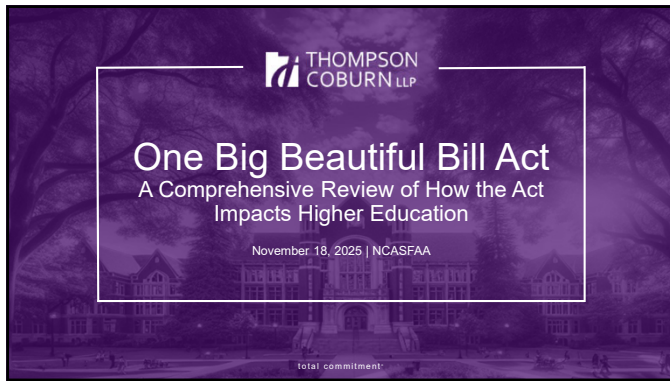




1

Presenter Profile

- **Practice and Experience**
 - Assists institutions of higher education in navigating a wide array of challenging legal and regulatory matters.
 - Advises regarding strategic planning, governance, and complex substantive changes.
- **Contact Information**
 - alacey@thompsoncoburn.com
 - 314-552-6405

Aaron Lacey
Partner & Co-Chair
Higher Education Practice

THOMPSON
COBURN LLP

2

Presenter Profile

- **Practice and Experience**
 - Over four decades of experience as a senior college executive and financial aid professional managing every facet of the Title IV federal financial aid programs.
 - Previously served as the President of the New York State Financial Aid Administration Association (NYSFAAA).
- **Contact Information**
 - Howard.leslie@rocketmail.com
 - 917-674-5115

Howard Leslie
TIV Consultant

THOMPSON
COBURN LLP

3

Presentation Preamble

Disclaimer	Live Links	TC Extra Credit	FA Insight
Laws and policies are updated regularly. If you are reviewing these slides after November 2025, please keep in mind that changes may have occurred.	The hyperlinks in these slides (including the PDF) are active and will take you to the underlying resources.	All TC resources referenced in the presentation are free and available here or by scanning the QR code. 	

THOMPSON
COBURN LLP

4

Syllabus

OB3 Architecture
Omissions & Things to Watch For
Exemption of Certain Assets
Loan Limits
Loan Repayment
Pell Grants
Accountability
Regulatory Relief
Negotiated Rulemaking

THOMPSON
COBURN LLP

5



OB3 Architecture

6

The Passage of OB3

- On July 4, 2025, H.R. 1, also known as the "One Big Beautiful Bill Act," was signed into law and became [Public Law No. 119-21](#).



7

OB3 Architecture

The 10 Titles of OB3

- Title I - Committee On Agriculture, Nutrition & Forestry
- Title II - Committee On Armed Services
- Title III - Committee On Banking, Housing & Urban Affairs
- Title IV - Committee On Commerce, Science & Transportation
- Title V - Committee On Energy And Natural Resources
- Title VI - Committee On Environment & Public Works
- Title VII - Finance
- Title VIII - Committee On Health, Education, Labor & Pensions
- Title IX - Committee On Homeland Security & Governmental Affairs
- Title X - Committee On The Judiciary

8

OB3 and Higher Education

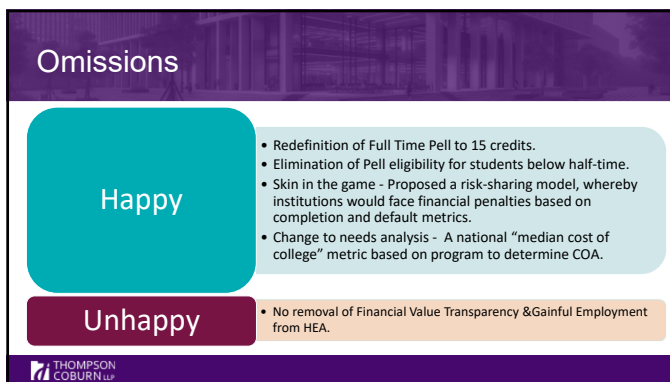
6 Subtitles of Title VIII Impacting the HEA

- Subtitle A - Exemption of Certain Assets
- Subtitle B - Loan Limits
- Subtitle C - Loan Repayment
- Subtitle D - Pell Grants
- Subtitle E - Accountability (Do No Harm Framework)
- Subtitle F - Regulatory Relief (Borrower Defense & Closed School Loan Discharge)

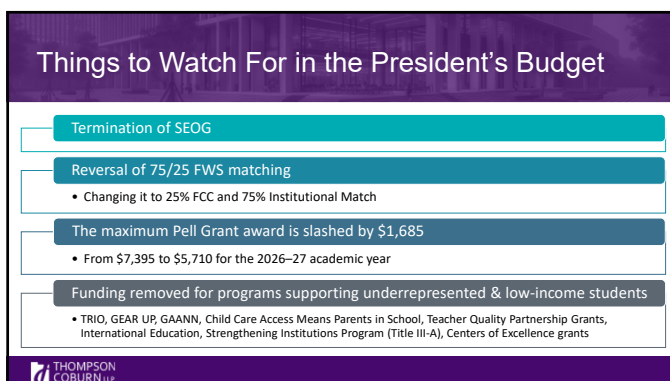
9



10



11



12

Things to Watch For in the President's Budget

Overall reduction in Student Aid Funding

- Total funding through FSA would fall to 30.85 Billion dollars
- This is down nearly \$902 Million from FY 2024
- Pell, SEOG and FWS would shrink dramatically – from about \$40 Billion to 27.7 Billion
- Aid recipients expected to drop from about 9.5 million recipients (FY25) to about 7.7 million (FY26)

Emphasis on Work-force focused Aid

- As already seen in Pell Work Force Grants

THOMPSON
COBURN LLP

13



Exemption of Certain Assets

(Subtitle A)

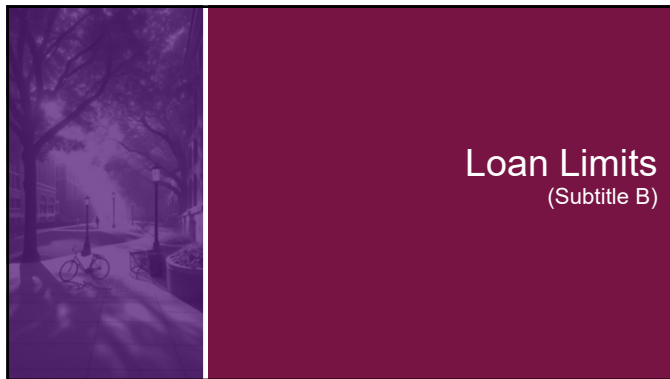
14

FAFSA Exemptions

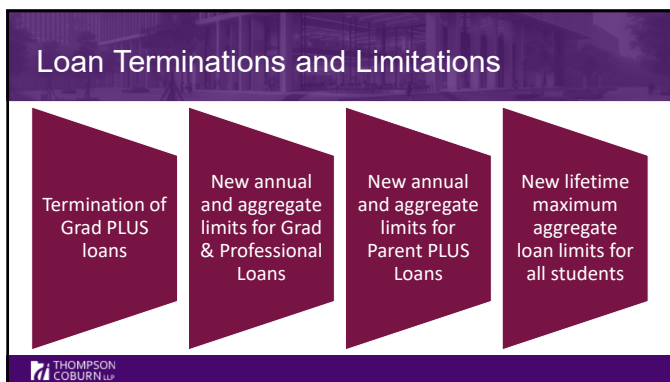
- The FAFSA Simplification Act (part of [Public Law No: 116-260](#)) removed the exemption for family farms and family-owned small businesses from the Student Aid Index (SAI) calculation, effective with the 2024-25 FAFSA.
- Section 80001 of OB3 **reinstates this exemption** and **adds** family-owned commercial fishing businesses (a commercial fishing business and related expenses owned and controlled by the family).
- This takes effect on July 1, 2026, and applies starting with the 2026-2027 award year.

THOMPSON
COBURN LLP

15



16



17

Grad PLUS Loan Program Terminated

- For any period of instruction beginning on or after **July 1, 2026**, graduate and professional students will no longer be eligible to receive a Federal Direct PLUS Loan unless they qualify for the **Interim Exception** set forth at 20 U.S.C. § 1087e(a)(8).
- We expect to see the private student loan market work to fill this gap along with institutional efforts to mitigate impact.

20 U.S.C. § 1087e(a)(3)(C)

18

Graduate & Professional Annual Loan Limits

Annual Loan Limits for Direct Unsubsidized Loans to Graduate and Professional Students Beginning July 1, 2026*	
Borrower Type	Academic Year Limit
Graduate student (who is not a professional student)	\$20,500
Professional student	\$50,000

* Subject to the Interim Exception set forth at 20 U.S.C. § 1087e(a)(8).

THOMPSON COBURN LLP 20 U.S.C. § 1087e(a)(4)(A).

19

Graduate & Professional Aggregate Loan Limits

Borrower Type	Aggregate Limit
Graduate student who is not and has not been a professional student and is borrowing for a program that awards a graduate credential (other than a professional degree) upon completion.	\$100,000
Graduate student who is or has been a professional student and is borrowing for a program that awards a graduate credential (other than a professional degree) upon completion.	\$200,000 minus any amounts borrowed for a program that awards a professional degree upon completion.
Professional student who is not and has not been a graduate student and is borrowing for a program that awards a professional degree upon completion.	\$200,000
Professional student who is or has been a graduate student and is borrowing for a program that awards a professional degree upon completion.	\$200,000 minus any amounts borrowed for a program that awards a graduate credential (other than a professional degree) upon completion.

* Subject to the Interim Exception set forth at 20 U.S.C. § 1087e(a)(8).

THOMPSON COBURN LLP 20 U.S.C. § 1087e(a)(4)(B).

20

What's a Professional Degree?

- In OB3, Congress directs institutions to look to the definition of "professional degree" currently located at 34 C.F.R. § 668.2, which defines a professional degree as:
 - A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

THOMPSON COBURN LLP 20 U.S.C. § 1087e(a)(4)(C).

21

Parent PLUS Loan Limits

Annual Limits for Direct Parent PLUS Loans Beginning July 1, 2026*

Borrower Type	Total Maximum Annual Amount Per Dependent
All Parents Combined	\$20,000

Aggregate Limits for Direct Parent PLUS Loans Beginning July 1, 2026*

Borrower Type	Total Maximum Aggregate Amount Per Dependent
All Parents Combined	\$65,000**

* Subject to the Interim Exception set forth at 20 U.S.C. § 1087e(a)(8).

**Without regard to any amounts repaid, forgiven, canceled, or otherwise discharged on any such loan.



20 U.S.C. § 1087e(a)(5).

22

Lifetime Loan Limits for All Students

Lifetime Aggregate Limit for Direct Loans Beginning July 1, 2026*

Borrower Type	Total Maximum Aggregate Amount Per Dependent
All Students**	\$257,500

* Subject to the Interim Exception set forth at 20 U.S.C. § 1087e(a)(8).

** This limit does not include amounts borrowed by an individual on behalf of their own dependent. It only includes loans borrowed by the individual, or by the individual's parents, to fund the individual's education.



20 U.S.C. § 1087e(a)(6).

23

The Interim Exception

- The new loan terminations and limitations will not apply during the “**expected time to credential**” for any student who, as of June 30, 2026, is enrolled in and has already received a Direct Loan for a program (including a Parent PLUS loan).
- The “expected time to credential” is the lesser of:
 - three academic years; or
 - the amount of time still required for the student to complete the program at the time the determination is made.



20 U.S.C. § 1087e(a)(8).

24

Institutional Authority to Limit Loans

- Notwithstanding the annual loan limits established by Congress, beginning on July 1, 2026, **institutions may limit** the total amount of Direct Loans made for a program of study for an academic year that a student may borrow, or that a parent may borrow on behalf of the student, provided the limit is **applied consistently** to all students enrolled in the program.



20 U.S.C. § 1087e(a)(7)(B).

25

Proration for Less than Full-Time Enrollment

- In **any case** in which a student is enrolled in a program on a less than full-time basis during any academic year, the amount of a loan that student may borrow for an academic year or its equivalent "shall be reduced in direct proportion to the degree to which that student is not so enrolled on a full-time basis, rounded to the nearest whole percentage point," as provided in a schedule of reductions to be published by ED.
- In other words, institutions must **prorate annual loan amounts** in proportion to the percent of full-time status the student is enrolled.



20 U.S.C. § 1087e(a)(7)(A).

26

Guidance From ED

- On July 18, ED released a **DCL**, observing that while many of the changes take effect on July 1, 2026, several changes "became effective upon enactment."
- The DCL addresses the changes that became effective **upon enactment**.
- ED also promises that there "will be forthcoming regulations and guidance on the other provisions of the OBBB later this year."



July 18, 2025
Dear Colleges:

On July 18, 2025, President Trump signed the Higher Education Act of 2025 (HEA), which contains numerous provisions that amend the Higher Education Act of 1965 (HEA), and impact the administration of Title IV-HEA programs. Many of the changes under the HEA will be implemented on July 1, 2026 and over the subsequent years. However, several changes made by the HEA become effective upon enactment. The Department's Letter DCL addresses the changes that become effective upon enactment. Additionally, there will be forthcoming regulations and guidance on the other provisions of the HEA over this year.

Changes to Income Based Repayment

The HEA amends the requirement that borrowers have a partial financial hardship to qualify for enrollment in an income based repayment (IBR) plan, authorized under section 401(b) of the HEA. A borrower is considered to have a partial financial hardship if the payment amount calculated under a standard 10-year repayment plan exceeds the amount calculated under the IBR plan. This change is effective upon enactment and the Department is currently working with its stakeholders and intends to remove the partial financial hardship eligibility requirement from the IBR enrollment process.

Because of this change, borrowers who have been made on or after July 1, 2024 and before July 1, 2026, and did not qualify for partial financial hardship are now eligible for the IBR plan. The IBR plan requires payments of 10 percent of discretionary income and has a repayment period of 25 years, with any remaining balance converted to a standard, 10-year plan by the change. These borrowers who had access to the income contingent repayment plan, which requires payments of 20 percent of discretionary income and loan calculation after 25 years.

Parent PLUS Loan Repayment Options

The HEA allows borrowers with a consolidation loan that repaid a Parent PLUS loan to enroll in an IBR plan after upon enactment. The Secretary and private educational institutions may help loan servicers and update the Department's go website where the system is available to enable such borrowers to enroll in IBR.

Loan Limits for Part-time Students

The HEA reduces the amount of a loan that a student may borrow for an academic year if the student is enrolled in a program of study that is less than full-time during their academic year. This reduction in the annual loan limit will be made in direct proportion to the degree to which the student is not enrolled full-time, rounded to the nearest percentage point.

The Department is currently developing the schedule of reductions that is required by the HEA and will submit the public comment later this year. Once public comments are received and reviewed, the

27

Loan Limit Provisions Effective Now

- The provisions requiring the proration of loans for less than full-time enrollment are effective now.
- ED observes "[t]he Department is currently developing the schedule of reductions that is required by the OBBB and will submit it for public comment later this year. Once public comments are received and reviewed, the revised schedule of reductions will be issued by the Secretary and used to determine the reduction in the annual loan limits for students who are enrolled less than full-time for subsequent academic years (2026-27 and beyond)."





28



Loan Repayment

(Subtitle C)

29

The Existing Repayment Plan Landscape

Fixed Repayment Plans	The Standard Repayment Plan. A fixed monthly payment for a term of up to 10 years with a \$50 minimum monthly payment. The Graduated Repayment Plan. Payments start low and increase every two years for a term of 10 to 30 years, depending on the total amount borrowed, with a minimum monthly payment of at least the interest that accrues, and at least \$25. Extended Repayment Plan. A fixed monthly payment for a term of 10 to 30 years, depending on the total amount borrowed.
Income-Driven Repayment Plans (feature loan forgiveness following enough qualifying payments)	Income-Based Repayment (IBR) Plan. Payments either 10% or 15% of discretionary income but never more than under standard 10-year plan. Income-Contingent Repayment (ICR) Plan. Payments 20% of discretionary income, or the amount required for a fixed payment over 12 years. Pay As You Earn (PAYE) Repayment Plan. Payments 10% of discretionary income but never more than under standard 10-year plan. Saving on a Valuable Education (SAVE) Plan. Payments 10% of discretionary income.



See 20 U.S.C. §§ 1087e(d), 1078(b), and 1098e; see also 34 C.F.R. § 685.209.

30

Simplifying the Repayment Plan Landscape

- OB3 aims to simplify the repayment plan landscape by requiring all borrowers who receive loans made after July 1, 2026, to choose from one of two repayment plans.

The new Standard Repayment Plan

The Repayment Assistance Plan (RAP)

THOMPSON
COBURN LLP

20 U.S.C. §§ 1087e(d)(7)(A).

31

The New Standard Repayment Plan

- The new Standard Repayment Plan has 4 fixed terms of 10, 15, 20, or 25 years for repayment. The repayment period is based on the amount borrowed / outstanding balance, as follows:

Borrower Class	Repayment Period
For a borrower with total outstanding principal of less than \$25,000	10 years
For a borrower with total outstanding principal of not less than \$25,000 and less than \$50,000	15 years
For a borrower with total outstanding principal of not less than \$50,000 and less than \$100,000	20 years
For a borrower with total outstanding principal of \$100,000 or more	25 years

THOMPSON
COBURN LLP

20 U.S.C. §§ 1087e(d)(7)(A)(i).

32

The New Repayment Assistance Plan (RAP)

Features of the new RAP

- The monthly payment is 1-10% of income based on AGI, with a \$10 minimum payment.
- The repayment period is 30 years.
- There is no cap on monthly payments, even if it's higher than the monthly payment under the Standard Repayment Plan.
- Borrowers may receive \$50 off their monthly payment per dependent.
- If a borrower makes an on-time payment that reduces his or her principal by less than \$50, ED will make a payment to the principal, up to the amount paid, minus what was applied to the principal or \$50, whichever is less.
- If married filing separately, spouse's AGI and number of dependents are not included in the payment calculation.

THOMPSON
COBURN LLP

20 U.S.C. §§ 1087e(q).

33

Repayment Plan Principles

- Borrowers who take out federal loans for the first time **on or after July 1, 2026**, must choose either the new Standard Repayment Plan or the RAP.
- If a borrower who takes out federal loans for the first time on or after July 1, 2026, does not select a plan, he or she will automatically be assigned to the new Standard Repayment Plan.
- With limited exception, borrowers must pay all loans under the same repayment plan.
 - As such, borrowers with loans made **before** July 1, 2026, who take out additional loans on or after July 1, 2026, will have to move **all loans** to the new Standard Repayment Plan or the RAP.

34

Borrowers with No New Loans After July 1, 2026

- Borrowers with no new loans made on or after July 1, 2026, including consolidation and Parent PLUS, are eligible to enroll in current standard, graduated, extended, or IBR plans, or the new RAP.
- Prior to July 1, 2028, these borrowers may switch between, enter, or remain on any of the existing IDR plans. But all such borrowers must be in one of the approved legacy plans by July 1, 2028.
 - Consequently, borrowers enrolled in ICR, PAYE, or SAVE plans must transition to one of the approved legacy plans by the deadline. If they do not, they will automatically be moved to the new RAP (or if ineligible for RAP, into IBR).

35

New Consolidation and Parent PLUS Loans

- Consolidation loans made on or after July 1, 2026, are eligible for either the new Standard Repayment Plan or the new RAP.
- However, Parent PLUS loans made on or after July 1, 2026, must be repaid under the new Standard Repayment Plan.
- A borrower with Parent PLUS loans made before July 1, 2026, who takes out additional Parent PLUS loans on or after July 1, 2026, will have to move all loans to the new Standard Repayment Plan.

36

Additional Loan Repayment Revisions

- Additional loan repayment provisions effective July 1, 2027.
 - Economic hardship and unemployment deferments are removed.
 - Borrowers can rehabilitate a defaulted loan twice (currently only one rehabilitation is allowed).
 - The minimum rehab payment for Direct Loans becomes \$10.
 - Loans made on or after July 1, 2027, become eligible for forbearance for up to nine months in any two-year period.



37

Loan Repayment Revisions Discussed in DCL

- OB3 eliminates the requirement that borrowers have a partial financial hardship to qualify for enrollment in an income-based repayment (IBR) plan.
- ED observes **in its recent DCL**, that "this change is effective upon enactment and the Department is currently working with its student loan servicers to remove the partial financial hardship eligibility requirement from the IBR enrollment process... Because of this change, borrowers who have loans made on or after July 1, 2014, and before July 1, 2026, and did not qualify for partial financial hardship, are now eligible for the IBR plan."



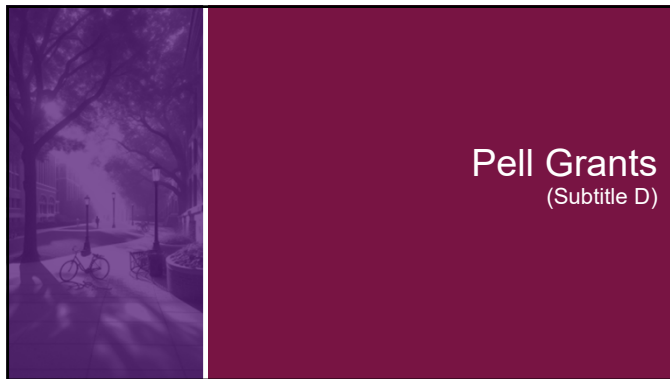
38

Loan Repayment Revisions Discussed in DCL

- In its DCL, ED also observes that OB3, "allows borrowers with a consolidation loan that repaid a Parent PLUS Loan to enroll in an IBR plan effective upon enactment. The Secretary will provide additional information to its federal loan servicers and update the Studentaid.gov website when the system is available to enable such borrowers to enroll in IBR."



39



40

Pell Funding for the Shortfall

- Pell Grants are projected to begin running a deficit, which could increase to a \$98 billion shortfall by FY 2035. A permanent fix to the shortfall is still needed.
- OB3 appropriates an **additional \$10 billion** (and change) for fiscal year 2026 to address the projected Pell shortfall in the near term.

THOMPSON COBURN LLP 20 U.S.C. § 1070a(b)(7).

41

Workforce Pell Grants

- For the award year beginning on July 1, 2026, ED will begin awarding Workforce Pell Grants.
- To be eligible, students must:
 - meet general Pell eligibility requirements;
 - be enrolled (or accepted for enrollment) in an **Eligible Workforce Program**;
 - **not** be enrolled (or accepted for enrollment) in a program that leads to a graduate credential; and
 - **not** have obtained a graduate credential.

THOMPSON COBURN LLP 20 U.S.C. § 1070a(k).

42

Workforce Pell Grants

- The terms and conditions for awarding Workforce Pell Grants are generally the same as for Pell grants, except that:
 - Noncredit, remedial, English language instruction, and study abroad courses are not eligible; and
 - A student may receive a Workforce Pell Grant in an amount that is prorated based on the length of the program, notwithstanding that the amount is less than the minimum Pell Grant because the workforce program is less than an academic year.
- A student may not simultaneously receive a Workforce Pell Grants and a regular Pell Grant.
- Any period of study covered by a Workforce Pell Grant shall be included in determining a student's overall Pell eligibility.

THOMPSON
COBURN LLP

20 U.S.C. § 1070a(k).

43

Eligible Workforce Program

A program is an eligible program for purposes of the Workforce Pell Grant program if:

- It is a program of at least 150 clock hours of instruction, but less than 600 clock hours of instruction, or an equivalent number of credit hours, offered by an eligible institution during a minimum of 8 weeks, but less than 15 weeks.
- It is not offered as a correspondence course.
- The Governor of a State, after consultation with the State board, determines that the program meets additional requirements.
- ED determines that the program meets additional, specified requirements.

THOMPSON
COBURN LLP

20 U.S.C. § 1088(b)(3)(A).

44

Eligible Workforce Program: Governor

The Governor, in consult with the State board, must determine the program:

- Provides an education aligned with the requirements of high-skill, high-wage, or in-demand industry sectors or occupations; and
- Meets the hiring requirements of potential employers in the sectors or occupations; and
- Either (i) leads to a recognized postsecondary credential that is stackable and portable across more than one employer, or (ii) prepares students for employment in an occupation for which there is only one recognized postsecondary credential and provides that credential upon completion; and
- Prepares students to pursue 1 or more certificate or degree programs at 1 or more institutions of higher education (which may include the eligible institution providing the program), including by ensuring (i) that the student, upon completion of the program and enrollment in the related certificate or degree program, will receive academic credit for the Workforce Pell program that will be accepted toward meeting the certificate or degree program requirements, and (ii) the acceptability of the credit toward meeting the certificate or degree program requirements.

THOMPSON
COBURN LLP

20 U.S.C. § 1088(b)(3)(A).

45

Eligible Workforce Program: ED

FA

ED subsequently must also determine that the program:

- Has been offered by the institution for not less than 1 year prior to the date on which ED makes its determination; **and**
- For each award year, the program has a verified completion rate of at least 70 percent, within 150 percent of the normal time for completion; and
- For each award year, the program has a verified job placement rate of at least 70 percent, measured 180 days after completion; **and**
- For each award year, the total amount of the published tuition and fees of the program for such year is an amount that does not exceed the value-added earnings of students who received federal financial aid and who completed the program 3 years prior to the award year, as such earnings are determined by calculating the difference between (i) the median earnings of such students, and (ii) the 150 percent of the poverty line applicable to a single individual.

THOMPSON
COBURN LLP

20 U.S.C. § 1088(b)(3)(A).

46

Foreign Income and Pell Eligibility

- Under current law, financial aid staff must individually determine if adding exempted foreign income to a student's AGI would make the student ineligible to receive the maximum Pell Grant.
- OB3 revises the law to **require** that for Pell Grant determinations made on or after July 1, 2026, foreign income must be included in the AGI used to calculate Pell Grant eligibility.

THOMPSON
COBURN LLP

20 U.S.C. § 1070a(a).

47

SAI Threshold for Pell Eligibility

- Effective July 1, 2026, a student is no longer eligible for a Pell Grant for any academic year in which the student's SAI equals or exceeds twice the amount of the total maximum Pell Grant for that academic year.

THOMPSON
COBURN LLP

20 U.S.C. § 1070a(b)(1)(F).

48

Non-Federal Aid Threshold and Pell Eligibility

- Effective July 1, 2026, a student is no longer eligible for a Pell Grant for any "period for which the student receives grant aid from non-Federal sources, including States, institutions of higher education, or private sources, in an amount that equals or exceeds the student's cost of attendance for such period."
- The application of this rule will undoubtedly **complicate packaging**, as many institutional and private aid programs are designed such that the institutional or private aid is not calculated until after the federal aid has been determined.



49

Accountability (Subtitle E)

50

The New Do No Harm Framework

- The new Do No Harm (DNH) accountability framework is located in Section 454 of the HEA (20 U.S.C. 1087d), which governs the content of program participation agreements (PPAs) for the Direct Loan Program.
- At least at present, this framework is **in addition** to the Financial Value Transparency and Gainful Employment Framework (FVT/GE). It does not replace it.
- PPAs will be revised to require institutions to certify that "beginning **July 1, 2026**, [they] will comply with all requirements of" the DNH framework.

51

Covered Programs

- The accountability framework **only applies** to educational programs that award "an undergraduate degree, graduate or professional degree, or graduate certificate."
- As such, it appears that the framework does **not** extend to undergraduate diplomas and certificates, and post-baccalaureate certificates.
- Congress did not detail the universe of program types in the new law, but the program types in the FVT/GE rule may be instructive.

52

Covered Programs

The FVT/GE rule identifies eight credential levels.

- Undergraduate certificate or diploma
- Associate degree
- Bachelor's degree
- Post-baccalaureate certificate
- Master's degree
- Doctoral degree
- First professional degree (e.g., MD, DDS, JD)
- Graduate certificate (including a postgraduate certificate)

53

The Basic Premise

- ED will subject every Covered Program to a **Median Earnings Test**.
- If a Covered Program fails the Median Earnings Test, it will be deemed a "low-earning outcome program."
- If a Covered Program fails once during the 3 years immediately preceding the date of a determination, the institution will be required to issue a **warning** to students in the program.
- If a Covered Program fails twice during the 3 years immediately preceding the date of a determination, the program will **lose its access** to Direct Loans.

54

The Median Earnings Test: Version 1

- For Covered Programs granting a **baccalaureate or lesser degree**.

Median Earnings of **Working Completers** who graduated about 3-4 years before the determination year

vs.

Median Earnings of **Working Adults** aged 25-34 who only have a high school diploma or its recognized equivalent

55

The Median Earnings Test Version 2

- For Covered Programs granting a **graduate or professional degree**.

Median Earnings of **Working Completers** who graduated about 3-4 years before the determination year

vs.

Median Earnings of **Working Adults** aged 25-34 who have only a baccalaureate degree

56

Working Completer Defined

- Working Completers are students who:
 - completed the Covered Program during the academic year that is 4 years before the year of determination;
 - received **any** form of Title IV to fund their enrollment;
 - are not enrolled in any institution of higher education (presumably during the year earnings are sampled); and
 - who are working (and presumably reported earnings during the year earnings are sampled).

57

Working Adult Defined

- A Working Adult is a working adult who, during the year of determination:
 - is aged 25 to 34;
 - is not enrolled in an institution of higher education; and
 - in the case of a determination made for an educational program that awards a **baccalaureate or lesser degree**, has only a high school diploma or its recognized equivalent; **or**
 - in the case of a determination made for a **graduate or professional program**, has only a baccalaureate degree.



20 U.S.C. § 1087d(c)(3)(A).

58

Earnings Data for Working Completers

- The statute does not direct ED to obtain earnings data for Working Completers from a specific source.
- It simply refers to the median earnings "as determined by the Secretary."
- We would anticipate the data would be pulled from the IRS or SSA.
- The cohort of completers (the "programmatic cohort") may still be verified by institutions (in a manner similar to the FVT/GE rule).



20 U.S.C. § 1087d(c)(2).

59

Earnings for Working Adults

- The statute provides that the earnings data for Working Adults will be obtained from the Bureau of the Census.
- How the median earnings will be calculated varies based on the program level.



20 U.S.C. § 1087d(c)(3)(A).

60

Earnings for Working Adults

- For **baccalaureate or lesser degree programs**, the median earnings will be based on the earnings of Working Adults in the State in which the institution is located.
- **Unless**, fewer than 50 percent of the students enrolled in the institution reside in the State where the institution is located, in which case the median earnings will be based on the earnings for Working Adults across the entire United States.

61

Earnings for Working Adults

- For **graduate or professional degree programs**, the median earnings will be the lowest median earnings of:
 - Working Adults in the State in which the institution is located;
 - Working Adults in the same field of study (as determined by the Secretary, such as by using the 2-digit CIP code) in the State in which the institution is located; and
 - Working Adults in the same field of study (as so determined) across the entire United States.
- **Unless...**

62

Earnings for Working Adults

- **Unless...** fewer than 50 percent of the students enrolled in the institution reside in the State where the institution is located, in which case the median earnings will be the lower median earnings of:
 - Working Adults across the entire United States; or
 - Working Adults in the same field of study (as so determined) across the entire United States.

63

Small Cohort Protocol

- For any year for which the programmatic cohort is fewer than 30 individuals, ED will attempt to "aggregate additional years of programmatic data in order to achieve a cohort of at least 30 individuals."
- If following this effort, the cohort is still fewer than 30 individuals, ED will attempt to "aggregate additional cohort years of programmatic data for educational programs of equivalent length in order to achieve a cohort of at least 30 individuals."

64

Appeal Process

- Congress has specifically provided that a program "shall not lose eligibility" for Direct Loans "unless the institution has had the opportunity to appeal" the median earnings calculated for its Working Completers.
- But the statute also states that "[d]uring such appeal" ED "may permit" the program continued access to Direct Loans, suggesting that Congress is drawing a distinction between eligibility and access.
- The appeal process will be established by ED, presumably through a negotiated rulemaking.

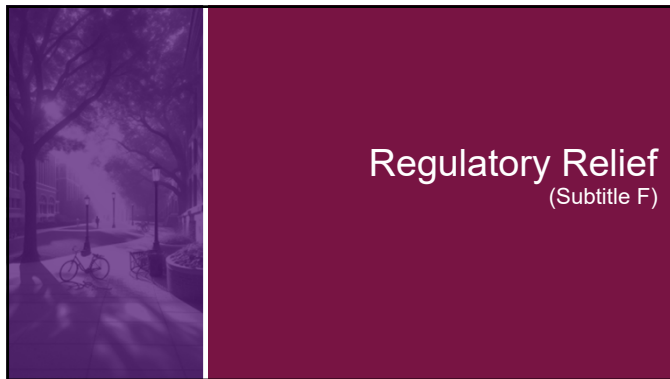
65

Regaining Eligibility

- Congress has directed ED to establish a process by which an institution that has a Covered Program that has lost access to Direct Loans may, after a period of not less than 2 years, apply to regain such eligibility.



66



67

Borrower Defense to Repayment

- Section 85001(a) of OB3 expressly states that the Biden Administration's 2022 BDR rule is not in effect "for loans that first originate before July 1, 2035."
 - Although some lawmakers sought to repeal the 2022 BDR rule outright, the Senate Parliamentarian ruled that a complete repeal was not permissible under the budget reconciliation process used to pass OB3.
- While not formally repealed, the 2022 BDR rule can never be applied to loans first disbursed over the next decade, even if the rule is still on the books in 2035.

 THOMPSON
COBURN LLP

68

Borrower Defense to Repayment

- Section 85001(b) also expressly states that the Trump administration's 2019 BDR rule is "restored and revived as such regulations were in effect on such date."
- Significantly, each time a new version of the BDR rule came along, it did not entirely cancel out the prior versions of the rule.
- Thus, while the 2019 BDR rule has been officially "restored and revived," it still exists alongside the 1994 and 2016 versions of the rule.

 THOMPSON
COBURN LLP

69

The Four BDR Frameworks Post-OB3

1994 Rule

- Applies to loans first disbursed prior to July 1, 2017.

2016 Rule

- Applies to loans first disbursed on or after July 1, 2017, and before July 1, 2020.

2019 Rule

- Applies to loans disbursed on or after July 1, 2020.

2022 Rule*

- Applies to loans first originated on or after July 1, 2035.

*The 2022 BDR rule has been enjoined by the U.S. Court of Appeals for the Fifth Circuit since shortly after its promulgation, preventing the Department from enforcing it. The litigation remains pending.



70

Borrower Defense to Repayment

- As the graphic demonstrates, Congress expressly affirmed the continuing existence and application of the 2019 BDR Rule, which works in concert with the 1994 and 2016 versions.
- Thus, to be clear, borrowers may still file claims, and there is still a complex framework pursuant to which those claims are to be assessed and adjudicated.



71

Closed School Loan Discharge

- Section 85002(a) of OB3 expressly states that the Biden Administration's 2022 changes to the Closed School Loan Discharge (CSLD) rules also are not in effect "for loans that first originate before July 1, 2035."
- This included an automatic discharge feature available to borrowers one year after an institution's closure.
- While the Biden administration's changes to the CSDL rule have been sidelined, we stress that a CSDL rule still exists and closed school discharges remain available to students.



72



73

Negotiated Rulemaking 2025-2026

- On July 25, 2025, ED [announced](#) two negotiated rulemaking committees to implement changes made by OB3 and "other Administration priorities."
- For more information and to follow the negotiations as they progress, check out ED's "[Negotiated Rulemaking for Higher Education 2025](#)" website.

74

The RISE Committee

- The [Reimagining and Improving Student Education \(RISE\)](#) Committee considered "changes to the Federal student loan programs."
- RISE Committee negotiators met for two, 5-day sessions.
 - Session One: Sept. 29 – Oct. 3
 - Session Two: Nov. 3 – Nov. 6*

*The Committee concluded a day earlier than originally scheduled.

75

RISE Committee Topics

- Phase-out of graduate and professional PLUS Loans.
- Establishment of new annual loan limits and lifetime borrowing caps.
- Simplification of student loan repayment plans into a two-plan format.
- Institutional flexibility to apply lower annual limits for student and parent borrowers.
- Modifications to loan rehabilitation, including allowing defaulted borrowers to rehabilitate their loans a second time.
- Other provisions included in the One Big Beautiful Bill Act (OB3).



76

RISE Committee Composition



77

The Road to Consensus

- The RISE Committee **reached consensus on all draft language**, meaning ED is bound to use that language in the NPRM.
- In the absence of consensus, ED would be free to propose its preferred language in the NPRM.
- Even when negotiators are not 100% on board with the draft language, in certain cases, negotiators will agree to reach consensus **because of the predictability consensus provides**.



78

The Road to Consensus

- It is worth noting the extent to which Under Secretary Kent was involved in the negotiations, at some points physically taking a seat at the negotiation table to respond in real-time to negotiator feedback.
- Negotiators are permitted to hold private “caucuses” among themselves to discuss potential changes to the draft language. ED was responsive to caucus discussions, updating the draft language multiple times throughout the week.

THOMPSON
COBURN LLP

79

What's a Professional Degree?

- In OB3, Congress directs institutions to look to the definition of “professional degree” currently located at 34 C.F.R. § 668.2, which defines a professional degree as:
 - A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

THOMPSON
COBURN LLP

20 U.S.C. § 1087e(a)(4)(C).

80

What's a Professional Degree?

- Many institutions immediately began reconsidering the designation of their programs as either “graduate” or “professional.”
- Then ED began the first day of the first week of rulemaking with a surprising, proposed interpretation of the definition.
- This conversation continued through the second week of rulemaking, resulting in consensus on ED's **draft language**.

THOMPSON
COBURN LLP

81

What's a Professional Degree?

- (1) A professional degree is a degree that:
- (i) Signifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree;
 - (ii) Is generally at the doctoral level, and that requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework;
 - (iii) Generally requires professional licensure to begin practice; and
 - (iv) Includes a four-digit program CIP code, as assigned by the institution or determined by the Secretary, in the same intermediate group as the fields listed in paragraph (2) (i) of this definition.
- (2) A professional degree may be awarded in the following fields:
- (i) Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine, (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), Theology (M.Div. or M.H.L.), and Clinical Psychology (Psy. D.).
- (3) A professional student under this definition:
- (i) May not receive title IV aid as an undergraduate student for the same period of enrollment; and
 - (ii) Must be enrolled in a program leading to a professional degree under paragraph (2) of this definition.



82

What's a Professional Degree?

- We emphasize that ED has yet to release the final draft language due to the ongoing government shutdown.
- ED estimates that the draft language would include **44 programs, covering 47% of doctoral professional students.**
- The 4-digit CIP codes covered by the draft language are 51.20, 51.04, 1.80, 51.01, 22.01, 51.12, 51.17, 39.06, 42.28.



83

The AHEAD Committee

- The **Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) Committee** will "consider changes to institutional and programmatic accountability, the Pell Grant Program, and other changes to the Title IV, HEA programs."
- AHEAD Committee negotiators will meet for two, 5-day sessions.
 - Session One: Dec. 8 – Dec. 12
 - Session Two: Jan. 5 – Jan. 9



84

AHEAD Committee Topics

- 1.Changes in institutional and programmatic accountability measures, including loss of Direct Loan eligibility for certain programs with low earnings outcomes for 2 out of 3 years, and FVT/GE.
- 2.Establishment of program eligibility requirements for a new Workforce Pell Grant program.
- 3.Exclusion of Pell Grant assistance for students who receive grant or scholarship aid covering their entire cost of attendance or have an SAI exceeding twice the maximum Pell Grant award.
- 4.Other provisions included in OB3.

THOMPSON COBURN LLP

85

AHEAD Committee Composition

Students currently and receiving Title IV	Students who are veterans	Legal assistance organizations that represent students	Public institutions	Private nonprofit institutions
Proprietary institutions	State workforce agencies and workforce development boards	State education financing organizations	State authorizing agencies and other State regulators	Accrediting agencies
Employers and groups representing the business community		Organizations representing taxpayers and the public interest		

THOMPSON COBURN LLP

86

NegReg Rundown Series

- Join us following each week of negotiated rulemaking for a discussion of the key issues and themes.

NegReg Rundown: The RISE Committee Week One Debrief

Thompson Coburn LLP 1.25K subscribers

THOMPSON COBURN LLP

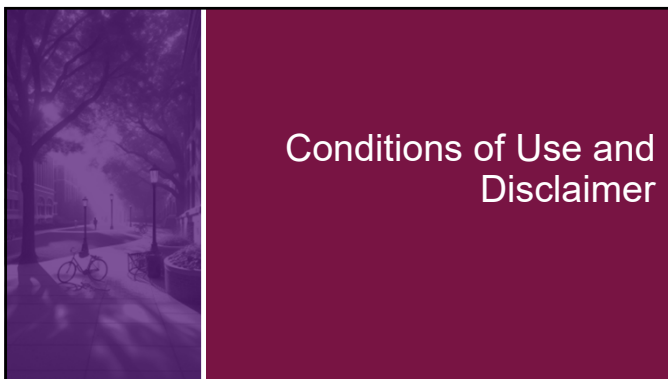
87



88



89



90

Conditions of Use and Disclaimer

- Please note that the purpose of this presentation is to provide news and information on legal issues and all content provided is for informational purposes only and should not be considered legal advice.
- The transmission of information from this presentation does not establish an attorney-client relationship with the participant. The participant should not act on the information contained in this presentation or any accompanying materials without first consulting retained legal counsel.
- If you desire legal advice for a particular situation, you should consult an attorney.