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2022 Rocky Mountain Bankruptcy Conference

The Counterintuitive Outcomes of the COVID-19 Pandemic

Hon. Kevin R. Anderson

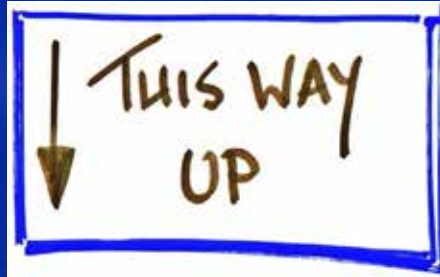
U.S. Bankruptcy Court (D. Utah)
Salt Lake City

J. Thomas Beckett

Parsons Behle & Latimer
Salt Lake City

The Counterintuitive Outcomes of the COVID-19 Pandemic

- A Transformative Pandemic
- A Transformative Recession
- A Transformative Change in the Economy
- A Transformative Change in Bankruptcy Filings



1

Business Takeaways

- Each COVID surge wracked the business economy, but less so with each surge.
- The business economy adapted and restructured.
- Nonetheless, business bankruptcy filings fell throughout the pandemic for several reasons.
- Business bankruptcy filings will return to pre-pandemic rates when the economy fully recovers. They could exceed those rates if interest rates rise suddenly or when the current cash glut is exhausted.

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Consumer Takeaways

- Most consumers have sufficient cash, income, and equity to avoid a bankruptcy filing—for the time being.
- Governmental actions on a local and national level have removed bankruptcy triggers—for the time being.
- Economic fundamentals are strong (GDP, jobs, wages, home values, etc.), but will inflation, war, or other economic disruptions quickly reverse fortunes?
- Nonetheless, 1 million mortgage loans are now 90+ days delinquent. Will these loans precipitate a wave of bankruptcy filings?

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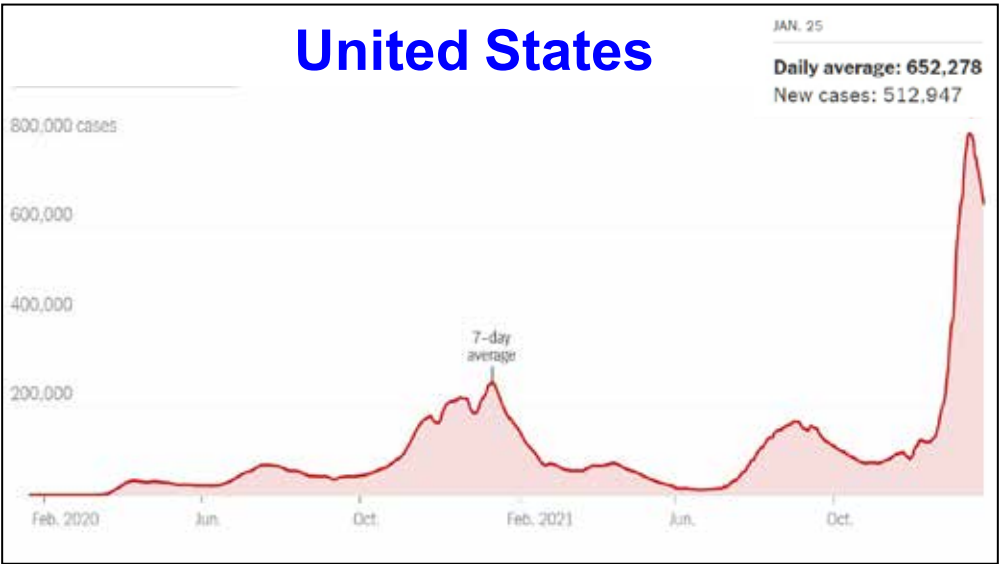
Takeaways

“[At this point], consumers have no reason to resort to bankruptcy when they can save money by holding back on making fixed payments that are no longer mandatory, are being charged lower interest, can pay their debts back in cheaper dollars, and are watching their homes and investment portfolios appreciate.”

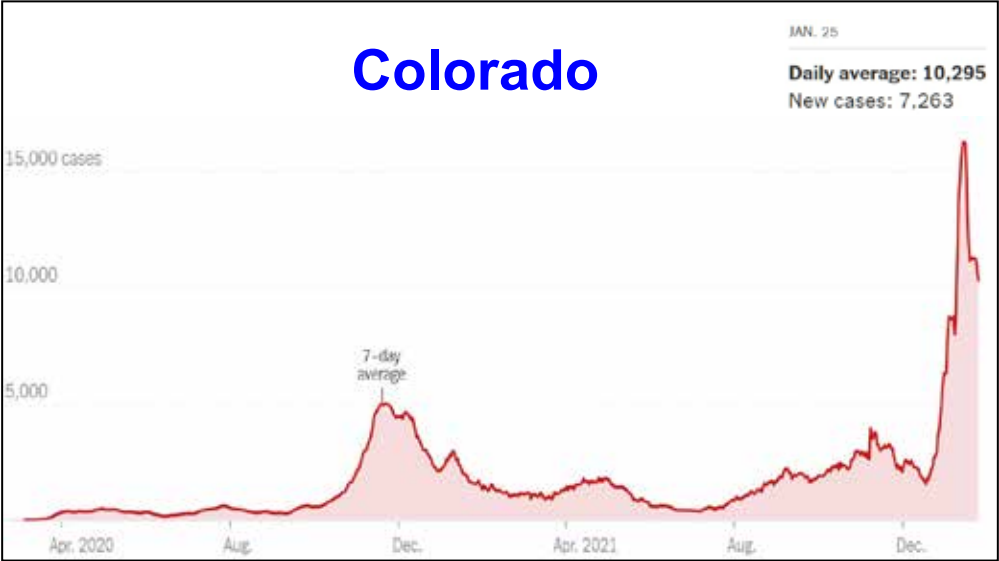


Branden S. Stein, *A Reversal of Fortunes*, ABI Journal, Jan. 2022.

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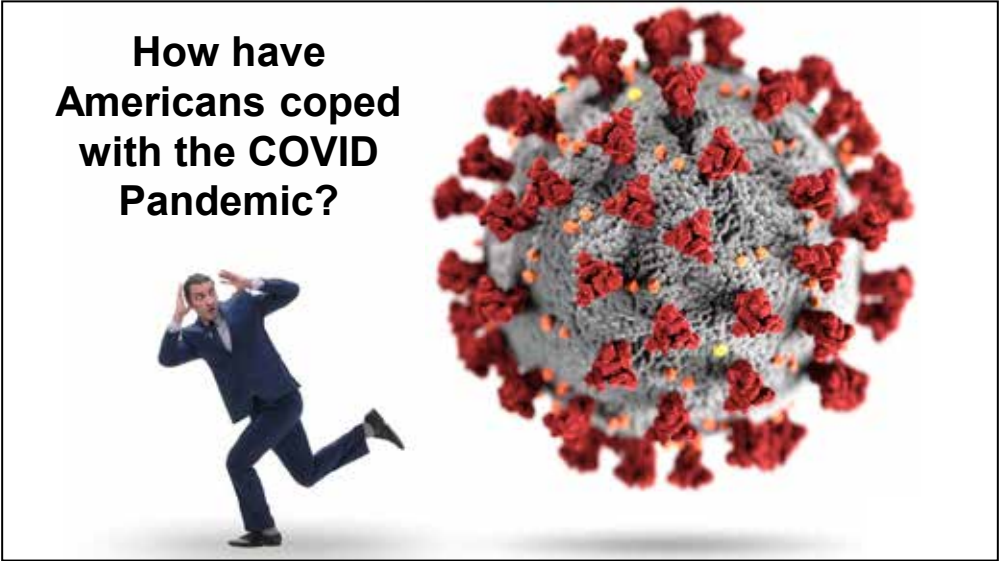
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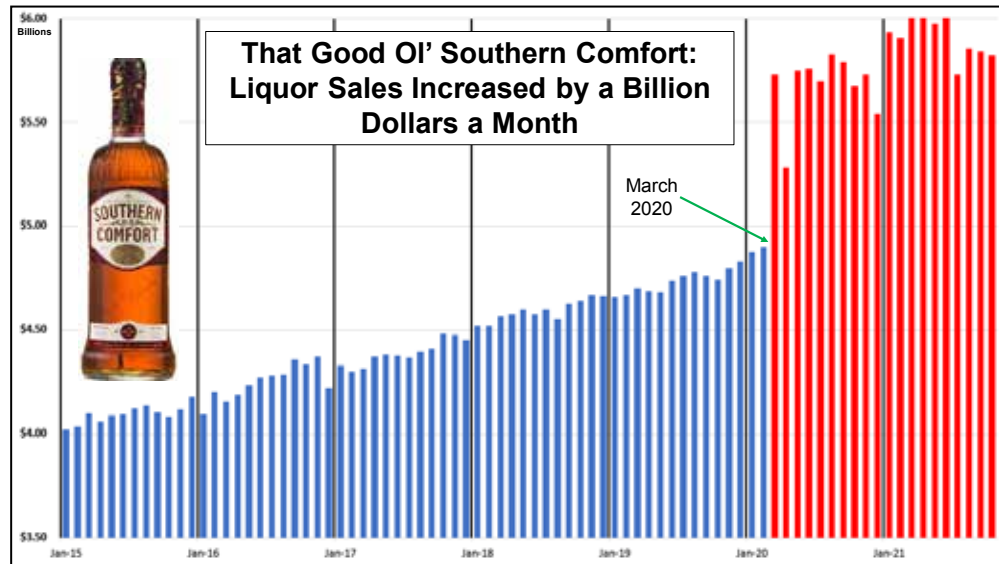
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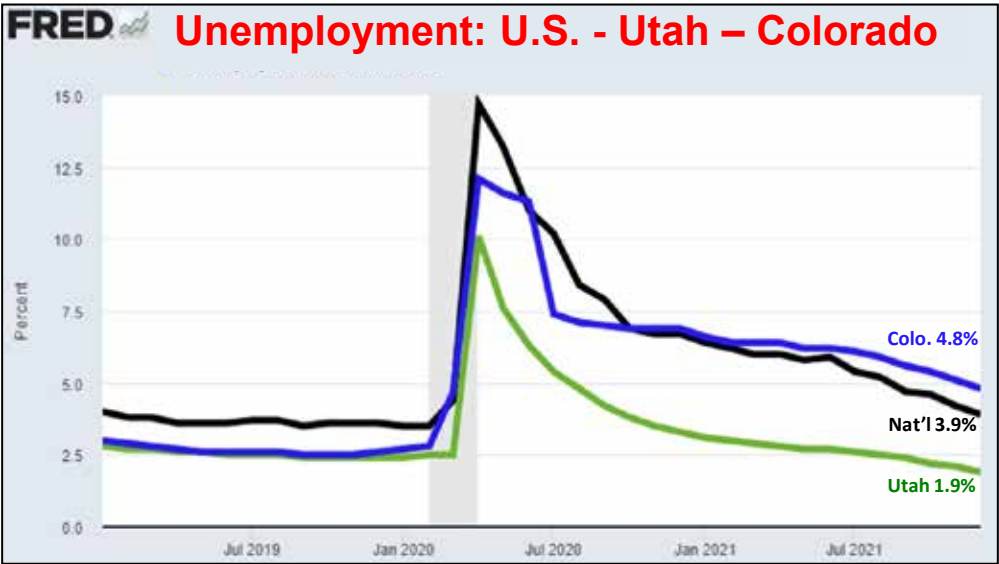


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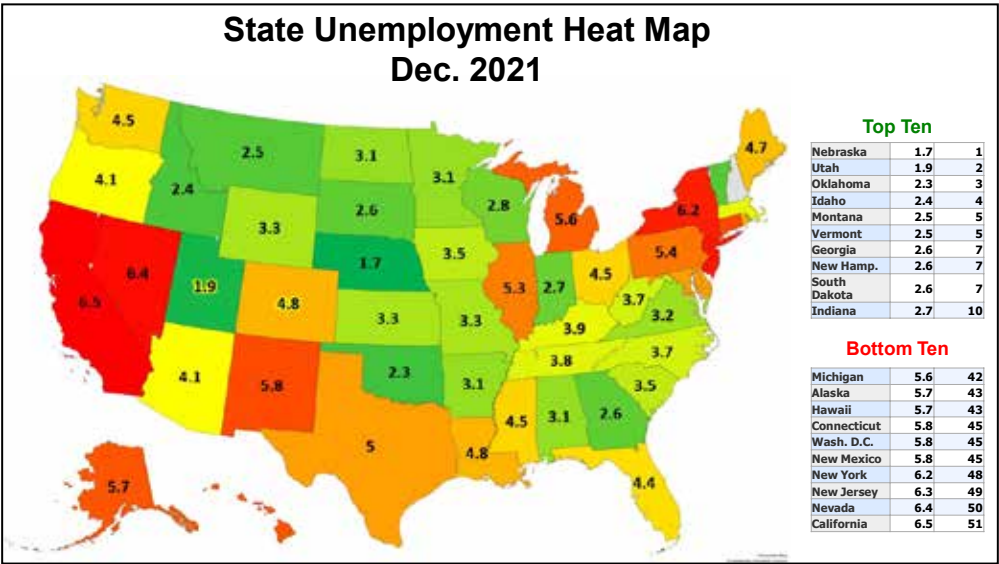
Impact on Employment



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Impact on Consumers



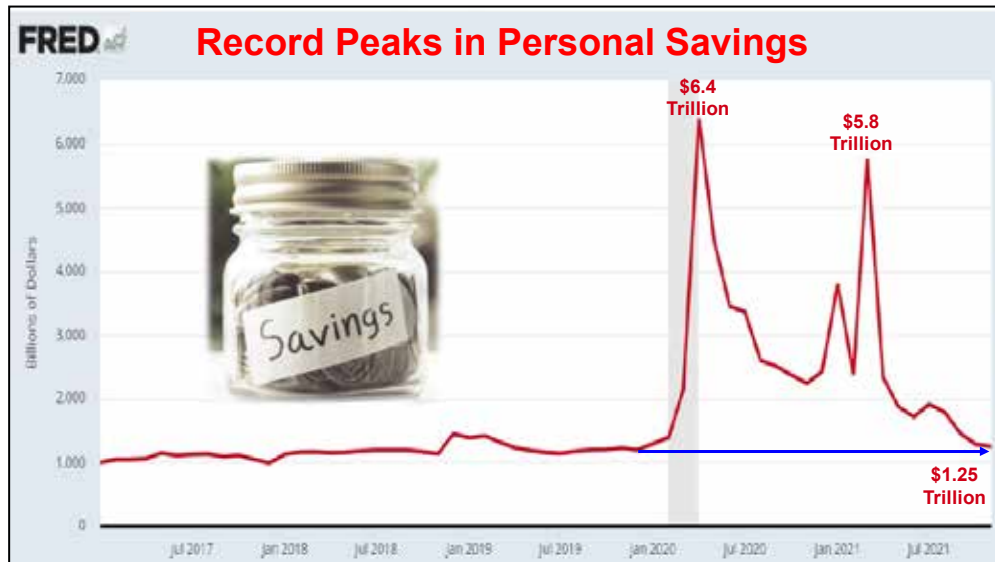
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Many Consumers are Flush with Cash, Equity, and Credit



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People have not appreciated the extent the stimulus boost had on demand. That is going to dissipate substantially.

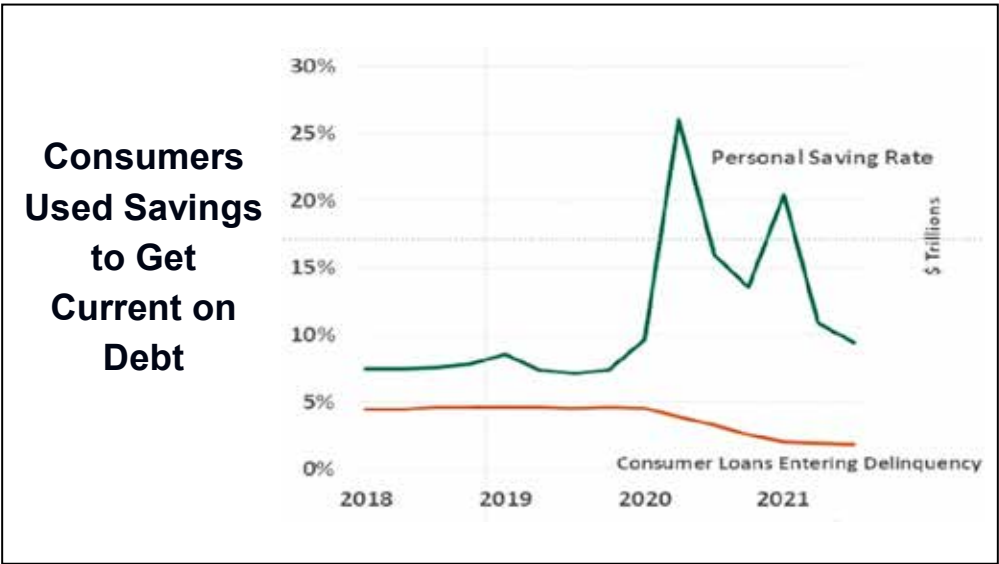
At the same time, supply will come back on stream. We know that because that is what history tells us.

So to bet on inflation is to bet against human ingenuity – and I'm not willing to do that.

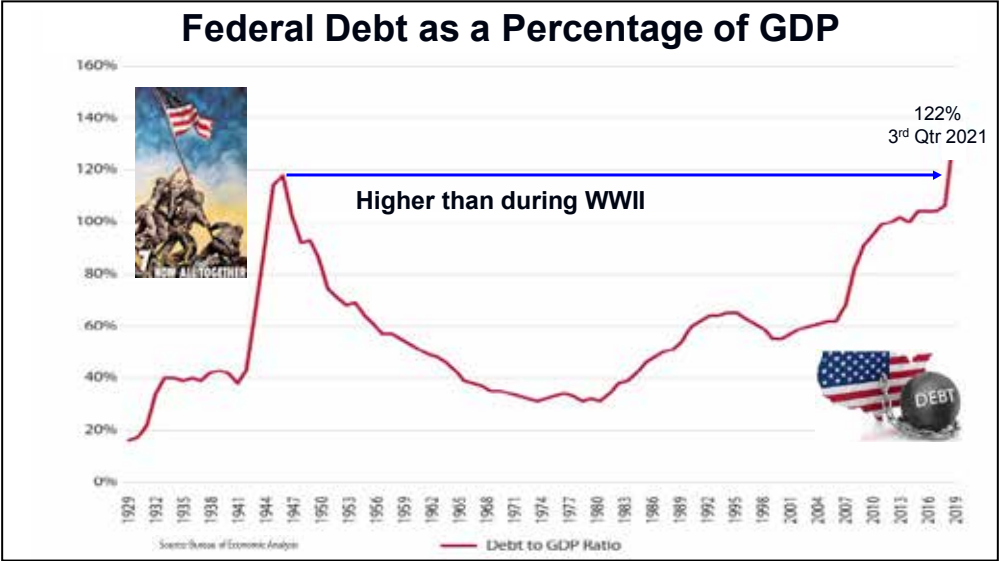


David Rosenberg, founder of Rosenberg Research

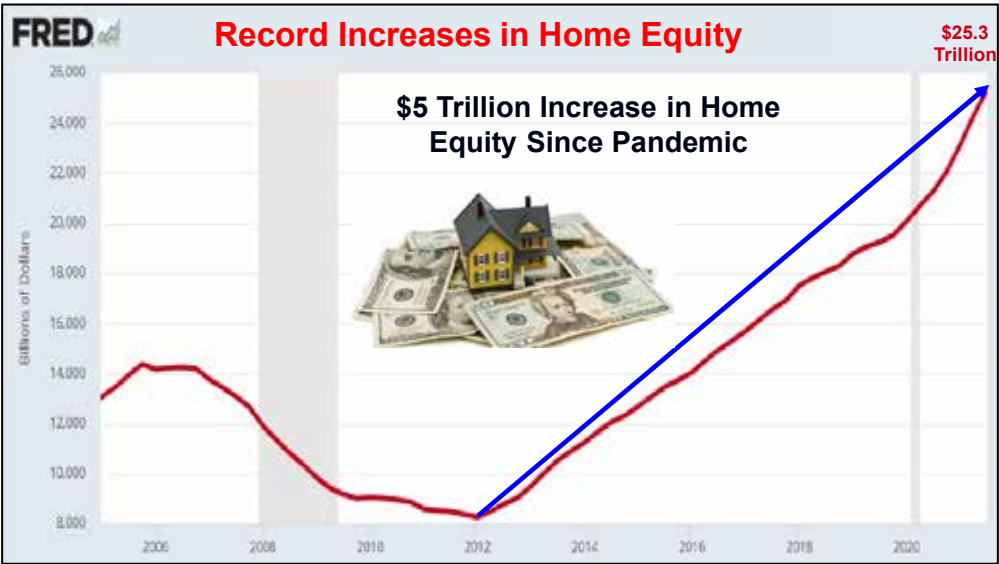
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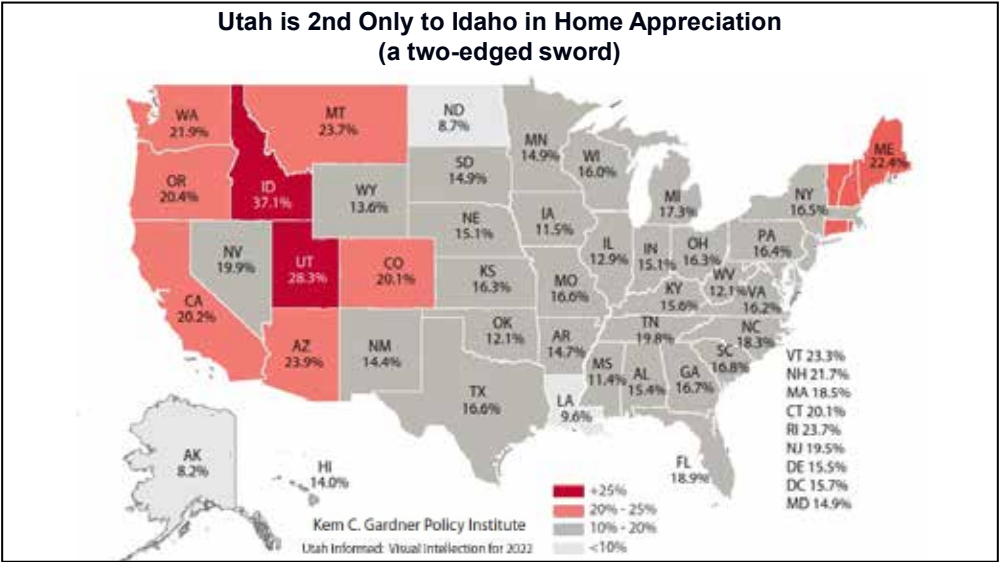
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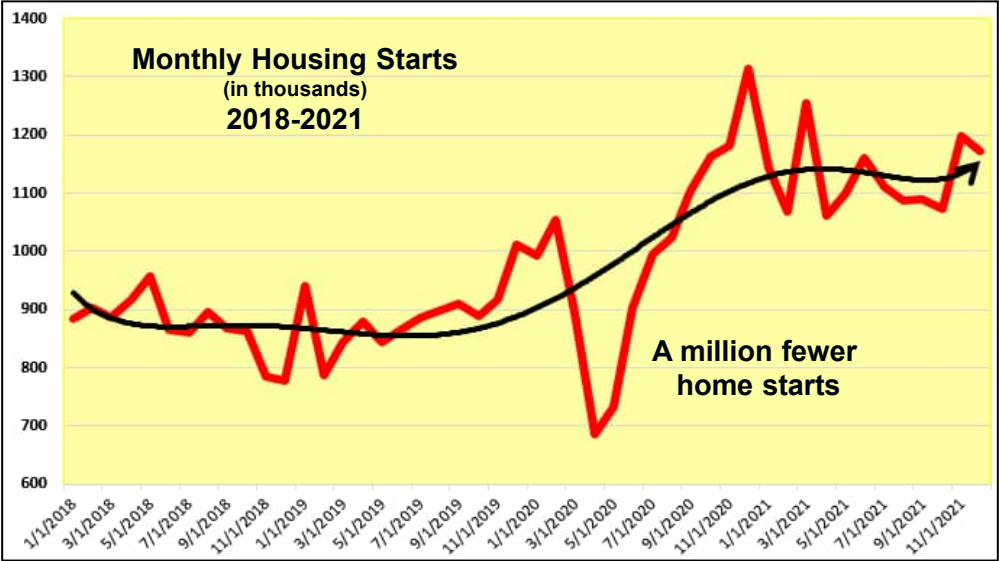
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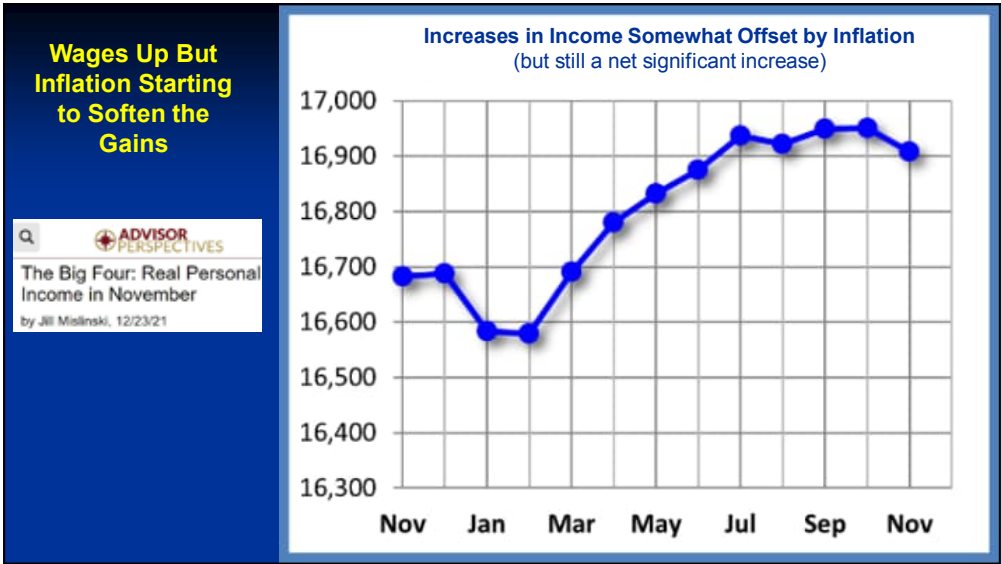
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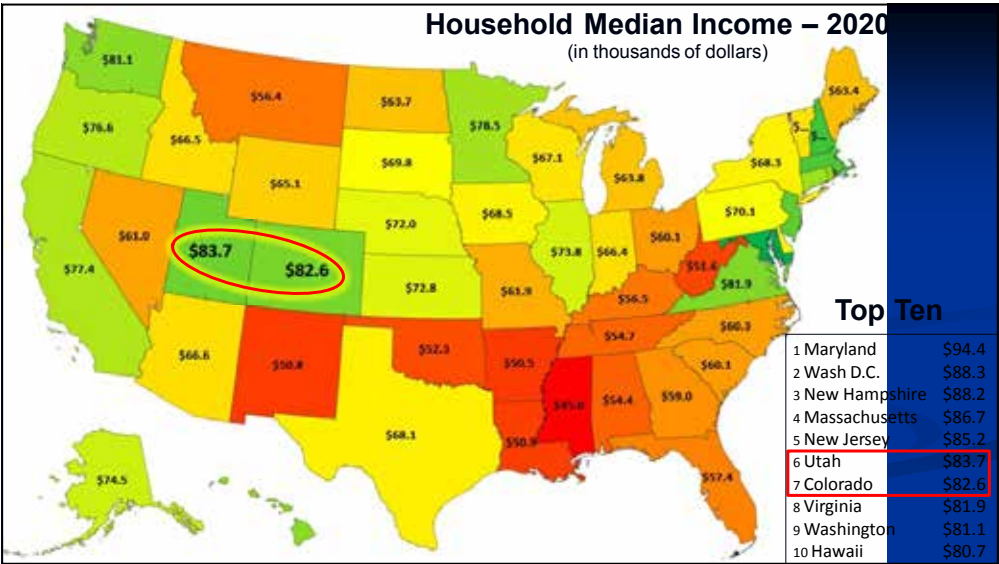
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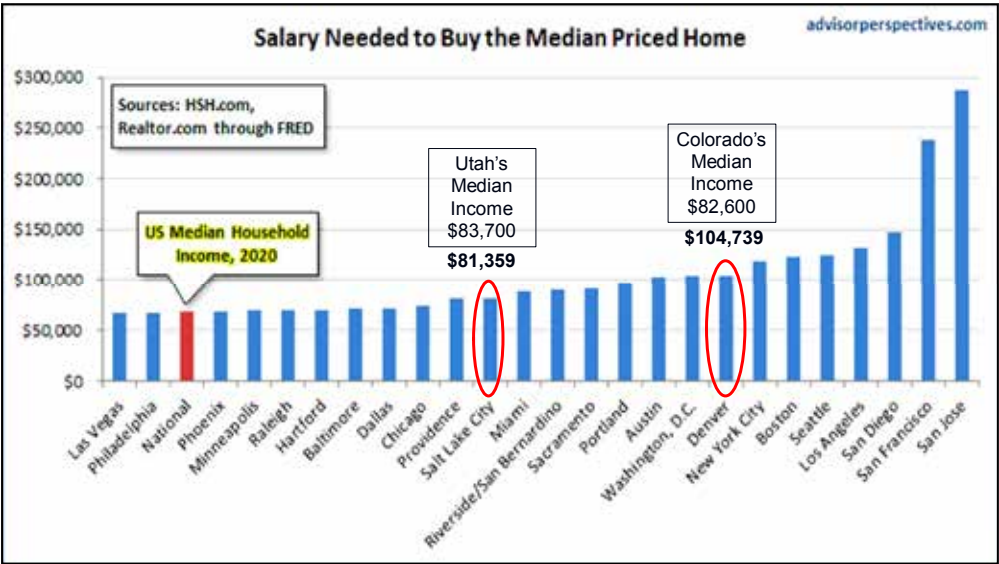
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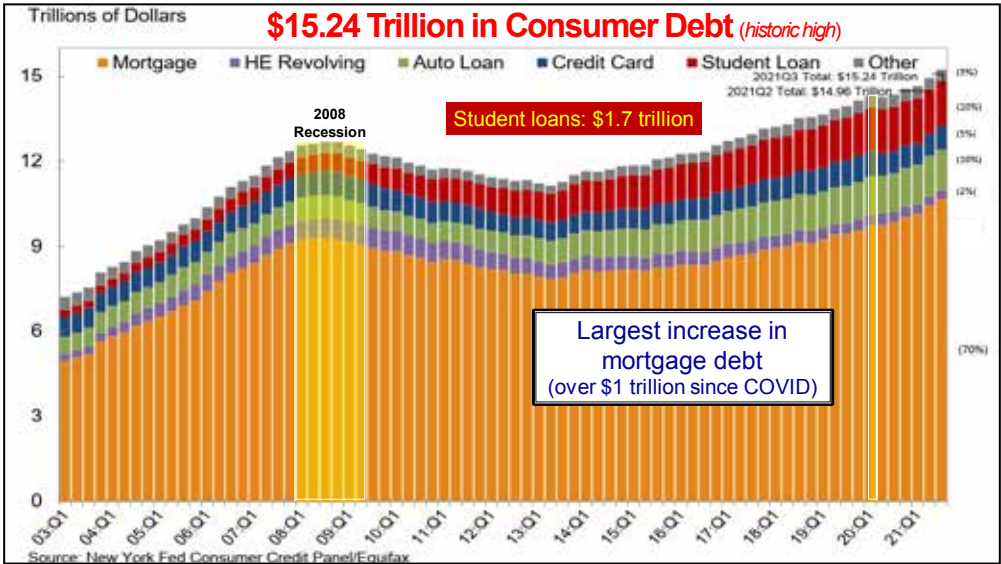


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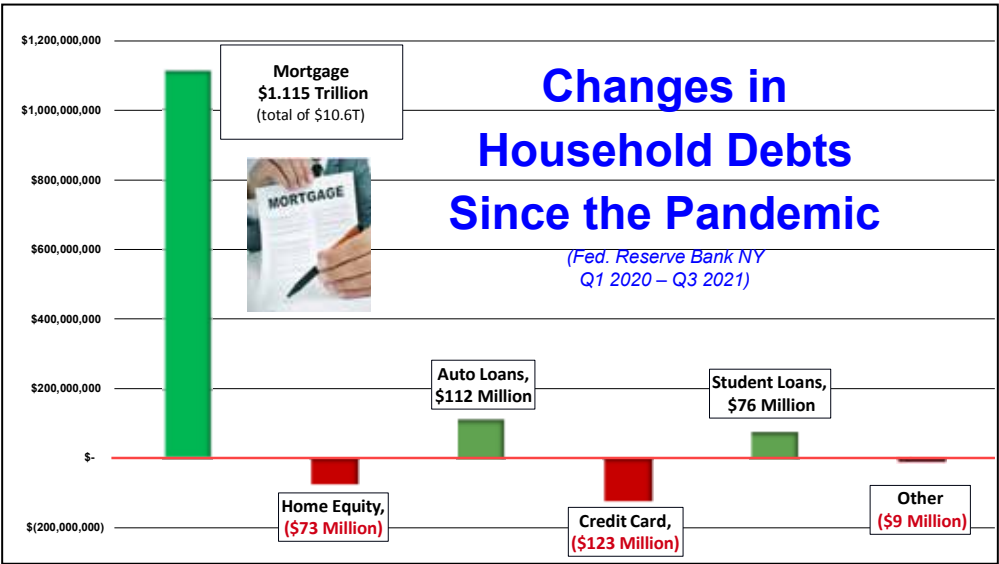
Consumers
Have Also
Taken on
Record Debt



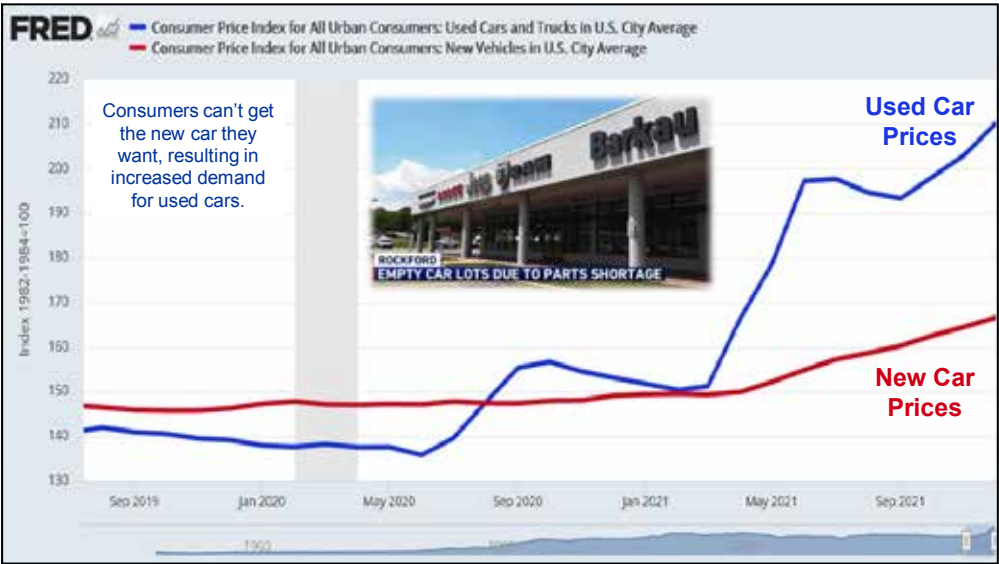
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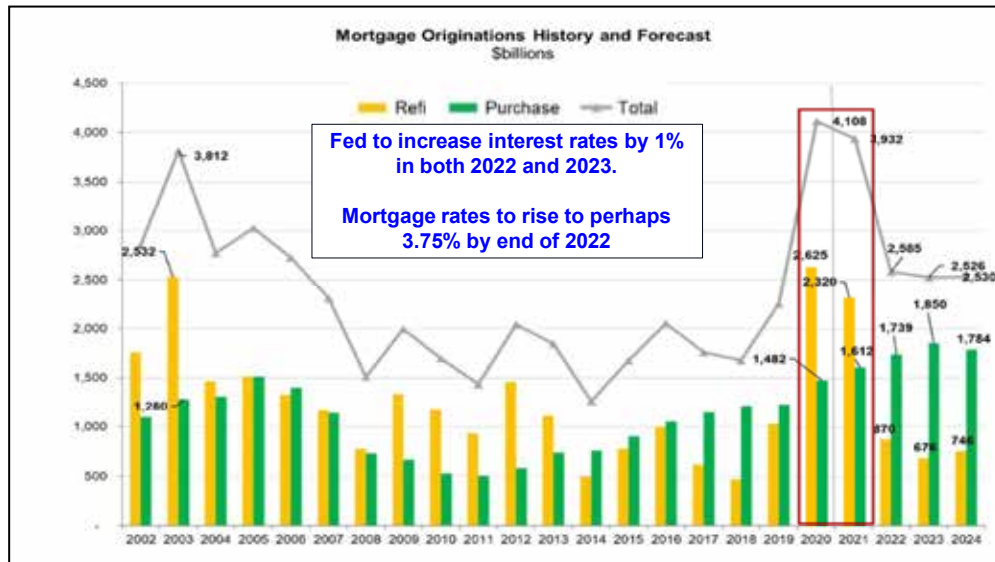


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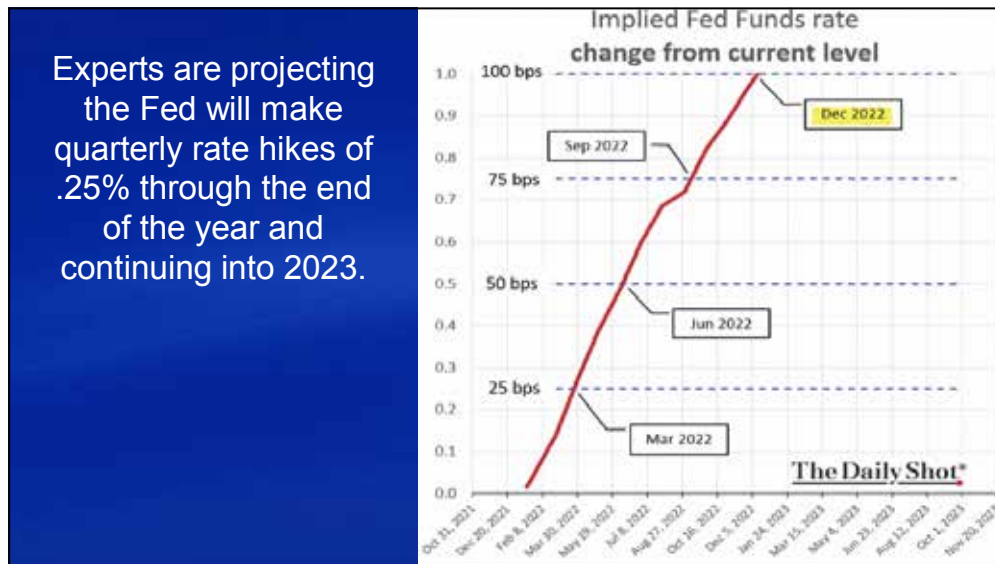
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ABI – RMBC – Jan. 2022

1/27/2022



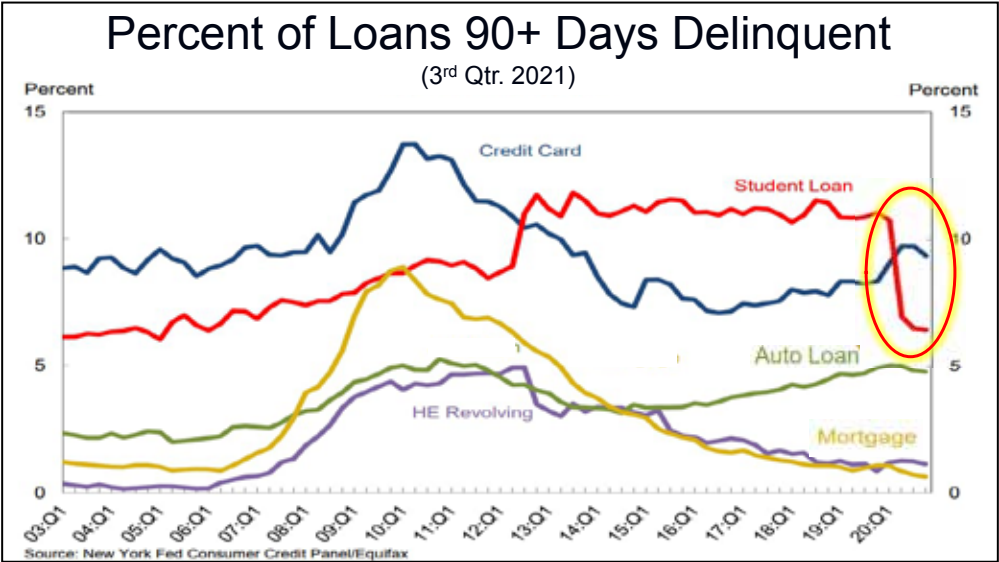
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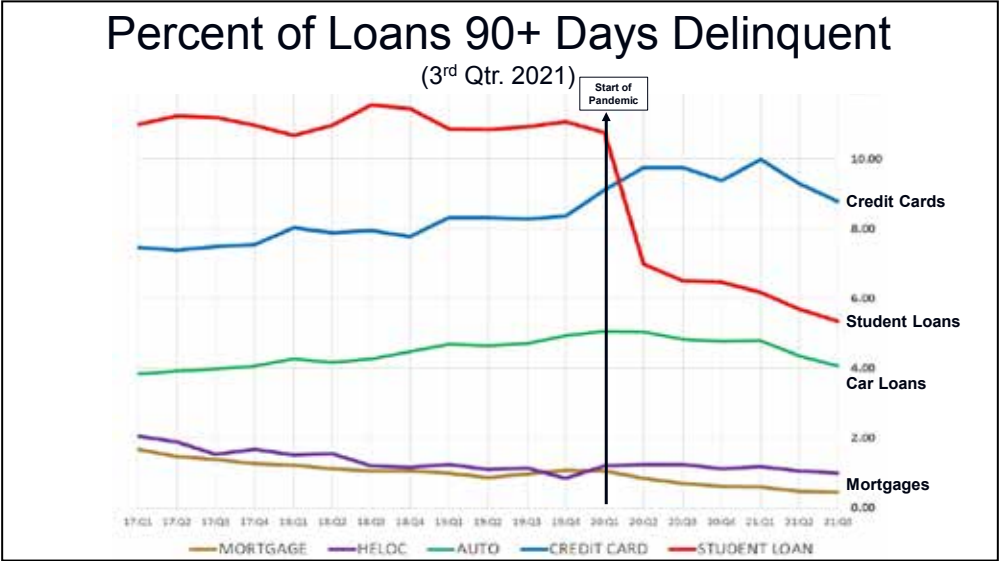
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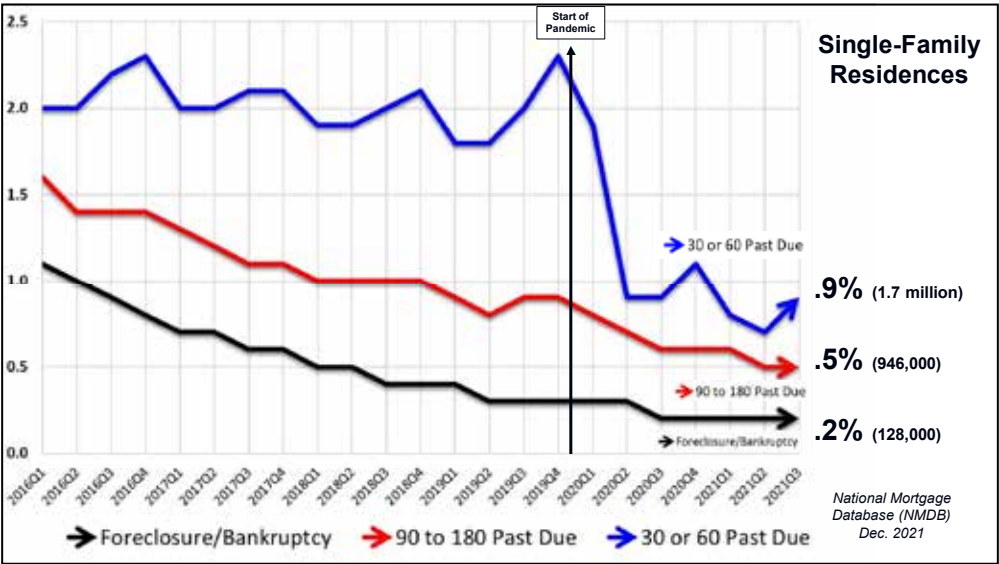
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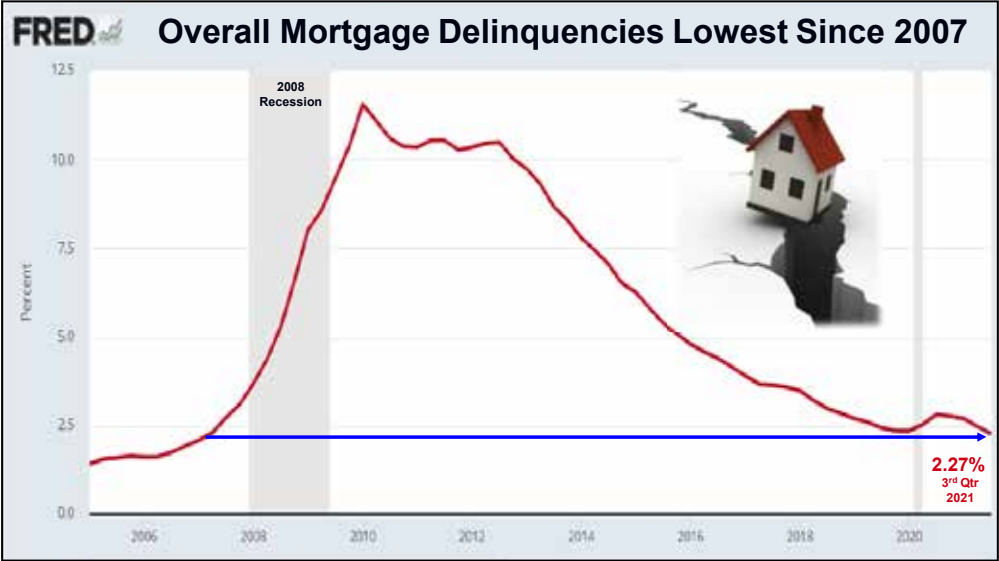
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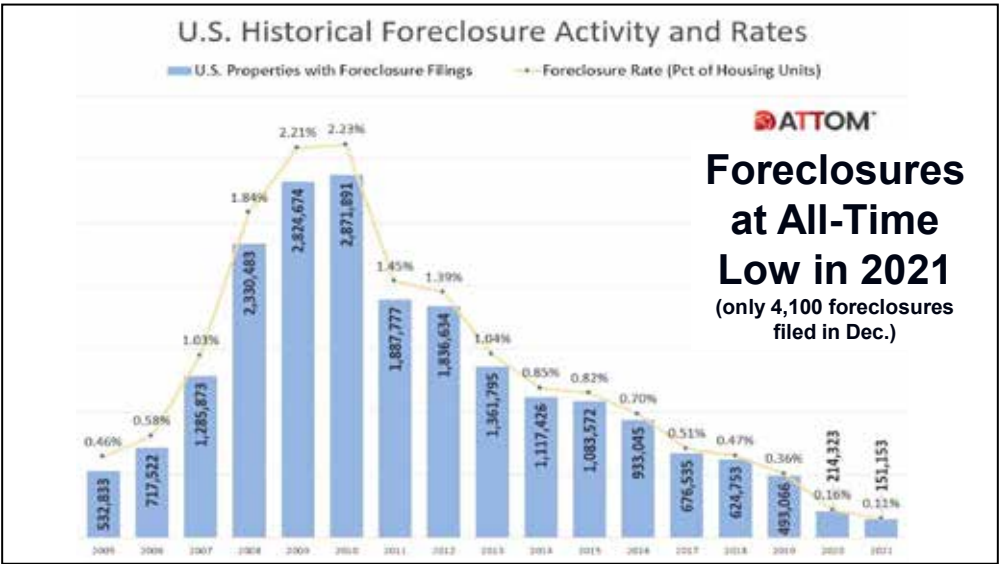
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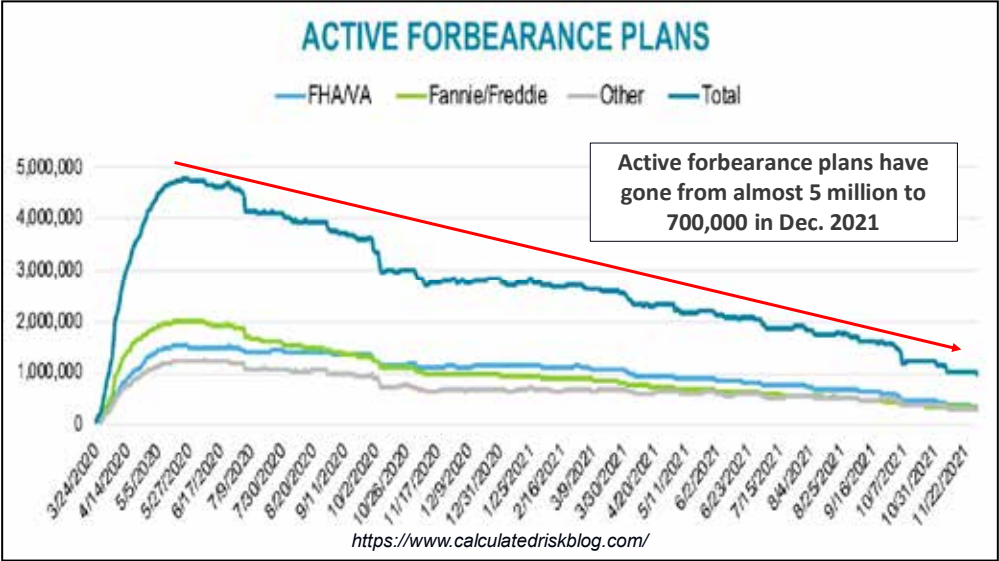
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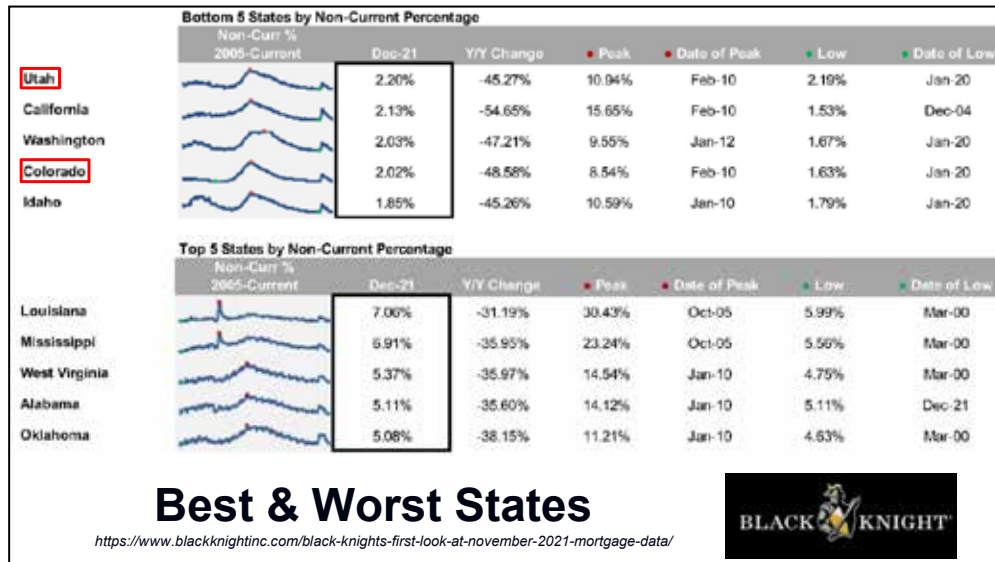
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Mortgage Takeaways

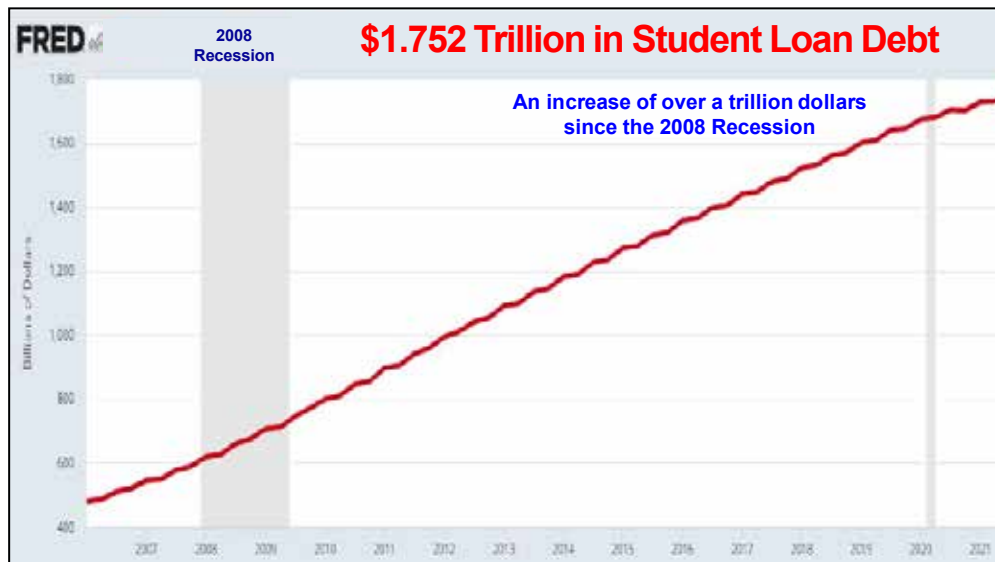
- Governmental actions on a local and national level have mitigated threat of foreclosure—for the time being.
- Delinquency levels are not matching what happened in 2008 because of stimulus, low unemployment, home equity, etc.
- Nonetheless, 950,000 loans are 90+ days delinquent.
- Upon notice of default, will homeowners refinance or sell?
- Will Ch. 13 be the vehicle of choice to buy time to accomplish a refinance or sale?

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Student Loan Debt



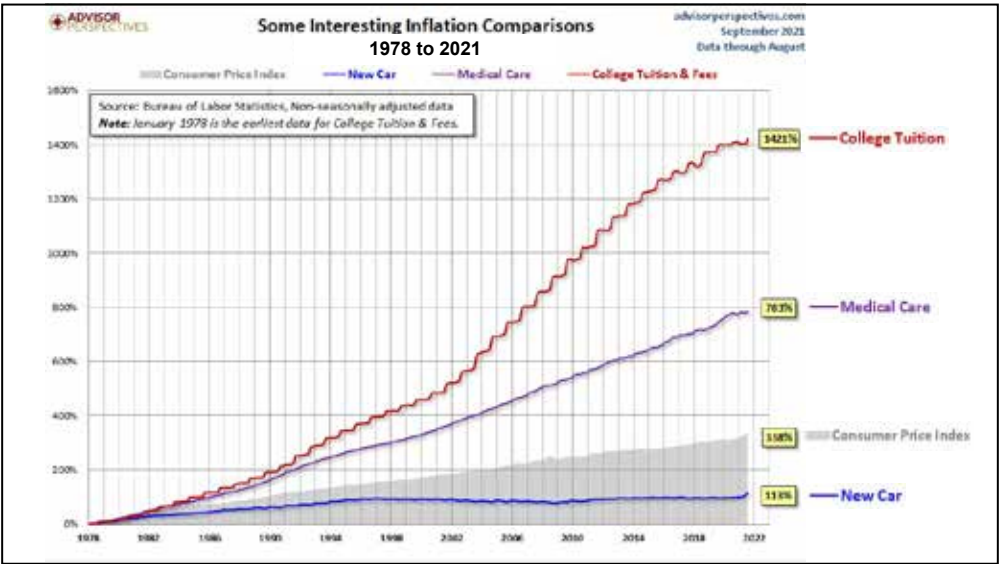
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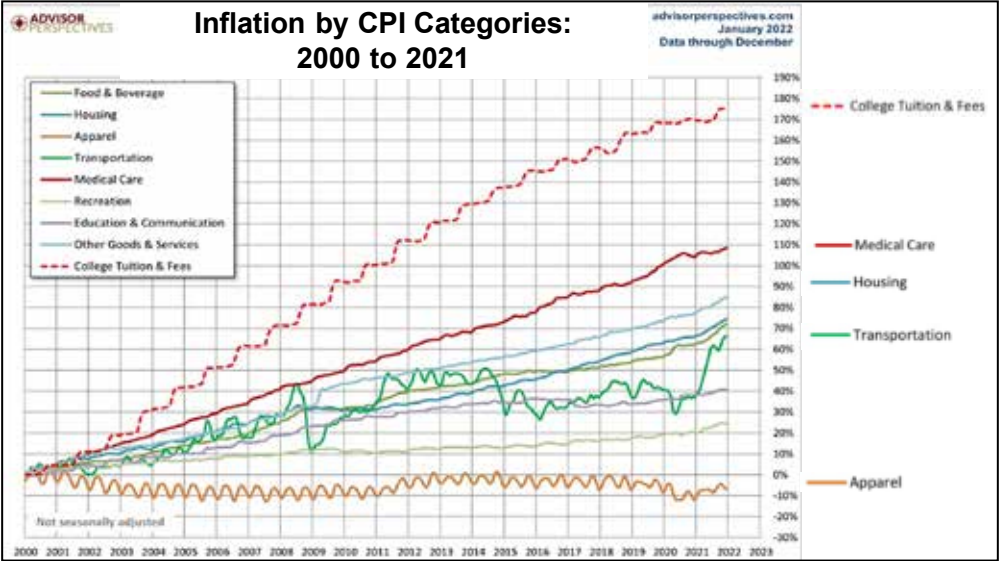
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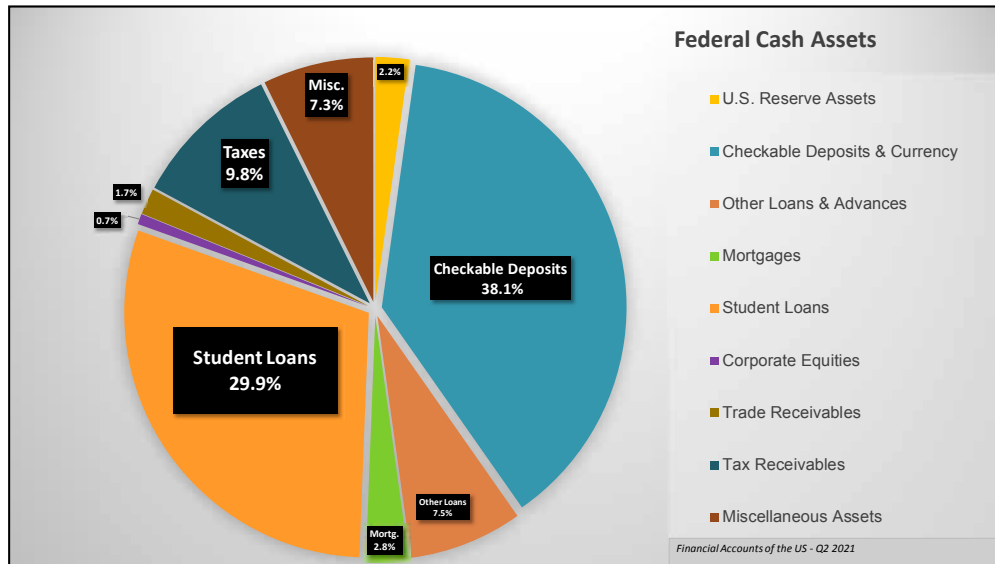
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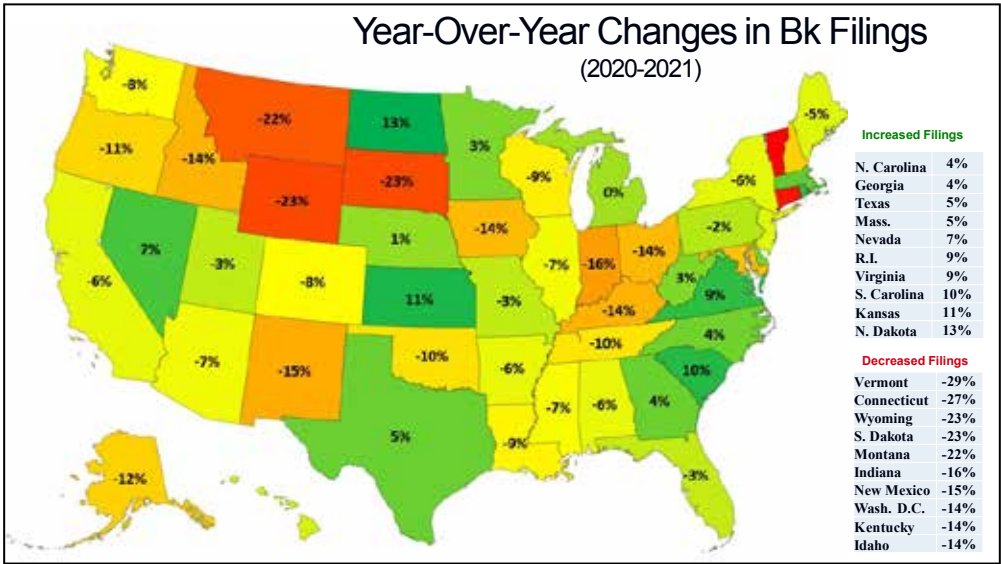
Student Loan Takeaways

- Student loan payment moratorium extended until end of May 1, 2022 (further extensions? debt forgiveness?).
- The student loan receivable is a significant cash asset of the government that has already been spent in future budgets.
- We have a mature and sophisticated system in place to help consumers reorganize.
- Why not amend Bankruptcy Code to facilitate repayment or to mitigate standard for hardship discharge of student loans?

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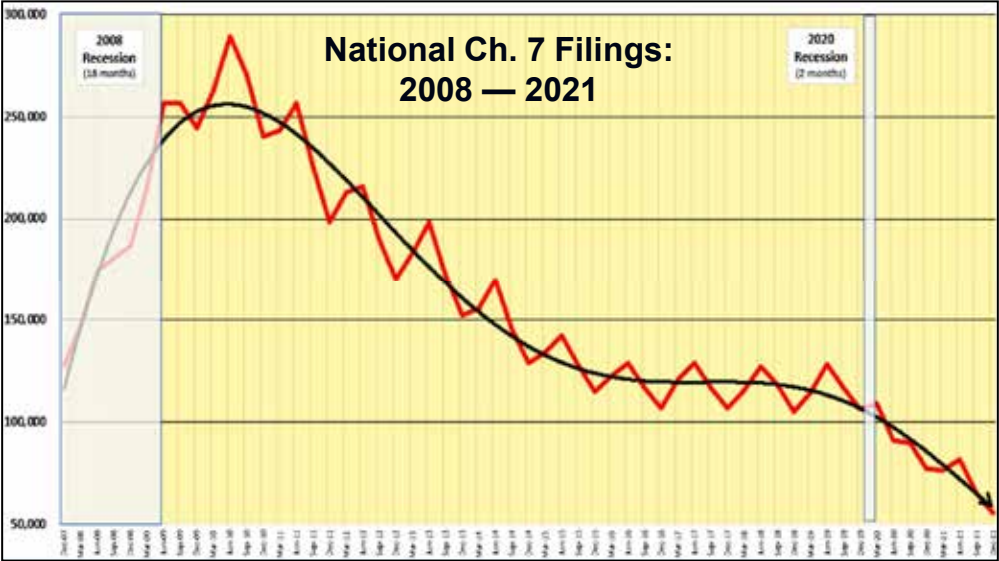
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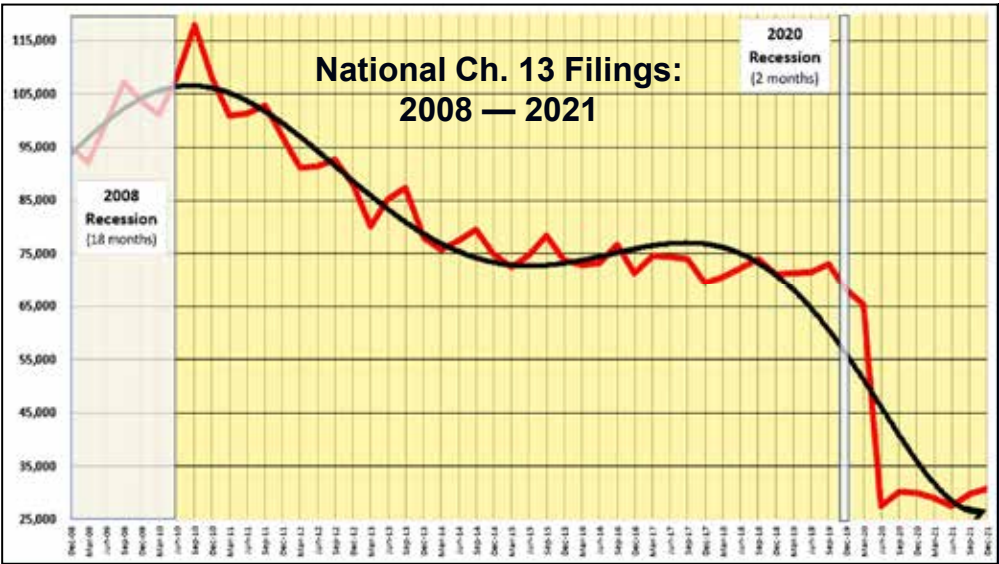
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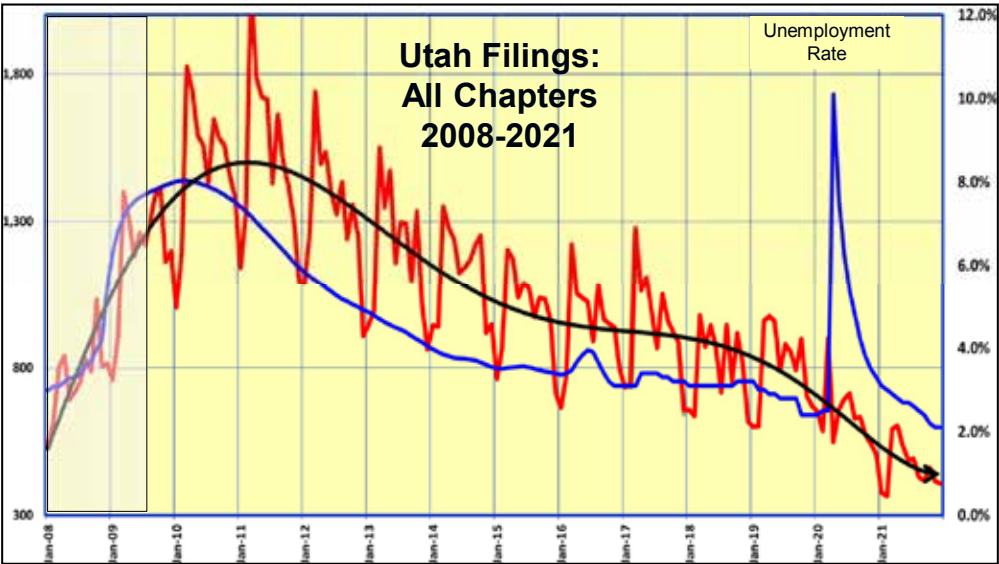
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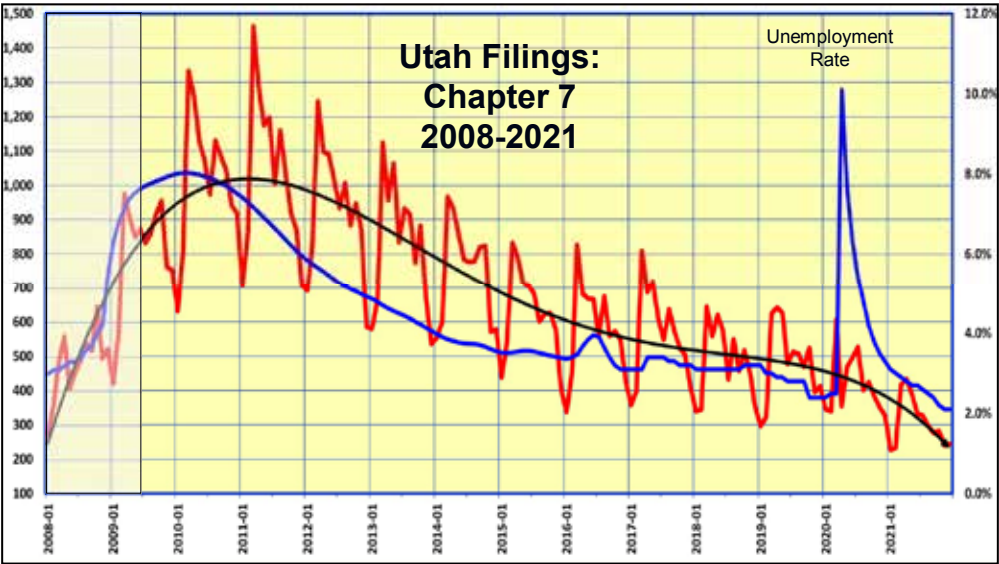
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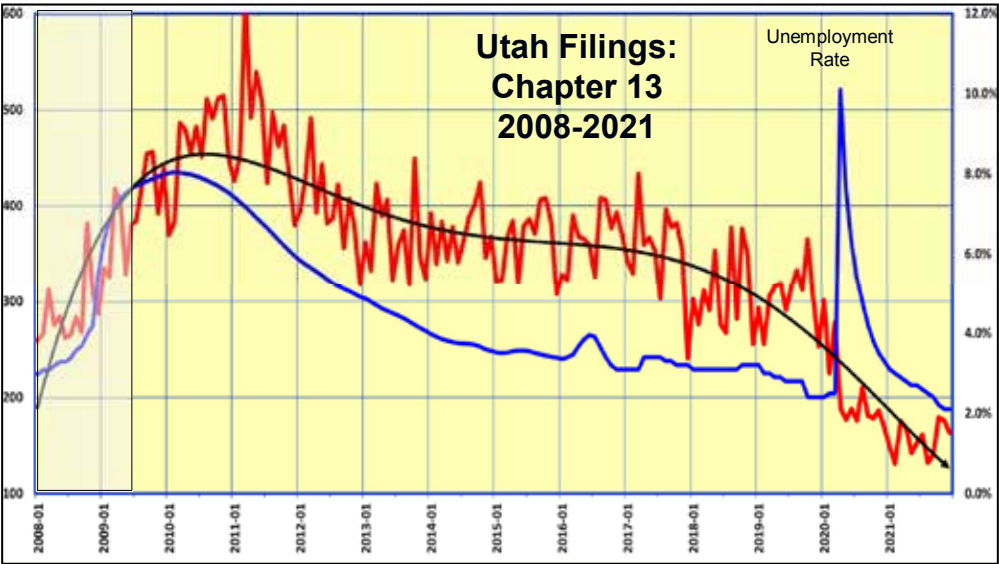
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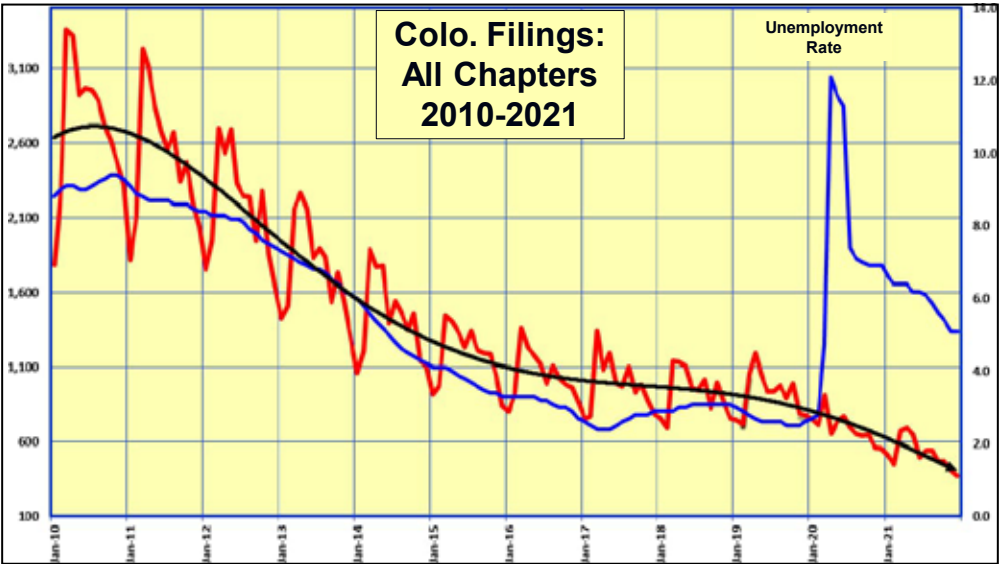
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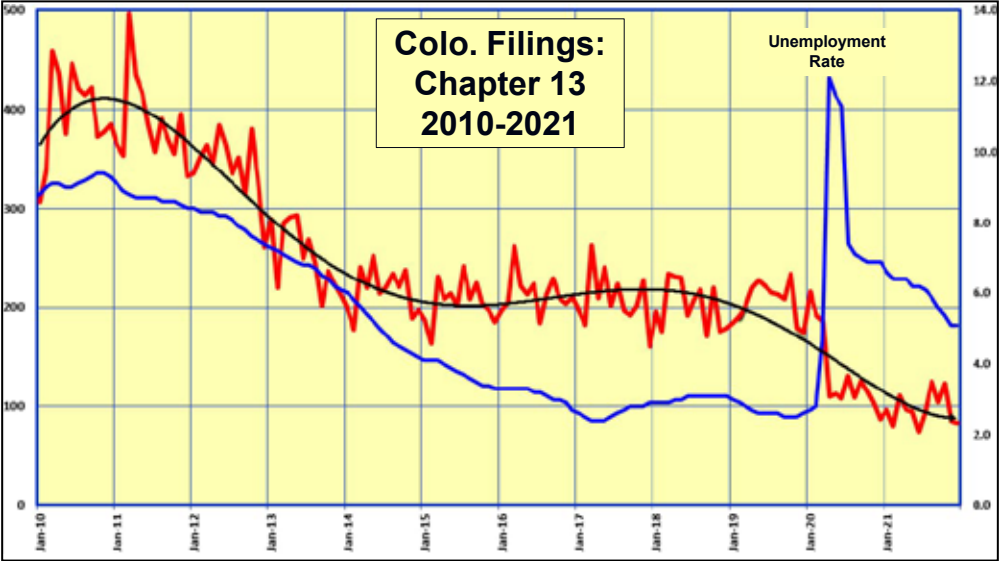
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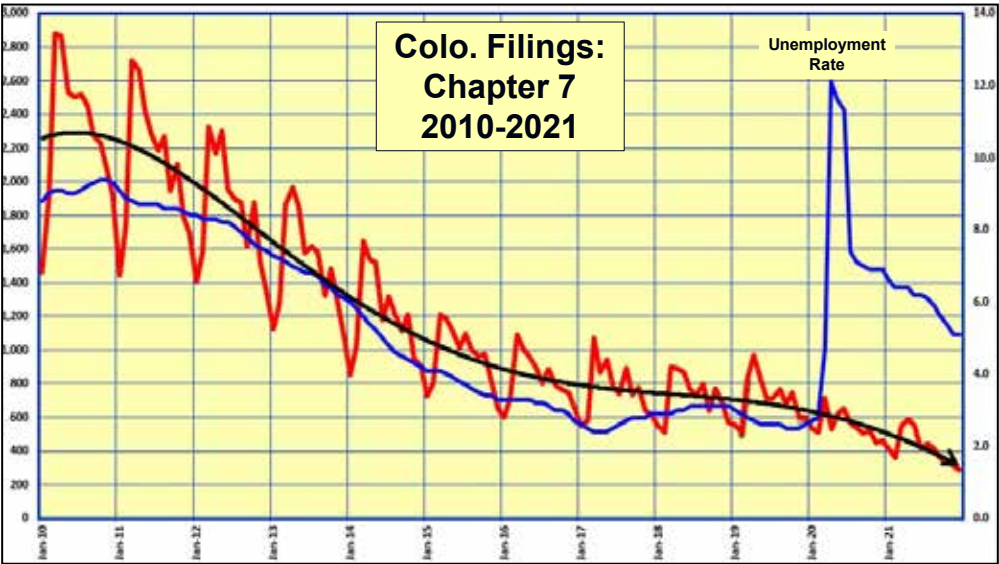
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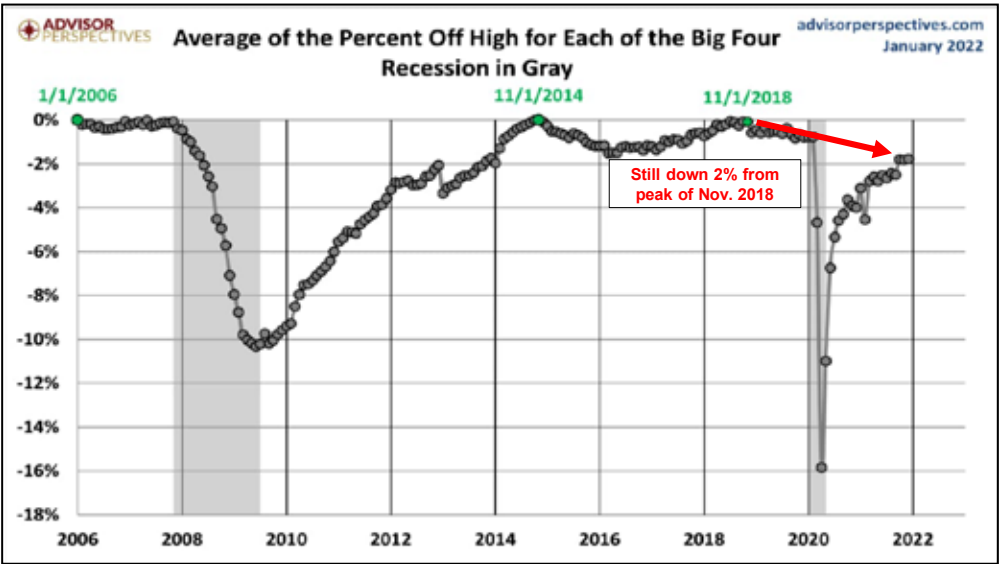
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Faculty

Hon. Kevin R. Anderson is a U.S. Bankruptcy Judge for the District of Utah in Salt Lake City, appointed on Sept. 4, 2015. Previously, he served for 17 years as the standing chapter 13 trustee for the District of Utah, administering more than 70,000 chapter 13 cases. Judge Anderson served as president of the National Association of Chapter 13 Trustees (NACTT), and he also served on several national committees regarding chapter 13 legislation, rules, forms and policy. He has frequently written and presented on chapter 13 issues, including for the *Norton Bankruptcy Law Advisor*, the *ABI Journal*, the *NACTT Quarterly* and the *NACTT Academy for Consumer Bankruptcy Education*. He is also a Fellow in the American College of Bankruptcy. Prior to his appointment as chapter 13 trustee, Judge Anderson practiced for 13 years as a commercial litigator with an emphasis on civil fraud, real property, and representing chapter 11 and 7 trustees. He also clerked for Hon. David N. Naugle, U.S. Bankruptcy Judge for the Central District of California. Prior to law school, Judge Anderson worked for two years as a data systems specialist testing military and commercial jet engines for General Electric. He received his J.D. *cum laude* from the J. Ruben Clark Law School at Brigham Young University.

J. Thomas Beckett is a shareholder with Parsons Behle & Latimer in Salt Lake City and heads the firm's bankruptcy group. He has represented a diverse roster of clients in chapter 11 cases, notably, in the Yellowstone Mountain Club bankruptcy, as lead counsel to the creditors' committee, for which he obtained the equitable subordination of a \$370 million secured loan to enable unsecured creditors to be paid first. Formerly an associate at Milbank in New York City, Mr. Beckett's work experience also includes a year on the staff of the U.S. Senate Judiciary Subcommittee on Constitutional Rights. He recently served as chairman of the board of directors of Clark Planetarium and currently serves on the Utah Supreme Court's Ethics and Discipline Committee. He has maintained a whitewater river guide's license and wilderness first responder certification for 40 years. Mr. Beckett received his B.A. from Brown University in 1979 and his M.B.A. in finance from New York University Stern School of Business Administration in 1986. He also was trained as a mediator at the Harvard Law School's Program on Negotiation.