities and colleges have served as drivers of the general national interest by promoting education and discovery that provides solutions to the challenges that face humanity. As a Nation, we all benefit when Federal funding is spent to further this national interest, when universities are good stewards, and more money is reinvested in our core mission of aiding and advancing society. Relief from some of the most burdensome or ill-founded regulations and a better process for developing new ones would help higher education advance these important goals. I look forward to your questions and to working with the committee to implement our recommendations in the upcoming reauthorization of the Higher Education Act.

The CHAIRMAN. Thanks, Chancellor Zeppos.

Let me go to your last point first and ask both of you. I’ve only got 5 minutes, so if you could give me short answers, I’d appreciate it, and we’ll talk more later.

How can we make this a continuing conversation? For example, would you be willing if he asked you, which I expect he might, to sit down with Secretary Duncan and talk about the recommendations you have that the Department by itself could take care of?

Mr. ZEPPOS. Absolutely. I’m sure Nick would agree with me. We’re invested in this process now.

The CHAIRMAN. How many of the recommendations, the 59 or the 10, roughly, could the Department itself deal with and wouldn’t require a congressional action?

Mr. ZEPPOS. Let me ask Terry.

Could you estimate that number?

I was going to say 10 to 12. Terry just said 12, a dozen recommendations could probably be done directly by the Department.

The CHAIRMAN. Maybe a quarter—

Mr. ZEPPOS. Right, exactly.

The CHAIRMAN [continuing]. A quarter of the recommendations Duncan could deal with.

Mr. ZEPPOS. Congress could do.

Nick, I’m sure you would be pleased to join me.

Mr. ZEPPOS. I would be pleased. I mentioned in one of our committees that after the terrible attacks of 9/11, I would say that the friction between universities—research universities and some of the law enforcement agencies and the intelligence agencies—it got pretty intense. What I thought was wonderful was that the director of the FBI stepped forward and said we have export-import regulations, there are a bunch of immigration issues that are coming up;

we seem to always be in tension. Why don't I have 15 of you meet with me twice a year and go over—

The CHAIRMAN. If I may, I'd like to focus. Do you agree that about a quarter of them—

Mr. ZEPPOS. Yes.

The CHAIRMAN. You would agree that you'd be willing to sit down with Secretary Duncan?

Mr. KIRWAN. Absolutely.

The CHAIRMAN. If he'd like to do it.

Chancellor Zeppos, as I listened to you, Vanderbilt has about a half-billion dollars in Federal research funds, right?

Mr. ZEPPOS. Yes, about \$500 million, about \$620 total.

The CHAIRMAN. The total costs of regulation were about \$150 million. I think you said that \$14 million of that was not related to research.

Mr. ZEPPOS. Right, right.

The CHAIRMAN. That means it sounds like about \$130 million or so is related to research. And if my math is even roughly right, about a quarter of all your research dollars seem to go to keeping up with rules and regulations. The head of the National Academy of Sciences told me that their studies twice showed that 42 percent of the time was spent on research.

Both of you represent universities that do a lot of government-sponsored research, and all of us, every one of us sitting at this table would like to see a thousand more multi-year grants at NIH or the various Federal agencies.

What do you think of the idea that 42 percent of the time is spent on administrative work by investigators, or that maybe as much as 20 or 25 percent of the money is spent on that? Is that excessive? If it is excessive, how should we go about trying to reduce it? Because that might be the first place to get another billion dollars and another thousand multi-year grants for government-sponsored research.

Mr. KIRWAN. Chairman Alexander, you're so right to focus on this issue. It is an enormous frustration for our researchers and our universities. It's my understanding that the National Academy of Sciences has been charged with looking at a cost analysis of the research enterprise, sort of in parallel to what we have done focusing on the Department of Education. I believe they're expected to issue a report on what you're—

The CHAIRMAN. The dollar figures and the time figures, do they sound about right based on your experience? That's an astonishing amount of time and money, to me.

Mr. ZEPPOS. I would agree with those numbers.

Mr. KIRWAN. My colleague just handed me a note that we do within the system about \$1.3 billion of research, and \$225 million was spent on administrative work, much of it having to do with compliance.

The CHAIRMAN. If the head of the Academy's estimate was right that maybe 10 percent would be more appropriate than 42 percent—

Mr. KIRWAN. That's a lot of money.

The CHAIRMAN [continuing]. That's a lot of money.

Mr. KIRWAN. A lot of research grants.

Mr. ZEPPOS. A lot of innovation, a lot of potential cures.

The CHAIRMAN. Your subject was the Department of Education, not this. That's a very good point. That's something that we could consider.

Why don't I go to Senator Murray? My time is up.

Senator MURRAY. Thank you, Mr. Chairman.

Dr. Kirwan, let me start with you. The task force suggested that students need better information when choosing a college to attend, and it says,

“And I agree that currently available consumer information on higher education can be challenging for institutions to report and doesn't always give us an accurate picture of key data points like graduation and transfer rates.”

In your view, can you share with us how we could change the current Federal data system to provide better information for prospective students and their families?

Mr. KIRWAN. Well, It would require some further partnership or collaboration between the Department of Education and representatives from higher education, in consultation with parents and students, to try to understand what are the really key elements of information that students and families need.

In the spirit of good will, we could sit down, informed by a conversation with the people we serve, the students and their parents, and develop a list of the most important pieces of information and have some uniform expectation that every institution would make that information available.

Senator MURRAY. What do you think that system should tell us?

Mr. KIRWAN. Well, it should certainly tell us, completion rates for students, default rates, employment rates, gainful employment—did I say default rates?—availability of financial aid, and average time to a degree would be some of the elements that would be very relevant for students and their families.

Senator MURRAY. OK, I appreciate that. Any further thoughts you have on that, if you could give them to us, we will work through this.

Let me ask both of you. Students, I think we all believe, should be able to earn their degree without fear of violence. The reality, as we know, is that domestic and sexual assault continue to be problems on our campuses across the country. Both of you have been dealing with this directly, I know.

Sexual assault turns students' lives upside-down, and I believe we have to do a lot more to prevent it at our Nation's schools. I hope that this committee can actually have a real conversation with higher education leaders like you about what we can do to stop this crisis and ensure Americans that colleges and universities are doing everything to keep their students safe. This is a top priority for families and students across the country. It is for me. It is for many of us.

Your report seems to suggest that universities need so-called safe harbors to protect them from regulations and liability in these cases in order to address this crisis. What other efforts do you think this committee should be focused on? I assume you're not suggesting that we should be focused on protecting universities' legal liability rather than focused on protecting students from cam-

pus sexual violence. What do you think this committee should be focused on?

Mr. ZEPPOS. The safe harbors, what we were talking about is we really didn't put them in the context of this specific area. Let me emphasize that there's a lot of work to be done in this area, and we would be more than pleased to be part of coming up with the best solutions to address this problem, Senator Murray.

The safe harbors we talked about were really in the areas of some of the financial areas, maybe in terms of the Clery Act notices where we're actually issuing the notices sometimes after a crime occurs because we're concerned that we just learned about it but we have to notify people anyway, just getting some direction in that area, and then in the financial areas we believe.

Senator MURRAY. The safe harbors that you were recommending in this don't apply to the issues that we're talking about in terms of sexual violence?

Mr. ZEPPOS. I don't think that's in the scope of our report. I would say that there has been guidance from the Department in this area that we and other universities are following. We don't see that as an issue. We feel like we've gotten guidance from the Department. We would welcome your kind of full conversation with the Department and with others on how we really crack this problem. It's a very serious problem.

Senator MURRAY. I know both of you have been dealing with this on your campuses, and I really hope that we can hear from you, as well as other commission members actually, on what you're doing to protect students from rape and sexual assault and what other efforts should be embraced nationwide to protect safety. It's really important for us to hear from you and for us to focus on this.

Mr. Chairman, I would like to, for the record, submit a statement from the National Task Force To End Sexual and Domestic Violence Against Women. It's important that we hear that.

The CHAIRMAN. Thank you, Senator Murray. That will be a part of the record.

[The information referred to may be found in Additional Material.]

Senator Burr, and then Senator Bennet.

#### STATEMENT OF SENATOR BURR

Senator BURR. Thank you, Mr. Chairman. I, as you have already eloquently done, thank all of the members of the committee for their tireless work. I would also like to highlight for my colleagues the great work of President Molly Broad, who is a dear friend and who represented the University System in North Carolina, as well as Chancellors Harold Martin and the current president of the University System, Tom Ross, who were also part of this product, this report.

Gentlemen, today I'm going to introduce legislation that's similar to that that was just introduced by Congresswoman Foxx in the House that would repeal regulations around defining credit hours, State authorization, gainful employment, and teacher preparation.

In your report you recommend repealing, at least in part, all of these. Can you talk any further about these specific regulations

and what they mean for innovation and compliance burdens on campus?

Mr. KIRWAN. I spoke a moment ago about the State authorization, and we certainly applaud that part of your bill to eliminate the requirement of getting authorized in every State where there is a student.

With regard to gainful employment, we in the report acknowledged that there could be some value in having gainful employment, but our concern was that the regulations have been built up so that it is now required that something like 30 gainful employment reports for each program that a student takes, and that just seems so excessive and a tremendous burden to our institutions to make that kind of reporting effort on gainful employment for programs.

Do you want to add to that?

Mr. ZEPPUS. Yes. I would say that our reputation as universities is that we're usually pretty slow and sclerotic, but I think there's much more dynamism, particularly in distance education, flip classrooms. We have a joint class taught with the University of Maryland in engineering, and I think that when we see someone putting out a MOOC that's a free course and the State says, "Well, maybe you didn't register," maybe this could be a revenue collection opportunity, we kind of feel like we're giving this away for free, we're trying to innovate, we're trying to educate more people.

I had an experience just the other day. I'm always happy to answer questions, but I had one come up to me where I had a State regulatory agency ask for all my internal audit document reports on my whole medical center, the whole place, before I did a distance nursing program. Again, we're happy to be cooperating, but the State authorization, this is an area where we have a shortage of health care workers. The future of health care is going to be teamwork. We do see the State authorization as really limiting.

On the teacher preparation—and we talk about this in the report, and we've been in discussions with OMB—the cost estimates that come out of the Department, we're not two ships passing in the night, we're two universes passing in the multiverse. They'll get a \$40 million number, and then we'll hear from California \$300 million to implement, with a \$200 million computer system to implement it. All we want to do is say, "Where did you get these numbers from, and could we sit down and figure it out?" This is much, much more expensive.

We believe in these regulations, but when we see these cost estimates coming out that seem immaterial and our numbers are exponentially higher, we think something is fundamentally wrong.

Mr. KIRWAN. Senator Burr, if I might add, the credit hour rule is one that I think my colleagues on the task force would feel is increasingly problematic in this day and age where we're moving to an era where we have competency-based credit, credit for prior learning, and that rule is just out of sync with the realities of the direction education is taking.

Senator BURR. Well, again, I thank you for the very in-depth look that the panel has taken.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Burr.

Senator Bennet.

STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you, Mr. Chairman, and thank you for all of your work. I also want to thank Bruce Benson from the University of Colorado and Bill Armstrong, a predecessor of mine here, the president of Colorado Christian University, for their help on this report. I hope that we are using it to inform our work going forward.

Mr. Chairman, I want to thank you for your leadership of my favorite forum, and with your indulgence I'm going to use it, I think I heard you say, for demonstrative purposes, once on the floor.

Just some questions we think it's important to ask our students before we can actually give them financial aid in this country.

What is your and your spouse's adjusted gross income for 2014? Adjusted gross income is on IRS Form 1040, line 137, 1040A, line 21, or 1040EZ, line 4.

Another question: How much did you earn from working in 2014? How much did your spouse earn from working in 2014?

As of today, what is your total current balance of cash, savings and checking accounts? Don't include student financial aid.

As of today, what is the net worth of your and your spouse's investments, including real estate? Don't include the home you live in. Net worth means current value minus debt.

As of today, what is the net worth of your and your spouse's current businesses and/or investments? Don't include family farm or family business with 100 or fewer full-time or full-time-equivalent employees.

Combat pay or special combat pay. Only enter the amount that was taxable and included in your adjusted gross income. Don't include untaxed combat pay.

Tax-exempt interest income from IRS Form 1040, untaxed portions of IRS distribution, IRS Form 1040.

We had to hire people in the Denver Public Schools to actually fill out these forms for people.

If people think this is trivial, there are millions of students across the country that aren't getting financial aid today because of this form. That makes no sense.

The testimony in front of this committee was that with just two questions—and this is the bill that we have together, Mr. Chairman—with just two questions we could answer this for 96 percent of families.

This is cruel to put people through this when we don't need to put people through this, and I hope we will make these changes and many of the other ones that we're all working on together because students are dealing with this in real time, not sometime later.

Having said all that and having gotten it off my chest, I now have a question. I was reading some stuff on the weekend, really interesting new reports out of the University of Pennsylvania about student aid and cost of college, and admittedly 1976 was the peak year, but I think in that year the Pell Grants covered roughly 75 percent of the average cost of attending college. Today, Pell Grants cover roughly 22 percent of what it costs to attend college. That's

largely because college costs have been out of control, but it's also because we haven't kept pace in terms of financial aid.

In Colorado, the cost of many 4-year colleges has almost doubled in the last 10 years, and I suspect some of this is because we have a compliance-driven regulatory system, not a system that is incentivizing universities to reduce cost. I see some examples in Colorado where colleges have done that, but I don't think we're giving them a push toward that. I don't think we have a structure where we are incentivizing quality, either.

I wonder whether you guys have some thoughts on what we can do as we think about this regulatory structure. With respect to title 4, it allows us to focus more on outcomes, more on quality, more on affordability. What changes should we make to the accreditation process to improve quality and create better incentives? If you were writing on a clean slate when it comes to outcomes and quality and accreditation, what would you write?

Mr. KIRWAN. Senator Bennet, just a sidebar comment. You were mentioning the FAFSA form. It actually asks the people filling it out three times what State they live in. On three different occasions in the form, they have to say what State they live in.

Senator BENNET. The prices don't include your home State.

[Laughter.]

Mr. KIRWAN. You ask a very, very good question about the cost.

Senator BENNET. A State of misery is the State.

[Laughter.]

Mr. KIRWAN. Cost and affordability. My perspective is from the public sector. Nick can speak from the private sector.

What's very interesting is that if you actually look at the per-student expenditure in the public sector of higher education today, we are spending less dollars per student than we were 10 years ago. Now, how can that be? Because costs are out of control, as is commonly said.

Well, what's happened over this period is that public funds, State investment covered 75 percent of the cost 10 years ago, and parents or students covered 25 percent. Today it's roughly 50/50. There's been a disinvestment on the part of the States, and, of course, what's happened is that parents and students have had to pick up that cost.

Having said that, our institutions have an obligation to do whatever they can to control the cost of delivering an education, and we need to be more innovative. We need to be ensuring that there's a smoother transition for students who are transferring from one institution to another.

Believe it or not, more of the students in the University of Maryland in any 1 year have had an experience at another institution that are coming into the system, have had an experience at another institution than are first-time freshmen. There are more transfer students every year than there are new students, and we need in higher education to work to make that transition from one institution to another more seamless.

Obviously, the recommendations in this report streamlining the regulatory process, as Nick's study from Vanderbilt has shown, can help us reduce the cost of education. We need to work in partnership with Congress to both share responsibility for holding down

the growth in cost, but also work with you to ensure that there is adequate need-based financial aid for the students that we should be serving.

Mr. ZEPPOS. Yes. I would just add to that, you know, I work at a private university. As I said, I'm K through law school public education in the great State of Wisconsin. The erosion of State investments in the great State flagship universities is a major national crisis. I work at a private university, and I love that, but the access that I had as a high school student to go to the University of Wisconsin at a very low cost is just not there anymore. That's just not there. You're seeing very high tuition increases at State universities, and to me, sadly, a lot of States are taking a lot of out-of-State students to make up for that loss of revenue. I think that has affected things.

In my looking at kind of the cost drivers, I would say that administrative costs grow very fast in universities. We have our own bureaucracies that we need to tame. The second thing that's grown significantly that the revenue just can't keep up with are health care costs. You put in administrative costs and health care costs, those are growing faster than your revenue. That's not a really good financial model to look at.

You've got to look at the whole institution. This report does a really good job of looking at our administrative structures and where we can be better, and maybe we can work with you and the Department to be better.

On outcomes, it has to be very institution-specific. One school may say I want every kid to have a job. Another school may say I expect a third of my students to go on to Ph.D.'s. Pushing schools to say where do you fit in this beautiful mosaic of American higher education, and then what do you really think you are producing and delivering, and having a recognition of that heterogeneity is important.

Senator BENNET. I'm way over time. Thank you, Mr. Chairman.

The CHAIRMAN. No, thank you. It's very interesting.

Senator Warren.

#### STATEMENT OF SENATOR WARREN

Senator WARREN. Thank you, Mr. Chairman. I actually just want to add my voice to yours about the importance of supporting public education. I grew up in a family where there was no money for college, and I graduated from a commuter college that cost \$50 per semester, and it opened a million doors for me and for kids like me.

It cost \$50 per semester because America was investing in education. It was investing in the future of our children, and we have lost our way on that. We have got to get back to investing in our kids so they get a chance to get a decent education without being crushed by student loan debt.

Thank you, thank you very much for that.

I just want to say also, thank you, Dr. Kirwan and Dr. Zeppos, and the other members of the task force, for your report and your attention to the money that's being spent on administrative costs. You know, college has taken more than \$160 billion a year in taxpayer money, and strong oversight of that investment is powerfully important.

One of the key purposes of Federal investments in higher education is to make college more affordable for people who can't afford to spend tens of thousands of dollars every year to get an education. When our colleges say that compliance with Federal regulations is too costly, then I think we should make some changes.

Chancellor Zeppos, in your testimony you state that Vanderbilt would save about \$14 million if Congress and the Department of Education eliminated its higher education-related regulations, right? That was in your testimony. I did the math. That's about \$1,100 per student at Vanderbilt. If we were to follow the recommendations in the report and repeal those regulations this year, would Vanderbilt commit to reduce its tuition by \$1,100 per student?

Mr. ZEPPOS. Here's my answer. I answer the question this way. The first thing is I tried to personally and institutionally address the rise in the cost of education in a number of ways.

Senator WARREN. God bless, but I just want to stick to this point. If we reduce our end of the cost, that is the cost of regulation, and you say that would save you \$14 million, I just want to know if that \$14 million is going to be used to reduce Vanderbilt tuitions by \$1,100 per student.

Mr. ZEPPOS. Well, I don't think we asked for all the regulations to be eliminated, so I don't know that—

Senator WARREN. I can do the math. Do you want to do \$650 for half the regulations?

Mr. ZEPPOS. I would go back to the Chairman's comments. There are areas in universities that are being woefully underinvested, and I'd look at my struggling research scientists and future engineers and Ph.D.'s, and they can't get a training grant. Young investigators are waiting until age 40 to 45, and universities ought to have some flexibility to say, "OK, we brought these costs down, is there a way to reinvest?" I have many students who can't afford to travel in a summer abroad program.

I understand the temptation to say I will promise to cut, but I do think we should have the freedom to say this is an area of underinvestment and show that to you.

Senator WARREN. Fair enough, Dr. Zeppos. The point is you've come in here—and this has been exactly what we talked about. The cost is too high. Part of the reason the cost is too high, you're telling us, is because of regulations imposed by the Federal Government, and I just think if we're going to talk about reducing those regulations, this is one place where the Federal Government could use its leverage to say if we're going to do this, let's estimate the cost and let's bring down those costs for students. It's not like you'd have any less money, at least by your own calculations. You'd have the same money. We'd just like to know that the savings is going to be passed along to the students.

Dr. Kirwan, maybe I should ask you the same question. Can you estimate the savings to the University of Maryland?

Mr. KIRWAN. We haven't done the same cost study that Nick Zeppos has done at Vanderbilt, so I don't have that sharp of a figure.

Senator WARREN. OK. Well, let me ask it another way. Would you commit if we reduce these regulations to giving a cost estimate and to passing those savings on along to our students?

Mr. KIRWAN. Well, I would respond somewhat the same way that Nick did. There are areas at the institution that are not getting adequately invested in because of lack of funds, let's say need-based financial aid. We would take some of the savings, undoubtedly, and move it into the need-based financial aid. We might take some of the savings and increase enrollment in some of the critical degree programs. We have lots of things we're trying to do as an institution, and to tie this particular dollar to a dollar reduction in tuition might not be in the best interest of the students.

Senator WARREN. Well, Dr. Kirwan, all I can say, with respect, is that you're in here asking for a reduction in your expenses, and I'm saying that makes a lot of sense to me. At some point we've got to use our Federal leverage to say that has to be passed on to savings for the students. In other words, if you want some changes, there has to be some accountability on the other side. For me right now, what's right at the center of the target is that we need to bring down the cost of college across the board for our students.

I remember that commuter college that cost \$50 a semester. It opened doors. It opened real doors for kids who otherwise would have had no chance at all to get a college education. It's up to us to take the first steps back in that direction.

Thank you, Mr. Chairman.

Mr. KIRWAN. Senator Warren, if I could just add, we've taken this issue of the cost to students very seriously in the University System of Maryland, and let me just illustrate. Over the last 8 years, tuition has gone up for in-State students a cumulative 12 percent in 8 years. That's how seriously we have taken the cost of tuition for our students.

Senator WARREN. Dr. Kirwan, I just want to say, I'm not saying you're not taking it seriously, either one of you. I'm not saying that universities aren't taking it seriously. What I'm really addressing is the question of Federal leverage. We're putting \$160 billion into universities all across this country. The universities tell us there's a way to cut costs for them, and I'm just saying if we're going to make changes at the Federal level, then we should ask for something from our colleges across the board. This isn't targeted at Vanderbilt or at Maryland. The real point is to say we want to see something on the other side. If it's going to save you money, we want to see where it's going to result in a lower cost college education for our kids.

Mr. KIRWAN. I would advocate need-based financial aid.

Senator WARREN. Thank you.

The CHAIRMAN. Thank you, Senator Warren.

We'll have time for another round of questions. That's an interesting debate I'd be glad to have with Senator Warren sometime.

Let me just express, on State support for public institutions, I have a little—I've been around long enough to have a strong opinion about that. The reason why State aid has gone down to public universities, the principal reason is because of us, the Federal Government and its rising health care costs and its imposition of mandatory Medicaid rules and a requirement that States maintain

their level of spending on Medicaid during a time like 2008 through 2013 when revenues were going down.

Rather than, in the 1980s when Tennessee was paying 70 percent of the cost of its students' education, Medicaid spending in Tennessee was 8 percent. Today it's 30 percent, and the dollars have come right out of the University of Tennessee and the other public institutions.

It's our fault that State support is down because we don't give States enough flexibility, but that's a different debate.

Who wrote this report? If you don't mind me telling you, I was reading a little bit about the Constitution the other day, and after they had their debates they would appoint a committee on style to put it in plain English, and I think we would agree they did a pretty good job with the U.S. Constitution.

This is in plain English, declarative sentences, can actually be understood. It reminds me of "A Nation At Risk," when one of the Nobel Prize winners, I forget who it was, from the University of California actually took the report home and rewrote it and made it a compelling document. Do you mind—

Mr. KIRWAN. Not at all. The task force members had many opportunities to add their own rhetorical skills to the report, but it was the staff at ACE, led by Terry Hartle, here to my right, who did the bulk of the drafting of the report, subject to the edits of the task force members.

The CHAIRMAN. Thank you. Thank you very much.

Dr. Kirwan, both of you represent large campuses, big research universities, but you also were president of a system-wide institution. Let's call it simplifying regulations. Is this unnecessary burden of regulations which costs more and suppresses innovation limited just to big universities, or is it a problem for your smaller campuses?

Mr. KIRWAN. Absolutely not. In fact, the University System of Maryland is in many ways a microcosm of higher education in America. We have three HBUs. We have five comprehensive institutions, three research universities, and an online university. We have it all, in a real sense.

The regulatory burden has—different regulations have a different impact on different institutions. The overall excessive burden is felt by all of the institutions in the system. It affects the smaller institutions as well as the larger ones.

The CHAIRMAN. Chancellor Zeppos, you were an administrative lawyer at one point before you went to Vanderbilt. One of the things that startles me is that there is, every workday on average, one new "dear colleague" sub-regulatory guidance letter or admonition from the U.S. Department of Education to our 6,000 colleges and universities about something else they should do.

We had testimony from one witness here from the Department of Education who said—and I questioned everybody specifically about this—that the guidance that she provides to universities is a matter of law. I asked her, who elected you to anything? Because we make the law. I don't remember my administrative law course too well, but a guidance, a letter ought to be to interpret the law and wouldn't have the force of law.

I notice in your report that you recommend that if there is to be a guidance, that there be a public comment period, to go through the same process that we have with a regulation.

Would you comment on the appropriate way for the Department to issue regulations and to issue guidances or other letters that would appear to suddenly be having the force of law and all of the implications that large and small universities that might have?

Mr. ZEPOS. Yes. It's oftentimes welcome. It's useful to get guidance from administrative agencies. The SEC, the IRS is giving private letter rulings, no action letters. Those things are useful to educate the regulated community, but those do not have the force and effect of law. They're guidance, and if the agency really expects to have substantive obligations that carry the force and effect of law, they really ought to elevate it more to a formal regulation without getting too technical, and maybe one interpretation off the regulation as opposed to one, two, and a thousand.

I won't get into the constitutional law part because that's the first 5 weeks of the semester, but John Locke said legislators can create legislation, but they can't create legislators. We have to recognize that this body is going to adopt the law, they're going to adopt regulations, and then when we get to the question of guidance, I would say useful but not binding.

The CHAIRMAN. Thanks very much.

Senator Murray.

Senator MURRAY. Well, thank you, Mr. Chairman. Before I ask my questions, just a counterpoint on the fact of why colleges have lost so much State funding. If we all remember, the economy collapsed about 6 years ago, and revenue to States collapsed with that as a result of what happened on Wall Street. Because the revenue to our States dropped so much, a lot of our States did cut back our education funding, which created a real problem for universities, and students now are having to make up more of their costs. Just a little counterpoint for you.

The CHAIRMAN. That's fair enough.

Senator MURRAY. Dr. Kirwan, I know that Maryland has been doing some innovative work in allowing students to take some courses online and structure their schedules flexibly. Both of you sort of mentioned this in your remarks. If the State authorization rules that the report talks about haven't hit the right mark, how do you think we should make sure that our students are guaranteed high-quality programs in this digital era?

Mr. KIRWAN. Well, I think that any institution offering distance education has to be authorized within the State where it operates.

Senator MURRAY. Right, you mentioned that in your opening remarks.

Mr. KIRWAN. Right. That, to me, that's the obligation of that State to ensure that the institution is providing sound and appropriate education that can be shared with students in other States.

Senator MURRAY. Mr. Zeppos.

Mr. ZEPOS. Yes. The question of States putting up barriers to entrants from other States is not a new one in America. If we can get a system that a university is authorized in a State and there are standards set in that State, or that universities are already recruiting students from that State, which we all are, maybe that

creates a presumption or a kind of you're already here recruiting our students, we believe you enough that you can continue to offer education in some form.

The second thing is you could come up with—the Department could have come up with some sort of effort if it wanted to go this way to create—like they do maybe in some of the interstate trucking industries where you've got a sticker in one State, it covers you in another State or something, a reciprocity program, Senator.

Senator MURRAY. How would you have sort of oversight of that, so that there would be some sort of standard that we all knew existed?

Mr. ZEPPUS. Well, first of all, I would look at the standards set in each State and recognize that those standards are already being accepted.

Senator MURRAY. In some States, but some States could set really low standards. How would you make sure that you had some kind of quality outcome?

Mr. ZEPPUS. There would be a threshold that they would have to meet to get title 4 funding to be authorized in some way to do business as a college.

Senator MURRAY. We would have to set that at the Federal level.

Mr. ZEPPUS. That's the trick now, that they're taking that authorization that we get in general and taking it around the country and saying now you have to do it in every State. A minimum Federal standard is already there, are you authorized. If you are, then you're eligible for the funding. We would ask why isn't that good enough to do business in this national economy if you're already authorizing us to do business under the program?

Senator MURRAY. All right. Let me ask one other question in my last minute, and I'll ask you, Mr. Zeppos. As you know, most Federal student aid is provided directly to students through colleges and universities, and the task force supports an accountable use of taxpayer dollars, but it also raises some questions about how much it costs your institutions to verify those Federal student aid funds are actually flowing to the right recipients.

How can the Federal Government make sure that the students who need the most help are actually getting it?

Mr. ZEPPUS. This whole question of verification of funding that the students who participate in it would kind of start with kind of a basic blank slate to say we are providing this aid, who is getting this aid, for what purpose are we getting this aid. Currently, the verification is kind of a roundabout where the Department asks us to get information from the parents. Sometimes the parents aren't even involved.

What we're kind of suggesting is—and this may be asking too much, but isn't there a way to sync some of the IRS materials, and you'd basically disintermediate us and you'd deal directly—the Department would deal directly with the student and say we're going to get information from the IRS. We can verify this information as accurate tax information, and could we just connect you together, rather than we feel like we're the ones collecting the information that a lot of times is IRS information. Maybe that could be more directly put into the system, Senator.

Senator MURRAY. All right. I have several other questions, but I'll submit them for the record.

The CHAIRMAN. Do you want to go ahead?

Senator MURRAY. No, that's all right. It's fine.

The CHAIRMAN. Just to clarify, isn't it true that if we adopted the recommendation that you go back 2 years to find out—let's say a student who is in her junior year would fill out the FAFSA form and however many questions end up on it and would find out that year how much grant or loans she might be eligible for, which has a lot of benefit in and of itself, so you can go shopping knowing what you've got. You then wouldn't have most of these verification problems because you would ask the family for permission to use the IRS figures for their income from 2 years ago, and you're suggesting that would be the evidence that the family was eligible for a certain level of aid. Am I correct?

Mr. ZEPPOS. Exactly, Chairman.

The CHAIRMAN. That seemed to me, in listening, that we've got some work to do. We want to make sure that the money—it's a lot of money—goes to the right people.

Mr. ZEPPOS. Right, exactly.

The CHAIRMAN. The testimony we had before our committee was that we could get most of that with a couple of questions.

Unless Senator Murray had other comments or questions?

Senator MURRAY. No. I really thank you for this hearing. It was really excellent, and I know we have a lot more work to do. I appreciate the bipartisan effort you're moving forward with.

We've got to make sure, however, that our families get accurate consumer information. College has to be more affordable. We all agree on that. We need to make sure our students have a safe learning environment and we have good accountability, no small task in front of us, but it's important that we take this on.

The CHAIRMAN. That's a good summary upon which I think we can agree.

When we started out with this, what I had hoped—you've done a better job than even I had hoped might be done here, because my hope was that this would not be seen as any sort of partisan or axe-to-grind sort of investigation. It's just human nature that if you reauthorize the Higher Education Act eight times since 1965, then well-meaning Senators and Congressmen and well-meaning secretaries—I was a well-meaning secretary—and well-meaning assistants add their good ideas over that period of time and nobody weeds the garden, it just gets to be a big mess. That is what we have, in many ways.

It's just good governing to say let's take some things and start from scratch and just come up with a plain, simple, clean way to deal with the question of a student who withdraws from college without costing a lot of money that could otherwise be used to reduce tuition, add to financial aid, or pay a faculty member more. The fact that you've come up with 59 specific proposals is a huge help.

I'm delighted with the bipartisan support for this. I'm delighted with Secretary Duncan's attitude toward it, because the Department itself can do something. I look forward to working with you in terms of how we make this a continuous process, and Senator

Murray and I will sit down in a few weeks and we'll talk about how do we take this advice and incorporate it into a bipartisan process as we begin to work toward the reauthorization of the Higher Education Act.

Our thanks to you for your volunteer time and your effort and a terrific report.

The hearing record will remain open for 10 days to submit additional comments and any questions for the record Senators may have.

The next HELP hearing on medical and public health preparedness and response, "Are We Ready for Future Threats?" will occur on Thursday at 10 a.m. in Dirksen 430.

Thank you for being here.

The committee will stand adjourned.

{Additional Material follows.}

## ADDITIONAL MATERIAL

## PREPARED STATEMENT OF THE NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

The National Task Force to End Sexual and Domestic Violence Against Women (NTF) represents a large and diverse group of national, tribal, State, territorial, and local organizations, as well as individuals, committed to securing an end to violence against women. Included are civil rights organizations, labor unions, advocates for children and youth, anti-poverty groups, immigrant and refugee rights organizations, women's rights leaders, education groups, and others focusing on a wide range of social, economic, and racial justice issues.

The National Task Force on Violence Against Women commends the Task Force on Federal Regulation of Higher Education ("the Task Force") for its review of Federal regulations affecting post secondary education. We are alarmed, however, that the Task Force's report suggests that current Federal regulations and policies governing the response of IHEs to crimes predominately affecting women students are too burdensome or complex.

First, we cannot stress enough that now is not the time to lessen Federal oversight designed to protect students from violence. Recent efforts by Congress, the White House, and the Department of Education to address sexual assault are beginning to show results. Many schools are working to improve their prevention and response programs.

These Federal efforts are a response to crimes that are pervasive on college campuses: one study of students at two large public universities found that 1 in 5 had been sexually assaulted by their senior year in college. This data is sadly consistent with other studies over a 20-year period. Dating violence is common among young people between the ages of 18–24, and young women ages 18–19 face the highest rates of stalking in the Nation. These violent acts and the associated trauma can negatively affect on the ability of young women and male survivors to complete their college education.

We also strongly oppose the Task Force recommendation to change the definitions used by schools to collect data on domestic violence, dating violence, and stalking. These definitions are not new, but instead were included in the Violence Against Women Act as reauthorized by Congress in 2013. To our knowledge, the Task Force did not consult with VAWA experts before recommending that these important definitions be abandoned.

Additionally, the report criticizes the 2011 Dear Colleague Letter and subsequent guidance clarifying the responsibility of IHEs to respond to and prevent sexual assault as being too complex for schools to understand. Yet, students who have experienced sexual assault and advocates working on college campuses have noted the effectiveness of these policies in improving the response of IHEs to sexual assault, including the provision of remedies that make campuses and students safer, and make it possible for students to pursue their higher education goals in an atmosphere that is free of harassment and/or violence.

We concur with the Task Force that steps can be taken to streamline overlapping Federal laws and requirements, but such recommendations must be informed by a commitment to both student safety and gender equity in education.

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UNIVERSITY SYSTEM OF MARYLAND,  
OFFICE OF THE CHANCELLOR,  
ADELPHI, MD 20783.  
*March 30, 2015.*

Hon. LAMAR ALEXANDER, *Chairman,*  
*U.S. Senate,*  
*Committee on Health, Education, Labor, and Pensions,*  
*428 Dirksen Senate Office Building,*  
*Washington, DC 20510.*

DEAR CHAIRMAN ALEXANDER: Thank you again for the opportunity to testify with Vanderbilt University Chancellor Nick Zeppos before the Senate Health, Education, Labor, and Pensions Committee on February 24, 2015 to discuss the recommendations of the Task Force on Government Regulation of Higher Education. It was a privilege and an honor to share with you and the committee our task force's recommendations on ways to improve the regulatory environment, ensure transparency and accountability of public dollars and provide students and families with the information they need to make informed decisions about postsecondary education.

I am pleased to offer the responses below to the additional questions posed to me by Senator Michael Enzi and Senator Al Franken on March 16, 2015.

If you have any additional questions or need anything further, please do not hesitate to contact me or Patrick Hogan, USM Vice Chancellor for Government Relations at pjhogan@usmd.edu or (301) 445-1927.

Sincerely yours,

WILLIAM E. KIRWAN,  
*Chancellor.*

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RESPONSE BY WILLIAM E. KIRWAN TO QUESTIONS OF SENATOR ENZI  
AND SENATOR FRANKEN

SENATOR ENZI

The Report of the Task Force on Federal Regulation of Higher Education provides important and useful information about the burden on colleges and universities of specific regulations promulgated by the Department of Education, and it cites several pertinent studies addressing aspects of that cost burden.

*Question 1.* Did the Task Force attempt to obtain a reasonably accurate estimate of the global compliance burden of all Federal regulations (and sub-regulatory guidance) on the college and university community? If so, please describe what efforts the Task Force undertook, and the specific findings.

Answer 1. Our charge and responsibility was to look at Federal statutory provisions and Department of Education Regulations that impacted and hindered the effective and efficient delivery of higher education. The Task Force conducted a thorough environmental scan of all available research looking for estimates or useful methodologies for determining the compliance burden of all Federal regulations across all colleges and universities. Despite these efforts, we were unable to find any study that quantified institutional compliance costs across all Federal agencies and across all institutions. The Task Force report cites efforts to quantify the costs of Federal regulation for three specific institutions: Stanford University, Hartwick College and Vanderbilt University. In addition, several Task Force members have accepted Chancellor Zeppos' offer to have BCG visit their campus to perform "shallow dive" estimates of the regulatory costs on their campuses using the same methodology employed at Vanderbilt. While these efforts are ongoing, we expect they will be useful in developing better cost estimates going forward.

*Question 2.* What followup work would you recommend be done in order for the committee to obtain a reasonable estimate of this global compliance burden, and the associated expenditure made by colleges and universities.

Answer 2. We are pleased that Congress has funded the National Academies of Sciences (NAS) study on the costs of Federal regulation contained in HEOA. While the Task Force's effort focused on regulations stemming from the Department of Education, the NAS study will take an in-depth look at the costs associated research-related regulations. We believe this study will provide crucial additional information for lawmakers about the costs of Federal regulation related to research. The Task Force report also calls on the Department of Education to provide better, more accurate estimates of the burden associated with its regulations. Greater transparency is needed about the method by which the Department makes its estimates. The Department should also be required to consult with campus officials representing a broad range of institutions in developing these estimates. Compliance costs necessarily vary from institution to institution, based on sector, size, and mission. For example, a small private institution may not have economies of scale or the IT systems of a large public institution when implementing a given regulation.

SENATOR FRANKEN

Chancellor Kirwan, many students and families do not have a clear picture of how much college is going to cost them. Some schools' financial aid letters do not distinguish between loans and grants. I have a bipartisan bill that would require universities to use a uniform financial aid award letter so that students and their families will know exactly how much college will cost them.

The Department of Education has created a standardized financial aid award letter template, and approximately 2,000 institutions have voluntarily adopted it, including 5 of your University of Maryland campuses.

*Question 1.* Do you think a uniform award letter makes it easier for parents and students to fully understand the cost of college?

Answer 1. The University System of Maryland (USM) Institutions have adopted the voluntary standardized financial aid award letter, which is also required under Maryland law. Our institutions have also implemented the Net Price Calculator on our institutions' Web sites. I feel that we are very transparent and clear about the true cost of education for our students. Our institutions have also significantly increased their institutional need-based financial aid awards while at the same time over the last 8 years having the lowest tuition increases in the Nation amounting to a cumulative 12 percent. We have gone to great lengths in Maryland to increase affordability and accessibility for our students, being recognized with five universities ranked as best values in the Nation. One of the major difficulties for students, parents and institutions is that students most often apply for admission by November 1st in their senior year in high school while FAFSA forms are due by March 1 and until a determination is made regarding their Federal and State financial aid packages it is not known what institutional aid they are eligible for.

*Question 2.* Yet your Task Force has been critical of the standardized award letter. Why?

Answer 2. The Task Force did not make any recommendations regarding the Standardized Award Letter, which was outside its scope for a number of reasons, including, most importantly, the fact that there is not Federal statute or regulation mandating its use. The report does mention the Shopping Sheet as an example of one of the many pieces of information and consumer disclosures that institutions are required to provide to students.

As a general matter, the Task Force members strongly support efforts to ensure that students and their families have the information they need to make good college decisions. At the same time, providing too much or the wrong information, or providing it in a confusing manner, can undermine these efforts. The Task Force strongly supported increased use of focus group testing to make sure that required consumer disclosures are providing the type of information that students and families want and need, and in a manner that is easy to understand.

It is our understanding that ED intends to continue to refine its model award letter in an effort to address the concerns that exist for some institutions. A model financial aid award notification letter—with standardized terminology, required elements, etc.—can be a helpful tool for parents and students comparing aid awards. However, some feel that the current model could be improved and made more flexible so as to provide better, clearer information to students and families.

VANDERBILT UNIVERSITY,  
OFFICE OF THE CHANCELLOR,  
NASHVILLE, TN 27240  
*March 30, 2015.*

Hon. LAMAR ALEXANDER, *Chairman,*  
*U.S. Senate,*  
*Committee on Health, Education, Labor, and Pensions,*  
*428 Dirksen Senate Office Building,*  
*Washington, DC 20510.*

DEAR CHAIRMAN ALEXANDER: Thank you again for the opportunity to testify with Chancellor Brit Kirwan before the Senate Health, Education, Labor, and Pensions Committee on February 24 to discuss the recommendations of the Task Force on Government Regulation of Higher Education. It was a privilege and an honor to share with you and the committee our Task Force's recommendations on ways to improve the regulatory environment, ensure transparency and accountability of public dollars and provide students and families with the information they need to make informed decisions about postsecondary education.

I am pleased to offer the responses below to the additional questions posed to me by Senator Michael Enzi.

If you have any additional questions or need anything further, please do not hesitate to contact me or Christina West, Assistant Vice Chancellor for Federal Relations (Christina.d.west@vanderbilt.edu or 202-216-4370).

Sincerely,

NICHOLAS S. ZEPPUS,  
*Chancellor.*

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RESPONSE TO QUESTIONS OF SENATOR ENZI BY NICHOLAS S. ZEPPUS

The Report of the Task Force on Federal Regulation of Higher Education provides important and useful information about the burden on colleges and universities of

specific regulations promulgated by the Department of Education, and it cites several pertinent studies addressing aspects of that cost burden.

*Question 1.* Did the Task Force attempt to obtain a reasonably accurate estimate of the global compliance burden of all Federal regulations (and sub-regulatory guidance) on the college and university community? If so, please describe what efforts the Task Force undertook, and the specific findings.

Answer 1. The Task Force conducted a thorough environmental scan of all available research looking for estimates or useful methodologies for determining the compliance burden of all Federal regulations across all colleges and universities. Despite these efforts, we were unable to find any study that quantified institutional compliance costs across all Federal agencies and across all institutions. The Task Force report cites efforts to quantify the costs of Federal regulation for three specific institutions: Stanford University, Hartwick College and Vanderbilt University.

At Vanderbilt, we also did our own analysis to try and obtain an accurate rendering of the Federal regulatory compliance burden for a sample university. We commissioned the Boston Consulting Group (BCG), a leading global management consulting firm, to conduct a deep-dive to estimate the cost of Federal regulatory compliance at Vanderbilt, excluding our Medical Center. The company performed a thorough review, gathering cost data via surveys, interviews, and payroll and headcount data to estimate that Vanderbilt spent about \$146 million, or 11 percent of the non-clinical budget, on Federal compliance in fiscal year 2014. Of that total, approximately \$14 million was spent on Dept. of Education-related compliance.

BCG has continued work in this area by leveraging the methodology developed at Vanderbilt and is in process of estimating the compliance burden at approximately 10 additional institutions that reflect the diversity of the sector (e.g., large State flagships, a private for-profit school, small private institutions, a community college, etc.). This effort is ongoing at this time, and we hope to have additional findings to share later this spring. Our hope is that these efforts will be useful in developing better cost estimates going forward and will be helpful as the committee works through reauthorization of the Higher Education Act.

*Question 2.* What followup work would you recommend be done in order for the committee to obtain a reasonable estimate of this global compliance burden, and the associated expenditure made by colleges and universities.

Answer 2. As the leader of a major research university and academic medical center, I know first-hand that the global compliance burden extends far beyond the scope of this Task Force. As our work with BCG demonstrated, our largest Federal compliance burden stems primarily from our research activities and engagement with Federal research agencies such as the National Institutes of Health and National Science Foundation.

To that end, I am pleased that Congress funded the National Academies of Science (NAS) study on the costs of Federal regulation to colleges and universities. Although funding for this study was included in the fiscal year 2014 Omnibus Appropriations Act, it was originally called for by this committee in the 2008 Higher Education Opportunity Act. While the Task Force's effort focused on regulations stemming from the Department of Education, the NAS study will take an in-depth look at the costs associated with research-related regulations. I believe this study will provide crucial additional information for lawmakers about the costs of Federal regulation related to research.

Beyond the NAS, there are a number of analysts and organizations attempting to estimate this global compliance burden, and the committee would do well to draw on their expertise. A year ago, the National Science Board of the National Science Foundation released a report, *Reducing Investigators' Administrative Workload for Federally Funded Research*. This report,

“describes a number of policy actions aimed at modifying and streamlining inefficient requirements while retaining necessary oversight of federally funded research.”

Most recently, a joint effort launched by the Association of American Universities, Council on Governmental Relations and the Association of Public and Land-grant Universities is gathering inputs from a variety of institutions in the areas of research-related compliance. This effort, currently underway, is seeking to assess research regulatory burden among member institutions and to recommend specific changes to reduce compliance effort and expense.

Beyond that, the effort we are currently undertaking with the Boston Consulting Group to look at the Federal regulatory compliance costs at approximately 10 additional institutions may serve as a useful barometer for the compliance costs and expenditures at a range of different institution types. Again, we expect to have findings from that effort available later this spring.

The Task Force report also calls on the Department of Education to provide better, more accurate estimates of the burden associated with its regulations. Greater transparency is needed about the method by which the Department makes its estimates. The Department should also be required to consult with campus officials representing a broad range of institutions in developing these estimates. Compliance costs necessarily vary from institution to institution, based on sector, size, and mission. For example, a small private institution may not have economies of scale or the IT systems of a large public institution when implementing a given regulation.

[Whereupon, at 11:36 a.m., the hearing was adjourned.]

