

STATE OF MINNESOTA

Journal of the Senate

EIGHTIETH LEGISLATURE

NINETY-SECOND DAY

St. Paul, Minnesota, Monday, March 16, 1998

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Randy R. Wendt.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

The roll was called, and the following Senators answered to their names:

Anderson	Higgins	Krentz	Novak	Samuelson
Beckman	Hottinger	Laidig	Oliver	Scheevel
Belanger	Janezich	Langseth	Olson	Scheid
Berg	Johnson, D.E.	Larson	Ourada	Solon
Betzold	Johnson, D.H.	Lesewski	Pappas	Spear
Cohen	Johnson, D.J.	Lessard	Pariseau	Stevens
Day	Johnson, J.B.	Limmer	Piper	Stumpf
Dille	Junge	Lourey	Pogemiller	Ten Eyck
Fischbach	Kelley, S.P.	Marty	Price	Terwilliger
Flynn	Kelly, R.C.	Metzen	Robertson	Vickerman
Foley	Kiscaden	Moe, R.D.	Robling	Wiener
Frederickson	Kleis	Morse	Runbeck	Wiger
Hanson	Knutson	Neville	Sams	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Ms. Berglin, Mr. Murphy and Ms. Ranum were excused from the Session of today.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 2068, 2207, 3032 and 3036.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 13, 1998

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1378: A bill for an act relating to government data practices; modifying the Data Practices Act; providing for data privacy for certain audit information; classifying certain law enforcement data; providing for the classification of and access to government data; providing that certain documents may be classified as nonpublic data until negotiations with vendors and best and final offers are received; making technical and clarifying changes to tax disclosure provisions; amending Minnesota Statutes 1996, sections 13.794, subdivision 1; 13.82, by adding subdivisions; 13.85, subdivision 2; 13.99, by adding subdivisions; 171.12, subdivision 1; 270B.02, subdivision 3; 270B.03, subdivision 6; 270B.12, subdivision 6; and 629.341, subdivision 4; Minnesota Statutes 1997 Supplement, sections 13.46, subdivision 2; 260.161, subdivision 1; 268.19; 270B.01, subdivision 8; 299C.095, subdivision 2; and 471A.03, subdivision 3; repealing Minnesota Statutes 1996, section 270.10, subdivision 3.

Senate File No. 1378 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 13, 1998

Mr. Betzold moved that the Senate do not concur in the amendments by the House to S.F. No. 1378, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3830, 2985 and 3297.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 13, 1998

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 3830: A bill for an act relating to claims; providing for payment of certain claims against the state; authorizing reimbursement of certain costs and fees; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 3.

Referred to the Committee on State Government Finance.

H.F. No. 2985: A bill for an act relating to children; providing for child welfare reform; changing requirements and procedures; restricting release of certain information; establishing citizen review panels; clarifying jurisdiction; establishing programs for child abuse and neglect assessments and investigations and concurrent planning for permanent placement; providing for protection of children; requiring reviews; defining terms; imposing duties; amending Minnesota Statutes 1996, sections 3.153, by adding a subdivision; 13.391; 256.01, subdivision 12, and by adding a subdivision; 257.42; 257.43; 259.24, subdivision 1; 259.37, subdivision 2; 260.011, subdivision 2; 260.141, by adding a subdivision; 260.172, subdivision 1; 260.191, subdivision 1e; 260.221, as amended; and 626.556, subdivisions 10, 10h, 11a, and by adding subdivisions; Minnesota Statutes 1997 Supplement, sections 144.218, subdivision 2; 245A.03, subdivision 2; 245A.04, subdivisions 3b and 3d; 257.85, subdivision 5; 259.22, subdivision 4; 259.47, subdivision 3; 259.60, subdivision 2; 260.012; 260.015, subdivision 29; 260.191, subdivisions 1, 1a, and 3b; 260.241, subdivision 3; and 626.556, subdivisions 2, 10e, 11, and 11c; proposing coding for new law in Minnesota Statutes, chapters 257; and 626.

Referred to the Committee on Human Resources Finance.

H.F. No. 3297: A bill for an act relating to the environment; clarifying time for filing an action under MERLA; requiring public notice of proposed response actions; amending Minnesota Statutes 1996, sections 115B.02, by adding a subdivision; 115B.11; and 115B.17, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2296, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2814 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2814	2130				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2814 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2814 and insert the language after the enacting clause of S.F. No. 2130, the second engrossment; further, delete the title of H.F. No. 2814 and insert the title of S.F. No. 2130, the second engrossment.

And when so amended H.F. No. 2814 will be identical to S.F. No. 2130, and further recommends that H.F. No. 2814 be given its second reading and substituted for S.F. No. 2130, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. No. 2814 was read the second time.

MOTIONS AND RESOLUTIONS

Mr. Janezich moved that S.F. No. 3085, No. 7 on General Orders, be stricken and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Ms. Junge moved that her name be stricken as chief author, shown as a co-author, and the name of Mr. Stumpf be shown as chief author to S.F. No. 1946. The motion prevailed.

Mr. Janezich moved that S.F. No. 2491, No. 5 on General Orders, be stricken and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 3184 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 3184: A bill for an act relating to health; providing for voluntary reporting of alcohol abuse by a pregnant woman; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 626.

Mr. Neuville moved to amend H.F. No. 3184, as amended pursuant to Rule 49, adopted by the Senate March 12, 1998, as follows:

(The text of the amended House File is identical to S.F. No. 3207.)

Page 1, after line 13, insert:

"Sec. 2. [145.4201] [PARTIAL-BIRTH ABORTION; DEFINITIONS.]

Subdivision 1. [TERMS.] As used in sections 145.4201 to 145.4206, the terms defined in this section have the meanings given them.

Subd. 2. [ABORTION.] "Abortion" means the use of any means to intentionally terminate the pregnancy of a female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus.

Subd. 3. [FETUS.] "Fetus" is used to refer to the biological offspring of human parents.

Subd. 4. [PARTIAL-BIRTH ABORTION.] "Partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

Subd. 5. [PARTIALLY VAGINALLY DELIVERS A LIVING FETUS BEFORE KILLING THE FETUS.] "Partially vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

Sec. 3. [145.4202] [PARTIAL-BIRTH ABORTIONS PROHIBITED.]

No person shall knowingly perform a partial-birth abortion.

Sec. 4. [145.4203] [LIFE OF THE MOTHER EXCEPTION.]

The prohibition under section 145.4202 shall not apply to a partial-birth abortion that is necessary to save the life of the mother because her life is endangered by a physical disorder, physical illness, or physical injury.

Sec. 5. [145.4204] [CIVIL REMEDIES.]

Subdivision 1. [STANDING.] The woman upon whom a partial-birth abortion has been performed in violation of section 145.4202, the father if married to the mother at the time she receives a partial birth abortion procedure, and the maternal grandparents of the fetus if the mother has not attained the age of 18 years at the time of the abortion, may obtain appropriate relief in a civil action, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

Subd. 2. [TYPE OF RELIEF.] Relief shall include:

(1) money damages for all injuries, psychological and physical, occasioned by the violation of sections 145.4201 to 145.4206; and

(2) statutory damages equal to three times the cost of the partial-birth abortion.

Subd. 3. [ATTORNEY'S FEE.] If judgment is rendered in favor of the plaintiff in an action described in this section, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. If the judgment is rendered in favor of the defendant

and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

Sec. 6. [145.4205] [CRIMINAL PENALTY.]

Subdivision 1. [FELONY.] A person who performs a partial-birth abortion in knowing or reckless violation of sections 145.4201 to 145.4206 is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$10,000.

Subd. 2. [ADMINISTRATIVE FINDING.] (a) A defendant accused of an offense under this section may seek a hearing before the state board of medical practice on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by the physical disorder, illness, or injury.

(b) The findings of the state board of medical practice on that issue are admissible at the trial of the defendant. Upon motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit the hearing to take place.

Subd. 3. [PROSECUTION OF MOTHER PROHIBITED.] A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for violating sections 145.4201 to 145.4206, or any provision thereof, or for conspiracy to violate sections 145.4201 to 145.4206, or any provision thereof.

Sec. 7. [145.4206] [SEVERABILITY.]

(a) If any provision, word, phrase, or clause of section 145.4203, or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be inseverable.

(b) If any provision, section, subdivision, sentence, clause, phrase, or word in section 145.4201, 145.4202, 145.4204, 145.4205, or 145.4206 or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4201 to 145.4206 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4201 to 145.4206, and each provision, section, subdivision, sentence, clause, phrase, or word thereto, with the exception of section 145.4203, irrespective of the fact that a provision, section, subdivision, sentence, clause, phrase, or word be declared unconstitutional."

Page 3, line 27, delete "2 and 3" and insert "8 and 9"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Betzold questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Neuville appealed the decision of the President.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate for the balance of the proceedings on H.F. No. 3184. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 29 and nays 33, as follows:

Those who voted in the affirmative were:

Anderson

Betzold

Cohen

Flynn

Foley

Higgins	Junge	Marty	Piper	Solon
Hottinger	Kelley, S.P.	Moe, R.D.	Pogemiller	Spear
Janezich	Kiscaden	Morse	Price	Ten Eyck
Johnson, D.H.	Krentz	Novak	Robertson	Wiger
Johnson, J.B.	Lourey	Pappas	Scheid	

Those who voted in the negative were:

Beckman	Hanson	Langseth	Oliver	Samuelson
Belanger	Johnson, D.E.	Larson	Olson	Scheevel
Berg	Johnson, D.J.	Lesewski	Ourada	Stumpf
Day	Kelly, R.C.	Lessard	Pariseau	Terwilliger
Dille	Kleis	Limmer	Robling	Vickerman
Fischbach	Knutson	Metzen	Runbeck	
Frederickson	Laidig	Neuville	Sams	

So the decision of the President was not sustained.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Tuesday, March 17, 1998.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 33 and nays 31, as follows:

Those who voted in the affirmative were:

Anderson	Janezich	Krentz	Novak	Solon
Betzold	Johnson, D.H.	Langseth	Pappas	Spear
Cohen	Johnson, J.B.	Lourey	Piper	Ten Eyck
Flynn	Junge	Marty	Pogemiller	Wiener
Foley	Kelley, S.P.	Metzen	Price	Wiger
Higgins	Kelly, R.C.	Moe, R.D.	Robertson	
Hottinger	Kiscaden	Morse	Scheid	

Those who voted in the negative were:

Beckman	Hanson	Lesewski	Pariseau	Stumpf
Belanger	Johnson, D.E.	Lessard	Robling	Terwilliger
Berg	Johnson, D.J.	Limmer	Runbeck	Vickerman
Day	Kleis	Neuville	Sams	
Dille	Knutson	Oliver	Samuelson	
Fischbach	Laidig	Olson	Scheevel	
Frederickson	Larson	Ourada	Stevens	

The motion prevailed. So the Senate was adjourned.

Patrick E. Flahaven, Secretary of the Senate

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