

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/10
LAST UPDATED 02/16/10 **HB** _____

SPONSOR Sanchez, M.

SHORT TITLE College Student Lists to Credit Companies **SB** 152/aSFL#1

ANALYST Aguilar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

SUMMARY

Synopsis of Senate Floor Amendment #1

Senate Floor Amendment #1 to Senate Bill 152 changes the original bill providing that public or private post-secondary institutions shall not sell, give or otherwise transfer to any credit card issuer the name, address, social security number, date of birth, telephone number or other contact or personal identifying information of an undergraduate student to be used for the purpose of distributing or marketing credit cards.

The original bill prohibited the distribution of personal information to credit card issuers completely, the amendment appears to allow personal information to be distributed if the information is not to be used for distributing or marketing credit cards.

Synopsis of Original Bill

Senate Bill 152 prohibits public and private postsecondary institutions in New Mexico from selling, giving or transferring personal student information to credit card issuers. The bill further prohibits institutions from contracting or cooperating with credit card issuers to market credit cards, including the marketing of credit cards on campus property, and provides specific penalties for each violation.

FISCAL IMPLICATIONS

The bill contains no specific appropriation and does not appear to have a fiscal impact on the state. Individual institutions may incur some costs if they are in violation of the provisions of this bill and subject to penalties and other costs.

SIGNIFICANT ISSUES

The bill provides for the Attorney General, or a person whose contact information is sold, given, or transferred in violation of the aforementioned rules 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 attorney's fees.

The bill does not specify a mechanism for monitoring higher education institutions compliance with the proposed rules and it is unclear whether this oversight, if any is required, would fall upon the Attorney General's Office or upon another agency with regulatory authority. While it seems clear that the civil penalty would be directed at the higher education institution in the case of selling a student's information to a card issuer, it is unclear from the language in SB-152 if civil action would be allowed for other violations, such as allowing the marketing of credit cards on campus property. Moreover, it is unclear whether such penalties would be directed toward the higher education institution, the card issuer, or both.

Recently enacted federal legislation already restricts the marketing of credit cards to college students. On May 22, 2009, the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law. The Credit Card Act primarily amends the Truth in Lending Act (TILA) and establishes a number of new substantive and disclosure requirements to establish fair and transparent practices pertaining to open-end consumer credit plans.

SB-152 is stronger than the existing federal statute in that it prohibits all marketing of credit cards at higher education institutions, while the TILA regulations are limited to offers where companies offer a tangible item (in practice a free gift) in exchange for the student applying for credit. TILA regulations require disclosure of any relationships between card issuers and an institution of higher education for the purpose of marketing credit cards; SB-152 specifically prohibits such agreements. In practice, however, such prohibitions 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.

PA/mew