



# DAILY BRIEFING

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Monday, October 3, 2022

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## NCHER Daily Briefing Publishing on Abbreviated Schedule This Month

The *NCHER Daily Briefing* will publish on an abbreviated schedule consisting of today and Thursday now that the U.S. House of Representatives and U.S. Senate are in recess. Both chambers are expected to return to legislative business after the November election.

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## 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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### Congress Clears Short-Term Continuing Resolution Avoiding Shutdown, Adjourns for Mid-Term Election

On Friday, the U.S. House of Representatives passed by a vote of 230-201 [H.R. 6833, a short-term Continuing Resolution \(CR\)](#) to extend funding for the federal government past the start of the fiscal year on October 1. The CR extends funding until December 16, punting negotiations between House and Senate Democrats and Republicans on overall funding levels until after the midterm elections. Since the Senate passed the measure on Thursday, it was immediately sent to the President for his signature. In its current form, the CR also includes \$12.3 billion in aid for Ukraine and \$20 million to address the water crisis in Jackson, Mississippi, but no additional aid to combat COVID-19 or monkeypox. After passing the CR, both the House and Senate recessed until after the midterm elections just over one month away.

For further coverage, see this article from [The Hill](#).

### Arizona Files Third Lawsuit Against White House Federal Student Loan Forgiveness Plan

On Friday, the State of Arizona and its Attorney General filed a [complaint](#) in the U.S. District Court for the District of Arizona challenging the White House's federal student loan debt forgiveness plan. The lawsuit asks the court to set aside the forgiveness plan, which it terms a "Debt Nullification Plan," and issue an order declaring that it violates the separation of powers established by the U.S. Constitution and violates the Administrative Procedures Act because it is in excess of statutory authority, is arbitrary capricious and an abuse of discretion, and without observance of procedures required by law. The complaint claims that it is inconceivable that Congress thought it was authorizing mass

debt cancellation in passing the HEROES Act and that the Biden Administration has not made the required determination that any waiver or modification under current law must move loan recipients back in the position that they would be were it not for the national emergency. The complaint asks for a temporary restraining order and preliminary and permanent injunctions. The complaint alleges that the forgiveness plan harms the Arizona's Office of the Attorney General by reducing its ability to recruit lawyers using Public Service Loan Forgiveness; harms Arizona by shifting debt cancellation to 2022 and 2023 (when it will not be taxable under state law); harms Arizona's economy by causing inflation; harms Arizona by crowding out the state's ability to borrow due to increased federal borrowing; and will increase Arizona's law enforcement costs due to the need to address the predicted increase in fraudulent activities (which the U.S. Department of Education says it anticipates). This is the third legal challenge to the debt cancellation plan.

Also last week, U.S. District Court for the Southern District of Indiana Judge Richard Young issued an [order](#) denying plaintiff's motions for a temporary restraining order and preliminary injunction in *Garrison v. U.S. Department of Education*, citing the Department's recent change in the plan that gives borrowers an opt out right. The plaintiff claimed that, under Indiana law, he would be taxed on the amount forgiven and would not have the ability to opt-out since he was part of the category of borrowers who would receive automatic relief. Judge Young allowed the plaintiff to amend his complaint, and asked that he consider whether he (and any additional plaintiffs) have standing, whether their injury is caused by and fairly traceable to the debt relief program or to the Indiana Tax Code, and whether the Department has taken sufficient action for the case to be ripe for adjudication, given that the plan is still evolving. The second legal challenge, which was covered in Thursday's *Daily Briefing*, was brought by legal officers for six states. On that case, today, U.S. District Court for the Eastern District of Missouri Judge Henry Edward Autry accepted a stipulation of the parties under which the plaintiff states withdrew their motion for a temporary restraining order, Judge Autry agreed to rule on the states' motion for a preliminary injunction by October 13, and the U.S. Department of Justice agreed that the Department of Education will not discharge any student loan debt pursuant to the policy challenged before October 17, 2022.

For additional coverage of developments impacting federal student loan forgiveness, see these articles from [The Hill](#), [CNBC](#), and [The Chronicle of Higher Education](#).

## Department of Education Releases Cost Estimate of Federal Student Loan Forgiveness Plan

On Thursday, the U.S. Department of Education [published](#) its own estimates of what its federal student loan debt forgiveness plan will cost over the next decade. According to the Department's estimate, the debt forgiveness plan will cost, on average, \$30 billion per year over the next ten years. The Department added that the 10-year cost in terms of reduced cash flows into the federal government will be roughly \$305 billion. The Department also included an estimate of the total cost of the program over the course of three decades as \$379 billion, noting that the estimate is based on economic and participation rate uncertainties. The Department's estimate is slightly lower than the Congressional Budget Office's [recently-published estimate](#), which put the program at a cost of \$400 billion. In terms of participation rates, the Department estimates that the majority of borrowers, around 81 percent, will participate in the one-time loan forgiveness program, although take-up rates for other relief programs vary widely.

## President Biden Defends Loan Forgiveness Plan at Congressional Black Caucus Event

Over the weekend, President Joe Biden gave a speech during a Congressional Black Caucus Foundation event where he defended the administration's federal student loan forgiveness plan. The President spoke during the event after seven states filed lawsuits to block the forgiveness plan. During his [remarks](#), the President said, "Seventy percent of Black college students receive a Pell Grant. For many Black students, these loan forgiveness will wipe out their student debt completely. For others, it'll provide significant relief. It's a gamechanger. And I don't want to hear a word from those members of Congress, if you notice, whose families got tens of thousands of dollars and several million dollars in pandemic relief loan forgiveness. The same ones criticizing. Give me a break." In addition to addressing criticisms about the student loan forgiveness plan, President Biden touted investments in Historically Black Colleges and Universities (HBCUs) during the event: "With the [Congressional Black Caucus], we invested an historic 5.8 billion dollars – that's 'B' with a – 'B' – billion dollars – in our HBCUs – knowing that our HBCUs are some of our best, best intuitions of academic excellence."

## White House OIRA Publishes Update Indicating Review of Income Driven Repayment Plan Regulations

The White House Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) [published an update on its website](#) indicating that it is currently reviewing the remaining regulations from its negotiated rulemaking panel, which includes the new income-driven repayment plan, proposed changes to the Pell program for incarcerated individuals, modifications to the 90/10 rule, and changes in institutional ownership. The full title of the proposed rule is, "Improving Income-Driven Repayment [1840-AD69], Implementing Statutory Changes to Pell Grants for Incarcerated individuals [1840-AD54] and 90/10 [1840-AD55] and Clarifying Rules on Changes in Ownership." The regulations are listed as pending publication as final rules, which typically takes 30 days after reaching OIRA. The timeline indicates that the rules are expected to be published in the *Federal Register* prior to November 1, which would likely mean they would go into effect in July of 2023.

## 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 website:

- [\(APP-22-21\) The 2023-24 FAFSA® Form is Here!](#)
- [\(GENERAL-22-73\) Columbus Day Federal Holiday Processing and Customer Service Hours](#)
- [\(CB-22-17\) Information Related to 2022-23 Supplemental Campus-Based Funds, Hurricane Fiona and the Kentucky Severe Storms](#)
- [Comment Request: Lender's Request for Payment of Interest and Special Allowance-LaRS](#)

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## Member News

# ECMC Group



Educational Credit Management Corporation (ECMC) announced that the company became the designated guaranty agency for the Missouri Department of Higher Education and Workforce Development (MDHEWD) Federal Family Education Loan Program (FFELP) portfolio effective October 1st.

Since the appointment of ECMC as the designated agency was made, the organization has been working closely with MDHEWD to ensure a smooth transition of services for students with outstanding loans made under FFELP. “ECMC remains committed to providing exceptional customer service to help borrowers navigate and find the best solutions,” said ECMC President Chad Tate.

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## General News

The Federal Trade Commission released a [Consumer Advice](#) notifying consumers that student loan scammers are circling now that the Biden Administration has announced its one-time federal student loan debt relief plan, and urging them to keep them at bay.

[NPR](#) reports on the Joint Consolidation Loan Separation Act, which will enable individuals to separate their formerly consolidated loans from their spouse (or former spouse), and noted that the President is expected to sign the bill this week.

[USA Today](#) reports that federal student loan debt forgiveness applications will become available soon, and provides tips for students to determine their eligibility and ensure that they are ready to apply for forgiveness.

[CNN](#) reports that borrowers eligible for forgiveness who signed up for email updates

received a notice that includes information on what borrowers can expect during the forgiveness process.

[Inside Higher Ed](#) reports on how large, public universities tend to base their admissions off of a prospective student's intended major or program of study.

[Higher Ed Dive](#) reports on recent data that found more adults and low-income students will enroll in community college when the community college offers bachelor's degrees.

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