

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 25, 2024

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Toews, Wintrow, and Shea (Ruchti)

**ABSENT/ EXCUSED:** Senator Lee

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:03 a.m.

**WELCOME:** **Chairman Guthrie** welcomed all to the Committee meeting.

**NOTE:** **Chairman Guthrie** stated that one additional item was added to the agenda to aid the Commerce and Human Resources Committee.

**Chairman Guthrie** welcomed Acting Senator Mary Shea, who was standing in for Senator Ruchti at the Committee meeting today. **Mary Shea** stated that she was an attorney in Pocatello who specialized in child welfare law.

**RS 31716** **Relating to a Concurrent Resolution Approving the Pending Rules of the Division of Occupational and Professional Licenses Reviewed by the Senate Commerce and Human Resources Committee and the House Business Committee.** **Chairman Guthrie** stated that **RS 31716** was a concurrent resolution approving pending rules.

**MOTION:** **Senator Bernt** moved to send **RS 31716** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**RS 31725** **Relating to Advertising and Illegal Products and Services.** **Vice Chairman Bernt** stated that **RS 31725** was an illegal products and services bill that prohibited sellers of illegal marijuana and abortion products and services from advertising on billboards, signs, newspapers, and other printed media in the State of Idaho. He remarked that the legislation was narrowly focused on marijuana and abortion products. He stated that **RS 31725** was carefully crafted to avoid prohibiting constitutionally protected speech.

**DISCUSSION:** **Senator Wintrow** asked how **RS 31725** was different than **H 613**, which failed to pass the Legislature earlier this year. **Vice Chairman Bernt** responded that **RS 31725** was more specific.

**Senator Winder** asked if **RS 31725** included other drugs and paraphernalia. **Vice Chairman Bernt** replied that only marijuana and abortion were included.

**MOTION:** **Senator Winder** moved to send **S 31725** to print. **Senator Toews** seconded the motion. The motion carried by **voice vote**. **Senators Wintrow** and **Shea** asked to be recorded as voting nay.

**RS 31720** **Relating to Education.** **Chairman Guthrie** deferred to **Senator Winder**, who asked that **RS 31720** be sent to print.

**DISCUSSION:** **Senator Wintrow** stated that she was not comfortable rushing through **RS 31720** because it was substantial. She asked if **RS 31720** was an effort to solve a current problem. **Chairman Guthrie** responded that **RS 31720** was an effort to solve a current problem, and that the information would be vetted at a public hearing. He remarked that he was comfortable with questions, but the Committee was aware of the issue, and that **RS 31720** presented an option for consideration.

**MOTION:** **Senator Anthon** moved to send **RS 31720** to print. **Senator Toews** seconded the motion. The motion carried by **voice vote**. **Senators Wintrow and Shea** asked to be recorded as voting nay.

**H 710** **MINORS - Amends and adds to existing law to prohibit certain materials from being promoted, given, or made available to a minor by a school or public library, to provide for a cause of action, to provide for damages, and to provide for injunctive relief.** **Chairman Guthrie** stated that testimony and discussion occurred last week, but that the Committee stopped the meeting because the Senators were called to the floor. He invited Senator Carlson to close.

**Senator Carlson** noted that she understood the frustrations of those who testified regarding harmful materials in schools and public libraries. She remarked that the issue had created a division in the State, and that **H 710** addressed that division by creating a process that was fair to both sides. She stated that harmful material was kept in the library and moved to another location, and that parents allowed their children access as they deemed necessary. She remarked that harmful materials were not in all libraries, but had been located in many. She stated that **H 710** did not attack libraries or librarians; rather, the purpose was to protect children from access to harmful materials.

**Senator Carlson** remarked that 74 percent of likely Idaho voters wanted the ability to remove a minor's access to harmful material. She stated that she had worked with Representative Crane and Senator Schroeder, and that **H 710** fixed concerns that were raised last year. She remarked that **H 710** codified a relocation policy. She stated that there was a universal form that referenced Idaho Code § 18-1514, and that 30 days was a reasonable amount of time to review and relocate the materials. She remarked that the Miller Test was used to determine if materials were harmful to minors, and **H 710** was Constitutional. She stated that damages were lowered from \$25,000 to \$250. She stated that **H 710** maintained local control and did not cause frivolous lawsuits.

**DISCUSSION:** **Senator Toews** asked what the Governor's two concerns were that were addressed in **H 710**. **Senator Carlson** responded that no institution went bankrupt, and that there were no frivolous lawsuits.

**Chairman Guthrie** remarked that one of the persons who testified last week proposed two amendments to **H 710**. He asked for her comments on the amendments. **Senator Carlson** responded that the sponsors would consider extending the period of time allowed for a response to the form, but that they were not open to changing the language "adults only", because it was amended in statute.

**Senator Wintrow** asked how it was determined that the materials were "adult", other than Constitutional provisions. **Senator Carlson** replied that the problem was in the teen years. As a result, adults were defined as 18 and older. She remarked that if parents wanted their children to access the adult material, then they had a right to do so.

**MOTION:** **Senator Toews** moved to send **H 710** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Winder** moved to send **H 710** to the **14th Order of Business** for possible amendment. **Senator Harris** seconded the motion.

**DISCUSSION:** **Senator Winder** remarked that, based on last week's discussion, **H 710** might not pass out of Committee with a do pass recommendation. He recommended the 14th Order of Business in order to consider amendments that satisfied the libraries.

**Senator Wintrow** stated that she supported the substitute motion because the proposed amendments enabled the library staff more time and ability to do additional planning. She remarked that she struggled with identifying what was harmful based on the definitions. She was also concerned that there were no adults-only sections in libraries, and preferred following already established policies and procedures.

**Senator Anthon** stated that he supported **H 710** and agreed with the substitute motion in order to keep the process moving forward.

**Chairman Guthrie** remarked that this was the fifth iteration of addressing harmful materials in libraries, and that it was not an easy issue. He stated that, despite the frustration, it had been a deliberative process to arrive at a decision.

**Senator Toews** remarked that the only possible penalty for a library was if there was material that fit the description of Idaho law as being harmful to a minor. He stated that only books that fit the criteria would be removed from the children's section, and that this was reasonable.

**Chairman Guthrie** remarked that all libraries were different, and it was difficult to find a policy that covered all of the variables.

**Vice Chairman Bernt** stated that he supported the motion to send **H 710** to the 14th Order of Business, but he was hesitant to vote for it on the floor unless substantial changes were made.

**ROLL CALL VOTE:** **Senator Toews** requested a roll call vote on the substitute motion. **Chairman Guthrie, Vice Chairman Bernt, and Senators Winder, Anthon, Harris, Toews, Wintrow, and Shea (Ruchti)** voted aye. The motion carried.

**ADJOURNED:** There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 8:23 a.m.

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Senator Guthrie  
Chair

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Peggy Caraway  
Secretary