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In Today's Edition

- House Expected to Consider National Defense Authorization Act This Week, Several Higher Education Amendments Submitted Including Short-Term Pell Grants
- U.S. District Court for Eastern District of Missouri Holds Hearing on Lawsuit Challenging U.S. Department of Education's SAVE Plan, District Court of Kansas Dismisses State Lawsuits for Lack of Standing
- Department of Education Announces Reforms to the Office of Federal Student Aid
- House and Senate Education Committee Republicans Send Letter to Department of Education Criticizing Response to GAO Investigation Into FAFSA Rollout
- House Democrats Send Letter to Department of Education Raising Concerns About Challenges with the FAFSA
- House and Senate Democrats Introduce Student Loan Servicers Accountability Act
- CFPB Releases Final Rule Establishing Registry for Nonbanks Found to Violate Consumer Laws
- CFPB Announces Lawsuit Against PHEAA For Pursuing Borrowers for Loans Discharged in Bankruptcy
- Defense of Freedom Institute Releases Report Criticizing Department of Education's SAVE Plan
- Federal Reserve Releases Consumer Credit Report for April
- U.S. Department of Education News

- Member News
- General News



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](#).

House Expected to Consider National Defense Authorization Act This Week, Several Higher Education Amendments Submitted Including Short-Term Pell Grants

This week, the U.S. House of Representatives is expected to consider [H.R. 8070](#), the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, which authorizes national security programs. As usual, several higher education-related amendments have been submitted for consideration, including the following:

- Rep. Michelle Steel (R-CA) [amendment](#) to amend the Higher Education Act to modify the gift disclosure requirements, similar to the Defending Education Transparency and Ending Rogue Regimes Engaging in Nefarious Transactions (DETERRENT) Act passed by the House Education and the Workforce Committee.
- Rep. August Pfluger (R-TX) [amendment](#) to restrict funding to an institution of higher education that has a relationship with a Chinese entity of concern or Confucius Institute.
- Reps. Elise Stefanik (R-NY) and Bobby Scott (D-VA) [amendment](#) to amend the Higher Education Act to allow for Pell Grants to support low-income students enrolled in high-quality, short-term education programs that will equip students

with the necessary skills to be prepared for work in high-demand fields that are aiding our national security and global competitiveness, similar to the Bipartisan Workforce Pell Act passed by the House Education and the Workforce Committee.

- Rep. Madeleine Dean (D-PA) [amendment](#) to amend the Truth in Lending Act to include a requirement for the discharge of private loans in the case of the borrower's permanent and total disability, and grant the Director of the Consumer Financial Protection Bureau the authority to issue rules to implement these changes.
- Rep. Joe Courtney (D-CT) [amendment](#) to amend the Higher Education Act to require the U.S. Department of Education to count military student loan deferment or forbearance as qualifying payments to Public Service Loan Forgiveness so that service members who deploy have their periods of service appropriately counted toward their loan forgiveness.
- Rep. Delia Ramirez (D-IL) [amendment](#) to provide that educational assistance paid under U.S. Department of Veterans Affairs educational assistance programs to an individual who pursued a program or course of education that was suspended or terminated for certain reasons shall not be charged against the entitlement of the individual.

The House Rules Committee is expected to meet on Tuesday to determine the debate parameters for H.R. 8070, including what amendments will receive a vote later in the week. In advance of the committee's work, the American Council on Education (ACE) sent a [letter](#) opposing the inclusion of the Stefanik-Scott amendment and the Steel amendment in H.R. 8070. ACE said that, while it appreciates the objectives of the amendment to expand Pell Grant eligibility for high quality, short-term training programs, under the offset contained within the legislation, institutions that are subject to the endowment tax would be required to submit a risk-sharing payment to the U.S. Department of Education, and these institutions would not be able to offer federal student aid to their students on their campuses through the Federal Supplemental Educational Opportunity Grant program unless certain conditions are met. "We remain concerned that the offset language would: (1) establish a harmful precedent of targeting certain institutions and subjecting them to unequal status in federal programs; (2) incentivize some institutions to consider withdrawing from the federal lending programs to mitigate the significant and unpredictable financial risk they would be exposed to, or to

accept fewer low income students; and (3) force low-income students looking to finance their education into far costlier options in the private sector if institutions were to withdraw from the federal lending programs,” ACE President Ted Mitchell said.

U.S. District Court for Eastern District of Missouri Holds Hearing on Lawsuit Challenging U.S. Department of Education’s SAVE Plan, District Court of Kansas Dismisses State Lawsuits for Lack of Standing

Last Monday, U.S. District Court for the Eastern District of Missouri Judge John Ross held a hearing in [Missouri v. Biden](#), a lawsuit filed by the State of Missouri and six other states challenging the U.S. Department of Education’s SAVE [Saving on a Valuable Education] Income-Driven Repayment Plan. During oral arguments, Missouri Solicitor General Josh Divine argued that the repayment plan was never authorized by Congress and an income-driven repayment plan must be “paid over an extended period of time prescribed by the Secretary, not to exceed 25 years.” The wording of “not to exceed 25 years” was a central point in Solicitor General Divine’s arguments who said that, while the federal government is using the wording as permission to forgive loans, the Secretary of Education should set rates that complete payment by 25 years. “The text expressly requires repayment,” he said, emphasizing the label of SAVE as a “repayment plan.” Judge Ross questioned this by saying that Public Service Loan Forgiveness (PSLF), a program that waives outstanding federal student debt after 10 years working in public service, is also named a repayment plan. Mr. Divine said enrollees in PSLF make payments and must repay entirely “unless you satisfy the elements needed to obtain forgiveness.” In contrast, U.S. Department of Justice Attorney Steven Petri said that the SAVE plan relies on the Higher Education Act and described it as “an amendment to an existing plan.” The timing of the case, which was filed in April months after the rule was finalized, also came up as a topic of discussion. Solicitor General Divine said that the lawsuit should be allowed because he is only trying to proactively stop the program, rather than revoking loan forgiveness that has already been provided to borrowers. Judge Ross asked Mr. Divine if he is declaring “imminent harm,” why did he not file the lawsuit earlier. Solicitor General Divine said that he did not read the Federal Register on a daily basis so he did not know about the rule until

February. At the conclusion of arguments, Judge Ross said that it would take him “a couple of weeks” to craft an order. For additional coverage, see this article from [Forbes](#). Separately, on Friday, U.S. District Court of Kansas Judge Daniel Crabtree issued a [decision in Kansas v. Biden](#) where he ruled that three states could continue their challenge to the Department’s SAVE Plan but dismissed claims from eight others for lack of standing. Judge Crabtree ruled that Alaska, South Carolina, and Texas could proceed with the lawsuit, but said Kansas, Alabama, Idaho, Iowa, Louisiana, Montana, Nebraska, and Utah could not prove they would be harmed by the new income-driven repayment plan. The states argued that the new plan would reduce tax revenue and hurt their ability to recruit and retain state public service employees, among other claims. The Department countered that the SAVE Plan did not cause them any direct harm. Judge Crabtree said that he leaned on *Biden v. Nebraska*, the U.S. Supreme Court case last year that struck down the Department’s federal student loan forgiveness plan. The three states' claims of "harm to their public instrumentalities" was successful "thanks to *Biden v. Nebraska* ... but just barely." But the other states, including the lead state Kansas, did not have a case because any reduction in income tax revenue was due to the states' own decisions about how to tax revenue and not the SAVE program. The court will hold a hearing on a motion to issue a preliminary injunction blocking the SAVE plan tomorrow, June 11, 2024. For additional coverage, see these articles from [Newsweek](#) and [Inside Higher Ed](#).

Department of Education Announces Reforms to the Office of Federal Student Aid

Last month, the U.S. Department of Education [announced](#) several steps to reform the Office of Federal Student Aid (FSA) following the ongoing management and operational challenges that came to light with the botched rollout of the Free Application for Federal Student Aid. The reforms include the following:

- Searching for a new Chief Operating Officer (COO) for FSA.
- Conducting a full-scale review of FSA's current and historical organization, management, staffing, workflow structures, business processes, and operations to continue bringing the federal financial aid system into the 21st century.
- Hiring an independent consulting firm to make recommendations to the COO and the Secretary on ways to improve the design, structure, and processes within FSA,

with a focus on building an updated organizational structure and workflow.

- Reviewing contracts and acquisition procedures to ensure contracts are appropriately structured to hold vendors accountable for meeting key deadlines, achieving desired outcomes, and providing the best value to the agency and protecting taxpayers' resources.
- Restructuring senior leader reporting protocols to increase accountability and make sure the agency provides the best value to the agency and protects taxpayers' resources.
- Creating a new IT innovation team empowered to lead information technology design to support the digital transformation of the organization.
- Seeking input from the Office of the Inspector General and engaging Members of Congress, whose constituents receive services from FSA.
- Continuing robust outreach efforts to parents, students, colleges, and community organizations, and conducting listening sessions with them this summer.

In a letter to Departmental employees, Education Secretary Miguel Cardona said FSA has helped millions of Americans access higher education. But like any organization, FSA methods and scope of work have changed dramatically over time, and the environment where it now operates is continuously evolving. “..Changes are needed to make sure students, borrowers, and families have a better user experience with FSA, and we can achieve better outcomes for the millions of people we serve.” Secretary Cardona said that the Department has already begun a search for a new COO for FSA who will be responsible for launching a full-scale effort to improve the management and execution of critical services and projects, with a focus on information technology and development. He said that the next COO will have extensive executive leadership experience, as well as an understanding of complex, interconnected programs and services. “While the search for a new COO is underway, Denise Carter has been named Principal Deputy Chief Operating Officer (PDCOO),” the Secretary said. “A seasoned leader at the Department, PDCOO Carter brings more than three decades of experience managing complex, multifaceted organizational components with rigor, dedication, and efficiency. She understands the importance of immediate-term improvements to FSA’s execution and management and is already taking steps to tighten processes for FSA projects and

programs.”

House and Senate Education Committee Republicans Send Letter to Department of Education Criticizing Response to GAO Investigation Into FAFSA Rollout

Last week, House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) and Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-LA) sent a [letter](#) to Education Secretary Miguel Cardona criticizing the U.S. Department of Education for obstructing the U.S. Government Accountability Office (GAO) investigation into the failure of the rollout of the 2024-2025 Free Application for Federal Student Aid (FAFSA). The lawmakers say that, from the time GAO began its investigation earlier this year, the Department failed repeatedly to provide requested information to GAO even after its officials offered accommodations to allow the Department to gather the documents relevant to the investigation. Despite this, GAO “still [has] not received many of the requested items.” GAO stated that these delays “have impacted its progress on the work and its ability to meet its expected timeframe for issuance [of its findings] this summer ahead of the fall FAFSA cycle.” In the letter, Chairwoman Foxx and Ranking Member Cassidy demand that the Department comply with GAO’s requests and turn over all documents related to the investigation in accordance with federal law. “Instead of owning up to its mistake, the Biden administration is hiding evidence relating to its botched FAFSA rollout from Congress and the American people,” wrote the lawmakers. “GAO is investigating the FAFSA rollout at our request, and by stonewalling, the Department is interfering with our ability to carry out our constitutionally mandated oversight responsibilities.”

House Democrats Send Letter to Department of Education Raising Concerns About Challenges with the FAFSA

Last week, House Democrats, led by Rep. Jamie Raskin (D-MD), sent a [letter](#) to Education Secretary Miguel Cardona raising concerns about several remaining issues with the rollout of the Free Application for Federal Student Aid (FAFSA). In the letter, the members commend the U.S. Department of Education for its effort to increase FAFSA

completion and the guidance issued on April 30th and May 20th addressing barriers for students whose parents or spouses do not have a Social Security Number (SSN). But they say that the guidance may prove difficult for students to understand and utilize as students and their family members are understandably hesitant to submit sensitive identity verification documents to the provided Federal Student Aid (FSA) email address. “We are concerned that these students and their families will remain caught in a frustrating limbo while attempting to navigate the intricate steps outlined by this latest technical fix,” the letter says. “Many of these students are the first in their family to apply to college and have overcome a lifetime of obstacles to reach this moment.” The lawmakers also express concern that many students who resorted to submitting the paper FAFSA when they could not access the online form have not had their forms processed, a month after the May 1 college decision deadline. To prevent similar delays from occurring in the future, the members urge the Department to create an online portal before the 2025-2026 award year that allows students and their families to upload identity verification documents securely and conveniently, and encourage the Department to promptly share tailored and regularly updated resources on assisting students from mixed-status families with the FSA Information Center call center operators so that they can receive prompt and effective assistance. The lawmakers also ask that the Department identify individuals who have been unable to obtain their FSA ID and immediately assist them with accessing the May 20 technical fix and further:

- Make every effort under its existing programs and authority to connect students with resources that can help make up for the aid they may have missed in states that award financial aid on a first-come, first-serve basis.
- Issue resources and guidance to state education agencies and institutions to assist them in processing FAFSA backlogs, with particular attention to ensuring that students who submitted paper FAFSA forms receive the full measure of financial aid that they are entitled to.
- Provide the average wait time for students when contacting FSAIC since January 1, 2024, and identify any additional flexibility and resources needed to address long wait times.
- Convene a briefing for Members of Congress and staff to update them on the Department’s progress in achieving the above actions.

House and Senate Democrats Introduce Student Loan Servicers Accountability Act

Last week, several House and Senate Democrats, led by Rep. Sara Jacobs (D-CA) and Sen. Ron Wyden (D-OR), introduced the [Student Loan Servicers Accountability Act](#), which aims to strengthen the contract requirements between federal student loan servicers and the U.S. Department of Education. The bill would amend the Higher Education Act to:

- Require the Department to increase its vetting procedures before entering into contracts with servicers. The Department would be required to evaluate a servicer's past performance compared to all federal student loan servicers. All servicers would be evaluated based on consumer satisfaction, quality of customer service practices, and a servicer's ability to provide targeted services and prevent errors and disruptions in services during loan transfers. The Department would also be required to take into consideration any legal action against the servicer as well as penalties previously imposed by the agency.
- Require the Department to incorporate new terms into servicer contracts, including that a servicer must place a borrower's loans into an administrative forbearance without accruing interest when the servicer has identified a servicer error and has not yet corrected it.
- Require federal student loan servicers to maintain records of borrower accounts for at least two years after the loan serviced has been paid in full, assigned to collection, or servicing rights are transferred.
- Direct the Government Accountability Office to study how transfers and servicer error affect borrowers' credit ratings and the process to receive and to respond to consumer complaints, among other requests.

The bill has been referred to the House Education and the Workforce Committee for additional consideration.

CFPB Releases Final Rule Establishing Registry for Nonbanks Found to Violate Consumer Laws

Last week, the Consumer Financial Protection Bureau (CFPB) [announced](#) that it had finalized a rule establishing a registry for nonbanks that have been found to violate

consumer laws and are subject to federal, state, or local government or court orders. The CFPB said that the registry is part of its ongoing focus to hold lawbreaking companies accountable and stop corporate recidivism, and expects that the registry will be used by state attorneys general, state regulators, and a range of other law enforcement agencies. In the announcement, the Bureau said that the 2008 financial crisis exposed significant weaknesses in the oversight of nonbank financial companies. “Nonbank financial companies have traditionally faced inconsistent oversight, making it more difficult for regulators to identify and address potential risks to consumers,” the CFPB said. “While the list of banks, credit unions, and many mortgage companies are known to regulators and the public, many other types of financial companies are not licensed or registered – either through the Nationwide Multistate Licensing System (NMLS) or other regulatory registries. However, in the Consumer Financial Protection Act, Congress gave the newly created CFPB the authority to register nonbanks. This authority supports the CFPB’s role to monitor risks posed by nonbanks to consumers. It also supplements and supports already existing registries, like the NMLS, by covering entities that are not subject to the types of state and federal oversight already extended to certain individuals and entities, like in the mortgage industry. This is the first-ever rule by the CFPB to utilize the authority to register nonbank entities.” The final rule requires nonbank companies to:

- Generally, nonbanks will report certain final agency and court orders and judgments to the CFPB. These orders include consent and stipulated orders brought under consumer protection laws.
- For nonbank companies supervised by the CFPB, the entity subject to an order will provide a written attestation from an executive that confirms compliance with any relevant orders.

The CFPB said that it made changes to the proposed rule in response to public feedback. For example, registrants with orders published in the NMLS Consumer Access website may use a simplified filing process. The registration requirements will be phased in on a rolling basis.

For a copy of remarks by CFPB Director Rohit Chopra on the final rule, click [here](#).

CFPB Announces Lawsuit Against PHEAA For Pursuing Borrowers for Loans Discharged in Bankruptcy

In late May, the Consumer Financial Protection Bureau (CFPB) [announced](#) that it had filed a lawsuit against the Pennsylvania Higher Education Assistance Agency (PHEAA) for illegally collecting on student loans that have been discharged in bankruptcy and sending false information about consumers to credit reporting companies. In its announcement, the CFPB said that PHEAA services a range of private student loans, including those that have strict discharge requirements in bankruptcy and non-qualified loans that are routinely discharged. Nevertheless, when a consumer with private student loans receives a bankruptcy discharge, the company's practice is to treat all of that consumer's education-related loans as not discharged, unless it receives an explicit court order or other express direction from the loan owner. The Bureau alleges that PHEAA's practices violate the Consumer Financial Protection Act and the Fair Credit Reporting Act's implementing regulation. The CFPB's lawsuit asks the court to order PHEAA to stop the conduct, provide redress to borrowers it has harmed, and pay a civil penalty.

Defense of Freedom Institute Releases Report Criticizing Department of Education's SAVE Plan

On Friday, the Defense of Freedom Institute released a new report titled, [Defying Intent: Biden's SAVE Plan and the Original Goal of Income-Contingent Repayment for Student Loans](#). Authored by Jason Delisle, the report says that the U.S. Department of Education has claimed legal authority to establish a new income-driven student loan repayment plan called the Saving on a Valuable Education (SAVE) Plan, but it is far outside what Congress intended when it enacted the law. Lawmakers believed the authority would be used to create only limited income-driven repayment plans, not a sweeping loan forgiveness plan like SAVE. Key findings include the following:

- The SAVE plan uses legislative authority that Congress intended to have minimal budgetary impact, but the Department estimates that its SAVE plan will cost at least \$156 billion over 10 years, while others estimate the cost will be closer to \$500 billion.
- Loan forgiveness is a central feature of SAVE, with large numbers of undergraduate borrowers expected to have balances canceled after 10 to 20 years of repayment, including months when their payments were \$0. Lawmakers did not originally

intend for loan forgiveness to be a major benefit of income-driven plans and intended borrowers to repay for 20 or 25 years before having debt canceled.

- SAVE provides “zero-dollar payments” for incomes that reach well into the middle class, and it allows minimal payments (equaling 5 percent of “discretionary income”) well into the upper-middle-class. The original law upon which the Department bases its claimed legal authority for SAVE was intended to provide a safety net only to low-income students. For other borrowers, it intended much higher monthly payments. Congress intended income-driven repayment to be a flexible repayment option for borrowers with a last-resort loan forgiveness option that imposed negligible costs on taxpayers. The Department’s SAVE plan runs roughshod over those intentions, and may not survive pending legal challenges as a result.

For additional coverage, see this article from [Inside Higher Ed](#).

Federal Reserve Releases Consumer Credit Report for April

On Thursday, the Federal Reserve released its [Consumer Credit - G.19 Report](#), which showed that consumer credit increased at a seasonally adjusted annual rate of 1.5 percent in April 2024. Revolving credit (mostly credit card debt) decreased at an annual rate of 0.4 percent, while non revolving credit (mostly auto loans and student loans) increased at an annual rate of 2.2 percent. Total outstanding consumer credit stood at \$5.053 trillion at the end of April, up \$6.4 billion from March.

U.S. Department of Education News

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

The following announcements were posted to Federal Student Aid’s Knowledge Center:

- [\(GENERAL-24-70\) Updated Instructions for the Electronic Submission of Annual Financial and Compliance Audit Statements for Proprietary Institutions](#)
- [\(GENERAL-24-69\) SAIG Message Class File Update](#)

- [\(GENERAL-24-68\) Juneteenth National Independence Day Federal Holiday Processing and Customer Service Hours](#)
 - [\(GENERAL-24-67\) Update on Department Reprocessing of 2024-25 FAFSA Records](#)
 - [\(GENERAL-24-66\) NSLDS Professional Access Website – Loan Summary Page Issue](#)
 - [\(GENERAL-24-65\) Title IV Institutional Survey – Web Survey to Begin June 5, 2024](#)
 - [\(GENERAL-24-64\) FSA Partner Connect – Automatic Assignment of Alternate E&O Roles for School Users to Occur June 3, 2024](#)
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Member News



Granite Edvance recently [announced](#) that it received federal funding through the U.S. Department of Education's FAFSA Student Support Strategy to continue increasing the number of New Hampshire students who complete a 2024-25 Free Application for Federal Student Aid (FAFSA) and enroll in college. "The decrease in FAFSA completion this year due to delays and complications is not just a statistic," said Granite Edvance President and Chief Executive Officer Christiana Thornton. "The numbers represent young people who may be

walking away from opportunities because of frustrations and even misconceptions about this form. We are committed to helping students of all ages navigate their future pathways, and we see this work as critical to that mission and to the future of our state." The funding will enable Granite Edvance to promote the importance of the FAFSA, informing students and families that it's not too late to file; hire temporary staff members to directly support students and families throughout the state in FAFSA-filing; facilitate additional filing events across New Hampshire; and advertise those events as well as Granite Edvance's free services, including 1:1 filing support. The initiative will target not just graduating seniors but students who may have filed FAFSAs in prior years and have not done so this year due to confusion or frustration over the new form.



ECMC recently released the [list of awardees](#) under the FAFSA Student Support Strategy, which aims to increase the number of students who complete a 2024-25 Free Application for Federal Student Aid and enroll in college, particularly first-time students. ECMC supports these activities by providing funds to organizations with experience in providing these or similar services.

General News

[Forbes](#) examines the legal challenges of the U.S. Department of Education's efforts to provide federal student loan forgiveness through the SAVE Plan and adjustments to Income-Driven Repayment.

[CBS News](#) reports that total student loan debt in the U.S. is now nearly \$1.8 trillion, and experts say many young people are delaying buying homes and starting families because of it. But the Morehouse Class of 2019 is something of an experiment: What could lives look like when students graduate debt-free?

[AOL](#) examines what will change on student loans as a result of the November election for President.

[Forbes Advisor](#) reports that Navient recently created a private student loan forgiveness program for borrowers who were defrauded by their schools. Navient has yet to formally announce the plan, but has already distributed applications to a select group of borrowers, according to the Project on Predatory Student Lending.



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