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# Student loan 'pause' costs taxpayers \$5 billion a month

New lawsuit challenges Biden administration's unfair and unconstitutional policy

By Stephen Delie and Jennifer Majorana | April 2023

The New Civil Liberties Alliance and the Mackinac Center announced a lawsuit on April 6, 2023, challenging the Biden administration's pause of repayments on student loans.

The student loan pause is costing taxpayers \$5 billion every month. If it is extended to the end of 2024, it will cost a total of \$275 billion.

Congress isn't making decisions about how to spend those billions – the Biden administration is. And the executive branch does not have the constitutional authority to do so.

The United States Supreme Court is currently reviewing several related cases, but these concern President Biden's effort to "forgive" \$20,000 for a large proportion of student loan borrowers – similarly violating the executive branch's constitutional authority. A decision in those cases is likely to be issued later this summer.

But the cases being considered by the court do not address whether the President has the authority to pause payments on student loans – a practice

that was introduced by the previous administration during the pandemic and is continuing long after the overwhelming majority of states have ended their pandemic shutdowns and emergency declarations.

If the court's decision in the student loan forgiveness cases fails to address the pause, the President may attempt to extend it even further, perhaps indefinitely.

Student loan borrowers haven't had to make payments or accrue interest on their debt since March 20, 2020. Many borrowers are happy about the pause. That is understandable. But U.S. taxpayers – nearly two-thirds of whom have not graduated college – should not be on the hook for debts their neighbors willingly took on.

The Mackinac Center is petitioning the court for future action to stop the pause, the eighth such deferment. Our petition is not related to forcing borrowers to repay deferred interest from the past.

We should all want to live in a society where people pay their debts back, don't take on more debt than they can repay and aren't required to pay interest on

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the debts of others without their consent. This is a question of basic fairness.

Equally important is the question of the legality of the pause itself. By continuing to pause student loan payments, President Biden is exceeding his executive authority and violating the separation of powers principle that underlies our system of government.

Separation of powers refers to the type of power the U.S. Constitution gives each branch of government. The legislative branch is tasked with creating laws, the executive branch is tasked with enforcing those laws and the judiciary is tasked with interpreting the law.

The Constitution gives the legislative branch of government – not the executive branch – sole authority to spend the people’s money. Article 1, Section 9 states: “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law...”

The Biden administration’s actions are contrary to the careful balancing of powers found in the U.S. Constitution. James Madison, Father of the Constitution, describes the purpose of this constitutional structure as allowing the three branches of government to act as a system of “checks and balances” in order to prevent government overreach.

By seizing Congress’s “power of the purse” to implement a student loan payment pause, President Biden has overstepped that system.

Congress, not the President, is the proper body to make decisions about how the United States handles its debts. The Mackinac Center has a track record of holding executive branches accountable to constitutional requirements, even in times of emergency. We are proud to be able to partner with the New Civil Liberties Alliance in fighting to restore the constitutional order our framers intended.

Available online at: [www.mackinac.org/v2023-11](http://www.mackinac.org/v2023-11)



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