# MINUTES OF THE

# HOUSE JUDICIARY STANDING COMMITTEE MEETING

Room 223 - State Capitol Building February 19, 2004

**MEMBERS PRESENT:** Rep. Ben C. Ferry, Chair

Rep. J. Stuart Adams, Vice Chair

Rep. Chad E. Bennion Rep. Katherine M. Bryson

Rep. Greg J. Curtis Rep. Scott Daniels

Rep. Neal B. Hendrickson Rep. Eric K. Hutchings Rep. M. Susan Lawrence Rep. Dana C. Love

Rep. Rosalind J. McGee Rep. J. Morgan Philpot Rep. Mike Thompson

MEMBERS ABSENT: None

**STAFF:** Jerry D. Howe, Policy Analyst

Cherri White, Committee Secretary

**NOTE:** A list of visitors and handouts are filed with the committee minutes.

Representative Ferry called the meeting to order at 4:45 P.M. and called for a motion to approve the minutes of February 17, 2004.

**MOTION:** Representative Adams moved to approve the minutes. The motion passed unanimously with Representatives Bennion, Curtis, Lawrence, Philpot, and Thompson absent for the vote.

## H.B. 336 Claims on Real Property (Rep. G. Hughes)

The sponsor introduced the bill and explained its intent.

**MOTION:** Representative Bryson moved to amend:

- 1. Page 1, Line 12:
  - 12 allows a notice of the pendency of an action involving real property to be

[[<del>expunged</del>]] released

- 2. *Page 2, Line 37:* 
  - 37 following may make a motion to the court in which the action is pending to

[[expunge]] release the notice:

- *3. Page 2, Lines 40 through 41:* 
  - 40 (3) A court shall order a notice [[expunged]] released if:
  - 41 (a) the court receives a motion to [[expunge]] release under Subsection (2); and
- 4. Page 2, Line 44:
  - 44 (4) If a court [[expunges]] releases a notice pursuant to this section , the claimant may not record another notice with
- 5. Page 2, Line 50:
  - 50 (b) regardless of whether the court has received an application to [[-expunge-]] release under

The motion passed unanimously with Representatives Bennion, Curtis, Lawrence, Philpot and Thompson absent for the vote.

**MOTION:** Representative Bryson moved to pass the bill out favorably as amended. The motion passed unanimously with Representatives Bennion, Curtis, Lawrence, and Thompson absent for the vote.

## H.B. 139 Evidence Amendments (Rep. J. Murray)

The sponsor introduced the bill and explained its intent.

**MOTION:** Representative Hutchings moved to pass the bill out favorably. The motion passed unanimously with Representatives Bennion, Curtis, and Thompson absent for the vote.

**MOTION:** Representative Bryson moved to place the bill on the Consent Calendar. The motion passed unanimously with Representatives Bennion, Curtis, and Thompson absent for the vote.

## H.B. 271 Tuition Tax Credits (Rep. J. Ferrin)

The sponsor requested the committee consider 1st Substitute H.B. 271.

**MOTION:** Representative Bryson moved to delete H.B. 271 and replace it with 1st Substitute H.B. 271. The motion passed unanimously with Representatives Bennion, Curtis, and Thompson absent for the vote.

**MOTION:** Representative Bryson moved to amend:

- 1. Page 1, Line 25:
  - enrolls at least [[<del>75</del>]] 40 students;
- 2. Page 3, Line 60:
  - 60 (B) has an enrollment of less than [[<del>75</del>]] 40 students.
- 3. Page 3, Line 83:
  - 83 back.
    - (4)(a) Only one taxpayer may claim a refundable tax credit for each qualifying student each taxable year.
    - (b) The taxpayer who claims a personal exemption for the qualifying student shall have the right to claim the refundable tax credit, unless that taxpayer authorizes another person to claim the refundable tax credit.
    - (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules to administer Subsections (4)(a) and (4)(b).
    - (5) For taxable years beginning on or after January 1, 2005, a refundable tax credit may not be claimed ,if the qualifying student was enrolled in a private school for part of the taxable year and in a Utah public school for part of the same taxable year.

The motion passed unanimously with Representatives Bennion and Curtis absent for the vote.

The following spoke in favor of the bill:

Royce VanTassel, Parents for Choice in Education Leah Barker, Executive Director, Children First Utah Gonzalo Palza, Latino Community Dan Garley, Board of Directors, Children First Utah Holly Richardson, Concerned Citizen Charly Risenmay, Concerned Citizen

The following spoke against the bill:

Roger Tew, Tax Policy Analyst Patrick Ogden, Associate Superintendent, State Office of Education Chris Wahlquist, Testing Director, Davis School District Liz Zenttner, Utah PTA

> Kimberly Dalby, Concerned Citizen Sandy Peck, League of Women Voters

**MOTION:** Representative Thompson moved to pass 1st Substitute H.B. 271 out favorably as amended.

### **SUBSTITUTE**

**MOTION:** Representative Bennion moved to amend:

- 1. Page 2, Lines 29 through 30:
  - 29 Monies Appropriated in this Bill:
  - 30 [[None]] This bill appropriates \$2,000,000 from the General Fund and \$3,486,100 from the Uniform School Fund for fiscal year 2004-05 only to the State Board of Education.
- 2. Page 2, Line 34:
  - 34 ENACTS:

**53A-17a-150, Utah Code Annotated 1953** 

3. Page 3, Line 84:

Section 2. Section 53A-17a-150 is enacted to read:

53A-17a-150. Appropriation for school districts affected by tuition tax credits.

(1)There is appropriated \$2,000,000 from the General Fund and \$3,486,100 from the Uniform School Fund for fiscal year 2004-05 only to the State Board of Education to be distributed to school districts that suffer any actual losses that can be attributed to the enactment of the tuition tax credit under Section 59-10-136.

- (2) The appropriation under Subsection (1) shall be nonlapsing.
- (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board shall make rules establishing criteria and procedures for the distribution of funds appropriated under Subsection (1).
- Section [2] 84 Section [2] 8. **Retrospective operation.**

The substitute motion passed 8-4-1 with Representatives Bryson, Lawrence, McGee and Thompson voting against the motion, and Representative Curtis absent for the vote.

**MOTION:** Representative Thompson moved to pass 1st Substitute H.B. 271 out favorably as amended.

**MOTION:** Representative Philpot moved previous question. The motion passed 10-2-1 with Representatives Lawrence and McGee voting against the motion and Representative Curtis absent for the vote.

The motion to pass the bill out favorably passed 7-5-1, with Representatives Bennion, Bryson, Hutchings, Love, Philpot, Thompson, and Adams voting in favor of the motion, Representatives Daniels, Hendrickson, Lawrence, McGee, and Ferry voting against the motion, and Representative Curtis absent for the vote.

# H.B. 266 Revisions to Child Welfare (Rep. W. Harper)

This bill received a public hearing on February 17, 2004 and the sponsor indicated that a substitute had been prepared that he would like considered.

**MOTION:** Representative Bryson moved to delete H.B. 266 and replace it with 1st Substitute H.B. 266. The motion passed unanimously with Representatives Bennion, Curtis, and Philpot absent for the vote.

Speaking in favor of the bill:

Darren Jensen, Concerned Parent Gayle Ruzika, Utah Eagle Forum

Speaking against the bill:

Adam Troop, Division of Child and Family Services Ann Freimuth, Prevent child Abuse Utah

**MOTION:** Representative Bennion moved to pass 1st Substitute H.B. 266 out favorably.

### **SUBSTITUTE**

**MOTION:** Representative Lawrence moved to amend:

1. Page 79, Lines 2414 through 2416:

2414 Section **78-3a-403**, **Definitions**.

2415 Section 38. **Effective date.** 

2416 This bill takes effect on [[July]] May 1, 2005.

The substitute motion failed with Representatives Curtis, Lawrence, and Ferry voting in favor of the motion.

#### **SUBSTITUTE**

**MOTION:** Representative Thompson moved to amend:

- 4. Page 79, Lines 2414 through 2416:
  - 2414 Section **78-3a-403**, **Definitions**.
  - 2415 Section 38. **Effective date.**
  - This bill takes effect on [[-July-]] October 1, 2004.

The substitute motion passed 7-5-1 with Representatives Curtis, Hendrickson, Hutchings, Lawrence, Thompson, Adams, and Ferry voting in favor of the motion, Representatives Bennion, Bryson, Daniels, Love, and McGee voting against the motion, and Representative Philpot absent for the vote.

**MOTION:** Representative Bennion moved to pass 1st Substitute H.B. 266 out favorably as amended.

## **SUBSTITUTE**

**MOTION:** Representative Daniels moved to go to the next item on the agenda. The substitute motion failed with Representatives Daniels, Hendrickson, Lawrence and McGee voting in favor of the motion, and Representative Philpot absent for the vote.

The original motion to pass 1st Substitute H.B. 266 out favorably as amended passed 8-4-1, with Representatives Bennion, Bryson, Curtis, Hutchings, Love, Thompson, Adams, and Ferry voting in favor of the motion, Representatives Daniels, Hendrickson, Lawrence, and McGee voting in against the motion, and Representative Philpot absent for the vote.

**MOTION:** Representative Hutchings moved for a 5 minute recess. The motion passed unanimously.

### H.B. 68 Criminal Penalty Amendment (Rep. D. Litvack)

The sponsor requested the committee consider adopting 1st Substitute H.B. 68.

**MOTION:** Representative Bennion moved to delete H.B. 68 and replace it with 1st Substitute H.B. 68. The motion passed unanimously with Representatives Love, and Philpot absent for the vote.

The sponsor proceeded to indicate to the committee the changes that were made in preparing the substitute bill.

Speaking in favor of the bill:

> Mark Shurtleff, Utah Attorney General Dr. Forest Crawford, Utah Black Leadership Reverend Daniel Webster, Episcopal Church Ken Wallentine, Utah Law Enforcement Legislative Committee

Speaking against the bill:

Jonas Filno, America Forever Sandra Rodrigues, America Forever Jonas Rodrigues Gen Haner, Utah Eagle Forum

**MOTION:** Representative Bennion moved to delete 1st Substitute H.B. 68, and replace it with 2nd Substitute H.B. 68. The motion failed 2-10-1, with Representatives Bennion and Bryson voting in favor of the motion, and Representative Philpot absent for the vote.

**MOTION:** Representative McGee moved to pass 1st Substitute H.B. 68 out favorably.

#### **SUBSTITUTE**

**MOTION:** Representative Bryson moved to amend:

1. Page 3, Line 64:

After "color" delete "disability"

2. Page 3, Line 65:

At the beginning of the line delete "sexual orientation, national origin, ancestry"

The motion passed 7-5-1 with Representatives Bennion, Bryson, Curtis, Hutchings, Love, Adams, and Ferry voting in favor of the motion, Representatives Daniels, Hendrickson, Lawrence, McGee, and Thompson voting against the motion, and Representative Philpot absent for the vote.

**MOTION:** Representative Daniels moved to adjourn. The motion was withdrawn.

**MOTION:** Representative Bryson moved to pass 1st Substitute H.B. 68 out favorably as amended. The motion failed 4-8-1 with Representatives Daniels, Hendrickson, Hutchings, and McGee voting in favor of the motion, Representatives Bennion, Bryson, Curtis, Lawrence, Love, Thompson, Adams, and Ferry voting against the motion, and Representative Philpot absent for the vote.

**MOTION:** Representative Adams moved to adjourn. The motion passed unanimously. The

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meeting was adjourned at 9:10 P.M.	
Rep. Ben C. Ferry, Chair	