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A Mountain of Money: Tackling Student Debt | Feb. 27, 2020 | Episode 84

Ed: Hello and welcome to "Our American States," a podcast from the National Conference of State Legislatures. On this podcast, we're all about legislatures: the people in them, the policies, process and politics that shape them. I'm your host, Ed Smith. Thanks for joining us.

On today's show, our focus is on student debt, the more than 1.5 trillion-dollar mountain of money owed by more than 40 million people in this country.

Later in the show, we'll talk with the student debt ombudsman in New York State, but first we're going to check in with two NCSL experts on the matter, Sunny Day and Andrew Smalley. Sunny and Andrew, welcome to "Our American States."

Time Marker (TM): 0:49

Ed: Sunny, can you give me an overview of the student debt situation in the country?

Sunny: Yes. In fact, I have some new numbers to share from 2019. In 2019, total student loan debt reached 1.6 trillion, and now more than 44 million Americans have student loan balance. This impacts really everything from families and students to state economies. And so state legislators are very interested in alleviating, in tackling student debt.

And something that's important to know is that the average borrower at a public college or university now owes more than $25,000, and 92% of those student loans are federal student loans.

I would also mention that increasingly of great concern is default rates. So, some estimates are finding that nearly 40% of student loan borrowers are likely to default on their loans by 2023, and the slow repayment rates are really a critical issue right now. There's a whole lot of repayment options that students are choosing from, sometimes in the absence of great information. And we're finding that just over half of borrowers who started paying their loans in 2010 had made significant progress reducing their balance five years later.

So just half really had made progress in five years on reducing their student loans, and that does have to do with the repayment options and the variety of information and choices that students have as they try to start paying back their student loans.

TM: 02:22

Ed: That does sound like a troubling situation. Tell us a little bit about who these borrowers are. As I understand it, we're not just talking about young people recently out of college.

Sunny: That's right. Today's higher ed and post-secondary education landscape has really changed. Today's student is significantly older than the 18 to 22-year-old sort of typical college experience that we might picture in a four-year institution. A lot more adults are going back to school. A lot of adults with jobs and children and are, in fact, ages 35 to 49, actually have the highest levels of student loan debt.

It's also interesting to note that more than 2.8 million Americans over the age of 60 have taken out at least one student loan, and it's often to support a family member's education, although for some of them it's theirs.

And then finally it's important to note that there are some really significant demographic differences in terms of borrowing and repayment. For example, the average African American college student owes nearly 40% or more in student loans than the average white graduate.

TM: 03:30

Ed: Well, thank you, Sunny. Andrew, I know you've been keeping a close eye on state legislatures and how they've been responding to this issue. What are the top concerns of state policymakers?

Andrew: Well, we've seen that lawmakers are really increasingly concerned about the burden that these debt levels are imposing on their state economies. I mean, it's easy to understand that when you have borrowers paying an average of $200-$300 a month towards a student loan, that's going to have an economic impact. And we've started to see a real clear body of research about how this is impacting the economy as a whole.

So last year the Federal Reserve put out a report showing how student loan debt is causing a significant decline in home ownership among young adults. A few years before that, they put out a report talking about how it's having a negative impact on small business formation.

And survey after survey shows that young people are delaying saving for retirement, delaying saving for homes, delaying buying homes, having kids, and that has a collective impact on our economy. We see more legislators showing interest in searching for solutions to those challenges.

TM: 04:33

Ed: Andrew, I understand that more than a dozen states have taken action related to student debt in the last few years. Can you fill us in on the details on that?

Andrew: We’ve seen that states are taking action on this issue in a number of different ways. So, in 2019 we tracked nearly 300 bills related to student loan debt here at NCSL and we’ve seen these bills fall into a few different categories.

The first is student loan forgiveness bills and these are bills where states are offering partial or complete forgiveness for work in certain professions generally. We’ve seen teachers and healthcare workers such as nurses. And a few states have looked at creating programs based on residency within a certain part of a state, such as a rural area.

We’ve seen a number of these bills be introduced, but not a ton enacted and not a ton funded to really be created on a large scale. So, we’re mostly talking about small, targeted programs that are part workforce development and part loan forgiveness. So that’s one area.

We’ve also seen bills related to tax credits and deductions for borrowers. And we’ve seen bills that modify the consequences for default related to professional licensure.

But the area where we’ve seen the most legislative activity is really in the student loan oversight piece, and these are bills that create new consumer protections for student loan borrowers. These are often called student borrowers bill of rights legislation.

And these are less about actual repayment or financial aid, and they’re more about trying to help borrowers understand and navigate their loan repayment options, which can really often be quite confusing, and there are a lot of different plans and getting into the right plan with the right terms for your loan can make a big difference in terms of when and how you’re able to pay off your loan.

We’ve seen a lot of borrowers are finding it hard to get good information about these plans. So, states have looked at this and felt that they need to take a more active role in this process.

Since 2015 thirteen states have passed bills to modify their student loan oversight process. These include provisions to do things like regulate student loan services with additional licensure and appoint student loan ombudsmen who oversee complaints and sort of manage the process for the state. And we’ve also seen states require schools/colleges to offer borrower information courses to help students and families understand their loans and their potential repayment options.

TM: 06:58

Ed: So, if I understand this correctly, even though most of these loans are federal, the state role here is really the regulation of the servicers in the same way they would regulate other financial industries?

Andrew: Right. We've seen a number of states decide that this is an important consumer protection issue for them and that they want to help the borrowers and residents in their state navigate this process.

Ed: Thanks, Andrew.

TM: 07:22

Ed: So, Sunny, in the next few years, what do you think you're going to see? Is there going to be more legislation from the states?

Sunny: We certainly do anticipate more legislation. In fact, we're already following more than 200 bills related to student loans that have been introduced in the 2020 session. And we don't have a conversation with legislators about higher education or post-secondary education without student loans being part of that conversation. It's really one of the top two or three concerns that they have in terms of educating their citizens.

So, we anticipate more state action. We also think it's possible that there could be more federal action that could impact this issue. But we still expect to see state legislators playing an active role, particularly in the oversight piece.

Ed: Well, thank you both for taking the time to share your expertise with us on this important issue. After this break, we'll be back to talk with the student debt ombudsman from New York State.

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Ed: Welcome back. Now we're going to speak with Winston Berkman Breen, who is the student advocate and director of consumer advocacy for the New York State Department of Financial Services; in effect, the student debt ombudsman for New York State.

Winston, welcome to "Our American States."

Winston: Great, thanks so much for having me.

TM: 09:04

Ed: Now, tell us about the role you play in New York State dealing with student debt issues and how your position came to be created.

Winston: Well, the student debt issue is a huge problem in New York and in the country and we're seeing a couple of states creating a role at the state government level to help advocate for students, coordinate policy, but also just be a point of contact for anyone who is having issues with their debt, or someone in their family is having issues with their debt.

So, what I do is I'm housed in our State Department of Financial Services, which is our state's consumer advocate state agency and regulator for New York State entities. I play a couple of roles. One is that my colleagues and I… I work with folks in our student protection unit… we field complaints from New Yorkers.

So if someone has an issue with their student loan or some of their debt, they can reach out to us and file a complaint and get some information, and that might look like informing them about their options for repayment, or the world of sort of repayment plans or loan forgiveness programs that are available to them. But it also might mean that we interface on their behalf with the student loan servicer or lender to get to the bottom of an issue, whether that's an accounting issue or something a bit more serious.

We also recently, as of last October, licensed student loan servicers, and that's a really important and new tool and power that we have at DFS and that gives a lot more points of entry to the servicing industry, which is really critical for student loan debt.

And finally, we drum up new policy initiatives and protection programs for students. So, we are tasked with making sure that someone is looking out for student borrowers in the state government and implanting programs, whether that's educational campaigns or new policy initiatives and working with other arms of the government to implement them.

TM: 10:43

Ed: And so, Winston, what are the most common complaints you receive from borrowers in New York?

Winston: It runs the gamut. Some that are very common are what you could maybe call servicing errors, and that's why it's so important that we recently licensed student loan servicers and we can talk more about that; but where your servicer, who is the point of contact, the person that you pay each month, the person that sends you statements, the one that you call when you have a question and work with when you're trying to get into a better repayment option or figure out if you can refinance or consolidate your loans – when they give you misinformation or you spot an error or have a question about your statement and try to get information from them, it's a huge problem.

So, people reach out to us all the time saying: there's this late fee on my statement and I'm not sure where it came from and I'm not really getting the information I need from my servicer. Or they might say: I've applied three times to get into an income-driven repayment option to make my federal loans affordable and I'm not getting my application processed, or they keep making me resubmit things that I've sent in the past.

So those sort of administrative errors at the servicing level are very common.

We also get complaints about things that are maybe a little bit outside what a state can necessarily do. If someone is in a very high-cost private loan and really just wants a way to refinance and make more affordable payments, we can work with them and their private lender and try to see if there's a more affordable option. But if a lender doesn't offer a repayment plan or refi that's affordable, there's less that any actor can really do there.

And then I think the third bucket of types of complaints we see which can be very difficult to deal with are so-called cosigner release issues where someone cosigned a loan for someone in their family or their life and then something tragic happens to that student borrower themselves; they pass away prematurely; they experience some form of disability and the cosigner now both has to grieve for what's going on in their family, but also take on that person's contractual obligations to pay the loan.

So, we really run the spectrum. Another category I should say, just because of the current climate that we're in, is we get a lot of complaints about federal loan programs and public service loan forgiveness and other options that people were promised and that are not being very well run from the federal government.

TM: 12:58

Ed: So, do you have a sense of whether these issues are coming up more in New York State than other states, or is this something that seems like kind of a national problem?

Winston: I'd say it's a national problem. Other states' student advocates and student ombudsmen, we're in touch and we communicate pretty frequently, and we'll check in on what the trends and issues are that we're seeing. And it's pretty similar across the nation.

New York is a state that has about 2.4 million borrowers with about 90 billion dollars in student loan debt, so relative to many other states we have more debt; we just have more dollars and more people who are affected. But we see a lot of the same issues as our colleagues in other states do nationwide.

TM: 13:39

Ed: Talk to me a little bit about why you see this oversight work is important. I know you've worked in the consumer advocacy area before this role, so I'd be interested in your perspective.

Winston: Yeah. I mean, prior to joining the New York State Department of Financial Services, I was a legal services attorney and I worked with people, with individuals who were struggling with their loans, federal loans and private loans, every day. And it was really eye opening into what a huge problem this is for most people in America.

Just very simple things like trying to get information can be such a challenge, and you shouldn't need access to a free lawyer to have that lawyer have four or five free hours during their week to call a servicer to get a response. And now in my current role, you shouldn't need someone in the government agency to call a servicer and make things happen for you. It should just work.

So, seeing just how difficult the problem is and how complicated the loan programs are that exist at the federal level, it's definitely something that we all need to put more resources and attention to. But I think what makes it really a critical issue and area is the impact it has on people's lives. It's all about the people. The solutions get too caught up in dollar amounts and what kind of loan something is.

The reality is that there are people who are really struggling to make ends meet and advance in their lives, whether that means that they're putting off decisions to start a relationship or to get married or to have children or buy a home, these are things that are traditional sort of mile markers for a lot of Americans that are really getting impacted by their debt.

And another really important aspect of why this is such a critical issue that I think requires a lot of supervision from everywhere is student loans affect different people differently. We've talked about how this spreads across the ages in different ways, but it also affects communities of color disproportionately and women disproportionately, and there can be some really unacceptable outcomes there.

There are some statistics that have come out in reports recently that the average African American borrower will graduate with $7,400 in student debt more than white borrowers, their classmates, and that over a couple of years that can compound to be as much as $25,000 more than their graduating white peers.

So, this really has impacts on America that exacerbate a lot of the racial and gender inequities that we already see. It's a very personal thing; it's a very social justice issue; and it also has economic effects. This is causing a drag on our economy. It's probably not going to be like a bubble the way the housing market was, but it's certainly a drag.

TM: 16:04

Ed: Does New York State see real effects on its economy? Are you able to actually measure that in terms of people delaying buying their first home, getting married, that kind of thing?

Winston: Yeah, I think that's really born out in a lot of the reporting, whether it's by government agencies or by private actors, nonprofit or think tanks that people are making those decisions. And just anecdotally, I know from some of the people I talk to, both individual consumers and some consumer advocates working in this space, it has real effects, and I've spoken to the lenders or housing counselors who find that people's student loan debts are the reason that their mortgage loans might get denied when they're applying, but their debt to income ratios are thrown off by these large student loan burdens that they have.

So, it really is having effects on people's lives. I think that it plays out differently depending on what we're talking about – if we're talking about financial decisions versus family decisions – but it certainly has a real effect.

TM: 17:00

Ed: So, what is the most common action, do you think, that you end up taking to help borrowers? Is there one area where you find you're spending the majority of your time?

Winston: Currently at the Department of Financial Services, a lot of our focus has been on licensing and regulating student loan servicers. As I mentioned, that's a new authority we got last year in October of 2019. And what it means to license something at DFS means that to do business in the State of New York, they have to come to us and apply and get approved for a license.

We license all sorts of financial sector industries, whether that's lending, servicing; we license check cashing money transmitters, the insurance industry. So, by becoming licensed, the student loan servicing industry is getting put into the fold of so-called regulated industries, and DFS is a regulator.

So, a lot of our effort has been going into setting up those guardrails that the regulators use as part of their toolkit to make sure that there is not improper conduct or abusive or unfair practices happening out of that industry. So, we are processing those licenses and as part of that, we handle a lot of complaints.

So I'd say right now our two main efforts are making sure that consumers know we're here for them and fielding the complaints they have, but also working with the regulated industry to make sure they're behaving according to law and are treating consumers and borrowers and their cosigners fairly, using those two sort of pillars of our work to do additional work with consumer education or figuring out sort of discreet programs we can do to reach specific borrower populations.

TM: 18:36

Ed: Talk a little bit about how the situation has changed over the last 30 years. I'm a Baby Boomer and I got to go to college; I didn't have to borrow any money at all. But as I've picked up more about this topic and kind of understand it better, it seems that day has passed almost completely.

Winston: Yeah, a lot has changed over the last 30 years and a lot of that has happened at the federal level. So, in the late… before the 2000s, we saw a lot of shifting away from investing in the educational institutions from the federal government and putting that burden of investment onto students themselves. And that's when we sort of saw larger loan programs coming out of the federal government. With that, we saw some tuition increases.

So, one major change is just that student loans are now a much more prominent way of paying for school than they used to be, not just that the dollar amount is higher, but that it's a more central program itself. The federal government and state governments and institutions themselves are supporting that.

But another thing is that the student loan program at the federal government, it has really layered a lot of programs over time rather than for the most part doing away with programs. So, for instance, in the repayment area, there are a number of different repayment options and it can be very confusing and convoluted. There's a pay, there's a re-pay, and there's income-based repayment, income-driven, income-contingent repayment.

It's very confusing and some loans qualify for some programs, some for more, some for less. So, you almost need an additional degree even to just understand how to pay for your student loans, how to get the right repayment plan. So, I think that is something that, over time, has just gotten more complicated.

The federal government over the last couple of years has made some noise about fixing that process and making it a bit more streamlined, although there was some news coming out recently from the Trump administration about their plans to fix that, and some of it is in line with that plan to streamline, but others would completely do away with some really important programs like the public service loan forgiveness option.

So just the programmatic level has gotten more complicated, but also the lending itself has actually changed. Up until about 2010 there was one type of federal loan that borrowers could take out called the FFEL loan, Federal Family Education Loan, and that worked through private lenders with a series of sort of public actor backers and ultimately the Department of Education would insure those loans, but it was made through private lenders.

And then in 2010, they switched over completely to a direct loan program where the Department of Education makes loans directly to borrowers and uses a sort of private servicing that we've already talked about.

So even just within the last ten years, let alone the last 30, the shape of federal lending and federal student aid has dramatically changed. Tuition has also gone up, which has caused a lot of problems.

TM: 21:16

Ed: So, Winston, tell me what kind of options do states have to assist students and to oversee this student debt issue?

Winston: It's a great question and it's an important one because I think that because so much of the student debt comes from federal student debt, about a little over 1.4 trillion of the 1.6 trillion is in federal dollars, and there's this idea that it's federal; what can states do about it; states really do have a lot of options.

I think you can think of their options in three broad buckets, so one being sort of education and consumer engagement, one being regulatory, and the third being law enforcement, the form of consumer protection.

On the first, as I've said many times already, it's a very confusing landscape, how to navigate student loans, federal and private. So, engaging with constituents and student borrowers and cosigners and their families is really important in trying to break down how to handle student debt into understandable and digestible ways.

And that can take the form of public education campaigns or supporting one-on-one counseling, or working with local elected officials to hold small events in their areas. I think those are really effective strategies.

In terms of regulation, I've talked a bit about how DFS now licenses student loan servicers. Depending on the state you're in and who a lender is, states can also license lenders, private lenders, not the federal government, but there are plenty of folks who take out private loans as well.

And that's an opportunity to make sure that the loans are being made in a way that doesn't take advantage of borrowers, that aren't usurious, that have appropriate interest rates and consumer protections built into the loan terms. And it's also a really great way to gather information on the issue.

And then the final bucket being consumer protection and law enforcement – I think that's really critical, especially because the federal government is doing less at this point and it's important for states to both pick up that issue where the federal government has put it down, but also make sure that they're properly empowered to be the best advocate for their constituents as possible.

So that might mean passing legislation to make sure that their regulators or attorneys general or other law enforcement agency in their state has the tools that they need, has these so-called UDAP: unfair, deceptive and abusive taxing practices/powers to go after student loan issues.

I think courts have pretty much upheld in those cases that states' consumer protection laws are not preempted by the federal government. So, this is an area where states need to sort of maintain that important ground that they have to enforce laws that protect their consumers against any bad action including federal bad action.

So, I think those are three broad buckets. There is also a fourth which is tuition, making sure people have access to tuition assistance dollars and that they're working with their state university system and private schools to ensure that schools are affordable and that scholarships and grants are both available and are well publicized.

And then finally I think this is true for really anyone involved in this issue, is just never putting down the mantle or losing the narrative that this is really a social justice issue, a racial justice issue. This affects people of different walks of life differently and that everyone has a stake in the game. It's not just a fiscal hawk, taxpayer dollar, law enforcement issue. It's a very human one that everyone can get on board with.

Ed: Well, Winston, thank you so much for giving us this state-level view of the student debt issue, and I appreciate your time.

Winston: Great. Thanks so much for having me.

Ed: And that concludes this edition of our podcast. We encourage you to review and rate our episodes on iTunes, Google Play or Spotify. You may also go to Google Play, iTunes or Spotify to have these episodes downloaded directly to your mobile device when a new episode is ready. For the National Conference of State Legislatures, this is Ed Smith. Thanks for listening and being part of "Our American States."

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