



Monday, April 10, 2023

## In Today's Edition

- NCHER Briefing Publishing on Abbreviated Schedule This Week
- Weekly Rundown
- Republican Attorneys General Urge Supreme Court to Hear Student Loan Forgiveness Case
- Department of Education to Hold Public Hearings to Begin Negotiated Rulemaking Session, Seeks Input on Third-Party Servicing and Forbearances
- Democrats Send Letter to Senate Appropriations Committee Urging Increased Funding for FSA
- Federal Reserve Releases Consumer Credit Report, Shows Increase of 3.8 Percent for February
- CBO Releases Monthly Budget Review for March 2023
- U.S. Department of Education News
- General News

## NCHER Briefing Publishing on Abbreviated Schedule This Week

The NCHER Briefing is publishing on an abbreviated schedule this week, consisting of today and Thursday, while Congress is in recess for the Easter holiday. We will resume our regular publishing schedule once the House and Senate return to legislative business on Monday, April 17, 2023.



## Weekly Rundown

The NCHER Weekly Rundown, which includes the latest information on important events in Washington, DC, is available today and can be downloaded from the [NCHER website](#).

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### Republican Attorneys General Urge Supreme Court to Hear Student Loan Forgiveness Case

Last week, a group of 20 Republican Attorneys General (AGs) filed an [amicus brief](#) with the U.S. Supreme Court urging the justices to hear *Everglades College et al v. Cardona*, a case involving three institutions of higher education who are challenging the U.S. Department of Education's authority to forgive certain federal student loans under the Higher Education Act. The case seeks to halt a class-action settlement that the Biden Administration reached last year with student borrowers who claimed they were defrauded by their college but whose applications for relief had not been approved by the Department for years. As previously covered, the Department agreed to discharge more than \$6 billion of debt owed by more than 200,000 borrowers who attended one of about 150 schools, mostly for-profit colleges. The Department cites its ability to take this action under the "settlement" authority in the Higher Education Act. But the three colleges and the Republican AGs are challenging this authority, which some observers believe may be used by the administration to provide more extensive federal student loan forgiveness if the Supreme Court strikes down its use of the HEROES Act. "The Executive Branch does not have unlimited policy making power, nor an unlimited bank account to forgive student loan debt," Ohio Attorney General Dave Yost, who led the coalition of 20 Republican AGs in filing the amicus brief, [said in a statement](#). "The Executive Branch cannot extend its authority as it sees fit." Project on Predatory Student Lending President Eileen Connor, who represents the student borrowers who claimed they were defrauded, responded to the amicus brief saying, "These Attorney Generals are inserting their political agenda in a legal case that has nothing to do with broad-based debt cancellation, on behalf of three institutions who have never once shown that they have standing in this case." She said her clients are seeking a "fair resolution" of their student loan fraud claims, which in some cases have been pending at the Department since the Obama Administration.

## Department of Education to Hold Public Hearings to Begin Negotiated Rulemaking Session, Seeks Input on Third-Party Servicing and Forbearances

This week, the U.S. Department of Education will hold three listening sessions to solicit public input on several higher education issues that it intends to revise as part of an upcoming negotiated rulemaking session. In a previous notice, the Department said that it intends to revise federal rules governing third-party servicing such as online program management companies, rules governing student loan forbearances, distance education programs, accreditation, state authorization, cash management policies that govern how colleges disburse federal aid to their students, Return of Title IV aid, and federal TRIO programs. The hearings will take place at the following times:

- Tuesday, April 11, 2023 - 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m.
- Wednesday, April 12, 2023 - 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m.
- Thursday, April 13, 2023 - 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m.

To listen to any of the six sessions, visit the [Department's Negotiated Rulemaking website](#).

## Democrats Send Letter to Senate Appropriations Committee Urging Increased Funding for FSA

Today, a group of 16 Senate Democrats, led by Sen. Elizabeth Warren (D-MA), sent a [letter](#) to the Senate Appropriations Committee urging its members to increase funding for the U.S. Department of Education's Office of Federal Student Aid (FSA), warning that the current level of funding "severely undermines" the office's ability to implement critical programs. The senators are calling on the committee to fully fund the White House's request for a \$620 million increase for FSA in the coming fiscal year that begins October 1st. Last year, Congress rejected the Biden Administration's request to increase FSA's funding amid a partisan disagreement about whether the money could be used to implement the federal student loan forgiveness plan. Instead, FSA received approximately \$2 billion for its operations and administrative expenses, the same funding level as the previous year. In the letter, the Democratic Senators write that they are concerned the lack of new funding jeopardizes a wide range of initiatives at the Department: a new, simpler Free Application for Federal Student Aid, which has already been delayed several months; the overhauls of Public Service Loan Forgiveness and

Income-driven Repayment; and the looming restart of monthly federal student loan payments and interest later this year. “FSA’s responsibilities have increased to protect students and borrowers, but its federal funding has remained stagnant,” the letter states. “The lack of adequate resources creates more barriers for students to continue their education. We believe this funding request is needed to provide FSA with the resources it needs to fulfill its goal of ensuring that all eligible students and families can access federal student grants, loans, and work-study funds to pursue education and training beyond high school.”

## Federal Reserve Releases Consumer Credit Report, Shows Increase of 3.8 Percent for February

On Friday, the Federal Reserve released its [Consumer Credit - G.19 Report](#), which shows that consumer credit increased at a seasonally adjusted annual rate of 3.8 percent in February 2023. Revolving credit (mostly credit card debt) increased at an annual rate of 5 percent, while nonrevolving credit (mostly auto loans and student loans) increased at an annual rate of 3.4 percent. Total outstanding consumer credit stood at \$4.821 trillion at the end of February, up \$15.3 billion from January. During the month, revolving credit increased by \$5.1 billion and nonrevolving credit increased by \$10.3 billion. Nonrevolving debt owned by the federal government (mostly Direct Loans) increased by \$2.8 billion.

## CBO Releases Monthly Budget Review for March 2023

Today, the Congressional Budget Office (CBO) released its [Monthly Budget Review - March 2023](#), which states that the federal budget deficit was \$1.1 trillion in the first half of Fiscal Year (FY) 2023, \$430 billion more than the shortfall recorded during the same period last year. According to the report, federal revenues were 3 percent lower from October through March and outlays were 13 percent higher than during the same period in FY 2022. The report said that outlays of the U.S. Department of Education increased by \$53 billion (or 75 percent), primarily because the Biden Administration recorded the costs associated with the extension of the pause on federal student loan payments, interest accrual, and collection of loans in default.

## U.S. Department of Education News

For today’s Federal Register, click [here](#).

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## General News

[Inside Higher Ed](#) includes an op-ed by House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) who writes that the proposed changes to the U.S. Department of Education's definition of third-party servicing would stifle innovation and increase costs to colleges and students.

[Forbes](#) reports that the U.S. Department of Education's plans for federal student loan forgiveness and the pause on loan payments are facing multiple new threats in Congress.

[CNBC](#) reports that the Biden Administration's federal student loan forgiveness plan may cause a drop in credit scores for some borrowers.

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