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**ASSEMBLY COMMITTEE
ON EDUCATION**



WORK SESSION DOCUMENT

April 9, 2003

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ASSEMBLY EDUCATION
DATE: 4/9/03 ROOM: 3143 EXHIBIT R
SUBMITTED BY: CAROL STONEFIELD

TAB

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Sponsor: Assemblywoman Giunchigliani

Assembly Bill 353 prohibits the University and Community College System of Nevada (UCCSN) from using personally identifiable information without the written consent of students and employees, and provides for a reduction in the size and length of term of the members of the University of Nevada Board of Regents.

Proponents:

- On the Family Educational Right to Privacy Act (FERPA)--Students enrolled in institutions of the UCCSN are receiving unsolicited credit card applications. The UCCSN institutions are profiting from the names of the students.
- On the structure of the Board of Regents--The term of office of the Regents should be four years. They should be able to learn the details of the operations of the institutions in that amount of time. The current size of the board at 13 members is too large.

Opponents:

- On FERPA—This portion of the bill is unnecessary because the Board of Regents has taken control of this issue. There are no FERPA rights for employees or former students. Under federal law, if a student opts out, the student opts out for life. The bill will negatively impact the alumni associations. Students who opt out will not be included in graduation publications. The bill will be troublesome for university fundraising.
- On the structure of the Board of Regents—Reducing the size of the board is not necessary. A six-year term allows time to learn the system. Seven would be small by national standards because a governing board must be large enough to accommodate a committee structure. A larger number keeps a balance on the board.

Fiscal Impact: State Government: yes

Proposed Amendments:

Dr. Jane Nichols, Chancellor, UCCSN, in an electronic mail message, dated March 27, 2003, wrote the following amendment and explanation.

[R]eplace all of the language now in Section 2 with language that says:

"A credit card issuer may not purchase or otherwise obtain from an institution of higher education the names or addresses of the students at the institution of higher

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education; or offer gifts or other promotional incentives to students at an institution of higher education in connection with an application for a credit card."

It targets the exact behavior you want stopped and would cover all of the students. This language is from Maryland and rightly deals with the power of the legislature, not over the opt out process, but over credit card companies soliciting students. It also avoids alumni and foundations.

Subcommittee Report:

A subcommittee met with the sponsor and other interested parties and agreed to recommend that the committee amend AB 353 according to the subcommittee report.

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**REPORT OF SUBCOMMITTEE ON ASSEMBLY BILL 353
TO ASSEMBLY COMMITTEE ON EDUCATION**

Summary: Assembly Bill 353 prohibits the University and Community College System of Nevada (UCCSN) from using personally identifiable information without the written consent of students and employees, and provides for a reduction in the size and length of term of the members of the University of Nevada Board of Regents.

Members Present

Assemblyman Bob McCleary, Chair
Assemblyman Jason D. Geddes
Assemblyman William C. Horne

Subcommittee Meeting

The subcommittee met on April 9, 2003, in Room 3142 of the Legislative Building in Carson City to consider Assembly Bill 353. Testimony was received from Assemblywoman Chris Giunchigliani; Ms. Bonnie Parnell; Mr. Rick Bennett representing the University of Nevada, Las Vegas; Mr. Mike Alonso representing MBNA; and Mr. Gary Peck representing the American Civil Liberties Union of Nevada. Carol Stonefield, Senior Research Analyst, Research Division, Legislative Counsel Bureau, summarized certain provisions of the Family Educational Rights and Privacy Act (FERPA).

Testimony was received that the Board of Regents has directed considerable time to developing a policy that satisfies students and the institutions of the UCCSN. It was reported that the Board of Regents has an existing contract with a credit card vendor. Others testified that there is nothing in FERPA to prevent an "opt-in" policy rather than the current "opt-out" policy.

The subcommittee also discussed the terms of office and the number of members that comprise the Board of Regents.

Subcommittee Recommendations

The subcommittee recommends that the full Assembly Committee on Education consider and approve a motion to "Amend and Do Pass" for A.B. 353 and that an amendment be drafted that reflects the discussion of the full Committee on Education on March 26, 2003, and of the subcommittee on this date. The subcommittee recommends that the amendment:

- Delete employees, former employees, and former students from the bill;

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- Maintain an "opt-out" approach, reflecting the FERPA provisions that directory information may be released unless a student elects to have such information withheld;
- Distinguish between commercial and noncommercial use of directory information;
- Provide for informed consent by providing that the University of Nevada Board of Regents shall to the extent practicable inform students that they may "opt-out" of the release of directory information and the consequences of the choice of releasing or not releasing directory information;
- Delete the form as set out in subsection 2 of Section 2 of A.B. 353;
- Set the length of term of office for Regents at six years; and
- Reduce the number of Regents to nine members.

Submitted by Carol M. Stonefield, Senior Research Analyst, Research Division,
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Education/Reports/SB353Amendments

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