



UTAH STATE SENATE

UTAH STATE CAPITOL COMPLEX • 320 STATE CAPITOL
P.O. BOX 145115 • SALT LAKE CITY, UTAH 84114-5115 • (801) 538-1035

February 8, 2008

Mr. President:

The Government Operations and Political Subdivisions Committee reports a favorable recommendation on **S.B. 81**, **ILLEGAL IMMIGRATION**, by Senator J. Hickman, with the following amendments:

1. Page 1, Line 22 through Page 2, Line 32:

- 22 ▶ { ~~restricts the exemption from paying the nonresident portion of total~~
tuition at a state
23 institution of higher education to students without lawful immigration status who
24 meet certain statutory prerequisites and register as an entering student at the
25 institution prior to May 1, 2010;
26 — provides that an individual who is not lawfully present in the United States
is not
27 eligible on the basis of residence within the state for a higher education benefit, to
28 include scholarships, financial aid, and resident tuition, with one temporary
exception;
29 — provides for the withholding of state income tax at the top rate from an
independent
30 contractor who fails to provide documentation to the contracting entity that verifies
31 the independent contractor's employment authorization pursuant to the prohibition
32 against the use of unauthorized alien labor; }

2. Page 3, Lines 84 through 89:

- 84 { ~~53B-8-106, as enacted by Laws of Utah 2002, Chapter 230~~ }

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85 ENACTS:
86 17-22-9.5, Utah Code Annotated 1953
87 { ~~53B-8-106.5, Utah Code Annotated 1953~~
88 ~~59-10-409, Utah Code Annotated 1953~~ }
89 63-99a-101, Utah Code Annotated 1953

3. Page 11, Line 313 through Page 12, Line 362:

313 { ~~Section 4. Section 53B-8-106 is amended to read:~~
314 ~~53B-8-106. Resident tuition -- Requirements -- Rules.~~
315 ~~(1) If allowed under federal law, a student, other than a nonimmigrant alien~~
316 ~~within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United~~
317 ~~States Code, shall be exempt from paying the nonresident portion of total tuition if the~~
318 ~~student:~~
319 ~~(a) attended high school in this state for three or more years;~~
320 ~~(b) graduated from a high school in this state or received the equivalent of a~~
321 ~~high school diploma in this state; and~~
322 ~~(c) registers as an entering student at an institution of higher education;~~
323 ~~(i) not earlier than the fall of the 2002-03 academic year[.]; and~~
324 ~~(ii) before May 1, 2010.~~
325 ~~(2) In addition to the requirements under Subsection (1), a student without~~
326 ~~lawful immigration status shall file an affidavit with the institution of higher education~~
327 ~~stating that the student has filed an application to legalize his immigration status, or will file an~~
328 ~~application as soon as [he] the student is eligible to do so.~~
329 ~~(3) An institution of higher education shall continue to provide the exemption~~
~~from paying the nonresident portion of total tuition for a student who entered the~~

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institution before
330 May 1, 2010, through the time that the student remains admitted as a student at that
institution
331 in a program of study leading to a degree or a certificate:
332 ~~—[(3)](4) The State Board of Regents shall make rules for the implementation of~~
this
333 section:
334 ~~—[(4)](5) Nothing in this section limits the ability of institutions of higher~~
education to
335 assess nonresident tuition on students who do not meet the requirements under this
section:
336 ~~— Section 5. Section 53B-8-106.5 is enacted to read:~~
337 ~~— 53B-8-106.5. Limitation on higher education benefits.~~
338 ~~— Except as otherwise provided in Section 53B-8-106, an individual who is not~~
lawfully
339 present in the United States is not eligible on the basis of residence within the state for
a higher
340 education benefit, to include:
341 ~~—(1) scholarships;~~
342 ~~—(2) financial aid; and~~
343 ~~—(3) resident tuition.~~
344 ~~— Section 6. Section 59-10-409 is enacted to read:~~
345 ~~— 59-10-409. Withholding of state income tax when lacking verification of lawful~~
346 immigration status -- Noncompliance:
347 ~~—(1) If an individual independent contractor, contracting for the physical~~
performance of
348 services in this state, fails to provide to the contracting entity documentation to verify
the
349 independent contractor's employment authorization pursuant to the prohibition
against the use
350 of unauthorized alien labor through contract set forth in 8 U.S.C., Sec. 1324a (a)(4);
the
351 contracting entity shall withhold state income tax at the top marginal income tax rate

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as
352 provided in Title 59, Chapter 10, Part 4, Withholding of Tax, as applied to
compensation paid
353 to the individual for the performance of the services within this state which exceeds
the
354 minimum amount of compensation the contracting entity is required to report as
income to the
355 United States Internal Revenue Service pursuant to federal law.
356 — (2) A contracting entity who fails to comply with the withholding requirements
of this
357 section is liable for the taxes required to have been withheld unless exempt from
federal
358 withholding with respect to the individual pursuant to Section 1441 of the United
States
359 Internal Revenue Code.
360 — (3) For purposes of this section, "individual" means a resident or nonresident
361 individual as defined in Section 59-10-103.
362 Section {~~7~~} 4 . Section 63-99a-101 is enacted to read:

4. Page 12, Line 366:

366 Section {~~8~~} 5 . Section 63-99a-102 is enacted to read:

5. Page 14, Line 428:

428 Section {~~9~~} 6 . Section 63-99a-103 is enacted to read:

6. Page 16, Line 480:

480 Section {~~10~~} 7 . Section 63-99a-104 is enacted to read:

7. Page 17, Lines 510 through 511:

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510 (f) the exemption for paying the nonresident portion of total tuition ~~{for the time~~
~~periods}~~ as
511 set forth in Section 53B-8-106.

8. Page 19, Line 555:

555 Section ~~{11}~~ 8 . Section **67-5-22.5** is enacted to read:

9. Page 19, Line 564:

564 Section ~~{12}~~ 9 Section **67-5-26** is enacted to read:

10. Page 20, Line 596:

596 Section ~~{13}~~ 10 . Section **76-10-2701** is enacted to read:

11. Page 20, Line 611:

611 Section ~~{14}~~ 11 . Coordinating S.B. 81 with H.B. 63 -- Technical
renumbering.

Respectfully,

Peter C. Knudson
Committee Chair

Voting: 4-2-0

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