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"Bailout" Bill: Surprise Help for Colleges and Parents

Important college tax provisions that expired at the end of 2007 were finally extended this last week, after Congress had failed repeatedly to reenact them. The provisions caught a ride as "sweeteners" on the multi-billion dollar rescue bill for at-risk financial services institutions.

The bill also gives authority to the Treasury Secretary to secure both private and federal student loans in the case of an emergency. Passed by the Senate on October 1 and the House on October 3, the bill was immediately signed into law by the president.

Just a week earlier, the House and Senate had reached their third impasse on extending the tax provisions, with both sides announcing they wouldn't try again this year *(see Week in Review, September 30, 2008)*. Only through the financial services rescue bill were these important provisions – which include the IRA rollover, the tuition deduction, and important tax breaks for research and development – given one last chance at passage this year.

All of the expired provisions in the bill will be extended for two years. The tax benefits will be retroactively extended to cover all of 2008, and be in effect until December 31, 2009.

While most members of Congress support extending these provisions, disagreements over offsetting the cost of the bill kept the package from moving separately. In the end, the extenders will be partially offset, reflecting the language reached in a compromise in the Senate. Inclusion of the extenders in the larger economic recovery package – sweetened with additional safety precautions for small businesses, plus an increase in FDIC deposit protections – was enough to make the tax provisions acceptable to some of the House members who had opposed any offset.

Passage of the extenders is a welcome relief to college parents who are eligible for the deduction, and who have come to depend on it. It also guarantees that families can claim the deduction for 2008 and 2009, providing more certainty when planning tuition payments.

The extension of the IRA charitable rollover provision is important to colleges. Their development offices now can definitively assure waiting donors that any gifts made through the end of 2009 will be subject to the benefits of the new law. NAICU survey results show that during the 2007 calendar year, 581 NAICU members raised more than $185 million through use of the IRA charitable rollover.

The provision allowing the Secretary of the Treasury to secure student loan assets – including private student loans – could also prove important to private colleges and their families, should a crisis hit the student loan programs. A different authority given to the Department of Education last summer to act as a type of secondary market for federal student loans *(see following story)* is widely credited with having helped keep student loans flowing this fall. The new authority allows the Treasury Secretary to get into the act as well, if broader student loan problems arise. It's an important addition, since the Treasury Secretary has fewer hoops to run through in the event of an emergency, and because he has authority to cover all types of student loans, including private loans, for more lenders.

For additional information, contact Karin Johns, karin@naicu.edu (tax extenders), or Maureen Budetti, maureen@naicu.edu (student loan provisions)

Legislation on Secretary's Emergency Student Loan Authority Awaiting Signature

Congress acted with record speed to extend the Secretary of Education's authority to purchase federal student loans for an extra year. The bill, however, is still sitting on the president's desk.

The House approved the measure on September 15, and the Senate followed suit two days later *(see* Week in Review*, September 15, 2008)*. There is no indication the president won't sign the measure. He has until October 8 to do so.

The bill gives the Secretary the ability to ensure liquidity in the federal bank-based student loan program by either purchasing federal student loans outright, or by purchasing a temporary interest in them. Although the authority was initially extended to the Secretary just this past June, the Department quickly implemented the program – an action many see as helping prevent a student loan crisis this fall. A Department spokesman recently stated that $4.5 billion in loans have been provided through this authority. NAICU members were instrumental in helping get both bills enacted *(see* Week in Review*, June 27, 2008)*.

For more information, contact Maureen Budetti, maureen@naicu.edu

President Signs CR with Money for Pell Shortfall

On September 30, President Bush signed into law the FY 2009 Continuing Resolution (P. L. 110-329), which includes $2.5 billion to help pay down the Pell Grant shortfall. This additional funding for the shortfall will help head off an estimated $6 billion shortfall over three years, and will assure that no grants get cut. *(See* Week in Review*, September 30, 2008)*

The resolution keeps all government agencies open and running until March 6, 2009. Next year, the new president and the new 111th Congress will have to complete the FY 2009 process before this resolution expires.

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FTC's Red Flags Rule Applies to Colleges

Late last year, the Federal Trade Commission issued a regulation known as the "Red Flags Rule" to reduce identity theft. Creditors or financial institutions holding accounts covered by the rule must develop a written identity theft prevention program. While the FTC generally does not have jurisdiction over not-for-profit entities, parts of the rule seem to apply to a variety of college and university activities.

Colleges could be considered creditors through participating in the Perkins Loan Program; being a school lender in the Federal Family Education Loan Program (FFELP); offering institutional loans to students, faculty, or staff; or offering a plan for payment of tuition throughout the school year. Consumer accounts involving multiple transactions fall under the rule, and last July, the FTC issued guidance stating that where "non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

Compliance with the rule is required by November 1, 2008, and the institution's identity theft prevention program must be approved by its board or a committee of the board. The National Association of College and University Business Officers (NACUBO) has provided a more detailed explanation of the rule to college business officers. For a brief description of the rule and a link to the text of the rule in the *Federal Register*, go to *www.ftc.gov/opa/2007/10/redflag.shtm*. Consult your business officer and/or attorney to determine the implications for your institution.

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Cohort Default Rate Rises Slightly

The overall cohort default rate (CDR) – the government measure of the rate at which college students default on their federal student loans – has crept up about half a point. For FY 2006, the most recent year available, the rate was 5.2 percent, against a 4.6 percent rate for FY 2005. The increase was partially attributed to the impact of Hurricanes Katrina and Rita on the Gulf states. The record low of 4.5 percent occurred in 2003, while the record high of 22.4 percent was in 1989.

The overall private college sector rate for FY 2006 is 2.5 percent, again the lowest for any sector. This is up 0.1 percent from the FY 2005 rate of 2.4 percent, but down from the FY 2004 rate of 2.8 percent. The CDR for the for-profit sector is 9.7 percent, up from its FY 2005 rate of 8.2 percent. For state information and a historical graph of the CDR, go to *www.ed.gov/offices/OSFAP/defaultmanagement/cdr.html.*

The recently-passed Higher Education Opportunity Act changes the formula for calculating the CDR. Beginning with the rate for FY 2009, the CDR will include three years of data, instead of two in the past, in order to get a more accurate view of defaults. The thresholds for high default rate penalties and low default rate benefits have been adjusted accordingly. In addition, rates will be published annually over the life of the loan. When the change is in place, all colleges can expect their default rates to go up.

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Congress Extends College Anti-trust Protections

The president has signed a bill (P.L. 110-327) to extend, for seven more years, current anti-trust protections to need-blind colleges that wish to confer on certain student aid procedures. Without new legislation, the current law would have expired on September 30.

The new bill is essentially an extension of the law passed seven years ago, clarifying that it is not an anti-trust violation for schools that are need-blind in the admissions process to meet collaboratively to discuss ways to assess need. A small set of colleges and universities have used this exemption during the past decade to develop certain need analysis tools for assessing how institutional aid is to be awarded. This extension will allow those schools to continue those conversations. The law, like its predecessor, does not allow colleges to discuss individual student awards.

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Grant Opportunity for Work in Africa

The Africa-U.S. Higher Education Initiative will be issuing a request for applications for $50,000 planning grants in November. The Initiative is an effort of the presidential associations, including NAICU, and several non-governmental organizations focused on development in Africa.

Through $1 million from USAID, the Initiative will be making 20 grants available to U.S. colleges that have relationships with colleges or universities in Africa. The grants will enable the institutions to develop a plan for future collaboration aimed at development in Africa. The Initiative has set up an e-consultation site at *www.africa-initiative.org* that provides additional information.

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