

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 20, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: None

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 8:00 a.m.

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

PRESENTATION: **Honoring the Page. Brody Benson** remarked that he was from Burley, Idaho, and that he learned more at the Senate than he could have at school. He was surprised that Senators could be so cool. He remarked that he really enjoyed his time this year and enjoyed getting to know the Senators. He also enjoyed the Senate State Affairs Committee and stated that his time there had been amazing.

DISCUSSION: **Senator Bernt** remarked that Brody's fun meter on his sweater button was always set at max. He stated that Brody had been very fun to work with.

Senator Guthrie asked about his plans after graduation. **Mr. Benson** remarked that he would do sales over the summer for a pest control company, then he planned to do an LDS mission, and eventually to attend college to study business and law.

The Committee Secretary presented Mr. Benson with a gift from the Committee.

MINUTES APPROVAL: **Minutes of March 13, 2024**

MOTION: **Senator Anthon** moved to approve the Minutes of March 13, 2024. **Senator Winder** seconded the motion. The motion carried by voice vote.

H 710 **MINORS - Amends and adds 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.** **Senator Carlson** stated that **H 710** required public schools and libraries to take reasonable steps in restricting children's access to obscene or harmful materials. She remarked that **H 710** was a compromise that addressed issues brought forth in previous bills. She stated that harmful materials damaged a child's mind and created deep neural pathways that caused young people to crave harmful materials. She remarked that parents were angry and wanted harmful material removed from libraries.

Senator Carlson outlined the details of Idaho Code § 18-1514 and Idaho Code § 18-1517 that were amended by **H 710**. She stated that these amendments included removing the language "prevailing standards in the adult community" to ensure constitutionality, and removing language regarding "substantially arousing sexual

desires in persons under the age of 18 because it was too broad and deviated from the modified Miller Test. She remarked that parents signed a permission form that enabled their children to access sexually explicit materials, and that parents' rights were not limited. She stated that enforcement was limited to injunctive relief, and parents could pursue a private cause of action 30 days after written notice was provided if the harmful materials were not relocated. She stated that if the parent prevailed, they were allowed to recover \$250 in statutory damages plus actual damages, if available by law. She stated that libraries and public school libraries had a complaint form available. She stated that **H 710** provided a solution to removing harmful materials from library areas accessible to minors.

DISCUSSION: **Senator Harris** asked **Senator Carlson** to walk through the process that identified and removed the harmful materials. **Senator Carlson** responded that the parent handed the form to the librarian, then the library had 30 days to follow its policy to address the harmful material. She remarked that if the library did not remove the material, then the parent took the complaint to the legal system. She stated that the legal system proved whether or not the material was harmful.

Senator Anthon asked whether the materials were removed or relocated within the library. **Senator Carlson** replied that the materials were relocated. **Senator Anthon** remarked that he received calls accusing the Legislature of burning books and asked for clarification that the books were not removed from the library; rather, they were not accessible to minors. **Senator Carlson** replied that the materials were not removed; they were still accessible if a parent provided permission. **Senator Anthon** asked if libraries were prosecuted. **Senator Carlson** responded that they were not.

Senator Ruchti asked **Senator Carlson** to respond to the criticism that **H 710** allowed the sensitivity of a single parent to restrict access to books from other families in the community. **Senator Carlson** responded that **H 710** did not isolate any parent, and the materials were accessible if desired.

Senator Harris asked if **H 710** was Constitutional. **Senator Carlson** read through information she received that detailed how **H 710** followed court precedent related to the amendments she had presented in her testimony.

Senator Lee asked if there was a civil process for complaints in addition to the cause of action. **Senator Carlson** responded that there were two possible processes, which included the cause of action and the affirmative defense.

TESTIMONY: **Isabella Burgess, Jenny Emery Davidson, Megan Cafferty, Marsha Bravo, Erin Kennedy, Laura DeLaney, Jeff Kohler, Ron Pisaneschi, Nicole Pantera, Rebecca Proctor, Crystal Ivie, Lance McGrath, Becky Young, Eric Gironda, Jessica Dorr, Zach Borman, Molly Nola, Mary DeWalt, Mary Ruckh, Mary Emery, Huda Shaltry, Nick Grove, Heather Stout, Martha Williams, Lee Dabney, Mikson Mathews, and Katie Wheeler** testified in opposition to **H 710**. The common themes were that implementation of **H 710** was difficult because there were no adults only sections; books were accessible throughout libraries. Age was difficult to monitor. Fines and legal fees were high. **H 710** created conditions for censorship and litigation and violated free speech rights. It was vague and did not allow local control. Even people who were not citizens of Idaho could challenge materials. **H 710** placed librarians under a cloud of suspicion. **H 710** removed the power and involvement of the local community. Libraries were essential places of learning and information access. Libraries already had robust policies in place. Parents should be responsible for their children. Young people in difficult and troubling situations often found information, help, and support from libraries. Libraries served all people.

Written testimony in support of and in opposition to **H 710** appears in Attachment 1.

A letter from the American Civil Liberties Union of Idaho in opposition to **H 710** appears in Attachment 2.

DISCUSSION: **Senator Bernt** asked Mr. Kohler how his library would be impacted by **H 710**. **Mr. Kohler** responded that no patrons under the age of 18 would be allowed into the library unaccompanied.

Senator Wintrow asked Mr. Pisaneschi what effect concerns over harmful materials in libraries had on librarians. **Mr. Pisaneschi** responded that many librarians left the profession because they felt under attack.

Senator Ruchti asked Ms. Pantera if **H 710** was modified so that a challenged book that was later deemed appropriate by ten individuals was returned to the children's section, would she support it? **Ms. Pantera** replied that she would not. She remarked that those decisions belonged at the local level, and she did not support trying to legislate local policies.

Senator Wintrow asked Ms. Nola to share her personal experience with her local library. **Ms. Nola** responded that in her childhood, she was exposed to addiction and mental health issues. She remarked that the library saved her.

Senator Anthon asked Ms. Shaltry if the Idaho Library Association had taken a position on **H 710**. **Ms. Shaltry** replied that the Idaho Library Association opposed **H 710**.

Senator Anthon asked Ms. Williams about her reference to any other material harmful to minors. He remarked that material harmful to minors was defined in the first part of **H 710**, and that it was very specific. He asked Ms. Williams for her opinion of the definition. **Ms. Williams** responded that she found the language confusing. She remarked that the language was vague.

TESTIMONY: **Robert Wright** stated that good people could disagree on different issues. He remarked that librarians were concerned about the practical implementation of **H 710**, while the Committee was concerned about children accessing inappropriate materials. He stated that in his library, parents signed out any materials that were not in the children's section. He remarked that even outside groups could file an action, and the library had to pay the attorney's fees. He believed that a better solution was to let parents decide, but that parents were not always present when their children entered the library. He remarked that there was a difference between a 17 year old and a 6 year old. He stated that he did not support **H 710**.

DISCUSSION: **Senator Bernt** asked for further detail of the practical effects and feasibility of **H 710**. **Mr. Wright** responded that each library was different, but that his library had three floors, so the children's section was separate, but that it did contain books on single gender families because single gender families lived in the community. He stated that to prevent liability costs, an employee would need to check identification for every person checking out books, which would cost \$50,000. He remarked that there were 350,000 books in his library. He stated that the practical issues were concerning, especially for the smaller libraries.

Senator Ruchti asked Mr. Wright to walk through how **H 710** worked for a challenged book that the library deemed appropriate for minors but a single parent disagreed. **Mr. Wright** responded that the library had 30 days to respond to a complaint. If the library did not respond, then the parent could file suit. **Senator Ruchti** asked what happened to the challenged book from the time it was

challenged until the process was resolved. **Mr. Wright** replied that what happened was not defined in **H 710**.

TESTIMONY: **Kathy Griesmyer**, Director, Government Affairs, City of Boise, stated that she opposed **H 710** in its current form. She reiterated the City's concerns regarding the censorship, private right of action, and liabilities for libraries. She proposed amendments that alleviated concerns and allowed libraries to work through local processes. These amendments included changing the language from "adults only section" to "age appropriate section" to allow for appropriate review of the materials. She also recommended that the period of time for the library to address the challenged material be changed from 30 days to 60 days. Finally, she proposed that each library would have a readily accessible policy and form to reiterate the processes already in place at many libraries.

Ms. Griesmyer's proposed amendments appear in Attachment 3.

DISCUSSION: **Senator Ruchti** asked if the Idaho Libraries Association had seen the proposed amendments. **Ms. Griesmyer** replied that the Idaho Libraries Association and the Idaho School Boards Association had seen the amendments.

Grace Howat, Idaho Family Policy Center, testified in support of **H 710**. She remarked that children's access to school and library pornography was a widespread issue. She stated that in February of 2023, the Idaho Family Policy Center reviewed library catalogues across the State, and obscene materials were found in 50 libraries across 30 communities. She stated that obscene materials hindered development and contributed to juvenile crime, and that the Supreme Court had already ruled that libraries could prevent minors from obtaining access to material that was harmful to them. According to statewide public opinion polling, nearly 74 percent of likely Idaho voters agreed that school and community libraries should keep obscene materials away from minor children. She presented a petition signed by 2,221 Idahoans to restrict access to obscene materials.

DISCUSSION: **Senator Bernt** stated that children should be protected at all costs. He asked where parents fit into this effort. **Ms. Howat** replied that **H 710** did not prohibit parents from checking out any materials that they wanted for their children; rather, the materials should not be made readily accessible.

DISCUSSION: **Chairman Guthrie** stated that the meeting would conclude at this point. He commented that he had visited and interacted with many libraries, and he thanked those who provided testimony and remarked that it exposed the passion that they had for libraries and librarians. He stated that the Committee would not make a decision on **H 710** today. He remarked that the Committee would meet to discuss a plan to move forward.

Senator Winder stated that **H 710** presented a difficult subject. He stated that while most of the testimony was in opposition to **H 710**, he had heard from many constituents in support of **H 710**. He asked the testifiers not to get frustrated. He remarked that the Constitution protected the minority.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:58 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary