

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRD DAY

(Continued)

(Tuesday, June 18, 2013)

AFTER RECESS

The Senate met at 12:20 p.m. and was called to order by the President.

SENATORS ANNOUNCED PRESENT

Senators Carona, Deuell, Duncan, and Van de Putte, who had previously been recorded as "Absent-excused," were announced "Present."

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 2 ON SECOND READING

The President laid before the Senate **CSSJR 2** by Senator Nichols at this time on its second reading:

CSSJR 2, Proposing a constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, and to authorize the payment of the principal and interest on certain highway improvement bonds from other money deposited to the state highway fund.

The resolution was read second time.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator West was granted leave of absence for the remainder of the day on account of important business.

Senator Davis offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSSJR 2** (senate committee printing) as follows:

(1) In SECTION 1 of the resolution, amending Section 49-g(d), Article III, Texas Constitution (page 2, line 20), between "general revenue" and the period, insert "to be allocated to the foundation school fund".

(2) In SECTION 1 of the resolution, amending Section 49-g(e), Article III, Texas Constitution (page 2, line 31), between "general revenue" and the period, insert

"to be allocated to the foundation school fund".

DAVIS
ELLIS

The amendment to **CSSJR 2** was read.

POINT OF ORDER

Senator Nichols raised a point of order that Floor Amendment No. 1 was not germane to the resolution.

POINT OF ORDER WITHDRAWN

Senator Nichols withdrew the point of order.

Senator Davis withdrew Floor Amendment No. 1.

Senator Davis offered the following amendment to the resolution:

Floor Amendment No. 2

Amend **CSSJR 2** (senate committee printing) as follows:

(1) In SECTION 1 of the resolution, amending Section 49-g(c), Article III, Texas Constitution (page 1, lines 38 and 39), strike "fund and the state highway fund" and substitute "fund, the state highway fund, and the foundation school fund".

(2) In SECTION 1 of the resolution, amending Section 49-g(c), Article III, Texas Constitution (page 1, line 50), following "public roadways.", insert "Revenue transferred to the foundation school fund under this subsection may be used only for the instructional facilities allotment, the existing debt allotment, or another program to support public school facilities and related debt."

(3) In SECTION 1 of the resolution, adding Section 49-g(c-1), Article III, Texas Constitution (page 1, line 55), strike "and the remainder to the state highway fund" and substitute ", three-tenths to the state highway fund, and two-tenths to the foundation school fund".

(4) In SECTION 1 of the resolution, strike added Section 49-g(c-2), Article III, Texas Constitution (page 1, line 57, through page 2, line 11), and substitute the following:

(c-2) If the anticipated balance of the economic stabilization fund after any transfer that may be made under Subsection (b) of this section and any transfer and allocation of money that may be made as provided by Subsections (c) and (c-1) of this section would be less than \$6 billion, the comptroller shall reduce the amounts that would otherwise be allocated to the state highway fund and the foundation school fund as provided by Subsection (c-1) of this section by the lesser of the total amounts of the allocations to those funds or the amounts from each of those funds, in the same proportion that amounts would otherwise be allocated to each of those funds, necessary for the anticipated balance of the economic stabilization fund, after any transfer that may be made under Subsection (b) of this section and the transfer and allocation to be made as provided by Subsections (c) and (c-1) of this section, to equal

\$6 billion. The comptroller shall allocate to the economic stabilization fund the amounts by which the allocations to the state highway fund and the foundation school fund are reduced under this subsection.

(5) In SECTION 3 of the resolution, in Subsection (a) of the temporary provision added to the Texas Constitution (page 2, line 48), following "state highway fund", insert "and the foundation school fund".

(6) In SECTION 4 of the resolution (page 2, line 64), between "state highway fund" and "and the dedication of that revenue", insert "and the foundation school fund".

DAVIS
ELLIS

The amendment to **CSSJR 2** was read.

Senator Davis withdrew Floor Amendment No. 2.

Senator Uresti offered the following amendment to the resolution:

Floor Amendment No. 3

Amend **CSSJR 2** (senate committee report) as follows:

(1) Add the following appropriately numbered SECTION:

SECTION ____ . Article III, Texas Constitution, is amended by adding Section 49-q to read as follows:

Sec. 49-q. (a) The transportation infrastructure fund is established as a special fund in the state treasury.

(b) In each fiscal year, the comptroller of public accounts shall transfer from the economic stabilization fund to the transportation infrastructure fund three percent of the amount transferred to the state highway fund in that fiscal year under Section 49-g(c) of this article.

(c) Money in the transportation infrastructure fund may be appropriated only for the purpose of assisting counties in this state in the construction, reconstruction, or maintenance of transportation infrastructure that is intended to alleviate degradation to highways caused by the exploration, development, or production of oil or gas.

(2) Strike SECTIONS 3 and 4 of the resolution (page 2, lines 42 through 67) and substitute the following:

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, 1st Called Session, 2013, to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, to provide for the transfer of certain revenue to the transportation infrastructure fund, and to authorize the payment of the principal and interest on certain highway improvement bonds from other money deposited to the state highway fund.

(b) Section 49-q(b), Article III, of this constitution and the amendment to Section 49-g, Article III, of this constitution take effect January 1, 2014, and apply only to a transfer of revenue made by the comptroller of public accounts as provided by those sections on or after January 1, 2014.

(c) This temporary provision expires January 1, 2015.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, to provide for the transfer of certain revenue to the transportation infrastructure fund, and to authorize the payment of the principal and interest on certain highway improvement bonds from other money deposited to the state highway fund."

(3) Renumber the SECTIONS of the resolution accordingly.

The amendment to **CSSJR 2** was read.

Senator Uresti withdrew Floor Amendment No. 3.

CSSJR 2 was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: West.

REMARKS ORDERED PRINTED

On motion of Senator Patrick and by unanimous consent, the remarks by Senators Nichols and Patrick regarding **CSSJR 2** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Patrick: Thank you, Mr. President, thank you, Senator. I want to be sure that we understand the \$6 billion floor, and I thank you for taking that language and incorporating it in the bill because, as you know, there was concern by many that we have a certain amount in the rainy day fund for our credit rating, for economic downturns, which it was designed for, and some people see it as a backup for an emergency. So, the way your bill is written, once we are at six billion and above, the money would flow after the education portion is taken out and the money goes to the general revenue. That 75 percent is split half and half between the rainy day fund and transportation. Is that correct?

Senator Nichols: That is correct.

Senator Patrick: And so, your projection from the Comptroller's office is, again, about 900 million would go into transportation beginning in the second year of the biennium. Is that correct?

Senator Nichols: Yeah, it would be, yeah, in about a little over a year.

Senator Patrick: That also means that 900 million would be going into the rainy day fund.

Senator Nichols: That's correct, it would continue to increase.

Senator Patrick: So, because I stand in strong support of your bill, I think this is a very good conservative approach to maintaining the rainy day fund, our reserve, growing the rainy day fund and providing a revenue stream on a yearly basis, as long as the revenues are coming in from the severance back to transportation. So, because there has been some questions and some confusion, the rainy day fund would not continue to grow. It's still going to get half of the money that transportation would receive.

Senator Nichols: That is correct, they would get equal amounts.

Senator Patrick: So, if the projections are correct, and it's hard to project out two, four, six years on what the cost of gasoline will be, but the dollars are coming in, so there's no reason not to expect our rainy day fund still to grow to seven, to eight, to nine, to \$10 billion while we are funding transportation.

Senator Nichols: That is correct.

Senator Patrick: Again, thank you for taking that language. I think that it answers a lot of questions for a lot of folks who were concerned about and, by the way, for clarification, it does not impact the Legislature from drawing down from the six billion?

Senator Nichols: It does not touch that at all. It only adjusts the \$6 billion mark, only adjusts the rate in which you split the money. You're either splitting the money if it's above six or you put it all into the rainy day fund until it gets to the six.

Senator Patrick: And so, if there's a need in a future legislative session to draw down below it, the Legislature has the ability to do that. All it would do is stop the money going into transportation until it grew back to six billion.

Senator Nichols: That's correct. The mechanism for the Legislature or the budget writers' ability to reach down there and use it when they feel like we need it has not been touched at all. There has been several occasions in the past where the Legislature did reach in there and take it all.

Senator Patrick: I think that this is a good approach. It saves from raising taxes and fees, and it will help generate money for transportation and take advantage of the success we're having in the oil and gas industry right now and continue to preserve the rainy day fund. So, as I've always said, you're one of the smartest guys in the room, you're always thinking, and you've come up with a good plan, and you were willing to preserve the rainy day fund, and I hope everyone will support it.

REMARKS ORDERED PRINTED

On motion of Senator Campbell and by unanimous consent, the remarks by Senators Nichols and Campbell regarding **CSSJR 2** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Campbell: I wanted to thank Chairman Nichols and Chairman Williams for their hard work on this bill. As you know, transportation is vital to my district as well as Texas, and I think this bill is a viable solution for transportation funding. I want to just clarify a couple of things. Mr. Chairman, is the intent of this bill to find a more viable revenue stream for transportation funding?

Senator Nichols: That is correct.

Senator Campbell: The bill allows specifically to also pay down debt service. Is that right?

Senator Nichols: On Proposition 12 debt, right.

Senator Campbell: This bill looks like it is a good start to revitalize a pay as you go concept. Would you say that is a true statement?

Senator Nichols: I would say that is correct. It doesn't get us all the way there, but it's a step in the right direction.

Senator Campbell: Mr. Chairman, I think this is a brilliant idea. I think this is a good bill, and I applaud your efforts for our great state in the infrastructure.

REMARKS ORDERED PRINTED

On motion of Senator Williams and by unanimous consent, his remarks regarding **CSSJR 2** were ordered reduced to writing and printed in the *Senate Journal* as follows:

First let me clarify, in no uncertain terms, 25 percent of all occupation taxes (which include oil and gas severance taxes) are constitutionally dedicated to the Foundation School Fund. There is no artificial limit. The 1987 base year does not have anything to do with this calculation. Bottom line, this means that based on the Comptroller's BRE for FY 14-15, \$2.8 billion from occupation taxes will be deposited into the Foundation School Fund. The 1987 "line" we discuss only comes into play when determining how much General Revenue to transfer to the Rainy Day Fund. The Comptroller considers how much severance tax is collected above this "line" of \$1 billion, 131 million and transfers 75 percent of that amount to the Rainy Day Fund; the balance remains in General Revenue. Again, this is unrelated to the 25 percent of all occupation taxes that have already been deposited to the Foundation School Fund.

SENATE RULE 8.02 SUSPENDED (Referral to Committee)

Senator Duncan moved to suspend Senate Rule 8.02 to take up for consideration **SCR 2** at this time.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on suspension of the rule except as follows:

Absent-excused: West.

SENATE CONCURRENT RESOLUTION 2

The President laid before the Senate the following resolution:

WHEREAS, A lawsuit filed December 20, 2010, against Rick Perry, Governor of the State of Texas; Thomas Suehs, Executive Commissioner of the Texas Health and Human Services Commission; and Chris Traylor, Commissioner of the Texas

Department of Aging and Disability Services, in their official capacities (collectively, the "Defendants"), asserted claims under Title II of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, and several sections of Title XIX of the Social Security Act, including the Preadmission Screening and Resident Review provisions of the 1987 Nursing Home Reform Act; and

WHEREAS, The United States of America was granted leave to intervene in the lawsuit and filed a complaint against the State of Texas on September 20, 2012, asserting claims under Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA; and

WHEREAS, The Plaintiffs to the lawsuit are Eric Steward, by his next friend and mother, Lillian Minor; Linda Arizpe, by her next friend and guardian, Rudy Arizpe; Andrea Padron, by her next friend and guardian, Rosa Hudecek; Patricia Ferrer, by her next friend and mother, Petra Ferrer; Benny Holmes, by his next friend and guardian, Priscilla Holmes; Zackowitz Morgan, by his next friend and guardian, Sharon Barker; The Arc of Texas, Inc.; and the Coalition of Texans with Disabilities, Inc.; and Plaintiff-Intervenor is the United States of America (collectively, the "Plaintiffs"); and

WHEREAS, In general terms, the litigation brought by the Plaintiffs concerns individuals with intellectual disabilities and related conditions residing in nursing facilities and at risk of admission to nursing facilities; and

WHEREAS, The parties to the lawsuit have entered into an Interim Agreement to resolve as many issues as possible related to the lawsuit for a limited time period while attempting to negotiate a Comprehensive Agreement to resolve the entire lawsuit; and

WHEREAS, The Interim Agreement will be effective when signed by all parties and will terminate on July 1, 2015; and

WHEREAS, Section 111.003(a)(2), Civil Practice and Remedies Code, requires the legislature to approve a settlement of a claim or action against this state if the settlement commits the state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums; and

WHEREAS, The Interim Agreement commits the State of Texas to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums; and

WHEREAS, Any Comprehensive Agreement entered into by and between the parties will be submitted to the 84th Legislature of the State of Texas for approval; now, therefore, be it

RESOLVED, That the 83rd Legislature of the State of Texas, 1st Called Session, hereby approve the Interim Agreement.

DUNCAN

SCR 2 was read.

On motion of Senator Duncan, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

RECESS

On motion of Senator Whitmire, the Senate at 1:39 p.m. recessed until 3:30 p.m. today.

AFTER RECESS

The Senate met at 5:31 p.m. and was called to order by the President.

COMMITTEE SUBSTITUTE SENATE BILL 5 ON SECOND READING

The President laid before the Senate **CSSB 5** by Senator Hegar at this time on its second reading:

CSSB 5, Relating to the regulation of abortion procedures, providers, and facilities; providing penalties.

The bill was read second time.

POINT OF ORDER

Senator Davis raised a point of order concerning Senate Rule 7.12 (Printing of Bills) as it pertains to **CSSB 5**.

POINT OF ORDER WITHDRAWN

Senator Davis withdrew the point of order.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 5** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 171, Health and Safety Code, is amended by adding Section 171.0031 to read as follows:

Sec. 171.0031. REQUIREMENTS OF PHYSICIAN; OFFENSE. (a) A physician performing or inducing an abortion:

(1) must, on the date the abortion is performed, have active admitting privileges at a hospital that:

(A) is located not further than 30 miles from the location at which the abortion is performed or induced; and

(B) provides obstetrical or gynecological health care services; and

(2) shall provide the pregnant woman with:

(A) a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or by the facility at which the abortion was performed with access to the woman's relevant medical records, 24 hours a day to request assistance for any complications that arise from the performance of the abortion or ask health-related questions regarding the abortion; and

(B) the name and telephone number of the nearest hospital to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

(b) A physician who violates Subsection (a) commits an offense. An offense under this section is a Class A misdemeanor punishable by a fine only, not to exceed \$4,000.

SECTION 2. Chapter 171, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ABORTION-INDUCING DRUGS

Sec. 171.041. DEFINITIONS. In this subchapter:

(1) "Abortion-inducing drug" means a drug, a medicine, or any other substance, including a regimen of two or more drugs, medicines, or substances, prescribed, dispensed, or administered with the intent of terminating a clinically diagnosable pregnancy of a woman and with knowledge that the termination will, with reasonable likelihood, cause the death of the woman's unborn child. The term includes off-label use of drugs, medicines, or other substances known to have abortion-inducing properties that are prescribed, dispensed, or administered with the intent of causing an abortion, including the Mifeprex regimen. The term does not include a drug, medicine, or other substance that may be known to cause an abortion but is prescribed, dispensed, or administered for other medical reasons.

(2) "Final printed label" or "FPL" means the informational document approved by the United States Food and Drug Administration for an abortion-inducing drug that:

(A) outlines the protocol authorized by that agency and agreed to by the drug company applying for authorization of the drug by that agency; and

(B) delineates how a drug is to be used according to approval by that agency.

(3) "Gestational age" means the amount of time that has elapsed since the first day of a woman's last menstrual period.

(4) "Medical abortion" means the administration or use of an abortion-inducing drug to induce an abortion.

(5) "Mifeprex regimen," "RU-486 regimen," or "RU-486" means the abortion-inducing drug regimen approved by the United States Food and Drug Administration that consists of administering mifepristone and misoprostol.

(6) "Physician" means an individual who is licensed to practice medicine in this state, including a medical doctor and a doctor of osteopathic medicine.

(7) "Pregnant" means the female reproductive condition of having an unborn child in a woman's uterus.

(8) "Unborn child" means an offspring of human beings from conception until birth.

Sec. 171.0411. APPLICABILITY TO MEDICAL ABORTION. This subchapter does not apply to an abortion with the intent to:

(1) save the life or preserve the health of an unborn child;

(2) remove a dead, unborn child whose death was caused by spontaneous abortion;

(3) remove an ectopic pregnancy; or

(4) treat a maternal disease or illness for which a prescribed drug, medicine, or other substance is indicated.

Sec. 171.042. ENFORCEMENT BY TEXAS MEDICAL BOARD. Notwithstanding Section 171.005, the Texas Medical Board shall enforce this subchapter.

Sec. 171.043. DISTRIBUTION OF ABORTION-INDUCING DRUG. (a) A person may not knowingly give, sell, dispense, administer, provide, or prescribe an abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion in the pregnant woman or enabling another person to induce an abortion in the pregnant woman unless:

(1) the person who gives, sells, dispenses, administers, provides, or prescribes the abortion-inducing drug is a physician;

(2) the physician administering the abortion-inducing drug administers the drug to the woman while both are present at an abortion facility licensed under Chapter 245; and

(3) the provision, prescription, or administration of the abortion-inducing drug satisfies the protocol tested and authorized by the United States Food and Drug Administration as outlined in the final printed label of the abortion-inducing drug.

(b) Before the physician gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug, the physician must examine the pregnant woman and document, in the woman's medical record, the gestational age and intrauterine location of the pregnancy.

(c) The physician who gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug shall provide the pregnant woman with:

(1) a copy of the final printed label of that abortion-inducing drug; and

(2) a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or by the facility at which the abortion was performed with access to the woman's relevant medical records, 24 hours a day to request assistance for any complications that arise from the administration or use of the drug or ask health-related questions regarding the administration or use of the drug.

(d) The physician who gives, sells, dispenses, administers, provides, or prescribes the abortion-inducing drug, or the physician's agent, must schedule a follow-up visit for the woman to occur not more than 14 days after the administration or use of the drug. At the follow-up visit, the physician must:

(1) confirm that the pregnancy is completely terminated; and

(2) assess the degree of bleeding.

(e) The physician who gives, sells, dispenses, administers, provides, or prescribes the abortion-inducing drug, or the physician's agent, shall make a reasonable effort to ensure that the woman returns for the scheduled follow-up visit under Subsection (d). The physician or the physician's agent shall document a brief description of any effort made to comply with this subsection, including the date, time, and name of the person making the effort, in the woman's medical record.

(f) If a physician gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion as authorized by this section and the physician knows that the woman experiences a serious adverse event, as defined by the MedWatch Reporting System, during or after

the administration or use of the drug, the physician shall report the event to the United States Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date the physician learns that the event occurred.

Sec. 171.044. ADMINISTRATIVE PENALTY. (a) The Texas Medical Board may take disciplinary action under Chapter 164, Occupations Code, or assess an administrative penalty under Subchapter A, Chapter 165, Occupations Code, against a person who violates Section 171.043.

(b) A penalty may not be assessed under this section against a pregnant woman who receives a medical abortion.

SECTION 3. Subsection (a), Section 245.010, Health and Safety Code, is amended to read as follows:

(a) The rules must contain minimum standards to protect the health and safety of a patient of an abortion facility and must contain provisions requiring compliance with the requirements of Subchapter B, Chapter 171. On and after September 1, 2014, the minimum standards for an abortion facility must be equivalent to the minimum standards adopted under Section 243.010 for ambulatory surgical centers.

SECTION 4. Effective September 1, 2014, Subsection (c), Section 245.010, Health and Safety Code, is repealed.

SECTION 5. This Act may not be construed to repeal, by implication or otherwise, Subdivision (18), Subsection (a), Section 164.052, Occupations Code, Section 170.002, Health and Safety Code, or any other provision of Texas law regulating or restricting abortion not specifically addressed by this Act. An abortion that complies with this Act but violates any other law is unlawful. An abortion that complies with another state law but violates this Act is unlawful as provided in this Act.

SECTION 6. (a) If some or all of the provisions of this Act are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of Texas law regulating or restricting abortion shall be enforced as though the restrained or enjoined provisions had not been adopted; provided, however, that whenever the temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, the provisions shall have full force and effect.

(b) Mindful of Leavitt v. Jane L., 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, it is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this Act, and every application of the provisions in this Act, are severable from each other. If any application of any provision in this Act to any person, group of persons, or circumstances is found by a court to be invalid, the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this Act to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining provisions and shall remain in force, and shall be treated as if the

legislature had enacted a statute limited to the persons, group of persons, or circumstances for which the statute's application does not present an undue burden. The legislature further declares that it would have passed this Act, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this Act, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this Act, were to be declared unconstitutional or to represent an undue burden.

(c) If any provision of this Act is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force.

SECTION 7. (a) The executive commissioner of the Health and Human Services Commission shall adopt the standards required by Section 245.010, Health and Safety Code, as amended by this Act, not later than January 1, 2014.

(b) A facility licensed under Chapter 245, Health and Safety Code, is not required to comply with the standards adopted under Section 245.010, Health and Safety Code, as amended by this Act, before September 1, 2014.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment to **CSSB 5** was read.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 5** (Senate Committee Printing) in SECTION 2 of the bill as follows:

(1) In added Section 171.063(a)(1), Health and Safety Code (page 3, line 29), between "physician" and the underlined semicolon, insert the following:
who:

(A) has the ability to:

(i) assess the duration of the pregnancy accurately; and

(ii) diagnose an ectopic pregnancy;

(B) is capable of providing surgical intervention in the case of an incomplete abortion or severe bleeding or has made arrangements for another qualified physician to provide the care described by this paragraph and has documented those arrangements in the woman's medical record;

(C) is able to assure patient access to a medical facility equipped to provide a blood transfusion and resuscitation; and

(D) has read and understood the prescribing information for the use of the abortion-inducing drug as provided by the drug manufacturer in accordance with the requirements of the United States Food and Drug Administration

(2) Strike added Section 171.063(c), Health and Safety Code (page 4, lines 12-24), and substitute the following:

(c) The physician who gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug shall:

- (1) fully explain the procedure to the pregnant woman, including:
- (A) explaining whether the physician is using the abortion-inducing drug in accordance with the United States Food and Drug Administration regimen described on the final printed label or an evidence-based regimen; and
- (B) if using an evidence-based regimen:
- (i) specifying that the regimen used differs from the United States Food and Drug Administration regimen described on the final printed label; and
- (ii) providing detailed information on the evidence-based regimen being used;
- (2) provide the pregnant woman with:
- (A) the final printed label of the abortion-inducing drug;
- (B) a copy of the drug manufacturer's medication guide for the abortion-inducing drug;
- (C) a copy of the drug manufacturer's patient agreement; and
- (D) a telephone number by which the woman may reach the physician, or other health care personnel employed by the physician or by the facility at which the abortion was performed with access to the woman's relevant medical records, 24 hours a day to request assistance for any complications that arise from the administration or use of the abortion-inducing drug or ask health-related questions regarding the administration or use of the abortion-inducing drug;
- (3) obtain the patient's signature for and sign the patient agreement described by Subdivision (2)(C); and
- (4) record the drug manufacturer's package serial number in the woman's medical record.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 2 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

AT EASE

The President at 8:54 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Eltife at 9:15 p.m. called the Senate to order as In Legislative Session.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSSB 5** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 171.0031(a), Health and Safety Code (page 1, lines 7-12), strike Subdivision (1) and substitute the following:

(1) must comply with 25 T.A.C. Section 139.56, relating to the protocol for managing medical emergencies and the transfer of patients to a hospital, or perform the abortion at a licensed abortion facility that complies with that section; and

(2) In SECTION 3 of the bill, in amended Section 245.010(a), Health and Safety Code (page 6, line 5), between "centers" and the underlined period, insert the following:

, except that an abortion facility may comply with the standards relating to the protocol for managing medical emergencies and the transfer of patients to a hospital under 25 T.A.C. Section 139.56 in lieu of the standards relating to the transfer of patients requiring emergency care and admitting privileges under 25 T.A.C. Section 135.11(b)(19)

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 3 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Uresti offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **CSSB 5** (Senate Committee Printing) as follows:

(1) Strike SECTION 3 of the bill (page 5, lines 28-31) and (page 6, lines 1-6) and substitute the following:

SECTION 3. Section 245.010, Health and Safety Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (c) to read as follows:

(a-1) Except as otherwise provided by Subsection (a-2), on or after September 1, 2014, the minimum standards for an abortion facility must be equivalent to the minimum standards adopted under Section 243.010 for ambulatory surgical centers.

(a-2) An abortion facility located more than 50 miles from the nearest other abortion facility must meet the minimum standards adopted under Subsection (c).

(c) The standards for a facility described by Subsection (a-2) may not be more stringent than Medicare certification standards, if any, for:

- (1) qualifications for professional and nonprofessional personnel;
- (2) supervision of professional and nonprofessional personnel;
- (3) medical treatment and medical services provided by an abortion facility and the coordination of treatment and services, including quality assurance;
- (4) sanitary and hygienic conditions within an abortion facility;
- (5) the equipment essential to the health and welfare of the patients;

- (6) clinical records kept by an abortion facility; and
- (7) management, ownership, and control of the facility.

(2) Strike SECTION 4 of the bill (page 6, lines 6-7) and renumber subsequent SECTIONS of the bill accordingly.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 4 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodriguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 5

Amend Floor Amendment No. 1 to **CSSB 5** (senate committee printing) as follows:

(1) In the recital to SECTION 3 of the bill (page 5, lines 28-29), strike "Subsection (a), Section 245.010, Health and Safety Code, is" and substitute "Subsections (a) and (c), Section 245.010, Health and Safety Code, are".

(2) In SECTION 3 of the bill, in amended Section 245.010(a), Health and Safety Code (page 6, line 4), between "facility" and "must", insert "that performs surgical abortions".

(3) In SECTION 3 of the bill, immediately following amended Section 245.010(a), Health and Safety Code (page 6, between lines 5 and 6), insert the following:

(c) Except as provided by Subsection (a), the [~~The~~] standards may not be more stringent than Medicare certification standards, if any, for:

- (1) qualifications for professional and nonprofessional personnel;
- (2) supervision of professional and nonprofessional personnel;
- (3) medical treatment and medical services provided by an abortion facility and the coordination of treatment and services, including quality assurance;
- (4) sanitary and hygienic conditions within an abortion facility;
- (5) the equipment essential to the health and welfare of the patients;
- (6) clinical records kept by an abortion facility; and
- (7) management, ownership, and control of the facility.

(4) Strike SECTION 4 of the bill, repealing Section 245.010(c), Health and Safety Code (page 6, lines 6-7).

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 5 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Ellis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 6

Amend Floor Amendment No. 1 to **CSSB 5** (Senate Committee Printing) as follows:

(1) Strike SECTION 3 of the bill (page 5, line 28, to page 6, line 5) and substitute the following:

SECTION 3. Section 245.010, Health and Safety Code, is amended by adding Subsection (a-1) and amending Subsection (c) to read as follows:

(a-1) The minimum standards for an abortion facility that is constructed or renovated on or after September 1, 2014, must be equivalent to the minimum standards adopted under Section 243.010 for ambulatory surgical centers.

(c) The standards for a facility, other than a facility described by Subsection (a-1), may not be more stringent than Medicare certification standards, if any, for:

- (1) qualifications for professional and nonprofessional personnel;
- (2) supervision of professional and nonprofessional personnel;
- (3) medical treatment and medical services provided by an abortion facility and the coordination of treatment and services, including quality assurance;
- (4) sanitary and hygienic conditions within an abortion facility;
- (5) the equipment essential to the health and welfare of the patients;
- (6) clinical records kept by an abortion facility; and
- (7) management, ownership, and control of the facility.

(2) Strike SECTION 5 of the bill (page 6, lines 6-7) and renumber subsequent SECTIONS of the bill accordingly.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 6 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Rodríguez offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 7

Amend Floor Amendment No. 1 to **CSSB 5** (Senate Committee Printing) in SECTION 3 of the bill, in amended Section 245.010(a), Health and Safety Code (page 6, line 5), between "centers" and the underlined period, by inserting "except that an abortion facility may comply with 25 T.A.C. Section 139.48 instead of 25 T.A.C. Sections 135.51 and 135.52 regarding physical, environmental, and other construction standards".

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 7 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Rodríguez offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 8

Amend Floor Amendment No. 1 to **CSSB 5** (senate committee printing) in SECTION 3 of the bill, in amended Section 245.010(a), Health and Safety Code (page 6, line 5), between "centers" and the underlined period, by inserting the following: , except for the standards relating to the surgical suite contained in 25 T.A.C. Section 135.52(d)(15) and the standards relating to the heating, ventilating, and air conditioning system contained in 25 T.A.C. Section 135.52(g)(5)

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 8 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Whitmire offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 9

Amend Floor Amendment No. 1 to **CSSB 5** (Senate Committee Printing) as follows:

(1) In SECTION 3 of the bill, in amended Section 245.010(a), Health and Safety Code (page 6, line 3), strike "2014" and substitute "2015".

(2) In SECTION 4 of the bill, repealing Section 245.010(c), Health and Safety Code (page 6, line 6), strike "2014" and substitute "2015".

(3) In SECTION 7(a) of the bill, in the nonamendatory language (page 7, line 31), strike "2014" and substitute "2015".

(4) In SECTION 7(b) of the bill, in the nonamendatory language (page 8, line 4), strike "2014" and substitute "2015".

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 9 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Davis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 10

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION ____ . The provisions of this Act do not take effect unless the state of Texas collects the maximum amount of federal funding available to fully provide the Women's Health Program in Texas, as certified by the Legislative Budget Board in an open, posted hearing.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 10 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Davis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 11

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION _____. The provisions of this Act do not take effect unless the rate of uninsured persons in the state of Texas, as determined by the American Community Survey conducted by the U.S. Census Bureau or a similar survey conducted by the federal government, is less than 5 percent.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 11 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Garcia offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 12

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONs accordingly:

SECTION _____. The provisions of this Act do not take effect unless the total number of uninsured persons in the state of Texas, as determined by the American Community Survey conducted by the U.S. Census Bureau or a similar survey conducted by the federal government, is fewer than 1 million.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 12 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Garcia offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 13

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONs accordingly:

SECTION _____. The provisions of this Act do not take effect unless the total number of uninsured persons in the state of Texas, as determined by the American Community Survey conducted by the U.S. Census Bureau or a similar survey conducted by the federal government, is fewer than 3 million.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 13 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 14

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONs accordingly:

SECTION _____. The provisions of this legislation do not take effect unless the total number of residents in Texas under 18 years of age who do not have health insurance is less than 1 million.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

(President in Chair)

On motion of Senator Hegar, Floor Amendment No. 14 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 15

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONs accordingly:

SECTION _____. The provisions of this Act do not take effect unless the state of Texas is not ranked among the top 10 states in the country in the percentage of children who do not have health insurance.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 15 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Ellis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 16

Amend Floor Amendment No. 1 by Hegar that amends **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION _____. The provisions of this Act do not take effect unless the state of Texas expands its Medicaid coverage to levels provided by the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), or a successor law.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

(Senator Eltife in Chair)

On motion of Senator Hegar, Floor Amendment No. 16 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 17

Amend Floor Amendment No. 1 to **CSSB 5** (senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION _____. HUMAN SEXUALITY INSTRUCTION. Section 28.004, Education Code, is amended by amending Subsections (i) and adding Subsection (n) to read as follows:

(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

(1) a summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent that the instruction is required by [of the instructional requirements under] state law to:

(A) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age; and

(B) devote more attention to abstinence from sexual activity than to any other behavior;

(2) a statement of whether the instruction is considered by the district to be abstinence-only instruction or comprehensive instruction, including an explanation of the difference between those types of instruction and a specific statement regarding whether the student will receive information on contraception and condom use;

(3) [(2)] a statement of the parent's right to:

(A) review curriculum materials as provided by Subsection (j); and

(B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

(4) [(3)] information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(n) In this section:

(1) "Abstinence-only instruction" means instruction that does not include information about preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus, or acquired immune deficiency syndrome through any means other than total abstinence from sexual activity.

(2) "Evidence-based" means information verified or supported by research that is:

(A) conducted in compliance with accepted scientific methods;

(B) published in peer-reviewed journals, if appropriate;

(C) recognized as medically accurate, objective, and complete by mainstream professional organizations and agencies with expertise in the relevant field, including the federal Centers for Disease Control and Prevention and the United States Department of Health and Human Services; and

(D) proven through rigorous, scientific evaluation to achieve positive outcomes on measures of sexual risk behavior or its health consequences.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 17 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 18

Amend Floor Amendment No. 1 to **CSSB 5** (senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION _____. HUMAN SEXUALITY INSTRUCTION. Section 28.004, Education Code, is amended by amending Subsections (e) and adding Subsection (n) to read as follows:

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

(1) be evidence-based;

(2) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(3) [~~2~~] devote more attention to abstinence from sexual activity than to any other behavior;

(4) [~~3~~] emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus, [~~or~~] acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(5) [~~4~~] direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, [~~and~~] infection with human immunodeficiency virus, and [~~or~~] acquired immune deficiency syndrome; and

(6) [~~5~~] teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(n) In this section:

(1) "Abstinence-only instruction" means instruction that does not include information about preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus, or acquired immune deficiency syndrome through any means other than total abstinence from sexual activity.

(2) "Evidence-based" means information verified or supported by research that is:

(A) conducted in compliance with accepted scientific methods;

(B) published in peer-reviewed journals, if appropriate;

(C) recognized as medically accurate, objective, and complete by mainstream professional organizations and agencies with expertise in the relevant field, including the federal Centers for Disease Control and Prevention and the United States Department of Health and Human Services; and

(D) proven through rigorous, scientific evaluation to achieve positive outcomes on measures of sexual risk behavior or its health consequences.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

On motion of Senator Hegar, Floor Amendment No. 18 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodriguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 19

Amend Floor Amendment No. 1 to **CSSB 5** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

SECTION _____. The provisions of this Act do not take effect unless the human sexuality instruction under Section 28.004, Education Code includes evidence-based instruction.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read.

Senator Watson withdrew Floor Amendment No. 19.

Senator Deuell offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 20

Amend Floor Amendment No. 1 by Hegar to **CSSB 5** as follows:

(1) On page 4, line 3, strike "abortion-inducing drug" and substitute "abortion-inducing drug, except as provided by Subsection (a-1),".

(2) On page 4, between lines 6 and 7, insert:

(a-1) A person may provide, prescribe, or administer the abortion-inducing drug in the dosage amount prescribed by the clinical management guidelines defined by the American Congress of Obstetricians and Gynecologists Practice Bulletin as those guidelines existed on January 1, 2013.

The amendment to Floor Amendment No. 1 to **CSSB 5** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 20 except as follows:

Absent-excused: West.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 5**, the amendment as amended was adopted by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 5 as amended was passed to engrossment by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent-excused: West.

CO-AUTHORS OF SENATE BILL 5

On motion of Senator Hegar, Senators Birdwell, Campbell, Lucio, Patrick, and Williams will be shown as Co-authors of **SB 5**.

CO-AUTHOR OF SENATE BILL 6

On motion of Senator Nelson, Senator Campbell will be shown as Co-author of **SB 6**.

CO-AUTHORS OF SENATE BILL 13

On motion of Senator Hegar, Senators Birdwell, Campbell, and Williams will be shown as Co-authors of **SB 13**.

CO-AUTHORS OF SENATE BILL 18

On motion of Senator Patrick, Senators Birdwell, Campbell, and Paxton will be shown as Co-authors of **SB 18**.

CO-AUTHORS OF SENATE BILL 24

On motion of Senator Deuell, Senators Campbell, Lucio, Paxton, and Williams will be shown as Co-authors of **SB 24**.

CO-AUTHORS OF SENATE BILL 44

On motion of Senator Zaffirini, Senators Carona, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, and Watson will be shown as Co-authors of **SB 44**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 2

On motion of Senator Nichols, Senators Lucio, Patrick, and Paxton will be shown as Co-authors of **SJR 2**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 9

On motion of Senator Davis, Senator Lucio will be shown as Co-author of **SJR 9**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

- SR 76** by Davis, In memory of Mary Ann Walsh McMillan Reaugh.
SR 77 by Davis, In memory of Gene Durkee.
SR 78 by Davis, In memory of Paul Nudleman.
SR 82 by Williams, In memory of Grace Annabel Lee.
SR 83 by Van de Putte, In memory of Frank Dannenberg, Jr.
SR 84 by Davis, In memory of Dorothy Thomas South.
SR 85 by Davis, In memory of Jerry Eugene Hames.
SR 88 by Ellis, In memory of William H. Broadus, Jr.
SR 91 by Huffman, In memory of Anne McCormick Sullivan.

Congratulatory Resolutions

- SR 79** by West, Recognizing Henry P. Davis, Jr., on the occasion of his retirement.
SR 80 by Schwertner, Recognizing John Malinowski on the 50th anniversary of his ordainment.
SR 81 by Van de Putte, Recognizing Fred Chapal on the occasion of his 90th birthday.
SR 86 by Taylor, Recognizing Syamantak Payra for reaching the final round at the 2013 Scripps National Spelling Bee.
SR 87 by West, Recognizing the 2013 Soljazz Festival.
SR 89 by Schwertner, Recognizing Virginia Nell and Woodrow Michael Brimberry on the occasion of their 50th wedding anniversary.
SR 90 by Fraser, Recognizing Walter Schellhase for his contributions to the veterans of this nation.
SR 92 by Zaffirini, Recognizing the *San Marcos Daily Record* for its contributions to its community.
SR 93 by Lucio, Commending Jeffrey A. Guevara for achieving the rank of Eagle Scout.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 10:51 p.m. adjourned until 10:55 p.m. today.

APPENDIX

BILLS ENGROSSED

June 14, 2013

SB 2, SB 3, SB 4, SB 23

RESOLUTIONS ENROLLED

June 14, 2013

**SR 36, SR 37, SR 48, SR 66, SR 67, SR 68, SR 69, SR 70, SR 71, SR 72, SR 73,
SR 74, SR 75**

