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MEMORANDUM

DATE: March 5, 2003
TO: Assemblyman Garn Mabey
FROM: Carol M. Stonefield, Senior Research Analyst
Research Division
SUBJECT: **Assembly Committee on Education**
Subcommittee on Assembly Bill 138

I have enclosed with this memorandum an agenda for today's meeting of the subcommittee on Assembly Bill 138. In addition, I have enclosed a summary of the arguments that were made in support of and in opposition to Assembly Bill 427 (Chapter 613, *Statutes of Nevada 1993*), a summary of the testimony before the Assembly Committee on Education on Assembly Bill 138, and a summary of statutes from other states that govern the possession of cellular phones and paging or beeping devices on school property.

Please let me know if there is anything else that I can do for you on this topic.

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Enc.

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ASSEMBLY EDUCATION SUBCOMMITTEE
DATE: 3/5/03 ROOM: 3143 EXHIBIT C
SUBMITTED BY: CAROL STONEFIELD

Subcommittee on Assembly Bill 138

Agenda

March 5, 2003

Upon Adjournment of the Assembly Committee on Education

- I. Call to order
Assemblyman Garn Mabey, Chair
- II. Review of the Charge to the Subcommittee
Assemblyman Mabey
- III. Presentation of the Summary of the Testimony on AB 138, Review of the Legislative History of *Nevada Revised Statutes* 392.930, and Consideration of Model Legislation from Selected States

Carol Stonefield, Senior Research Analyst
Legislative Counsel Bureau
- IV. Public Comment
- V. Work Session--Discussion and Action on Recommendations to the Assembly Committee on Education
- VI. Adjournment

Subcommittee on Assembly Bill 138

Issues Raised in the Testimony before the Assembly Committee on Education February 24, 2003

Background

Sponsor Assemblyman David Goldwater testified that he introduced the bill upon request of the students at Becker Middle School. The bill is part of the Project Citizen, supported by the Center for Civic Education and the National Conference of State Legislatures. According to Assemblyman Goldwater, the students picked a subject that they thought was worthy of legislative action.

Mr. Goldwater testified that the *Nevada Revised Statutes* (NRS) 392.930 makes it illegal for a student to have a cellular phone or beeper on a school campus. The statute does not grant jurisdiction to the local board of trustees to control except if the parents and student receive express authorization to do so.

Summary of Testimony

1. The students testified from the Grant Sawyer Building in Las Vegas. They were accompanied by Mrs. Traci Kannon, their teacher. The points made by the students included:
 - o Many students have cell phones at the direction or approval of their parents, who want to be able to contact them after school.
 - o After the Columbine incident in Colorado, many parents are concerned about school safety.
 - o The current school policy is that if a cell phone rings during class the teacher has the authority to take it away. The teacher then turns it in at the school administrative office. The parents must claim the cell phone in person.
 - o Pay phones are available but there are not enough. Students have to wait in line, which can be limiting since they also must be off school grounds within 15 minutes of the end of the school day.
 - o The administrative offices will not deliver messages because personnel have no way to verify that the person sending the message is a parent or guardian.
2. Judith Simpson, Center for Civic Education, said that the students picked the project because they were concerned that so many of them are doing something illegal.
3. Opponents to the bill as drafted included:
 - o Barbara Clark, Nevada Parent Teacher Association, who said there are valid reasons for students to have cell phones. There are issues of safety. She suggested local authority.
 - o Nancy Hollinger, Washoe County School District, offered an amendment to section 2 of the bill. The amendment would authorize the use of the electronic communication device if the student uses it according to the guidelines adopted by the local board of trustees.

- o Karyn Wright, Clark County School District, expressed concern that repealing the statute would leave the school district without any legal means to control the use. She cautioned that students could use them to disrupt classes and to compromise tests by calling each other during class.
- o Others who expressed similar concerns included:
 - o Frank Brusa, Nevada Association of School Administrators,
 - o Doug Byington, Nevada Association of School Administrators, and
 - o Lonnie Shields, Washoe County Education Administrators Association.

Subcommittee on Assembly Bill 138

**Summary of Legislation
Assembly Bill 427 (Chapter 613, *Statutes of Nevada 1993*)**

Nevada Revised Statutes 392.930

Assembly Committee on Education, Hearing for Assembly Bill 427, April 7, 1993

Arguments made in support of banning all electronic communication devices

- National School Safety Center determined that beepers were very disruptive in a school setting.
- Law enforcement officials throughout the country had found telephone beepers and pagers were common tools for drug dealers, gang members, prostitutes, and other criminals.
- Teachers in Clark County had expressed concern about liability if they were required to search students to confiscate the beepers.
- Each classroom contains a loudspeaker, so students can be contacted in case of an emergency.
- Policies current in Clark County School District and in Washoe County School District at the time prohibited the use of such devices.
- Clark County School District did have provisions allowing children to leave any electronic device at the office, upon arrival at school, and to pick it up after school.
- Any emergency situation that might require a student to carry a beeper could be handled through the office of the school.

Concerns expressed about making possession of such devices illegal

- Students with medical problems may need the convenience of the devices.
- Some students are volunteer firemen and need to be informed of a fire.
- The language might be too restrictive and suggestions were made to allow the local districts to control the devices.

Subcommittee on Assembly Bill 138

Summary of Statutes Governing Pagers and Cellular Phones Selected States

Excerpts of Statutes Prohibiting Pagers and Cellular Phones

- **Arkansas Code Annotated 6-18-502**

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

- **Maryland Code Annotated, Education, § 26-104**

(c) *In general.*- Except as provided in subsection (d) of this section, an individual may not possess a portable pager on public school property.

(d) *Exemptions.*- This section does not apply to:

(1) Handicapped students using portable pagers for medical reasons;

(2) Law enforcement officers;

(3) Visitors on public school property for an authorized program, meeting, or function;

(4) Faculty or staff members employed by a county board;

(5) Members of any volunteer fire department, ambulance company, or rescue squad, who are designated to possess a portable pager on public school property by the chief of the volunteer fire department, ambulance company, or rescue squad, and the school principal; and

(6) Students whose portable pagers are contained in vehicles that are on public school property and are not found to be connected with criminal activity.

- **New Jersey Statutes Annotated, 2C:33-19**

No permission to bring or possess any remotely activated paging device on school property shall be granted unless and until a student shall have established to the satisfaction of the school authorities a reasonable basis for the possession of the device on school property.

This section shall not apply to any student who is an active member in good standing of a volunteer fire company or first aid, ambulance or rescue squad...

- **Wisconsin Statutes 118.258**

(1) Each school board shall adopt rules prohibiting a pupil from using or possessing an electronic paging or 2-way communication device while on premises owned or rented by

or under the control of a public school. The rules may allow for the use or possession of such a device by a pupil if the school board or its designee determines that the device is used or possessed for a medical, school, educational, vocational or other legitimate use.

Excerpts of Statutes Granting Policymaking Authority to Local Boards

• **Illinois Compiled Statutes School Code (105 ILCS 5/10-20.28)**

...the General Assembly also recognizes that the use of cellular radio telecommunication devices can decrease the response time of officials to emergency situations. In addition, cellular radio telecommunication devices allow parents an additional and timely method of contacting their children should an emergency situation arise. Therefore, it is the purpose and intention of the General Assembly in enacting this legislation to (i) reduce the occurrence of inappropriate and disruptive activities during school hours and on school property occurring through the use of cellular radio telecommunication devices and (ii) increase the safety of students and school personnel during school hours and on school property.

(b) The school board may establish appropriate rules and disciplinary procedures governing the use or possession of cellular radio telecommunication devices by a student while in a school or on school property, during regular school hours, or at any other time.

• **Kentucky Revised Statutes Annotated 158.165**

(1) The board of education of each school district shall develop a policy regarding the possession and use of a personal telecommunications device by a student while on school property or while attending a school-sponsored or school-related activity on or off school property, and shall include the policy in the district's written standards of student conduct. A student who violates the policy shall be subject to discipline as provided by board policy.

• **Ohio Revised Code Annotated § 3313.753**

(B) The board of education of any city, exempted village, local, joint vocational, or cooperative education school district may adopt a policy prohibiting pupils from carrying a pocket pager or other electronic communications device in any school building or on any school grounds or premises of the district. The policy may provide for exceptions to this prohibition as specified in the policy. The policy shall specify any disciplinary measures that will be taken for violation of this prohibition.

If a board of education adopts a policy under this section, the board shall post the policy in a central location in each school building and make it available to pupils and parents upon request.

• **Tennessee Code Annotated § 49-6-4202, 49-6-4214, and 49-6-4216 (excerpted)**

49-6-4202 (3) "Drug paraphernalia"... An electronic pager in the possession of a student shall be included in this definition if used or intended for use as defined by this subdivision.

49-6-4214 Possession of an electronic pager by a student on school property, without the permission of the school principal or the principal's designated representative, is prima facie evidence of its intended use in violation of this part.

49-6-4216 ...each local and county board of education shall file with the commissioner of education written policies and procedures developed and adopted by the board...

... (2) To impose swift, certain and severe disciplinary sanctions on any student:

(A) Who brings a drug, drug paraphernalia or a dangerous weapon onto a school bus, onto school property or to any school event or activity;

(b)(1) It is the legislative intent that any rule or policy designated as a zero tolerance policy means that violations of that rule or policy will not be tolerated, and that violators will receive certain, swift, and reasoned punishment.

• **Virginia Code Annotated § 22.1-279.6**

A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.