
Student Loan Debt In Bankruptcy: An Empirical Assessment

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Education loan debt in the United States now stands at approximately \$1.2 trillion.¹ Some thirty-nine million Americans, nearly 20% of U.S. households, owe student loans.² Student loan borrowing has mushroomed in recent years. In 1990, students borrowed \$11.7 billion to fund their educations.³ By 2013, students took out \$114 billion in new loans.⁴ Student loans are by far the fastest growing component of non-housing consumer debt.⁵ For example, in the fourth quarter of 2013, U.S. households incurred \$82 billion in debt (exclusive of housing debt), which is a 3.3% increase from the previous quarter.⁶ Of this amount, \$53 billion (65%) was student loan debt.⁷ In contrast, auto loans and credit card debt accounted for only \$29 billion.⁸

The rise in borrowing for higher education has been matched by a rise in student loan debt as reported by debtors in consumer bankruptcy cases. This study presents empirical data regarding the growth of student loan debt in consumer bankruptcy.

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1. Rohit Chopra, *Student Debt Swells, Federal Loans Now Top a Trillion*, CONSUMER FIN. PROTECTION BUREAU (July 17, 2013), www.consumerfinance.gov/newsroom/student-debt-swells-federal-loans-now-top-a-trillion/, archived at <http://perma.cc/9AAL-YYHE>.

2. This was as of the end of 2012. See Bruce Drake, *Households Owing Student Loan Debts at Record Levels*, PEW RES. CENTER (July 1, 2013), <http://www.pewresearch.org/fact-tank/2013/07/01/248455/>, archived at <http://perma.cc/LH3D-ZF9A> (stating 19% of households owed student loans in 2010); *Student Loan Debt by Age Group*, FED. RESERVE BANK OF N.Y. (Mar. 29, 2013), <http://www.newyorkfed.org/student-loandebt/>, archived at <http://perma.cc/PT6A-HGB3> (showing number of student borrowers).

3. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-03-348, FEDERAL STUDENT AID: TIMELY PERFORMANCE PLANS AND REPORTS WOULD HELP GUIDE AND ASSESS ACHIEVEMENT OF DEFAULT MANAGEMENT GOALS 1 (2003).

4. FED. RESERVE BANK OF N.Y., QUARTERLY REPORT ON HOUSEHOLD DEBT AND CREDIT (2014), available at http://www.newyorkfed.org/householdcredit/2013-Q4/HHDC_2013Q4.pdf, archived at <http://perma.cc/8MD2-QHVH>.

5. See Chopra, *supra* note 1.

6. See FED. RESERVE BANK OF N.Y., *supra* note 4.

7. See *id.*

8. See *id.*

I. CONSUMER BANKRUPTCY OVERVIEW

The purpose of consumer bankruptcy is to provide “the honest but unfortunate debtor” a financial fresh start by discharging debt that the debtor is unable to pay.⁹ A bankruptcy is commenced by filing a bankruptcy petition, schedules of assets, liabilities, income, expenses, and other forms.¹⁰ Once the bankruptcy is filed, creditors are stayed from enforcing financial obligations against the debtor until the case is closed.¹¹

Almost all consumer bankruptcy cases are filed under Chapter 7 or Chapter 13 of the Bankruptcy Code.¹² In a Chapter 7 case, a debtor’s assets become “property of the estate,” which the trustee sells to pay unsecured creditors pro rata.¹³ The Code, however, grants debtors exemptions up to specified amounts in their unencumbered property, so most debtors can retain most or all of their property.¹⁴ The portion of unsecured debt that remains unpaid is discharged.¹⁵ In contrast, in a Chapter 13 case the debtor pays her monthly “projected disposable income” to a Chapter 13 trustee under a plan of reorganization that can last from three-to-five years.¹⁶ The trustee pays unsecured creditors a pro rata portion of their unsecured claims.¹⁷ If the debtor completes all plan payments, the remaining debts are discharged.¹⁸

There are two main types of unsecured debt: priority and nonpriority. Priority debt includes domestic support obligations, certain taxes, fines, etc.¹⁹ Priority debts are reported on bankruptcy Official Form 6E (Schedule E) and are generally not dischargeable in bankruptcy.²⁰ In addition, priority debts must be paid before nonpriority unsecured debts.²¹ All other unsecured debts are nonpriority unsecured debts.²² Nonpriority unsecured debts are reported by debtors on bankruptcy Official Form 6F (Schedule F), and typically include claims such as credit cards, medical bills, utility bills, personal loans, legal

9. *Grogan v. Garner*, 498 U.S. 279, 279 (1991) (discussing reasoning behind Internal Revenue Service Code’s “fresh start” policy).

10. *See* 11 U.S.C. §§ 301, 521(a)(1)-(2) (2012).

11. *See id.* § 362(a).

12. *See id.* §§ 701-784, 1301-1330. Individuals may also file for bankruptcy under Chapter 11, but individual Chapter 11 cases are rare.

13. *See id.* §§ 541, 726(b).

14. *See* 11 U.S.C. § 522(b)(1)-(3) (2012).

15. *See id.* § 727.

16. *See id.* §§ 1322(a)(4), 1325(b)(4)(a).

17. *See id.* §§ 1302(b)(5), 1326(a)(2).

18. *See* 11 U.S.C. § 1328(a) (2012).

19. *See id.* § 507(a).

20. *See id.* § 523(a)(1); ADMIN. OFFICE OF THE U.S. COURTS., SCHEDULE E—CREDITORS HOLDING UNSECURED PRIORITY CLAIMS (2013), available at http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK_Forms_Current/B_006E.pdf, archived at <http://perma.cc/ZM7R-VNGM>.

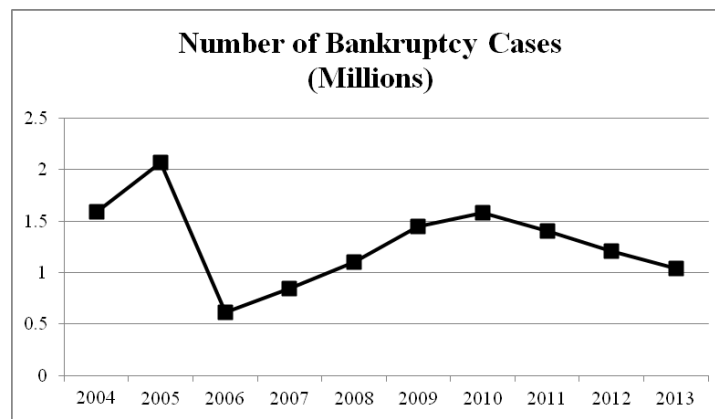
21. *See* 11 U.S.C. §§ 726(a)(1), 1322(a)(2) (2012).

22. *See id.* §§ 726(a)(2), 1322(b).

claims, etc.²³ Student loans are generally shown on Schedule F, but occasionally a debtor will report them on Schedule E.

While most types of consumer debt are dischargeable in bankruptcy, education loan debt may not be discharged unless the debtor proves that paying the debt would result in “undue hardship” for the debtor and her dependents.²⁴ In order to prove undue hardship, the debtor must file an adversary proceeding pursuant to Federal Bankruptcy Rules §§ 7001-7087. This is essentially litigation within the bankruptcy case in which the debtor serves a complaint and summons on the lender, which the lender must answer within thirty days.²⁵ The court must find at trial that payment of the debt would impose an undue hardship on the debtor and her dependents.²⁶

IN ANALYZING STUDENT LOAN DEBT, THIS STUDY LOOKS AT PERCENTAGES OF CASES FILED ANNUALLY. HOWEVER, IT MUST BE KEPT IN MIND THAT THE ACTUAL NUMBER OF BANKRUPTCIES VARIES CONSIDERABLY FROM YEAR TO YEAR. FIGURE 1 SHOWS FLUCTUATIONS IN ANNUAL BANKRUPTCY FILINGS FROM 2004 TO 2013. FIGURE 1: NUMBER OF CONSUMER BANKRUPTCY CASES ANNUALLY FROM 2004 TO 2013²⁷



23. FED. R. BANKR. P. 1007(b)(1) (specifying debtors must use “appropriate Official Forms”); ADMIN. OFFICE OF THE U.S. COURTS, SCHEDULE F—CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS (2007), available at http://www.uscourts.gov/uscourts/FormsAndFees/Forms/Bankruptcy/B_6F.pdf, archived at <http://perma.cc/V36S-ZKZS>.

24. 11 U.S.C. § 523(a)(8) (2012).

25. FED. R. BANKR. P. 7012.

26. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 276-77 (2010). For a discussion of the tests used by courts to determine undue hardship, see DANIEL A. AUSTIN & SUSAN E. HAUSER, AM. BANKR. INST., *Graduating with Debt: Student Loans Under the Bankruptcy Code* 45-54 (2013).

27. *Annual Business and Non-Business Filings by Year (1980-2012)*, AM. BANKR. INST., <http://www.abiworld.org/AM/AMTemplate.cfm?Section=Home&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=66471> (last visited Jan. 14, 2015), archived at <http://perma.cc/ZS38-8JW9> (providing data through 2012); *U.S. Bankruptcy Courts—Business and Nonbusiness Cases Commenced, by Chapter of the Bankruptcy Code, During the 12-Month Period Ending December 31, 2013*, ADMIN. OFFICE OF THE U.S. COURTS, http://www.uscourts.gov/uscourts/Statistics/BankruptcyStatistics/BankruptcyFilings/2013/1213_f2.pdf (last visited Jan. 14, 2015), archived at <http://perma.cc/2EXA-BQ3W> (providing data for 2013).

As Figure 1 illustrates, consumer bankruptcies spiked at a record 2.04 million in 2005, as debtors rushed to file before the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA), which imposed much stricter standards and higher costs on consumer debtors. Filings plunged to 600,000 in 2006, but climbed steadily through 2010 to 1.5 million. Bankruptcy rates have declined since then, falling to just 1.04 million as of 2013. Accordingly, while the percentage of debtors affected by student loan debt has clearly increased over time, the number of bankruptcy debtors impacted by student loan debt has not commensurately increased.

II. STUDENT LOANS IN BANKRUPTCY: EMPIRICAL PROFILE

For the purposes of this study I randomly selected ten bankruptcy jurisdictions.²⁸ For each jurisdiction, I randomly selected thirty Chapter 7 cases and twenty Chapter 13 cases for each year from 2005 to 2013, for a total of 500 cases per year.²⁹ For each case, I or a research assistant reviewed the Schedule E and Schedule F forms for the amount of the debtor's student loan debt.³⁰ The name of the creditor and the description of the debt as listed on the schedules are highly reliable indicators of student loan debt.

There are several qualifications to this study. First, I omitted as statistical outliers all cases in which student loan debt was over \$150,000.³¹ Second, some student loan debts were listed in round numbers (i.e., \$15,000) on the bankruptcy schedules. It is likely that the actual amount was not a round number. Third, some debtors may have estimated or guessed the amount of student debt. In addition, a few debtors reported owing education loan debt, but with the amount listed as "unknown." Debtor guesswork and estimates, and dollar rounding, could be lower or higher than the actual amount owed. Finally, the data does not differentiate between debtors filing singly and those filing jointly, so the results reported here are per case, not per debtor.

28. The jurisdictions include Arkansas Eastern District, Arizona, California Southern District, Georgia Middle District, Indiana Southern District, New York Northern District, Oklahoma Northern District, Oregon, Pennsylvania Western District, and Wisconsin Eastern District.

29. I use 2005 as the starting year for this study because this was the first year that all of these jurisdictions used electronic case filing and therefore data from these years is available online.

30. Bankruptcy Official Form 6 also includes a box to list student loan debt. ADMIN. OFFICE OF THE U.S. COURTS, SUMMARY OF SCHEDULES (2014), available at http://www.uscourts.gov/uscourts/FormsAndFees/Forms/Bankruptcy/B_6_Summary.pdf, archived at <http://perma.cc/DEX9-MTJL>. Although in most cases this form alone would reliably report student loan debt, not all debtors include this form in their filings. Therefore, we examined Schedules E and F for each case.

31. This resulted in the omission of one case in 2004, one case in 2007, two cases in 2008, two cases in 2009, one case in 2011, one case in 2012, and two cases in 2013. This totals ten cases of the 914 cases in this study in which debtors reported student loan debt.

A. Student Loan Debtors in Bankruptcy

Table 1 shows the percentage of bankruptcy debtors who list education debt on their bankruptcy schedules for each year of this study, along with the average amount of education debt for those debtors. As the table shows, the average amount of student loan debt has more than doubled since 2005. Indeed, debt load per student rose to more than 20% in 2013 alone.

TABLE 1: EDUCATION DEBT REPORTED BY DEBTORS ON BANKRUPTCY SCHEDULES

	2005	2006	2007	2008	2009	2010	2011	2012	2013
% of cases with educational debt	15.7%	20.7%	24.2%	19.9%	22.7%	22.1%	23.9%	23.7%	22.3%
average educational debt	\$15,350	\$13,456	\$19,579	\$21,723	\$28,745	\$22,492	\$25,549	\$26,445	\$32,096

The level of education debt per debtor has not only increased in dollar amount, it has also increased as a percentage of a debtor's overall unsecured debt. Table 2 sets forth student loan debt as a percentage of total unsecured debt for debtors who report student loan debt.

TABLE 2: STUDENT LOAN DEBT AS PERCENTAGE OF TOTAL UNSECURED DEBT

	2005	2006	2007	2008	2009	2010	2011	2012	2013
educational debt as % of unsecured debt	33.8%	25.2%	30.6%	29.8%	25.9%	32.8%	26.4%	30.7%	47.8%

As shown in Table 2, student loans have consistently averaged over one-fourth of total unsecured debt for debtors with student loan debt. This jumped to almost half for debtors who filed in 2013. This is consistent with data showing that consumers have reduced non-education borrowing while taking on increased debt for education.³²

B. Adversary Proceedings To Discharge Student Loan Debt

As discussed above, in order to discharge a student loan, the debtor must file an adversary proceeding and the court must find that payment of the debt

32. See *supra* notes 3-8 and accompanying text.

would result in undue hardship to the debtor and her dependents.³³ The burden of proof for undue hardship is extremely strict. The majority test for establishing the requisite undue hardship was set forth in *Brunner v. New York State Higher Education Services Corp.*,³⁴ and includes the following three elements:

(1) [T]hat the debtor cannot maintain, based on current income and expenses, a “minimal” standard of living for herself and her dependents if forced to repay the loans; (2) that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and (3) that the debtor had made good faith efforts to repay the loans.³⁵

Courts strictly apply the *Brunner* test, and few debtors are able to satisfy it.³⁶

While some recent decisions appear to have eased up on the *Brunner* test, bankruptcy litigation is sufficiently expensive, and the undue hardship test so demanding, that debtors rarely even try to have student loan debt discharged.³⁷ Essentially, debtors and their counsel decide not to file undue hardship actions. Of the 914 cases in this study in which debtors reported student loan debt, there were only three adversary proceedings to discharge student loan debt.³⁸ In a 2009 Chapter 7 case, the debtor established undue hardship as a result of severe injuries suffered in a motor vehicle accident and obtained a discharge of \$79,000 in student loans.³⁹ The debtor in a 2011 Chapter 7 case withdrew her adversary proceeding to discharge \$15,000 in private student loan debt after reaching a settlement with the creditor to pay most of her debt.⁴⁰ In a 2008 Chapter 13 case, the debtor reported a claim of \$47,890 made against him as a guarantor on a student loan issued to someone else.⁴¹ The debtor filed an adversary proceeding to discharge the debt on the grounds that his signature on

33. See *supra* notes 24-26 and accompanying text.

34. 831 F.2d 395 (2d Cir. 1987).

35. *Id.* at 396.

36. One court has characterized the *Brunner* test as requiring debtors to show a “certainty of hopelessness.” *In re Roberson*, 999 F.2d 1132, 1136 (7th Cir. 1993) (quoting *Briscoe v. Bank of N.Y.* (*In re Briscoe*), 16 B.R. 128, 131 (Bankr. S.D.N.Y. 1981)).

37. See Michael J. Fletcher & J. Jackson Waste, *Student Loan Discharge Decisions Poke Holes In the Brunner Test*, 33 AM. BANKR. INST. J. 42, 90-92 (2014) (discussing recent Seventh and Ninth circuit cases adopting less strict application of *Brunner* three-part test).

38. It is possible that debtors in the cases in this study might still file an undue hardship adversary proceeding. Adversary proceedings to discharge student loan debt may be brought at any time while the case is open, and the case may even be reopened after it is closed in order to determine dischargeability of a student loan debt. FED. R. BANKR. P. 4007.

39. *In re T.A.D.*, No. 4:09-ap-01224 (Bankr. E.D. Ark. filed June 4, 2009).

40. *In re G.B.S.*, No. 11-50578 (Bankr. M.D. Ga. filed Feb. 2, 2011).

41. *In re J.A.M.*, No. 08-90105 (Bankr. N.D.N.Y. filed July 9, 2008).

the loan was a forgery.⁴² The debtor had been unaware of the loan until the original borrower defaulted and the creditor tried to collect against the debtor as the guarantor. The creditors made no attempt to rebut the debtor's assertion and the debt was discharged.⁴³ Thus, as the data shows, an adversary proceeding to discharge student loan debt is filed in only one out of approximately 300 bankruptcy cases with student loan debt. However, the probability of a favorable outcome for the debtor is high in a case with compelling facts.

Even in seemingly plausible cases, debtors did not attempt to have student loan debt discharged. For example, in one case, the debtor in her mid-forties was a single mother with one dependent.⁴⁴ She was employed as a public school teacher, but with monthly after-tax income of \$1,746 and expenses of \$1,979, she had net negative income of \$233 per month.⁴⁵ In addition, she was recovering from cancer and needed \$6,000 of dental work due to chemotherapy.⁴⁶ She did not own a home, and had no equity in her car.⁴⁷ Her total education debt was \$150,991, in addition to other unsecured debt of \$25,479.⁴⁸ It is clear that the debtor had insufficient income to meet her expenses and would never be able to repay the loan. Numerous other debtors in cases I reviewed similarly had high student loan debt relative to income. Nevertheless, undue hardship litigation remains rare.

C. Overall Impact of Education Debt on Consumer Bankruptcy

Student loans constitute a moderate, but growing component of overall debt reported by consumer debtors.⁴⁹ Table 3 shows the percentage of debtors who reported student loan debt greater than 10%, 25%, and 50% of total unsecured debt.

42. See Complaint at 1, *In re J.A.M.*, No. 08-90105 (Bankr. N.D.N.Y. July 9, 2008), ECF No. 1.

43. See Answer to Complaint Filed by JPMorgan Chase Bank, N.A., *In re J.A.M.*, No. 08-90105 (Bankr. N.D.N.Y. Aug. 8, 2008), ECF No. 5; Amended Answer to Complaint Filed by The Education Resources Institute, Inc., *In re J.A.M.*, No. 08-90105 (Bankr. N.D.N.Y. Aug. 8, 2008), ECF No. 7; Order Granting Complaint, *In re J.A.M.*, No. 08-90105 (Bankr. N.D.N.Y. Jan. 21, 2009), ECF No. 14.

44. *In re C.T.*, No. 09-11840 (Bankr. N.D. Okla. filed June 19, 2009).

45. See Chapter 7 Voluntary Petition at 8, *In re C.T.*, No. 09-11840 (Bankr. N.D. Okla. June 19, 2009), ECF No. 1.

46. See *id.* at 30.

47. See *id.* at 9, 14.

48. See *id.* at 17-26.

49. See *supra* notes 5-8 and accompanying text.

TABLE 3: PERCENT OF DEBTORS WITH STUDENT LOAN DEBT IN EXCESS OF BENCHMARK PERCENTAGES OF TOTAL UNSECURED DEBT

	2005	2006	2007	2008	2009	2010	2011	2012	2013
>10%	12.9	13.3	19.1	15.0	15.8	17.3	16.3	18.3	20.5
>25%	8.8	9.1	12.1	10.8	11.0	12.1	12.1	13.4	15.3
>50%	5.4	4.4	5.5	5.3	5.8	5.6	4.6	6.6	9.4

As Table 3 shows, student loan debt as an element of overall consumer debt has grown steadily. In 2005, 12.9% of all debtors listed student loan debt in excess of 10% of their total unsecured debt. By 2013, that number had grown to 20.5%. The percentage of debtors with student loan debt greater than 25% and 50% of total unsecured debt likewise grew, both nearly doubling over the course of that period.

Student loan debt is also growing in comparison to debtors' income.⁵⁰ Table 4 shows the percentage of debtors whose student loan debts comprised greater than 10%, 25%, and 50% of their annual income.

TABLE 4: PERCENT OF DEBTORS WITH STUDENT LOAN DEBT IN EXCESS OF BENCHMARK PERCENTAGES OF DEBTOR'S ANNUAL INCOME

	2005	2006	2007	2008	2009	2010	2011	2012	2013
>10%	12.6	15.1	19.7	14.9	16.6	17.3	18.3	18.7	19.5
>25%	9.0	9.66	13.4	11.5	11.2	12.7	15.2	16.2	15.7
>50%	5.4	5.1	7.8	7.5	8.0	9.0	8.5	10.4	11.5

As the table shows, student loan debt as a percentage of a debtor's annual income has increased greatly since 2005. Indeed, the percentage of debtors with student loan debt greater than half their annual income doubled over this period. As student loan debt-to-income ratios increase, debtors will have greater difficulty repaying the loans, and delinquencies and defaults will

50. Debtors report their monthly income on the bankruptcy Official Form B6I. ADMIN. OFFICE OF THE U.S. COURTS, OFFICIAL FORM B 6I, SCHEDULE I: YOUR INCOME (2013), available at http://www.uscourts.gov/uscourts/FormsAndFees/Forms/Bankruptcy/B_6I.pdf, archived at <http://perma.cc/68YK-U66R>.

increase commensurately.

In order to determine if there is a predictive relationship between student loan debt and total unsecured debt among all debtors, I performed a linear regression analysis for each year from 2005 to 2013 using student loan debt as the x variable and total unsecured debt as the y variable. The higher the coefficients of determination (R^2), the more likely it is that overall unsecured debt is directly attributable to student loan debt. The results are presented in Table 5.

TABLE 5: REGRESSION ANALYSIS OF STUDENT LOAN DEBT AND TOTAL UNSECURED DEBT

	2005	2006	2007	2008	2009	2010	2011	2012	2013
average unsecured debt for all debtors	\$28,170	\$30,023	\$32,218	\$34,020	\$38,412	\$43,912	\$40,213	\$38,192	\$42,85
educational debt v. total unsecured debt (R^2)	0.11	0.12	0.52	0.49	0.08	0.10	0.38	0.07	0.44

As the table shows, R^2 values are relatively low and inconsistent, meaning that student loan debt is not a strong predictor of overall unsecured debt. For example, the R^2 value in 2012 was .07, meaning that only 7% of the variation in unsecured debt owed by debtors filing bankruptcy was directly related to how much student debt they had. The value jumps to .44 in 2013, but this is still a modest correlation. Put another way, there is no strong correlation between levels of student loan debt and levels of overall unsecured debt.

In order to determine if there is a correlation between income and higher student loan debt, I performed a linear regression analysis for each year using average student loan debt as the x variable, and monthly income as the y variable. The results are shown in Table 6.

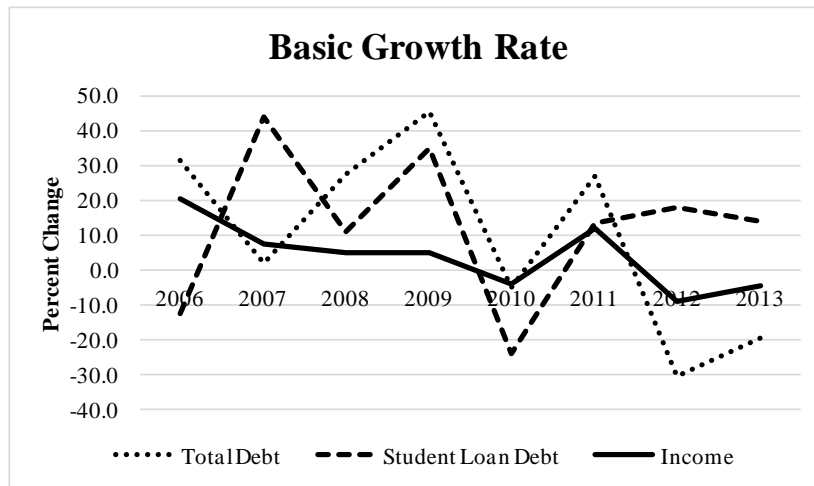
TABLE 6: REGRESSION ANALYSIS OF STUDENT LOAN DEBT AND MONTHLY INCOME

	2005	2006	2007	2008	2009	2010	2011	2012	2013
average monthly income	\$2450	\$2957	\$3179	\$3335	\$3524	\$3368	\$3778	\$3441	\$3281
student loan debt v. monthly income (R ²)	0.02	0.00 (1 x 10 ⁻⁶)	0.00 (0.001)	0.01 (0.007)	0.00 (0.0006)	0.01	0.00 (0.0025)	0.07	0.00 (0.0002)

As the R² value for each year shows, there is essentially no correlation between monthly income and student loan debt. This suggests that higher student loan debt does not necessarily result in higher income.

Basic growth rate refers to the percentage change in growth or contraction each year for a given metric. Figure 2 compares the basic growth rate of all debts (including both secured and unsecured debt), student loan debt, and income.

FIGURE 2: BASIC GROWTH RATE: TOTAL DEBT, STUDENT LOAN DEBT, AND INCOME

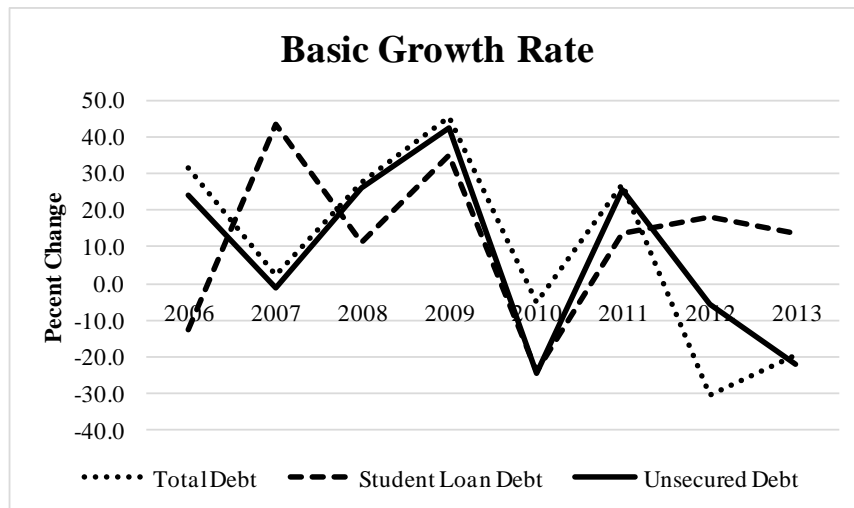


The figure shows that basic growth of debt from all sources (mortgages, car loans, credit card debt, etc.) and student loan debt were closely matched from 2008 to 2011. After 2011, however, debtors reported sharply lower amounts of non-student loan debt while education debt continued to grow. At the same

time, debtor income has declined. This indicates that student loan debt is growing faster than all other types of debt, yet there is not a commensurate rise in income to repay education debt.

Figure 3 compares the basic growth rate of total debt (secured and unsecured) with student loan debt and unsecured debt. As with Figure 2, growth rates of total debt and unsecured debt are closely matched, as is the growth rate of student loan debt until 2011. From 2011 onward, student loan debt increased while all other types of debt declined sharply. Together, Figures 2 and 3 show that education loan debt is rising significantly faster than all other types of debt, and is outpacing the rises in income necessary to repay the debt. This is not a sustainable trajectory.

FIGURE 3: BASIC GROWTH RATE: TOTAL DEBT, STUDENT LOAN DEBT, AND UNSECURED DEBT



III. CONCLUSION

The purpose of this study is to provide researchers and policymakers with empirical data regarding student loan debt in bankruptcy filings during the period of 2005 to 2013. The data shows a sharp increase in education loan debt as a component of consumer bankruptcy.

From 2005-2013, the percentage of debtors reporting student loan debt increased by over one-third, while the amount of education debt owed per debtor more than doubled.⁵¹ As of 2013, nearly one-fourth of all consumer debtors owe student loan debt, with an average debt of just over \$32,000.⁵² As

51. See *supra* Table 1.

52. See *supra* Table 1.

of 2013, education debt constituted almost half of all unsecured debt, up from only about one-third of total unsecured debt in 2005.⁵³ Student loan debt as a percentage of overall debt has risen significantly. In 2005, just 5.4% percent of all debtors had student loans constituting more than half of their total unsecured debt.⁵⁴ In contrast, as of 2013, 9.4% of debtors reported that student loans comprised more than half their unsecured debt.⁵⁵ Similarly, 5.4% of debtors in 2005 had student loans equaling more than half of their annual income, whereas by 2013, that percentage had more than doubled to 11.5%.⁵⁶ A regression analysis of student loan debt versus total unsecured debt indicates that student loan debtors are no more or less likely to have other types of debt than other debtors.⁵⁷ In addition, as the regression analysis of student loan debt versus monthly income shows, borrowing for education purposes does not translate into higher income. Finally, the basic growth rate charts demonstrate that student loan debt is rising faster than all other types of debt, and is also outpacing the rise in income necessary to repay the debt.

The decision to file bankruptcy is typically made over a period of time in response to accumulated financial pressures, such as increased expenses and decreased income, or combinations of both. Thus, bankruptcy reflects decisions and events that occurred in the past, and there is a lag time between when such decisions and events occurred and when a bankruptcy proceeding is initiated. As we look at bankruptcies filed today, we are looking at the consequences of the past. As education loan borrowing accelerates, it can be expected that education debt in future bankruptcies will likewise accelerate. Put another way, today's student loan borrowers are increasingly becoming tomorrow's student loan debtors. If the present trajectory does not change, they will owe much more than debtors of prior years but will have less income to repay what they owe.

53. *See supra* Table 2.

54. *See supra* Table 3.

55. *See supra* Table 3.

56. *See supra* Table 4.

57. *See supra* Table 5.