

**MINUTES OF THE
SENATE GOVERNMENT OPERATIONS AND POLITICAL SUBDIVISIONS
STANDING COMMITTEE
FRIDAY, FEBRUARY 8, 2008
ROOM W135, WEST OFFICE BUILDING, STATE CAPITOL COMPLEX**

Members Present: Sen. Peter C. Knudson, Chair
Sen. D. Chris Buttars
Sen. John W. Hickman
Sen. Scott K. Jenkins
Sen. Scott D. McCoy
Sen. Ross I. Romero

Staff Present: Mark D. Andrews, Policy Analyst
Nedra Duzett, Secretary

Public Speakers Present: Ronald Mortensen, Utah Coalition on Illegal Immigration
Senator Mark B. Madsen
Robin Riggs, Vice President and General Counsel, Salt Lake City
Chamber of Commerce
Melinda Turner, Citizen
Michael Clara, member of the Utah Republican Hispanic
Assembly
Senator Michael Waddoups
Theresa Martinez, Co-chair Utahns for the American Dream
William Christoffersen, National Executive Committeeman,
American Legion
George Holmann, United Way of Salt Lake
Norman Davis, Utah Minuteman Project
Jim Olsen, President, Utah Food Industry Association
Rob Latham, Chairman, Libertarian Party of Utah
Michael Cragun, Deputy Chief of Staff, Lieutenant Governor's
Office

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Chair Knudson called the meeting to order at 2:05 p.m.

MOTION: Sen. Jenkins moved to approve the minutes of the February 6, 2008 meeting.

The motion passed unanimously.

1. S.B. 81 Illegal Immigration (*J. Hickman*)

Sen. Hickman explained the bill.

MOTION: Sen. Buttars moved to adopt the following amendment:

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~~ }
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~~
 ~~within the~~
316 ~~meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United~~
 ~~States~~

317 ~~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~~
322 ~~school diploma in this state; and~~
323 ~~—(c) registers as an entering student at an institution of higher education;~~
324 ~~—(i) not earlier than the fall of the 2002-03 academic year[.]; and~~
325 ~~—(ii) before May 1, 2010.~~
326 ~~—(2) In addition to the requirements under Subsection (1), a student without~~
327 ~~lawful~~
328 ~~immigration status shall file an affidavit with the institution of higher education~~
329 ~~stating that the~~
330 ~~student has filed an application to legalize his immigration status, or will file an~~
331 ~~application as~~
332 ~~soon as [he] the student is eligible to do so.~~
333 ~~—(3) An institution of higher education shall continue to provide the exemption~~
334 ~~from~~
335 ~~paying the nonresident portion of total tuition for a student who entered the~~
336 ~~institution before~~
337 ~~May 1, 2010, through the time that the student remains admitted as a student at that~~
338 ~~institution~~
339 ~~in a program of study leading to a degree or a certificate.~~
340 ~~—[(3)] (4) The State Board of Regents shall make rules for the implementation of~~
341 ~~this~~
342 ~~section.~~
343 ~~—[(4)] (5) Nothing in this section limits the ability of institutions of higher~~
344 ~~education to~~
345 ~~assess nonresident tuition on students who do not meet the requirements under this~~
346 ~~section.~~
347 ~~—Section 5. Section 53B-8-106.5 is enacted to read:~~
348 ~~—53B-8-106.5. Limitation on higher education benefits.~~
349 ~~—Except as otherwise provided in Section 53B-8-106, an individual who is not~~
350 ~~lawfully~~

339 present in the United States is not eligible on the basis of residence within the state for
340 a higher
341 education benefit, to include:
342 — (1) scholarships;
343 — (2) financial aid; and
344 — (3) resident tuition;
345 — Section 6. Section 59-10-409 is enacted to read:
346 — 59-10-409. Withholding of state income tax when lacking verification of lawful
347 immigration status -- Noncompliance:
348 — (1) If an individual independent contractor, contracting for the physical
349 performance of
350 services in this state, fails to provide to the contracting entity documentation to verify
351 the
352 independent contractor's employment authorization pursuant to the prohibition
353 against the use
354 of unauthorized alien labor through contract set forth in 8 U.S.C., Sec. 1324a (a)(4);
355 the
356 contracting entity shall withhold state income tax at the top marginal income tax rate
357 as
358 provided in Title 59, Chapter 10, Part 4, Withholding of Tax, as applied to
359 compensation paid
360 to the individual for the performance of the services within this state which exceeds
361 the
362 minimum amount of compensation the contracting entity is required to report as
363 income to the
364 United States Internal Revenue Service pursuant to federal law.
365 — (2) A contracting entity who fails to comply with the withholding requirements
366 of this
367 section is liable for the taxes required to have been withheld unless exempt from
368 federal
369 withholding with respect to the individual pursuant to Section 1441 of the United
370 States
371 Internal Revenue Code:
372 — (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:*

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.

The motion passed unanimously.

James Wilson, Associate General Counsel, Office of Legislative Research and General
Counsel, answered questions posed by Committee members.

The following spoke in support of the bill:

Ronald Mortensen, Utah Coalition on Illegal Immigration
Senator Mark B. Madsen
Melinda Turner, Citizen
Senator Michael G. Waddoups
William Christoffersen, National Executive Committeeman, American Legion
Norman Davis, Utah Minuteman Project

The following spoke in opposition to the bill:

Robin Riggs, Vice President and General Counsel, Salt Lake City Chamber of
Commerce
Michael Clara, member of the Utah Republican Hispanic Assembly
Theresa Martinez, Co-chair Utahns for the American Dream
George Hoffmann, United Way of Salt Lake
Jim Olsen, President, Utah Food Industry Association

MOTION: Sen. Buttars moved to pass the bill out favorably.

SUBSTITUTE MOTION: Sen. Romero moved to send the bill to interim study. The substitute motion failed with Sen. McCoy and Sen. Romero voting in favor.

SUBSTITUTE MOTION: Sen. Jenkins moved to change the effective date of the bill from July 1, 2009 to July 1, 2010.

Sen. Jenkins withdrew his substitute motion.

SUBSTITUTE MOTION: Sen. Jenkins moved to make July 1, 2009 the effective date of the legislation.

The motion failed with Sens. McCoy, Romero, and Jenkins voting in favor and Sens. Buttars, Hickman, and Knudson voting in opposition.

The original motion to pass the bill out favorably passed with Sens. Buttars, Hickman, Knudson, and Jenkins voting in favor and Sens. McCoy and Romero voting in opposition.

Sen. Jenkins assumed the Chair.

2. S.B. 193 Election Law Changes (P. Knudson)

Sen. Knudson explained the bill.

Michael Cragun, Deputy Chief of Staff, Lieutenant Governor's Office, spoke to the bill.

MOTION: Sen. McCoy moved to pass the bill out favorably.

The motion passed unanimously with Sens. Buttars and Hickman absent for the vote.

3. **S.B. 43 Administrative Rules Reauthorization** (*H. Stephenson*)

Sen. Stephenson explained the bill.

MOTION: Sen. Buttars moved to pass the bill out favorably.

The motion passed unanimously.

4. **H.B. 44 Declaration of Candidacy Revisions** (*G. Donnelson*)

Rep. Donnelson explained the bill.

MOTION: Sen. McCoy moved to pass the bill out favorably.

The motion passed unanimously.

MOTION: At the request of the sponsor, Sen. Jenkins moved to place the bill on the Consent Calendar.

The motion passed unanimously.

5. **H.B. 41 Campaign Report Amendments** (*S. Allen*)

Rep. Allen explained the bill.

Michael Cragun, Deputy Chief of Staff, Lieutenant Governor's Office, spoke to the bill.

MOTION: Sen. Hickman moved the following amendment:

1. *Page 13, Lines 382 through 389:*

382 Section 3. Section **20A-11-104** is enacted to read:

383 20A-11-104. Late financial statements -- Fees.

384 (1) The election officer shall assess the following administrative fees against any
385 person who fails to timely file a financial statement required by this chapter:

386 (a) an administrative fee of {~~\$1,000~~} **\$100** for each late financial statement;

and
387 (b) for each late financial statement, an additional, daily administrative fee of
 {~~\$50~~} \$20 .
388 which shall be assessed for each calendar day that falls between the date the statement was
 due
389 and the date that the late statement is filed.

The motion passed with Sens. McCoy and Romero voting in opposition and Sen. Buttars absent for the vote.

Rob Latham, Chairman, Libertarian Party of Utah, spoke to the bill.

MOTION: Sen. Jenkins moved to pass the bill out favorably.

The motion passed unanimously with Sen. Buttars absent for the vote.

6. **H.B. 49S1 Budget Reserve Account and Disaster Recovery Account Amendments**
(*W. Harper*)

Rep. Harper explained the bill.

MOTION: Sen. Hickman moved to pass the bill out favorably.

The motion passed unanimously with Sen. Buttars and Sen. Jenkins absent for the vote.

7. **H.B. 238 Campaign Finance Filing Requirements** (*G. Hughes*)

H.B. 238 was not considered.

MOTION: Sen. Romero moved to adjourn.

The motion passed unanimously.

Committee Chair Knudson adjourned the meeting at 4:32 p.m.

Minutes reported by Nedra Duzett, Secretary