

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Representative Doug Mays at 1:35 p.m. on February 6, 2001 in Room 313-S of the Capitol.

All members were present except: Representative Ray Cox, Excused
Representative Tony Powell, Excused
Representative R. J. Wilson, Excused

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:
Representative Becky Hutchins
Brenda Eubanks, concerned citizen
Kim Borchers, concerned citizen
Duane Johnson, State Librarian
David Leamon, Topeka/Shawnee County Public Library Exec. Dir.
Susan Marchant, Topeka/Shawnee County Public Library
Ellen Miller, Kansas Library Trustee Association President
Jim Minges, Kansas Library Association Legislative Chair
Cynthia Berner Harris, City of Wichita Director of Libraries

Others attending: See attached list

Without objection bill will be introduced as requested by Representative Benlon regarding repeal of sales tax and is a companion of Senate bill. [HB 2427]

Without objection bill will be introduced as requested by Representative Cook regarding partial-birth abortion ban. [HB 2371]

Without objection bill will be introduced as requested by Representative Morrison regarding certification of behavior analysts. [HB 2372]

Without objection bill will be introduced as requested by Representative Ruff regarding Lewis and Clark Bicentennial Commission. [HB 2504]

Without objection bill will be introduced as requested by Representative Ruff regarding prison to work program. [HB 2529]

Without objection bill will be introduced as requested by Representative Ruff prohibiting smoking in the dorm rooms at the Regents Universities. [HB 2516]

Chairman opened the hearing on HB 2108.

Representative Hutchins noted this bill resulted due to a minor freely accessing obscene material at a local public library although same minor would not be permitted to purchase same material. (Attachment #1) Legislative Research provided details of K.S.A. 21-4301c. The initial request for this bill was to draft to prohibit materials be checked out to minors which cannot legally be purchased in Kansas under the age of 18. Additional research showed various policies across the State's universities libraries. (Attachment #2)

Ms. Eubanks observed three minors viewing a Playboy magazine at the public library. Phone calls and letters to the Topeka Shawnee County Public Library Director and the Library Board of

Directors requesting removal of obscene materials from viewing by minors received no reaction. The Board's Chairman advised her current policy is anyone 14 or older may access these materials as well as under 14 with parental consent. (Attachment #3)

Ms. Borchers cited *Tinker v. Des Moines School Dist.*, 393 U.S. 503, 515 (1969), *Reno v ACLU*, 521 U.S. ___, 117 S. Ct 2329 (1997), and *Ginsberg v New York*, 390 U.S. 629(1968) constitutionally clarified minors' first amendment rights differ from that of adults in regard to harmful material (Attachment #4). She stated policy means absolutely nothing without enforcement and enforcement will not take place in our local libraries if they are not held accountable.

Mr. Johnson noted more than 2,000 library trustees and 3,000 library employees (Attachment #5) would be subject to potential criminal charges if this bill passes. Just the necessity of mounting a defense whenever a charge is made could create potential financial difficulty and therefore is enough to intimidate and chill the atmosphere for free flow of information in libraries. While he would not defend a violation of the law, he stated he would resolutely defend the individual library's board right and responsibility to make policy within the law.

The Revisor clarified that material which is "harmful to minors" is more narrowly defined than obscenity which includes adults.

Mr. Leamon stated the potential economic effect on the area should corporations consider locating in the Topeka area. Referenced the McCarthy era atmosphere (Attachment #6) . Policy at Topeka Shawnee County Public Library is based on 14 years old because that is where childhood ends.

Due to meeting time limitation, Ms. Miller and Mr. Minges referenced their submitted written testimony and their opposition to **HB 2108** as noted in their submitted testimony (Attachment #7 and Attachment #8) Ms. Harris also submitted written testimony (Attachment #9) and stated the Wichita Public Library does not have the cited publications in their holdings.

Hearing on **HB 2108** was closed.

Adjourned at 3:15. The next schedule meeting is February 8, 2001.