

PRESIDENT: The motion (sic) is withdrawn. Something for the record, Mr. Clerk.

CLERK: Mr. President, very quickly, I have a notice of hearing from the Natural Resources Committee, signed by Senator Schmit. And a cancellation of hearing by the Banking Committee, signed by Senator Landis. That is all that I have, Mr. President.

PRESIDENT: Thank you. We will move on to LB 769. As I recall from yesterday, the Chair was being challenged on ceasing debate, and the lights that I have on at this moment are Senator Labeledz, Senator Schimek, and Senator Landis. Senator...no, okay. Senator Schimek, do you wish to speak? Senator Landis, do you wish to speak?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 769 comes to us with the claim that this measure has been found constitutional by the 8th Circuit Court and that is true. However, there is a longer history to the arrival of this bill on our doorstep and before the Chair for his decision as to whether or not the question can be divided. In 1986, after about four years of application, the parental notification bill was challenged in Minnesota and the federal district court there in 1986 found the law unconstitutional. This was Judge Donald Alsop and he struck down the parental notification bill on two counts. The first count was that it required both of the parents to be notified and the second reason it was struck down was because of a 48-hour mandatory waiting period, which was the amount in 769 as originally introduced. Additionally, the court went on to make a number of factual findings in addition to those findings of unconstitutionality, and the court said that the minors that used the bypass system inevitably chose to be the more mature minors and the immature minors who were driven to this choice by their own self-interest, but that it did not get to nonmature minors whose best interests might be affected but who were intimidated out of using the process. The court also went on to say that the bill failed to protect minors, failed to promote parent-child communication, and failed to improve family relations. That was the finding of the facts before the court. Later a three-judge court upheld Judge Alsop's decision and then the entire 8th Circuit sitting en banc said that Alsop had made a mistake in one respect, that, in fact, the two-parent notification was not unconstitutional, but at no time did any of the appellate courts disturb any of the factual findings. In other words, the very case that Senator