NCHER BRIEFING

Thursday, November 9, 2023

In Today's Edition

NCHER Offices Closed for Veterans Day

The NCHER offices will be closed tomorrow, November 10th, in observance of Veterans Day. The office will reopen on Monday. Have a great weekend!

House Rules Committee to Meet on Labor, Health and Human Services, Education Appropriations Act

On Monday, the House Rules Committee is slated to consider debate and amendment parameters for H.R. 5894, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, which may be considered by the House late next week. With the short-term Continuing Resolution expiring on November 17th, both chambers are trying to make as much progress as possible toward passing the 12 individual appropriations bills. The deadline for members to submit amendments for consideration of the bill was last Friday and a total of 323 individual amendments were filed, including the following:

- Amendment by Rep. Nanette Barragan (D-CA) to strike language in the underlying bill that prohibits the U.S. Department of Education from using funds to issue a final rule or implement the proposed rule on improving income-driven repayment plans.
- Amendment by Rep. Emilia Sykes (D-OH) to store full funding for the Federal Work-Study Program.
- Amendment by Rep. Burgess Owens (R-UT) to defund the U.S. Department of Education rule that requires institutions of higher education to exclude revenue from calculations generated from programs that are not eligible for funding under title IV of the Higher Education Act of 1965 and that are offered through distance education.
- Amendment by Rep. Harriet Hageman (R-WY) to prohibit funds made available from being used to implement, administer, or enforce provisions made by the Free Application for Federal Student Aid (FAFSA) Simplification Act and included within the Consolidated Appropriations Act of 2021 that require an applicant, or the parents of an applicant in the case of a dependant, to report on the FAFSA the net worth of any farm or business with fewer than 100 employees for purposes of calculating such applicant’s student aid index.
- Rep. Warren Davidson (R-OH) to prohibit the implementation and enforcement of the U.S. Department of Education rule titled "Financial value transparency and gainful employment."

The committee is scheduled to meet on Monday at 4:00 p.m. ET where it will make final preparations for the bill’s floor consideration. During this meeting, it will determine how many amendments will receive consideration and how much debate time will be allocated for each amendment. For coverage of how the bill impacts higher education, see this article from Inside Higher Education.

House Education and the Workforce Committee Passes DETERRENT Act

Yesterday, the House Education and the Workforce Committee met in executive session and passed H.R. 5933, the Defending Education Transparency and Ending Rogue Regimes Engaging in Nefarious Transactions (DETERRENT) Act, by a vote of 27-11 vote. The bill, sponsored by Rep. Michele Steel (R-CA), received votes from all Republicans and three Democrats: Rep. Joe Courtney (D-CT), Rep. Susan Wild (D-PA), and Rep. Kathy Manning (D-NC). The bill lowers the threshold, outlined in Section 117 of the Higher Education Act, by which colleges are required to report foreign gifts and contracts, from $250,000 to $50,000, with some stricter $0 thresholds for countries and entities of concern. "In an age of unconventional warfare, postsecondary education is an easy target for adversaries seeking to steal our national security secrets and undermine our unifying national principles," said Chairwoman Virginia Foxx (R-NC), arguing that the Israel-Hamas conflict makes the bill more urgent. She continued, "We deserve to know which countries are paying for influence on college campuses." The bill now heads to the House Floor for additional consideration, though Chairwoman Foxx has not yet spoken to House Speaker Mike Johnson (R-LA) about the timing of when the bill may be taken up on the floor. For additional coverage, including an archived webcast of the markup, visit the committee website..

FSA Releases Electronic Announcement on Borrower Defense to Repayment Claims to Schools

The U.S. Department of Education's Office of Federal Student Aid (FSA) recently released an Electronic Announcement reiterating the notification and adjudication process that it is using to send borrower defense to repayment claims to colleges and universities. In the announcement, FSA said that, as a part of the settlement reached in the Sweet v. Cardona litigation, it is sending schools notice of borrower defense to repayment applications received from June 23, 2022, to Nov. 15, 2022. The Sweet v. Cardona settlement requires the agency to adjudicate these applications under the 2016 regulation, which requires notification to institutions of all applications before they are substantively reviewed and adjudicated. Colleges and universities have the option to respond to the notices, and there is no negative inference against a school if it does not respond. FSA said that it is attempting to batch applications so schools receive all claims from the June 23 to

November 15, 2022 period in a single notification. Over 90 percent of the schools receiving notices from this period have fewer than 100 applications. For the small number of schools that have over 500 applications filed by former or current students during this period, FSA is reaching out and explaining how it will pace the number of notifications sent each week. The agency anticipates completing the initial notification to all schools by approximately April 2024. After the notice period ends and the fact-finding process is complete, FSA will adjudicate the application(s) on the merits. The 2016 regulation provides for approvals based on substantial misrepresentation; a non default, favorable contested judgment; or breach of contract. If a discharge is approved, FSA will at a separate date determine whether to engage in a separate proceeding to recoup borrower defense costs from the institution, and schools will have an opportunity to contest any recoupment action before a hearing officer if they choose to do so.

Department of Education Announces 5.5 Million Borrowers Enrolled in SAVE Plan

Yesterday, the U.S. Department of Education announced that nearly 5.5 million borrowers are now enrolled in the Saving on a Valuable Education (SAVE) Plan, including 2.9 million borrowers who have qualified for $0 payments. The Department said that all other borrowers enrolled in SAVE are saving an estimated $102 a month ($1,224 a year) compared to what they would have paid on the Revised Pay As You Earn (REPAYE) plan. Overall, enrollment in the SAVE Plan has grown by 60 percent since it replaced REPAYE this summer. The updated enrollment figure includes 1.8 million borrowers new to an income-driven repayment (IDR) plan and 364,000 who switched to SAVE from a different IDR plan since September 2023. Overall, borrowers are repaying $300 billion in federal student loans on the plan, about one-quarter of all Direct Loans in repayment, deferment, or forbearance.

“Under President Biden, the Department created the SAVE Plan so that young people and working families can climb the economic ladder without unaffordable student loan debt weighing them down,” said Education Secretary Miguel Cardona. “I’m thrilled to see that in less than three months, nearly 5.5 million Americans in every community across the country are taking advantage of the SAVE Plan’s many benefits, from lower monthly payments to protection from runaway student loan interest. The Biden-Harris Administration will not rest in its efforts to fix the broken student loan system and make paying for college more affordable.” The Department also released data on the number of borrowers enrolled in SAVE by state and congressional district. California and Texas each have more than 450,000 borrowers enrolled in SAVE, while congressional districts in

Missouri, Ohio, and Michigan have the highest identified enrollment. Data also show that there are borrowers enrolled in SAVE in each congressional district.

Department of Education Announces New Framework for Federal Student Loan Servicing Accountability

Today, the U.S. Department of Education announced that it was outlining a new framework for increasing accountability of federal student loan servicers. The agency said that, to further the goal of protecting borrowers nationwide, it is taking steps to hold student loan servicers accountable for meeting their obligations to students, borrowers, and taxpayers when managing student loans. According to the framework, the Department has implemented an oversight strategy of federal student loan servicers that provides several pathways for identifying in real time problems that can harm borrowers. The Department's oversight specifically focuses on the borrower experience and includes monitoring servicers, tracking complaints, and examining results-based outcomes. These oversight and accountability tools are used in combination to ensure a comprehensive review of servicer performance. The Department takes several steps to monitor servicers across different channels including secret shopper campaigns and enhanced data monitoring so that errors could be detected swiftly and corrective action taken. It also takes a risk-based approach to overseeing loan servicers by leveraging borrower complaints, customer satisfaction surveys, interagency referrals, data monitoring, random sampling and servicer self-reporting. When the Department detects performance issues that do not meet our standards, it has the ability to take actions against servicers such as withholding payments, suspending or reallocating borrowers, creating contractor performance reports, and instituting corrective action plans. The Department said that it will continue its work to move toward the Unified Servicing and Data Solution or USDS, a more modern student loan servicing system that will enhance its ability to reward servicers for positive results and hold servicers accountable for poor performance through the transition to the USDS.

New York Fed Releases Latest Report on Household Debt and Credit

Earlier this week, the Federal Reserve Bank of New York released its Quarterly Report on Household Debt and Credit, which showed total household debt increased by $228 billion (1.3 percent) in the third quarter of 2023, to $17.29 trillion. The report is based on data from the New York Fed's nationally representative Consumer Credit Panel.

According to the report, student loan balances increased by $30 billion during the three-month period and now stand at $1.6 trillion. Mortgage balances rose by $126 billion from the previous quarter and stood at $12.14 trillion while credit card balances increased by $48 billion to $1.08 trillion in Q3 2023, representing a 4.7 percent quarterly increase. Aggregate delinquency rates on consumer debt increased in the third quarter, with 3 percent of outstanding debt in some stage of delinquency at the end of September 2023. Delinquency transition rates increased for most debt types except student loans and home equity lines of credit. The increases in credit card delinquency were the sharpest among borrowers between the ages of 30 and 39. The report noted that missed federal student loan payments will not be reported to credit bureaus until Q4 2024. Because of this policy, less than 1 percent of aggregate student loan debt was reported as greater than 90 days delinquent or in default in Q3 2023 and will remain low until at least Q4 2024.

Federal Reserve Releases Consumer Credit Report for September, Shows Decline in Student Loan Volume in Third Quarter

On Tuesday, the Federal Reserve released its Consumer Credit - G.19 Report, which showed that consumer credit increased at a seasonally adjusted annual rate of 2.2 percent in September 2023. Revolving credit (mostly credit card debt) increased at an annual rate of 8.6 percent, while non revolving credit (mostly auto loans and student loans) increased at an annual rate of 2.4 percent. Total outstanding consumer credit stood at $4.976 trillion at the end of September, up $9.0 billion from August. The report showed that outstanding federal and private student loans at the end of the second quarter totaled $1.737 trillion, a decrease of $27.8 billion from the second quarter 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:

- EDconnect 8.6.0 Download for Windows
- EDconnect 8.6.0 Installation and User Guide
- (GENERAL-23-96) Borrower Defense School Notification Process Under the 2016 Regulation (34 C.F.R. 685.222)

- (GENERAL-23-95) SAIG Software Upgrade for FTI Data Transmission - Upgrade to EDconnect 8.6.0 and Updated TDClient Software
- (GENERAL-23-94) Thanksgiving Day Federal Holiday Processing and Customer Service Hours
- Comment Request: eZ-Audit: Electronic Submission of 90/10 Revenue Attestations for Proprietary Institutions

General News

Forbes reports on the eight financial hardships that could ultimately become a basis for borrowers receiving automatic relief under the U.S. Department of Education's latest proposal on federal student loan forgiveness.

CNBC reports that parent borrowers have been ineligible for the U.S. Department of Education's new federal student loan relief measures such as the SAVE Plan. But thanks to a "super-secret double consolidation method," there is a way for them to access the plan. However, the Department is expected to close the loophole by July 2025.

The Chronicle of Higher Education shares new data on where the public sees value in higher education.

Inside Higher Education reports that the House education budget cuts federal work-study and other education programs.

Politico reports that Sen. Joe Manchin (D-WV) announced that he will not seek reelection to the U.S. Senate in 2024, dealing a blow to Democrats' hopes of retaining a majority in the upper chamber.

An online version of this Daily Briefing is available to view and print from the **Daily Briefing Section** of the **NCHER e-Library**.

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