

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTH DAY

(Tuesday, July 25, 2017)

The Senate met at 11:45 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Senator Campbell offered the invocation as follows:

Gracious heavenly Father, thank You for the honor of being a Senator. I pray and we ask Your blessings over every Senator here, our Lieutenant Governor, Patsy, and all of our staff. Father, give us guidance as we make decisions to make Texas better. Heavenly Father, I just pray Your favor over everyone here. May we reflect Your glory. In Jesus Christ's name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

CONCLUSION OF MORNING CALL

The President at 11:51 p.m. announced the conclusion of morning call.

SENATE BILL 17 ON THIRD READING

The President laid before the Senate **SB 17** by Senator Kolkhorst at this time on its third reading:

SB 17, Relating to maternal health and safety, pregnancy-related deaths, and maternal morbidity, including postpartum depression.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 2 ON THIRD READING

The President laid before the Senate **SB 2** by Senator Taylor of Galveston at this time on its third reading:

SB 2, Relating to public school finance, including the establishment of a tax credit scholarship and educational expense assistance program.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Nichols, Perry, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

STATEMENT REGARDING SENATE BILL 2

Senator Rodríguez submitted the following statement regarding **SB 2**:

I submit this journal statement to reiterate my strong opposition to Senate Bill 2.

Texas has failed to maintain an equitable and accessible educational system, and S.B. 2 provides nothing more than a patch for the state's dysfunctional school finance scheme. The bill does not address current disparities and inefficiencies. Significantly, it fails to update the Cost of Education Index, the small district adjustment for rural schools, or any of the special student weights that affect English Learners, economically disadvantaged students, and those in special education.

S.B. 2 directs funds that could be used to help special needs students, address teacher and counselor shortages, improve equity, or provide needed remediation, to instead subsidize charter schools that are not demonstrably improving outcomes. According to the 2016 TEA accountability ratings, nearly one out of every 10 charter operators received "Improvement Required" ratings, compared to only one out of every 25 public school districts. Nearly one out of every four charter campuses failed to achieve the "met standard" or the lower "alternative standard," or were not rated compared to fewer than one out of every 10 public school campuses.

Most concerning, S.B. 2 creates a limited voucher program, called "Tax Credit Scholarships and Education Expense Assistance," for students with disabilities. Vouchers have proven to provide a false sense of selection. Parents of special needs children give up quality safeguards when they enroll in voucher programs. According to the U.S. Department of Education's Office of Civil Rights, parents who accept a special education voucher voluntarily waive their rights and their children's rights under IDEA, including decisions that determine whether the student should receive special services, their rights to sit on an "Admissions, Review, Dismissal (ARD) Committee," and their rights to due process.

There is no accountability for taxpayer funds spent on vouchers and no way to determine whether students are being properly served. Private schools are not subject to many Texas public information laws and most schools receiving vouchers are not

included in state assessments, so parents and taxpayers have no way of knowing how voucher funds are spent and the quality of education their children are provided. Couple this with the loss of federal accountability and there is a strong potential that special needs students will not be provided the service to which they are entitled under law.

Fundamentally, I cannot support a bill that fails to address our byzantine school finance system, prioritizes private and charter schools over public schools, and lacks accountability for the diversion of public dollars to private schools. S.B. 2 purports to help students with disabilities, but the record shows that students would be put at risk without the protection of federal rights, which is why the leading advocates for students with disabilities opposed the bill.

It is for these reasons that I voted against S.B. 2.

RODRÍGUEZ

SENATE BILL 10 ON THIRD READING

The President laid before the Senate **SB 10** by Senator Campbell at this time on its third reading:

SB 10, Relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

STATEMENT REGARDING SENATE BILL 10

Senator Garcia submitted the following statement regarding **SB 10**:

This bill does not solve a problem, addresses no imminent threat to public health or safety, and is duplicative in what it seeks to report. It does nothing to make the procedure any safer, or increase the quality of care for patients.

The bill's author claimed we needed "adequate reporting", without defining what would qualify as adequate, but stated that we needed "bigger numbers". What is adequate? Will we continue to come back session after session in chase of this? At what point will anti-abortion rights activists be satisfied with "adequate reporting"? This is just another example of bureaucratic bullying by the Texas Senate, adding more paperwork and penalties targeting only a certain group of physicians.

It still remains unclear why the bill makes a distinction from physicians performing abortions at a clinic versus a hospital or emergency room within a hospital, with significantly more stringent reporting requirements on the former with no real justification. It is also unclear how HHSC would be able to manage, secure, and pay for the database.

This bill is unnecessary, bureaucratic bullying- the information requested in this bill is already being collected by the state, and the form that is currently in place is comprehensive. The fact is that abortion is a safe procedure out-patient procedure, and complications are extremely low. This bill won't do anything to change that, and will only try to burden physicians.

GARCIA

STATEMENT REGARDING SENATE BILL 10

Senator Rodríguez submitted the following statement regarding **SB 10**:

I submit this statement to explain my vote against Senate Bill 10. The stated rationale of this bill is to collect data meant to provide insight into the safety of abortion procedures. However, its very premise is flawed.

Abortion clinics are already subject to four different reporting requirement forms, which include information on complications. Among all possible procedures for which data could be collected, it singles out abortion for these additional reporting requirements, with no reasonable rationale.

As published by U.C. San Francisco researchers in the *Obstetrics and Gynecology* publication, major complications account for only 0.2 percent of cases studied. First trimester abortions, the most common abortions, were even safer, accounting for less than 0.05 percent of complications. In reviewing a wide range of evidence, the U.S. Supreme Court ruled in *Whole Women's Health v. Hellerstedt* that "abortions are so safe" that the restrictions Texas attempted to place on abortions through H.B. 2 (83R) – which I strongly opposed – were medically unnecessary.

The author of S.B. 10 has argued that abortion complications are currently underreported, but presented scant evidence other than a study from Finland, which calculated that 5.6 percent of women who underwent an abortion experienced a complication. However, the report did not make clear what was considered a "complication," and even counted clinic visits in which a woman was seeking reassurance that there was in fact no complication as a "complication."

In contrast, the mortality rates for other surgical procedures are much higher. For example, liposuctions are 28 times more fatal than abortions. Colonoscopies are 10 times more fatal. If the health and well-being of women was the true impetus for this bill, then it should include reporting of a range of surgical procedures, not just abortion.

In addition to these issues, S.B. 10 risks violating patient's privacy through the detailed reporting of data points such as race, marital status, date of birth, and country of residence, which can be used to identify individual women, violating the confidentiality of their medical records. In addition, the agency will be allowed to link complications, which can then be shared with the state licensing board. This allows a physician to potentially come under fire for having "too many complications" in his or her practice.

This bill will only serve to potentially violate the privacy of women and harass abortion providers, thereby limiting access to safe and legal abortions. S.B. 10 attempts to manufacture the perception of a problem, when the fact is that abortion is one of the safest of all medical procedures. It burdens doctors with unnecessary and

complex paperwork, and then creates consequences for compliance failures that can lead to license revocation, again, making access to abortion access even more difficult.

In sum, the legislation is the latest in the effort to limit a woman's constitutional rights and personal autonomy to control her reproductive health. For these reasons, I cannot support S.B. 10.

RODRÍGUEZ

SENATE BILL 73 ON THIRD READING

The President laid before the Senate **SB 73** by Senator Hughes at this time on its third reading:

SB 73, Relating to reporting and certification requirements by certain physicians regarding certain abortions.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

STATEMENT REGARDING SENATE BILL 73

Senator Garcia submitted the following statement regarding **SB 73**:

This uses administrative bullying tactics to punish physicians and judges for doing their jobs. What's the purpose of reporting on the way in which physicians complied with the law? Minors in dire situations should be provided with the care they need, and able to access the judicial system which we have forced them to interact with through the judicial bypass process.

If the patient is a minor and younger than 18, DSHS is already collecting data as to whether or not consent was obtained for the procedure. This is duplicative and unnecessary. It does nothing to make the procedure any safer, or increase the quality of care for patients.

GARCIA

SENATE BILL 16 ON THIRD READING

The President laid before the Senate **SB 16** by Senator Taylor of Galveston at this time on its third reading:

SB 16, Relating to the creation of a commission to recommend improvements to the public school finance system.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1 ON THIRD READING

The President laid before the Senate **SB 1** by Senator Bettencourt at this time on its third reading:

SB 1, Relating to ad valorem taxation.

The bill was read third time.

Senator Bettencourt offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

(1) Amend Second Reading Amendment No. 2 by Bettencourt to S.B. No. 1 on third reading by striking Instruction No. 18 (page 2, lines 23 through 26).

(2) Amend Second Reading Amendment No. 13 by Watson to S.B. No. 1 on third reading by striking Instruction No. 1 (page 1).

The amendment to **SB 1** 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. 1 on Third Reading.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **SB 1** on third reading as follows:

(1) In the SECTION of the bill amending Section 26.04(g), Tax Code, at the end of that subsection, add the following:

It is a defense in an action for an injunction under this subsection that the failure to comply was in good faith.

(2) In the SECTION of the bill amending Section 26.05(e), Tax Code, in that subsection, between "~~and the failure to comply was not in good faith~~." and "An action", insert the following:

It is a defense in an action for an injunction under this subsection that the failure to comply was in good faith.

The amendment to **SB 1** 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. 2 on Third Reading.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **SB 1** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Not later than the 30th day after the date this section takes effect, the comptroller shall mail a written notice to each appraisal district and the assessor for each taxing unit in this state of:

(1) the deadline for complying with each new requirement, duty, or function imposed by this Act on an appraisal district or taxing unit; and

(2) any change made by this Act to the deadline for complying with an existing requirement, duty, or function of an appraisal district or taxing unit.

(b) This section takes effect immediately if this Act 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 section takes effect on the 91st day after the last day of the legislative session.

The amendment to **SB 1** 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. 3 on Third Reading.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 4 on Third Reading

Amend **SB 1** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 26, Tax Code, is amended by adding Section 26.0447 to read as follows:

Sec. 26.0447. AUTHORITY OF MUNICIPALITY TO ELECT TO APPLY LAW GOVERNING SMALL TAXING UNITS TO MUNICIPALITY. The governing body of a municipality by ordinance or resolution may elect that the municipality be considered a small taxing unit for purposes of this chapter, regardless of whether the municipality meets the definition of a small taxing unit under Section 26.012.

The amendment to **SB 1** was read and failed of adoption by the following vote: Yeas 12, Nays 19.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

SB 1 as amended was finally passed by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

SENATE BILL 3 ON THIRD READING

The President laid before the Senate **SB 3** by Senator Kolkhorst at this time on its third reading:

SB 3, Relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open-enrollment charter schools.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

STATEMENT REGARDING SENATE BILL 3

Senator Rodríguez submitted the following statement regarding **SB 3**:

I submit this statement to reiterate my strong opposition to Senate Bill 3.

This is a fundamental issue of civil rights, and the Texas Senate is on the wrong side of history with S.B. 3.

S.B. 3 is intrusive, has no public safety purpose, and targets transgender people for discriminatory treatment. There is no workable way to ensure enforcement of the bill; it is not reasonable to expect citizens to carry their birth certificate to "prove" their gender. Testimony from law enforcement was overwhelming and conclusive; S.B. 3 does not serve a general public safety purpose, and may indeed serve to put a public target on transgender people, making them less safe. Today's floor debate on S.B. 3 made its purpose explicit – to prohibit policies that protect transgender people against discrimination. In other words, through S.B. 3, the state will sanction discrimination. This is intolerable.

It is not only inhumane, but it is also likely to be found unconstitutional. Treating transgender students equally is compelled by Title IX, the federal law that deals with discrimination in public education. In 2016, the U.S. Fourth Circuit Court of Appeals held that "sex" under both Title IX and Title VII should be interpreted to include gender identity. That case concerned a Virginia School Board barring a transgender man, Gavin Grimm, from using the men's restrooms in his school. The Supreme Court didn't reach the merits on this case, instead returning it to the Fourth Circuit after the Obama Administration's guidelines were rescinded, but it is my understanding experts anticipate the Supreme Court will take up the Grimm case again. Just as other students, transgender students are entitled to the full benefits of their federally-funded education, and schools risk losing their federal funding if they don't comply.

When transgender people are required to use facilities that are not consistent with their gender identity, they are at an increased risk for violence and intimidation. Laws like S.B. 3 will force transgender people to avoid the bathroom completely, which is detrimental to their health. In fact, according to a National Center for Transgender Equality survey, in 2016, nearly 70 percent of transgender Texans reported avoiding using a public restroom, and 36 percent limited eating and drinking to help avoid restrooms.

Transgender Texans already are at a high risk of being harassed or assaulted, even without state-sanctioned discrimination. According to a 2015 GLAAD survey, 85 percent of transgender Texans experienced harassment, and nearly 50 percent experienced physical assault. About this same number experienced harassment at work.

Students will notice if a school is forcing one of their peers to use a different bathroom. According to a 2014 HRC survey, 40 percent of gender nonconforming students reported being excluded by peers and verbally harassed at school. It is estimated that 40 percent of transgender individuals attempt suicide. Schools must be a safe place for all children, including transgender children.

Inevitably, as our nation's history demonstrates, we can and will rise above our fears of those who are different to ensure equal treatment of *all* Americans regardless of race, sexual orientation, or gender identity. Transgender Texans are our family members, friends, co-workers, and neighbors, and they deserve the same respect, compassion and constitutional rights as anyone else.

S.B. 3 makes this more difficult for transgender people, who did not ask for this attention, and will be harmed if the Texas Legislature passes this law.

It is for these reasons that I voted against S.B. 3.

RODRÍGUEZ

SENATE BILL 19 ON THIRD READING

The President laid before the Senate **SB 19** by Senator Nelson at this time on its third reading:

SB 19, Relating to bonuses for public school classroom teachers and state assistance for the Texas Public School Employees Group Insurance Program.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Garcia, Rodríguez, Taylor of Collin.

SENATE BILL 9 ON THIRD READING

The President laid before the Senate **SB 9** by Senator Hancock at this time on its third reading:

SB 9, Relating to the constitutional limit on the rate of growth of appropriations.

The bill was read third time and was passed by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

SENATE BILL 11 ON THIRD READING

The President laid before the Senate **SB 11** by Senator Perry at this time on its third reading:

SB 11, Relating to general procedures and requirements for do-not-resuscitate orders.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

STATEMENT REGARDING SENATE BILL 11

Senator Lucio submitted the following statement regarding **SB 11**:

During the regular legislative session, the Texas Catholic Conference of Bishops worked with stakeholders in the House to reach the incremental compromise reflected in this bill as filed. The bishops agreed to support SB 11/HB 12 as a compromise and incremental improvement over current law. Upon further reflection and consultation with Catholic hospitals, they acknowledge the bill as filed in the special has the potential for some unintended consequences. They believe that the means and end of SB 11/HB 12 is to aid patients in their end of life care, but in testimony, they also acknowledged that faithful Catholics may have legitimate differences of judgment about whether the bill achieves the good at which it aims, while sharing the moral concerns expressed by the Catholic hospitals. Therefore, faithful positions on this bill may differ.

The level of exception for express consent for a DNR is complex and must be carefully balanced to respect individual medical decisions of patients *and* the healthcare providers who are required to act on these decisions. This is one reason why consensus on the proper legislative solution has been elusive for the last two decades. Nevertheless, it is my understanding that the Texas Catholic Conference of Bishops supports the incremental compromise of SB 11.

LUCIO

SENATE BILL 7 ON THIRD READING

The President laid before the Senate **SB 7** by Senator Hughes at this time on its third reading:

SB 7, Relating to payroll deductions for state and local government employee organizations.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Nichols, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

STATEMENT REGARDING SENATE BILL 7

Senator Garcia submitted the following statement regarding **SB 7**:

Members I oppose this bill because I firmly believe that how the working people of Texas spend their hard-earned money is their choice. I also feel that this bill is an attack on the rights of workers to organize for better wages and benefits.

Union dues are a voluntary deduction, similar to a health-savings account, 401K contributions above the minimum, or additional insurance coverage.

It currently has a negligible administrative cost, if any at all, to process these deductions, and would actually cost more for local governments, and thus the taxpayers, to re-haul their current processes rather than just leave things as they are.

I feel that the real reason behind this legislation is to weaken labor unions, by making it harder for members to make their monthly contributions.

Instead of passing laws to make it harder to join a union, we should focus on legislation that raises wages, and protects workers. SB 7 is an attack on the personal economic freedom of teachers in public schools, CPS caseworkers who protect vulnerable children, and other hard-working public employees. The bill would take away the ability of public employees and retirees to make purely voluntary payments from their own earnings via safe and secure paycheck dues deduction to the employee or professional organization of their choice.

GARCIA

SENATE BILL 4 ON SECOND READING

The President laid before the Senate **SB 4** by Senator Schwertner at this time on its second reading:

SB 4, Relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.

The bill was read second time.

Senator Schwertner offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 4** (senate committee report) in SECTION 1 of the bill, in added Section 2271.001(5), Government Code, between "return." and "The term" (page 1, line 55), by inserting the following:

The term includes advocacy or lobbying on behalf of the interests of an abortion provider or affiliate.

The amendment to **SB 4** was read and was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodriguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Schwertner offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 4** (senate committee printing) in SECTION 1 of the bill, in added Section 2271.002(b), Government Code, by striking "in accordance with Section 245.016" and substituting "as defined by Section 171.002".

The amendment to **SB 4** was read and was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 4** (senate committee report) in SECTION 1 of the bill, in added Section 2271.001(5), Government Code (page 1, line 55), between "include" and "the" by inserting "an in-kind donation or".

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 4** (senate committee printing) in SECTION 1 of the bill by striking added Section 2271.001(4), Government Code, and substituting the following:

(4) "Governmental entity" means this state or a state agency in the executive, judicial, or legislative branch of state government.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 5

Amend **SB 4** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the heading to added Section 2271.003, Government Code (page 2, line 18), strike "EXCEPTION" and substitute "EXCEPTIONS".

(2) In SECTION 1 of the bill, in added Section 2271.003(a), Government Code (page 2, line 19), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) In SECTION 1 of the bill, immediately following added Section 2271.003(b), Government Code (page 2, between lines 26 and 27), insert the following:

(c) This section does not apply to a taxpayer resource transaction entered into by a governmental entity for the purpose of protecting the health and safety of the governmental entity's residents, including a transaction necessary for the provision of cancer screening and prevention.

(4) In SECTION 1 of the bill, in added Section 2271.003(a), Government Code, between "of an abortion provider" and the underlined period, by inserting ", unless failure to enter into the taxpayer resource transaction or contract would result in the elimination of

(a) testing provided by the governmental entity for human immunodeficiency virus infection;

(b) sexually transmitted disease prevention programs and services, including screening and treatment, provided by the governmental entity;

(c) teen pregnancy prevention education services for at-risk youth provided by the governmental entity; or

(d) providing long-acting reversible contraception, including implants and intrauterine devices.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 6

Amend **SB 4** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the heading to added Section 2271.003, Health and Safety Code, strike "EXCEPTION" and substitute "EXCEPTIONS".

(2) In SECTION 1 of the bill, in added Section 2271.003(a), Health and Safety Code, strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) In SECTION 1 of the bill, in added Section 2271.003, Health and Safety Code, immediately following added Subsection (b), insert the following appropriately lettered subsection and reletter subsequent subsections accordingly:

() The governing body of a political subdivision with taxing authority may enter into a taxpayer resource transaction or contract with an abortion provider or an affiliate of an abortion provider if:

(1) the political subdivision holds an election called for the purpose of approving the taxpayer resource transaction or contract; and

(2) a majority of the voters of the political subdivision who vote in the election approve the proposition to enter into the taxpayer resource transaction or contract.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 7

Amend **SB 4** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the heading to added Section 2271.003, Government Code (page 2, line 18), strike "EXCEPTION" and substitute "EXCEPTIONS".

(2) In SECTION 1 of the bill, in added Section 2271.003(a), Government Code (page 2, line 19), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) In SECTION 1 of the bill, immediately following added Section 2271.003(b), Government Code (page 2, between lines 26 and 27), insert the following:

(c) This section does not apply to a taxpayer resource transaction entered into by a governmental entity if the governmental entity provides evidence to the comptroller that the taxpayer resource transaction will restrict the governmental entity from preventing or responding to a public health emergency, including an outbreak of the Zika virus or a sexually transmitted disease.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 8

Amend **SB 4** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 2271.003(a), Government Code (page 2, line 19), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(2) In SECTION 1 of the bill, following added Section 2271.003(b), Government Code (page 2, between lines 26 and 27), insert the following:

(c) This section does not apply to a taxpayer resource transaction involving a federal law governing Medicaid, as defined by Section 531.001, that conflicts with Subsection (a).

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 9

Amend **SB 4** (senate committee printing) in SECTION 1 of the bill, in added Section 2271.002, Government Code, immediately following added Subsection (a), by inserting the following appropriately lettered subsection and relettering subsequent subsections accordingly:

() This chapter does not apply to a taxpayer resource transaction between a county with a population of more than 1.5 million in which more than 75 percent of the population lives in a single municipality and a facility licensed under Chapter 245, Health and Safety Code.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 10

Amend **SB 4** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In the heading to added Chapter 2271, Government Code (page 1, line 25), strike "PROHIBITED" and substitute "RESTRICTED".

(2) Strike the heading to added Section 2271.003, Government Code (page 2, lines 17-18), and substitute the following:

Sec. 2271.003. CERTAIN REPRODUCTIVE HEALTH TRANSACTIONS REQUIRING PUBLIC HEALTH OR EDUCATION FINDING; EXCEPTION.

(3) Strike added Section 2271.003(a), Government Code (page 2, lines 18-21), and substitute the following:

(a) Except as provided by Subsection (b), a governmental entity may enter into a taxpayer resource transaction or contract with an abortion provider or an affiliate of an abortion provider only if the governmental entity provides evidence to the attorney general that failure to enter into the transaction or contract may harm the entity's provision of health care services or education.

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 11

Amend **SB 4** (senate committee report) in SECTION 1 of the bill, in added Section 2271.003(a), Government Code (page 2, line 21), between "provider" and the underlined period, by inserting ", unless the governmental entity presents evidence that failure to enter into the taxpayer resource transaction or contract would impair health care services or education provided by the governmental entity".

The amendment to **SB 4** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

SB 4 as amended was passed to engrossment by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

REMARKS ORDERED PRINTED

On motion of Senator Huffines and by unanimous consent, the remarks by Senators Schwertner and Huffines regarding **SB 4** were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator Huffines, for what purpose?

Senator Huffines: Ask the author some questions.

President: You're recognized.

Senator Huffines: Thank you. Senator Schwertner, there seems to be a myth out there that this Texas Legislature is anti-woman or against women's health. And, of course, that couldn't be further from the truth. In fact, in 2013, before I was here, the Legislature created the Texas Women's Health Program to offer family planning services to low-income women. This is a successful program, isn't it?

Senator Schwertner: Senator, that, the various services provided by a number of different org— entities set up by the state, have dramatically increased the number of providers. And the amount of money flowing to those programs has increased dramatically under the leadership of Chair Nelson over the last two biennium. I think we put 100 million extra back in 2015 and an extra 50 million maybe this biennium. It is a significant sum of money when compared to what was there in 2011.

Senator Huffines: Right. And as a matter of fact, I have a little few statistics here on that, that the number participating providers is 5,000. That's triple the number of providers in the program in 2011, and it's up 30 percent from 2014. Texas family planning programs provide services to over 260,000 individuals. And state officials expect that number to continue to increase with a combined Healthy Texas Women program. And the providers who participate in this program do not directly promote or perform elective abortions, do they?

Senator Schwertner: They do not.

Senator Huffines: So, instead of emotionally focusing on money that we're not spending, I would like to briefly underscore, Senator, the priorities that we included in our 2018 and 2019 budget that passed the Chamber 31-0. Women's Health Program, \$142,322,000 per fiscal year, or \$284 million over the course of the biennium. And the other program, Alternatives to Abortion, \$9,150,000 a year, or 18,300,000 over the course of the biennium. Like many in this Chamber, I believe in the beautiful dignity of each and every human life from conception to natural death. More importantly, millions and millions of Texans share this view. Should our tax dollars, Senator, fund the culture of death that the abortion industry promotes?

Senator Schwertner: Senator, I bring this bill to prohibit state or local taxpayer dollars from subsidizing, directly, indirectly, abortion providers or their affiliates.

Senator Huffines: Well, of course, I thank you very much for doing that. And thank you for your leadership on this, Senator Schwertner, and, of course, Senator Nelson's also leadership in this and women's health. And conservatives in the Legislature are leading the way in promoting women's health, and while we're also defunding abortion, the two are not at odds. In fact, they work hand in hand. Senator Schwertner, I thought a bill, a stand-alone bill to prevent providers of elective abortions from participating in state employee charitable campaigns. If my bill were to be signed by the Governor, the Comptroller would no longer be allowed to write a check to an

organization that either directly or indirectly facilitates elective abortions. It's my understanding that your bill, when it's signed by the Governor, will address this issue, and these organizations will not participate in the SEC program. Is that correct?

Senator Schwertner: That's my understanding.

Senator Huffines: Well, thank you, Senator Schwertner, for these comments and your leadership in bringing this bill to our Chamber.

CO-AUTHORS OF SENATE BILL 1

On motion of Senator Bettencourt, Senators Buckingham and Hall will be shown as Co-authors of **SB 1**.

CO-AUTHOR OF SENATE BILL 6

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

CO-AUTHOR OF SENATE BILL 10

On motion of Senator Campbell, Senator Buckingham will be shown as Co-author of **SB 10**.

CO-AUTHOR OF SENATE BILL 13

On motion of Senator Burton, Senator Hall will be shown as Co-author of **SB 13**.

CO-AUTHOR OF SENATE BILL 18

On motion of Senator Estes, Senator Bettencourt will be shown as Co-author of **SB 18**.

CO-AUTHOR OF SENATE BILL 19

On motion of Senator Nelson, Senator Hinojosa will be shown as Co-author of **SB 19**.

RECESS

On motion of Senator Whitmire, the Senate at 1:49 a.m. Wednesday, July 26, 2017, recessed until 10:00 a.m. today.