



# DAILY BRIEFING

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## Senate Judiciary Committee Holds Hearing on Student Loan Bankruptcy Reform

Today, the Senate Judiciary Committee held a hearing titled, "Student Loan Bankruptcy Reform." In his opening statement, Chairman Dick Durbin (D-IL) mentioned that he participated in a hearing on the need for student loan bankruptcy reform back in 2012. But nine years later, it is still virtually impossible for borrowers to receive relief because of the difficulty in proving undue hardship. He referred to a study published by the *Wall Street Journal* that found only four cases where undue hardship relief was granted by courts. Chairman Durbin suggested that there is a need for another path to bankruptcy

discharge and advocated for returning to the bankruptcy law before 1998. He said that he and Sen. John Cornyn (R-TX) had introduced the Fresh Start Through Bankruptcy Act, which would create a 10-year waiting period for bankruptcy discharge. He said that the reform bill would also include accountability for colleges with consistently high default rates. In his opening statement, Ranking Member Chuck Grassley (R-IA) said that he would look at the Chairman's bill in greater detail, but bankruptcy reform would only address the symptom of the student loan problem. He said that there is no incentive for colleges and universities to keep their costs down, as student loans provide an unlimited source of funds. In his opening statement, Sen. Cornyn said that the Fresh Start Through Bankruptcy Act would provide important relief to borrowers and accountability for schools. He said 30 percent of federal student loan borrowers default within 12 years of entering school, and singled out problems in the proprietary sector.

In his [prepared statement](#), Illinois Attorney General Kwame Raoul said that his office could only accomplish so much by enforcing consumer loans and that Congress should pass the Fresh Start Through Bankruptcy Act. "Allowing student loans to be freely dischargeable after 10 years from the time they first became payable serves two key purposes – it provides relief for Americans experiencing the most financial strain and who are otherwise eligible for bankruptcy relief, while also protecting the solvency of governmental student loan," he said. "Further, there are ample provisions in the Bankruptcy Code to guard against fraud, bad faith, and abuse and ensure relief is limited to those debtors deserving of relief." In his [prepared statement](#), AccessLex Institute President and Chief Executive Officer Chris Chapman said that bankruptcy reform is necessary to address the failures of the law that have occurred over the last 30 years. He said the organization supports reforms similar to those outlined by Chairman Durbin, particularly the return to the pre-1998 framework. He encouraged Congress to revisit the definition of undue hardship. In her [prepared statement](#), Diana Barta, a student loan borrower from Richmond Hill, GA, discussed her situation of having more than \$124,000 in student loan debt (the majority of which went to attend the defunct Ashford University). She said that she is unable to pay the money back and the loans could not be discharged in a chapter 13 bankruptcy case. In her [prepared statement](#), American Enterprise Institute Senior Fellow Dr. Beth Akers said that some student and parent borrowers are worse off from having gone to college, and stressed the importance of a comprehensive safety net. She said that the federal government provides the opportunity for borrowers to enroll in income-based repayment to manage their debt, but it is difficult to navigate and needs to be reformed. In her view, Congress should reintroduce bankruptcy discharge to provide a safety patch, though it presents a moral hazard. In her [prepared statement](#), Public Law Center Directing Attorney Elizabeth Gonzalez said the current system is not working. Since 2012, her organization has had over 5,000

consultations with struggling borrowers, but it was only able to file five adversary proceedings seeking discharge. Their clients have exhausted the possibilities of increasing their incomes and end up trapped in a cycle of being unable to pay their federal loans even under income-based repayment.

During the question-and-answer portion of the hearing, Chairman Durbin said that he had asked the U.S. Department of Education for a new definition of undue hardship, but has had little success. Ranking Member Grassley asked the witnesses for their views on student loan forgiveness; Dr. Akers said that loan forgiveness is a regressive policy and that colleges should have skin-in-the-game while Mr. Chapman said the organization does not support blanket forgiveness. Sen. Cornyn asked the witnesses to compare bankruptcy remedies for schools; Attorney General Raoul said institutions that misrepresent the educational benefit of their programs can seek bankruptcy discharge but student victims cannot. Sen. Richard Blumenthal (D-CT) said that he supports the Fresh Start Through Bankruptcy Act and asked Attorney General Raoul what could be done to combat predatory lending. The Attorney General recommended that there be a disgorgement of profits. Sen. Blumenthal suggested that, if this were the case, lenders would be more careful.

Sen. Josh Hawley (R-MO) said that he could not see why student loan borrowers should be bound to their debt for life. But he raised concerns about accountability of colleges and universities. He suggested that return-on-investment is a better gatekeeper than accreditation. Sen. Mike Lee (R-UT) suggested that one way to address increases in tuition would be to reduce federal loan borrowing for graduate and professional study, which he said has crowded out the private sector. Sen. Marsha Blackburn (R-TN) asked the witnesses to comment on alternatives to loan forgiveness. Dr. Akers said that a better safety net was needed for struggling borrowers and Mr. Chapman said reforming income-driven repayment to provide gradual increases in payments as income rises. In his closing remarks, Chairman Durbin said that he hopes the Fresh Start Through Bankruptcy Act can receive bipartisan support and that he will embark on an evaluation of undue hardship and skin-in-the-game for colleges and universities.

For more information on the hearing, including an archived webcast, visit the [committee website](#).

**New York Fed Releases Household Debt and Credit Report, Shows Increase in Total Debt But Decline in Student Loan Balances**

Today, the Federal Reserve Bank of New York released its [Quarterly Report on Household Debt and Credit](#), which shows that total household debt increased by \$313 billion (or 2.1 percent) to \$14.96 trillion in the second quarter of 2021. The total debt balance is now \$812 billion higher than at the end of 2019. The 2.1 increase in aggregate balances was the largest seen since the fourth quarter in 2013 and marked the largest nominal increase in debt balances since the second quarter in 2007.

According to the report, mortgage balances - the largest component of household debt - rose by \$282 billion or 2.8 percent increase and stood at \$10.44 trillion at the end of June. Credit card balances increased by \$17 billion or 2.2 percent in the second quarter, but they were still \$140 billion lower than they had been at the end of 2019. Auto loans increased by \$33 billion or 2.4 percent over the last quarter. However, student loan balances decreased by \$14 billion. Outstanding student loan debt stood at \$1.57 trillion in the second quarter. In total, non-housing balances (including credit card, auto loan, student loan, and other debts) grew by \$44 billion, with increases in auto loans and credit card balances offsetting the decline in student loan balances.

"We have seen a very robust pace of originations over the last four quarters with new extensions of credit for mortgages and auto loans combined with rebounding demand for credit card borrowing," said Joelle Scally, Administrator of the Center for Microeconomic Data at the New York Fed, in a [press release](#). "However, there are still two million borrowers in mortgage forbearance who are vulnerable to financial distress once the forbearance programs come to an end."

The report shows that aggregate delinquency rates across all debt products continued to decline since the beginning of the economic recession associated with the COVID-19 pandemic, reflecting an uptake in forbearances provided by both the Coronavirus Aid, Relief, and Economic Security or CARES Act and voluntarily offered by lenders. These policy measures continue to be visible in the delinquency transition rates; as of late June, the share of outstanding debt that was in some stage of delinquency was 2.0 percentage points lower than the fourth quarter of 2019, just before the COVID pandemic hit the United States. Of interest to NCHER members, the share of student loans that are reported as delinquent remains very low as the majority of outstanding federal student loans remain covered by CARES Act forbearances. About 5.7 percent of aggregate student loan debt was 90+ days delinquent or in default in the second quarter 2021. Auto loans and credit card delinquency transition rates also continued to decline, reflecting the impact of government stimulus programs and bank-offered forbearance options for troubled borrowers.

For additional coverage, see this article from [Reuters](#).

## Senate HELP Committee Deadlocks on Nomination of Lhamon to Serve as Assistant Secretary of Civil Rights

Today, the Senate Health, Education Labor, and Pensions Committee met in executive session to vote on the nomination of Catherine Lhamon to serve as the next Assistant Secretary for Civil Rights at the U.S. Department of Education. As a reminder, the committee was originally scheduled to vote on the nomination on July 13, but rescheduled the vote because not all Committee Democrats were able to attend the markup that day. Today, the committee voted to advance the nomination by a tie vote of 11-11; under the chamber's rules, Senate Majority Leader Chuck Schumer (D-NY) can move to discharge the nomination from committee for consideration by the full U.S. Senate. Congressional observers expect this action to take place after the upcoming August recess. For additional information on the markup session, visit the [committee website](#).

## Senate Democrats Send Letter to Education Secretary Cardona Regarding Closure of CEHE Schools

Yesterday, Senate Majority Whip Dick Durbin (D-IL) and Sen. Elizabeth Warren (D-MA) and Sherrod Brown (D-OH) sent a [letter](#) to Education Secretary Miguel Cardona urging him to assist students impacted by the closure of Center for Excellence in Higher Education (CEHE) schools. Last year, a Colorado state court found that the organization had defrauded students by using predatory tactics and false advertising. In the letter, the senators called on the U.S. Department of Education to work with the Accrediting Commission of Career Schools and Colleges, states, and CEHE to immediately execute teach-out agreements for students to continue their studies at nonprofit institutions; to use the Department's existing authority to extend the closed school discharge eligibility period to any student who withdrew on or after December 1, 2014; to ensure students are fully aware of their options for restoration of tuition payments, benefits, and continuing their education; and ensure that all students have access to their transcripts and no cost.

## Treasury Secretary Yellen Sends Letter to Congressional Leadership on the Debt Limit

Earlier this week, Treasury Secretary Janet Yellen sent a [letter](#) notifying the House and Senate leadership that the agency had begun to take "extraordinary measures" to prevent the United States from going into default since Congress has not agreed to raise the

nation's debt limit. In the letter, Secretary Yellen mentioned that a 'debt issuance suspension period' will begin on Monday, August 2, 2021, and last through Thursday, September 30, 2021," and that the agency will be unable to invest fully in the Government Securities Investment Fund of the Thrift Savings Fund, part of the Federal Employees' Retirement System, in interest-bearing securities of the United States.

## U.S. Department of Education News

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

The following announcements were posted to the Information for Financial Aid Professionals website:

- [Fiscal Operations Report for 2020–21 and Application to Participate for 2022–23 Reporting Instructions and Additional Flexibilities Under the CARES Act \(EA ID: CB-21-09\)](#)
- [2020–21 Cycle Shutdown on Sept. 12, 2021, in FAA Access to CPS Online \(EA ID: APP-21-10\)](#)

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## General News

[Inside Higher Ed](#) reports that Sens. Jack Reed (D- RI) and Susan Collins (R- ME) said that they believe they can get buy-in from states for the Partnerships for Affordability and Student Success, or PASS, Act because their proposed legislation would help states better educate their workforce and, in turn, boost their competitiveness in the global market.

[Bankrate](#) continues coverage of House Speaker Nancy Pelosi's (D-CA) statement that the President cannot forgive student loan debt without Congressional approval. The article examines how the Speaker's remarks and the conversation around student loan forgiveness could impact borrowers with student loan debt.

[Forbes](#) reports on why more than 20 Historically Black Colleges and Universities have chosen to cancel student loan debt, and why it matters.

[U.S. News and World Report](#) announces the addition of a fourth major category to its Best Loan Companies Ratings: Best Student Loan Refinance Lenders.

[Inside Higher Ed](#), [The Chronicle of Higher Education](#), and [Higher Ed Dive](#) report that the American College Health Association and nearly three dozen other higher education

organizations recently issued a statement condemning state-level restrictions barring colleges and universities from requiring vaccines or other public health measures, such as mandatory masking, to combat the spread of COVID-19.

[Inside Higher Ed](#) reports that Jobs for the Future, a national nonprofit focused on education and the workforce, released a report arguing for a “radical restructuring of education for grades 11-14.” It advocates for a new kind of education institution that is neither high school nor college starting after the second year of high school.

[Diverse Issues in Higher Education](#) reports that, despite pushes to address predatory practices such as the withholding of federal financial aid, for-profit institutions are continuing to target communities of color through recruitment and location strategies, according to a new report issued by the Student Borrower Protection Center.

[TODAY](#) reports that student loan debt is a problem for millions of Americans and discusses what borrowers need to know to tackle debt head on.

[CNBC](#) reports that Black women make nearly \$1 million less than white men during their careers, according to new data released by the National Women’s Law Center.

[MarketWatch](#) reports on a new initiative launched to explore ways to expand equity in higher education – the organization is on a mission to find out whether better data can protect students from predatory colleges.

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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