

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 152a

49th Legislature, 2nd Session, 2010

Tracking Number: .179395.1

Short Title: College Student Lists to Credit Companies

Sponsor(s): Senator Michael S. Sanchez and Others

Analyst: Ally Hudson

Date: February 15, 2010

AS AMENDED

The Senate Floor amendment clarifies that no public or private postsecondary educational institution shall sell, give, or transfer the personal information of an undergraduate student for the purpose of distributing or marketing credit cards.

Original Bill Summary:

Among its provisions, SB 152:

- prohibits New Mexico public and private postsecondary institutions from selling student lists to credit card issuers;
- prohibits institutions from contracting or cooperating with credit card issuers to distribute or market credit cards, including the distribution or marketing of credit cards on campus property; and
- specifies penalties for violations.

More specifically, SB 152 prohibits all public and private postsecondary institutions of higher education (IHEs), including their agents, employees, student or alumni organizations, and affiliates from:

- selling, giving, or otherwise transferring to any card issuer the name, address, Social Security number, date of birth, telephone number, or other contact or personal identifying information of an undergraduate student;
- entering into any agreement, or cooperating with a card issuer, to distribute or market credit cards to undergraduate students at the IHE; or
- allowing the marketing of credit cards from the property or campus of the institution.

Finally, SB 152:

- allows the Attorney General, or a person whose contact information was sold, given, or transferred to bring civil action and seek civil penalties in an amount not to exceed \$10,000 for each violation, plus costs of the action and reasonable attorney fees; and
- specifies the definitions of “credit card” and “card issuer” as having the same meanings given in the federal Truth in Lending Act (TILA).

Fiscal Impact:

SB 152 makes no appropriation.

Substantive Issues:

The analysis by the Higher Education Department (HED) cites a 2009 report on the credit card use of student loan applicants in which the following statistics are included:

- 30 percent of students paid tuition with their credit card, indicating a 24 percent increase from 2004;
- 92 percent of undergraduate credit card holders charged direct education expenses on credit cards, up from 85 percent in previous studies;
- students who used credit cards to pay for direct education expenses estimated charges of \$2,200, which is more than double the average from 2004;
- 84 percent of undergraduates had at least one credit card representing an increase of 8.0 percent since 2004;
- students have an average of 4.6 credit cards, with over half of college students reporting ownership of more than four cards; and
- the mean balance of credit card charges increased to \$3,173, higher than any previous studies, and median credit card debt grew from \$946 in 2004 to \$1,645 in 2009.

HED's analysis raises two other points:

- the language in SB 152 strengthens existing federal statute because it prohibits all marketing of credit cards at IHEs, while the TILA regulations are limited to offers where companies offer a tangible item in exchange for the student applying for credit; and
- SB 152 may have unintended consequences. For example, "a bank, thrift, or credit union located on a college campus may offer other services that are advantageous to students; if credit cards are one of those services, then there is a violation inherent in listing the services that the financial institution provides.

Technical Issues:

According to HED's analysis, it is unclear from the language in SB 152 if civil action would be allowed as a consequence of permitting the marketing of credit cards on campus property and "whether such [a penalty] would be directed toward the IHE, the card issuer, or both."

HED's analysis also notes that the bill "does not specify mechanisms for oversight of card issuers or [IHEs], nor does it specify an oversight agency."

Background:

Similar legislation was introduced in the 2009 legislative session, but it did not pass.

Related Bill(s):

None as of 02-15-2010.