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SUPPLEMENT

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HB 2 DEBATE - SECOND READING

REPRESENTATIVE LAUBENBERG: Members, **HB 2** addresses abortion law and regulations in our state. **HB 2** also addresses the health and safety for a woman who undergoes an abortion procedure. There are four main parts to this bill, beginning with the 30-mile rule and admitting privileges. The physician must have active admitting privileges; the facility must be located within 30 miles of a hospital; the hospital must provide obstetrical and gynecological health care services, i.e. women's health care services; provide a telephone number for clinic personnel for the pregnant woman; provide the name and telephone number of the nearest hospital to the home of the pregnant woman.

The Preborn Pain Act will prohibit abortions after five months of pregnancy—this is determined by the postfertilization age—with the exceptions of the physical life of the mother and severe fetal abnormality.

The third part is with the RU-486 abortion pill. It must be administered by a physician, and it must follow the FDA protocol on the administering of this pill. It must provide the pregnant woman a copy of the final printed label of the abortion inducing drug and the telephone number of the physician or health care personnel in the facility in case of questions or emergency. A 14-day scheduled follow-up visit for the woman must be scheduled after the completion of the drug. It also allows the physician to have the option to follow the dosage amounts as defined by the American Congress of Obstetricians and Gynecologists.

And the fourth part is to require that all abortion facilities must be equivalent to the minimum standards of ambulatory surgical centers, and they have until September 1, 2014 to comply. And, again, this bill is the same bill, the same bill that we heard the first called session that was **SB 5**. And, again, as in the last called session, it is my intention to keep **HB 2** consistent in its current form without adding any amendments. And I want to point out that what we are talking about today truly does deal with the health and the safety of a woman who would undergo an abortion, but we're also—I want to point out that we are also talking about an unborn child who has pain, who has the nerve endings—the receptors—that can feel the pain of an abortion at 20 weeks. That is why that part of this bill, that would stop abortions at five months, it's called the Preborn Pain Act. With that, Mr. Speaker, I would love to move passage, but I believe there are a few questions, so I would yield.

REPRESENTATIVE FARRAR: Mr. Speaker, just to clarify, we are not in the final days of a special session, so it is appropriate to extend the time, correct?

SPEAKER STRAUS: Ms. Farrar, we are not in the last five calendar days of the special session.

FARRAR: We are not in the last five calendar—

SPEAKER: Time limits can be extended.

FARRAR: We have 30 days, correct?

SPEAKER: That's correct.

FARRAR: So, time extensions are in order?

SPEAKER: That is correct.

FARRAR: Representative Laubenberg, this bill would require that medical abortions be performed in ambulatory surgical centers, correct?

LAUBENBERG: Yes.

FARRAR: Would this require a woman to make multiple trips to an ambulatory surgical center in those cases?

LAUBENBERG: The bill requires that the woman, that the administering of the RU-486 pill would follow the FDA protocol, which does require the woman to return for the second dosage and to return for a follow-up visit, yes.

FARRAR: All right, thank you. Is there any risk, do you believe, involved in requiring a woman to physically return to an ambulatory surgical center to take the subsequent pill and the follow-up visit?

LAUBENBERG: No, it would actually be safer.

FARRAR: Would you agree that it increases her risk of not being able to return in the sense of if an ambulatory surgical center is far from her, and which in turn, if she doesn't return, increases the risk for hemorrhage, blood transfusion, and emergent D&C?

LAUBENBERG: This is why we are bringing all the abortion clinics up to the same standard as the ambulatory surgical centers.

FARRAR: They'll all have to convert to—or they will actually—I'm understanding, they're not able to convert, but they would have to then change into or become ambulatory surgical centers?

LAUBENBERG: There's nothing to prevent them from upgrading their standards.

FARRAR: Let me ask you this, would this bill increase the cost of medical abortions?

LAUBENBERG: The cost of an abortion right now is between $300,000, depending on how far along you are and—

FARRAR: I'm speaking specifically to medical abortions. Would it increase the cost?

LAUBENBERG: I would think that they would be getting better care, so they wouldn't have the complications, so the cost probably would actually be less.

FARRAR: Do you know this for fact, or is it just speculation?

LAUBENBERG: Do you know for a fact that it will increase the cost?

FARRAR: I'm asking if you contemplated the bill.

LAUBENBERG: We can talk about hypotheticals.

FARRAR: I'm asking if you contemplated the potential burden on a woman if the cost is increased.

LAUBENBERG: The question should be what is best for the health of the woman.

FARRAR: I'm sorry, the back mic is for asking questions. Could you answer my question, please?

LAUBENBERG: Yes, ma'am. I said the benefit is for the health of the woman.

FARRAR: Okay, that doesn't answer my question, but nonetheless, would this requirement mean for—what would this requirement mean for women that don't live near an ambulatory surgical center?

LAUBENBERG: I'm sorry, could you repeat that?

FARRAR: Sure. What would this mean for women that don't live near an ambulatory surgical center?

LAUBENBERG: There are many women that don't live near an ambulatory surgical center. There are many women that don't live near an abortion clinic right now. We have a very large state, and so they would do the same thing that they would have to do now. But, if there are complications, they would be much closer to a place or in a facility where they could get better care.

FARRAR: How do you think that these requirements, such as maintaining a separate surgical suite that includes 240 square feet of operating room, a postoperative recovery room, a pre-operating patient holding area, sterilizing facilities, separate janitor closets and equipment storage areas—how do you think that these things make a medical abortion more safe?

LAUBENBERG: Again, anything that's going to improve the facility, that's going to help get better health care to this woman in case any complication should arise, is always a good thing.

FARRAR: Are you aware of any other medications that would require a woman to take them in an ambulatory surgical center?

LAUBENBERG: There are no other procedures where the only result or expected outcome is the taking of a life.

FARRAR: Pardon me?

LAUBENBERG: In response to your question on what other procedures would require the extra, higher standards, my answer to you is that abortion is the only medical procedure where the result or the expected outcome is the taking of a life. This is a very unique procedure.

FARRAR: All right, but what I'm concerned about is the safety of the mother, and the fact that there would be reduced locations that she would have to go to and she'd have to travel long distances. Are you not concerned about the situation where a woman would actually be endangered because she would have to travel these long distances and couldn't? And then would have to go—I mean, I'm not asking about your opinion on her decision. I'm asking about her health and safety. Have you thought about these burdens that you've put on her, particularly in this situation where it's not an invasive procedure, how it would impact her life and safety?

LAUBENBERG: Okay. First of all, the woman going to this procedure, if there are complications at any level, should have the highest standard of care. Part of the requirement, the FDA protocol, is that the woman is given the telephone number of the local hospital in case, you know, she can't get a hold of someone at the facility, that she has, you know, a location nearby. So, all of this is part of the protocol of the RU-486 regimen.

FARRAR: I want to speak to the narrowness of the exceptions that you have in the bill. There is an exception to protect the life of the woman, but it does not protect serious risk to a woman's health. It reads that a woman must face immediate injury or death to meet this exception. Do you believe that it's fair to force a doctor to compromise patient health by waiting until a woman's condition deteriorates to a point that it becomes life-threatening or severely debilitating?

LAUBENBERG: Okay, I'm sorry, could you repeat your question?

FARRAR: Yes. You have an exception for the life of the woman, but it doesn't protect a serious risk to a woman's health. It reads that a woman must face immediate injury or death in order to meet this exception. So, my question is, do you think it's fair to force a doctor to compromise a patient's health by waiting until a woman's condition deteriorates to the point that it becomes life-threatening or severely debilitating?

LAUBENBERG: Okay, if you look on page 5 of the bill, on line 5, it says, "if there exists a condition that in the physician's reasonable medical judgment." So this gives the physician full authority to know what condition his patient is in and to have that authority to make that determination.

FARRAR: Right, but that point that the determination is made is when it's an immediate injury or death to her. Why is the threshold so high?

LAUBENBERG: The threshold gives the physician full control over this.

FARRAR: Only to the point where it's immediate injury or death though.

LAUBENBERG: It says within his "reasonable medical judgment."

FARRAR: It goes on to say "immediate injury or death," that's the standard.

LAUBENBERG: Okay, so you're talking about the physical life as opposed to—

FARRAR: Her life. Let me back up a little bit. Maybe this will help. Can you name some examples of health issues that might arise that would be covered under your exception?

LAUBENBERG: Toxemia.

FARRAR: What about ruptured membranes?

LAUBENBERG: Absolutely.

FARRAR: But that's not an immediate injury or death. That progresses on to—it becomes that way once an infection is reached and an infection has become so severe, but that's not immediate.

LAUBENBERG: This is why you place the physician at the center of this. It will be his judgment.

FARRAR: But the language in the bill ties the hands of that physician to immediate injury or death.

LAUBENBERG: I would disagree with you, Representative.

FARRAR: An infection to be, to become, would not fit that definition. Do you agree with that?

LAUBENBERG: I would disagree with you, Representative. This bill does give the physician the full autonomy and full authority to take care of his patient, and I think that is what you're wanting to know.

FARRAR: Right, but would you be amenable to opening up the exception so that, say in a situation like this where there is a potential or certain infection just hadn't occurred at the time, but you know it will occur—would you be willing to open your bill to widen the exception?

LAUBENBERG: Representative Farrar, this bill—instead of listing specific conditions, whereas if you left one out, might be excluded if there was an emergency. By this language, we're allowing whatever the physician determines to be the condition that would impair the physical life of the woman. So, this language actually gives broad coverage by allowing the physician, the physician, to have that authority. I would not want to limit the physician's authority.

FARRAR: Aren't you concerned, though, that a physician reading that language that says "immediate injury or death" wouldn't interpret it the way that you have here? So, that's why I'm asking if you would be willing to opening that definition.

LAUBENBERG: And I've already answered that question.

FARRAR: What would happen in the situation where a woman was diagnosed with a serious disease during pregnancy and after the 20 weeks? A serious disease like stage IV cancer, where it's not immediate injury or death?

LAUBENBERG: Again, if that is life-threatening and—

FARRAR: But if it's not at the time, but you know it will be, how will that woman be affected?

LAUBENBERG: Again, that would be her physician. The bill allows the physician to have authority in his reasonable medical judgment to make that determination, so that would be covered.

FARRAR: See, the way I read the bill and the way I'm afraid physicians might read the bill is they would say, well, I've got wait until it really is, until it's life-threatening. It's not at this time, but if she doesn't have the treatment she needs right now, it will become so sooner, but at the moment it's not. But I know that in a month or two months or whatever it is, whatever in the doctor's discretion is that it will become. And so, would you not agree with me that you're tying the hands of the doctor here in these situations?

LAUBENBERG: Well, that's why you have the relationship with the doctor, so that he will be able to monitor and oversee her condition as the pregnancy develops. And again, it does go back to giving the physician the full authority in his reasonable medical judgment, so he is not held to a specific—it has to be this issue or it has to be that issue. It's whatever the doctor believes is in the best interest for the health of the pregnant mom.

FARRAR: Would you be willing to accept an amendment that says exactly what you just said? The best interest of the woman's health.

LAUBENBERG: Representative Farrar, as I said at the beginning, I believe this bill is very well stated in the position that you and I are talking about, and no, I would not accept an amendment.

FARRAR: You may believe that, but the American Congress of Obstetricians and Gynecologists doesn't believe it. In fact, they oppose this legislation, correct?

LAUBENBERG: You have made that comment, but there are many obstetricians and gynecologists who support this, as we have heard in testimony.

FARRAR: The professional association of this segment of the profession opposes it, and I have to believe that it would be because it is tying their hands. Because what you're saying in your bill is immediate injury or death, and so if the doctor has to reach that point, the woman has to suffer up to that point, correct?

LAUBENBERG: A physician who is taking care of his patient is not going to let her suffer.

FARRAR: But your bill is tying that physician's hands by having to reach this point.

LAUBENBERG: Actually, it's not. It's very broad to give that physician the authority.

REPRESENTATIVE PERRY: Representative Laubenberg, I appreciate your efforts and energies on this bill. I just have a few questions to try to clear up some of the things that we've said or heard said, and they may need to be answered by a physician or someone up there that's got some medical experience. Don't be bashful in just deferring to them if you need to. Are there complications with the morning after pill?

LAUBENBERG: There have been complications, yes.

PERRY: And so, having a physician administer that is very appropriate from that perspective, that once there's a complication—maybe someone could explain what those complications may be or what that would involve or why that would be required.

LAUBENBERG: Yes, because there could be complications with hemorrhaging, with infection, and so, we have a nurse here if you'd like to—

PERRY: It doesn't work, basically. If the pill didn't work, then that's why the problems occur.

LAUBENBERG: And if it didn't fully work, the FDA actually recommends that it not be given past 49 days. But I know that Planned Parenthood in their literature recommends that it can be given up to 63 days, so you're going beyond—if you administer it to a woman past the FDA recommendation, then you could potentially be opening it up to complications that would require more attention.

PERRY: And then, under the current system, if that were the case they would end up in the ER room, more likely, and possibly beyond help, that had they gotten it earlier by a doctor or they were supervised, they may have prevented long-term damage such as maybe the inability to have kids down the road.

LAUBENBERG: Absolutely.

PERRY: So, **HB 2** fixes that problem, doesn't it?

LAUBENBERG: Yes, it does.

PERRY: Okay, it addresses that?

LAUBENBERG: Yes, it does.

PERRY: There's been a lot of discussion that we're actually prohibiting abortions in Texas across the board, and that's just factually not accurate, is that correct?

LAUBENBERG: That's absolutely correct. You are correct.

PERRY: Okay. Would it be correct saying that the increase in cost can be covered by the fact that—

REPRESENTATIVE ALVARADO: Representative Laubenberg, I just have two questions. One is just a clarification. Does you bill require that a woman who wants RU-486 abortion to take both pills at an abortion facility in the presence of her doctor?

LAUBENBERG: That is correct.

ALVARADO: Where is that in the bill? Because I did look through your bill, and I couldn't find that.

LAUBENBERG: It says that it must follow the FDA protocol, which—give me a second, if you please.

ALVARADO: Okay.

LAUBENBERG: Okay, on page 10.

ALVARADO: Okay.

LAUBENBERG: Begin with line 9, "except as otherwise provided by Subsection (b), 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." Now, if you look at the FDA—I went on their website—and you look at the FDA protocol, which the bill refers to, it does say that it is a three-visit procedure. Day one, the patient must read and sign education guides; first dose of the pills administered. Then two days later, day three, patient returns to the facility to orally take the second dosage. At that point, the patient should be given the name and phone number of the physician handling emergencies arising from the abortion. Then, third follow-up, day 14, follow-up to the facility using a sonogram scan to ensure that the entire pregnancy has been terminated.

ALVARADO: Okay, my concern is for a woman who has to travel, say 75 or 100 miles, because I think in the sonogram bill there was an exemption for women who lived 100 miles away from a facility. So, if your bill passes, then a woman who wants to undergo the RU-486 would have to go to an abortion, to an ambulatory service center for a sonogram. Then she'll have to wait 24 hours. Then she will have to go back to the clinic to take the first pill; then she'll have to go back to the clinic again within the next two days to take the second pill. Is that correct?

LAUBENBERG: I'm sorry, what was your question?

ALVARADO: I was just giving the chronology if your bill passes, the burden that a woman would have to undergo: going to the ASC for the sonogram, waiting the 24 hours, then going back to the clinic for the first pill, then having to go back to the clinic again within the next two days to take the second pill.

LAUBENBERG: The whole purpose is this is a very serious procedure, a very serious decision. And so, following the FDA guidelines is going to be for the benefit of the woman.

ALVARADO: But if you're talking about after we've closed these 37 clinics and a woman has to travel, say 100 miles, to one of the five clinics that would be remaining in our state, that's putting a burden on that woman who has to go back for the second pill, wait—there's waiting times, there's a second visit, and that's my concern.

LAUBENBERG: And I appreciate that, Representative Alvarado. Again, you know, this is going to be—you said something earlier, you know, that the woman is having to return, but undergoing this—oh, you made a comment that these facilities would be closing. And again, no facility is going to be forced to close. They will have over a year to raise their standards. And if the woman is going back—which is good, that she would go back if there were complications—they would be better equipped to be able to help her and handle those complications. I think any time that a woman has that extra assurance is always a good thing.

ALVARADO: Well, I'm just concerned that your bill is putting obstacles for women who want to get, who made a choice, a very personal choice to get a procedure done that's a very legal procedure, but this bill is putting in obstacles and challenges and economic constraints for women that have to travel a long distance.

LAUBENBERG: The only obstacle that I am specifically addressing is the five-month ban. That is the only part of this bill that will actually stop an abortion. The other parts of the bill truly are to make sure that when a woman is undergoing this very serious procedure, that she's doing it in the best environment possible.

ALVARADO: And that's the goal of your bill, is to reduce abortions in Texas, or to eliminate them altogether?

LAUBENBERG: My goal in this bill is to stop abortion at five months based on the pain, based on the science and technology that we have today that we did not have 40 years ago. That is my purpose in this bill.

ALVARADO: Representative Laubenberg, I would hope too that you are concerned about the overall health and safety of women. I have served with you on the Public Health Committee, and I know that you are a person that cares about women and the overall health and safety.

LAUBENBERG: And I would agree with you.

ALVARADO: Okay, but Representative Farrar, when she was asking her question about the undue burden on women when you close all of these clinics—you've reduced it to five—that you are putting an undue burden on women. Wouldn't you agree?

LAUBENBERG: Representative Alvarado, you're going on the premise that abortion clinics will close. I disagree with you. I do not believe they will close. There is nothing in this bill that mandates or forces them to close. Raising their standards will not force them to close.

ALVARADO: So, you don't think your bill in any way, shape, or form, by putting in implications that would cause clinics to close because they can't afford to transition into what your bill requires, then the end result is reducing it to five clinics and, therefore, jeopardizing women's overall health for the other services that women may want to go to these clinics for, that it does put an undue burden on women?

LAUBENBERG: In other states that have abortions clinics that have had to raise up their standards, they have risen their standards. They have not closed.

ALVARADO: Thank you for your answers.

REPRESENTATIVE S. DAVIS: I have one question, and I want to call your attention to page 4 of the bill, because I'm confused by this section, line 24, "Except as otherwise provided by Section 171.046(a)(3), a physician performing an abortion under Subsection (a) shall terminate the pregnancy in the manner

that, in the physician's reasonable medical judgment, provides the best opportunity for the unborn child to survive." What does that mean? I'm confused just by this paragraph.

LAUBENBERG: I'm sorry, Representative Davis, could you say that again?

S. DAVIS: Yes, of course. I am confused by a section in the bill, page 4, and I'll read it again.

LAUBENBERG: No, I got that part. What was your question? I missed that part.

S. DAVIS: What does that mean?

LAUBENBERG: Okay, that means that if the physician determines that the pregnancy through, you know, if it's toxemia or whatever, is going to try to save—

S. DAVIS: I'm sorry, I can't hear your answer.

LAUBENBERG: —cause the life of the mother, then he would do the abortion in the way that would try to save the baby.

S. DAVIS: Not result in an abortion?

LAUBENBERG: No, would try to save the baby. He would do the termination of pregnancy in a way—let me rephrase that.

S. DAVIS: You know, that doesn't make sense to do a termination of a pregnancy that would result in a nontermination of a pregnancy.

LAUBENBERG: You know what? I'm going to let the good doctor answer your question on that.

S. DAVIS: I'm not trying to ask a trick question.

LAUBENBERG: I know.

S. DAVIS: I just don't understand this wording.

REPRESENTATIVE G. BONNEN: I appreciate the question. I think what this is referring to is, let's say—because we're talking about Subsection (a). This is the exception where an abortion would be allowed past 20 weeks in order to save the life of the mother. So, let's say the mother is at 26 weeks gestation and needs to terminate or end that pregnancy to save her life, but there would be a way to do that to also deliver that child and the child could have a way to survive. And what this is saying is that there is more than one way to end a pregnancy, and in that scenario it should be done in such a way in order to give the child an opportunity to live. Does that make sense?

S. DAVIS: That does make sense. I don't think that that wording is very clear at all about the intention that you've explained.

REPRESENTATIVE C. TURNER: Mr. Speaker, parliamentary inquiry.

SPEAKER: State your inquiry.

C. TURNER: Pursuant to Rule 7, Section 3 and Rule 7, Section 18, what is the proper procedure for a member to be recognized to make a motion to recommit a bill?

SPEAKER: Mr. Turner, would you refer again to the specific rule?

C. TURNER: Sure, it's Rule 7, Sections 3 and 18.

SPEAKER: Mr. Turner, Rule 7, Section 18 says the following. The clerk will read the rule.

READING CLERK: Rule 7, Section 18. Motion to Recommit. A motion to recommit a bill, after being defeated at the routine motion period, may again be made when the bill itself is under consideration; however, a motion to recommit a bill shall not be in order at the routine motion period if the bill is then before the house as either pending business or unfinished business.

A motion to recommit a bill or resolution can be made and voted on even though the author, sponsor, or principal proponent is not present.

C. TURNER: Okay, thank you, Mr. Speaker. With respect to Rule 3—I'm sorry, Rule 7, Section 3, do the rules say that a motion to recommit under Section 3, Subsection (7) is in order during debate on a bill?

SPEAKER: Mr. Turner, Rule 7, Section 3 refers to motions that are allowed during debate. These are not privileged motions. Not all of them are privileged motions.

C. TURNER: They are, or are not?

SPEAKER: Not all of them are.

C. TURNER: Not all of them are, okay. Would it be possible to be—is the motion to recommit a privileged motion under Rule 7, Section 3?

SPEAKER: They do not appear to be a privileged motion, no.

C. TURNER: Okay, thank you, Mr. Speaker. Would the chair recognize a member for a motion to recommit on **HB 2**?

SPEAKER: Not at this time, Mr. Turner, but if you want to bring your motion down to discuss it, we'd be happy to talk to you.

C. TURNER: Thank you, Mr. Speaker.

[Amendment No. 1 was laid before the house.]

REPRESENTATIVE P. KING: Mr. Speaker, just a quick parliamentary inquiry.

SPEAKER: State your inquiry.

P. KING: Just to help us understand how the amendment process is going to go, are we following the normal process where they'll just take the amendments up in the order that they would affect the bill, going from page one until the end?

SPEAKER: Mr. King, we're laying out the amendments in the way we believe they are suppose to be laid out.

P. KING: I don't doubt that. I'm just trying to make sure that we can anticipate.

SPEAKER: Mr. King, the next amendment after this is by Representative Sarah Davis of Harris, the following by Representative Turner of Harris, Menéndez, Mr. Turner again, Mr. Menéndez again, Mr. Herrero.

P. KING: Are those following the bill in the bill order? In other words, in Section 1 amendments, Section 2 amendments?

SPEAKER: The chair is not aware, but they're stacked right here if you want to come and take a look. We'll be happy to try to put them in order for you.

P. KING: And we're still allowing amendments to be filed, so if we get to the end of the bill, someone can still file an amendment that affects Section 1 of the bill?

SPEAKER: Mr. King, members are still filing amendments.

P. KING: All right, thank you.

REPRESENTATIVE S. THOMPSON: This amendment that I am offering will allow for an exemption to the prohibition of abortion over 20 weeks in the case of rape and incest. I don't believe that there are any pro-rapists or pro-incest members of this body. I feel very resolute about that position, but I want to tell you that one of the hardest decisions in the world for a young woman to make is to go and tell somebody that her stepfather or her father, uncle has raped her and she's pregnant.

I don't think that you want to traumatize this young woman by making her carry a child that her stepfather has impregnated her with, or her father, who not only would be the grandfather, but the daddy of the child as well. Let me just give you a little bit of my experience, and that experience is this: There was a young lady in Harris County that was being consistently raped by her daddy, and she begged her father to stop having anal sex with her because it was so painful and it hurt her so badly and she was afraid because he had threatened her not to ever tell anybody about what was happening to her. As a result of that, she finally got enough nerve up to be able to tell somebody and he was finally convicted. But what about all those other persons who don't ever get those kind of nerves to tell somebody my daddy has raped me and I'm pregnant? What about those other times when they are afraid to say that my stepfather has raped me and I'm pregnant? Don't you think that those person has been violently violated? And don't you think that they deserve a right to have a choice, a choice to determine whether or not that they want to be traumatized for the rest of their lives?

Let me just tell you this. I have a grandson, and I've had a grandson—only one grandchild for many years. And my child came to me and told me that she wanted to have an abortion and I sat down with her, I talked to her, I went over the reasons with her because the choice was hers. That grandchild is 30 years old and I have a great-grandchild as a result of that, but I would not have denied her the choice had she wanted to choose to abort that child.

REPRESENTATIVE DUKES: Representative Thompson, are you aware that most, just about anyone who has been through the horrific act of rape and incest is too embarrassed, usually feeling a level of guilt without cause, but a level of guilt, to even come forward immediately when it has occurred?

S. THOMPSON: That's truth. And I've known some situations in several communities where the children were born retarded because of incest, deformed because of incest, and the mother went through shame and some of them even had a mental lapse that last them for the rest of their lives, where they had to not only be treated mentally, but they had to use psychotropic drugs in order to be able to get through a daily life until their demise.

DUKES: And Representative Thompson, are you aware that most of them go through a level of denial for a very long period of time? A denial that the act of rape or incest occurred, or even the fact that they may potentially be pregnant from this act.

S. THOMPSON: Absolutely.

DUKES: So are you aware that as a result it may be 20 weeks, 24 weeks before they come forward because they cannot hide the fact that they are pregnant from this?

S. THOMPSON: Absolutely correct.

DUKES: And are you aware that less than 2 percent of all abortions that occur, occur after a 20-week time period?

S. THOMPSON: I am.

DUKES: And, you know, are you familiar with the debate that was on **SB 5**, when we talked about rape and the author of this bill stated that an individual could—a woman who was raped could go to the hospital and the hospital had something that was called a rape kit?

S. THOMPSON: I am familiar with that.

DUKES: Do you know what is in a rape kit?

S. THOMPSON: A rape kit is a kit which is to secure forensic evidence to be used to punish or to prosecute the rapist if that rapist is found.

DUKES: But the author of this bill stated that a rape kit was used to clean the woman out and that they could get a D&C and potentially a morning after pill.

S. THOMPSON: A rape kit is used for forensic evidence.

DUKES: Do you know what a rape kit looks like?

S. THOMPSON: Yes, I do.

DUKES: Do you see anything in these envelopes that would potentially allow for cleaning a woman out?

S. THOMPSON: Not at all.

DUKES: Do you see any RU-486 in these envelopes for collection of information?

S. THOMPSON: I do not.

DUKES: Do you see any tools that are used for a D&C?

S. THOMPSON: I do not.

DUKES: Are you aware that, when a woman goes to a hospital after a rape and there's just these things for evidence, that an abortion is not even discussed with the woman?

S. THOMPSON: I am.

DUKES: Thank you.

PERRY: Your amendment, if I'm reading it correctly, exempts all issues regarding up to the last day of the birth. In other words, you could have an abortion—if it was due to rape or incest—up to the day before the child is birthed. Is that correct?

S. THOMPSON: If it passes the 20-week period and it also is the same amendment, Representative Perry, that you voted for under the sonogram bill. This is the exact language that's taken out of the sonogram bill that was passed last session, 2011, that you voted aye for, with this language in it, and what I did was I lifted this very language out of the sonogram bill, that you voted for, and I'm putting it in—I would like to put it in this **HB 2**. The very same language that you approved under the sonogram bill, this is that language.

PERRY: I hear you. Does the bill, **HB 2**, allow for abortions up to 20 weeks?

S. THOMPSON: The bill does not allow for this abortion for incest and rape after 20 weeks—because sometimes for 20 weeks or afterwards—because sometimes it takes a little longer for this information to surface. But again, you voted for this language under the sonogram bill that was carried by Representative Sid Miller last session of the legislature.

PERRY: Did the issue with the sonogram bill as for a scan only of the baby at the time to have a picture so that the mom would be more informed about having an abortion. What you're saying under your amendment and what you're trying to propose is that it would be following through on the abortion. So when I voted for that through the sonogram, that was so that the individual involved in that decision making—the woman involved in that—would be more informed and have the right and option to know what that information to be able to not have the abortion.

REPRESENTATIVE N. GONZALEZ: Thank you, Ms. Thompson. And with your amendment, or without your amendment I should say, do you believe that an undue burden will be placed on women by not having this particular amendment on this bill?

S. THOMPSON: I do, because a lot of time girls would not come forward because they don't want their father to go to jail or go to prison and they may not, in fact, tell who is the perpetrator of that very violent act. What I don't want to do is I don't want to force those young women or any woman—because, you know what, when a person is raped, when a woman is raped, they don't go and

see whether or not there is a republican woman, or a democratic woman, or an independent woman, the rapist just rapes a woman, he rapes the woman. And I don't want to force them to have to use a coat hanger in a back alley, or to use a knitting needle, or use a feather, or take turpentine. I want to make sure that the law allows them that option whether they want to take it or not, it gives them the choice.

N. GONZALEZ: And constitutionally, right now we do have a choice, do we not?

S. THOMPSON: We do have a choice right now.

N. GONZALEZ: Now along the lines of an undue burden, say someone coming from far West Texas, or someone coming from the Rio Grande Valley, it would place an undue burden with this particular house bill, if it were to pass, for women if these particular clinics. Although the house believes that clinics would not shut down, the financial reality is most of these clinics would not afford to stay open. Is that not the case?

S. THOMPSON: That is the case.

N. GONZALEZ: And so, there's a financial burden that is placed on these women that would have to drive in some cases 1,200 miles round trip to seek medical attention if they need to seek this medical attention, correct?

S. THOMPSON: Absolutely, and in many places there is not even transportation where they can access it.

N. GONZALEZ: Correct. And so, you know, with the history of women that have gone through rape and incest, can you talk a little bit about maybe some of the psychological mind frame that some of these women have unfortunately gone through, and why it's so difficult for them to come forward in these particular cases, and why it may take them more than five months to make a decision on why they may want to go through a procedure like this?

S. THOMPSON: If you've been bullied by the rapist like your stepfather, or your father, or your uncle, and bullied to the point of not telling it, that is a very big psychological effect.

N. GONZALEZ: And so, it may take a woman longer in some cases to come forward in these particular instances. Would it not?

S. THOMPSON: If at all.

N. GONZALEZ: That's correct. And we've heard testimony from both sides from women who have been raped and have chosen to seek an abortion and women who have been raped and have not chosen to seek an abortion, but in both cases, they have had a choice in what they have decided to do, correct?

S. THOMPSON: And I just don't want that choice to be a knitting needle. I don't want that choice to be a feather. I don't want that choice to be a bottle of turpentine. And I don't want that choice to be a coat hanger.

N. GONZALEZ: Because the end goal is not about reducing unhealthy abortions. The end goal is about keeping women healthy, correct?

S. THOMPSON: Absolutely. And you know what the unusual thing—I don't know why there's such a concern about the inability for us to be able to think for ourselves. We were these men's first teachers. We taught them how to put their pants on, how to tie their shoes, how to potty, we cleaned them, we potty trained them, taught them how to go to the toilets, how to eat, how to go to school and learn, and all of a sudden when we get to be adults then we become senile to the extent that we don't know what is good for ourselves. We cannot make decisions about ourselves, like we can't think ourselves out of a paper bag, and we can.

N. GONZALEZ: Now is there really a distinction between this amendment and the sonogram amendment that you have?

S. THOMPSON: The same language that these individuals who came back this session voted for last session. The exact same language.

N. GONZALEZ: And I agree with you that no one in this house chamber would say that they are pro-incest or pro-rape, correct?

S. THOMPSON: I don't believe there's a pro-incest person in this chamber, and I don't believe there's a pro-rapist person in this chamber, and I don't believe that they want to let young girls be raped by their stepfathers, their fathers, or their uncles. I don't believe that. Nor do I believe that they have—that they would want their constituents to resort to a knitting needle, a feather, turpentine, or a coat hanger in the back alleys where there are illegal abortions performed and then we have death on our hands.

N. GONZALEZ: Nor do we want to place an undue burden on these sometimes socioeconomically challenged women, correct?

S. THOMPSON: I do not want to place those undue burdens.

REPRESENTATIVE SIMMONS: Just a couple of questions in following up on Representative Perry's question. Your amendment would extend the ability, in the cases of rape and incest, for a woman to choose an abortion beyond 20 weeks, is that correct?

S. THOMPSON: If that was necessary.

SIMMONS: If it was necessary, and necessary would be if she chose to, is that correct?

S. THOMPSON: At least she had a choice.

SIMMONS: Okay, that's all I'm saying. And so, is there a limit on that or would you allow this to happen even up to the 38th, 39th week?

S. THOMPSON: No. It's her choice.

SIMMONS: So at any time before the baby's born she can have that. That's what you're saying in this amendment?

S. THOMPSON: The federal law says 24 weeks. Are you going to say we're going to knock the federal law out and put our own?

SIMMONS: I'm asking you, that's what you're trying to do here, ma'am. I'm not saying, I'm just—I didn't say in here.

S. THOMPSON: We're staying within the guidelines of the 24 weeks of the federal law.

SIMMONS: Okay, so you're saying after 20 weeks, though, but before 24 weeks. Is that correct? Is that what this is saying? Would you take an amendment to your amendment to specifically say that?

S. THOMPSON: Oh, I certainly will.

SIMMONS: Okay, and then after 20 weeks, before 24 weeks, could you describe how an abortion is handled? How that works? Would you describe that to me as to how they go in there and they take that unborn baby, and dismember that unborn baby? Would you describe exactly how that works so these members can know if they're going to vote on this amendment?

S. THOMPSON: Only thing I can tell you is that they follow medical guidelines and this is the only house that I'm familiar with that we have three physicians who have gone to medical school, but a whole lot of other physicians on the floor who have never had medical training, who are experts on women choices, who are experts on what happens to women, who are experts what happens to women, and I would be happy to accept your amendment on the one condition that you vote for it.

SIMMONS: And I'm not saying that—you don't think I was saying I was an expert, and I'm not saying you're an expert either. Right?

S. THOMPSON: Oh, no. I didn't say you're an expert. No, I just said that there are so many experts in this room. There are all kinds of experts, but they've never been to medical school. And you know what is unusual? There are experts on women's reproductive rights and they're not experts in nothing else to any extent. That's what's always so heartbreaking for me.

SIMMONS: But, Ms. Thompson, you agree that people in this body can ask questions to try to learn, that's correct? I mean, you agree with that?

S. THOMPSON: That's the reason why I'm accepting your questions and I appreciate you so much because I know that you know that you don't want to put your constituents back to the back alleys of a knitting needle, the turpentine, or the coat hanger.

SIMMONS: I want my constituents, just like you do, current and future, to have the best chance for life. That's what I want. Thank you, ma'am.

S. THOMPSON: Well don't you also want them to have—don't you want them also to have their chance to have a choice? Because even God gives us a choice to serve him or not to serve him. There's a choice.

REPRESENTATIVE CANALES: Ms. Thompson, you've discussed rape and incest, and when there's a baby, as a result of incest or rape, inside a woman, wouldn't you consider that an ongoing assault?

S. THOMPSON: I consider it an ongoing assault and I also consider the child who was born who has to live with that scarlet letter on them for the rest of its life.

CANALES: You know, this house has discussed many options, and I can stand here and tell you that I'm not opposed to a limited ban at 20 weeks, but I'm opposed to all the other stuff in this bill, and I'm opposed to the people not accepting rational amendments like this. And one of the things is how could this occur, why wouldn't she be able to make a decision before 20 weeks?

S. THOMPSON: It's difficult, but you know what I'm also concerned about? People who have a right to be pro-life and I fight for that right for them, but they do not support the right for their child to have prenatal care, postnatal care, a decent housing, educational opportunities, jobs, and things. Those happen to be rights that goes along with life and they fight for those kids to have those rights.

LAUBENBERG: Okay members, I have moved to table this amendment. As you heard, there is now no restriction on how far along the pregnancy is and, again, this bill is focusing on that at five months that baby will feel the pain of abortion. So at five months, six months, nine months, that baby will feel the pain of abortion, and no one denies the seriousness, as I have spoken before, of what rape and incest does to a woman. That is still in the law now. That is legal and will continue to be legal. When this bill passes, the woman will have the ability to have an abortion for five months. And at five months and beyond, we are now talking a child that can feel that pain. And so, respectfully, Ms. T., I move to table.

CANALES: Ms. Laubenberg, this amendment deals with rape and incest and I understand what you're saying, but who feels the woman's pain? Who feels her pain?

LAUBENBERG: She will feel the pain. She will—

CANALES: For life. Let me ask you a question. Not long ago there was an incident where two young ladies were locked up and held hostage in Cleveland, Ohio, later to be found they were multiple times pregnant. What would happen in their case where they would have gotten out, let's just say right after 20 weeks. You don't think an exception like this makes sense for someone like that and her pain? Her being housed and raped and held hostage? My question to you is what do we do for their pain? This house, Representative, needs to consider logical exceptions and for you to move to table this, you're not even considering it. Why won't you consider this amendment?

LAUBENBERG: Representative Canales, we do have rape and incest. Now we are talking five months, six months, seven months, nine months, the day before a child would conceivably be born. There is the provision for rape and incest.

REPRESENTATIVE MOODY: Representative, you understand that under the federal law anything after 24 weeks is really not an option except under very extreme circumstances. Correct?

LAUBENBERG: I'm sorry, Representative Moody. What was—

MOODY: So under federal law, you understand that, which applies to us here. What this amendment is really looking at is not going after seven, eight, nine months, the day before birth. I think that's incorrect characterization of this

amendment. What we're looking at is likely—what we're looking at is four weeks. Four weeks on top of what is included in the bill already as an exception there. That's unacceptable to you?

LAUBENBERG: Representative Moody, I'm not advised.

MOODY: You're moving to table it, so it's not acceptable to you.

LAUBENBERG: I'm moving to table this amendment based on the fact that at five months the baby will feel the pain of that abortion.

MOODY: You know, I've—and we've had this discussion before. I've actually, and I know that you've met with people, you've talked with people that have been the victim of rape. I brought that rape kit for an example today because I think we need to really get a handle on what situation we're talking about. I want you, at some point—and I know we have a long day ahead of us—to look in there so you know what it actually does, and the violation that a woman has to go through to get to that point. Look at the type of examination that's going to happen to her when—if she's brave enough, if she's willing to go to the doctor in enough time, I want you to look through there. It's not a fun thing to look through. I've presented evidence like that in court, where women have been violated, and I know the difficult decision that it takes for them just to get to the door of the doctor, just to get to the door of the courthouse to stand and face their assailant. And what this amendment does is asks for four additional weeks, when you take it in context with federal law, to look at this exception for rape and incest. Is that unacceptable to you?

LAUBENBERG: Representative Moody, again, we know what a child is going through, we know what a woman goes through to end the life of a five month old. They can feel the pain. We still have rape and incest that is—

MOODY: So the extension from 20 to 24 weeks, which is what this amendment would do, is unacceptable to you?

LAUBENBERG: I've answered your question, Representative Moody.

MOODY: How about, would you accept an amendment at 23 weeks for rape and incest?

LAUBENBERG: Representative Moody, I'm talking about this amendment, and no, I would not accept that.

MOODY: So, what about 22 weeks? Are we going to have a real discussion about a very serious topic in that we are essentially debating four weeks in the most extreme cases of rape and incest? Is that something that you are willing to even discuss?

LAUBENBERG: Representative Moody, this is why we are here. We're having a discussion on this whole issue.

MOODY: So 24 weeks, you've moved to table, that's unacceptable. Is 23 weeks acceptable?

LAUBENBERG: Representative Moody, my position is still the same.

MOODY: 22?

LAUBENBERG: It is still the same.

MOODY: Okay. Thank you.

REPRESENTATIVE BURKETT: Representative Laubenberg, this is specifying, that amendment, if the perpetrator has to be reported or charges made against that person before they can claim rape before an abortion.

LAUBENBERG: No, I believe it does not.

BURKETT: Okay, additionally, I know that the main purpose of this bill with you was the fetal pain portion of the bill and the fact that the baby feels pain in the womb at 20 weeks and on, correct?

LAUBENBERG: That is correct.

BURKETT: And Representative Thompson was very gracious to give us a description of a rape. Can you give me a description of what happens to a baby after 20 weeks, for the four-week period, if the woman decides on abortion? How does that happen?

LAUBENBERG: What is involved in aborting a 5-month-old?

BURKETT: Correct.

LAUBENBERG: Well, I have here a testimony from a doctor, Anthony Levatino, who spoke at the U.S. House of Representatives, and he describes that at five months the procedure begins with: "The first instrument you reach for is a 14-French suction catheter. It is clear plastic and about nine inches long. It has a bore through the center, approximately 3/4 of an inch in diameter. You introduce this catheter through the cervix and instructing a circulating nurse to turn on the suction machine. What you will see is a pale yellow fluid that looks a lot like urine coming through the catheter into a glass bottle on the suction machine. This is the amniotic fluid that surrounds the baby to protect the baby. When the suction is complete, you then use a Sopher clamp. This instrument is about 13 inches long and made of stainless steel. At the end of it are located jaws about 2 1/2 inches long and about 3/4 of an inch wide with rows of sharp ridges or teeth. This instrument is used for grasping and crushing tissue. When it gets a hold of something, it does not let go. A second trimester D&E abortion has begun. Since the baby can be in any orientation or position inside the uterus, you are grasping at anything you can. The uterus is thin and soft, and it is subject to potential perforation or puncturing of the walls. The toughest part of a D&E abortion at that stage is extracting the baby's head." At that age the head is about the size of a large plum and is now floating free after you have crushed and pulled out the parts, so it leaves the head floating inside the uterine cavity; "you will know you have it right when you crush down on the clamp and see white. . ." My point is that the pain—and I move to table.

S. THOMPSON: I'm not going to accept any questions at this time, but I will yield to my colleague. Members, I'm going to just tell you this—I've seen so many of you fight for the First Amendment and how important that First

Amendment right to you to fight for. I've definitely seen you fight for the Second Amendment, where you embrace so much, but don't you think the Fourteenth Amendment that a woman's choice is important, too? Or do you want her to go to the back alleys where somebody's going to be taking an object and jabbing it and jabbing it and jabbing it up into her uterus until that child is dead and an abortion takes place and she's standing there, hemorrhaging and there's not even a hospital within a 30-mile radius for her to get to and she dies? Have you thought about that? Have you thought about how you drive women back to the coat hanger days, where the illegal abortion has taken place and they still going to take place because they cannot afford to raise the money to go and have a legal procedure performed, but they go into the back alleys of those persons who are supposed to have some kind of expertise and they perform—and they perform the illegal abortion so that those persons who could not afford to travel to those clinics, those five little remaining clinics that will be left down, and what do they do? They go and they take the coat hanger method as a means of eliminating rape and incest.

And what you're telling me is it's all right within the 24 months, which is legal by the federal government, for you to have any kind of procedure, but if you happen to be raped or if you happen to be a victim of incest, then you don't think it's all right. Just let the daddy be the grandfather and the father, too. Let the uncle be the father and the uncle. Let the stepfather be the stepfather and the daddy, too. Have you decided that what you're going to do to those persons who happen to be poor and cannot travel? Who don't have the money to access the facilities where they can go and have this procedure done? Have you considered the amount of time and the money that it costs, that they don't have? And what you're doing is you're making a class separation here for the wealthy who can afford it, they can travel anywhere in the United States, within the state, and for the poor, you just have to be up a creek without a paddle. And you can go to the back alleys where the coat hanger is used, or you can go to the back alley where they can take a knitting needle and push and push and push and push until the woman hemorrhage and, hopefully, she may survive and she might become sterile as a result of it.

Women have a choice and we talked about fetal pain a moment ago, but the law of the land is viability. The law of the land is viability. The law of the land is viability, and it's not fetal pain because fetal pain happens to be something that is still an unproven medical term that they are trying to prove. But viability has been set in the law at the federal level that we recognize and 24 weeks have to be set there, and for those of you who happen to be mothers, you know, it took a while for you to determine that you were pregnant and it wasn't the next day. It took a while before you became aware of the fact that you were carrying a child, but members I'm asking you, are you willing to force these young women to carry the child of a rapist or an incestuous person? Are you willing for that? I hope that you are not. I hope that you would recognize the fact that you voted for this amendment last session.

Let me tell you this—I understand that the author is not wanting to accept this amendment, but I honestly believe that it is an important issue that must be addressed. Women have a right to have their choice. The law gives them that right. Women are not dumb and stupid. They know how to make decisions for themselves, and they're just not in need for the day to happen for this body to finally decide to make a decision for them because they've been making decisions all of their lives.

Just the thought of the word rape and incest by a member of the family is traumatic enough. Just the thought of a person being raped is a very traumatic experience. The unfortunate thing is, I know that you wouldn't want anyone in this state, or any part of the United States, to be a victim of rape and incest and I hope that this amendment goes on this bill because women have a right not to live as a victim for the rest of their lives because of the situation that has happened to them as a result of rape and incest. Women are victimized twice. First, by the act of force, forced rape or forced incest. And then they are victimized by the fact of having to carry that child. And then the child is victimized because society will never let that child live it down that they were result of incest, or they were the result of rape. In nine months, the woman is reminded of her rape because that child comes. That child is born. Every day when that child kicks in that mother's womb, she's reminded of the fact that she is carrying a child of an incestuous relationship, or a rape victim. Every time she has morning sickness she is reminded of the fact that she is a victim of rape or incest.

This is not an act of God, this is act of a violent, criminal act that has been perpetrated upon innocent people—the woman. And why would you want to victimize her twice and then live the rest of her life as a victim of rape and as a victim of incest? Why would you want to do that? Why would you want to force them back into the back alleys of illegal means of abortion and why would you want to force them to drink turpentine or to use a knitting needle in order to jab up in their uterus in order to be able to have an abortion because of the shame and the degradation that they feel and having been violated. This bill, in my opinion, is a bill that denies the women the right of choice and women, believe me, are intelligent enough to understand and they are intelligent enough to know that they can make the decision for themselves. Just because the law allows them that latitude doesn't mean that they may want to select it, but it's available to them and I think that that is the thing that we should be cautious of. The greatest level of evil is force. Force rape, force incest, and then you're going to force them to have a child, you're going to force them to do this against their will and that child is going to walk around with a scarlet letter on him or her for the rest of their lives. I don't think that that's fair. I think that's a violation of that person's constitutional right. The law allows them to be able to have these procedures. And why are you wanting to limit them and force them to be able to carry a child because of incest and let somebody be not only the father, but also the daddy? Not only does—

[Amendment No. 1 was tabled by Record No. 3.]

[Amendment No. 2 by S. Davis was laid before the house.]

S. DAVIS: Thank you, Mr. Speaker and members. I am offering an amendment very mindful and respectful of the deeply held religious and political beliefs that I know every member of this house has. This amendment is a relatively simple amendment. The amendment bans abortions at 20 weeks or later with four exceptions: health of the mother, severe fetal abnormality, rape, or incest, and given the debate that we just heard, I had anticipated that, and in terms of rape or incest it requires medical judgement that presents a possibility of serious self-harm or suicide and then it strikes the rest of the bill.

You have an opportunity to vote on a bill that I believe will actually be held constitutional. I believe that the bill, as it is drafted, is going to result in a de facto ban on all abortions. No matter where you fall, what side of the argument on this issue you are on, the truth is there is a constitutionally protected right and we are not debating this issue, we are arguing with each other. I don't believe that anybody on this floor is pro-abortion. This is not a republican issue versus a democrat issue. There were republicans that opposed this bill—well, one. There were democrats that supported this bill.

No one wants to see abortion. It is a horrible way to end a pregnancy, but it is a constitutionally protected right. And the case law indicates that there is a growing state interest in protecting that life the further a woman gets in her pregnancy. And I believe that if a woman is carrying a child to five months—I agree with Representative Laubenberg, and I agree with many of you, but that that woman had a choice earlier that she could have made and five months is probably too long with some exceptions. So I will ask—I know that this motion will be argued to be tabled—I will ask you to vote against the motion to table. And we've already heard this in the debate last session and probably for the rest of the day, but this bill, as drafted, is opposed by essentially—this bill, as it is drafted, is opposed by pretty much the entire organized medical community and I believe it's because of the parts of the bill dealing with privileging, privileges for physicians and the ambulatory surgical center standards. So, I ask that you actually vote to make a difference because I know that's why we're all here. I would ask that you put policy over politics. This debate is not about anyone's primary. This is about passing legislation that protects women and the rights of the unborn in a responsible and constitutional way.

P. KING: I wanted to make sure, there was a little confusion on the last amendment and your amendment is virtually identical in substance to that of Representative Thompson's, and the statement had been made previously that we had voted last session for a rape and incest exception. Would you agree with me that that exception that we voted for on the sonogram bill was not an exception to abortion, but would you agree with me that that was simply an exception to not have to take the scan?

S. DAVIS: First, I will say that my amendment is not identical to Chairman Thompson's amendment.

P. KING: But it is a rape and incest exception?

S. DAVIS: It includes health of the mother, severe fetal abnormality, and rape or incest. Those are the four exceptions.

P. KING: And fetal abnormality's already in the current bill. Is that correct?

S. DAVIS: Yes. As defined in the current bill, there's no part of my amendment that redefines it. It's defined as in the current bill.

P. KING: So, essentially your amendment, the only change that it really makes is with regard to rape or incest. Is that correct?

S. DAVIS: And health of the mother. Yes. And it strikes the rest of the language of the bill. So it strikes the—

P. KING: Would you agree with me that there is no current exception for rape or incest, no exception to an abortion for rape or incest in Texas law and that the amendment we voted for on the sonogram bill was simply an exception for rape and incest to submitting to the scan. Would you agree with me on that?

S. DAVIS: I believe that federal law actually prohibits third trimester or late-term or partial birth abortions regardless.

P. KING: That is correct.

S. DAVIS: And, as far as the amendment, you're asking me if the amendment on the sonogram bill to allow women who have been victims rape or incest—

P. KING: I just want to clarify that the rape and incest exception—that we do not have a current rape and incest exception in Texas law and we did not vote for one last time on the sonogram bill. That all that was was an exception to the scan.

S. DAVIS: I believe that the exception on the sonogram was, in fact, to exempt a woman who was a victim of rape and incest from having the sonogram.

P. KING: That is correct, from taking the scan. That is correct. One other question. You mentioned when you were laying out your amendment, you mentioned that virtually the entire medical community opposed **HB 2**, but isn't it correct also that five of the six physicians—

S. DAVIS I believe that the organized medical community, including the Texas Medical Association, the Texas Hospital Association, ACOG—

P. KING: I believe TMA, the Texas Medical Association, was neutral on this bill, were they not?

S. DAVIS: They wrote a letter in opposition and I'm happy to print that off.

P. KING: I believe they registered in neutral on the bill. And is it also correct that—

S. DAVIS: That's not to say that that is the opinion of every doctor because I've watched the testimony and there are plenty of physicians, including physicians on this floor—

P. KING: Well, certainly. There are five of the six physicians in this body have voted for this bill in the previous session.

S. DAVIS: Absolutely.

P. KING: You mentioned also, you said that five months may be too late for—

S. DAVIS: I believe that it is.

P. KING: I believe your exact words were five months may be too late for the child, to abort the child. Would you agree with me that at five months, I know a lot of people have a lot of disagreement when is viability and what is it in the womb at three months, two months, there's disagreements with that, but would you agree with me that at five months by any medical or ethical definition that this is a baby in the womb?

S. DAVIS: I am not a physician. I cannot give any medical advice, but I can tell you personally that I think—

P. KING: I'm just asking if you would agree with me—this is your amendment to allow these abortions, so I'm wondering would you agree with me that at five months that is a baby in the womb?

S. DAVIS: When I think of a woman carrying a child to five months, I see a baby when I look on that sonogram. I do and I have seen and—my role as serving on Public Health, I have visited hospitals all over this state and I have seen, I have seen babies born at 22 weeks and they have fingers and toes. I am deeply sensitive to this issue regardless of what you may think—

P. KING: I know you are, I'm not disagreeing with that.

S. DAVIS: —and I think that there has absolutely got to be some exceptions because we cannot—

P. KING: Would you also agree with me in this? Since you've agreed that that is a baby in the womb at five months, would you also agree that that baby does not know whether it is was a product of rape or incest or a loving family? Would you agree with that?

S. DAVIS: I would assume not, but I—

P. KING: Thank you.

REPRESENTATIVE WU: Representative Davis, you said earlier that the right to have an abortion is a constitutional right. Is that correct?

S. DAVIS: I believe that—and I'm not a constitutional scholar, but I do believe that it is a protected right through case law handed down by the United States Supreme Court.

WU: I'm not a constitutional scholar either. I think maybe we're just both two simple country lawyers. But, here's the thing—

S. DAVIS: Well, I'm not a former prosecutor.

WU: Do you know that the right to have an abortion was established by the U.S. Supreme Court exactly 40 years ago in *Roe v. Wade*?

S. DAVIS: I am aware of that.

WU: And the U.S. Supreme Court, in their decision, equated the right to be able to control and make a decision—Representative Davis, do you know that the U.S. Supreme Court stated that even though it is not specifically spelled out in the Constitution of the right to control someone's reproduction, it is a constitutional right? Do you understand that?

S. DAVIS: Yes, I believe it falls under the construct by the court of the right to privacy.

WU: Absolutely. And this right to privacy, the court notes, actually comes from both the First Amendment, the Fourth Amendment, the Fifth Amendment, the Ninth Amendment, and the Fourteenth Amendment. Does that sound about right?

S. DAVIS: Yes, sir.

WU: And because this is a fundamental right, it requires a compelling interest to overcome this high hurdle. Does that sound about right?

S. DAVIS: Yes.

WU: And not only does this have to be compelling, laws that are passed have to be what we call narrowly tailored. Is that correct?

S. DAVIS: Yes.

WU: Do you know that other courts around the United States have already ruled on the parts of the bill that you are looking to strike out?

S. DAVIS: I believe that there have been rulings that have held these parts to be unconstitutional.

WU: Not just a few rulings. Did you know that Wisconsin, not more than one day ago, struck down the law, put a temporary injunction on the law stating that it is likely to be found unconstitutional. Judge Conley, in his decision, wrote, "There is a troubling lack of justification for the hospital admitting privileges required under the law," adding, "moreover, the record to date strongly supports a finding that no medical purpose is served by this requirement.

S. DAVIS: Yes, sir, and I think that's especially true in the State of Texas because current law already requires that any physician that's performing abortion services has to either have privileges in a local hospital or have what's called a transferring agreement with a physician that has privileges in that hospital.

WU: Absolutely, and do you know that the State of Alabama has also enjoined this exact same law? Do you know that the State of Mississippi has enjoined and stopped this exact same law? Right?

S. DAVIS: That's what I've read.

WU: And your amendment also strikes out a part of the bill that talks about RU-486, or the application of medical abortion, is that correct?

S. DAVIS: Yes, it strikes all of the bill except for the 20-week ban, because I've never—I have consistently, since my last term, which was my first term, voted against interference in the physician-patient relationship and as conservative

colleagues of mine on the floor have consistently said that they believe in that. I don't think the legislature should be practicing medicine—we do have some physicians here.

WU: You know the Oklahoma Supreme Court agrees with you, too. The Oklahoma Supreme Court in striking down the provision that controls the taking of medical abortion, of chemical abortion, dealing with RU-486 and related type of drugs, actually said that the challenged measure, which is almost word-for-word exactly the same as this bill, "this challenged measure is facially unconstitutional," end quote.

S. DAVIS: Yes, sir, and that's really the point of my amendment because I believe that this body is getting ready to pass legislation that is unconstitutional, but I, like everybody on this floor, I believe, care about the rights of women and the rights of the unborn, and we want to do what we can to protect them within the confines of the Constitution.

WU: Absolutely, and do you know the North Dakota Supreme Court also agrees with you? In striking that same exact provision in their state, they stated that "the legislative mandate, the physician's fault is badly flawed and outmoded FDA protocol would force them to expose their patients to unnecessary risk, to abandon current standards of care, and to compromise fundamental canons of ethics." They added, "the judges found the lack of exceptions troubling, calling the absence of a health exception unacceptable and the lack of an exception for victims of rape and incest unconscionable."

S. DAVIS: Yes. And earlier it was indicated that the Texas Medical Association registered as neutral and we've just double checked and that's not true. This language is opposed by the Texas Hospital Association, and ACOG, and the Texas Medical Association. Although I agree that not every practitioner is opposed.

WU: Absolutely. Were you watching—did you observe any of the house committee hearings?

S. DAVIS: I did.

WU: Okay, and do you remember the Texas Hospital Association came and testified?

S. DAVIS: I did, and if I remember correctly, to paraphrase the testimony, is essentially the physicians would not be given these privileges for reasons such as the hospitals cannot—

WU: Absolutely.

S. DAVIS: —they're not overseeing what these doctors are doing. So, I think that's kind of the real problem with the bill, is the privileging aspect. And Chairman Turner spoke extensively about it in the house hearing, because if a physician cannot get a privilege, get privileges, which the hospitals said they will not, then there will be no abortion services in the state, regardless of whether or not you have five ambulatory surgical centers that can perform abortions or five hundred.

WU: Representative Davis, can I ask you, you represent the medical center in the city of Houston, don't you?

S. DAVIS: I represent the world-renowned Texas Medical Center in Houston, Texas.

WU: In your time there, Representative, in that district, you've had a lot of time talking to medical experts, doctors, physicians, etc.

S. DAVIS: Yes.

WU: And you understand, basically, how admitting privileges work.

S. DAVIS: Yes, I do. I'm not an expert on it, but I do.

WU: So, basically it is solely up to the discretion of the hospital.

S. DAVIS: Yes.

WU: They can deny admitting privileges for any reason, even if it's unconstitutional.

S. DAVIS: That's correct.

WU: Okay, even if the admitting privileges would cause a de facto ban on abortion in Texas. Even if that happens, it's up to them.

S. DAVIS: That's correct, and I think that that sets up the undue burden that the Supreme Court has said in *Planned Parenthood v. Casey* that is unconstitutional.

CHAIR (Speaker pro tempore in the chair): Members, we need to confine our debate to the amendment before us. We would request that your questions be on the amendment that is before the body. Thank you.

WU: Parliamentary inquiry. Is a discussion on admitting privileges germane to an amendment that removes admitting privileges requirement from the bill or from the amendment?

CHAIR: As a general question, yes, but it depends on exactly what the amendment covers, Mr. Wu. If you want to come down and have a discussion, I'd be proud to do it.

WU: Absolutely, sir. Is it my understanding that if the bill is still on the floor, we can still have discussions about the bill itself even if we're on an amendment?

CHAIR: No, Mr. Wu. The discussion has to be on the amendment before the body.

WU: Would you be able to point me to which part of the rules states that?

CHAIR: Give us a moment. We'd be glad to. Mr. Wu, Rule 5, Section 27 states that the debate is for this purpose may speak, I'm sorry, shall have the right to open and close the debate. The mover of any proposition in that it must be on the issue in front of the body, Mr. Wu. So it's Rule 5, Section 27.

WU: Is the issue before the house the bill itself, or has it been withdrawn?

CHAIR: Mr. Wu, Representative Davis has been recognized on her amendment, so what's before the body is her amendment, Mr. Wu.

WU: Is it to your understanding, is that Representative Davis' amendment strikes out a provision of the bill?

CHAIR: It does, Mr. Wu.

WU: And what provisions of the bill does it specifically strike out?

CHAIR: Mr. Wu, you can direct your substantive questions to the author of the bill.

WU: I'm trying to figure out what I can and cannot ask and whether or not it's germane. I've been told just now that asking about admitting privileges—

CHAIR: Mr. Wu, you were asked to keep your questions to the amendment. Nothing was specifically stated to you as to whether you could or could not ask other than pointing out that we request the members, when they are questioning authors of amendments, that they keep their questions on the subject of the amendment before the body.

WU: Thank you for clarifying, Mr. Speaker.

REPRESENTATIVE MARTINEZ FISCHER: Mr. Speaker, I'm trying to understand the interpretation you gave the body under Rule 5, Section 27. Could you repeat that for me?

CHAIR: Certainly. What our statement is, is that under the rules, debate is limited to the proposition before the house. And at this time, the proposition before the house is the amendment laid out and being debated.

MARTINEZ FISCHER: And that is the chair's reading of Rule 5, Section 27?

CHAIR: Yes, sir.

MARTINEZ FISCHER: Rule 5, Section 27 pertains to the mover of a proposition, so who is the mover of a proposition in this exchange between Representative Wu and Representative Davis?

CHAIR: Representative Davis would be the mover of the proposition.

MARTINEZ FISCHER: So, Mr. Speaker, if Rule 5, Section 27 applies and only applies to the mover of the proposition, why is Representative Wu limited in his ability to debate under Rule 5, Section 27, which pertains specifically to the right of opening and closing a debate, but nothing about the debate itself?

CHAIR: Mr. Martinez Fischer, we would also direct you to Rule 5, Section 22 that also requests that they address the house from the microphone and from the reading clerk's desk and shall confine all remarks to the questions under debate, avoiding personalities.

MARTINEZ FISCHER: Shall confine all remarks to the question under debate, avoiding personalities.

CHAIR: Correct. That's the final sentence. It's not the entirety of that rule.

MARTINEZ FISCHER: So that we're clear, we're not talking about Rule 5, Section 27, as it was initially brought to the body's attention; we're really confining this debate based on the rules under Rule 5, Section 22?

CHAIR: Actually, Mr. Martinez Fischer, we're talking about both, because Rule 5, Section 22 and Section 27 address what the individual laying the proposition out and what the individuals from the back mic may keep their comments to.

MARTINEZ FISCHER: Section 27, under Rule 5, has nothing to do with the back mic.

CHAIR: I understand, and that's why we also were pointing you to Section 22 and Section 27, both sections.

MARTINEZ FISCHER: And under Rule 5, Section 22, as it pertains to the back mic, this is a rule that addresses how members are to speak in debate. And when a member desires to speak or deliver any manner to the house, the member shall rise and respectfully address the speaker as Mr. Speaker or Madam Speaker, and upon being recognized, may address the house from the microphone at the reading clerk's desk and shall confine all remarks to the question under debate. Is there a reading clerk's desk at the back mic? Mr. Speaker, I know that there's not a reading clerk's desk at the back mic, I know the chair is advised that there's not a reading clerk at the back mic. I think this is a debate—it's a very divisive debate, it's very ideological, and if there's a moment where there is a debate, that the members have an opportunity to have a debate, I think it would be fair for the body to have that debate. There have been a number of instances where this debate has been arbitrarily cut off for good reasons or for bad reasons, but on the floor of this house, the members ought to have the ability to debate. And all I'm asking is for the chair to give some consideration to the members on the back mic to be able to ask the questions for the purposes of engaging the debate of the mover of any proposition, whether it be Representative Davis or Representative Laubenberg.

CHAIR: And certainly, Mr. Martinez Fischer, we agree with you, as long as those remarks are confined to the amendment or proposition before the body.

MARTINEZ FISCHER: And I think that obviously, Mr. Speaker, respectfully, we don't agree in that sense because that's not a requirement under the House Rules. That may be a request of the chair, but that is certainly not in our rules. Our rules govern our ability to represent our constituents on this floor. These are the rules that we draft, we debate, and we adopt every session, and I don't see a rule that says that.

CHAIR: Well, respectfully, Representative Martinez Fischer, we see Rule 5, Section 22 that specifically says "shall confine all remarks to the question under debate." It also, in Rule 5, Section 27, says that the debate shall be—the proposition—must speak on the proposition. And so, when you combine those rules, which they're under the same rule, Section 22, Section 27, it's been historically understood, because it's always been in the rules, that you speak to the proposition, otherwise known maybe as the amendment, before the body, Mr. Martinez Fischer.

MARTINEZ FISCHER: And, Mr. Speaker, respectfully, what if we blend all the rules? We have Rule 5, Section 25 that says you shall not interrupt a member when he has the floor. Representative Wu has the floor when he was interrupted

by the chair. And so if these rules all run together, then why aren't we objecting under Rule 5, Section 25 that Representative Wu was interrupted by the chair when he had the floor?

CHAIR: The chair has the right to enforce the rules of the house, Representative Martinez Fischer.

MARTINEZ FISCHER: Wonderful. Then under Rule 5, Section 25—

CHAIR: In fact, the chair has a duty to do that.

MARTINEZ FISCHER: And respectfully then, I would urge you in asserting your duty under Rule 5, Section 25 to not interrupt a member who has been recognized and has the floor from the back mic for the purposes of speaking in debate, which is not only in our house rules, it's also in our Texas Constitution.

CHAIR: Representative Martinez Fischer, but our rules limit the debate to the proposition in question and it is the chair's duty to enforce and govern those rules.

MARTINEZ FISCHER: And respectfully, Mr. Speaker, we can have two conversations because the substance of the amendment that's before us is striking the entire bill, which tells me, under the amendment, we can talk about anything that is being proposed to be struck under your narrow interpretation. So, under that aspect, if the chair's aware that the amendment pertains to the entire bill, how could Representative Wu, or anyone else's remarks, be improper for being outside the scope of the amendment?

CHAIR: Thank you, Representative Martinez Fischer. I think we all agree that we can have a good debate without putting personalities or personal issues into it and we look forward to continuing.

MARTINEZ FISCHER: Mr. Speaker, I appreciate your time. Thank you.

REPRESENTATIVE MENÉNDEZ: Representative Davis, I sat through many hours on the committee listening to the debate, the people testifying for and against, and when the representative for the Texas Hospital Association came before us, she specifically came before us to testify against the section that requires the privileges and she said that the hospitals did not feel that they would be inclined to provide—they couldn't be forced to provide admitting privileges. And so, in doing so, if we continue with the bill in its form, without your amendment, don't you agree that this bill has a potential to be unconstitutional?

S. DAVIS: Yes, absolutely. I think that whether we ban abortions by passing a law banning abortions or by passing so many regulations and restrictions that the result is a de facto ban on abortions, the result is the same, and I think that it will be held unconstitutional, and I think that—

LAUBENBERG: I respectfully move to table this amendment for the same reasons as the previous amendment: that there is no limit on the term of the pregnancy, there's no requirement to report to law enforcement, and again, it

inflicts pain on the child being aborted at five months and beyond. That this is not guaranteed to heal the pain and suffering that a woman has undergone through a horrible situation and I ask the members to stay with me. Thank you.

S. DAVIS: This has been a very constructive discussion that we've had today. As I said when I laid out this amendment, I don't think there is anyone on this floor, whether you are a republican or democrat, that wants women to have to have abortions. I think when a woman is faced with that decision, it's got to be one of the most difficult decisions that she would ever make. So you have an opportunity to pass legislation that will protect the unborn, which so many of you claim that you want to do. This amendment will ban abortions at 20 weeks. We've heard Representative Laubenberg talk about 20 weeks, five months.

I find it would be unusual that anyone would say it's completely tolerable to allow a woman to carry a child into the fifth month and then use abortion as a means of birth control because that is unimaginable to me, but there has to be exceptions and that is what my bill—my amendment—provides, and it strikes the rest of the language of the bill that I believe to be unconstitutional and will result in a ban of all abortions. Again, this is not a republican versus a democrat issue. I think we all want what's best and I know that we've been told just keep the bill clean, let's just fight off all amendments, but we are here and the nation is watching what we are doing today on the floor—not just the people in the gallery, but the entire country. So, now is not the time to play political football with women. Now is the time to pass good policy, good pro-life policy. So, I will ask that you vote against the motion to table.

REPRESENTATIVE ANCHIA: I just wanted to walk through the public policy balance that you're trying to strike here. You are not removing the 20-week ban in your amendment. Is that correct?

S. DAVIS: That's correct.

ANCHIA: You have included some reasonable exceptions to the 20-week rule that do not swallow the ban, but instead reflect the sense of a body that is trying to be sensitive to balancing the interests of a woman and balancing the interest of a fetus, correct?

S. DAVIS: That's correct. I think on this issue there is just no common ground and I would never ask someone to change their faith or their fundamental philosophy, but as a policy-making body often times we do have to find or at least try to find some common ground. And I think that this amendment and the bill that would result, is common ground because I don't think that anybody wants to see women using abortion as a means of birth control and let alone in such late stages of pregnancy, but that there has to be medical exceptions. The committee heard hours of testimony about how women's lives can be affected through pregnancy and there may be medical reasons why she has to terminate.

That 20th week is a benchmark in a lot of ways for some testing that goes on, that you can detect severe fetal abnormalities that you may not be able to detect until that 20-week mark, and so that's such a good exception it's already in the bill right now. So really, all I'm adding is the rape and incest exception that

Chairman Thompson spoke so eloquently about, and again, I want the body to read this. It requires a possibility of serious self-harm or suicide. So, if someone is presenting at 21 weeks wanting an abortion because they are a victim of rape or incest, they also have to present a possibility of serious self-harm or suicide in order to have that procedure done. I have done everything I can to make this bill as pro-life as I know this state is, but also embracing good policy and respect for women and the Constitution of the United States.

ANCHIA: And Representative Davis, just to underscore, you've had experience, while you're not a physician or a health care worker, you've had experience in this area, have you not? Through some of your public service, maybe your volunteer service, maybe what you have seen in the district that you represent?

S. DAVIS: Yes, I serve on the Public Health Committee, I represent the Texas Medical Center, I represent more physicians than any other state rep in the State of Texas, which is something TMA will always remind me of.

ANCHIA: So, from a moral perspective, in addition from a practical perspective, things that you see in medical science, the feedback that you're receiving from the physicians that you represent in your district, this seems like a reasonable approach balancing the interests—and for those members who consider that 20 weeks a bright line—keeping that in the amendment, but removing the other things in the bill.

S. DAVIS: The undue burdens that the rest of the bill puts in place in violation of federal case law under *Planned Parenthood v. Casey*.

ANCHIA: In order to make it constitutional, is that correct?

S. DAVIS: Correct.

ANCHIA: And Representative Davis, you are a lawyer and you are familiar with the case law and you believe that these changes would actually make it constitutional, is that right?

S. DAVIS: I think that it would definitely have a better chance at surviving a constitutional attack. Clearly, I think the courts are giving more—when I do an analysis of the case law—I think the courts are definitely leaning in the direction in favor of the state and the compelling state interest, and especially with science and medicine involved. You know, at one point the discussion was all about viability, but we can see that babies are viable earlier than they once were. So, viability is not necessarily the test, but I think the test is undue burden, and I think the U.S. Supreme Court has made it clear that states are prohibited from putting undue burdens to access. Now that doesn't mean that the state has to build facilities where women can get abortions, absolutely not, but we cannot create, legislatively, these barriers and essentially a de facto ban by requiring physicians to have hospital privileges, which the testimony in the record is that they will not be given those privileges, will result in the de facto ban, and thus the unconstitutionality of this legislation.

ANCHIA: And one of the further things I find attractive about your amendment is that it restores the decision-making authority to the physician, right? So, one of the things that your amendment does do is it allows the physician to call balls and strikes, not a member of the legislature, not a lawyer, but a physician who's been responsible for the care of that woman. It allows that person to call balls and strikes on whether there is a serious health issue that might arise and that's important. And I know you're aware of this statistic, but only 1.3 percent of all abortions that take place in the State of Texas take place after this 20 weeks, so we're talking about a narrow band of abortions. And then, secondly, 95 percent of those deal with the health of the woman and some serious health consequences. Is that not right?

S. DAVIS: I think that's absolutely correct, and I think it's also—and I may have mentioned this—but it's already state law that any abortion that is performed at 14 weeks or later must be performed at an ambulatory surgical center. So, there are laws on the books now meant to protect women and the environments in which they receive care. This is just going so far to the point where there will be no care.

ANCHIA: And just to underscore for the body, for the people in the gallery, for the people who are watching at home, you are actually for a ban at 20 weeks with reasonable exceptions, and people who vote for your amendment are still going to be voting for a ban on 20 weeks with reasonable exceptions.

S. DAVIS: That's correct. I think—I'm offering this amendment, I will be voting for this amendment, and I hope that everyone here can support this amendment and if you are truly serious about making good policy decisions, this is the amendment to support. If you care more about politics and your next primary election, quite frankly, then you're probably just going to agree to move to table this, but this, I think, is the best policy on this issue, which is such a controversial and personal issue and it is hard for me to even discuss it.

[Amendment No. 2 was tabled by Record No. 4.]

REPRESENTATIVE GIDDINGS: Mr. Speaker, parliamentary inquiry. The House Rules provide for a dividing of the question in Rule 5, Section 43. Is that correct?

SPEAKER (Speaker in the chair): Yes, that's correct.

GIDDINGS: How would I get that motion before the house, sir?

SPEAKER: Ms. Giddings, you would request to be recognized for that motion.

GIDDINGS: So, I just need to approach the speaker? I should just approach the speaker?

SPEAKER: That would be great. Come on down.

[Amendment No. 3 by S. Turner was laid before the house and was withdrawn.]

[Amendment No. 4 by Menéndez was laid before the house.]

MENÉNDEZ: Members, this amendment is hopefully an amendment that really would not be necessary. And the reason I explain it this way is because in the bill, as drafted, there is a one year implementation grace period for these clinics to get up to the ambulatory surgical standards. And so, through the many, many, many hours of debate and testimony that we've had on this bill, I've heard both from the author and its proponents of the bill that the reason we have **HB 2** is that we're trying to improve the women's health that are going through or making these decisions. And so, my concern is that, just like the bill has a safety net—and the bill's safety net is that if any part of the bill is found unconstitutional that that part be severed from the bill and that the rest of the bill continue—well, I'd like to add a safety net for the people that are going to be affected by this bill.

For the women that live in rural parts of Texas, whether it be the Valley or it'd be El Paso or any part of Texas, where there currently is a women's health clinic where she can receive a health screening, a mammogram that's affordable, a cervical cancer exam, whether she can find out if she is pregnant in the first place or not, whether she may actually go for an abortion. If the bill after one year actually closes the clinic that is close to her, I would like the state to help provide for her ability to be reimbursed for those costs. And so, the author of the bill says that this is not intended to further restrict or even eliminate the ability of thousands of Texas women to seek the medical health care. But if, for whatever reason, it actually does, then I think the state needs to step in because we are putting an undue burden on women, particularly in rural areas of our state.

Currently, let's say in El Paso, there is one clinic. If that clinic were to close, we are expecting a woman to drive or fly the 600 miles, at her own expense, because she will have no other place to go? So, I think that hopefully the author of the bill will see that this amendment would only apply if those clinics actually close. And so, hopefully we have nothing to worry about because I've heard that this bill will not close clinics, and if that's the case, then this reimbursement will not be necessary. But if it does actually close clinics, well, then those women deserve the right—and the reason that we have 30 miles is that's the same distance that the bill provides that a doctor must have access, within 30 miles of a hospital. It can be no further. So, we use that same 30-mile distance that our constituents have to be no further from a clinic in order to provide or receive the services, or that the state should step in and help them if we really do not want to cause a new undue burden on these women that, really, otherwise receive no health benefits or health screenings or medical care or contraception. Because I think in many cases, just like it was said earlier, none of us here are pro-abortion.

What we would like to see is that women have the ability to receive health care, and in many cases that means prevention of an abortion by prevention of a pregnancy. And so, in many cases in rural Texas there may be a situation where a woman might have five or six children already, and maybe she has an abusive husband who will not use contraception, and this clinic may be the only place she can avail herself to an ability to prevent herself an abortion—to prevent an unwanted pregnancy that would possibly end in an abortion.

So, members, I think that this is a common sense safety net for our constituents, for all of our constituents. If the state really believes that we will not close any of these clinics, that then we shall not create new undue burdens or any harm to our constituents, that we're going to step in and say if we've taken away your only place where you can avail yourself of medical care, that we will help you provide that care. And with that, I would hope that the author will find this an amendment that she could accept, and I will yield for questions.

FARRAR: So, correct me if I'm wrong, but what you're trying to do with this amendment is to take away some of the undue burdens that have been expressed in the discussion on this bill.

MENÉNDEZ: The attempt of this bill is a safety net for our constituents, because not all 26 million Texans live in Austin, Houston, San Antonio, or Dallas. For those people who currently are served by a clinic in a rural part or in El Paso or the Valley, if their clinic goes away—and we've been told that the intent of this bill is to not to have clinics go away. So, if the clinics do not close their doors, this bill won't be necessary. If the clinics cannot meet the new requirements, then we'd like to have a safety net. I'd like a safety net so that the women of Texas can somehow know that they don't have to quit paying the rent, paying for their kids' shoes, pay for things they have to pay above getting their medical care.

FARRAR: So, in response to some of the constitutional concerns that have been raised, this would—and I'll note how narrowly tailored this is as well—but this would address some of those concerns if folks share that concern.

MENÉNDEZ: Well, exactly. The courts have been ruling that in some cases these undue burdens placed on women unnecessarily create problems for the courts. And, quite honestly, I'm not a lawyer, and, therefore, my concern is not so much with what the legal case may be, but I do believe that the courts will look unfavorably on undue burdens. If we say in the Valley section of Texas there's a million people, and they're expecting of those million—maybe half a million are women—that they have to travel to San Antonio to receive the care that they used to get in a clinic, and they close, that because of this bill, because they couldn't meet the new standards, then we, as a state, should step up and say it wasn't your fault that we passed a bill that took your clinic away.

FARRAR: You are aware that under this bill there would be no facilities in existence south of I-10 and west of I-35? In other words, Lubbock, El Paso, McAllen, Corpus Christi, Lufkin, those folks in those places would not have access.

MENÉNDEZ: It is my understanding that of the 47 or so clinics that exist—30, 42, 47 clinics that exist today—that only five of them meet the requirements of the bill that is being proposed today. So, if the bill goes into law, the rest of them will have one year to get up to the standard. And, if in that year they cannot afford to meet those new standards, if they cannot afford to make the changes to become an ambulatory surgical center, then they will have to close their doors. So no one is saying—I'm not sitting here hypothetically saying they will close, they

won't close. All I'm saying is if they do close, and we take away the only place, the only clinic where someone in a rural city, whether it be Lubbock or El Paso or the Valley, wherever, then we, as a state, should say we did this and we need to step up and help you with your cost.

FARRAR: Right, so you created the problem and we're going to fix it, just in case. This is a safety net, and if it doesn't have an effect of closing these clinics, then there would be no need for this, correct?

MENÉNDEZ: Absolutely. It is only a safety net for women who are too poor or that don't have the financial resources to do this on their own, because there are people who cannot. There are people who this bill will never affect because they will just go wherever they can or need to avail them of the services they want.

FARRAR: Right. And for those folks that think that this would be something that people might take advantage of, I just want to note the language of your amendment. On line 15, it talks about an application. So, you don't automatically get this, correct?

MENÉNDEZ: Oh, it's an application for reimbursement, and so, it's not like you're getting paid ahead of time.

LAUBENBERG: Mr. Speaker, I move to table this amendment in that first of all, the abortion procedure is elective and Representative Menéndez thinks that you don't have access in the rural communities. But, right now if I read to you, Abilene—the 42 abortion clinics that are in operation today are in Abilene, Austin, Austin, Austin, Bryan, Corpus Christi, Dallas, Dallas, Dallas, Dallas, Dallas, Dallas, El Paso, Fort Worth, Fort Worth, Fort Worth, Fort Worth, Harlingen, Houston, Houston, Houston, Houston, Houston, Houston, Houston, Houston, Houston, Houston, Houston, Killeen, Lubbock, McAllen, Midland, San Angelo, San Antonio, San Antonio, San Antonio, San Antonio, San Antonio, San Antonio, San Antonio, San Marcos, Stafford—suburb of Houston—Waco, and Houston. Not one of these clinics that Representative Menéndez speaks of is in a rural community. But currently, under statute, the office of a physician, if he does less than 50 abortions a year, can provide abortion services to a client. So, this amendment is not necessary, and I would move to table it.

SIMMONS: Actually, it's a series, but it's really one big question. Ms. Laubenberg, is it true that there's about 75,000 abortions done in Texas in the most recent statistics for a year's time?

LAUBENBERG: Possibly, yes.

SIMMONS: Somewhere in that neighborhood. And I think that I've heard several times that there's approximately 42 abortion clinics in Texas, is that correct?

LAUBENBERG: That is correct.

SIMMONS: So, if we did the simple math, that means if you just averaged them out about 1,800 abortions are done per clinic, if you divide that out. Now, we understand some more are done in some clinics than others, but on average 1,800.

And I don't know what the price is, but just doing some study on the—just looking up some things, that the average abortion could be somewhere between the $500 to $1,000 range?

LAUBENBERG: Yes.

SIMMONS: So, if we take those numbers even further, and so a clinic that does 1,800 abortions at say $750, that's about $1.5 million on revenue they're generating. Would you agree with that?

LAUBENBERG: Yes.

SIMMONS: Hence, the upgrades, while I don't know exactly what they'll cost, but I think I've heard some numbers say it'll be $100,000 or less. So, is what some of the opponents are saying, or what Representative Menéndez might be saying, is that someone that has a $1.5 million revenue stream would not spend $100,000 in an upgrade facility to keep that $1.5 million?

LAUBENBERG: Doesn't make sense to me.

SIMMONS: I just can't imagine that. I mean, I don't know all the answers, and I'm not a lawyer, but I do know numbers, and it just seems like to me that if I have a revenue stream, I have to make an investment, I'm going to make that investment if the revenue stream generates it. And at $1.5 million, I can't imagine why these clinics would not do that. Would you agree with that?

LAUBENBERG: I would absolutely agree. They're putting profit over the patient. Yes.

SIMMONS: Thank you.

REPRESENTATIVE M. GONZÁLEZ: Representative Laubenberg, do you know how far El Paso is from Austin?

LAUBENBERG: I don't know the exact mileage.

M. GONZÁLEZ: Well, around about—if this bill were to pass there would be no abortion clinics in El Paso, meaning that a woman in my district would have to travel over 1,000 miles round trip to an abortion clinic. So, my question is, understanding that there are going to be some geographical concerns when it comes to the implementation of this bill, why are you so against this amendment?

LAUBENBERG: Representative González, your statement that the abortion clinic will close, and you just heard what Representative Simmons said, that they are not going to be forced to close, that they make a significant profit and that they will have until September 2014 to upgrade their standards. And, because of the distance in El Paso, I would think that they would want to provide a higher quality standard of care for the patient.

M. GONZÁLEZ: But this is saying in a hypothetical world the clinics would do this. It potentially leaves at risk women in my district, because if these abortion clinics do not do what this bill now requires, a woman in my district will have to travel over 1,000 miles. And, let me tell you, my district is one of the most low

income districts in the state. So, if Representative Menéndez's amendment supports the women in my district, instead of going to Juárez, Mexico to get an abortion, that they could go to a safe facility here in Texas.

LAUBENBERG: Representative González.

M. GONZÁLEZ: Yes, ma'am?

LAUBENBERG: You are speaking in hypotheticals, and there is nothing in this bill that will force the clinic in your city or El Paso to close.

M. GONZÁLEZ: But there's nothing in the bill that will force them to make these changes, thus could close down the clinics in my district. Thank you.

MENÉNDEZ: Members, basically what we've heard is that this amendment is not necessary because these clinics will make the upgrades. Well, then there is nothing to fear in the amendment. There should be no reason not to take it because if it's not necessary, if it will never come into play, well then what is there to fear? So, if you can put a severability clause in order to give it a safety net in case parts of the bill are found unconstitutional, why can't we give people a safety net? Why can't we give our constituents, the women who may be, may be adversely affected by the undue burdens of a clinic closing, why can't we give them a safety net, even if you think it's not necessary? So, with that, I would ask you to vote against the motion to table, and I yield if there is a question.

WU: Representative, you're not an attorney?

MENÉNDEZ: Pardon me?

WU: You are not an attorney?

MENÉNDEZ: I do not—I am not a lawyer.

WU: Okay, thank you. I don't know if you know this, but in *Planned Parenthood v. Casey*, the United States Supreme Court said that the state may not put undue burdens on women being able to exercise their constitutionally protected right to have an abortion. Are you aware of that?

MENÉNDEZ: I am aware of that, yes.

WU: Thank you. Now, what part of the state do you represent?

MENÉNDEZ: San Antonio.

WU: San Antonio. Have you traveled the other parts of the state?

MENÉNDEZ: Absolutely. I've made the very long and tedious drive between here and El Paso, which is almost nothing but desert.

WU: Now, you've heard advocates for hospitals say that if this bill goes into effect as is, that hospitals will not be willing to admit doctors who perform abortions externally into their hospital.

MENÉNDEZ: The representative from the Texas Hospital Association said that they could not see themselves giving the privileges because they would be concerned with the liability of what the doctor would be doing in their own clinic;

so therefore, they don't see the circumstances under which they would do that, and, therefore, creating an undue burden that would probably make the bill, in my opinion, unconstitutional.

WU: Okay. Now, advocates have said that this bill, as it is written, would cause clinics to shut down.

MENÉNDEZ: If those clinics cannot meet the new standards, they will have to close, of course.

WU: And the opposition says no, it won't.

MENÉNDEZ: Well, you know, it's a hypothetical. And that's why I like this amendment, because whether they close or not, this amendment is there to protect the people that get affected.

WU: But, under the assumption that it does, that it would close some clinics, and the estimate for the people who are in the know said that only five clinics would remain in Texas. Is that your understanding?

MENÉNDEZ: Those are the five that currently meet the standards, yes.

WU: Right. And one of them would be in San Antonio.

MENÉNDEZ: Correct.

WU: Okay. And can you help me out a little bit? If someone had to drive from El Paso to San Antonio, how long is that drive?

MENÉNDEZ: Around 10 hours.

WU: And if they have to drive back, it'd be another 10 hours?

MENÉNDEZ: Correct.

WU: Okay. Now, you've made that drive before.

MENÉNDEZ: I have.

WU: How many times do you have to stop for gas?

MENÉNDEZ: It depends on what you're driving, but, you know, let's just say you have to stop for other purposes at least two or three times or four times, yeah.

WU: On just one leg.

MENÉNDEZ: Correct.

WU: And there's a cost of gas, right?

MENÉNDEZ: Very expensive gas.

WU: Nobody gets free gas around here.

MENÉNDEZ: Correct, there's no free gas.

WU: Okay. And are you familiar with people, let's say, that live in the Valley, live in San Antonio, live in the rural parts of the Panhandle, who live in East Texas? Do you have a general idea of what their living conditions are like?

MENÉNDEZ: What their what?

WU: General living conditions are like?

MENÉNDEZ: Well, I think it's common knowledge that along the border we still have places called colonias, which—

WU: What are those?

MENÉNDEZ: A colonia is a substandard, almost third world country conditions, in some cases, where paved roads are starting to come in thanks to a lot of hardworking legislators from the Valley who have been fighting hard. But, places where people have found that it's the only place they could afford to live.

WU: Are the people who live in colonias wealthy, middle income, or poor?

MENÉNDEZ: I think it's obvious that they're poor.

WU: Okay. What about the people who live in the rural parts of Texas who are farmers? Are they wealthy, middle income, or poor?

MENÉNDEZ: I think there's probably a little bit of everything, but a predominance not wealthy or middle income probably.

WU: Do you know how much a plane ticket costs flying from San Antonio to El Paso or to the Panhandle?

MENÉNDEZ: I don't have the knowledge of that firsthand, but I'm sure it's expensive.

WU: Is it under $20?

MENÉNDEZ: Pardon me?

WU: Is it under $20?

MENÉNDEZ: Of course not, no.

WU: Is it under $100?

MENÉNDEZ: Probably not.

WU: Would you say, given your knowledge, that the people who live around the state who are in poor areas, would having to travel long distances create a serious burden?

MENÉNDEZ: Well, absolutely. Not only is there the expense of the travel, but there is the time away from their job, if they can get the time off from their job. And so, then there's the who will be taking care of if there are other children in the household? Who's going to take care of the children? So, there's incredible burden put on anybody that would have their clinic close and they'd have to travel a long distance because it's the psychological as well as the mental, the physical, and the cost. So, it's these burdens are multiplied a great deal.

WU: And these clinics that exist now in the Valley, in the Panhandle, in the El Paso area, in the rural areas of Texas, do they only provide abortions?

MENÉNDEZ: Of course not. I thought it was well known fact that a very small percentage of the services provided by Planned Parenthood are actually abortions. It's also well documented that a lot of women's actual prenatal, a lot of their

screenings for breast cancer or cervical cancer—for some women, Planned Parenthood and other services clinics like these are the only place they can have affordable health care for their female needs. And so, to me, I think it's just unconscionable that we would do anything that would potentially close these clinics.

WU: Now these statistics came out a couple of years ago. Would it be fair to say that when there was a debate about this in earlier sessions, we found out that Planned Parenthood only—less than 3 percent of their actual services relate anything related to abortion?

MENÉNDEZ: Correct. I recall that, yes.

WU: So, 97 percent of their services are for something completely different?

MENÉNDEZ: Exactly.

WU: Including well woman exams?

MENÉNDEZ: Yes, and during the testimony in committee we heard where there was one woman who testified that she has recently lost her job, and if it weren't for Planned Parenthood, she would not have been able to get a free breast screening to identify the lumps in her chest, because she had lost her job. And so, this is not just about people who are chronically poor, but it's about everyday people who may lose their job, who's conditions may change suddenly, who need to have access to health care that may save their lives. And then, in the end, let's say, they don't have insurance, and they have to present to the emergency room otherwise. If they don't get a screening early on, it's the taxpayers who pick up the much greater burden. So, however you want to look at it, for if you're not moved by the concern for the woman, you should also be moved by the fact that it would be, let's say, more conservative from a fiscal perspective to the taxpayers of Texas to keep these clinics open.

WU: I'm sorry. Earlier, Representative Laubenberg said it was not her intent to close clinics. Do you remember that?

MENÉNDEZ: Yes. All throughout the debate, at the various—both here on the floor and at the two committee meetings that I have heard, this bill is not intended to stop abortions or is not intended to close clinics, that this bill is solely intended to help women achieve their health care needs. And, therefore, this amendment solely rests with women who may otherwise not be able to afford to get to the clinic. That's all it does.

WU: Absolutely. Thank you very much.

GIDDINGS: Chairman Menéndez, you and I serve on the State Affairs Committee, is that correct?

MENÉNDEZ: Yes, ma'am, it is.

GIDDINGS: And we heard a lot of testimony from those who represent state associations such as the Texas Hospital Association and the Congress of OB/GYNs. During that hearing, I did not hear any of these representatives—

[Amendment No. 4 was tabled by Record No. 5.]

[Amendment No. 5 by N. Gonzalez was laid before the house and was withdrawn.]

[Amendment No. 6 by Eiland was laid before the house.]

REPRESENTATIVE EILAND: Mr. Speaker, members, what this amendment would do is simply take the bill and restrict it down to the 24 to 20-week issue. It strikes all the rest of the portions of the bill and leaves the findings intact, because I know why they're there. But everything else, the RU-486 section would be gone. I don't know that it's the best thing for us as legislators to be legislating dosage. I think we'll leave that up to the physicians and pharmacists. It doesn't involve a hospital, so that section is gone. It simply takes it down to where we would move to ban abortions, all abortions, after the 20th week.

P. KING: I understand some other folks here have questions prepared to go over this. I just wanted to thank you for—I realize that this may be your last time at the mic, and I just want to thank you for wearing a bright blue, royal blue jacket today. It's kind of a going away present to us.

EILAND: I got a new jacket. I didn't get the memo that it was blue day.

P. KING: We know that your heart was with us on this bill, so thank you.

REPRESENTATIVE PHILLIPS: So, I want to make sure that you're aware that the FDA guidelines are what is set in this bill are there for the medication dosage. Do you understand that, that that's not part of the bill?

EILAND: Right.

PHILLIPS: So, what you're doing is taking out the requirement that doctors that are performing abortions through chemical abortions do not have to follow the FDA guidelines.

EILAND: I just simply cut that portion out of the bill so that physicians, whatever the practice is, they can practice medicine however—we didn't have a chance to vote on these. These are all individual bills at one time. And there are portions of the bill that some people support and other portions of the bill that some people believe are not necessary or maybe have ulterior motives. And so, I would like to simply vote on moving it from 24 to 20 weeks, adding that with all the other restrictions and requirements that are currently in the law, and leave the others for some other discussion for some other day.

PHILLIPS: Right. And so, I guess the question that I have, though—if you vote for your amendment, that doesn't mean that you're voting for the restriction of 20 weeks.

EILAND: Yes.

PHILLIPS: Yes. You know, and I guess, and you've probably heard from a lot of folks from whether they lean to be pro-life or lean toward pro-choice, but there's a lot of support for this 20-week ban, which is basically what your amendment will leave in place. Is that correct?

EILAND: Correct.

PHILLIPS: And I appreciated your support of that issue, but I think the other aspects of this legislation that provide for the safety—and, I guess, unfortunately, because of just the compactness of last session, we kind of put it on this omnibus bill. I wouldn't have a problem if they were all broken out, but that's what's before us. And so, for me or those of us that want to have those protections, such as saying "Doctors, you need to follow the FDA guidelines in that practice," then this, we don't really need to vote for your amendment then.

EILAND: Yeah, I think that if there was amendments or tweaks being accepted today or being discussed seriously—for example, if you limited the people that perform abortions or chemical abortions or whatever to OB/GYNs, then you many not have to have some of these other restrictions. This is not my area that I get involved on the debate every day. I didn't attend the hearings, so I can't tell you about those detailed answers. I do know that I know enough about the 20 weeks versus 24 weeks, and that we can have that as a much more simple straight-up debate about that issue versus adding the other barriers and layers to the debate on that issue. And so, that's why I bring this amendment.

PHILLIPS: Okay, thank you.

REPRESENTATIVE HOWARD: Just to follow up on some of Representative Phillips' questions, the number that we have—the latest that I have from the Department of State Health Services for abortions after 20 weeks, out of the approximately 70,000, 75,000, only about 400 occur. We're talking about a very small number. And from what I've heard, have you not heard the same, from the physicians that I've spoken with, the OB/GYNs, that the vast majority of these, if not almost every single one of them, are from medical purposes? Have you heard that as well?

EILAND: I have heard that. I don't know, I assume that 20 weeks is a long enough time for someone to decide if they're going to carry a child to term or not—one. And two, those 400 would be for a serious medical condition.

HOWARD: And, from what has been reported to me, I have been told that that is the case. Do you know of any other situations where the legislature puts in statute prescription that a physician is suppose to provide, where we provide the dosage of how it is to be administered? Is there another example of that that you know of?

EILAND: There's not one that I know of. I didn't sit on the committee to hear specific responses to that. And that's why I think it's unfortunate that we're not having some amendments go on the bill which could address some of these particular issues. Like, you know, there may be a reason that an OB/GYN wanted to prescribe a different dosage.

HOWARD: Well, would you not agree that there are studies that continually go on with medications and health care delivery that, indeed, you can actually determine that there is a more appropriate dosage or a way to deliver and that that might not be what is in statute, and that we would be tying the hands of physicians from prescribing what's medically appropriate if, indeed, that does occur if we have something in statute?

EILAND: Yes, so that is what we are locking in in Texas statute, in Texas law, that would have to pass a bill and be signed by the governor to change if the American Congress that's referenced in the bill, if they change their position from January 1, 2013. If it changes on January 1, 2014, we would be locked in to the current items.

HOWARD: Even if there is a better method of delivery?

EILAND: Yeah, and it's because if someone came and said okay—or any subsequent revision to that, I think that would be a smart way to handle it. But, that's not an option today, apparently.

HOWARD: So, what it appears to me that you're trying to do, if this is correct, is you're trying to find a way to establish some commonality here among all the folks that are on this floor, the people in the gallery, and the people we represent who do have some common agreement around limiting when abortions should be performed. And the 20 weeks is something that people can at least—not everybody agrees with that, but there is more agreement there. We can have some commonality. The other parts of this bill, there's more politics to that rather than good policy. It seems to be interfering with the doctor-patient relationship, creating barriers to accessing safe, legal, medical procedures. But that we could come together on this part of it. If we really wanted to have policy that drove what happened with limiting when abortions can occur, that this would be the thing that we could come together around. Is that what you're trying to suggest and propose here?

EILAND: Right. Yes.

HOWARD: Okay, thank you. I think it's a very good amendment.

REPRESENTATIVE NEVÁREZ: Representative Eiland, just one question, and it's kind of duck-tailing into what Representative Howard was talking about before. Is it fair to say that your amendment, you know, literally strips away the other parts of the bill, but it also strips away all these political areas that we can't agree on and focuses on the one thing, which is life, that all these folks that are presumably up here in the gallery supporting? And it focuses on that point, which is the 20-week ban?

EILAND: Yes.

NEVÁREZ: Okay, and it does nothing more than that, which is preserve life in accordance with this 20-week ban?

EILAND: Correct.

GIDDINGS: Representative Eiland, I think you might have heard the exchange that I had with Representative Menéndez about the testimony that had come before the State Affairs Committee. Did you hear that?

EILAND: Yes.

GIDDINGS: Okay, so, it's a little bit odd that in terms of us trying to provide more safety for women, that those persons who are in that position, those positions, that deal with medicine and the health care of women where they are representing state or national organizations, none of them were in support of this. Are you aware of that?

EILAND: Right, of those portions of the bill that I cut out.

GIDDINGS: Yes, the Texas Hospital Association, for instance, said Section 2—

LAUBENBERG: Respectfully, members, this bill pretty much guts the bill, so I move to table.

EILAND: Mr. Speaker and members, I would close, and this does not gut the bill. What this bill does is simply narrow it down to limiting abortions to 20 weeks as opposed to 24 weeks, leaving these other issues to be flushed out and discussed over the next two years.

GIDDINGS: Representative Eiland, are you aware that in the State of Florida the University of Cincinnati College of Medicine did a study having to do with medical procedures in office-based settings?

EILAND: I know that that study has been discussed.

GIDDINGS: Yes. It's a study that has been done, and would it surprise you to say that they concluded that the procedure that was done in office-based settings with the greatest risk was cosmetic procedures that are performed under general anesthesia?

EILAND: Yes.

GIDDINGS: So, we have had a number of organizations—Texas Hospital Association—they do not believe that the physicians will be admitted with hospital privileges under Section 2 of this bill. Are you aware of that?

EILAND: Yes, I am aware of that. And I believe the testimony was, from what I heard, was that they don't want to get involved in this decision and what this may bring on to those hospitals.

GIDDINGS: And, while it is that we could make some changes in terms of the regulations as it relates to abortions, if we were to put in place measures that created basically an absolute ban, I think that would be declared unconstitutional. What do you think?

EILAND: Yes, I think there are legitimate concerns by people with if you put up some additional barriers so that you limit access so much to a legal procedure, whether you like it or not, that if you put up all these barriers that it may be unconstitutional. And so, I think that going from 24 weeks to 20 weeks is probably constitutional because other states have done that without these other limiting issues or barriers, even though they may be good intentioned or not good intentioned. But, I think they're not ready yet. And if they are, for example, there's no consideration to say look, if the physician performing the abortion does not have admitting privileges at a hospital within 30 miles, then why couldn't that physician make arrangements with a physician with admitting privileges within

30 miles? If the goal is to take care of the woman in case there is a problem, that seems to be a way to handle it, but that's not allowed in this bill. And so, there are measures that can be taken to make this bill a more workable bill, but they're not being allowed to go on.

GIDDINGS: Well, I think that you're absolutely right with that. I believe that all the members of this house are concerned about making sure that women are as safe and have the best care possible. Do you agree with that?

EILAND: Yes, I do.

GIDDINGS: And there are other ways that we could ensure that that are not included in this bill and that are not spoken to in this bill. Would you agree with that?

EILAND: I definitely agree with that.

REPRESENTATIVE HERRERO: Representative Eiland, as I understand your amendment, your amendment would keep the fetal pain portion of the bill intact, correct?

EILAND: Yes.

HERRERO: And so, essentially what the amendment would do is restrict that an abortion would not be permitted after the 20-week period, is that correct?

EILAND: That is correct.

HERRERO: And that was the intent of the bill, correct?

EILAND: That is correct.

HERRERO: And I stand with you, having been someone who voted for the bill. I stand with you in support of this amendment, because I also believe, as you do, that this does not gut the bill or its intent and helps preserve the life of an unborn child in a way that I think is responsible.

[Amendment No. 6 was tabled by Record No. 6.]

[Amendment No. 7 by Anchia was laid before the house.]

ANCHIA: I am offering this amendment because the bill as drafted lacks an adequate exception for women's health. The current language in the bill, members, allows an exception to the 20-week ban on abortions for a complication of the woman's medical condition so that the abortion is necessary to "avert the woman's death or serious risk of substantial and irreversible physical impairment of a major bodily function other than a psychological condition." Members, my amendment changes the bill, and specifically this definition in the bill, in four places: on page 2, lines 3 and 4; on page 5, lines 6 through 8; on page 5, lines 18 through 19, and on page 5, lines 21 through 22. And the change contemplates the fact that there may be medical conditions as determined by a physician in his or her reasonable medical judgement which fall outside the narrow exception, and, frankly, the exception as drafted is unnecessarily restrictive. And while you

heard the dialogue earlier between Representative Farrar and Representative Laubenberg, discussing medical judgement, I think the bill is poorly drafted in this regard.

It would be much simpler and much cleaner and avoid complication if we just allowed medical professionals, who are caring for a woman, to evaluate whether there is serious harm to that woman's health. It's that simple. These decisions, members, are not for us as legislators to make. These decisions are between a woman, her physician, and her god. Now, my amendment does not change the construct of this bill at 20 weeks. In fact, it preserves that, and I voted on a number of different occasions here today to preserve the portions of the bill that say no abortion at 20 weeks, but you heard my dialogue earlier with Representative Davis when we talked about the constitutionality of a bill like this, and it must balance the interests of the health of the woman. The way it is drafted currently, members, does not achieve that. The exception is entirely too restrictive. So what I'm submitting members, is that we allow a doctor to exercise their medical judgement and determine whether or not there is a serious harm to the woman's health.

Now we know, members, and you've heard articulated today on the floor, that we're talking about 1.3 percent of all abortions today, those that occur after 20 weeks. We know that 95 percent of those abortions are in the case of serious harm to women. So what we're trying to do again, members, is balance the interest, I think, and there's overwhelming support in this body to draw the line at 20 weeks, but at the same time we need to balance—the state has an interest in the health of a woman. And I don't come to this lightly, members, I mean in our family we have had serious challenges with reproductive health. These issues—I don't come to this from a partisan perspective. I look at this very practically, where a man and a woman in a loving relationship, in a marriage, have to make some very difficult decisions about the health of the spouse. When their loved one has to look at someone in the eye and say you may have a serious medical condition for the rest of your life, and that is outside the bounds of what this bill asks for.

And frankly, members, I don't think we should be making those decisions here on the house floor. It is families that need to be making these decisions. It is families, in conjunction with their doctors, that need to be making this decision. It is families, in conjunction with doctors and their spiritual advisors, who need to be making this decision. And frankly, members, it needs to be families, the woman, their doctor, and their god. And this bill goes too far. So what we're trying to do, members, is fix the language of the definition. Everyone can go home comfortably and say we drew the line at 20 weeks, but we did balance the interest of a woman in a constitutional fashion, and we did preserve the medical judgement of physicians.

And members, I come to this discussion also as a representative who represents a number of different hospitals. In fact, if you look at the line between where the district that I represent and that where Representative Johnson represents, it is the entirety of the Dallas medical district. And there is tremendous medical science that goes on there, and there are people who are

trained in diagnosing serious medical harm to women and those are the experts, and we should be deferring to their judgement and not supplanting their judgement with ours, members. So, I ask you, I ask you to help fix this bill. I ask you to help fix this definition, which is altogether too restrictive. And lastly, members, we must recognize that the definition as stated today cannot and will not achieve what many of you in the gallery are here to see achieved because this bill as written can or will be held unconstitutional, it has been held unconstitutional in other jurisdictions, and if you are serious about drawing the line at 20 weeks, then you must fix this definition. So, members, I ask you to vote with me on this amendment to fix this bill and fix the constitutionality of its drafting.

FARRAR: Representative Anchia, I thank you for bringing this amendment. It touches upon some of my concerns that I laid out earlier in that the exception is just too narrow and I tried to make the point at that time that if the author would widen the definition of endangerment to a woman to include a woman's health—actually you set the bar a bit higher than even the constitutional standard. Constitutional standard is just—and by the way are you aware that this is 40 years of legal challenges—that just women's health, the inclusion of women's health has to be a part of legislation? You are aware of that?

ANCHIA: Yeah, absolutely. In fact, in *Planned Parenthood v. Casey*, the court spells out very clearly what the standard is and they, if you'll permit me, I'll just quote from that case. They say that if the state is interested in protecting fetal life after viability, which I think is a laudable goal, it may go so far as to prescribe abortion during that period, except—and this is important, this is what we're talking about, this is the exception that we're talking about today—except when it is necessary to preserve the life or health, or health, I'll underscore that, of the mother. And that is current federal law. That is current federal law. And you are correct in pointing out that I even raise the bar a little bit in my exception because I say serious health consequences, right? So, in fact, this is an even slightly more conservative approach. But you are correct to point out that if we exclude the health of the mother, we run afoul of the holdings of the U.S. Supreme Court in these cases, in 40 years worth of case law.

FARRAR: And so, if you are a proponent of this bill or a supporter of this bill, you would, I'd imagine, want language such as this so that the bill will pass constitutional muster, correct?

ANCHIA: Well, I see a lot of people here dressed in blue and I assume most of them are democrats like I am, that's why I wore blue, but they're really concerned about this bill passing. They want this bill to pass, right? And what I'm letting them know is that the way this bill is drafted is flawed, and this exception that is set out is so narrowly drafted that it will not survive constitutional muster. And frankly, it has not survived constitutional muster in a number of other court cases across the country.

FARRAR: Correct. Moving on to the actual woman's health, did you hear me earlier when I mentioned the example of a woman being diagnosed at stage IV cancer in her pregnancy, where she's needing immediate treatment that could endanger her pregnancy? This amendment would address a situation such as that, correct?

ANCHIA: Absolutely. Look, I'm not here to require a loving family to engage in a Solomonic decision between saving and preserving the health of a woman, a loved one, who is a woman, and at the same time, a viable fetus. I don't think we should be in the business of calling balls and strikes on that. These decisions are difficult; they're harrowing. I've experienced reproductive health challenges in my family and I know how difficult those things are. Nobody takes this stuff lightly. In fact, after five months, you know, what we're talking about today, I bet you parents and loving families really want to have a child, and they painted the room, they bought the crib, they're thinking of names, so what you're talking about is the most difficult decision. That's why it only happens in 1.3 percent of all the cases.

LAUBENBERG: Madam chair, I move to table this amendment for the reasons that in the bill, we have put the exceptions in there for the physical life to the mother, physical health to the mother, and for the severe fetal abnormalities, and we give the physician full authority to his best medical judgement what is in the best interest for the woman to save her life. So, when Representative Anchia points out that this abortion decision should be between the woman, her physician, and her God, essentially you're saying that there should be no abortion law, the state has no compelling interest. And again, I want to point out that the portion of this bill that we're talking with is dealing with a 5-month baby, based on the pain that the baby will feel at five months having an abortion.

ANCHIA: I wanted to walk through Section 171.046 of your bill because that's, essentially, where I amend the bill, and that's where your exceptions lie. So, do you understand the difference between the current language of the bill and the amendment that I'm offering up?

LAUBENBERG: Just one second, let me get to that section, please. You can clarify, go ahead.

ANCHIA: While you get to that, it is correct that if my amendment got on the bill that there would still be a bright line at 20 weeks, correct? That I don't change the time period to 21 weeks or 22 weeks or 19 or 18, that we leave it at 20, correct? Is that right?

LAUBENBERG: Yes.

ANCHIA: So, the question really then becomes about the health of the woman in my amendment. Is that not right?

LAUBENBERG: Your amendment is broadening the definition of health to the woman, as I understand it.

ANCHIA: That is absolutely correct. And it broadens it to contemplate a physician, whose care the woman is in, making a decision about serious health effects, not necessarily death, so we're short of death here, but serious health effects of carrying this pregnancy to term. Is that not right?

LAUBENBERG: If you say so, yes.

ANCHIA: Look, I just want to make sure that you understand what the amendment says since you've come up to table it.

LAUBENBERG: I do.

ANCHIA: Okay, so you agree with me there. And your current wording says that there must be a serious risk, right, and I preserve the term serious. So there has to be, in my amendment, serious health impact. So, serious risk of a substantial and irreversible physical impairment of a major bodily function. Can you provide the body with examples that would fall into that definition?

LAUBENBERG: It would be life threatening to the mother.

ANCHIA: Okay, I'm not talking about the portion of your amendment that says death, right? So that's clear, that remains unchanged in my amendment. I'm talking about serious risk of substantial and irreversible physical impairment of a major bodily function.

LAUBENBERG: Okay, what was your question?

ANCHIA: Please provide us maybe an example that would fall under that exception?

LAUBENBERG: One could be—I think I mentioned it earlier, toxemia. Yeah, in fact, I'm going to let the doctor—if you're going to talk about medical terms, I would prefer to have—

ANCHIA: These are legal terms, right? I mean, the reason I'm concerned—

LAUBENBERG: Okay, I'm not sure where you're going, so—

ANCHIA: Well, this is where I'm going. I'm concerned that these words matter and these words are going to be challenged in court, and these terms have some meaning, right? So, these are legal terms. So, what I'm trying to get at is that it has been drafted so narrowly, even the author of the bill herself, who spent a lot of time working on this, can't provide us with exceptions that might fall into it. And that's what I'm concerned about because in my view, a medical professional, a doctor, who's caring for this woman, would be in the best position to do that and that's why I broadened the definition and allow for an assessment of serious impact. Is that not right?

LAUBENBERG: Representative Anchia, in this bill, in the language, I do give the doctor full authority to make that decision, and it says, on line 5, the physician's reasonable medical judgement. The exception that I have in here is for the physical life based on the physician's reasonable medical judgement.

ANCHIA: Correct. Now, you do include that physician's reasonable medical judgement, but then you qualify it in the rest of the exception. And you qualify it by there needing to be an assessment of serious risk of substantial and irreversible physical impairment. How is a physician at the time supposed to make a judgement of substantial and irreversible physical impairment? This person does not know what's going to happen in the future, right? Do we know if a condition is reversible at the time that you make the diagnosis? What if you can't call balls and strikes about whether it's reversible or irreversible? See, so the medical judgement is qualified in the rest of your definition, and what I'm trying to do is unqualify it and say doctors should be able to call balls and strikes on these decisions and shouldn't be handcuffed in their medical judgement. That's what this amendment does. And so, I'm wondering why that is provocative to you is when we do not change the 20 weeks, we restore the full discretion, not the narrow discretion, but the full discretion of physicians. Why is that provocative to the bill?

LAUBENBERG: Absolutely not, Representative Anchia. I do give the doctor, the physician, the full authority to make that decision.

ANCHIA: What determination must a doctor make here? That there are serious risks of substantial and irreparable physical impairment, okay? Does that not qualify the doctor's decision and how can a doctor know if physical impairment is going to be irreversible? I imagine doctors, all the time, have to guess about whether something is reversible and irreversible based on the patient's medical history, based on the patient's age, based on the patient's relative health, on whether or not there would be a irreversible condition. Do you not agree?

LAUBENBERG: Please tell me your question again.

ANCHIA: Well, do you not agree with that assessment?

LAUBENBERG: No, I don't. I believe that this bill will cover the conditions that we have outlined as exceptions.

ANCHIA: Okay, so you would agree with me, however, that you do condition the reasonable medical judgement of a physician by a determination of serious risk of irreversible physical impairment. Is that not correct?

LAUBENBERG: It would be the physical life held to the mother

ANCHIA: So you do qualify that judgement? Is that not right?

LAUBENBERG: Yes, I do.

ANCHIA: And how should doctors, how will doctors know, or how are they supposed to know if there is a irreversible physical impairment of a major bodily function? Is that a black and white issue and does that provide them guidance?

LAUBENBERG: Representative Anchia, we are so fortunate to have a superb physician here in the house and, you know, you're asking a question about a physician, so I would like to let him respond to that —

ANCHIA: And I'm pleased by that—I'd like to know as the author, because these words should have legal meaning. I mean, Dr. Bonnen is an admirable member of this body, but not a lawyer, didn't draft the bill. I'd like to know from the person who drafted the bill what legal meaning we should be giving to this qualification of reasonable medical judgement?

LAUBENBERG: You have been asking me two parallel questions.

ANCHIA: Okay.

LAUBENBERG: And so, I would like to make sure I, you know, answer each one, or each of your questions get answered, you know, accordingly. Your question about what this piece of legislation says, I'm very specific that I am referring to the physical health to the mother. Then you ask questions about—

ANCHIA: Members, I hope you were able to follow a little bit of the dialogue with Chairwoman Laubenberg, the author of this bill. We were trying to contextualize what sort of guidance a physician would have with the narrowing of their medical judgement that occurs on page 5 in three different sections, and on page 2 in one section. And I was unable to discern from our dialogue any guidance, frankly, about how a physician would be able to act under, I think, this tortured and very narrow definition. It is very difficult, if not impossible, for a physician to evaluate whether there is an irreversible physical impairment. That speaks to an omniscience—if that's a word, if not, I will make it up—to their ability to see in the future and determine whether or not a person is going to recover.

If I ask every doctor in this body whether you could guarantee for me whether someone was going to have a reversal in their condition, whether it be a coma, whether it be brain damage, no doctor would guarantee that. In fact, they would have no way of knowing because while medicine is a science, it is an inexact science. We all know that from our personal situations. So, this narrow definition really does adversely impact the medical judgement of a physician that is a cause of concern of many of the doctors that I represent, in light of the fact that I represent much of the medical district, many doctors live in the district that I represent. And it is further a legal problem, and in fact, for those that care about the constitutionality of the bill, it is more so a legal problem because it is so unduly restrictive it would surrender the bill unworkable for doctors, and secondarily, unconstitutional because it fails to contemplate the health of a woman broadly.

REPRESENTATIVE LEACH: I've got a couple of questions here about your amendment, specifically—you know, one of the things we do here in this body, in the legislature, is we regulate certain industries, correct?

ANCHIA: Yes.

LEACH: And so, you stated earlier that, with respect to this decision, that this decision ought to be restricted to a mother, to her doctor, and to her spiritual advisor, in a sense that the government ought to not be involved—

ANCHIA: I believe I added her god.

LEACH: Okay, so, but in fact—

ANCHIA: —after significant contemplation and prayer, as many people who find themselves in this situation frequently engage in.

LEACH: But you also mentioned that the government, that this body ought to not be in business of calling balls and strikes in this area.

ANCHIA: No, I think you misread my statements. My statements are that we would—and, in fact, the effect of this bill is to preserve the bright line of 20 months, but at the same time contemplate the fact that these decisions need to be made by a woman, her family members, her physician, and her god. The important part here, for purposes of this amendment, is the physician because the way this bill is drafted it does not—and I think after much dialogue with the bill's author, we were able to ascertain that this does limit the discretion of the physician. It does not expand it, it does not respect it, it limits it. And, in fact, it limits it by this tortured construct of requiring a doctor to determine serious risk of substantial and irreversible physical impairment to a major bodily function. Not defining major bodily function, not defining irreversible, and not defining substantial. So, my amendment here just makes it clear for the doctor and it allows the doctor to explain it clearly to his patient.

LEACH: Representative Anchia, I understand and I agree with you that words have meaning and we ought to make sure when we vote on a bill, we need to understand what it's doing. So, let's talk lawyer to lawyer here.

ANCHIA: Yep.

LEACH: I want to come back to my earlier question about what this body does in terms of regulating certain industries because numerous times this session did we not, did this body not either vote to either weaken or strengthen regulations in certain industries?

ANCHIA: We do it all the time.

LEACH: Okay, we do, that's right.

ANCHIA: So, but the question is, do you try to strike a balance in regulation all the time? So the balance that we're trying to strike here is, I think, a balance that is informed by 40 years of constitutional holding and that balance is between the viability of the fetus, and I read earlier from a Supreme Court case, and the health of a mother. I've even raised the bar in this amendment, Representative Leach. I've said there has to be a serious impact, so it can't just be a headache, it can't be some discomfort, it has to be serious.

LEACH: I just want to make clear, for the record, that this body does in multiple times during the session call balls and strikes in certain industries, we do it with plumbing, we do it with architecture, we do it with interior design, we do it with certain—

ANCHIA: And you're doing it with plumbing here, as well.

LEACH: But, with respect to this bill, Representative Anchia—it seems that one of the major issues with respect to this bill, from people that oppose this bill, is that it creates unnecessary and undue regulations on abortion providers, specifically with respect to the ambulatory surgical clinics, is that not correct?

ANCHIA: I'll answer your question. It is not correct, Representative, that that is the intent of my amendment. We heard a ruling earlier that we should just only speak on the amendment, so that's what I'm talking about. You are talking about arguments that others have made. The argument that I'm making here is a balancing of interest and a recognition of women's health, okay? I'm not talking about availability, that stays unchanged in the rest of the bill. My amendment is very specific to the exception, to the narrowness of the exception, in Section 171.046, okay? So, I don't change 20 weeks, I don't change availability, I don't change standards. What I say is that this definition is unworkable and too narrow and will adversely impact the medical judgement of doctors and does not adequately balance the health interests of a woman. That is what I'm arguing here.

LEACH: Let me go back to my initial line of questioning. Do you remember, for instance, **HB 502** that we voted on by my good friend Representative Hernandez Luna?

ANCHIA: Senate bill, house bill, subject matter?

LEACH: Okay, let me remind you. **HB 502**, which 115 members of this body voted on—

ANCHIA: Is this amendment about **HB 502**?

LEACH: This question is about this amendment, Representative.

ANCHIA: Okay.

LEACH: That bill regulated the practice of teeth whitening and you voted for that bill. Representative Anchia?

ANCHIA: So, you're talking about teeth whitening? I'm listening.

LEACH: I'm reminding you of a vote that you cast to regulate, to heighten the restrictions on teeth whitening clinics across the state—people who provide teeth whitening. And to my knowledge, no one has ever died from a botched teeth whitening procedure, but what we're saying here is that we don't want to increase or strengthen the regulations on abortion providers, yet we're doing so on teeth whitening providers. Doesn't that seem like a double standard to you?

ANCHIA: I think you missed the point of my amendment completely now, and again, talking lawyer to lawyer, I've raised two points, the first being that there are not 40 years worth of constitutional or Supreme Court holdings that establish a constitutional regime that requires us to protect the health of the woman in this case. So, teeth whitening, whole different subject—

LEACH: But it's not, it's not a whole different subject because you're talking about what this body—

CHAIR (Harper-Brown in the chair): Representative Leach, Representative Anchia, we respect and appreciate the argument at the mics, the high-level debate at the microphones, but please let each member speak and respond to the questions, and let's stay on the subject and keep decorum in the house.

ANCHIA: So, since we're talking about teeth whitening, I'll just ask, I guess, a rhetorical question. If you can talk to me about the historical precedent for constitutionally protected rights under teeth whitening then we'd be having a different discussion. So, that's why I think you missed the point of the amendment. The amendment speaks to medical judgement and health of the woman. That is constitutionally protected. Teeth whitening is completely off the subject, but I see the parallel that you are trying to make, I just think it doesn't work.

LEACH: But, Representative Anchia, with all due respect, when you laid out your amendment, you said to this body that we need to be careful with respect to how we're calling, you said balls and strikes, with this decision. Specifically you said that it should be only a mother, her doctor, and their spiritual advisor and you said the government, this body, the Texas House of Representatives has no interest in this area and should not be regulating it.

ANCHIA: False.

LEACH: Those are your words.

ANCHIA: No, you mischaracterized my words. I said the first part, the second part you just made up out of thin air.

LEACH: You said that we should be calling balls and strikes. Did you not say we shouldn't be calling balls and strikes in this area?

ANCHIA: The first part was correct, the second part you just made up on the house floor and I'll tell you, I'll repeat exactly what I said. These decisions should be the province—and I might not have used that word, but it sounds good right now—of a woman, her physician, her spiritual advisor, and her god. We do not need to be calling balls and strikes in that narrow ban. This bill calls balls and strikes on 20 weeks.

[Amendment No. 7 was tabled by Record No. 7.]

[Amendment No. 8 by Collier was laid before the house and was withdrawn.]

[Amendment No. 9 by Howard was laid before the house.]

HOWARD: This amendment is actually in regard to the admitting privileges transfer procedures. The way that the bill is worded, it requires that hospitals have active admitting privileges. What currently exists in abortion clinics is that you have to either have—the physician has to either have admitting privileges or a written transfer agreement. What currently exists—I mean, I'm sorry, that's for the ambulatory surgical centers. What currently exists for the abortion facilities is that you either have to have admitting privileges or have a working arrangement

with another physician who has admitting privileges. You do have to have an actual protocol in place—this is part of the regulations—a protocol in place for dealing with medical emergencies and transfers. That's what currently exists.

This bill says that we want to have the abortion facility, which would become an ASC, have to require the physicians to have active admitting privileges. That is above and beyond what currently exists for ASCs. So, this amendment would bring the transfer requirements of abortion facilities in line with what currently exists for ambulatory surgical centers. Title 25 of the Texas Administrative Code requires an ambulatory surgical center to have the written transfer agreement with the hospital or the physicians on staff to have admitting privileges at local hospitals. So, in keeping with this bill's intent to require abortion clinics to be regulated as ambulatory surgical centers, this amendment would apply what currently exists for ambulatory surgical centers in terms of their transfer admitting privileges guidelines to the abortion facilities.

Many physicians operate clinics and provide services at those clinics, but do not have admitting privileges. No other outpatient procedure requires a physician to have active admitting privileges, certainly not within a specific distance. This is opposed by the Congress of Obstetricians and Gynecologists. This is a compromise I'm trying to come up with here that honors what I think the intention of the author of the bill is, and that is to require abortions to be performed in ambulatory surgical centers. There is no reason to change the admitting privileges requirement to something that's other than what currently exists for ambulatory surgical centers. So, that's essentially what this amendment does, and I yield to questions.

N. GONZALEZ: And, Representative Howard, why exactly is this amendment necessary?

HOWARD: Well, actually, one of the reasons I think it's necessary is because, well, for one thing we're requiring something that's completely different. It's not something that needs to be done. It's overreaching for something that is not currently in place. This would bring the agreement under the standards that currently exist for the ambulatory surgical centers that are found in the current Administrative Code. And, as I said, since we are holding the abortion clinics up to the practice of an ambulatory surgical center, the standards, the regulations for ASCs, for hallway width, for operating rooms, for janitorial closets, for all of the facility changes that occur in an ASC, why would we not also have the abortion facility, that's now part of an ASC, meet the current standard for transfer and admitting privileges? It just makes sense to make it the same thing.

N. GONZALEZ: So, therefore, what is this concern addressing?

HOWARD: There's actually a concern about how this will impact the ability of physicians at abortion facilities that become ASCs to gain admitting privileges. The fact is that there is some concern based on how admitting privileges are given and renewed that whether or not these physicians would qualify at this above and beyond standard. At least with the standard that we are proposing here that is currently in existence for an ASC, there is a possibility of having a transfer agreement with the hospital.

N. GONZALEZ: And why would a hospital be unwilling to grant admitting privileges to a physician?

HOWARD: What I have is a copy of the testimony that the Texas Hospital Association gave when they testified in regard to this bill. And one of the things that's stated in their testimony is that if a physician does not perform any procedures in the hospital or performs a procedure that the hospital does not perform, there is no process for the hospital to grant privileges to that physician. Thus, if the hospital does not perform elective abortions, which THA has said that there are no hospitals that perform elective abortions in Texas, so, if there are no hospitals that perform elective abortions, the physician seeking privileges to perform abortions would not be granted those privileges. I mean, this is a circuitous thing that we're talking about here, but the bottom line is you can't get privileges for a procedure that the hospital doesn't perform. And if the hospitals don't perform elective procedures and that's what you're seeking privileges for, you will not get privileges.

N. GONZALEZ: So, it's a catch-22, if you will?

HOWARD: Absolutely.

N. GONZALEZ: And, you know, one of the things we discussed—and I think you mentioned this in your layout of the amendment—you mentioned a distance issue. And so, if all hospitals within the required 30-mile radius were denied admitting privileges, can you speak a little bit about that?

HOWARD: If all hospitals were denied, I'm sorry?

N. GONZALEZ: If there's a 30-mile radius requirement, are you familiar with that?

HOWARD: Yes.

N. GONZALEZ: Can you speak to that a little bit?

HOWARD: Well, one of the things that I learned in talking with some of the obstetricians and gynecologists that are very concerned about this bill is, for one thing, if they had privileges at a local hospital that was within the 30-mile radius, and yet they have a patient that travels from 100, 200, even more miles away to their future ambulatory surgical center to have the procedure, even if they have privileges within their local community, when the patient goes back a couple hundred miles away to their home, their instructions they are going to be given is if they incur some kind of complication later on that certainly they need to get to an emergency room. And they're going to go to the emergency room that's in their local community. They're not going to come a couple hundred miles back to the hospital where this particular physician might have privileges.

N. GONZALEZ: And so, in your opinion as a nurse, would that place an undue burden on individuals, for example, living in distances, for example, in far West Texas or in the lower Rio Grande Valley, where they may not have access to these clinics?

HOWARD: Oh, absolutely. The fact is, the fact is that whenever anyone has an emergency situation, a complication for any kind of surgery that they might have had—it doesn't have to be an abortion. You have a complication. You go to the emergency room. You don't typically think, "Gosh, does my physician have admitting privileges at this hospital?" I'm going to go to the emergency room that's closest that I feel comfortable going to—whatever my criteria are—but, I'm going to get to that emergency room, and I will be treated there. You do not have to have admitting privileges for a patient to be treated in an emergency department when they present.

N. GONZALEZ: Okay. And let's talk briefly about, you know, have you driven across the state lately, either from Austin to El Paso or from Austin to Laredo?

HOWARD: It's probably been a couple of years now that I've driven to El Paso.

N. GONZALEZ: Okay, but you are familiar with about what approximately a tank or a gallon of gas costs?

HOWARD: Certainly, yes. I mean, depending on the type, as I heard someone say previously, the type of vehicle, but certainly it's probably going to take a couple of tanks of gas.

N. GONZALEZ: And you're right. It takes about at least three tanks of gas to get from, or at least two tanks of gas to get from here to El Paso. And it's approximately, you know, an eight to 10 hour drive, depending on if you are going to obey the speed limit or not. And do you know approximately how much the flights are from here to El Paso if you get a fairly good deal on Southwest?

HOWARD: Well, the last time I checked, I think I was looking at something that was around $150.

N. GONZALEZ: That's right. It takes either between $150 or $300, depending on, you know, that may be just a one-way or depending on a deal, you can get that on a round-trip. But it's not cheap for an individual. But let's go back to some precedent regarding some of the scenarios that we've discussed. Can you talk to me about the State of Mississippi and a sole abortion clinic that they have and a similar law that we are proposing here today?

HOWARD: Well, and I know we had some back and forth a while ago on this issue from some lawyers, which I am not. But just from what I understand and from what I've been reading about it, Mississippi, the state's sole abortion clinic was faced with a law similar to the one being considered here today, and the clinic made request for admitting privileges to hospitals in its surrounding counties and were refused based on administrative issues unrelated to the doctor's qualification—

LAUBENBERG: Again, members, this bill has been very carefully written, and I move to table. The admitting privileges are integral to the quality of care and the continuity of care. It ensures a higher quality of care for the patient. Right now, abortion doctors can get admitting privileges. Two-thirds of them already have

that. We have heard from a doctor who sits on an admitting board of a local hospital. That particular hospital does not do abortions, but they give admitting privileges to abortion doctors.

HOWARD: I just have one question, Representative Laubenberg. I wanted to know what the reason was for changing—since your bill is requiring that abortion clinics now be regulated, when it comes into the correct timing, that it be regulated as an ambulatory surgical center. Why did you change this portion of what's currently required of an ambulatory surgical center?

LAUBENBERG: I'm sorry, can you clarify that? Change?

HOWARD: Your bill is requiring abortion clinics to be regulated as ambulatory surgical centers, is that correct?

LAUBENBERG: Yes.

HOWARD: And yet, you've changed one of the regulations to say that rather than following what currently exists for ambulatory surgical centers in terms of transfer agreements and admitting privileges, you changed that to only admitting privileges.

LAUBENBERG: I gotcha. I'm sorry. Yes.

HOWARD: And, I'm asking why.

LAUBENBERG: Because, again, it's dealing with a very different type of procedure. An abortion is much different than getting your tonsils out or, you know, something—

HOWARD: In what sense is it different?

LAUBENBERG: Well, it's the only procedure that when it is done, there is a life that is taken. You can have complications in that procedure, and so the admitting procedures are there to help deal with some of those complications.

HOWARD: Are there more medical complications? Are you suggesting there's more medical complications with abortions than with some of these other procedures that are done in ambulatory surgical centers?

LAUBENBERG: I'm not advised of that.

HOWARD: So, if you're not advised of that then why would you require this different level of admitting privileges?

LAUBENBERG: Because the potential for complications, for more severe complications are there.

HOWARD: What potential is there that exists for that procedure that doesn't exist for other procedures?

LAUBENBERG: Because you are dealing with two lives at this point.

HOWARD: So, this is not about a medical procedure. It's because you're talking about two lives instead of one.

LAUBENBERG: Two lives that are going through a medical procedure, one of which is not going to survive.

HOWARD: Let me ask you this, Representative Laubenberg. If you were in an ASC and you were pregnant, and you were in there to have a procedure to help you continue your pregnancy, you'd be dealing with two lives. Currently, that requires the current ASC admitting and transfer privileges. What makes that different?

LAUBENBERG: Because you are trying to continue the life and not abort the life.

HOWARD: Well, what does that have to do with requiring different admitting privileges?

LAUBENBERG: Because the abortion is a much more invasive.

HOWARD: In what way?

LAUBENBERG: That the life of the child is going to end.

HOWARD: But that's the purpose of having a termination or abortion.

LAUBENBERG: That's correct.

HOWARD: When you're going in and you're pregnant and you're wanting to continue your pregnancy and you're having a procedure to do that, you're still involving an additional life. Why would you think that there would be fewer complications with trying to continue an additional life than terminating one?

LAUBENBERG: When you are talking about continuing the life—

HOWARD: I'm talking about—if you're trying to not have a miscarriage—

LAUBENBERG: Okay, I'm not understanding—and please forgive me, because I'm not understanding, not following your logic, you're thinking.

HOWARD: Oh, okay, let me just try to say it differently then. You're holding an abortion procedure to a different standard because you say it's a unique procedure that has more complications associated with it, is that correct?

LAUBENBERG: That would be true. Yes.

HOWARD: And I don't know what you're basing that on, but if, indeed, you're talking about—if we can use the example of a woman who is pregnant who has a complication and is in for a procedure in an ASC to continue that pregnancy, to help that pregnancy continue and have a successful delivery, why are you thinking that that would require less admitting privileges than having an abortion?

LAUBENBERG: Representative Howard, two-thirds of the doctors already have admitting privileges with hospitals. And so, basically you're just trying to make sure that the physician is a member of the community, not hop-skipping around to perform—

HOWARD: Well, do you know what's required by hospitals to gain admitting privileges and to have them renewed?

LAUBENBERG: Each hospital has their own set of standards.

HOWARD: Did you know that most of the hospitals require that you do a certain number of the procedures that you are going to be asking to have admitting privileges for? Did you understand that?

LAUBENBERG: I'm sorry, say that again, please.

HOWARD: One of the ways that hospitals grant privileges is to require that a certain number of procedures be performed in their facility. This is a business model.

LAUBENBERG: It would depend on the hospital.

HOWARD: I'm sorry?

LAUBENBERG: It would depend on the hospital.

HOWARD: But that is what the hospitals do. If you talk to the Texas Hospital Association they will tell you that that's how hospitals set up admitting procedures for privileges. One of the criteria is the number of procedures that you perform in their facility, because this is a business arrangement. Did you know that?

LAUBENBERG: We heard testimony from a physician who sits on the admitting board for his hospital, his local hospital here in Austin. And that particular hospital did not perform abortions, but they gave admitting privileges to abortion doctors there medically.

HOWARD: Do you know what's required to renew though? You may be able to get your admitting privileges initially, but to renew you have to have done a certain number of procedures in that period of time. Did you know that?

LAUBENBERG: He indicated that that was not prohibiting any physician who performed abortions from continuing their admitting privileges at that hospital.

HOWARD: I heard his testimony. I don't remember he said that specifically, perhaps he did. I'll go back and listen to it, but the fact is that you are required to perform a certain number of procedures. If you are a physician who is practicing in a clinic where you are providing abortions, and that is your full time position, the only time you would need to be in the hospital would be for complications, such as for hemorrhaging, hysterectomy, that sort of thing. According to the information I have from the American Congress of Obstetricians and Gynecologists, the rate of hysterectomy and complication with abortions is about one in 100,000. Now, if you're required to perform several procedures to be able to renew your privileges at the hospital, you can't mathematically get there. With that number—the complications are so rare, you do not have the opportunity to practice in that hospital and do the procedures that get you your license renewed. Are you aware of that?

LAUBENBERG: I think the information that you're referring to is also talking about in the early stages, but the farther along that you go in the term to do the abortion that complications actually do increase. But, again, each hospital has their own set of standards. And so, if the physician is a member of the community, then he would have that relationship with the hospital.

HOWARD: So, regardless of whatever we're saying here, the fact is that you believe there should be—I do just want to close with a couple of statements, and then I'll yield. Just to say that, this bill, as it is written, overreaches and provides an undue burden on women. It is not narrowly tailored, and the amendment that I have proposed would more narrowly tailor this bill, which actually would help it to survive constitutional challenge. So, that's part of what this is about. But the bottom line is that we, through this legislation, if it is passed, are suggesting that abortion clinics should function as ambulatory surgical centers, and yet we're changing what currently exists in terms of transfer and admitting privileges in ambulatory surgical centers to a more stringent requirement just for those ambulatory surgical centers that provide abortions, unnecessarily so, and I yield.

P. KING: Ms. Howard, I understand your argument on the standards issue, but would you agree with me that the bill will go into effect 91 days after third reading?

HOWARD: Okay.

P. KING: And that's at the point at which the requirement for admitting would go into place.

HOWARD: Okay.

P. KING: The requirement for all the facilities to be at an ASC level doesn't go into effect until September 2014.

HOWARD: Okay.

P. KING: And so, if I understand correctly, what your amendment would do would—and I understand your argument where you're saying, well, is it right to have admitting privileges and the ambulatory requirements, but for the first almost year of this bill those abortions clinics will still be operating as a lightly regulated abortion clinic. Wouldn't you agree with me—

HOWARD: "Lightly" would be your term, not mine.

P. KING: —that those admitting privileges are important, at least during that gap period?

HOWARD: I don't think it's written that way, is it?

P. KING: It is written that way. The clinics will not be required to upgrade to ASCs until January 2014. Your amendment would go into effect in 91 days.

HOWARD: Oh, okay. Whatever. That's something that I would be willing to look at changing, Representative King. The point here is that when it does go into effect, the language does require that the ASCs that perform abortions have a more stringent requirement for admitting procedures.

P. KING: Well, let's talk about that, too, because I want to ask you a couple of questions about that section as well, that point.

HOWARD: Okay.

P. KING: You mentioned that there's a number of hospitals that may not grant admitting privileges to a doctor who's sole practice is performing abortions.

HOWARD: Well, they don't admit—hospitals are under no obligation to grant admitting privileges to anyone. But, certainly, they look at the procedures that are performed—

P. KING: And your point was that some of them will not—

HOWARD: —and it needs to be the procedures that they perform in their facility.

P. KING: Sure. And your point was that some of them will turn that down because they don't want abortions performed in their facility. But you understand—

HOWARD: No, they—I can tell you that according to the Texas Hospital Association, no hospital in our state currently provides elective abortions. That's the case.

P. KING: Which is my point. You understand that we're not asking them to be admitted. The bill doesn't ask for them to be admitted for the purpose of performing abortions. It asks for them to be admitted for the purpose of being able to treat their patient. I mean, doesn't it make sense that when something goes wrong in that clinic, that you—

HOWARD: But when your procedure is a procedure that they don't offer in that hospital, it's a catch-22, Phil.

P. KING: But it's not admitting privileges for an abortion. Where the bill seeks admitting privileges for them to be able to treat their patient in an emergency. I mean, don't you want that doctor—if there is a hemorrhage or something else—to be able to jump in the ambulance, go to that emergency room, and immediately be able to treat that patient rather than have to call over and say, "Hey, something just went wrong. I don't have privileges at your hospital, but there's someone on the way there" and try to get a doctor up to speed. That's the purpose of the admitting privileges—

HOWARD: I know you have kids—

P. KING: —to treat an injury, not an abortion.

HOWARD: I know you have kids. I have kids. All of us that are moms in here know, and I guess, parents in general in here know that when you are going to have a baby and you go to a doctor, that doctor may have admitting privileges at a facility that you're going to deliver at, but the doctor may not be on call. The doctor may be out of town. Different people take over. You don't always have the physician you're counting on to do something. That's just not the way it works.

P. KING: But is that an emergency that—the point is that do you not want the doctor that was present when the emergency arose, do you not want them to be able to treat that person at the neighboring hospital? Again, that's not your—

HOWARD: That's not necessary to do it that way, Phil. That's just not how it works.

P. KING: Well, certainly that's how it works. That's the purpose of having the admitting privileges, so that if you're—

HOWARD: Do you know what a hospitalist is?

P. KING: I'm sorry?

HOWARD: Do you know what a hospitalist is?

P. KING: Yes.

HOWARD: So, do you know that the trend right now is to go toward having more hospitalists?

P. KING: I know that—

HOWARD: Where your physician does not go into the hospital. You're normally regularly—

P. KING: —I know that many people select their physicians on the basis that they will be able to treat them at a specific facility—

HOWARD: I'm trying to explain something to you here. What's happening now is you have the hospitalists who treat you when you're in the hospital—it's not even the physician that's been taking care of you outside of the hospital. There are all kinds of ways that medicine is delivered. I'm sure this gentleman could tell you that, as well.

P. KING: Certainly there is, but do you not—again, the flaw in your amendment, would you not agree, is that it creates a gap period from the 91st day until the clinics have to be upgraded to ambulatory surgical centers?

HOWARD: You know, I don't agree with the bill itself about changing to an ambulatory surgical center for administering medications in particular. I think that's really ridiculous. But, if indeed, because I am offering this—

P. KING: But, you're creating a gap.

HOWARD: —amendment, I am willing to consider amending.

[Amendment No. 9 was tabled by Record No. 8.]

[Amendment No. 10 by S. Turner was laid before the house.]

REPRESENTATIVE S. TURNER: While Representative Laubenberg looks at the amendment to decide whether it's acceptable, let me lay it out. I'm not going to repeat the conversation that we just had with Representative Donna Howard. Essentially, while the Committee on State Affairs was discussing this issue, the representative from the Texas Hospital Association indicated that most hospitals do not grant admitting privileges. What this amendment simply does is that it says that "a physician performing or inducing an abortion is not required to comply with Subsection (a)(1) if each hospital located not further than 30 miles from the location at which the abortion is performed or induced has a written policy that prohibits granting admitting privileges to a physician who performs or induces abortions outside of the hospital."

The reason why I'm putting forth this amendment is that I clearly understand Representative Laubenberg saying that the emphasis should be on pregnancies that are 20 weeks or more. Unless we modify the bill by virtue of this particular amendment, this bill has the effect of touching on all women who may seek an

abortion, whether it's 20 weeks, whether it's three weeks, whether it's four weeks or five. And so, with this particular amendment, it doesn't change anything else in the bill. The only thing that this amendment says is that if hospitals within a 30-mile radius, if they have a written policy saying that we are not going to admit these doctors who are performing these abortions for hospital privileges, then the physician is not required to comply with Subsection (a)(1) and is not subject to the criminal penalties that are outlined in this bill. That's the sole intent. I hope that Representative Laubenberg will carefully take a look at the amendment, and I hope that she will find it acceptable.

MARTINEZ FISCHER: Representative Turner, I'm trying to understand your amendment. What is the practical effect of your amendment?

S. TURNER: The practical effect is as the bill is written now, it requires doctors who perform abortions in clinics to have hospital admitting privileges. And based on the testimony at the State Affairs hearing, the representative from the Texas Hospital Association indicated that most hospitals in the state will not grant hospital admitting privileges to these physicians. So, this amendment simply says that if a hospital has a written policy of not granting admitting privileges to these physicians, then the physician need not comply with Section (a)(1) of the bill and not subject to the criminal penalties that are in the bill itself.

MARTINEZ FISCHER: Representative, you're a member of State Affairs, aren't you?

S. TURNER: Yes, I am.

MARTINEZ FISCHER: And it seems like that makes sense. Why didn't you offer that as an amendment in committee?

S. TURNER: Representative Martinez Fischer, I intended to have offered this amendment as well as two other amendments that I filed today. I intended to offer this amendment to the State Affairs Committee when we were discussing it at the end of hearing the testimony. It was my intent to offer this amendment as well as two others that I am now offering today.

MARTINEZ FISCHER: Were you given a chance to offer that amendment?

S. TURNER: Not at the time of the hearing. We had public testimony that started on Tuesday, July 2, that started about 3:34. It went up until about 12:01, and then at 12:01, the chairman ended the public testimony and wanted to proceed to the closing with Representative Laubenberg. I asked about an opportunity to speak, and I was intending to lay out the amendments at the end of that public testimony, but was not given an opportunity.

MARTINEZ FISCHER: So, Representative Cook cut the committee time off at midnight. I know that was the representation that was made on the house floor before the hearing, but Representative Cook made true on that, that the committee action would stop at midnight.

S. TURNER: He held true to his position that he'd cut off the testimony at 12:01 the following day.

MARTINEZ FISCHER: And so, you didn't get the opportunity to put the amendment on in committee. I imagine, after the testimony ended at 12:01, I imagine, at some point Representative Laubenberg was asked to close on her bill.

S. TURNER: That's correct. No one was given an opportunity to present any amendments to be considered. In fact, no one was given an opportunity to discuss what we he had heard from four o'clock the previous day up until 12:01. The chairman proceeded to an immediate—asked Jodie Laubenberg to close on her bill, and then proceeded to an immediate vote.

MARTINEZ FISCHER: Well, I see that from the record that the committee adjourned at 12:12 a.m., is that your recollection?

S. TURNER: I would say that the committee adjourned at approximately 12:12, 12:15 a.m.

MARTINEZ FISCHER: And how many minutes did the vote take prior to the 12:12, 12:15 adjournment?

S. TURNER: The vote was immediately taken once it started.

MARTINEZ FISCHER: So, was there any business in the committee after the vote was taken other than a motion to adjourn?

S. TURNER: That was it, except for the motion.

MARTINEZ FISCHER: That was it. So, there was a vote of the committee. The committee vote was reflected, and then there was an adjournment of the committee subject to call by the chair?

S. TURNER: That is correct.

[Representative Martinez Fischer raised a point of order against further consideration of **HB 2** under Rule 4, Section 32(b)(4) and Rule 4, Section 18. The chair overruled the point of order.]

CHAIR: Mr. Martinez Fischer raises a point of order. The point of order is respectfully overruled. Mr. Martinez Fischer indicates that he wishes to appeal the ruling, on this point of order, of the chair. There must be 10 seconds, and Representative Martinez Fischer will give us the names of the 10 seconds at a later time.

CHAIR (Geren in the chair): At the end of the three minutes pro and three minutes con, the question will be whether to sustain the ruling of the chair.

MARTINEZ FISCHER: I'll be brief and quick. This is an unusual procedure, but this is an unusual debate, and what it boils down to is the Committee on State Affairs met on July 2 and they took testimony. The testimony went past midnight. Our paperwork, our official governmental documents of this house are important. Not only are they governmental records, it is also history. The vote was taken on July 3, but yet the paperwork reflects that the vote was taken on July 2. Now that may not mean a lot to many of you who are going to take this vote, but for those of you that believe in doing things right, for those of you who believe about having a process that's transparent and a process that's fair—today it's this debate on abortion and fetal pain. Tomorrow it could be something else

that you care about and the shoe could be on the other foot. All I'm saying is there is a right way to do things, a wrong way to do things, you can win with grace—I'm under no illusion that there is not a mathematical majority to pass this bill, but it should be done right.

And if we're going to cut off people from speaking, when it comes to a committee hearing, that's one thing. When it comes to a committee hearing that won't include members who have the courtesy to ask questions that weren't given an opportunity to because they were not on the Committee on State Affairs, that's another thing. But when you limit our debate and stop us because you want to change the rules when they're convenient, I think that that's wrong. It's a fair objection that I've raised. It puts a 24-hour delay on this bill. It could be back by tomorrow afternoon, but you have to pass it the right way. And so, with that I'll be gaveled out in a minute and half. Representative Turner, who was actually a witness and bore witness to the committee actions, can tell you why this is the right thing to do.

S. TURNER: Let me just say, I was there. This hearing started on July 2, we finished on July 3, and the minutes should reflect that. Rules are important. Rules have meaning. We tell our children rules are important. You don't have to like them, but rules are important. Earlier today, Speaker Geren told the people in the gallery, you will abide by the rules of this house. He told our constituents, you will abide by the ruling in this house. I will say to the members, if the rules are good for the people in blue and orange, the rules ought to be good for the people who sit on this floor.

P. KING: Members, I appreciate the point of order that was raised. We all know what a big deal it is to move to overturn a decision of the chair. I would suggest to you that the reason we have had this practice in place is basically, that date serves as an index date. At least since 2001, for 12 years, the practice has been to put the date, a single date on, so that someone can come back later and look in the archives a month later, or years later. "What hearing are you referring to?" "Well, it was the hearing on June 2." And that date lets everything—be under—that occurred that date for that committee will be listed under that date. Otherwise you would have difficulty determining—because we know how many hearings go after midnight, and actions are taken in those committees before midnight and after midnight. And it would create a very difficult situation for records maintenance and for people to be able to research and find out what occurred—the public, as well as us. That's why that practice was put in place at least 12 years ago. Over all the years, and we know how many times committees have hearings, they'll take action in a committee before midnight, they'll take action in a committee after midnight and never before has this issue been raised. It is clearly a practice of the house.

However, even if it were not a practice, because the ruling decision was not announced, even if it were not a practice issue, we passed something by a large majority at the beginning of this session and it was called substantial compliance, and it was specifically intended for things of this purpose. And it says, "Rule 1, Section 9(d). A point of order raised as to a violation of a section of the rules governing committee reports,"—which is what this is—"minutes, or

accompanying documentation may be overruled if the purpose of that section of the rules has been substantially fulfilled"—and it certainly has—"and the violation does not deceive or mislead." Well, it certainly does not do that, either. I would also mention, in terms of rules, we have a rule that would allow us to move past and consider this substantial compliance, but even if we go with it being a practice of the house, three speakers, republican and democrat, have had this practice in place. It has been never been raised as a point of order. Frankly, it is the only way we can do business. And with that, I respectfully ask that we support the decision of the chair.

[The ruling of the chair was sustained by Record No. 9.]

S. TURNER: Again, based on Section (a)(1) of the bill, it simply says that doctors must obtain hospital admitting privileges. Based on the testimony that was given before State Affairs, the representative from the Texas Hospital Association indicated that most hospitals will not be granting admitting privileges to these doctors, thereby ending most abortions, whether it's two weeks or 20 weeks, in the State of Texas. This amendment simply says that everything else remains in place in the bill; however, if hospitals within 30 miles have a written policy of not granting hospital admitting privileges, that the physician will not be bound by the section in the bill.

WU: Are you offering this amendment because you believe that in this current form the bill is too restrictive and places an undue burden on women seeking their constitutional right to have an abortion?

S. TURNER: That is correct. In its present form, the bill focuses not just on women who are pregnant at 20 weeks, but the bill will have an impact on a woman who is pregnant, period, and seeks an abortion.

WU: Is the intent of your amendment to more narrowly tailor the bill's restrictions to accomplish the goal—accomplish the bill's goal in the least restrictive way?

S. TURNER: That is correct. That is the sole intent of this particular amendment.

FARRAR: Mr. Turner, you are aware that there a number of religious hospitals in Texas?

S. TURNER: Yes.

FARRAR: Are you aware that they won't even perform tubal ligations?

S. TURNER: That is correct.

FARRAR: All right. So, is what you are trying to do—provide care for women in those situations where religious hospitals would refuse to grant visitation privileges to doctors who perform abortion care?

S. TURNER: That is correct. Regardless, let's say you have a doctor who has a stellar record, an absolutely outstanding record as a physician, but because of the philosophy of that particular hospital, or because of their policy, they will not

grant admitting privileges to that doctor that may have an outstanding medical record. This is to narrowly construct the bill so that it doesn't just outlaw abortions across the board.

FARRAR: And so, in those situations where the only option is a religious hospital that has such a policy in place, what your amendment would do would be to actually take away from those hospitals—the contemplation that they would have to be—they would have to think twice about whether they put women's health at risk?

S. TURNER: That is correct.

FARRAR: They wouldn't even have to contemplate that?

S. TURNER: That is correct. The testimony that you and I heard before State Affairs from the representative from the Hospital Association indicated that the hospitals, for liability purposes, or for some religious purpose may not grant any hospital privileges, regardless of the doctor. So that takes the hospitals, kind of, out of it, and says to the doctors who cannot get hospital privileges by no burden of their own, but they can continue to service these women.

FARRAR: So this amendment is really just an amendment to protect—well, to respect—the positions of those religious institutions, then?

S. TURNER: That is correct. It is not an attempt to kill the bill, but it is an attempt to narrowly construct such that it doesn't arbitrarily prevent doctors in these clinics from offering the service to women.

DUKES: Chairman Turner, does a medical provider have to have admitting privileges in order to practice medicine?

S. TURNER: No.

DUKES: For admitting privileges, requirements for those who use an ASC, just in order to perform a procedure, an abortion, does one have to have admitting privileges in order to work at an ASC?

S. TURNER: Currently, no.

DUKES: No. But in order to do a certain procedure, we are going to make those who work at, even at an ASC—

S. TURNER: Yes.

DUKES: —be required to have privileges to admit at a hospital?

S. TURNER: The bill, yes. The bill goes further than what's required today by physicians who are practicing at ambulatory surgical centers.

DUKES: Do primary care physicians have to have admitting privileges?

S. TURNER: No.

DUKES: No. So, the last time that I had to go to my primary care physician and she drained my knee—which was very painful, I would add—with a needle that was about that big, and I think that some of the tools that they use for the procedures we are talking about are as large and supposedly more painful. She did not have to have admitting privileges?

S. TURNER: She did not need to have admitting privileges to a hospital in order to attend to your injury or to your knee.

DUKES: I think you have a good amendment.

S. TURNER: I appreciate your support.

REPRESENTATIVE S. KING: Representative Turner, is there a duty by hospitals now to give admitting privileges to any physician that seeks those?

S. TURNER: Based on the testimony that was presented by the witness representing the Hospital Association, she indicated that they are not obligated to grant any medical, hospital privileges, to these physicians.

S. KING: So there is no state law in place that says a hospital is compelled to give admitting privileges to a physician, is that correct?

S. TURNER: There is nothing in state law that compels them to do that, and there is nothing in this bill that will compel them either.

S. KING: What about the physicians that do abortions in their offices that are not licensed as an abortion facility? Are those physicians that are practicing at an ambulatory surgical center, would this include those, do you know? Would those physicians which are—they are numbered and calculated by the Department of State Health Services—would they be required, as well, to have admitting privileges for this purpose?

S. TURNER: I'm assuming, the way I read the bill, it's requiring any physician that seeks to undertake an abortion, that they must have admitting privileges. I hope this amendment is acceptable to the author, and so being, we can hold hands.

LAUBENBERG: Respectfully, Representative Sylvester Turner, I will move to table this. This amendment essentially nullifies the requirement that abortion physicians have admitting privileges. Hospitals do not need any written policy to deny admitting privileges, and in the amendment, we actually create a reason to delete this part of the bill. By default, if the hospital puts something in writing and the physician is now not required to apply for admitting privileges.

REPRESENTATIVE SMITHEE: Ms. Laubenberg, I, as well as you—we were both present at that State Affairs hearing that Mr. Turner alluded to a moment ago, where the representative from the Hospital Association testified. And I think the house needs to be aware of the full testimony that that lobbyist, or that representative, gave. And I think there has been a little bit of a misleading impression given. And first of all, are you aware, are any of the physicians who are currently performing abortions in Texas, are any of those physicians currently credentialed with admitting privileges at Texas hospitals?

LAUBENBERG: Yes, Representative Smithee, out of the 59 physicians that perform abortions, 37, approximately two-thirds, have admitting privileges now.

SMITHEE: And also, I went ahead and asked that representative about—she made a global statement that the hospitals simply wouldn't credential, or grant admitting privileges, and I asked her specifically what that global conclusionary statement was based on, and she had no evidentiary basis, no factual basis, and finally admitted it was mere speculation and conjecture on her part. Well, we don't make laws, do we, based on conjecture and speculation?

LAUBENBERG: No, we don't.

SMITHEE: And the record that is before the hearing, I would call it less than credible evidence that the premise of this amendment, i.e., that hospitals will just refuse to credential any of these people, for any arbitrary reason—I find no objective, credible evidence that that's the case. Would you agree with that?

LAUBENBERG: I would agree.

GIDDINGS: Representative Laubenberg, you were in State Affairs having presented your bill when the Texas Hospital Association's representative came to testify before the House Committee on State Affairs on July 2, is that correct?

LAUBENBERG: Yes.

GIDDINGS: And she gave to the House State Affairs Committee a written copy of her remarks, are you aware of that?

LAUBENBERG: No, I am not, and I did not get a copy of those remarks.

GIDDINGS: Okay. Well, these remarks by the Texas Hospital Association's testimony in opposition to Section 2 of **HB 2** by Jodie Laubenberg, relating to the regulation of abortion procedures, providers, and facilities, is an official copy, is an official part of the minutes. And it says that, "THA agrees that women should receive high quality care and physicians should be held accountable. However, a requirement that physicians who perform one particular outpatient procedure, abortion, be privileged at a hospital is not the appropriate way to accomplish these goals." Do you remember that testimony?

LAUBENBERG: I cannot remember it word for word, I'm sorry—you're reading it, so I don't question what you're saying.

GIDDINGS: Those are the exact words, and as it relates to what Chairman Smithee was asking questions about, they also gave us a handout that said, "Overview of Hospital Credentialing and Privileging of Physicians." And this is what that paragraph says, and I want to see if you recall this being read into the record, "If a physician does not perform any procedures in the hospital or performs a procedure that the hospital does not perform, there is no process for the hospital to grant privileges to that physician, thus if the hospital does not perform elective abortions, a physician seeking privileges to perform abortions would not be granted those privileges," according to the Texas Hospital Association. Do you recall that testimony?

LAUBENBERG: Again, I don't have it in front of me, so I have no doubt she said what she said. There was testimony by a physician who sat on the admitting panel for a local hospital who very specifically said that he admits abortion doctors, that that's all they do, and there wasn't a problem. And I believe there was another statement, I'd written down in my notes because that one caught my attention, that on their application that it doesn't even ask about abortions. And again, we're not forcing the hospitals to admit someone.

GIDDINGS: Representative Laubenberg, I remember the person you're talking about. That person testified, and he was affiliated with a faith-based organization, and he did not say that that physician was admitted to do abortion procedures in that hospital, is that right?

LAUBENBERG: Was that St. David's hospital?

GIDDINGS: That is the person that you and I are both referring to, except that he did not say that the doctor was admitted to perform abortion procedures in that hospital because—

LAUBENBERG: Actually, not to perform their specific procedure, but they did have admitting privileges. Actually, I'm looking at the list and St. David's has given admitting privileges to a physician who does perform abortions, but they don't have to perform them at that facility.

GIDDINGS: Because, basically, what they've said as an example is just because someone is a cardiologist, they might not be permitted to do cardiac catheterizations, so physicians are usually admitted to do particular procedures. So an OB/GYN could be admitted to do other procedures and perform other services that don't have to do with abortion, is that correct?

LAUBENBERG: Well, I'm looking here at the Occupations Code and it says that "a hospital or health care facility may not discriminate against a physician or staff member or employee because of the person's willingness to participate in an abortion procedure at another facility."

GIDDINGS: Well, I hear what you are saying, but that's quite different from my question. It's not whether or not they discriminate, and it wouldn't be a case of discrimination if the hospital's policy is only to admit people to perform the services that are performed by the hospital.

LAUBENBERG: What they are looking for, on the admitting privileges, are the complications and the treatment of the patient. That would be what they would be viewing at the hospital, that they would be applying for the admitting privileges for.

GIDDINGS: Would you tell me that again, please? I'm sorry.

LAUBENBERG: I know. It's very—echoing in here. The abortion physician applying for the privileges, the admitting privileges, would need to treat the patient if there is a complication with the abortion, not for the abortion itself. But if there is a post-abortion complication, it would be for the continued care of the patient.

GIDDINGS: Well, let me talk about hospital admitting privileges, which is what this is about. Generally speaking, if a person has an emergency, they may or may not end up in a hospital where there are admitting privileges for a particular physician. For instance, in the city of Dallas, most physicians who have admitting privileges at Presbyterian don't have admitting privileges at Methodist or Baylor or some other hospital. They tend to have admitting privileges in only one hospital. And if you have an emergency, you could end up going to any of those hospitals. And it very well may be a hospital where your physician does not have admitting privileges—

LAUBENBERG: I move to table.

S. TURNER: In the bill, it requires doctors in these clinics to get admitting privileges to hospitals. The Texas Hospital Association says, in testimony before State Affairs, in most cases, we are not going to grant those privileges. The bill itself does not mandate hospitals to provide those privileges, and if the bill mandates it, if the Hospital Association says we're not going to grant them, then in essence you don't have doctors that are available to perform these procedures whether you're two weeks or whether you're 20 weeks. It is as simple as that. The bill, in effect, becomes a de facto bar to almost any abortions in the State of Texas. And I think that is the intent, let's call it what it is—that's the intent. The intent is to end abortions in the State of Texas, and this is a—how can I say it as a—this is a verbose way of trying to do what you want to do when you constitutionally can't do it, but you're doing it anyway. It is a recipe for litigation. Once it passes, it will be in the courthouse just as quick as quick can say quick, and we will fight this in court another day.

REPRESENTATIVE SHEETS: Mr. Turner, can you, again, please briefly explain to me what your amendment is doing?

S. TURNER: The amendment simply says—the bill requires doctors in these 42 clinics to have admitting privileges in hospitals. Based on the testimony that was given on July 2 by the Hospital Association witness, she said that most hospitals in the State of Texas, primarily outside of Houston, Dallas, and San Antonio, will not grant hospital privileges to doctors who are primarily performing abortions outside of their hospitals. Primarily because of liability purposes, and I understand that. I've been a lawyer for 33 years, I understand that. And so, if that is the case, the bill creates a de facto bar to any abortions, whether it's 20 weeks or two weeks. What my bill does is that it more narrowly restricts the bill only to apply to those physicians where there is not a written policy on the part of the hospitals that would remove them or deny them hospital privileges, even if they are the best of doctors. That's all it does. If the goal is the health and safety of women, and if we want the basic intent of the bill—the amendment is intended to narrowly restrict the bill and say only to those doctors where hospitals have made a blanket decision not to grant hospital privileges, you will not be bound by this particular section of the bill. That's all it does.

SHEETS: And Mr. Turner, are you familiar with Chapter 103 of the Occupations Code?

S. TURNER: Chapter 1 of which code?

SHEETS: Chapter 103 of the Occupations Code.

S. TURNER: Tell me what it says.

SHEETS: Well, it deals with—I'll give you the title, it's "Provisions Applying to Health Professions Generally." And Section 103.002(b) says, "A hospital or health care facility may not discriminate against a physician, nurse, staff member, or employee because of the person's willingness to participate in an abortion procedure at another facility." And since we already have that codified in current statute, do you think your amendment is necessary? Because discrimination against physicians is unlawful, at this point.

S. TURNER: Basically, the position that hospitals have taken is that if you are engaged in these procedures, but you are also engaged in other things in their hospital, we will allow admitting privileges. But if your primary practice is providing these procedures outside of the hospital, we are not obligated to grant you admitting privileges, and neither will we grant you admitting privileges, because we do not want to be held legally liable for what you do outside of the hospital when we do not have any direct control over you. That is—as a lawyer, let me tell you, that is a powerful argument. And I understand why the Hospital Association would say no, and I would like to think that members would like to think that, as well. Now, if you want to follow through on the intent of the bill, and make sure that physicians in these ambulatory surgical centers can practice in hospitals, then we need to mandate that they provide hospital privileges.

SHEETS: Are you going to deny that currently that there are physicians out there who perform abortions at abortion facilities that are admitted to hospitals already throughout the state?

S. TURNER: Outside of Houston, Dallas, and San Antonio, there are very few hospitals that will grant admitting privileges to doctors that perform abortions outside of their clinics.

SHEETS: So you're saying they're in violation of Chapter 103 of the Occupations Code?

S. TURNER: The hospitals are more fearful of being sued and liability than anything else that we may be saying on this floor. With respect to abortions, for example—

SHEETS: Well, it's not something that we're saying on this house floor, this is the current statute. This is the law of the land, sir.

S. TURNER: No. What I am indicating to you is what the Hospital Association indicated to us—it cannot be that a doctor is simply performing an abortion outside of their hospital. They must have some other specialty where they are looking at that particular doctor beyond what that doctor is doing outside of the hospital in their particular clinic. It's more to it than that.

SHEETS: And that's a great point, because don't we have doctors who are not OB/GYNs, but they are other practices, performing abortions right now in the State of Texas?

S. TURNER: Say it again, I'm sorry.

SHEETS: Don't we have doctors who are not OB/GYNs, but they practice in other fields, performing abortions in the State of Texas right now?

S. TURNER: I can't speak to that. I do not know. I would defer to the Texas Hospital Association. I do not know. I'm not a doctor, I'm a lawyer, so I don't know.

SHEETS: You would admit that organizations can be incorrect in their interpretation of the law or their practices? I mean, we find all the time—I mean, I'm a lawyer, as well—there's several times where my clients are taking actions that are contrary to the law and I then have to advise them to change their course of action.

S. TURNER: With all due respect, let me just say this—I've been here 24 years and we have always held the Texas Hospital Association up in deep respect. We've always looked to them for their opinions, and their advice, and their counsel on medical matters that impact hospitals in both rural and urban Texas. I'm a little befuddled today on why we would discard the testimony of the Texas Hospital Association, when it's something that we want. Just because we want it doesn't make it so. And if people keep saying to you, no, no, no, no, but if we are so bent on saying, yes, yes, yes, yes; quite frankly, it doesn't matter what I say, it doesn't matter what the Texas Hospital Association says, it doesn't matter what the rules are. If we are driven by an end result, irrespective of what people say, that's what's going to happen at the end of the day.

PHILLIPS: What I don't understand, and we heard Mr. Smithee awhile ago, I think, eloquently set to bed—that I listened to your questioning and your discussion with the lady from the Hospital Association, the lobbyist/lawyer, and she said that basically she had no evidence—

S. TURNER: That is not what she said.

PHILLIPS: She couldn't tell why—

S. TURNER: That is not what she said.

PHILLIPS: Wouldn't you agree that she couldn't explain why?

S. TURNER: Representative Phillips, that is not what she said. Simply because you are saying it's so, doesn't make it so.

PHILLIPS: Did you get the transcript?

S. TURNER: I got the transcript, Representative Phillips.

PHILLIPS: Well, I would love to see it, because I think—let me ask you the next question. Are you aware that over two-thirds of those doctors currently have privileges? Which totally pales in the face of that evidence that you supposedly claim she has, wouldn't you agree?

S. TURNER: Representative Phillips, the person who represented the Hospital Association came under oath. I've never heard the figures that were just presented by Representative Laubenberg. I do know that when it comes to San Antonio, Dallas, and Harris County, that's where most of these physicians are that are practicing in these clinics with hospital privileges. Just because you say it's so, doesn't make it so. You do not have the right to create your own facts—

PHILLIPS: Are you saying Mr. Smithee and Ms. Laubenberg are being dishonest to this body?

S. TURNER: Representative Phillips, I am talking to you.

PHILLIPS: I understand.

S. TURNER: I am talking to you, and just because you come to the mic and elevate your voice, doesn't make what you are saying true, right, or correct.

PHILLIPS: Are you talking about elevating voices?

S. TURNER: Well, I'm just saying, you know—

PHILLIPS: The master of it?

S. TURNER: You can believe in something, Representative Phillips, you can believe in something, but if the facts speak contrary to your opinion, your opinion remains an opinion, ill-advised, unsubstantiated, and cannot stand on the legs on which you are trying to place it. The facts are what the facts are.

PHILLIPS: So, would you withdraw your amendment, if the facts—and they gave you that information—it's very clear that two-thirds have admitting privileges—

[Amendment No. 10 was tabled by Record No. 10.]

[Amendment No. 11 by Menéndez was laid before the house.]

MENÉNDEZ: **HB 2** provides for an abortion up to the 20th week mark, but it makes no exceptions beyond that point other than the mother's life is threatened. There is no exception for a situation in which the mother's life is threatened by her own decision to stop psychotropic medications that may pose a risk to the fetus, but such poses such a serious risk of suicide or self-harm by the mother because of a preexisting mental health condition. That same threat exists from posttraumatic stress disorder that may result from either a rape or even incidents of incest. PTSD has been long established to manifest itself at times well after the event. Because PTSD is recognized as a highly disabling illness disorder, to the extent that it can cause acute disabilities. So, members, what I think is here that—a pregnancy that's a result of sexual abuse/incest has a debilitating side as a result of PTSD. So posttraumatic stress disorder is a serious health condition that does not follow a medical clock like a pregnancy does. So the 20-week limit fails to recognize that fact or at all the other dangers such as the condition could pose to the woman, or even the public, if in spite of the medical opinion of her doctor, the woman is forced by this legislation to carry to full term.

What this amendment simply does is recognizes what we have already acknowledged for disabled veterans and others with PTSD; a specially qualifying mental illness should be applied to this legislation, recognizing that there is no specific clock running on this medical condition. Additionally, the amendment would recognize that certain types of psychotropic medications being prescribed for a preexisting mental health condition may pose a severe risk to the fetus if continued to towards delivery, but if the reasonable medical judgement of the physician is that the causative condition may pose an equally high risk of self-inflicted harm or even suicide by the mother if the drugs are discontinued for a sustained period of time. In both cases, the amendment stresses, just as this bill does, the reasonable medical judgement of the attending physician. So, members, I would hope that we as a compassionate body of elected officials would not fail to recognize that there are reasonable medical circumstances that no legislation can categorize or even reasonably define that are more accurate and personally directed than a doctor's in cases such as I have described.

Members, we heard testimony in committee from a lady who was on psychotropic medication who said her medication was known to cause birth defects, and that if she became pregnant, she would have to choose between her own mental health and stability or the health of the baby. So, members, I think that this amendment that would bring into consideration a woman's psychological condition, and apply, too, as a woman's mental status to present a possibility of self-harm or suicide as detected by her doctor, and this is for the discontinuation of psychotropic medications prescribed for a preexisting psychological condition. Psychological conditions are just as important as health conditions, and so, I hope that the author sees that we could adopt this because we should consider women's health, both their mental and their physical health.

[Representative Reynolds raised a point of order against further consideration of **HB 2** under Rule 4, Section 32(c) of the House Rules. The chair overruled the point of order.]

FARRAR: Mr. Menéndez, in the bill, on page 5, line 8, this bill specifically rules out in its exceptions the possibility of the consideration of psychological conditions. Are you aware of that?

MENÉNDEZ: Yes, I am, and I think it's one of the bill's shortcomings, among many others, but not to recognize a woman's psychological health is in essence saying that psychological health is not equivalent to your physical health. And we all know that some people can become suicidal, and if someone is on medication for a preexisting psychological condition and that has them stabilized, and they already have a family, are we saying that their existing family is not as important as the one that they possibly might bring into this world, or that the mother's not as important? I think that it's a crime not to acknowledge a woman's psychological health as being as important as her physical health.

FARRAR: I appreciate you saying that, because that has been a concern. And we did hear testimony about that, about women—and that's why these issues are so difficult, because we do—I don't know if you heard the testimony as well, but there was a woman who was concerned about her other children.

MENÉNDEZ: Correct.

FARRAR: You did hear that testimony?

MENÉNDEZ: Yes, absolutely, and she's on medication that has her stabilized, that's allowed her to be a good mom. And what would happen if she became pregnant and then the medication she's on would potentially harm the fetus? She'd have to choose between the safety and wellbeing of the baby she'd be carrying, or the children she already had. And that, I think, is not a decision that we should be legislating, that there is absolutely no area that she and her doctor and her god should be dictating, should be deliberating in a very serious capacity. We, in essence, are just saying that her mental health is not important.

FARRAR: Right, and this is even—your amendment is still pretty narrow. I mean, you're dealing with psychotropic medications, and you're dealing with PTSD as a result of rape or incest. Correct?

MENÉNDEZ: Correct.

FARRAR: So even then, I mean, my criticism of the amendment would be that it should allow for severe postpartum depression and other conditions, but I think, I mean, if you can get these two, I think it certainly makes the bill better.

MENÉNDEZ: Well, you know in—

LAUBENBERG: Madam Chair, respectfully, I do also move to table this amendment. The physical health exception is in the bill and it is a very immediate situation that can be determined, you know, immediately. Mental health is a very serious, serious issue, and a woman can feel good one day and be down the next day, and to make a decision in that state could be a decision that she could later regret. Right now, for five months, a woman can have an abortion for any reason for five months. But again, I bring it back to the fact that at five months and beyond, we are now looking at a well-developed preborn child who will feel the pain of that abortion. Thank you. I move to table.

MENÉNDEZ: Very quickly, all I'm doing in this amendment is adding that if in—this is specifically from the amendment—if in the physician's reasonable medical judgement, number one, the psychological condition is a posttraumatic stress disorder caused by rape or an incestuous relationship forced on the woman that manifests itself after the 20-week period; or two, that the discontinuation of her psychotropic medications prescribed for a preexisting psychological condition because of the potential side effects, risk of the medications to the fetus would have such a debilitating effect on the woman's mental state as to present the possibility of self-harm or suicide. I think that's pretty serious, and I appreciate your attention and I would hope that you vote against the motion to table. Thank you.

[Amendment No. 11 was tabled by Record No. 11.]

[Amendment No. 12 by McClendon was laid before the house.]

REPRESENTATIVE MCCLENDON: This amendment would help lower the number of abortions in the State of Texas by preventing unwanted pregnancies, period. That's what it would do. It would lower the number of abortions by encouraging evidence and standards-based sex education in public school classrooms. It would help kids understand the effects of sexual behavior based on a holistic approach to abstinence, relationships, and sexuality. However, while the amendment does focus on abstinence, it does not end with abstinence. It takes a realistic, evidence-based approach to human behavior and, as in current law, it does not punish the students of parents who choose to remove them from the curriculum.

This amendment would encourage a curriculum that uses evidence-based sex education, provides age-appropriate information, and work to promote healthy relationships and decision-making. In fact, it would encourage effective communication between adolescents and their parents. This amendment would also make exceptions to the 20-week ban proposed in the bill if it was found that the minor had not received proper comprehensive sex education as outlined in this amendment. Furthermore, it would make an exception to the prohibition to medical practices for adolescent abortions and it could be verified that the minor did not receive sex education as outlined in this amendment. No one wants no abortions. I don't think anybody in this room is promoting abortions. Everyone here on this floor would like to see fewer abortions, but we cannot do that by simply making them harder to obtain. We must find ways to prevent unwanted pregnancies, especially by educating, educating our children. We owe it to them to set them up for success and not for failure.

REPRESENTATIVE BURNAM: Ms. McClendon, the intent of your amendment is to go more to the root of the problem, which is, Texas has a growing rate of abortions because it has a growing rate of unwanted pregnancies. Is that right?

MCCLENDON: That's correct, that's correct. Texas is the fifth in the nation in teenage pregnancies.

BURNAM: The point of your amendment is to clarify that the most effective way to reduce the number of abortions is to reduce the number of unwanted pregnancies, is that correct?

MCCLENDON: That's correct, Mr. Burnam.

BURNAM: And did you say that Texas currently holds the distinction of having the fifth highest teenage pregnancy rate of any state in the country?

MCCLENDON: That's correct.

BURNAM: Were you aware that it's fifth for the first incidence, but that it's number one in the second incidence of teenage pregnancy in the country?

MCCLENDON: It is number one in the nation in teenage pregnancies.

BURNAM: So, that means we have a lot of repeat unintended pregnancies and therefore, frequently, unwanted pregnancies, and therefore, frequently, resulting in abortions. Is that correct?

MCCLENDON: That's correct.

BURNAM: So, if we wanted to go to the root issue of the problem, which is unwanted pregnancies, your amendment would try to address that by doing what?

MCCLENDON: Educating the students. The students need to be educated, and the parents need to be educated, as well, so they can help their children.

BURNAM: So, are you aware that not only do we have a really, really high percentage of unplanned pregnancies among our teenage population, that Texas, it is estimated that over half of all pregnancies in this state are unplanned?

MCCLENDON: Correct.

BURNAM: Have you seen the studies done by HHSC, where they are required to provide information, charting and graph, on pregnancies versus induced abortions?

MCCLENDON: I have not seen that.

BURNAM: Well, I have in my hand a chart that charts this in Texas from 1998 to 2010, and the growing incidence of ended pregnancies through abortion, and what you're able to do is to project on that and look at those numbers. You can look at what we did to family planning services in 2011, and you can easily surmise by looking at these numbers that because of the increased pregnancies, as a result of what we—bad public policy decision in 2011 did. Do you realize that it's been estimated that an additional 4,500-plus abortions in the State of Texas during the last biennium because we cut, we cut funding for pregnancy planning?

MCCLENDON: That's correct.

BURNAM: And so, your intent in offering this amendment is to go to the root of the problem. The root of the problem is over half of the pregnancies in the State of Texas are unplanned, and there's a way to reduce that, but it's through education. Is that right?

MCCLENDON: That's correct.

BURNAM: And you're intending to provide for education—

MCCLENDON: —and the proper sex education.

BURNAM: The proper sex education. So, rather than have so many young women confronting an unpleasant decision, a decision that nobody really wants to be in a position of having to make, we could go to the root of the problem and address the issue of unplanned pregnancy?

MCCLENDON: Correct.

BURNAM: Thank you very much for offering this amendment.

REPRESENTATIVE ALLEN: You know this is my subject.

MCCLENDON: It is.

ALLEN: Are you making the body aware that we have a sex education problem in the State of Texas?

MCCLENDON: That's the intent. And let me just say that in 1995, Texas made a big push to institute abstinence as the only sex education in our public schools, but as a result, after 15 years, according to the Center for Disease Control, Texas was the number one state, the number one state for percentage of repeat teen births.

ALLEN: And number one.

MCCLENDON: Number one.

ALLEN: So, how does that relate to sex education?

MCCLENDON: Researchers have examined a national survey of family growth to determine the impact of sexuality education on sexual risk-taking for young people in the ages of 15 through 19, and they found that teens who received comprehensive sexual education were 50 percent less likely to report a pregnancy than those who received abstinence-only education. That same age group had over 10,000 abortions in Texas, as recently as 2005, and if we're serious about limiting abortions, it would include the comprehensive sex education.

ALLEN: Could you help me—what kind of support is out there to teach about evidence-based sex education? For example, that presents actual facts about contraception, birth control. Could you help me with that?

MCCLENDON: Yes, Dr. Allen. I can tell you that Texans strongly support including this information in high school classrooms. In February 2013, a poll was taken of likely Texans, and the poll showed that 84 voters favor teaching about contraception, such as condoms and other birth control, along with abstinence, in high school sex education classes.

ALLEN: Wow. Help me with, if you know, how many school districts teach factual incorrect information in sex education instruction?

MCCLENDON: We found that, in a survey that they took in 2008 of every school district in Texas, found that 41 percent of the Texas school districts teach factually incorrect information in sexuality education instruction. And this is published in the Texas Freedom Network report.

ALLEN: Do schools teach about condom use and contraception at all? Is it ever mentioned in our Texas textbooks?

MCCLENDON: In just the textbooks that some of the representatives have here, may have access to, the only mention of contraceptives is to inform students that birth control will not protect them from—

LAUBENBERG: I am going to table this amendment. Basically, it's saying that if a minor can tell her abortion doctor that she did not receive effective sex education wherever, that she can have the abortion without parental consent, without a judicial bypass, and it just—this bill is about regulating the clinics and the pain of a 5-month baby experiencing that abortion.

REPRESENTATIVE SCHAEFER: Representative Laubenberg, wouldn't you say that the root of the problem really lies with the home and the parents?

LAUBENBERG: Parents at home are very important, yes.

SCHAEFER: And wouldn't you say that the most appropriate place for young people to receive education about sex is from parents?

LAUBENBERG: That would be the primary resource. I would agree, yes.

SCHAEFER: And do you think that most young people have a pretty good understanding of what happens when they engage in this kind of behavior?

LAUBENBERG: I think a lot of us are here on that basis.

SCHAEFER: In fact, we live in a culture where this kind of sexual behavior has become glamorized and overemphasized. Wouldn't you agree with that?

LAUBENBERG: I would agree.

SCHAEFER: So, if we're really going to look at the problem, the root of the problem, it's not the fact that our schools aren't telling students all about sex education, but the root of the problem really goes back to the home and the family. Wouldn't you agree with that?

LAUBENBERG: I would agree.

SCHAEFER: Thank you, Representative Laubenberg.

CANALES: Just some follow-up questions, Representative, to Representative Schaefer's comments. What do we do when the parents aren't teaching them? Do we just let the kids be ignorant?

LAUBENBERG: Remember, I said I think that's the primary source and—

CANALES: No, I agree with you, and I'm in agreement with Representative Schaefer, but you've got to agree with me also that there are parents who don't do their job. So, do we just do nothing for those kids?

LAUBENBERG: I think kids today don't have any problem in understanding what sex is.

CANALES: You think kids today don't have any problem understanding what sex is?

LAUBENBERG: I think what Representative Schaefer was saying is that there is so much information out there. There's all types of—

CANALES: I agree with you, but the problem is what kind of information's out there, and is it the proper information out there? And I also agree with you that kids don't have a problem understanding what sex is. What I disagree with is that I don't believe that all children are getting the proper education, and that's what this is about.

LAUBENBERG: Representative Canales, the reason I am opposing this amendment is because it is doing a couple of things—

CANALES: Because you're opposed to all amendments, is that why?

LAUBENBERG: Well, we're talking about this particular amendment.

CANALES: Oh, I'm sorry. I apologize, Representative, go ahead.

LAUBENBERG: Sure. This particular amendment is taking away the parental consent, the judicial bypass, and basically saying that a minor can tell the abortion doctor that if they didn't receive effective instruction relating to human sexuality that they can go ahead and approve their own abortion, and I would be opposed to that, and I'm opposing this amendment.

CANALES: Just one final question, Representative. Have you accepted any amendments today?

LAUBENBERG: No, I don't believe I have.

BURNAM: I don't know if you've heard the exchange that Ms. McClendon and I were having, but I was really talking about what has happened in this legislative body relative to our public policy decisions. Could you tell me how you voted two years ago when it came to cutting sex education programs?

LAUBENBERG: Two years ago?

BURNAM: Yes. Remember, in 2011, we had the budget crisis and we were cutting everything left and right, willy-nilly, not really paying attention about the unintended consequences.

LAUBENBERG: Please tell me. I apologize, I don't know what I did.

BURNAM: Well, we radically cut funding across the board. In fact, we had a series, multiple votes in the last session, and I believe you were on the wrong side, if you care about sex education opportunities, on every one of those votes. So, the point of my getting up here and asking Ms. McClendon the questions I was asking her is this: what do you not understand about the issue of teenagers are going to have sex, whether or not we think that's a good idea or not? And the only way we're going to address this such that we're not having unplanned pregnancies is if we do a better job of teaching teenagers about right decision-making and responsible engagement. And so, I just want to make sure you know that as a result of the votes that you cast last session, the state agency responsible for compiling the statistics has concluded that we had an additional 4,500-plus abortions in the last two years, which is a far higher number of abortions than what you're talking about when you're talking about anything in the post 20-week period. And as long as you're clear on what the real numbers are, and as long as we start being honest about this debate, which is, it's not about anything other than to interfere in a person's right to choose, and we're not really trying to reduce abortions because we're not really adopting the amendments that need to be adopted to address that issue. I just want to make sure you're honest in your debate.

LAUBENBERG: Thank you, Representative Burnam. I move to table.

MCCLENDON: I, for one, recognize that sex behavior is taught in the home, but there are a lot of homes that are not like the ones that those of us in this body came from. There are homes where the children don't have food to eat. There are homes where there's no hot water and they can't take a proper bath. There are homes where they cannot do their homework because the electricity has been cut

off and they're cold. Everyone does not come from a house like many of us grew up in. Many of the children, a lot of the children, come from homes that we would be ashamed to say that a child lived in that environment.

So, when you say sex behavior is learned in the home, yes, it should be, and in many homes it is learned there, and that's where it should be learned, but there are situations where children cannot get this type of nurturing that we would want them to have. So, the next place you go to is the public school system, and you go to the public school system because we are putting money into the public school system for sex education classes. These classes, at the present time, are not thorough at all, and so, I submit to you that we need to do something different and we need to do something better than we are doing it now. And this amendment would take care of the students who are not as fortunate as many of us were when we grew up, and many of us know about people in our communities who are not able to assist their children with these kinds of trainings. So, I move that, ask that you not table this amendment.

LEACH: Thank you, Representative, and Ruth, you know I love you, and I have enjoyed working with you on so many issues this session and appreciate just your spirit and your heart and your long term of service in this body. I do want to ask you a couple of questions about sex education in our public schools. You've served for much longer in this house than I have and you've been involved in these debates for many years, and I understand and I agree with you that the primary education of our children, including sex education takes place in the home, and in our churches, and in our communities, including our public schools. So when I came into the legislature this session, I was shocked to learn that abortion providers, including Planned Parenthood, are actively teaching sex education in our public schools. Were you aware of that?

MCCLENDON: I'm aware that they are teaching sex education in public schools, but the sex education that they are teaching is far from what they ought to be teaching in order to help the students understand what happens what you get pregnant and what are the consequences of pregnancies.

LEACH: I agree completely. Would you agree that an organization such as Planned Parenthood, or any other abortion provider, has an inherent conflict of interest in teaching safe sex to our children in public schools?

MCCLENDON: No, there's no conflict of interest.

LEACH: I was shocked to learn of multiple occasions across the state, we had people come testify. I had a bill that addressed this, and we had people that came and testified that their kids came home from school, and Planned Parenthood had taught their children in our public schools how to do everything except have sexual intercourse. Are you aware of that?

MCCLENDON: I'm aware of that's how some people have portrayed that, but I can tell you that that is not the way it is taught in most of the schools—

LEACH: I agree. I agree with that.

MCCLENDON: —in this state.

LEACH: Most of the schools are doing it the right way, they're supported by parents, they're supported by the local communities, and they're actually teaching it the right way, but there are those schools—

MCCLENDON: The fact is that most of the schools are teaching it the right way—

LEACH: Would you support an amendment to your amendment that would outlaw any mention of the word abortion in our public schools and would ban any abortion provider from teaching sex ed in our public schools?

MCCLENDON: Say that again.

LEACH: Would you accept an amendment to your amendment that would, number one, prohibit any mention of abortion in our public schools, and number two, would ban any abortion provider from teaching or having access to our students in our public schools?

MCCLENDON: No. No.

LEACH: Okay. We disagree on that.

MCCLENDON: Yeah, we disagree on that.

LEACH: All right.

[Amendment No. 12 was tabled by Record No. 12.]

[Amendment No. 13 by Herrero was laid before the house.]

HERRERO: I stand before you as an individual who supports a woman's access to health care, as well as an individual who is pro-life. And I offer this amendment because I believe that it establishes a better standard of care and it does so by ensuring that a woman will receive the best medical care available and that the care that she receives would be appropriate as to each woman individually. Specifically, the amendment would allow a doctor to give medical care by providing the best possible treatment under evidence-based practices so that every woman receiving the medical care would be receiving the care specific as to her needs and her condition and her needs, if you will.

Under the bill, as written, it limits the dosage of abortion inducing medication to a specific dosage. So, it's a one-dosage-fits-all regimen. This amendment would allow a doctor to assess an individual woman and determine whether or not that FDA protocol is appropriate and if not, rely on evidence-based information to administer a different dosage specific to that specific individual's circumstances. Specifically, the amendment would establish the better care by giving doctors the latitude that they would need to practice the best medicine for their patients. As mentioned, this bill would require, as written, the FDA label as the only regimen available to administering the prescription and would prohibit a physician from utilizing any other method, known as off-label protocol-based scientific evidence that currently is the standard medical practice utilized nationwide.

The bill attempts to codify a standard of care that is outdated and no longer in use. Since this FDA label was approved 13 years ago, clinical studies have shown that the current best practices result in fewer complications and are more effective than the FDA regimen. Specifically, also, in support of making sure that there is more of an individual assessment, the American Congress of OB/GYN is concerned with the language in this bill, as written, because it feels that it would weaken the standard of care, the patient's safety, and specifically threaten the doctor-patient relationship. **HB 2** would provide the doctors to follow a less-effective, a more costly, and a procedure that ultimately could cause more detrimental side effects and potentially the loss of life of the mother. And it's mentioned before, as someone who supports a woman's access to health care and as an individual who is pro-life, I would hate for us to save the life of a child with the intent of this bill, but yet somehow further risk the life of the mother.

While **HB 2** has permissive language that would allow the doses amount to be utilized based on the OB/GYN practice bulletin guidelines, as they existed on January 1, 2013. This alone, however, would be insufficient to allow a doctor to have the meaningful discretion to be able to utilize the best practice of medicine. Therefore, this amendment would remove the mandate that would limit a physician to use only the FDA-label dosage and protocol and also, it would insert an added option of using evidence-based protocols for the inducing drug. The evidence-based protocols that are outlined in this amendment reflect the current best practices, as nationally recognized by the American College of OB/GYN. Additionally, this amendment lays out the requirements that would further ensure the safety of the mother. Specifically, the doctor would have to take additional measures than are currently outlined in this bill. The amendment would require doctors to take measures to ensure the safety of their patients in the event of complications. It would also make sure that the doctors fully explain and inform their patients of the regimen outlined on the FDA label, as well as any differences or deviations in the treatment or prescription, and the specific reasons why the physician deviated from the FDA-approved regimen.

In addition, this amendment would also require the doctor to obtain the written consent from their patient and acknowledging that the patient has received the appropriate information. With this amendment, a physician would have the ability to offer the best quality of care and ensure the health and safety of Texas women. Under circumstances as we talk today about—there are some doctors here on the house floor, and I am not one of them—and I don't think that we should rely on what we think is best, and instead rely on what best evidence practices have proven to be, more useful, more effective, safer, and more helpful. And for that reason, I would ask that we not establish, legislatively, a mandate of a one-dosage-fits-all on an issue that is so important when we are trying to save lives. Let us not risk the life of mothers because we are mandating a specific one-dosage-fits-all. And for that, members, with that intent, I ask for your support of this amendment and I move for passage.

M. GONZÁLEZ: Representative Herrero, you voted for **SB 1** the first time, correct?

HERRERO: Yes, I did.

M. GONZÁLEZ: And you're probably going to vote for it this time, correct?

HERRERO: I'm taking into consideration the amendments. I am pro-life and, you know, I want to make sure that we protect the life of an unborn child. I also want to make sure that we have access to health care that is good standard of health care for women. And in weighing those options, I still remain pro-life and feel that there's a way to try to work those issues in a way that I will be able to support the bill again and I intend, if things stay as they are, I would support the bill, as written, as well, but I'm trying to do some things here to help save the lives of individuals—women specifically—that are requiring access of care in a very crucial time.

M. GONZÁLEZ: Definitely. So, basically, even though you're pro-life, you find opportunities for us to make a better policy decision when it comes to this piece of legislation.

HERRERO: Yes, that's right. I mean, at this point, we're legislating that a specific dosage is going to be administered to everyone across the board, regardless of what their specific health condition may be at the time of this procedure. And it is difficult for me to accept that proposition because I know that in just myself receiving treatment, the medications differ from that when it's administered to someone else, and I think that it's best left to the decision of the evidence-proven facts that establish what that dosage should be for an individual person, as opposed to us as legislators dictating a specific dosage.

M. GONZÁLEZ: Well, I really respect the fact that you're trying to help make an important policy decision and still be in support of a pro-life decision. So, thank you, Representative Herrero.

LAUBENBERG: Representative Herrero, I know you have really taken a good standing position and I respect that so much. I have to respectfully table your amendment. You know, ideally, if all the abortion providers were OB-GYNs, trained in that field, you could justify their decisions. Unfortunately, that is not the case, which is why we have the FDA protocol standards, which is why we did put in there that the dosage amounts could vary based on the college of the OB/GYN—it's been a long day, pardon me, members. So, respectfully, I am tabling this amendment. Thank you.

WU: Mr. Herrero, are you adding your amendment because you believe that the section of the bill that your amendment affects is overly broad and places an undue burden on the woman's right to control her reproduction?

HERRERO: I think there's a better way to do it that ensures access of health care to women while preserving the life of an unborn child in a safe and responsible way.

WU: Do you believe that your amendment more narrowly tailors the bill while maintains its original goal?

HERRERO: Yes.

WU: Thank you.

HERRERO: Thank you. Members, I ask for your support of this amendment. I think we need to make sure that in protecting the life of an unborn child we do not also risk the life of a mother. I am an individual who, as stated repeatedly, believes in the support of access to health care for women and am pro-life. I ask that you stand with me and vote in support against the motion to table.

[Amendment No. 13 was tabled by Record No. 13.]

[Amendment No. 14 by Miles was laid before the house.]

REPRESENTATIVE MILES: Members, this amendment provides an exception for the medical abortion provision in **HB 2** for pregnancies that are results of rape or incest. An article published in 1996 in the *American Journal of Obstetrics & Gynecology* found that 5 percent of rapes result in pregnancy. The Guttman Institute, in a 2008 survey of women obtaining abortions, found that 70 percent of abortion patients reported exposure to violence by a man involved in pregnancy. The protocol used for the FDA-approved that appears on the label of the abortion drug would only allow the use of drugs for the first 49 days of pregnancy. Many women do not even know that they are pregnant during the limited time period. The current evidence-based regime used widely throughout the United States allows medication abortion to be performed through 63 days.

This amendment would basically allow the use of medication abortion for an additional two weeks than under current provision of this bill. If we do not adopt this amendment, this bill could require victims of rape and incest to unnecessarily undergo surgical abortions because they will no longer be given the option of medical abortion after 49 days. We should not force victims of sexual violence to needless undergoing of intrusion of surgical procedures. During the 82nd legislative session, we added a provision for rape and incest in the sonogram bill, which has been thoroughly discussed this day. If we can exclude rape and incest in the sonogram, then we can do this now. And I move—

FARRAR: Mr. Miles, if I understand correctly, this amendment would extend the time period that medical abortions could occur?

MILES: That is correct, from 49 days to 63 days.

FARRAR: And why is that important?

MILES: That's important in many ways because, like I they said earlier, many women don't even know that they're pregnant in a case of rape until that critical time period.

FARRAR: Because of perhaps shock dealing with—

MILES: Shock, dealing with emotional reasons—

FARRAR: Denial?

MILES: And denial, yes, ma'am.

FARRAR: All right. So, if a surgical abortion's available up to 63 days, why would it matter that a victim of rape or incest would be allowed to have a medical abortion for another two weeks?

MILES: I'm sorry, I can't hear.

FARRAR: I'm just trying to distinguish, if a surgical abortion is available up to 63 days, why would it matter that a victim of rape or incest would be allowed to have a medical abortion for another two weeks?

MILES: Because it would be less invasive and less traumatic for the woman by the abortion medication, which is something I would hope that in Ms. Laubenberg's bill, she's concerned about the well health of a woman. This would help us to help protect the health of women.

FARRAR: Right. A woman, would you say, that is probably in one of the worst situations of her life?

MILES: Absolutely.

LAUBENBERG: Representative Miles, I respectfully am also going to table this amendment. The FDA protocol says that the RU-486 pill should be used not past the 49th day. Planned Parenthood recommends it to be up to 63 days. And, you know, the 49 days, I believe, is about seven weeks, and as we heard in testimony, the complications become more risky the further along in the pregnancy. And this is actually lessening the standard, and my feeling is that women who are victims of rape deserve the same high standard of care as every other woman. And, again, this is really making sure that the woman, when she has decided to have that abortion, that it is done in the safest way possible that she deserves. Thank you, and I motion to table.

MILES: Members, in our first special session involving this bill, the Texas Medical Association made it very clear their specific directions for physicians in regards to prescription of an abortion, including drug approval by the USDA for the use of women who seek abortion. This bill prescribes in details the practice of medicine, such as requirements for the examination of patients, in physician communication protocols, which basically overly described and overly prescribed in this particular instance. In closing, **HB 2** shortens the time when a medication of abortion occurs to current evidence of base medical regime allows us to use medication appropriately up to 63 days. **HB 2** shortens the time to 49 days. The effect of this amendment would simply allow victims of rape and incest to seek medical abortions up to currently of 63 days so it wouldn't be so cruel and harsh on individuals. And I would hope that this body will understand that fact and pass this amendment.

[Amendment No. 14 was tabled by Record No. 14.]

[Amendment No. 15 by M. González was laid before the house.]

M. GONZÁLEZ: We added this amendment in 2011 in the sonogram bill. I talked about this during **SB 1**, but I think it's an important amendment that I think we should continue to consider. As you know, I'm passionate about the experiences of women on the border and women in rural communities being from a rural community. And I think one of the things that we haven't considered is the unexpected or unintended experiences or outcome for rural women. So, if this piece of legislation were to pass, it would really close down any facilities in their areas.

And we all say this bill is about women's health. Well, women's health means having access to safe and legal facilities. And so, what this amendment aims to do is to ensure that rural and South Texas facilities remain open and are able to continue to provide preventative care to patients who are often underserved. My amendment would exempt facilities that are located more than 50 miles from any other abortion facility. This amendment is considered the rural exemption amendment.

REPRESENTATIVE MARTINEZ: Thank you, Representative, and I signed on to your amendment because I do have a concern about access, especially along the border. Now, your amendment would allow there to be facilities along the border within 15 miles from the border. Is that what it does?

M. GONZÁLEZ: It allows if there isn't a facility within a 50-mile radius for the west to still use the current standards that exist right now.

MARTINEZ: And so, what would happen if, with this bill in place, how many miles would it take for a female to be able to have access to a facility if this bill were to pass?

M. GONZÁLEZ: If this amendment were to get on the bill, it would still have to potentially travel 100 miles round trip, but it's better than the 600 miles that could potentially happen by forcing a woman to go into places like Juárez, Mexico or, you know, any parts on the other side of the border.

MARTINEZ: So, if this amendment were not to be placed on the bill, what would be some of the consequences as far as females seeking access and where would they go? If this amendment were not to be added to the bill, what would happen? Could you give us—

M. GONZÁLEZ: And I think that is why this amendment is so important. So, what happens if we don't add this amendment? It means that women in my district and women in your district would have to travel hundreds of miles, up to 1,000 miles, to have access to a safe and legal facility in Texas, or they're going to have to go to Mexico. So, for example, women in my district are going to end up going to Juárez. In Juárez, there's a panel, a doctor, a priest, a lawyer, and then to even get permission to get an abortion. And it becomes really inaccessible, so what ends up happening is a black market becomes created, because all research shows that abortion restrictions don't stop abortions, they make abortions unsafe.

MARTINEZ: Correct. And I agree with your amendment. That's why I signed on to it, mainly because my concern is now you have females along the border who are not going to be able to have this access. And, once again, the Rio Grande Valley and, of course, the females along the border are being singled out. And you're going to have facilities in San Antonio, Houston, Dallas, why can't one of those facilities just be grandfathered into this system along the border? Would you agree, would that be something that would be more amenable for the females seeking access for any type of procedure?

M. GONZÁLEZ: Definitely. Especially if we're saying this is about women's health, then would we rather have women going to Mexico to get abortions or would we rather have them doing them either in black market clinics? And so, it's really about really making it about women's health and not making an undue burden for women on the border.

MARTINEZ: Thank you, and I think you have a good amendment.

P. KING: I just want to make sure I understand the amendment.

M. GONZÁLEZ: Sure.

P. KING: Yours says that it only applies to abortion clinics that are not currently within 50 miles of another clinic. Is that correct?

M. GONZÁLEZ: Yes. And I will say that we added this amendment in the 2011 sonogram bill.

P. KING: My question was, as I understand it, there are no rural abortion clinics in Texas today. I think there's only 42 or 43 clinics, and they're all in urban areas. So, to what clinics would your amendment apply?

M. GONZÁLEZ: So, it would definitely impact my district, which is considered a rural district.

P. KING: Are there any abortion clinics in your district?

M. GONZÁLEZ: There are two abortion clinics in El Paso County.

P. KING: And that's a urban area.

M. GONZÁLEZ: The entire county, no, it isn't.

P. KING: But, I guess what I'm trying to say is they're within 50 miles of each other, is that correct, those two clinics?

M. GONZÁLEZ: Yes.

P. KING: And so, you characterize this as being for rural clinics and for folks living in rural areas, but I can't think of any abortion clinics in the State of Texas that are in rural areas. They are all in urban areas, so I can't see how this amendment affects any existing clinic. Does it not also presuppose that all the clinics are going to close instead of upgrading to ambulatory surgical centers?

M. GONZÁLEZ: Actually, since they have started, I got information from the clinic in El Paso that said that it would have to close if this bill were to pass. So, you're asking women to—

P. KING: Do you have any other ambulatory surgical centers in El Paso?

M. GONZÁLEZ: Representative King, let me finish my one sentence.

P. KING: Certainly. I'm sorry.

M. GONZÁLEZ: It's okay. So, women in my district who live out in the country would have to travel 600 miles to San Antonio in order to have access to a safe facility, which is about 1,200 miles round trip.

P. KING: But would your amendment change that, because there are no clinics in that area now?

M. GONZÁLEZ: My amendment would definitely change that because that one clinic in El Paso would be able to remain open and accessible to the women who live in the country in my district.

P. KING: I know that there's 437 ambulatory surgical centers in the state today, and there are only 42 or 43 abortion clinics. Do you have any ambulatory surgical centers in your district?

M. GONZÁLEZ: I'm sure—actually, I'm not sure about ambulatory service centers in my district. Like I said, I have a rural district, so I'll have to look that up for you.

P. KING: I would expect you do. Even in Weatherford, we have an ASC. But I guess my point is, you're characterizing this as an amendment to protect rural areas. And I guess that I am correct that there are no abortion clinics in Texas today and never have been in a rural area. Is that correct?

M. GONZÁLEZ: I think access to rural communities is how we're trying to explain what we are saying. The women who live in Soccoro or Fabens or Tornillo in my district would still not have access.

P. KING: They don't today, and they would not with your amendment.

M. GONZÁLEZ: They do today, and they won't after this bill.

P. KING: And they won't after this amendment because there is still no abortion clinics in those rural areas.

M. GONZÁLEZ: There are—currently, right now, there are abortion clinics in Beaumont, McAllen, College Station, Midland, Harlingen, and Lubbock. And if—without this amendment, all those places would close.

P. KING: And I don't understand why they would close, because without this amendment—because you're presupposing that they're not prepared in those urban centers to upgrade to ambulatory surgical centers. Do you not also presuppose that there are not existing ambulatory surgical clinics in those areas that they could contract with?

M. GONZÁLEZ: From the information that we've got, and I can specifically speak about the ones near my district, they simply have the inability to spend the millions of dollars that it'll take to become certified under this new piece of legislation, and thus, will have to close. And thus, requiring women in my district to either travel over 1,000 miles or to go to Juárez, Mexico, in a place where that's already border violence, to get an abortion. I understand that we have pro-life individuals in this chamber. I am more than willing to understand y'all's position, but I'm also asking you think of the unintended consequences of people who live in my district.

P. KING: Sure. I understand. I was just looking at El Paso, where you said that they might have to close and wouldn't have clinics, but there are ambulatory surgical clinics. There's the Vista Surgery Center, East El Paso Surgery Center,

Bassett Surgery Center, Endoscopy Center of El Paso, El Paso Day Surgery, El Paso Center for Gastrointestinal Endoscopy, Surgical Centers of El Paso, and the Paso del Norte Surgical Center. All of those are ASCs within the district—

M. GONZÁLEZ: Within the county, not my district.

P. KING: —which would qualify for abortion services within El Paso County.

M. GONZÁLEZ: Within the county, not my district.

P. KING: Okay, thank you.

REPRESENTATIVE STICKLAND: Ms. González, you said something interesting before the last exchange. I just wanted to ask you, you said that it was harder to get an abortion in Mexico than it currently is here right now.

M. GONZÁLEZ: I think that it is not harder—well, it is harder, because not all states have it, illegal access. But what you see happen in Mexico is a black market for abortions. And, in fact, the woman—I'm named after a few women in my father's and mother's lives, and one of the women I was named after died having an illegal abortion in Juárez, Mexico. So, that's why I'm so passionate about this issue, because I've seen people in my own close family who have died having abortions in Mexico.

STICKLAND: Are you aware of anywhere else in the world that it's easier to get an abortion than here right now?

M. GONZÁLEZ: Every country in Europe. Not every country in Europe, but in Europe—certain countries in Europe.

STICKLAND: Many folks have talked already about some European countries banning abortions at 14 weeks, at 18 weeks—

LAUBENBERG: Thank you, Representative González. And, again, I move to table this amendment. This, as we have heard, really is not about the rural clinics, because as I read the list earlier, there are no rural abortion clinics. And what it would do is allow some abortion clinics to have standards less than others. And, you know, again, it's not fair to what we are trying to do to make sure that when the woman has her abortion that it is done in the highest standard, highest quality of environment possible. And all of them should be held to the same standard. So, I respectfully move to table.

WU: Representative Laubenberg, now you've soundly rejected and tabled almost every single amendment that tries to take some pressure off of the surgical standards and some of the admitting privileges requirement. Is that fair?

LAUBENBERG: Yes.

WU: Okay. Now, your statement is that you're doing this because you don't believe there is any impediment and there won't be any decrease in the standard of care for women in rural areas.

LAUBENBERG: I'm sorry. Say that again. I didn't understand your question.

WU: My question is, you have stated that you believe that the law, as it is currently written, will not cause a decrease in the standard of care for women in rural areas, in the Valley, in the Panhandle, in East Texas. Is that fair?

LAUBENBERG: What I have said, Representative Wu, is that the standard of care for women at the abortion clinics should be raised to a standard of practice that is common throughout medicine for every other woman.

WU: Absolutely. And you've said—and maybe I'm reading too much into what you've said—I believe you've said or intonated that the provisions in this bill will not decrease the standard of care or the access to care. Would that be fair?

LAUBENBERG: This bill does not shut down any abortion clinic.

WU: Fair. Would you take an amendment that says if more than half of the clinics that are existing in Texas do end up getting shut down, that this bill will be repealed?

LAUBENBERG: Representative Wu, you're basing that on a hypothetical.

WU: It's not a hypothetical.

LAUBENBERG: And so, the clinics in the bill, we have put a date there of 2014, September 2014, so they have well over a year to raise their standards.

WU: If by application of this law, if the standard of care does decrease for representatives in the colonias, in the Valley, in the Panhandle, in East Texas, wherever, if the standard of care is demonstrably shown to have been reduced, would you consider repealing certain parts of the bill?

LAUBENBERG: Representative Wu, again, this bill is not to lower the standard of care for anyone—

WU: That's not my question. My question is, would you consider repealing parts of the bill if it is shown that the standard of care has been reduced?

LAUBENBERG: Representative Wu, I am very hopeful that we will pass this bill—

WU: Thank you very much.

[Representative Laubenberg moved to table Amendment No. 15.]

M. GONZÁLEZ: Mr. Speaker, members, we all have different experiences. I have a different experience than Mr. Trent Ashby, and Trent Ashby has a different experience than Harold Dutton. Harold Dutton has a different experience than Mr. Doc Anderson, and what I'm up here doing is telling you about my experience. And my experience are the women who live on the border and who live in rural communities, so if we can attempt to make a bill that does not have unintended consequences on these women.

REPRESENTATIVE T. KING: You may have already gone over some of this, but I wasn't able to follow the whole discussion earlier. Basically, what you're telling us is that the rural exemption like this, that it was placed in the sonogram bill that passed the house and the governor signed a couple of years ago?

M. GONZÁLEZ: Exactly. Two years ago, during the sonogram bill, we made this exemption. What concerns me about the way that this whole day has been going is instead of trying to create great policy that actually serves the people of Texas, we've created an us versus them mentality. And we are not really trying to create policy that is compromising and that's coalitional. All that we have been doing is voting practically party lines. But in the 2011 sonogram bill we added this exemption, and I'm asking this body to add the same exemption for this piece of legislation.

T. KING: Thank you. What has to happen then for a woman in your district there in El Paso if there is no rural exemption? I think you did touch on that earlier.

M. GONZÁLEZ: Right. A woman has two options in my district: go to Mexico and get an abortion, or travel over a thousand miles to have access to a safe and legal facility.

T. KING: Well, I'd say that's the very definition of an undue burden. Okay, so rural victims of rape or incest are left with those two choices. They either have to have enough money to travel to one of Texas' major population centers, or they have to carry that fetus.

M. GONZÁLEZ: Right. So, because we did not put in the rape and incest amendment, I want members to understand that women who are raped in my district, women who are survivors of incest in my district will have to travel 1,000 miles just to have access to a facility. Should we already put an additional burden on women who have had this awful experience, or should we at least try to make some exceptions, some possibilities to keep some centers open for the people who are in this area?

T. KING: Well, there's no question that—I appreciate you answering those questions. Your amendment is the least we can do to reduce the undue burden placed on rural Texas women.

FARRAR: It was said earlier that these facilities could just upgrade. Are you aware that in 2004 the legislature passed a bill that required abortions after 16 weeks to be performed in ambulatory surgical centers?

M. GONZÁLEZ: Yes, ma'am.

FARRAR: Okay. And are you aware that after that legislation went into effect that there were zero, zero, locations where women could access this care?

M. GONZÁLEZ: I did not know that.

FARRAR: Are you aware that it took two and a half years for one of these facilities to find the resources to build one of these facilities? And, in fact, it's taken eight years for five to obtain the sufficient resources to build an ASC.

M. GONZÁLEZ: I think that is important information because we can learn from history. I was a history major in undergrad, and that's why we should think of these things that happened in the past and think of how they're going to impact

our present day and future. And so, if it took eight years to get five, imagine how many years it'll take to serve the women in my district and other rural parts of Texas.

FARRAR: Are you also aware—and this comes from an architect that builds ASCs—that a retrofit would cost between $250 to $300 per square foot, which would be estimated to be $1.4 million to build? Or to build from the ground up would be upwards of $3 million, are you aware of that?

M. GONZÁLEZ: I am aware of that only because that's the reason that the clinic in El Paso will not be able to become an ambulatory center, and they will, therefore, close.

CANALES: You heard Representative Laubenberg say she wouldn't accept your amendment, and correct me if I'm wrong, because there would be a disparaging amount or standard of care, meaning there would be a lesser standard of care in the rural communities than there would be in ambulatory surgical centers.

M. GONZÁLEZ: That's what she said, but that's not the reality of the situation.

CANALES: Did she not also say that she wanted all health care to be equal for women?

M. GONZÁLEZ: Yes.

CANALES: Doesn't that sound a lot like socialism to you? Thank you.

FARRAR: Ms. González, I have one more question. Are you aware that in 2004, after that legislation passed, a provider called every single ASC in the State of Texas trying to get privileges for their physicians? They offered to use their facilities after hours and on weekends—this is their language—to bring their own staff and equipment as well, and everyone said no because they were all afraid of the protestors or the spotlight they'd get from anti-abortion folks? Are you aware of that?

M. GONZÁLEZ: I am actually aware of that, and that is why this amendment is so important.

FARRAR: Thank you.

M. GONZÁLEZ: Thank you, Representative Farrar. Members, we've compromised. I've seen us do it 100 times. I understand last special session we didn't want to add amendments because we were concerned with the time. Well, this time we have time. And if we have time don't we have the duty to do it right for the women in all parts of Texas, not just the women that live in the urban areas, but for the women who live on the border and for the women that live in rural areas? Please consider the fact that we have done this before and this is a very necessary exemption. Thank you, and I urge you to vote no on the motion to table.

[Amendment No. 15 was tabled by Record No. 15.]

[Amendment No. 16 by Dukes was laid before the house.]

DUKES: This amendment would allow a parent, under the Baby Moses Project or the Safe Haven Act, to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for the safe and unharmed delivery of a child who is no more than 1 year old to a safe haven such as an emergency medical service provider, a hospital, a licensed child-placing agency, police station, or fire station, if the Department of Family and Protective Services denies that individual the ability to have an abortion and they must carry the child. Presently, state law, under the Baby Moses Act, which was a very wonderful statute created by our very own Ms. Geanie Morrison, allows for a child up to 60 days old to be left at a facility, which would include an EMS provider, or a hospital, or a child-placing agency. This amendment states that if the agency does not allow a woman—to give her a waiver to receive an abortion past the 20-week time period, then the agency must allow for non-prosecution if the parent voluntarily delivers the child to a police station or fire station, including those that are already within the statute, and the child could be up to 1 year old.

The reason this provision is important is because, in 2011, when the state, the leadership, those who are in control, chose to eliminate the Women's Health Program, it eliminated birth control. The reason this amendment is so important is because in 2011, the governor and the State of Texas decided to eliminate funding for the Women's Health Program. The Women's Health Program provided services for those women between the ages of 18 and 44 who were not pregnant, but for the fact they were not pregnant, would have qualified for Medicaid and for Medicare. It provided them with birth control, as one aspect, but it also provided breast cancer screening, cervical cancer screening, diabetes checks, hypertension, you name it. But, in the eminent wisdom of some who were in control, they chose to eliminate that program, so many women do not have birth control. Many of these women do not have the ability to afford or have health insurance and the ability to have birth control.

This bill would prevent and limit under the law how long it is that a woman could choose before she could have an abortion; even though the federal law stating viability is at 24 weeks, this changes it to 20 weeks and has no provision even for rape or incest. Many of these women could not afford birth control and they will end up pregnant, and what we have seen, just in the past 10 years, that the rate of child abuse, neglect, and abandonment has gone up 18 percent, and these children are getting older and older. And if you just do a simple Google search, you will see that more and more children who are being abandoned, abused, killed, are between the ages of two months and three years. So this bill would try to make more and more children who are brought to term, who are born, who are neglected, that they could have some positive outcome in their life, and with that, Mr. Speaker, I do yield to the gentleman from Harris County.

S. TURNER: So this amendment, essentially, would—I guess you could say—encourage women to go and have their kid and then provide a safe haven for their children, is that—for their child?

DUKES: That is correct, Representative Turner. I don't know if you remember, but November of last year there was a woman who Child Protective Services had looked into—she had a child, they had looked at the situation, opened a case on

that situation, but they didn't follow back up. The woman had some mental issues, she left the home. The child was left with the father. At 6 months old, the next report we had on that child, the child was found in the freezer, dead. The father had killed the child, the mother was gone. If we had provisions—the father didn't want to, he didn't know what to do, because he didn't know where to take that child, he didn't know how to give the child, he couldn't abandon the child because of the stigma. The child was 6 months old, but if we had one year, an opportunity for Baby Moses to save another future leader of this land, then we would have more children who would be in safe environments.

S. TURNER: So the intent of this amendment is also to provide safety and protection for a child once that child enters this world, once the child is here, once we're able to see this child. It provides a safe haven for this kid.

DUKES: It provides for a child to have a forever family like my dear little Leila was able to find when I adopted her, because she was removed from such an environment. So if you have a kid right now, it's only up to two months, and if it's after two months then folks don't know where to go because they could get prosecuted. So, many of those kids end up dead. We can prevent that cycle.

S. TURNER: Do you think that, with this amendment, it would also have the effect of reducing maybe the number of abortions that some women are having if they know that this law—this amendment—is in effect on this bill?

DUKES: Absolutely. Absolutely, because it's usually in the later term that really the cold feet come about and they start really struggling with what are they going to do, how are they going to handle this. This would allow for many to have an option without prosecution.

S. TURNER: Yes, because I know I have concerns, especially when we're talking about 20 weeks, but with this amendment on this bill, it provides that safety net for those kids once they are born, such that it provides them the added protection that they will need. That's the purpose of this amendment.

DUKES: Yes, because, as you well know, you have a daughter.

S. TURNER: Yes.

DUKES: For some people, when that child is born, it's the emotional factor—and everybody loves a baby. Every baby is beautiful no matter what—we all think so, we feel so. And they may not have made a decision at that time to place the child away, but after that newness wears off and reality sets in and the struggles set in day to day, then that's when the problem occurs.

S. TURNER: And this amendment does, in no way, take away from **HB 2**?

DUKES: Not at all. It doesn't change when abortions can occur, it doesn't change any of the restrictions. All this does is say, hey, for those who are going to have to have this child, they change their mind, we're going to give them a little more time under Baby Moses law.

S. TURNER: Is the amendment acceptable to Representative Laubenberg?

DUKES: I would think that it should be, because it's such a wonderful amendment.

S. TURNER: I think it would be a good idea for us to see a board that lights up 140-something today. I think this amendment could probably get it done. I would love to see Representative Laubenberg accept this amendment so that we can have pro-life not only within the womb, but pro-life once the kid leaves the womb.

DUKES: Absolutely, Representative Turner, because this is about the numerous children that we hear about in the news. Just being on Article II of Appropriations with the Department of Family and Protective Services and receiving constantly the messages, the reports of the toddlers who have been abused, and abandoned, and, most of them, murdered. Because, of course, we usually hear about it when it's too late, but this would give another option, and it's another tool that we can put into place to advertise that you have a choice. You don't have to hurt that child. You can take them, without the fear of being prosecuted, to a safe environment, to a police department or to a hospital, to the EMS or to DFPS. There is another option to ensure that not only the child in the womb, but the child on the earth is protected. With that, Mr. Speaker, I move passage.

LAUBENBERG: Respectfully, Representative Dukes, I am opposing your amendment and moving to table. Thank you, Representative Morrison, for what you did on the Baby Moses law. And you have 60 days, and you can be anonymous; that is truly pro-life. What this amendment will do is now place DFPS, the state agency who is commissioned to help children who are in a very abusive situation, they are now going to be in the position of authorizing abortions beyond five months. So this amendment will actually do the opposite of what I'm sure the author intended for it to do. And the anonymity that is in the Baby Moses law, up to 60 days, is not covered in this amendment. So, respectfully, I move to table it.

DUKES: Ms. Laubenberg, can you read the first three lines of that amendment?

LAUBENBERG: "The Department of Family and Protective Services may waive the prohibitions and requirements under Section 171.043, 171.044, and 171.045(b), in accordance with Section 262.310, Family Code."

DUKES: Okay, the important word in those three lines is "may." It does not say "shall," it says the department "may." But if the department chooses not to, the department's duty already is to keep children safe in Texas. The department is already going to be involved if a child is abandoned. The department is going to be involved whether it is at six months, two months, one year, five years, 10 years, all the way up to 18 years, the department is involved. What this does, however, is where we see little children who are helpless, who are below the age of 1, that cannot leave, go anywhere, hide, defend themselves against the big bully who's beating them up, who's terrorizing them and is causing them internal bodily injuries. This is just saving the lives, because what we hear about day in and day out is of these toddlers dying. So, I ask you, what do you have against

children who are older than 60 days, up to 1 year old, from having a higher percentage of survival by having it possible to be placed, through Baby Moses, without their parents' fear of prosecution? So, therefore, they brought them in instead of hiding them and injuring them?

LAUBENBERG: Representative Dukes, the "may" does put DPS into the position of authorizing abortions beyond five months.

DUKES: It allows them to, but if they don't, what this actually triggers is safety for kids up to age 1, because a lot of times these parents don't bring them in, don't do anything else, because they don't have any place to take them. Numerous times, women who have had posttraumatic stress disorder—and we just had one recently right here in Texas who tried to sell her baby on Craigslist, because she said she didn't know what to do. She knew she couldn't abandon the child, so she tried to place the child. Actually, she didn't ask for any money, she just asked for some nice family to come and adopt her kid on Craigslist. Now, the woman is being indicted because she went on Craigslist, which was probably not the best thing to do, but she was looking for an out. With this, with the Baby Moses law, we at least would give them the option of going to a hospital or police department and leaving the child up to age one. So, it's about protecting this child that did get here. What's wrong with that?

LAUBENBERG: I've given you my answer, Representative Dukes.

DUKES: Is there a problem once they get here?

LAUBENBERG: I've given you my answer.

DUKES: What was your answer about why you don't want to protect kids that are older than 60 days?

LAUBENBERG: You are placing DPS in the position of making decisions on approving abortions after five months.

DUKES: DPS doesn't have to approve it, as a matter of fact, it is permissive.

LAUBENBERG: I've given you my answer.

DUKES: But, what it does is create a safety provision for these children. What is wrong with providing safety for the child that is here?

LAUBENBERG: Representative Dukes, I've given you my answer.

DUKES: I know, I'm sorry, I just don't understand how you cannot put some protections in place for children who are born.

SIMMONS: Representative Laubenberg, I want to make sure I understand this amendment. The way I read it, under Section 262.310, is that it says that the Department of Family and Protective Services—it appears to me that we're trying to authorize them to allow a woman to have an abortion after 20 weeks. We're now giving them that authority, is that correct? Is that what this says?

LAUBENBERG: Yes, it is. Five months.

SIMMONS: And then if they don't allow them to do that, and then the mother wants to drop the baby off, they're extending that period from 60 days to one year, is that correct?

LAUBENBERG: That is correct.

SIMMONS: So, this is somewhat of a back door way to allow a governmental agency to approve abortions beyond 20 weeks, is that correct?

LAUBENBERG: That is correct.

SIMMONS: So, it is partially about—I understand what Representative Dukes is saying about extending the ability to drop the baby off, and that does sound good, and may be probably something we might should work on next time or something like that. But it's not just doing that, is it? It's also trying to grant a state government authority the ability to allow abortions beyond 20 weeks, in direct conflict with this legislation. Is that correct?

LAUBENBERG: That is correct.

SIMMONS: So, it's not just about the born, it's about giving people a chance, again, circumventing this law, to have abortions beyond 20 weeks for those 5-month-old babies in the womb. Is that correct?

LAUBENBERG: A state agency, in fact.

SIMMONS: I'm happy to work with Representative Dukes, and I know a lot of people would next session, about looking at the Baby Moses law and increasing that, because we certainly want to protect not just the unborn, but the born, as well.

LAUBENBERG: Absolutely. I move to table.

DUKES: I was talking to Representative Morrison, who is the author of the Baby Moses law, and I think that I need to clarify exactly what this amendment does. The amendment says that if it is not a requirement that the Department of Family and Protective Services allow for an abortion, that they allow a waiver. This amendment, if you look at line four, the very last word is "may," which means it's permissive. They "may" provide a waiver so that an individual could have an abortion, but if they don't, then it goes to line 12 that says if the agency does not allow for an abortion after the 20-week time period, then the agency must receive a child from a parent up to the age of 1 under the provisions of the Baby Moses law, which means that the parent, if they take the child to a safe haven without injury, would be immune from prosecution. It allows for that child to have a better place—opportunity at safety in this society. So let me say it again, it does not require Department of Family and Protective Services to approve an abortion, because we all know the Department of Family and Protective Services' primary goal is to keep children safe and they would like to keep families together.

REPRESENTATIVE MORRISON: Representative Dukes, I guess the confusion that I'm trying to figure out is the way the amendment is worded. I understand your concern of the children that are past the 60 days up to 12 months. Why is it

worded where there is a waiver in your amendment, because if there was just the wording of upping the age to 12 months, that would be a different issue. So, I'm trying to figure out why it's worded the way it is, if you could explain that to me.

DUKES: Germane—

MORRISON: Germaneness, to try to get it into working on the legislation?

DUKES: Yes.

MORRISON: Okay, thank you.

DUKES: So, once again, it does not require the agency to provide a waiver for an abortion. What it says, and I'm going to assume that every person who would apply would be denied a waiver for an abortion, but with that, that guarantees me that there's a possibility that that child, instead of being found under the cinder blocks in a house in San Antonio, or in the freezer in a refrigerator in Houston, or buried in the dirt in a backyard in Dallas, would instead be taken to a safe haven, because the parents know that up to one year of age, there is no fear of prosecution if the child is delivered and healthy.

LEACH: Representative Dukes, I just have one quick question. If we accept your amendment, are you planning on voting for this bill?

DUKES: Are you going to vote for my amendment?

LEACH: I'm asking the questions. If we accept your amendment—

DUKES: I think it's an inappropriate question when there's been more than 30 amendments that I have voted for and you haven't accepted those. So, this amendment is about whether or not you believe that a child should be protected after they are born and from 60 days up until one year. So that's the only thing that is discussed here. I don't think there's anything—

LEACH: Representative, with all due respect—

DUKES: With all due respect, there's nothing in the bill that says, is Dawnna Dukes going to vote for this? So, since earlier they said stay on the question and stay on the amendment, let's talk about the amendment, because this is an amendment about protecting children.

LEACH: Representative, you've authored this amendment because you believe it makes the bill better, and so, I'm asking you, if we accept your amendment, and/or if the house approves it, are you planning on voting for the bill?

DUKES: Every person has the right to offer an amendment. How many terms have you been here?

LEACH: This is my first term, as you well know, and I appreciate you bringing that up—

DUKES: Then you're learning. Everybody has the option to offer an amendment.

LEACH: So, you're not going to answer my question? That's okay. I just wanted to make clear—

DUKES: Well, you've asked that same question of other people. It doesn't matter what you believe I'm going to do, but what is important is whether or not you are going to protect children up until 1 year of age. You can choose to vote against it because you think I'm going to vote against the bill, but that's not going to save a life. It's not going to save a child who might get abused, who might get neglected, who might get beat by their parents because they don't have any place else to put it.

LEACH: I'm just asking you, and obviously you're not going to answer, I just want to know, for my own benefit and for the benefit of the other members here—

DUKES: I'm going to vote for this amendment, and if there are other amendments, and if this bill continues to improve, it improves the possibility.

LEACH: Okay, thank you.

C. TURNER: Representative Dukes, to follow up on Representative Leach's question, do you think this underlying bill we're debating, **HB 2**, do you think it's a good bill?

DUKES: **HB 2**?

C. TURNER: Yes.

DUKES: Well, **HB 2** is in conflict with some of the U.S. constitutional provisions.

C. TURNER: I agree, I agree, it's a bad bill. Your amendment would make this bill a little bit better—

DUKES: Palatable.

C. TURNER: A little bit better. But it—

DUKES: Just a little bit of rouge—

C. TURNER: Would it still be a bad bill even if your amendment got on?

DUKES: It still would be a problematic bill, but it does provide for—because so many additional women would have to carry to term because of the provisions in the bill, and the inability to acquire an abortion, there will be more children who will be put in unsafe environments. So, if the ultimate goal is to ensure the safety of an individual, then ensure their safety after they're born, as well.

C. TURNER: I agree with you. I think you have a good amendment, and I think that there are a lot of times when we oppose bills on this floor, we try to make them a little bit better through amendments, but we still conclude at the end of the day the underlying product is the bad bill and we vote against that, and I think every member in this house has done that, so thank you.

DUKES: You know, a lot of times, it seems that some people believe that you step up to the microphone and you offer an amendment just because it is a game and it is a got-you situation. That it's just an opportunity just to run out the clock. Well, let me tell you, I've been working with families on the Department of Family and Protective Services for over 12 years in my role on the

Appropriations Committee, and I am insulted that someone would believe that an effort that I am making to try and protect children, to give them the option in a safe place, the Baby Moses law, is something that they need to step to the back microphone and ask me some silly question as if I'm doing this as a game. Children are not a game to me. Children who are in danger are not a game to me. I chose to adopt a child out of the Department of Family and Protective Services to keep her safe. And if the last breath I take is to stand up here and to fight for other children, then I'll offer other amendments that expand the Baby Moses law. And with that, Mr. Speaker, I would ask the membership to vote against the motion to table.

[Amendment No. 16 was tabled by Record No. 16.]

[Amendment No. 17 by S. Turner was laid before the house.]

S. TURNER: This is a very direct amendment. I will tell you what this amendment simply says. It doesn't change anything in the bill. **HB 2** remains the same. I do not change anything in the bill. What it simply says is that under **HB 2** we are requiring existing businesses to change or to undergo an expense from being clinics to ambulatory surgical centers. Based on the data that I have received, in order for these businesses to be retrofitted to meet the requirements of this bill, if there are four to 5,000 square feet, it will cost approximately $1.4 to $1.6 million each. And if they are to build new facilities, a new facility to meet the requirements of this bill, it will require $3 million to do that.

What my amendment simply says, and accepting everything that Representative Laubenberg says, that this bill is about the health, and safety, and protection of women, assuming all that is said is true, and Representative Zedler, assuming our number one priority, assuming that our number one priority is to protect the women and protect these unborn children, then I do not think that we should put forth a mandate without making sure that the funding is also available. So, the only thing this amendment says is that for those facilities, those clinics that currently exist, that currently exist, that the state must provide the necessary funding to be retrofitted in order to meet the mandates of this bill. And for those facilities that are built after the enactment of this legislature, the cost should be borne solely and squarely by them. So, essentially, it says no unfunded mandates on businesses in order to meet the requirements of this bill. That's all that it says, and I would like to think that many of my colleagues on this floor, on both sides of the aisle, would join me in preventing any unnecessary mandate being imposed on our small businesses.

C. TURNER: I think you've got a really good amendment here and I want to just emphasize something for the membership and underscore something I think you just said because, I believe, earlier in the debate on this bill it was erroneously stated on this floor that a clinic could simply upgrade to be an ambulatory surgical center for about $100,000. And you've just presented some data that, I believe you said is from the Association of OB/GYNs, that the costs are much higher than that. Is that right?

S. TURNER: That is correct. For the cost to retrofit a facility from four to 5,000 square feet, the cost will be anywhere from $1.4 to $1.6 million.

C. TURNER: Right, and if someone were to construct a new—say they had a clinic and it wasn't able to be upgraded and they had to build a whole new building, is it true that that could cost around $300 to $350 a square foot, or a total cost of $3 million?

S. TURNER: That's correct. For a 5,000 square feet facility the cost could be approximately $3 million, Representative Turner.

C. TURNER: Thank you. And I know that it's been covered before, but I think it's worth mentioning again, currently, the only facilities in this state that currently meet the ASC standards in this bill, all of them are in urban areas. Is that right?

S. TURNER: That's correct. Primarily, they are in, I think, in Houston, Dallas, and San Antonio.

C. TURNER: So, what we're talking—what your amendment would do is enable clinics that would be forced to upgrade to an ASC, even though we haven't been provided a good medical reason why that should be necessary, but assuming we pass this bill, and they're required to do that, your amendment would see that the state reimburse those facilities in El Paso, in the Rio Grande Valley, in Waco, in Bryan, and smaller communities around the state where these clinics provide an array of vital services, but may not be able to with passage of this bill.

S. TURNER: That's correct. The amendment only applies to those facilities that presently exist, that we will provide the necessary appropriation in order for them to be retrofitted to meet the requirements of this bill. To the extent we don't want any facilities to close, as Representative Laubenberg has indicated, and to the extent we want to upgrade them, and to the extent that women's health and protection is a priority, then we should fund that necessary priority and not let it be an unfunded mandate.

C. TURNER: And because this, as we've been told repeatedly, is about the health and safety of women, this amendment essentially asks the legislature to put its money where its mouth is. Is that right?

S. TURNER: That is absolutely correct.

REPRESENTATIVE ZEDLER: Representative Turner, as you know we do pass lots of legislation that increase licensing, that we increase requirements for all kinds of businesses, don't they?

S. TURNER: We have made a lot of unwise decisions by imposing unfunded mandates on local governments, on local businesses. We can stop that practice today.

ZEDLER: So, you've never voted against all the regulations that we've increased on businesses and stuff like that?

S. TURNER: I can't say I've voted against, I voted for all of that. I can certainly say to you that I have heard over and over again conservatives talk about unfunded mandates. I have heard people criticize Obamacare for imposing mandates on businesses, on individuals. I got that message loud and clear.

ZEDLER: So, can you name me any time that we've said okay, we're going to increase the standards here of any other industry, and said and we're going to give you the money to do it?

S. TURNER: Well, I think that's an important practice, that if we're going to impose mandates—

ZEDLER: We've never done that. Why should we do it with these guys?

S. TURNER: Well, Dr. Zedler, I think we need to be consistent in our philosophy. The amendment is simply saying no unfunded mandates. I'm not changing any of the requirements in **HB 2**. What I'm simply saying is that if we are going to impose, if we are going to impose this on these businesses, then we need to step up to the plate and pay for our priority. If it's important to us, if saving these women, if saving these women is important, if it's a high priority, then let us reflect that in our appropriation. Let's provide the funding and then let's not have any unfunded mandates.

ZEDLER: Representative Turner, I worked in the hospital industry for 33 years, and every year, the majority of hospitals were constantly upgrading to meet the standard of care. There's not one reason in the world why we ought to pay abortion clinics to do exactly the same thing we expect the hospitals to be doing all the time.

S. TURNER: Well, let me ask you this, Representative Zedler. Let me ask you this. Let me ask you this. Did we enforce those mandates on them statutorily or did they do that on their own? There is a difference. There's a difference between private business recognizing the need to make improvements and then there's a difference between government imposing those changes on private business. Now you choose, you choose.

ZEDLER: And when private industry won't do it, then we do it for them.

S. TURNER: Well, I don't like that. That sounds like big government and I don't think big government needs to be in everybody's business. Let's be consistent.

PERRY: You know, here's the deal, Planned Parenthood has about $1.2 billion in gross revenue on the last public report.

S. TURNER: Say that again?

PERRY: Planned Parenthood showed $87 million net on their last public report. If you divide that out amongst 47 clinics, or whatever the number is—

S. TURNER: But we don't provide any funding to Planned Parenthood.

PERRY: No, I'm just saying that if these clinics are concerned about women's safety, and not meeting any standards, that organization has a net $87 million profit.

S. TURNER: Representative Perry, I'm not on the board of Planned Parenthood. Planned Parenthood is not here in this discussion. We don't provide funding to Planned Parenthood.

PERRY: We are requiring standards, I do agree with you on that, for the health and safety of a woman.

S. TURNER: Let me ask you this. Is the net intent of the bill to eliminate these clinics? If that is the end-goal, I accept that. I don't argue with that. If the net goal is to get rid of these clinics that provide abortions, whether it's two weeks or 20, I accept that, but if the goal is, as Representative Laubenberg has discussed, to protect the health and safety of women, and if this is a mandate by Texas state government, then Texas state government ought to pay for the mandate.

PERRY: Here's the goal of **HB 2**. The goal of **HB 2** is to provide a safe environment for these procedures to be done in.

S. TURNER: Then let's pay for it.

PERRY: And then, therefore, if these organizations that support these clinics because we don't, but if these organizations that—and we raise standards on a lot of things across this board. We got standards for plumbing, we got standards for everything, but in this state, if you're going to have a clinic that provides these procedures, we want them to be the safest environment possible. And when an industry is making an $87 million net profit, there is more than adequate resources to extend those clinics. That's what these clinics are making. So, and you had a cost of a million and a half. I've seen numbers as low as 40 to 51,000 per clinic. It's based on facility. So, if they're truly, truly about providing safe procedures in those clinics, then they're going to have to make a priority of whether they want to spend some of their profits on that.

LAUBENBERG: Yes, Representative Sylvester Turner, I am making a motion to table this amendment, and as you had a discussion with our colleagues, this is about profits over patient care and what we are doing is setting the standards and we do that in several different ways—and we set the standards, but the state is not in the business of funding remodeling projects, improvements. We do this for the safety of the patients and so, respectfully, I would move to table the amendment.

REPRESENTATIVE BOHAC: Representative Laubenberg, I'd like to ask you just two questions and it's related to the amendment at hand. Is it your understanding that Planned Parenthood is the state's largest abortion business—business being the operative word—in the State of Texas, and that they have a history of overt eugenics?

LAUBENBERG: Yes.

BOHAC: I want to unpack just for a moment their statewide revenues in our state. Planned Parenthood of Texas takes in $64 million of top of the line revenue.

LAUBENBERG: Without expenses?

BOHAC: Without expenses.

LAUBENBERG: Above expenses.

BOHAC: Planed Parenthood of America takes in $1.2 billion, with a b. More income than most corporations in the United States, $1.2 billion worth of gross revenue. Is that your understanding?

LAUBENBERG: My understanding is that they have 1.2—over, over $1.2 billion in assets.

BOHAC: And did you know that Planned Parenthood president, Cecile Richards, works on average of 33 hours a week and made $444,468 in 2011? The second highest paid employee, did you know, Representative Laubenberg, in 2011, was their COO, who worked 11 months out of the year before leaving and made $411,000?

CHAIR (Ritter in the chair): Mr. Bohac, we're going to ask you to stay on the subject. This is a gentle reminder to stay on the subject.

BOHAC: Well, the subject is the operating revenue of Planned Parenthood and whether or not they have the revenue to afford improving their facilities in order to deliver better service and better health care to women, Mr. Speaker.

CHAIR: Mr. Bohac, we believe you've made your point.

BOHAC: Well, I would just ask for us to be consistent with making the point for the duration of the evening, because this is my first time at the microphone, Mr. Speaker, and I'm one minute into my discussion and I just want the rule, with all due respect, Mr. Speaker, to apply to everybody, because I'm only halfway into the questions that I had prepared for Representative Laubenberg.

LAUBENBERG: I move to table.

S. TURNER: This amendment asks that we appropriate the necessary funding to those clinics that presently exist. Let me just say this in my closing. Are we familiar with the Texas enterprise fund? Are we familiar with the emerging technology fund? Are we aware that within the last two to three weeks that the State of Texas, through the enterprise fund, gave about $12 million to Chevron? Are we aware of that? How big can big be? Planned Parenthood, Chevron. Texas enterprise fund, Chevron. And now we are prepared to close down 42 small clinics on a state government mandate? Give me a break. And then when we talk about government. Let's talk about government.

This is a government bill, it's a government mandate, it's imposing government's values on private businesses in a very personal way. Don't talk to me about government intrusion. It's all right when government intrudes on people's personal rights, but get back on everything else. It's all right we talk about welfare and all of these other things. Give me a break. Now, I know, Representative Stickland, you said big government. This is big government, in a very personal way, intruding in people's very personal lives, and telling businesses what you must do and if you don't do it, we will put you out of business. It gets no bigger than that. That's government, that's government intrusion. That's government dictating to businesses how to operate and how to work. Whether you're on one side of the issue or another, don't tell me this is not

government in it's most rawest sense of the word. Whether you're conservative or not, this is big government. This is the State of Texas telling people number one, you must bear and telling business what you must do, and telling hospitals you must, in a sense, grant admitting privileges. That's what this is all about. It's amazing. Government can give money to Chevron. Not a problem, Sylvester. Enterprise fund wants more money? Give them more money. Emerging technology wants more money? Give them $50 million. That's what we did. But when we impose regulations that have the ability to shut down businesses, we won't provide $1.4 million to something that we want, our values.

I close with this. My pastor gave a sermon one day. He said if you want to know where people's values are, in the old days, take a look at the ledger in their checkbook. Then you will see where people's values are. If this is such a high value, let me look in your checkbook and let me see what you are prepared to afford. Until then, don't talk to me about values, don't talk to me about government, because it's government when you want it, the way you want it. That's what it says. If it meets my objective, it's okay, it's not big government. Well, that's inconsistent. That is inconsistent, it is hypocritical, and it's not honest.

FARRAR: One quick observation. Are you aware that of the 42 abortion facilities in Texas, only eight are Planned Parenthood, belong to Planned Parenthood? So, I wanted to make that clarification.

S. TURNER: Thank you for that information, and Representative Branch, I did not yield to you, I'm sorry.

REPRESENTATIVE BRANCH: Thank you. I just wanted to ask you if you would at least consider another perspective on government? And I appreciate your comments—

S. TURNER: And let me just add this, I want to just add this—

BRANCH: And only because of your eloquence that I arise from my chair—

S. TURNER: Let me just tag this. I believe in this amendment so much, I will vote for this bill, I will vote for this bill. If it means so much, and if a woman's health and safety are so important, and if that is the priority, and not just to shut them down, I will vote for this bill. Put the amendment on it, and call my bluff on it.

BRANCH: The question I had was, would the gentleman consider another view of government on this, and that at some point, government's core function, Mr. Turner, its fundamental basic function is to protect the lives and the public safety of its citizens.

S. TURNER: But government's core function does not stop at the womb.

BRANCH: Of course it doesn't.

S. TURNER: Let me finish, Dan. Government's core function does not stop at the womb. For the kid at six months, for the kid that's three to four years old, for the kid that's five or six, I too feel their pain and I don't have to ask them about whether they are hurting. They can tell me whether they are hurting. Those kids

deserve the same opportunity and these are kids we see every day. Government does not—its responsibility does not stop at the womb. If we remain stewards of these children all the way through—educate them, provide them with health care, housing, put a roof over their head, and let us lead by example.

BRANCH: I just wanted you to consider another view of limited government. You were talking eloquently about big government; another view of basic, core, function, limited government is public safety, and that's what we're talking about here—fundamental public safety for women and children.

S. TURNER: Dan, we are expanding government and we are doing it by an unfunded mandate. Let's call it was it is. This is a government bill, this is the legislature, this is the State of Texas, we are saying to folk what they must do. We have expanded the size of government with this bill, whether you like it or love it, it is what it is. We are the government about which we preach, we speak. And if it's walking like one, if it's talking like one, if it's quacking like one, you may as well flap because it is one. It's a duck.

GIDDINGS: In State Affairs the other day, Representative Turner, there was a study that has been done in Florida talking about these procedures that are done.

S. TURNER: Yes.

GIDDINGS: And do you recall that the most dangerous one was cosmetic surgery?

S. TURNER: That is correct. I remember you brought that testimony up.

GIDDINGS: Why do you think we wouldn't include that if we were thinking about basic safety?

S. TURNER: Representative Giddings, I do not know.

GIDDINGS: You know my assistant, Sarah Wehland, do you not?

S. TURNER: I do know her.

GIDDINGS: You know that her granddaughter died because of liposuction. Are you aware of that?

S. TURNER: I'm aware of that.

GIDDINGS: And so, those kind of procedures have shown to be pretty dangerous.

S. TURNER: That is correct.

GIDDINGS: I wonder why we wouldn't include that in this bill, if women's safety is our biggest concern here?

S. TURNER: Well, I hope people will vote for this bill. I hope they will vote for the amendment. I think it would make the bill much, much better. I hope they will vote for the amendment. No unfunded mandates in this session from this bill.

ZEDLER: Representative Turner, can you name me any other medical procedure where 85,000 Texans die every year?

S. TURNER: I think if you look on the streets of urban and rural Texas, you will see a lot of kids that are walking in hopelessness and despair. I will respectfully ask that you vote with me on the amendment. Vote no on the motion to table.

[Amendment No. 17 was tabled by Record No. 17.]

[Amendment No. 18 by Howard was laid before the house.]

HOWARD: This is an amendment that I'm proposing as a compromise in terms of the requirement that the abortion clinics have to meet the standards of ambulatory surgical centers. There are really two major aspects to that change, one of which is significant facility changes—facility upgrades that have been talked about, different prices quoted. What I've been told by Department of State Health Services, who actually would be inspecting these plans, that they would guesstimate it could be anywhere around $500,000 to do this upgrade. But, that being the case, there are also some health care delivery aspects of the regulations that would change—that would increase reporting of certain aspects of the care, that would increase the number of RNs that would have to be in the facility.

What I am proposing with this amendment is that the abortion facilities—the abortion clinics—that are required to meet the standards of the ASCs, do not have to meet the facility upgrade part, but only the quality assurance part—only the part that has to do with the actual delivery of patient care. If indeed there's concern that there needs to be an upgrade in the health and safety of the woman seeking the abortion, then go ahead and upgrade that part of the delivery without the unnecessary physical structure upgrades. Based on the type of services that these facilities provide, the standards that they would be required to comply with, with this bill the way it stands right now, are unnecessary and drive up the costs of providing medical care. In comparison to these facilities, ASCs are primarily used to perform sterile surgical procedures that typically involve an incision, for example, surgeries to remove tonsils, gall bladder, kidney stones, these surgical procedures generally necessitate two to four hours of anesthesia and recovery time. ASCs are designed for those types of procedures, and often require operating rooms with certain size requirements, corridor width, that sort of thing. The vast majority of abortions are procedures that can be performed safely in an office-based setting without surgery or anesthesia. This is really a requirement that is absolutely inappropriate and unnecessary.

So, this amendment exempts abortion facilities from having to meet the construction requirements, but does keep in the quality assurance parts regarding staffing and emergency response. And I see at the back mic, there's a couple of people, one of whom actually owns an ambulatory surgical center, Representative King, and I'm hoping he'll get a chance to talk about that for a minute as well. With that, I yield.

N. GONZALEZ: Representative Howard, you have described what an ambulatory surgical center is, can you tell us when the first licensing—or when the Texas Ambulatory Surgical Center Licensing Act was first enacted in the State of Texas?

HOWARD: Yes, that came about in 1985, and these are basically what people would commonly refer to as "day surgery centers." They were meant and set up to help us contain costs and deliver high-quality care in terms of not having to go into the hospital setting for minimally invasive procedures.

N. GONZALEZ: And why are there more requirements for ASCs versus other facilities?

HOWARD: Well, there's more requirements for those—for ASCs versus, say, an abortion clinic that currently exists the way we've got it set up now, because the procedures that are done in an ASC are more invasive, the patients are in a more vulnerable state, there's more anesthesia provided, and so they have to have certain upgrades to accommodate that. That's not the case with the vast majority of abortions that are performed.

N. GONZALEZ: And members that are currently here—so they can get an idea of what we're talking about, can you describe the current regulations governing the abortion facilities in Texas currently?

HOWARD: Well, I have a side-by-side that was passed out I know in the senate hearing this week, and I had gotten a copy of it as well, that talks about what's currently required with an abortion facility versus an ambulatory surgical center, and, quite frankly, there are a significant amount of requirements for the abortion facilities, including everything from the types of licensing, and training, and staff that have to be there, to the crash carts, and they have to have CPR certification, they have to have at least one RN on staff, cardiac life support certification, emergency drills, there's a patient complaint system. So, these kinds of things would also be required of an ambulatory surgical center, but the big difference would be the facility upgrades, because of the invasive surgery that is done, they actually have to increase the surgery room size, they have to have a certain airflow system, firewalls, showers, male and female locker rooms—I mean, these are things that are way beyond any reasonable expectation of what would be required in an abortion facility.

N. GONZALEZ: And under current regulations, how often are Texas abortion facilities inspected by DSHS?

HOWARD: DSHS actually inspects abortion clinics, unannounced, annually.

N. GONZALEZ: Okay. And do they report complications?

HOWARD: Do they report complications? Yes, indeed. Yes, they do. They report complications.

N. GONZALEZ: And those are tracked internally and reported to DSHS, correct?

HOWARD: That is correct.

N. GONZALEZ: And are abortion facilities currently required to have a quality assurance program?

HOWARD: Yes, they are.

N. GONZALEZ: Are they required to have a program for infection control?

HOWARD: Yes, they are.

N. GONZALEZ: Are they required to have emergency drills and protocols for emergencies?

HOWARD: Absolutely.

N. GONZALEZ: Can you explain, specifically, why requiring abortions to be done in an ASC would reduce complications and do you believe—which complications will be specifically be addressed through ASCs?

HOWARD: Well, actually, in testimony this week in the senate hearing, representatives from the Department of State Health Services were asked questions comparing the safety of the two different types of facilities, and the response given was that they could not say that there was any reason to consider either one of them to be less safe than the other. So, they're different types of facilities. One is not safer than the other.

N. GONZALEZ: Can you share with us evidence that demonstrates this restriction is needed, or is this basically a—is this a solution in search of a problem?

HOWARD: Absolutely. The reported complications the DSHS has reported from investigations have not indicated any unusual deficiencies comparable to any other facilities that they inspect. And, in fact, abortion facilities—clinics—are inspected annually, whereas ambulatory surgical centers are only inspected every three to six years.

N. GONZALEZ: Okay. And can you tell me if there are any facilities that currently meet ASC standards?

HOWARD: If there are any current facilities providing abortion?

N. GONZALEZ: Correct.

HOWARD: Yes, there are. I believe what we've been saying is there are five, but I think DSHS is now saying there are six that do, but—

N. GONZALEZ: Are those facilities that meet the ASC standards located in any areas that are located by any rural areas?

HOWARD: Actually, they are located in the major metropolitan areas—

N. GONZALEZ: So they would be located in Houston, Dallas, San Antonio?

HOWARD: Yes. And none in the western part of the state.

N. GONZALEZ: Thank you. And does this bill require health centers that perform medical abortions to comply with regulations for ASCs as well?

HOWARD: They do indeed. This bill would require that administration of a pill, basically, has to be done in an ambulatory surgical center.

N. GONZALEZ: Okay. And, typically, how many abortions occur in the U.S. today where the rates of complications occur in the U.S.? Are you aware of that number?

HOWARD: I'm sorry, I missed the first part of your question.

N. GONZALEZ: I'm sorry, what are the rates of complications for abortions in the U.S.?

HOWARD: The rates of complications, I believe, that I came across, it's a very small number. It's something like, what I have is about three percent—.03 percent.

N. GONZALEZ: Okay. Thank you very much, representative, it's been very helpful.

LAUBENBERG: I appreciate it, but, again, I am going to table your amendment. You know, we have read recently in the newspaper about an abortion facility where the woman was still alive, but the EMS could not get the gurney through the doors. They could not get through the hallways to get to the woman that they could have potentially saved her life. The reason we are requiring the abortion facilities to upgrade to be an ambulatory surgical center is because we're dealing with a very unique situation. And you may say, well that's just one woman, but you know what, that one woman who is dead, that means everything. And the TAC requires for written protocol on how to manage a medical emergency, but it doesn't provide for taking care right there of that medical emergency if the abortion goes wrong. And the farther along in the pregnancy the more possibility there is for complications and for it to go badly, and when it goes badly, it goes very badly. The ambulatory surgical center requirements deal with the physical structure that will enable that patient to have more immediate higher level of care in case something goes wrong. So, therefore, I am moving to table.

S. KING: I've been persuaded by a lot of colleagues not to ask these questions, but as a female and as a nurse, as my colleague Representative Howard, and as the only owner of an ambulatory surgical center in this body, I feel it's my duty to ask you a few questions. We do not do abortions in our facility, we do head and neck surgery. I thought I would put that in as a disclaimer. You've mentioned, and do you know the primary difference between the regulations between a licensed facility for abortion by the state and an ASC? What's the primary, overriding difference in those regulations?

HOWARD: The primary difference is a facility upgrade to accommodate surgery.

S. KING: Do you believe an upgrade is an accurate description of what that is, Representative Howard?

HOWARD: Actually, that's a good question. I choose to use another word, now that you've asked me that, because I believe there are two different types of facilities so it's not so much a hierarchical structure. It's a different type of facility that provides a different type of procedure.

S. KING: Is the upgrade an improvement in the health, and safety, and care of women seeking this procedure? Which many of us don't think it's a great idea, others of us do. Do you think there is a difference in the health and safety of

those individuals based on the ASC requirements for architecture, pre-planning, life safety code, etc., which by really reality, we're talking a major construction change in these physical facilities?

HOWARD: From my understanding, I would say that there is no—there would be nothing significant here in terms of improving the health and safety of a woman seeking an abortion in an abortion clinic versus an ASC.

S. KING: We've talked about, I think it was Representative Bohac, said that the abortion industry—I've never heard it referred to that way—has $1.2 billion, and I've heard the discussion about the amount per square footage. Do you believe that this financial upgrade would be a deterrent to keep the current facilities open? Do you think that's a valid comment?

HOWARD: Oh, absolutely. From those—there are some facilities—some abortion providers in our state who own both clinics as well as an ambulatory surgical center and provide the same procedures in both, so they have a comparison they can make, and they estimate that it costs them $40,000 more per week to operate the ACS to provide the same services that they provide in an abortion clinic, plus the cost to the patient in the abortion clinic is approximately $400, whereas in the ASC it's more like $1,200, $1,300.

S. KING: Let me ask you this, do you believe that from, what you know as a health care person—I know you don't perform abortions, nor do I—that it is necessary for a medical abortion, which is at an earlier stage, is necessary to do this procedure which involves taking two medications, as far as I understand, in an ambulatory surgical center, which by definition is a facility designed to do surgery. Is there a precedent for a surgical facility to have as a procedure to take two pills?

HOWARD: No, none that I am aware of, and it makes no sense whatsoever, medically. You and I were looking at what ACOG has put out in terms of their bulletin for administering this medication, and, in fact, the ACOG bulletin indicates that these medications can safely be self-administered at home with follow up done telephonically. So, when you have ACOG saying that, certainly, I would suggest that there's no reason for them being a surgical facility.

S. KING: Do you feel that abortion should be prohibited in physicians' offices? Because there's a small number that are done, but there is no survey, there's no compliance components there, only that they must report to the State of Texas.

HOWARD: Well, as you know, there are a lot of procedures that are done in physicians' offices, and, with abortions, if you perform less than 50 a year in a physician's office, you're correct, you do not have to be licensed to do that. They just have to report it.

S. KING: I want to ask one more question. A colleague behind me, I don't recall who it was, said that you had made an incorrect statement about collecting data on complications from abortion. Did you make a comment about that?

HOWARD: I don't know. What was the comment—what was the gist of it?

S. KING: Something about the complications that are reported on this particular procedure. Are you aware that there is a new form on reporting abortions to the State of Texas, specifically, the Department of State Health Services, beginning in January of this year—which seems like several decades ago, when we first came here for the 83rd regular session. Are you aware of this form?

HOWARD: I am, and you are correct, it did start January of 2013. They were already collecting information about complications, but this new form collects it in a different manor and is more specific.

S. KING: I think this form is important to have the data. I think we need to know what we're talking about. Do you believe it's important to be truthful about statistics regarding this procedure that's highly controversial, and in many cases, very, very, very opposed by so many people. Do you think it's important to have this data in the State of Texas?

HOWARD: I think it's extremely important to have it, and I think especially when you're talking about something that's this controversial, this emotional, this full of so many anecdotes, that the more factual information we can get so that we're setting public policy that's based on the facts, that's based on science, is extremely important.

S. KING: Are you aware that not only do they collect information about the death of a mother, which I understand is very, very rare, but also, is the child alive. I would suggest that we have much more work to do in this arena, and it saddens me that we're not taking any amendments, because to be able to look and see if a child is born alive, I think is at the very heart of some of this. We talk about that person Dr. Gosnell, and whatever in Philadelphia, we want to truly stop that, so don't we want to see this data, and so, perhaps, maybe an amendment or two will come through to make this bill even stronger.

HOWARD: Thank you, Representative King, I wish that we could have these kinds of conversations and actually work across party lines and across beliefs about how this should be handled to come up with some common sense, common ground answers that really address what will keep our Texas citizens safe.

S. KING: Thank you. And thank you, Representative Laubenberg, who I've had the privilege to sit by for a couple of sessions. Don't underestimate her. She's very, very, very tough.

FARRAR: Ms. Howard, is it your intent with this amendment to maintain access to abortion care?

HOWARD: Absolutely. And what I'm trying to do here is present a proposal that takes the quality assurance aspects of the ASC, if there is really a concern about safety, even though the evidence does not support that, but at least I will give that, but not put in the costly unnecessary facility upgrades that would be prohibitive and result in the closure of most of these clinics.

FARRAR: Do you share my concern that restricting access does not make women's health care safer?

HOWARD: Absolutely. I was coming of age before *Roe v. Wade*, I clearly remember people—women—having to seek abortions when they were in desperate situations that did not have legal access. As long as people are having sex, there will be unintended pregnancies, there will be women who will be in positions where they will need to terminate a pregnancy, and that will happen regardless. We do not want to restrict access to safe, legal, medical, abortion procedures.

[Amendment No. 18 was tabled by Record No. 18.]

[Amendment No. 19 by Collier was laid before the house.]

REPRESENTATIVE COLLIER: I know everyone is tired and getting a little restless, but I appreciate the opportunity to lay out this amendment, this very important amendment. Now, this amendment removes criminal penalties and requires a finding of gross negligence by the Texas Medical Board before administrative penalties can occur. There have been opinions of physicians in the practice that criminalizing such a divisive issue as abortion can, and often does, create a vast opportunity for targeted prosecution. The criminal code already has provisions for assault and manslaughter. This amendment allows the proper authority, in this case it is the Texas Medical Board, to govern and discipline its members with regard to their medical behavior as opposed to a criminal action. Moreover, the penalty for a violation, as found in this particular **HB 2**, is a Class A misdemeanor that's punishable by a fine only of $4,000.

Anyone who has looked at the Code of Criminal Procedure or the Code of Criminal Conduct will see that a Class A misdemeanor is not punishable by only a fine. There's a confinement provision in that, but this provision, this bill, proposes to rewrite our criminal code and change the way we view Class A misdemeanors. Class A misdemeanors are just below felonies. That means these particular physicians who are charged with these Class A misdemeanors will not be permitted to apply for concealed handgun license. It also means that they may even lose their license. This amendment would allow doctors who exercise reasonable medical judgment to do so, but would allow those doctors who are acting outside the acceptable practice of medicine to be sanctioned by the Texas Medical Board. And with that, members, I move passage.

LAUBENBERG: Again, members, I move to table this amendment. What this amendment is doing is removing the penalty for the violation of the physician for the admitting requirements and the 30-mile rule. It originally had jail time, and one of the members asked that it take out the jail time and just put in the penalty fine. So, actually, I think this is a fair compromise for this bill, and I move to table.

COLLIER: As I stated earlier, this bill attempts to criminalize a physician who chooses to practice the offering of the abortion, and that is just not right. There's already penalties for a doctor who commits misconduct; that's in the Code of Criminal Conduct—Criminal Procedure—and this bill is just extending and actually altering the Code of Criminal Procedure by changing the way Texas views Class A misdemeanors. So with that, also, it also puts it in the purview of

the Texas Medical Board, which is the appropriate entity to regulate and oversee the practice of medicine—not the legislature, but the Texas Medical Board. So, with that, I move passage—I ask you to vote against the motion to table.

[Amendment No. 19 was tabled by Record No. 19.]

[Amendment No. 20 by Gutierrez was laid before the house.]

REPRESENTATIVE GUTIERREZ: Members, I have been asked by a few folks on this floor to pull down my amendment. I've been told that it's a farce; that the concept of loser pay for this particular piece of legislation, it makes a mockery of this process. I don't think it makes any more of a mockery of this process than what we're in today. We are here because someone in this building, not in this room, in this building, thinks it's politically expedient to have us in this room, locked in here for two sessions, two special sessions already, locked in here on this one issue, because they want to run for higher office. That's why we're here. I've got three numbers for all those folks standing up in the blue and orange up there. Thirty thousand dollars a day it's costing you, the taxpayers, to have us in here.

Ten states in this union of our United States have ruled on this issue through their federal appellate court system. This issue has been overturned, such legislation has been enjoined, and there have been findings of unconstitutionality. And the last number that I will tell you is 40 years of well-settled law, 40 years of well-settled law, they're asking us to overturn. And so, what I ask you here, when you ask me to pull my amendment down because it's a farce, because it's a joke, I simply tell you that part of why we are here is because one man has decided to bring us here for some future gain. And so, with that, I ask him, and I ask you, and I ask this body, and that senate across the hall, to put your money where your mouth is.

We passed loser pay in the 82nd legislature. I was very, very much against that piece of legislation, but I got a third reading amendment with my very good friend, Phil King. We got a third reading amendment. We had 101 people vote, and Phil King was back there on the back mic, helping me win this thing. And we said, if you're going to sue the tax man, and you win, then the tax man's got to pay you. And you all came around, and you rallied behind me, and we won that day. And so, if we feel so strongly about this, let's have loser pay. And for those of you that think that the challenger gets paid, yeah, he gets paid, after it's gone through the appellate system, and the United States Supreme Court, couple of different appellate levels before it gets to the Supreme Court. The loser pays.

My amendment says that a challenger gets paid when they beat you at the trial level, when they beat you at the appellate level, he gets paid, and he gets paid. You feel so strongly about this bill? Let's make it happen right now, because I know that this body feels strongly about loser pay. I know that the man down the hall dragged us down here on loser pay. And so, I'm good on just voting this up or down. We don't need to talk about it any more, but my amendment is no more a farce than the reason we are doing here. The amendment is quite simple, I just laid it out earlier. When a challenger challenges this legislation, as they have had in 10 other states in this union, and won, the

State of Texas will pay the challenger, their attorney's fees at every level, at the trial level, at the appellate level, at the United States Supreme Court level, if it get's that far. We all feel strongly about loser pay, feel strongly about this legislation. Let's go. I'm ready.

LAUBENBERG: Again, members, I move to table this amendment. This issue, that we've spent many, many days, many, many hours hearing is very important. This is not something that is just unique to Texas. This is an issue that is bringing people all over the country to step out and to discuss. We're discussing, obviously, you know, abortion, and life, and those issues, and you know, this legislation is passing in different states. Different courts are making different rulings. I hope that when this passes in Texas, and I'm glad we're doing this, that anyone who wishes to challenge it would reconsider, but having said that, this amendment really is not applicable to what we're discussing today in this bill. So, respectfully, I'm going to table it.

REPRESENTATIVE TAYLOR: Does this strike you as an amendment that just kind of helps the lawyers, and gets the lawsuits going, and really has nothing to do with the bill? I mean, does it strike you that way?

LAUBENBERG: You know, folks are up here loving to say what everyone's intention is, and I'm not going to assume anyone's motive in doing this.

TAYLOR: Well, that's probably safe. I mean, to me, this bill is about protecting life and providing quality health care for women in Texas, and I'm not really sure how this amendment helps, but I'm with you on moving to table.

GUTIERREZ: Members, you know, we heard about helping the lawyers just now. Loser pay, wasn't it an emergency item that our governor had last session? I think this was one of his emergency items, and in the 82nd we passed it, much to the objection of many lawyers in this room, but we passed it. So, no, loser pay doesn't help the lawyers, it helps people that challenge this particular statute. And so, if you feel so strongly about this statute, and you certainly felt so strongly about loser pay, let's move forward and add this amendment because it was clear that loser pay was a tort reform amendment that was passed by the majority of the republican side of this house, and the senate, and the governor's office. And so, if you think that loser pay is so important, then we need to add it to this amendment to this bill. And so, I would ask in closing, I will not take any more of your time, members, but the body must know, and the public must know that we spend $30,000 a day to pass something that I assure you, and I am no legislative scholar, no constitutional scholar, but I assure you, will be overturned. So, when you get the tax bill, just remember who brought you here. Oh, I forgot, he's running for something else now.

[Amendment No. 20 was tabled by Record No. 20.]

[Amendment No. 21 by Farrar was laid before the house.]

FARRAR: This amendment would appropriate 1 percent of the remaining unappropriated revenue to fund a comprehensive study on how to prevent maternal and fetal deaths. Abortion is actually much safer than childbirth. If we

want to protect the health and safety of women and children, we are focusing on the wrong issue. Fewer than 1 percent of all U.S. abortion patients experience a major complication. However, the risk of patients experiencing during childbirth is for a complication is actually 10 times higher than that associated with abortion. Texas is also a leader, sadly, in the number of pre-term births. We clearly have a lot of work to be done to be able to say that we protect the health and safety of women and children in this state.

Texas is near the bottom in the amount of women receiving prenatal care. Did you hear me? Near the bottom of women that receive prenatal care. It also has the highest rate of those without health insurance for the fifth straight year. In 2010, 95 women died as a result of pregnancy or childbearing. In 2010, 13.2 percent of infants in Texas were born pre-term, which is higher than the national rate of 12 percent, and higher than the Healthy People 2010 target rate of 11.4 percent. The Texas maternal mortality rate has been higher than the national rate since 2008, in fact. In 2010, the maternal mortality ratio in Texas was 24.63, which is higher than the national rate of 19.02. The maternal mortality rate in Texas has increased significantly over the years from 6.06 per thousand live births in 1996 to 24.6 per thousand live births in 2010. A study to determine how best to prevent maternal and fetal deaths would be extremely useful to the work that we do here.

REPRESENTATIVE NAISHTAT: Where would the funding come from to support this study?

FARRAR: Well, there is remaining unappropriated revenue in the Department of State Health Services, and this money would be 1 percent of that unappropriated revenue, and it would sum to $6.8 million.

NAISHTAT: $6.8 million?

FARRAR: Correct.

NAISHTAT: Do we have any current data to suggest that maternal and fetal death is an ongoing problem in this state?

FARRAR: We do; in fact, data currently indicates that women in the U.S. are more likely to die during childbirth from pregnancy related deaths than they were over 20 years ago, if you can believe that. And the maternal mortality rate in Texas, as I said, far exceeds the national average.

NAISHTAT: Representative, do we have any data to indicate why maternal mortality is so high in Texas?

FARRAR: Well, I gave you some reasons that are possibilities, the uninsured rate and such, but I think we don't have actual concrete data and that's why I believe we need a study. And if we're going to stand here and say that this is about increasing women's health, I think that this is something that we should pursue so that once we know what the reasons are, then we can begin to address those reasons in a concrete way.

LAUBENBERG: Okay. Representative Farrar, I, again, am going to move to table this amendment. You know, aside from the fact that it puts a fiscal note on this bill, this is something that we can discuss during the next legislative session. And again, the focus on this bill is on the five-month ban on abortions and the health and safety of the mother. And, just in comment that, anyway, I'll just move to table.

FARRAR: I think it's important and it's time that we expand our definition of what life is. I think it just can't be about—it can't be so narrow, it has to be about those—it has to be about the health of the developing fetus. It has to be about the mother. It has to be about, as it was termed here earlier on the floor, it has to be post-womb. It has to be about all the way to the grave, and I think defining it so narrowly does an injustice to the term, and I think this is a good way to begin to understand why the mortality rate is what it is, and that it's growing. It's growing at a time when science and medicine are developing and there's no need for that. So, I think if we pursue this type of study, it gives us the information, as policy makers, that we need to be able to make better decisions. Thank you. I ask you to vote against the motion to table.

[Amendment No. 21 was tabled by Record No. 21.]

[Amendment No. 22 by Dutton was laid before the house.]

REPRESENTATIVE DUTTON: I know it's been a long day and most of us are tired, but let me get you to take a breath and see if you can get your brain moving. So far, the amendments we have had have been about both politics or the policy of abortion, and what this amendment does is neither of those. What this amendment does is talks about the principle underlying this bill. One of the things that I have done in talking about this bill, and talking about the whole issue of abortion, and listening to people, and reading about it, it struck me that one of the things our governor said was that this bill was about the sanctity of life. It's about the sanctity of life and how precious life is, and so, therefore, we had to pass this bill based on that principle.

Well, I think that if you start with the principle that underlies this bill as the sanctity of life, then that ought to apply to a whole bunch of other things that we do in this legislature. One of the things is that we are in this bill telling one person that you ought not to have the right to decide life. One person, that's what we're saying in this bill, but what we also have in statute, is we have allowed 12 people to decide life for some people. And we decide that, well, wait a minute, 12 people can put somebody to death in this state, but now we want one person to not be able to decide that same issue. For me, the principle is the same. And the principle says that if we value life in this state, if we think life, that the sanctity of life is something that transcends everything that we do, which is the principle that underlies this bill, then I think you ought to vote for this amendment, because what this amendment does is simply says that, wait a minute, we are going to value all life in this state. We are going to value life such that when it gets to a criminal trial, in this state we will longer sanction the death penalty.

Now, I know that some people don't make the connection, some people can't figure out how to get from this bill to our statute on the death penalty, but I think that if you'll really sit in your chair, where you are, and you really come to grips with what underlies your whole basis for trying to outlaw abortions, what you will find is that the basis is only because you believe that every life is precious. And if every life is precious, I don't know how you somehow or another begin to change that just because of circumstances related to a criminal trial. If you don't want one person to decide life and death, why would you agree to let 12 people decide it for somebody? It doesn't make, intellectually, it doesn't make sense. It may make sense on some other orders, but it doesn't make sense in terms of whether or not this state ought to be in the business of executing people. And if you don't want one person in this state in the business of executing people, why would you ever permit 12 people to do it? That's the principle under which I offer this amendment.

[Representative Simpson raised a point of order against further consideration of Amendment No. 22 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill. The speaker overruled the point of order.]

DUTTON: We finally gave the death penalty to that motion. Let me tell you members, I understand why some people don't like this, because what it challenges is their whole principle and premise which underlies their belief about eliminating abortions, because if you say to yourself, and you can say to yourself comfortably, that I believe that abortions ought to be outlawed because I believe in the sanctity of life, which a lot of the people in the gallery are obviously here because of, and they're wearing blue because of, because they believe in the sanctity of life. Well, if you believe in the sanctity of life, what you're really saying is that I do not believe that anybody except the almighty ought to be in charge of life and death. And if you accept that premise, how do you change it when you get to the issue of whether or not this state ought to be in the business of instituting the death penalty? You can't. Not intellectually you can't. You can't if you want to somehow be able to say to yourself that somehow or another I don't believe the state ought to sanction abortions, but I do believe the state ought to sanction capital punishment and the death penalty. The two, in my opinion, are so intellectually inconsistent that whoever can stand before their god and justify the two, I believe they are standing before the wrong god.

LAUBENBERG: Again, members, I move to table this amendment. The amendment is designed to abolish the death penalty for certain criminal offenses. The operative word is criminal offenses. The individual must have been accused of a crime and judged by a jury, convicted by that jury, having the burden of proof put on the state, and they also have the ability to appeal, whereas, in abortion you're dealing with an innocent victim who does not have any ability to appeal. I move to table.

DUTTON: Should the state have a greater right than a person? Does the state have a greater right to terminate a life than a person does? What Ms. Laubenberg says is that, well, the person's been found guilty. If this bill had in it that 12

people could decide whether a woman ought to have an abortion, would it not be the same thing? Would it not be the same thing? Just because somehow or another some people want to suggest that the sanctity of life only relates to when you're born. The sanctity of life does not end or begin simply when you're born. The principle of the sanctity of life exists throughout. And what it suggests is this; is that the person who decided you could be a born person is the only person, only entity, that can decide to terminate your life.

Now, most of us in here, when we voted for the statute of creating a death penalty in this state, we didn't think about abortions, we didn't think about how that was going to position us in terms of our intellectual ability to figure out whether or not that ought to apply to abortions, but let me tell you something. If you can make a distinction between exterminating a life, then you don't really care about whether abortions exist or not. If you can decide that well, I don't really care, I think that the state ought to have the right to punish people by sending them to death, because 12 people decided it. But then on the other hand, a person who decides to have abortion ought not to have that kind of power. I don't think that's the state most of you all here believe in. And you know how I know that? Because you believe that the state ought to be limited in its rights. You believe that the superior right of an individual is greater than the right of the state, but what you're saying in voting against this amendment is that I don't believe that. I believe that in some situations the state ought to have the right to invade the privacy of the sanctity of life and that an individual doesn't, because what this amendment does is simply says that if we're going to do away with abortions in this state, we can do that, but we will do it only in so far as the attorney general in this state certifies in the public record that we have decided to do away with capital punishment.

Now, you know, it's amazing to me that intellectually, democrats in this body seem to be against abortion, but republicans seem to be for capital punishment. Now, I don't know how each of those parties walks the line intellectually to get to a point where they feel comfortable with the position they're taking. If this amendment goes on, I'll vote for this bill. If this amendment goes on, I'll vote for this bill, because I believe that the sanctity of life governs everything that we do, and it decides that, wait a minute, there's a point beyond which we cannot go as individuals, and we cannot go insofar as this legislature. And I believe that when we decide to take a life, when we decide to take a life, we have gone beyond not only our legislative authority, but we have gone beyond the authority invested in us by the creator. And if the creator decided to create an individual, I think we are bound, we are bound by that creator to let that person live so long as the creator decided they should live. And so, I would ask you to vote no on the motion to table, members. I know this is one of those times where, you know, there seems to be a party vote, there seems to be 90 people here who are against every amendment that comes up, but this is the only amendment that tests your principle. And with that, Mr. Speaker, I ask you to vote no on the motion to table.

[Amendment No. 22 was tabled by Record No. 22.]

[Amendment No. 23 by Giddings was laid before the house.]

GIDDINGS: In the Health and Safety Code, it's mandatory that a person presenting themselves for an abortion must be given a brochure that contains information that links abortions and the risk of breast cancer. Now, that statement is disputed by both the National Cancer Institute and the American Cancer Society. And, as a matter of fact, research provided by Komen indicates that breast cancer risk is really increased for a short time after a full-term pregnancy. That is a pregnancy that results in the birth of a living child. And this amendment removes that language from the Health and Safety Code.

S. DAVIS: I want to thank you for bringing this amendment. This is actually a bill that I filed during the regular session.

GIDDINGS: Absolutely.

S. DAVIS: This is a very important issue, because I believe that this body needs to pass legislation that is based on data, and science, and facts. Would you agree?

GIDDINGS: Absolutely. I agree.

S. DAVIS: And are you aware that during the course of me researching this bill and laying the bill out in the State Affairs Committee, I came across studies from the National Cancer Institute, the American Cancer Society, and ACOG all agreeing that it is factually untrue—that there is no link between abortion and miscarriages and breast cancer? Do you agree with that?

GIDDINGS: That is absolutely true, and, Representative Davis, the American Congress of Obstetricians and Gynecologists, that's a 55,000 members strong organization. Ninety-five percent of the OB/GYNs in this country belong to ACOG. And these are the very people that we trust to protect the lives of women and look over matters of childbirth, so why would they say something that would not be in the best interests of women?

S. DAVIS: And, if memory serves, actually the president of the Texas chapter of ACOG, and who also is the medical director and an OB/GYN at Texas Children's Hospital, testified in favor of the bill, which is identical to your amendment. And I also wanted to share with the body that the National Cancer Institute convened a workshop of over 100 of the world's leading experts who study pregnancy and breast cancer risk, and they determined that there's no increase in a woman's subsequent risk of developing breast cancer after an abortion or miscarriage. Is that what you believe to be true, as well?

GIDDINGS: It's absolutely what I believe to be true. And I have not seen anything credible that would discredit what these people are saying, the American Cancer Society and the National Cancer Institute. And I don't think we ought to be in the business in providing the women of Texas with information that is highly suspect, to say the least, and just out and out wrong at the worst.

S. DAVIS: I couldn't agree with you more. And as a breast cancer survivor myself, I think that it's insulting to survivors and to women, in general, when the Texas Legislature starts to practice medicine, like for the past two sessions we're

seeing more and more of, but especially when we're giving women incorrect information. So, I want to thank you very, very much for your amendment, which I'm sure will be tabled.

GIDDINGS: Thank you very much. We do a real disservice to women when we give them bad information. I move adoption of this amendment.

LAUBENBERG: Mr. Speaker, I move to table this amendment. It has nothing to do with this bill today. Thank you.

GIDDINGS: This amendment has everything to do with this bill that we're talking about today. We're talking about abortions and procedures relating to abortions. And this bill basically wants to set the record straight in terms of the disservice that we've done to women and the misinformation that we've given them. The American Congress of Obstetricians and Gynecologists, 55,000 strong, 95 percent of the people who deal with women's health issues and childbirth, say this is not true. The American Cancer Society says there's no link. The National Cancer Institute says there's no link. And Komen's research says that breast cancer risk is increased for a short time after a full-term pregnancy resulting in the birth of a living child. Please vote against the motion to table.

[Amendment No. 23 was tabled by Record No. 23.]

[Amendment No. 24 by Dukes was laid before the house.]

DUKES: This amendment was written first and foremost to be germane to this bill; so, therefore, it has the language to make it germane that was not liked in the previous amendment. But let me tell you what this amendment does. This amendment clarifies that prenatal care, in addition to delivery care, would be covered for a woman who is pregnant that attempted to have an abortion, but was denied it after the 20 weeks, that she would be covered so that we can have a healthy child to come out of this birth, as well as have the actual birth in the hospital to be covered. Because having prenatal care and paying for the birth in the hospital reduces the risk of pregnancy complications and risk for the mother by being able to have such care. This amendment also provides for the woman's household to become eligible after the 20th week of gestation for the benefits of Temporary Assistance for Needy Families to food stamps under the SNAP program and to Medicaid.

As we well know, unintended pregnancies are widespread and far-reaching. Almost half of pregnancies in the United States were unintended. Forty-five percent of Texas births are unplanned. Over 71 percent of the unplanned pregnancies are to unmarried 20-something year olds. Therefore, having the assistance of Temporary Assistance for Needy Families, as well as food stamps to be available to ensure that they are able to eat and to provide food for the family, and Medicaid to cover other children if they have any other kids. This amendment also would provide for—presently, under our Medicaid program, women are covered up to 185 percent of the federal poverty level. Many of the women who would be attempting to get an abortion may not have been covered under the 185 percent of the federal poverty level, so this amendment allows for, as in some other states, for the women to be covered up to 250 percent of the

federal poverty level, which equates to roughly an annual income $21,257. The coverage would begin at the 20 weeks and would carry through prenatal care, labor, child delivery, and 60 days postpartum to ensure that the mother is healthy and the child is healthy. As we know, Texas ranks 49th in the nation for the most number of uninsured. This provision would allow for these women and children to be able to be covered under our health programs. And, with that, Mr. Speaker, I would move for this wonderful amendment that is going to insure more children, more mothers, cover healthy births, prenatal care, provide for them to have food and services in a system that presently has great limitations and problems with it's integrated eligibility system that we well know about from our appropriations bills and other bills, that it would allow for healthy families, healthy children, and healthy women. With that, I would move passage.

LAUBENBERG: Mr. Speaker and members, I move to table this amendment for the same reasons that I moved to table Representative Dukes' previous amendment.

DUKES: This amendment is about ensuring that the children who are born are provided for, and that the mothers who are required, the ladies who are required to carry these children to full term against their own wishes are able to afford prenatal care, able to afford to pay for the birth instead of putting it on the backs of local governments that would have to pay for this uncompensated care, ensuring that they would be able to have Temporary Assistance for Needy Families, which would make it possible that if they had to get a crib, that they would be able to do so instead of having to have a child lying up in the bed with the mother possibly rolling over and the next thing you know, SIDS becomes an issue.

This is an amendment that's about ensuring that those children who are here get the child care that is needed and that the mother gets the child care so that she can continue to go to her early childhood medical visits with her OB/GYN and that the other children are cared for. This provides a safe environment for children. This in not about some end run to prevent an abortion. This is about when they are carried that they are provided for. When the legislature eliminated the Women's Health Program, the Legislative Budget Board, in its 2011 report, estimated that there would be additional babies that would be born that would affect our Medicaid rolls. All we're doing is properly assuming that if abortions are not allowed and it is more difficult, then more children would come to the face of this earth. And, when they do that, we should at the very least ensure that they are healthy, they are safe, they are warm, they are educated, all the things that we are supposed to do under the common good. And, Mr. Speaker, I would move against the motion to table.

[Amendment No. 24 was tabled by Record No. 24.]

[Amendment No. 25 by Herrero was laid before the house.]

HERRERO: I know that we have had a long day. I'll get right to the point. Because of the provisions of this bill, some of the facilities that perform abortions will not perform abortions anymore. And some of these facilities that currently

perform abortions also provide other services that are not related to abortions. And so, what this amendment attempts to do is, in an effort to ensure that we still maintain access to health care for women, this amendment would require the state to provide a minimum of one year's state funds to ensure that a facility that has stopped operating as an abortion facility to continue to serve as a facility that would provide health care services to women that are not abortion related. Those would include well woman exams, like cancer screenings, mammograms, pap smears, and any other non-abortion related services. With this amendment, it would allow women to continue to have access to health care that they currently receive that is not abortion related. I move for passage.

LAUBENBERG: I move to table this amendment. We've had this similar discussion before. Thank you.

HERRERO: I ask that you support this amendment in order to ensure that women have access to health care that is not abortion related, and I ask that you vote against the motion to table.

[Amendment No. 25 was tabled by Record No. 25.]

[Amendment No. 26 by S. King was laid before the house.]

S. KING: It's late. I do have an amendment, which I will respectfully pull down. I will say that it's tiny, and it has two sections. Public awareness of what this topic is, how does it affect the biological mother and the biological father. Let's look at our legislation going forward. What did we do? Let's collect data; let's find out the real facts and truth about what we are doing after this bill passes. I respectfully withdraw my amendment, which is **HB 50**, and with all good wishes to the author of this bill. Thank you.

[Amendment No. 26 was withdrawn.]

HOWARD: We do have an opportunity now to make some closing statements, and I know that there are a few of us that want to do that. I know that some of you want to vote and move on. This is an extremely important issue. I think that everyone would agree with that no matter what side of the issue you're on, so I appreciate the opportunity to visit with you for a moment here to share some comments about this particular bill. And I just want to start by saying that this has really been a false narrative, in my opinion, about arguing the inarguable. There are none of us in here that do not view what we are talking about to be about life. And any of us that look at science to dictate what we believe, that we rely upon facts and data, we all understand that life begins with fertilization, that cells come together and, biologically, that's life. This is not a question about when life begins. We all understand that, I think. It's a question about the decisions that have to be made along the way, and there are no easy answers here. We are trying to figure out how to work together as a community to keep our families safe and healthy and to make difficult choices that come about in life. Life is not that easy for a lot of people.

No one is pro-abortion. I have found it very uncomfortable to be labeled a baby killer and somebody who's pro-abortion by the people who come here and think they know who we are and know what we really believe. I don't think

there's anybody in here that would be considered pro-abortion, but this bill is not the answer. It's irresponsible, in my opinion, to create public policy that impacts the doctor-patient relationship while disregarding the concerns of the medical and hospital associations and their contribution to try to help craft something that makes sense medically.

The Texas Hospital Association testified in opposition to **HB 2**. The American Congress of Obstetricians and Gynecologists had this to say: "These bills set a dangerous precedent of a legislature telling doctors how to practice medicine and how to care for individual patients. ACOG opposes legislative interference and strongly believes that the decision about medical care must be based on scientific evidence and made by licensed medical professionals, not the state or the federal government. These bills are not based on sound science despite our efforts to provide the legislature with the best available medical knowledge." And from the Texas Medical Association, their letter said, "Our concerns are with legislative intrusion into the patient-physician relationship and the details of the practice of medicine and with the legislatively created standard of care. TMA is concerned this legislation sets a dangerous precedent of the legislature prescribing the details of the practice of medicine. These are determinations to be made by the medical community and science, not by the legislature."

I really cannot believe this. I cannot believe we had this kind of contribution of what was going on here. I know that people in here really trust the medical community to make medical decisions, and yet, we are being told by them that that's not what we're doing, and we're doing it anyway? We're doing it anyway? Rather than seriously working with medical professionals and experts to authentically address improvements in the delivery of women's health care, this bill disingenuously, paternalistically, and with feigned concern, instead panders to personal and political ideology. We are better than that. We do not need to be doing it this way.

The Centers for Disease Control list family planning as one of the greatest public health events of the past century. Family planning allowed us to decrease maternal deaths, decrease infant deaths, increase a woman's control over her own life. This was hugely significant. Hugely significant. What we're talking about here is going backwards. When actually, we know we can do this together. We did it in the regular session, the so-called Kumbaya session we just had. We came together, and we actually increased funding for family planning. We actually worked together and did something productive and good that will make a difference. We can do that. This bill does not do that. This bill does not come together with the best science, with the best minds in this room, to come up with something that's really in the best interests of the citizens of Texas. We can reduce abortion. This bill is not the way to do it. We need to work together. We need to work with the medical community, and we can do that. We have done it; we can do it. I'm so sorry about this bill. It's embarrassing to me that we're doing this. We really are better than this, folks. I am so disappointed that this is where

we are. Obviously, I'm in opposition to this. Please, folks, let's get past this and find ways to work together with good public health policy. Please, we can make a difference.

ALVARADO: The argument that has shaped the debate around this bill and its predecessors have been reduced to an unfortunate binary. You're either pro-life and anti-woman or pro-woman and anti-life. These labels are unworkable at best and demeaning at worst. Members have been categorized for individual votes we've taken this session from tax cuts to education funding. We have been given our own sour label by the opposing side. The label surrounding this bill, however, hit to the core. No woman in this chamber vies to be categorized as anti-life, and no man in this chamber intends the be branded as anti-woman. I have consulted my faith and searched my conscience countless times on this issue before us. I believe the gift of life is sacred. I value life. I am for life. The sanctity of preserving and improving an individual's full life is expected in our common humanity, and it is required by our duties as members of this house.

I oppose **HB 2** because I believe this bill, and others like it, do not respect the sanctity of full life. When will we get serious about policies that respect full life? Let's look at what this body, what this institution and how it's treated women. First, we had the Right To Know Act, passed in 2003, the 78th session, which did little to provide women with adequate health education. Then we passed the sonogram bill—I know we all remember that from last session—that mandated intrusive procedures that invaded and degraded women's private lives. We inappropriately, inappropriately inserted government not only into the doctor-patient relationship, but we also inserted government into a woman's uterus. In that same legislative session, this body cut family planning funding for providers by two-thirds. What else do you want from us? What else do you want to take from us?

You've all listened to the detrimental consequences to a woman's health if **HB 2** becomes law. We are being asked to vote on a bill that does not take the whole health and safety of a woman with an unsafe pregnancy into account. We are being asked to vote on a bill that does not consider circumstances beyond a woman's control, such as pregnancy as a result of rape or incest. Each of these pitfalls harms a human life. And y'all have also seen the statistics of how many health centers will close as a result of this bill's intentionally burdensome regulations. These regulations will reduce the number of health clinics in our state to a dangerously low level. Texas women will have to go to unbearable lengths to receive wellness exams, prevention screenings for breast cancer, cervical cancer, sexually transmitted diseases. It will practically be impossible for women, and yes, for men, in rural areas to receive disease treatment.

Proponents are so fixated on this one medical procedure that, by the way, happens to be legal, that they are willing to jeopardize the loss of other services that contribute to the health and well-being of a woman's full life. While I have no doubt that those of you who support this bill have personal convictions about its intent, we cannot let personal convictions intentionally ruin the lives of those tirelessly preserving full human life. The vote we take today is a reflection of how we perceive full life. I cannot vote for a bill that will harm the health, and

safety, and welfare of any individual. **HB 2**'s unprecedented methods do this in a very unexceptional way. Today, I stand for full life and will vote no on **HB 2**. Thank you.

MENÈNDEZ: Members, I rise to speak against **HB 2** with all due respect and appreciation for the personal beliefs of each and every one of you. I mention personal beliefs because I do believe that's much of what **HB 2** is really about. I've heard time and time again in committee that this bill is about protecting a woman's health or minimizing fetal pain, but today after hours and hours of amendments that I believe would have done a lot to help a woman's health, I don't feel convinced that **HB 2** is really about that. I'm not even sure it's about reducing the number of unwanted or unplanned pregnancies among young women, or equally important, addressing the needs of a child after birth. It seems that it may simply be intended, no matter what the denials and repeated references to improving women's health, to further and nearly totally restrict abortions in Texas. And you know something, if we could find a way that we could come to the day that Texas would not need any abortion procedures, I would work for that day with you. And that's what I believe, this is about personal beliefs and morals, and, members, I don't believe that we've been sent here to impose our personal beliefs on the citizens we represent.

I believe that we are here, however, in the words we each spoke in this chamber seven months and one day ago, when we swore an oath, when we stated to the best of my ability to preserve, protect, and defend the Constitution and the laws of the United States and the state, so help me God. This bill is about whether or not we are committed to upholding that oath. This bill is about whether or not we will, in fact, preserve, protect, and defend the Constitution and laws of the United States. Members, I personally am not in favor of an abortion. I don't think anybody is, but I think our personal views are not what's at issue here today. What I'm in favor of, what I believe in, what we all swore to do is protect the constitutionally given right of a woman, with her family, and her God, to make a choice.

I also favor many of the safeguards in the laws we have passed in recent sessions that do increase access and do provide other health related information. See, but, members, this is about access, as another matter of fact, for the woman's right to choose, but **HB 2** violates that constitutionally given right that hasn't wavered for over 40 years. By making access to those health centers as difficult as possible, and for taking a large part of the population of lower income women, and making it virtually impossible. The undue burdens on people living along the border, in El Paso, I believe will go on to be the downfall of this bill.

As we know, thousands of citizens came to their Capitol and have been here to express their views on this subject and the record will show that 1,354 signed up in favor, and 2,183 were opposed, or 62 percent. What I found troublesome, however, was that those who were opposed spoke strongest in the favor of the right of a woman to choose and keeping government out of her body. And those who spoke in favor, primarily it was about their personal beliefs. Very little, sometimes it was actually stated that the rights of the mother weren't as important as the right of the unborn.

The author has repeatedly refused to accept or even debate reasonable amendments to **HB 2**, and earlier with **SB 5**, and that to me speaks volumes of the intent of this bill. Many of the amendments that were presented today were intended to promote better health care and make this bill constitutionally sound. Yet, they were just discarded. Members, I refrain from challenging legislation on anything but factual merit and in this case, one fact stands out glaringly. A vote for this bill is to refute the oath of office that we all share and continue to be bound to, unless and until the constitution and the laws of the United States are amended on this matter, supporting **HB 2** is an admission of a failure to keep a promise that we made, an oath we made.

And I'll close with this; the Supreme Court said in the seminal case of *Casey v. Planned Parenthood*, when they spoke to their own decision: "Men and women of good conscience can disagree, and we suppose some always shall disagree, about the profound moral and spiritual implications of terminating a pregnancy, even in its earliest stage. Some of us, as individuals, find abortion offensive to our most basic principles of morality, but that cannot control our decision. Our obligation is to define the liberty of all and not to mandate our own moral code."

REPRESENTATIVE VILLALBA: We are often called upon to debate and wrestle with the weighty matters of our time and important issues facing our great state, and this session is no different. We have contemplated, and largely agreed upon, a new path for education for our children. We've confronted and tackled the thorny complexity of water planning and finance. And we have addressed a myriad of topics that are both controversial and divisive, but in each case, members, we have done so with the respect of the ideas of our colleagues, and with an understanding that all of our intentions are honorable, even though we may not agree with positions taken by the other side. But today, members, and recently, I feel that we have crossed the threshold of appropriate discourse and have torn asunder the bonds of comity that have held this session together.

Recently, it's been said in this chamber, and in the chamber of the senate, by certain members of this body that certain members of this body are conducting a war on women, or we are intellectually dishonest, or we are unconstitutional—or acting unconstitutionally, or we are politically motivated, or that we are following the leader of someone who does not agree with us, with the view that we are looking towards the primaries instead of what is best for all Texas. Well, let me proclaim for all who will hear me today, there is no monopoly on righteous indignation, and mere disagreement does not justify the hostile attacks of the honorable intentions of the members of this body.

I am a son to a mother, a husband to a wife, a father of two daughters, and a son to come, and was a brother to a sister. I was raised with and by strong Texas women. I take leadership from the brilliant and able leaders—female leaders—in this building, and I respect and I shall support with every fiber of my being, the rights of every woman in this state and in this country. I stand with Texas women, but I shall stand here no longer and be accused of conducting a war on

women, or that my intentions are not wholly honorable merely because I choose to protect and support human life. We fight this fight because of innocent human life.

There have been great discussions today about why. Why would we do this? Why are we conducting this legislation in this way? What is this process? And there have been a number of props that have been shown. We've seen hangers, we've seen needles, we've seen knitting needles, we've seen turpentine. Well, I have a prop for people here. This, ladies and gentlemen, is my 13-week-old son growing in my wife today. This is a baby, this is a human being, this is the reason that I care so much about this. My little son is a gift from the almighty. He has fingers and he has toes. He can sit crisscross applesauce. He can stretch his arms out, and his legs, and turn his head towards me when I tap on his mother's belly. And I know this because I spent time with him last Monday, in the doctor's office, with my wife, and my two daughters.

So, regardless of where this debate may go, please understand that our intentions are honorable because we care for and we fight for human baby lives. When you ask about inconvenience of driving 1,000 miles, when you worry about a $20 ticket, when you talk about the issues that arise, we do so because we are protecting human baby lives. That is what this argument is about, that is why the people care so much, that is why our intentions are honorable, and that is why we have these discussions today. We've had a great discussion today about fetal pain. Well, regardless of the answer to that great debate, there is one thing that is certain today, and that is that my son, and every 20-week-old gestational baby, shares a common element with every person in this room, every member in this room, and every person that is with us today, and that is they share the common element of humanity. This is not a clump of undifferentiated cells. This is my baby, and I will fight, and I will fight, and I will fight to protect my baby, and that's why this matters. I support **HB 2**, and I will continue to fight for this cause because it matters, and it matters not because, again, my intentions are not dishonorable, it matters for my son. It matters for other babies, other humans in our state, who will have to deal with these questions. I recognize what this means. I know these decisions are tough, but we do this because we believe in the protection of human life and we believe in protecting babies. Join me today in protecting human life, human babies, my son, all 20 week old babies, and support **HB 2**.

C. TURNER: I speak, as we close on this bill, in opposition to **HB 2**, and as I begin my remarks, I'd like to ask us, how did we get here? How did we get here in the middle of July, when we were all supposed to be gone at the end of May, debating this bill, which is actually a series of bills rolled into one? And the answer is, this bill, these proposals were not ones that just ran out of time in the regular session, like we could argue that the criminal justice issue did or that transportation did. These weren't bills that died on procedural points of order or grounds. They were bills that failed to make it through the process for one simple reason: because they're bad policies. They're bad policies. There's a reason they died in the regular session and they should have been left dead at the end of that session.

And I want to say very clearly on behalf of myself and the other members who oppose this bill, there's not a single one of us that likes abortion, or wants there to be abortions. I wish there was no abortion. I wish we lived in a world in which women were never raped. I wish we lived in a world in which a woman, or a young girl, was never a victim of incest. I wish we lived in that world and I hope someday we will, but right now, sadly, we don't, and I think all of us know that's not the world we live in. And that's why I can't understand when Representative Thompson proposes an amendment to exempt victims of rape and incest from some provisions of this bill that this body won't support that. But none of us like abortion, we all want to reduce abortion. How do we really do that in a way that's honest, in a way that's meaningful, in a way that would be effective? We don't do it through this bill, because this bill won't accomplish that.

We reduce abortions by reducing unintended pregnancies. How do we reduce unintended pregnancies? What about passing policies that would reduce the number of unintended pregnancies amongst teenagers, where Texas sadly is one of the leading states in the nation. Or reduce the number of repeat teen pregnancies, which Texas has the highest rate in the nation. How about implementing effective, age-appropriate, proven, evidence-based sex education in our public schools, which some of us tried to do today on the floor, we tried to do in the last special session, and in the regular session, but has been consistently rejected by this legislature, to actually give young people a chance to make informed decisions about their health, while still emphasizing the value of abstinence. What about fully funding and restoring the women's health program, which this legislature cut two years ago? A proven strategy to prevent unintended pregnancies, thereby naturally reducing the rate of abortions and certainly reducing the cost to taxpayers who would have paid for Medicaid births. What about Medicaid expansion that Texas, which has the most to gain of any state in the nation, since we lead the nation in the rate of uninsured, you know, there are six million of our residents without health insurance? We could insure at least one and a half million Texans just like that by passing Medicaid expansion, half of whom are women, and women with access to a primary care physician, and regular health care would be able to receive the health care they need to be able to control their reproductive decisions and make plans about when they will get pregnant.

And so, those are the things we could do if we were serious, but some of the things we could do if we were truly serious about reducing unintended pregnancies, but we don't do those things; instead, we have **HB 2**. And so, let's talk about **HB 2** and how this myth that this bill is about women's health and about women's safety. **HB 2** is intentionally designed to limit access to abortions, which is a safe and legal procedure protected under the U.S. Constitution. **HB 2** will do very little to prevent abortions, but it will do a lot to prevent safe and legal abortions, as Ms. Thompson talked about extensively earlier. And the truth is what we all know, that this bill is about shutting down clinics. And you don't have to take my word for it, and I won't say his name, but there is a member on this floor earlier who bragged that, "I can't wait for two

weeks from now when this bill makes it to the governor's desk and we can finally stop saying this is about women's health, and talk about what it is, which is shutting down abortion clinics. I can't wait to go back to my constituents and be able to say that," and I know that a lot of members will be able to say that.

And, I think, when we look at what's happened over the last two weeks, if anything good has come out of the last two weeks, it is the incredible outpouring of emotion and passion and interest from the public that this legislation has caused on both sides of the issues. And I'm very grateful for all of the people who are here today in the gallery, regardless if you support the bill or oppose the bill, but for the thousands of people who came, who flooded the capitol the night the senate debated this bill. The thousands of people who were here last week, these aren't political activists, they're not on some e-mail list. They got fired up because what they saw was an injustice, and injustice being done that infringes on women's constitutional rights by government run amuck. And that's why we had, at a State Affairs committee hearing last week, more than 3,000 people come out to testify, very few were actually allowed to testify, some 1,100 in support of the bill. This is the list. It's about 29 pages, and the witnesses again, so more than 2,000, about three times as many pages. And so, if anything good has come out of this, it is the increased participation in our democracy, which I hope will continue on this issue and other issues going forward. But let's not say this bill is about women's health, let's not say it's about women's safety, and let's not say it's about anything other than what it is, which is shutting down access to safe and legal abortions, which, as of today, are still protected under the United States Constitution.

SIMMONS: Most of you know me as the discusser of purple Thursdays and the reason we did that, even though it was funny at times, was I truly believe that when we work together as democrats and republicans that we get more done. And we get done things positive for Texas. I also fully realize, however, there is issues, whether we're democrat or republican, we may not can agree on, and this is one of those issues.

You know, in my first tenure here in the house, one of the things that I did was I went around to virtually everyone of you and met with you in your office. And I did that because I wanted to know you as people and I wanted you to know me as people. So, when I heard you up here debating, maybe on an issue I strongly disagreed with, I would remember our visit and I would know, Representative Farrar and I would disagree on this issue, strongly, I remember her talking about her life and our visit together. And that allowed me to understand that she's a person, just like me. She believes what she believes, which might be different than me, but I should respect that, and I do.

Also, I respect those people that are on the issue with me and that they are just as passionate as the other side may be on this issue. And I know them, I know their hearts. And their hearts are just as pure as the hearts that are on the different side of this issue. But what I believe we ought to do in this house is we ought to respect the process and the people and we do a good job of that most of the time. There's probably a couple of percent of the time we don't do that. We

witnessed a little bit of that today. Because that's what we do because that's what the people in the gallery deserve. That's even what those unborn children deserve.

And I know this is an important issue and I'm going to close my short talk with a poem. This is a poem that my sister-in-law wrote years after she had an abortion. She was a young mother, just had a baby less than two years old, unmarried, had gotten pregnant again. The father had pressured her, "you have to have an abortion." Her mom, my wife's mom, my mother-in-law had just recently passed away. Things were chaotic in that family beyond belief. Being so embarrassed, not knowing who to turn to, she agreed to have that abortion. Years later, she wrote this poem called "In My Heart" and I want to read it to you:

> In my heart there is a child
> one who's never breathed.
> I never knew the pain I'd feel for the child I'd never see.
> I imagine his face, were his eyes brown or blue
> his heart shining like the sun and his heart shining, too
> He never got the chance to know what life had in store,
> because I chose to end his life before he was ever born.
> Something that seemed so easy, will haunt me everyday
> for the child I gave life and quickly took away.
> The Lord, in his mercy, forgave me for being weak
> he now holds my child and promises some day we'll meet.
> I'll long for his promise of that place we'll never part
> but, for now, I'll cherish this child that I've only known in my heart.

M. GONZÁLEZ: First off, thank you Representative Simmons for sharing that story, that poem. I was a little bit nervous about coming up to give a closing speech and in fact, I had not planned on doing it at all. But there was 1,000 women who tried to testify about and share their personal stories and they gave me courage and their bravery inspired and empowered me and reminded me that I have a duty to, as well, tell my own story. So, even though it would not be something I would normally do, I think that it's important for me to honor the bravery of the women who shared their story and tell mine.

I wish that I could find the words to the supporters who are supporting this bill to have an open mind. To approach this policy decision understanding the different perspectives that we have. To take into consideration that we all live different lives and have different districts who have different needs. I wish I could find the words to help open people's minds, hearts, and ideas to the situation.

So, I come to you as a daughter, a woman, a legislator, and because this is a very serious and important issue. As a daughter, I remember my father telling me a story of his best friend who died having an illegal abortion in Juárez, Mexico. And I worry about the women in my district who you are now submitting to the same fate. Because they won't travel over 1,000 miles to get a safe and legal abortion. They will go to Mexico and that is not a safe alternative, for numerous

reasons. Not because the clinics are not just as safe, but because there are people just dying crossing the border. And when I ask you to think about the realities of our lives, I ask you to think about these women.

I come to you as a woman and as a survivor of child sexual abuse, who for four years was abused by a family member. And after that, took five years to even tell anybody. So, when you come up here and you ask, "Why is a rape and incest exception important?" I don't want you to think about these women in faraway lands that tell these stories. I want you to look at me. I want you to understand that it took me five years to tell anyone. So, when we ask for four more weeks, I understand that that might seem like a lot, but every day matters in the process of healing over horrific experiences. And more than any person on this—well, more than most people on this floor, I understand how important that exception is. And for the fact that that exemption wasn't even given an opportunity beyond party lines makes me wonder if this is really about women's health or if this is about political futures.

Finally, I come to you as a legislator. I ask you to think about the statewide impact of this bill. That leaving open only five clinics across the state—a state as big as Texas—what that will do to the women who won't have access. That you're forcing the women to find the black market alternatives, that you're forcing them into other countries. So, I ask you—you say up here that it is about women's health, well, make it about women's health. Make it about women's lives.

We had the opportunity to make this bill better. We didn't do that. We didn't compromise. We didn't coalition build. We might have never agreed at the end of the day, whether pro-choice or anti-choice, but at least we could have heard each other's experiences, I think, a little bit more. I couldn't in good conscience stay silent. I couldn't say that this bill didn't deserve another voice to say we have some serious problems. Because I am concerned about this bill, but I am more importantly concerned about women's health.

SMITHEE: It's been a long day and we've heard today about the perspective of the lobbyist for the hospitals, the lobbyist for the doctors, the lobbyist for the abortion clinic operators, and, rightfully, we've talked a lot about the mothers, the expectant mothers, and the women of Texas. But I want you to focus with me for the next couple of minutes—and I'll be short—the next couple of minutes on that little baby, because we haven't talked a lot today about the little baby. And arguably that little baby is one of the two most important characters in this whole series of events. We ought to be talking about that little baby which—and primarily, we're talking about a baby at the gestational age of 20 to 24 weeks. And let me tell you a little bit about what I learned about that baby a week ago tonight, sitting in the State Affairs Committee.

At three weeks, that little baby developed a detectable heartbeat. At six weeks gestational age, there was a recognizable EEG wave. The little brain was working. It was in the primitive stage of working. At nine to 10 weeks, that little baby had developed a large part of her glandular system, her thyroid, her adrenal glands, that she will have the rest of her life, however long that may be. By 12 to 13 weeks, that little baby, that little girl or boy has developed fingernails, can be

observed sucking their thumb, they will recoil from pain, and they'll get the fingerprints on their fingers that they'll have for the rest of their lives, a unique set of fingerprints. The Bible tells us that that little baby is being fearfully and wonderfully knit together by God himself inside that mother's womb. By 13 to 14 weeks—and this is significant—that little baby has began to develop pain receptors in her nervous system. By 15 weeks she has taste buds, and the reason we know this is because the baby will swallow occasionally and you can detect a reaction when they swallow something that tastes bad or good. The baby has taste buds. By 16 weeks, that baby has eyebrows, eyelashes beginning to grow, and can grasp things with those little hands and fingers.

By 20 weeks, and that's what we're talking about in this bill, that little baby is eight to 10 inches long, and that's what makes this procedure so difficult—eight to 10 inches long. And, you know, at 20 to 24 weeks, that little baby has been shown to be able to recognize her mother's voice. Inside that womb, she may show excitement, her heart leaps for excitement when she hears her mother's voice, or it may show concern when she hears her mother upset about something. Overall, that place has always been, that womb has been the most secure place in the universe for humanity. Think about it. They talk about the fetal position that people get into when they get scared. That fetus, that baby, in that position is in the safest place, surrounded by amniotic fluid in the loving confines of her mother. And that's what makes this procedure so bad.

Let me just tell you that last week at the meeting, I was talking to the physician that was representing the American Congress of OB/GYNs and I asked him how do they abort babies at that age, at that gestational age. And he said, normally, it is the D&E method—that stands for dilation and extraction. Dilation means they dilate the cervix. Extraction means they extract the baby from the mother's womb. I asked him to describe the procedure. He's the physician who was testifying against the bill, and I asked him to describe the procedure and after a moment, he said, "It's just too gruesome. I don't want to describe it." And so he either couldn't or wouldn't describe it in front of the committee.

So, I did some research, and I want to tell you a couple of things about that gruesome procedure. It is done with several instruments, one of which includes a suction catheter that removes the amniotic fluid, that protection that that little baby has had for the first four months of pregnancy. The second tool is what is referred to as a Sopher clamp, it is a clamp that is inserted through the cervix, down into the child. One doctor describes it as a clamp with little jawed teeth that reaches something and once it reaches it, it will not let it go. This procedure is a blind procedure. That doctor doesn't know where he's going with that clamp. Sometimes it punctures the wall of the uterus, but what he's going for is that baby with this jaw, this clamp, and he grabs pieces of that little baby and pulls the pieces out. That's how the baby's life is terminated, and it is not unusual to see little legs come out, little hands come out—members, I don't want to talk about this. I'm not enjoying this discussion, and I know you're not either, but it's what we're talking about in this bill. It's what we're here for. So, they have the Sopher clamp that pulls out this little piece of baby, flesh by flesh, and then you have

what's called a curette, which is a hook that is used to scrape the rest of the uterus to remove the rest of the remains. It's a blind procedure as these body parts come out.

The doctor generally makes about $600 for 15 minutes of work. And the victim of this procedure is—if the abortion is successful, the victim is always—it's fatal. Secondly, the victim is always innocent. She hasn't done anything to anybody. Third, she's always defenseless. Have you ever been in a defenseless situation? That baby is absolutely defenseless. It is one of the most barbaric, when you think about it, the most barbaric, brutal, and painful exercises that one man inflicts on another. We would never do that to another human being. I think, all of us wouldn't do that. We wouldn't do that to a terrorist. We wouldn't do that kind of inhumane thing. What have we become? What has led us to this point where we have human-on-human violence that is that barbaric?

I'm sorry to talk about it, but that's what this is about. How can we tolerate, much less defend this practice? You know, last week, or this past week, I ran across a quote from President Johnson back during the civil rights movement. It hit me—President Johnson said, "The vote is the most powerful instrument ever devised by man for breaking down injustice." Members, I would say this abortion—at any stage—but at 20 to 24 weeks is probably one of the greatest injustices that's ever faced humankind. And you and I are very fortunate that we have a vote, and we're able to exercise it here in just a few moments. And my prayer for all of you would be that we do that right thing. That we do the right thing to end this injustice.

You know, I've been here almost 30 years, and the privilege that I have to vote for this bill, which I plan on doing in a few moments, is one of the greatest privileges—probably the greatest privilege that I've ever experienced in the Texas Legislature, and it's something I'll be proud about for pretty much the rest of my life.

NAISHTAT: Members, there's an open letter to Texas legislators from the American Congress of Obstetricians and Gynecologists that appeared in today's *Austin-American Statesman*. I wanted to share a couple of sections:

> "All eyes are on Texas again this week as the fate of a far-reaching measure to restrict abortions and close many abortion facilities faces its last days of debate. Unlike almost any other issue, abortion generates strong feelings on all sides. This is true within our own organization, the American Congress of Obstetricians and Gynecologists (ACOG), and we respect that our 58,000 members have deeply held personal beliefs on this topic.
>
> While we can agree to disagree about abortion on ideological grounds, we must draw a hard line against insidious legislation that threatens womens health like Texas **HB 2**. Thats why were speaking to the false and misleading underlying assumptions of this and other legislation like it: These bills are as much about interfering with the practice of medicine and the relationship a patient has with her physician

> as they are about restricting womens access to abortion. The fact is that these bills will not help protect the health of any woman in Texas. Instead, these bills will harm womens health in very clear ways."

And, one more section:

> "Texas women are renowned for their strength, courage, and smarts. Women across this nation are completely capable of making their own medical decisions with their physicians, as they make many other important decisions every day for themselves, their families, and their businesses. Women do not need—or want—any government to make medical decisions for them.
>
> Women must have access to all needed health care—from mammograms to prenatal visits to reproductive care—based on scientific facts, not political ideology. ACOG opposes Texas **HB 2** and **SB 1**, which jeopardize womens health care and interfere with medical practice and the patient-physician relationship. Politicians are not elected to, nor should they, legislate the practice of medicine or step foot into our exam rooms."

G. BONNEN: Members, it really is an honor to stand in front of you. I briefly expressed some of the sentiment when we did this a few weeks ago. It's really struck me that when we look at what's going on and we hear the very eloquent and articulate things that are being said, you might think that these individuals are talking about completely different things. It doesn't sound like we could possibly be talking about the same subject. And we approach this, I think, from both sides with some trepidation and some angst because it's hard. But, I would like to give you some assurance that, from my perspective, the fact that we can do this, and that we're here and that we're deliberating, and all these people are engaged, and paying attention, and voting—the process is working. This is the way it's supposed to be.

When I thought about how different people can look at the exact same object and see something completely different, I thought initially, of course, about this issue. And I was struck by the ultrasound probe, because in the prior session that became quite an issue when it was held up and demonstrated. And some saw this as a tool that would actually be used to violate a woman's body and to bring about harm. But, then there are others of us that look at that instrument and see a medical device that can be used for very therapeutic purposes, and even to save a woman's life. Some look at an unborn child, at a human fetus, and they see tissue, tissue that upon the discretion of the woman can be disposed of, much as adipose tissue that is undesirable. Other people look at that fetus and they see another human life, and what a difference that perspective makes. It's very prevalent in our society to see crosses; it's extremely common. Have you thought

about what a cross actually is, or what it means? You could easily look at that and see an instrument of tortuous, brutal execution. And yet, it's everywhere. People wear it as jewelry. And, to most of us, it's a symbol of infinite love.

When we look at this legislation, it's words on a page. We all see the same words on the same pages, and yet we arrive at such different conclusions as to what we're actually seeing and what it actually means. So, the question occurs for each of us: how do we see this legislation? Is it, as some have said, a war on women? Is it about primary partisan politics? Is it about a constitutional right? Or, is this about improving the standard of medical care for women who are choosing to undergo an abortion? Is it about saving the life of unborn children after 20 weeks gestation? That's something that each of us will have to decide when we vote. And, as for me, I choose to fear God, to respect life, and to honor women, which is what this legislation does.

FARRAR: Mr. Speaker and members, what I have seen with respect to the several abortion bills is unprecedented in our Texas legislature. The measures in the bill that we will vote on today were considered in the regular session. They all failed. They were again brought up in the first special session. They again failed. And, through each special session, we've seen high levels of public participation, unprecedented even for a regular session, from both sides. But, overwhelmingly we've seen opposition to this bill. We've seen opposition in such large numbers that in the first special session, the house committee that heard the bill had to be delayed by a day. We've seen opposition in such large numbers that citizens observing here in the senate, in the capitol, delayed the final vote on the bill, ensuring that it did not pass during the first special session. And, despite this vast opposition, today we find ourselves called back to consider these resurrected measures. The Texas legislature sure is working hard to pass these measures into law. Why are we working so hard to pass this legislation?

Proponents of the bill talk about protecting the unborn and preventing abortion. If we care about protecting children, there's much we can do to help them. But, in my nearly 20 years here as a state representative, I have never seen the legislature work so hard, work this hard to act in the interest of born children. In fact, the only time it's addressed public school funding is in reaction to a lawsuit, never proactively to provide children enough funding for their schools; nor have we worked hard enough to protect or help children that lack stable homes. As of May 31st of this year, 6,413 children are waiting to be adopted. These children have parents whose rights have been terminated. As a child gets older, many of you know her chances of getting adopted decrease. Children ages zero to 2 years old are adopted at a rate of 35 percent, while children age 14 and up, that number goes down to 14 percent. These are real problems faced by Texas children that we could address in this legislature.

If we care about preventing abortion, there's another way to do it without risking women's health. We can work to prevent unintended pregnancies. When women have access to family planning services, unintended pregnancies are far less likely. By adequately funding women's health care, we can help get women access to those services. Instead though, this legislature in the 82nd session forced family planning clinics across the state to shut down, and women lost

access to those services. That same session, Planned Parenthood, which had provided health care services to nearly half the women through the Women's Health Program, was banned from participating in the program. The Women's Health Program, as you know, is intended to give women access to health screenings and family planning services. Despite these important services, though, a major provider was banned because of ideology. And the effect, however, was the closure of several other providers, as well.

In this session, while I was happy and delighted to see the increased funding for women's health, there's still much we can do to increase access to family planning services and preventative care, namely to restore the provider network that the majority in this legislature destroyed. We can also work to prevent unintended pregnancies by better educating young adults. Our state has placed heavy emphasis on abstinence-only education. In turn, we have one of the highest teen pregnancy rates in the nation. Texas, in fact, is ranked 47th in the country for teen birth rates according to the 2012 data released by The National Campaign to Prevent Teen and Unplanned Pregnancy. We should be working to reform that. Requiring that comprehensive sex education be taught in schools would surely help to prevent unintended teen pregnancies.

There are serious problems Texans face. I'd like to see us work as hard as we have during these special sessions to pass measures to solve them. We've been focusing our efforts instead on bills that do little more than address an ideology. Let's make no mistake, the bill we are voting on doesn't solve problems like the ones I've been discussing. In fact, the authors have struggled to identify the impetus for the bill. We have not heard of specific problems or complications at current clinics. We have not heard of any specific need for doctors to have admitting privileges. We have not heard specifically how the procedures performed in ambulatory surgical centers will increase safety. We have not heard why a woman needs to go to an ambulatory service center to take a pill. However, we have heard from major mainstream medical organizations: the American Congress of Obstetricians and Gynecologists, the Texas Medical Association, and the Texas Hospital Association. They oppose this bill. We've also heard from the Department of State Health Services that there have only been five deaths from abortions since 2000, with the last one occurring in 2008. This is in contrast to the 737 maternal deaths from 2000 to 2010.

This bill does not solve any of these problems, but it will cause these: 37 of the state's 42 clinics will be forced to shut their doors. The five remaining clinics will be in urban areas. Access to these services will be severely restricted for women in rural areas. Women will be forced to go to an ambulatory surgical center, one of those five remaining clinics, even for a medical abortion. Doctors will lose discretion in treating individual patients. The bill sets forth medical protocol for doctors administering medical abortions. The legislature will intrude deeply on personal decisions intended to be made by a woman in consultation with her doctor. In short, Texas women will lose important access to these services. Losing access to health care does not make women safer.

The majority has been working hard to pass this bill. We were elected to the legislature to work hard for Texans, but we should make sure that we direct our hard work to achieve our goals, our best goals, and to better serve our constituents. By passing this bill, we do neither of these things. Texas children deserve better than that. Texas women deserve better than that. All Texans deserve better than that.

LAUBENBERG: Members, why have we been here for the last close to 50 hours? We're here because the U.S. Supreme Court does grant the states the authority to address this very serious issue. This is not just happening in Texas, but all across the country, state after state. The court speaks directly to this: "The state has a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that ensure maximum safety for the patient. This interest obviously extends at least to the performing physician and his staff, to the facilities involved, to the availability of aftercare, and to the adequate provision for any complication or emergency that might arise. We therefore conclude that the right of personal privacy includes the abortion decision, but this right is not unqualified and must be considered against important state interests in this regulation." This state does have an important and legitimate interest in preserving and protecting the health of the pregnant woman, whether she be a resident of the state or a nonresident who seeks medical consultation and treatment there. And that it has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grows in substantiality as the woman approaches term, and at a point during pregnancy, each becomes compelling.

This bill focuses on one part of that preborn life, and that is at five months that baby has developed the sensory receptors, that it can feel the pain of that abortion. That is what gives us the authority and the right to be here to do this. This is not about politics. This is heartfelt for every member, and I would say on both sides, it is heartfelt. Politics takes the easy path. This has not been easy for anyone, but this is the right thing to do for who we are as humanity. We heard a lot about how abortion is safer than childbirth. There will be deaths with abortions with the woman who has the abortion. There will be deaths with the woman who carries her baby to term. You've heard the percentages—small numbers—but there is 100 percent definite death to the 70,000-plus babies who have been aborted in this state. **HB 2** focuses on both the child and the woman.

I thank you all for being here, speaking out, and doing what's right. And I move passage.

[**HB 2** was passed to engrossment by Record No. 26.]