

# HOUSE JOURNAL

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EIGHTY-EIGHTH LEGISLATURE, FOURTH CALLED SESSION

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## PROCEEDINGS

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FIFTH DAY — TUESDAY, NOVEMBER 14, 2023

The house met at 6:23 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 36).

Present — Mr. Speaker(C); Allen; Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bernal; Bhojani; Bonnen; Bowers; Bryant; Buckley; Bucy; Bumgarner; Burns; Burrows; Button; Cain; Campos; Canales; Capriglione; Clardy; Cole; Collier; Cook; Cortez; Craddick; Cunningham; Darby; Davis; Dean; DeAyala; Dorazio; Dutton; Flores; Frank; Frazier; Gámez; Garcia; Gates; Gerdes; Geren; Gervin-Hawkins; Goldman; González, J.; González, M.; Goodwin; Guerra; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Hull; Hunter; Isaac; Jetton; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Kacal; King, K.; King, T.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lopez, R.; Lozano; Lujan; Manuel; Martinez; Martinez Fischer; Metcalf; Meyer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Noble; Oliverson; Ordaz; Orr; Ortega; Patterson; Paul; Perez; Plesa; Price; Ramos; Raney; Raymond; Reynolds; Rogers; Romero; Rose; Rosenthal; Schaefer; Schatzline; Schofield; Shaheen; Sherman; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Talarico; Tepper; Thierry; Thimesch; Thompson, E.; Thompson, S.; Tinderholt; Toth; Troxclair; Turner; VanDeaver; Vasut; Vo; Walle; Wilson; Wu; Zwiener.

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

### LEAVES OF ABSENCE GRANTED

On motion of Representative Metcalf and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

### GENERAL STATE CALENDAR

#### SENATE BILLS

#### THIRD READING

The following bills were laid before the house and read third time:

**SB 3 ON THIRD READING****(Jetton, Bonnen, Cain, DeAyala, Kitzman, et al. - House Sponsors)**

**SB 3**, A bill to be entitled An Act relating to an appropriation to provide funding for the construction, operation, and maintenance of border barrier infrastructure and border security operations, including funding for additional overtime expenses and costs due to certain increased law enforcement presence.

**SB 3 - POINT OF ORDER**

Representative Bryant raised a point of order against further consideration of **SB 3** under Rule 8, Section 4, of the House Rules on the grounds that the bill changes general law through an appropriations bill.

(Speaker pro tempore in the chair)

The point of order was withdrawn.

**Amendment No. 1**

Representative T. King offered the following amendment to **SB 3**:

Amend **SB 3** on third reading in SECTION 1(a) of the bill, making an appropriation, by striking "the provision of assistance to local governments and local law enforcement agencies to alleviate costs associated with the enforcement and prosecution of criminal laws involving illegal entry into this state or illegal presence in this state and the detention of individuals alleged to have violated those laws" and substituting "to provide grants to local governments and local law enforcement agencies to alleviate costs associated with an increased demand on local prosecutorial, judicial, and correctional resources".

Amendment No. 1 was adopted.

(Speaker in the chair)

**SB 3**, as amended, was passed by (Record 37): 84 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Longoria; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Nays — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales

Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — King, T.

The chair stated that **SB 3** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

### STATEMENT OF VOTE

When Record No. 37 was taken, I was excused because of important business. I would have voted yes.

Harless

### REASON FOR VOTE

Representative Plesa submitted the following reason for vote to be printed in the journal:

I voted no on **SB 3** for a few important reasons that must be stated for the record. I'm committed to working with all members to reduce unlawful entry, human trafficking, narcotics and firearm smuggling, and end the humanitarian crisis at our southern border. This legislation is not a good use of taxpayer dollars as it authorizes \$1.5 billion for less than 60 miles of a tactical barrier, or wall. Our border is more than 800 miles long. A border wall has been proven to be ineffective, and the price tag is far too steep for Texas taxpayers to carry without any transparency or accountability on the progress or completion of this pet project. In the past two years, the house has appropriated \$6 billion for border security. I have been to the southern border and met with the chief of Customs and Border Patrol for our region. Our uniformed officers on the border understand that a wall will not address the challenges they face or aid in their mission.

**SB 3** fails to prioritize the technology or modern tools preferred and requested by Customs and Border Patrol, such as infrared and heat-sensing UAS drones. Even if the border walls were effective and the state had a role in immigration enforcement, the scale and magnitude of an 800-mile wall, that has a price tag of upwards of \$20 billion, should be done in coordination with the federal government, Customs and Border Patrol, and the Army Corps of Engineers. The \$20 billion cost of a wall is enough money to build a new hospital in every Texas county that currently does not have one.

There is a severe lack of transparency, and the legislature has not been furnished with any details or plan as to how these funds will be used, what expenses are authorized, or any of the basic details that are needed to justify an expenditure of this magnitude. There have been whistleblower reports from our Texas National Guardsmen stationed on the border that they have failed to be

paid on time or in full, and their suicide rates have spiked. Due to this gross lack of transparency, I am not comfortable appropriating any more funds to Operation Lone Star until there is a full assessment of its effectiveness.

### **SB 4 ON THIRD READING**

**(Spiller, Hefner, K. Bell, Hunter, Geren, et al. - House Sponsors)**

**SB 4**, A bill to be entitled An Act relating to prohibitions on the illegal entry into or illegal presence in this state by a person who is an alien, the enforcement of those prohibitions and certain related orders, including immunity from liability and indemnification for enforcement actions, and authorizing or requiring under certain circumstances the removal of persons who violate those prohibitions; creating criminal offenses.

### **SB 4 - REMARKS**

REPRESENTATIVE SPILLER: Members, thank you for your time.

REPRESENTATIVE A. JOHNSON: Mr. Spiller, is this bill that you are now offering for a final vote, and the debate that we have had on this bill, the same or similar to the debates and the discussions that we have had on these bills previously, including a couple weeks ago? Would the same discussions and analysis apply to those comparable positions?

SPILLER: They're very similar. We made some changes. We made, I think some improvements, some safeguards. We added some process that I thought was fair—due process to ensure that we have everything right. We provided some locations where there wouldn't be enforcement. So yes, they're extremely similar. The elements of the criminal offenses themselves are virtually identical. Some of the processes are somewhat different, but yes, they're very, very similar.

### **Amendment No. 1**

Representative Ortega offered the following amendment to **SB 4**:

Amend **SB 4** on third reading, on page 4, between lines 20 and 21, by inserting the following:

Art. 5B.004. PEACE OFFICER TRAINING REGARDING DETENTION OF PERSONS ILLEGALLY ENTERING THIS STATE. Each peace officer who enforces compliance with Chapter 51, Penal Code, must complete an annual training regarding the rights of persons being detained under that chapter, including rights provided under federal immigration law. The officer's employing law enforcement agency shall provide the training required by this article.

### **AMENDMENT NO. 1 - REMARKS**

REPRESENTATIVE ORTEGA: Members, this amendment is all about training the peace officers if this bill passes and becomes law. This amendment requires that in order for peace officers to exercise and expand authority authorized under **SB 4** to detain and remove an individual, they must first be trained in

immigration and civil rights law. While peace officers in law enforcement who have experience in border apprehensions have already had this type of training, peace officers from other areas of the state likely do not.

Because **SB 4** is not currently limited to border counties, any peace officer may now assist in deportation. It is critical that all officers fully understand how to protect the civil rights of the individuals that they may encounter. A vote for this amendment in this legislative body acknowledges that anyone in this country, regardless of citizenship or immigration status, is protected under the Civil Rights Act.

Earlier, we heard the author of this bill—Representative Spiller—talk about the fact that there's going to be training of judges. He actually brought that up and he said that then the right thing will happen in terms of the way due process, the judicial process, and the arrests and everything is going to take place. Well, there is no training that's required by these peace officers, and we're going to have peace officers across the state making arrests, and they need some basic training in terms of the immigration laws that they're going to be trying to enforce.

REPRESENTATIVE SPILLER: Members, I'm in opposition to this. It's an unfunded mandate to local law enforcement agencies. I believe that these officers are required to have training. I'm confident they'll continue to have that. For that reason, I'm opposed.

ORTEGA: There are a lot of unfunded mandates that are part of this bill, but this is not one. This would be requiring the law enforcement agencies themselves to train individuals, and there should be a responsibility to do that if they're going to be enforcing immigration laws that they're not familiar with.

A record vote was requested.

Amendment No. 1 failed of adoption by (Record 38): 62 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raney; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price;

Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

### **Amendment No. 2**

Representative Walle offered the following amendment to **SB 4**:

Amend **SB 4** on third reading on page 2, between lines 10 and 11, by inserting the following:

Art. 5B.0015. CERTAIN DETENTION PROHIBITED. A peace officer may not detain a person under 11 years of age in connection with the investigation of an offense under Chapter 51, Penal Code.

### **AMENDMENT NO. 2 - REMARKS**

REPRESENTATIVE WALLE: This amendment is a very simple amendment. It only adds the following language—it would disallow a peace officer from detaining a person who's under the age of 11 years old in connection with the investigation of an offense under Chapter 51 of the Penal Code. Simply put, this amendment would ensure that the State of Texas isn't in the business of building and constructing baby jails. You might also remember that during the regular session, I offered a very similar amendment to **HB 7** by Chairman Guillen, which was accepted. One hundred and nine of the members of this body accepted that amendment—voted for that amendment only six months ago. We believe that the State of Texas should not be in the business of incarcerating children under the age of 11.

REPRESENTATIVE SPILLER: Members, I'm in opposition to this amendment. We've already dealt with children—children under 11, children all together. This bill doesn't have anything to do with that, and it doesn't change existing law in whatever respect that that is applicable.

WALLE: Again, Mr. Speaker and members, **SB 4** does not prohibit the incarceration of children—any child, much less a child under 11. This particular amendment specifically, just says that a peace officer may not detain a person under the age of 11 in connection with the investigation of this offense in Chapter 51 of the Penal Code. What we want to do is make sure that children, and I'm going to repeat, members, that children are not incarcerated or detained as a result of passage of this bill. I don't think that this body wants to be in the business of detaining children through no fault of their own. Because the bill specifically does not disavow the detention of any juvenile—much less somebody that's 11, but any juvenile under the age of 17—from being detained. So all this amendment does is that we would not be in the business of creating a situation where children would be detained in a jail, period.

A record vote was requested.

Amendment No. 2 failed of adoption by (Record 39): 59 Yeas, 85 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Flores; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Meza; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

### **Amendment No. 3**

Representative Ordaz offered the following amendment to **SB 4**:

Amend **SB 4** on third reading on page 2, between lines 10 and 11, by inserting the following:

Art. 5B.0015. LIMITATION REGARDING ENFORCEMENT. Notwithstanding any other law, Chapter 51, Penal Code, may be enforced only by a ranger, officer, or member of the reserve officer corps commissioned by the Public Safety Commission and the director of the Department of Public Safety.

#### **AMENDMENT NO. 3 - REMARKS**

REPRESENTATIVE ORDAZ: I'll make this quick. Members, this amendment would save taxpayer dollars in valuable state and local resources by limiting this legislation to only allowing commissioned DPS officers to detain people for the purpose of this bill.

REPRESENTATIVE SPILLER: Members, I'm in opposition to this. We dealt with this a couple weeks ago, and I don't know that we've talked about it again today, but as far as the limitation on who can enforce **SB 4**, it's not limited. All peace officers under the Code of Criminal Procedure are allowed to do that. I'd like to keep it that way, and so I respectfully oppose.

ORDAZ: If this is an action we want to take as a state, let's put the onus on commissioned DPS officers who are already overseeing Operation Lone Star.

A record vote was requested.

Amendment No. 3 failed of adoption by (Record 40): 60 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — Lopez, J.; Raymond.

#### STATEMENT OF VOTE

When Record No. 40 was taken, I was in the house but away from my desk. I would have voted no.

J. Lopez

#### Amendment No. 4

Representatives T. King, Raymond, E. Morales, Romero, Ordaz, Guillen, and J. Lopez offered the following amendment to **SB 4**:

Amend **SB 4** on third reading on page 4, between lines 20 and 21, by inserting the following:

Art. 5B.004. COMPENSATION TO LOCAL ENTITY FOR ENFORCEMENT OF CERTAIN ILLEGAL ENTRY OFFENSES. (a) In this article, "local entity" means:

- (1) a municipality or county;
- (2) a district attorney, criminal district attorney, or county attorney with criminal jurisdiction; or
- (3) a county court.



(b) Out of funds appropriated to the governor's office or the trustee programs within that office for border security purposes, the governor's office, on request of a local entity that arrests, prosecutes, or confines a person for an offense under Chapter 51, Penal Code, or adjudicates a criminal action brought under that chapter, shall compensate the local entity for those costs.

(c) A request for compensation under Subsection (b) must be in writing and specify the actual cost incurred by the local entity for the arrest, prosecution, confinement, or adjudication, as applicable.

#### AMENDMENT NO. 4 - REMARKS

REPRESENTATIVE T. KING: This is another amendment very similar to the one that was accepted on the last bill. Basically, it reimburses the local entities for the money that they spend to implement the provisions of this bill. We had the same discussion earlier. There's no reason to force this down the throats of our local sheriffs, our local prosecutors, and the local jails for housing the cost of these. We need to reimburse them if we're going to do it. Otherwise, it's just another unfunded mandate. We had this discussion on the previous bill, and the author accepted it. I'm not sure if this one is acceptable. It ought to be. It's certainly acceptable to the author of the amendment.

With that, it basically says that it applies to a local entity, which means any municipality or county, a district attorney, criminal district attorney, county attorney, criminal jurisdictions, or a county court, out of funds appropriated to the governor's office, the trustee programs. With that, that confines a person, et cetera, et cetera, et cetera. It's going to compensate the local entity for those costs. A request for compensation must be in writing and specify the actual cost incurred by the local entity for the arrest, prosecution, confinement, or adjudication, as applicable. This is good government. We're simply watching out for our local folks. This is the same issue that we've been contacted with by our local commissioners and county judges all afternoon regarding this issue. This is a big one. Y'all decide whether you want to support it.

REPRESENTATIVE SPILLER: I appreciate Chairman King bringing this. I do appreciate the opportunity to speak to this because we've tried to be very cost concerned from a local government standpoint. I do want to address that I think there are safeguards that we have in place right now. There's already \$100 million that we put into the budget this past session to deal with some of those increased costs under Operation Lone Star through the governor's Homeland Security Grants Division, and those would offset any cost that local governments would have. A platform relative to law enforcement personnel, overtime, travel, training, court administration, jail operations—all those things are in place now. Also, my understanding, and I've looked into this, is that we've appropriated approximately \$2 billion this past session for border security. Of the funds we've appropriated, there's about \$2 billion in dealing with border strategies that is capable of being moved and repurposed. And so those funds should also be available. I would say also that we're, in short—it doesn't sound short, but in short, hopefully we end up with less cost because some of the folks that we are prosecuting now under criminal trespass, hopefully we will not being

doing that. That will not be necessary. They'll be handled under **SB 4** rather than our regular criminal trespass process. So we're trying to streamline those costs. Also, I think there are about 2,300 beds available through the facilities that we have through Operation Lone Star. So again, all of those are available and can be utilized to defray cost expenses to local governments.

T. KING: I've served here a long time, and I've never had a local elected official thank me for passing an unfunded mandate, okay, and they're not going to thank you for passing this unfunded mandate. We need to pay for this particular piece of legislation. We can count on people, out of the goodness of their heart, to fund them, but we need to go ahead and put it in here in black and white, belts and suspenders, that they will be reimbursed for these expenses that this bill will cause them to incur.

A record vote was requested.

Amendment No. 4 failed of adoption (not receiving the necessary two-thirds vote) by (Record 41): 92 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Allen; Allison; Ashby; Bell, K.; Bernal; Bhojani; Bowers; Bryant; Bucy; Bumgarner; Campos; Canales; Clardy; Cole; Collier; Cortez; Craddick; Cunningham; Darby; Davis; Dean; DeAyala; Dutton; Flores; Frank; Frazier; Gámez; Garcia; Gerdes; Geren; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Guillen; Hayes; Hernandez; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, K.; King, T.; Lambert; Landgraf; Longoria; Lopez, J.; Lopez, R.; Lujan; Manuel; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Morrison; Muñoz; Murr; Neave Criado; Ordaz; Ortega; Perez; Plesa; Price; Ramos; Raney; Raymond; Reynolds; Rogers; Romero; Rose; Rosenthal; Sherman; Shine; Slawson; Smith; Smithee; Stucky; Talarico; Thierry; Thompson, E.; Thompson, S.; Turner; VanDeaver; Vo; Walle; Wu; Zwiener.

Nays — Anderson; Bailes; Bell, C.; Bonnen; Buckley; Burns; Burrows; Button; Cain; Capriglione; Cook; Dorazio; Gates; Goldman; Harris, C.E.; Harris, C.J.; Harrison; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; Kitzman; Klick; Kuempel; Leach; Leo-Wilson; Lozano; Metcalf; Meyer; Noble; Oliverson; Orr; Patterson; Paul; Schaefer; Schatzline; Schofield; Shaheen; Spiller; Swanson; Tepper; Thimesch; Tinderholt; Toth; Troxclair; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — Herrero; Martinez.

### STATEMENTS OF VOTE

When Record No. 41 was taken, I was shown voting no. I intended to vote yes.

Kuempel

When Record No. 41 was taken, I was shown voting no. I intended to vote yes.

Wilson

### **Amendment No. 5**

Representative Bhojani offered the following amendment to **SB 4**:

Amend **SB 4** on third reading on page 4, between lines 20 and 21, by inserting the following:

Art. 5B.004. PEACE OFFICER DUTY TO VERIFY IMMIGRATION STATUS. Before arresting a person for an offense under Chapter 51, Penal Code, the arresting peace officer shall make every reasonable effort to verify the person's immigration status.

Art. 5B.005. CERTAIN ARRESTS PROHIBITED. A peace officer may not arrest a person for an offense under Chapter 51, Penal Code, if the officer knows or reasonably should know that the person is lawfully present in the United States.

### **AMENDMENT NO. 5 - REMARKS**

REPRESENTATIVE BHOJANI: Members, one of the flaws in **SB 4** is that it allows peace officers to assume guilt and arrest someone based on that assumption alone. The burden is then placed on the arrested person to prove that they are in the country legally. This will directly contribute to a hostile environment towards all immigrants through racial profiling.

Members, as we are deliberating this important issue today, I know that none of us is proposing to arrest United States citizens or persons that are lawfully present in the United States. However, I worry that this bill will lead to that. Let me ask you a question. When someone gets pulled over for speeding, what is the first thing that a police officer asks them? Do you have a driver's license, right? Then isn't it common sense for an officer to first ask or at least verify if someone has appropriate documentation before arresting them on the basis of legal status? Without proper verification of an individual's legal status, inaccurate arrests may occur. I would hate to penalize anyone who has followed our laws and has done everything right. Maybe they are on a student visa or a business visa or on a green card, and they've done everything that the U.S. government told them to do. Why would we want to arrest them?

Additionally, it's important to know that this will strain our already overcrowded jails, wasting the court's time and frivolously consuming law enforcement resources. This is not a good use of taxpayer dollars. And furthermore, we are placing undue burden on our own criminal justice institutions. This bill, as written, appears to empower law enforcement agencies to operate without restraint, acting independently in a manner that has potentially high disruption and consequences for everybody. And this affects our Texas families, our Texas workers, and our Texas businesses, including our Texas economy. Today, I'm proposing a straightforward change that everybody can support. This amendment ensures that before arresting someone under this

chapter, the officer will make every reasonable effort to check the person's immigration status. It also prohibits enforcement without first confirming that immigration status.

REPRESENTATIVE SPILLER: Members, I'm opposed to the amendment. It talks about immigration status. Again, **SB 4** doesn't deal with that issue. That's not the element of the offense, so I would respectfully oppose it.

A record vote was requested.

Amendment No. 5 failed of adoption by (Record 42): 61 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martínez; Martínez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Harless; Jones, V.; Lalani.

Absent — Schofield.

### Amendment No. 6

Representative Ramos offered the following amendment to **SB 4**:

Amend **SB 4** on third reading as follows:

(1) On page 7, between lines 11 and 12, insert the following:

(c) It is an affirmative defense to prosecution under this section that, at the time of the commission of an offense described by Section 51.02 or 51.03, the person was accompanied by a minor child related to the person within the third degree of consanguinity or affinity.

(2) On page 4, between lines 15 and 16, insert the following:

(h) A magistrate or judge may not issue a written order authorized by Subsection (a) or (b) if, at the time of the commission of the offense, the person was accompanied by a minor child related to the person within the third degree of consanguinity or affinity.

(3) On page 4, between lines 20 and 21, insert the following:

Art. 5B.004. PROHIBITION ON SEPARATION OF FAMILY. A peace officer may not separate two or more individuals who are arrested under Chapter 51, Penal Code, if the officer knows or should reasonably know that the individuals are related by consanguinity or affinity.

#### AMENDMENT NO. 6 - REMARKS

REPRESENTATIVE RAMOS: Members, this amendment ensures families will not be separated because of this new offense. No mother should ever be separated from their child because of **SB 4's** illegal entry provisions. The amendment will give a defense to prosecution under 5104, refusal to comply with order to return to foreign nation for persons accompanied by their child within the third degree of consanguinity or affinity at the time of offense.

Members, we know, and as the Arizona law states, immigration officials and customs enforcement officers have discretion. And many times when they are deciding whether to move forward with removal or not, they consider not only the individual but the individual country's own nationals where they're in another country. But they also consider the individual case. And oftentimes, it turns on factors including whether the alleged alien has children born in the United States, whether they have long ties in the community, or a record of distinguished military service. So what we're asking is that this law allow the officials who are going to be enforcing this in the State of Texas to follow the same standards that are given at the federal level. Additionally, when we are imposing or moving forward with this type of legislation, we also have to take into consideration the foreign policy relations that we have with other countries. As we know, right now we're in a very precarious situation worldwide where there are families being ripped apart, where there are families wanting to be united. And when we're doing something, when we're imposing immigration policy at the state level, we are undermining the foreign relations that we have with other countries and the considerations made. So what we are asking is that when we are trying to enforce this law that we consider the family separation. That we respect what is also respected at the federal level—when they are enforcing federal law—is that we consider the status of the family, whether they are up to the third degree of consanguinity, so that we don't in fact separate children from their mothers.

REPRESENTATIVE SPILLER: Members, I'm opposed to this. Again, we're dealing with a situation with minor children. We've already addressed some of this, and I think the bill is sufficient and covers what we need to. So I would respectfully oppose it.

RAMOS: Members, once again, this law will pit neighbors—you've heard from other individuals—neighbors against neighbors. If we have a family gathering, which one of our Representatives so colorfully described, when an individual who may appear to be a migrant is celebrating a boda, or a quinceañera, with

their family. This type of bill allows the neighbor to contact the police on the other neighbor, and this will definitely divide communities. What we're trying to do in moving forward is that we always respect families. And I want to remind everybody as we're really fighting—we're all here to fight for families. This is not just our community. This is your community. These are your constituents that we too are fighting for. And this may sound like a surprise to many of you individuals here, but not one of you did anything to be born in this country. You did not pick your birth to be born in this country if you are a U.S. citizen. That was not of your choosing. You were blessed to be born here, but that was nothing that you did through some mystical meritocracy. You didn't earn your birthright here, but you have it. And with that, you have a privilege to protect others. What I'm asking that you do with that privilege is to keep families from being separated. So I ask that you support my amendment. Please vote yes. Thank you.

A record vote was requested.

Amendment No. 6 failed of adoption by (Record 43): 61 Yeas, 83 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

### Amendment No. 7

Representative Turner offered the following amendment to **SB 4**:

Amend **SB 4** on third reading as follows:

(1) Strike page 7, lines 17 through 19, and substitute the following:

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Damages" includes any and all damages, fines, fees, penalties, court costs, attorney's fees, or other assessments.

(2) "Racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

(2) Strike page 8, lines 21 and 22, and substitute the following:  
contractor:

- (1) acted in bad faith, with conscious indifference, or with recklessness;
- or
- (2) engaged in racial profiling.

(3) Strike page 10, lines 3 and 4, and substitute the following:  
determines that the state official, employee, or contractor:

- (1) acted in bad faith, with conscious indifference, or with recklessness;
- or
- (2) engaged in racial profiling.

**AMENDMENT NO. 7 - REMARKS**

REPRESENTATIVE TURNER: Members, I know a lot of the votes today, most of the votes, have been unfortunately along party lines. I think this is an amendment that should get unanimous support in this body if you just look at the simple text of what the amendment says. As you know, this bill provides sweeping immunity and indemnity for state officials, employees, or contractors acting under the provisions of this bill. The bill authors acknowledge these protections should not be absolute because he has provided an exception in limited circumstances. For example, if the employee acts in bad faith with conscious indifference or recklessness.

Members, I simply propose to add one more criteria to that list. And I think we would all agree that racial profiling is wrong and that no agent of the government should ever engage in discriminatory practices that target certain ethnic or racial groups. This amendment simply provides a safeguard against any bad actor who engages in racial profiling by adding it to the list of exceptions currently in the bill with respect to immunity and indemnity. That's all it does. Members, I would simply ask for your favorable consideration on this amendment, and I hope it will be acceptable to the author.

REPRESENTATIVE SPILLER: Members, I'm in opposition to this proposed amendment. Racial profiling is against the law anyway. It's actionable anyway. And frankly, under the damage provision under the liability with someone acting in bad faith with conscious indifference or with recklessness—I don't know how engaging in racial profiling doesn't fall within that category by definition. So I respectfully oppose it.

TURNER: Members, if I understood the bill author, he said that racial profiling would already be covered by the language in the existing bill. So I don't know what the harm would be to explicitly name it in the bill as an unacceptable practice that will not be indemnified by a state or local government under the provisions of this bill.

Members, I will tell you that this bill and other bills like it, and the general rhetoric around this issue, is making our communities less safe. I heard—when I was back home in my district this weekend—I heard from a law enforcement leader in North Texas who conveyed to me how he's hearing from people in his community about concerns with respect to rhetoric around immigration, rhetoric around some of these bills such as **SB 4**. I also heard from another individual who

shared with me a story about how a woman who's a restaurateur in Grand Prairie—how she had a large amount of cash in her restaurant from the day's sales. She wasn't able to make it to the bank to make a deposit on time so she took the cash home with her. Unfortunately, she was followed home, robbed, and lost all of her revenue for that day for whatever period of time she had with her. And this person asked, "Did you report it to the police?" She said, "No, I don't want to do that. I'm afraid to go to the police." Even though this woman had done nothing wrong. She had been a victim of a crime. She was a victim of a crime, but because she's Hispanic, she was afraid to go to the police. And it's the rhetoric around this legislation and other legislation like it that makes people in our state—our neighbors, fellow citizens, fellow Texans—afraid to go to law enforcement. That makes our state less safe, not more safe. We can do something about it here. We can't fix everything in this bill at this point, but this would be one important improvement to this bill if you vote for this amendment.

A record vote was requested.

Amendment No. 7 failed of adoption by (Record 44): 61 Yeas, 82 Nays, 2 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C); Hunter.

Absent, Excused — Anchiá; Harless; Jones, V.; Lalani.

### STATEMENTS OF VOTE

When Record No. 44 was taken, I was shown voting no. I intended to vote present, not voting.

Jetton

When Record No. 44 was taken, I was shown voting no. I intended to vote present, not voting.

Landgraf



When Record No. 44 was taken, I was shown voting no. I intended to vote present, not voting.

Murr

### **Amendment No. 8**

Representative J. Jones offered the following amendment to **SB 4**:

Amend **SB 4** on third reading as follows:

(1) On page 7, line 21, strike "OFFICIALS, EMPLOYEES, AND CONTRACTORS" and substitute "OFFICIALS AND EMPLOYEES".

(2) On page 7, lines 22 and 23, strike "official, employee, or contractor" and substitute "official or employee".

(3) On page 7, line 25, strike "official, employee, or contractor" and substitute "official or employee".

(4) Strike page 8, lines 1 through 3, and substitute "official's or employee's office or employment".

(5) On page 8, lines 5 and 6, strike "official, employee, or contractor" and substitute "official or employee".

(6) On page 8, line 8, strike "official, employee, or contractor" and substitute "official or employee".

(7) On page 8, lines 10 through 12, strike "official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government" and substitute "official's or employee's office or employment".

(8) On page 8, lines 20 and 21, strike "official, employee, or contractor" and substitute "official or employee".

(9) On page 8, lines 23 and 24, strike "official, employee, or contractor" and substitute "official or employee".

(10) On page 8, line 26, strike "official, employee, or contractor" and substitute "official or employee".

(11) On page 8, line 27, strike "official, employee, or contractor" and substitute "official or employee".

(12) On page 9, lines 2 through 4, strike "official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government" and substitute "official's or employee's office or employment".

(13) On page 9, line 8, strike "OFFICIALS, EMPLOYEES, AND CONTRACTORS" and substitute "OFFICIALS AND EMPLOYEES".

(14) On page 9, line 10, strike "or contractor".

(15) On page 9, line 12, strike "official, employee, or contractor" and substitute "official or employee".

(16) On page 9, strike lines 15 and 16 and substitute "the official's or employee's office or employment".

(17) On page 9, line 19, strike "or contractor".

(18) On page 9, lines 20 and 21, strike "official, employee, or contractor" and substitute "official or employee".

(19) On page 9, lines 23 through 25, strike "official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state" and substitute "official's or employee's office or employment".

(20) On page 10, line 3, strike "official, employee, or contractor" and substitute "official or employee".

(21) On page 10, lines 5 and 6, strike "official, employee, or contractor" and substitute "official or employee".

(22) On page 10, line 7, strike "official, employee, or contractor" and substitute "official or employee".

(23) On page 10, line 8, strike "official, employee, or contractor" and substitute "official or employee".

(24) On page 10, strike lines 11 and 12 and substitute "the official's or employee's office or employment".

(25) On page 10, line 13, strike "official, employee, or contractor" and substitute "official or employee".

(26) On page 10, lines 16 and 17, strike "official, employee, or contractor" and substitute "official or employee".

(27) On page 10, lines 26 and 27, strike "official, employee, or contractor" and substitute "official or employee".

#### AMENDMENT NO. 8 - REMARKS

REPRESENTATIVE J. JONES: Members, this amendment applies to **SB 4**, Section 117.002, which covers civil immunity for and indemnification of local government officials, employees, and contractors. For all intents and purposes, this section of **SB 4** grants the same level of protection and immunity and indemnification to contractors as government officials and employees. I think this is disrespectful. It's not safe. To protect contractors from liability and/or damages for actions taken pursuant to **SB 4** and to indemnify them—in other words, to pay for their damages, to give them immunity—and, oh, by the way, local government has to pay this indemnification. It, for all intents and purposes, translates into an unfunded mandate and will cause many localities to potentially go bankrupt. We have no idea of the financial impact that this is going to have on Texas citizens or on local governments. Specifically, this amendment strikes all instances of the use of the words officials, employees, and contractors and substitutes those stricken words with the words officials and employees. Members, I respectfully request your favorable consideration and hope it's acceptable to the author.

REPRESENTATIVE SPILLER: Members, I oppose this proposed amendment. It weakens some of the protections that we tried to put in there for law enforcement. So I respectfully oppose it.

J. JONES: I want to say again, finally, that to elevate contractors—I mean, in my mind, I can see like a mall cop being a contractor. And we, as taxpayers, should not have to indemnify a mall cop or any contractor that does something wrong based on their interpretation of this bill. We don't know how much it's going to cost, and we should not have to pay for them. I get government officials. I get

employees of the state. But in my mind, this is a mall cop bill, and we do not need to elevate them. They do not even have the training of law enforcement. I can see somebody from the Proud Boys being a contractor with the state to implement this racist and unconstitutional bill. So I respectfully request your favorable consideration, and I hope that this is acceptable to the author.

A record vote was requested.

Amendment No. 8 failed of adoption by (Record 45): 60 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — Herrero; Smithee.

### **Amendment No. 9**

Representative Bryant offered the following amendment to **SB 4**:

Amend **SB 4** on third reading as follows:

(1) On page 8, line 22, between "recklessness" and the underlined period, insert "or if the local government official's, employee's, or contractor's actions resulted in the removal of a United States citizen as defined by 42 U.S.C. Section 9102.".

(2) On page 10, line 4, between "recklessness" and the underlined period, insert "or if the state official's, employee's, or contractor's actions resulted in the removal of a United States citizen as defined by 42 U.S.C. Section 9102.".

(3) On page 10, between lines 19 and 20, insert the following:

Sec. 117.0035. LIABILITY FOR REMOVAL OF CITIZEN. An official, employee, or contractor of a local government or the state who takes an action to enforce Chapter 51, Penal Code, or an order issued under Article 5B.002, Code of

Criminal Procedure, that results in the removal of a person who is a United States citizen as defined by 42 U.S.C. Section 9102 is liable to the person removed for damages arising from the removal.

#### AMENDMENT NO. 9 - REMARKS

REPRESENTATIVE BRYANT: Members of the house, this amendment is about U.S. citizens. It's not about illegal aliens. It's not about illegal entrance into the United States. It's not about foreigners. It's about United States citizens. This bill provides for immunity for local government officials and contractors for their actions under the provisions of this bill and requires indemnity for them. This amendment says if you cause the removal of a United States citizen from this country, you are not immune from liability, and you are not going to get indemnity. I can't be any plainer than that. I hope you vote for the amendment.

REPRESENTATIVE SPILLER: Members, I'm in opposition to this. I think it's broader than what we contemplated, and I would respectfully oppose it.

REPRESENTATIVE NEAVE CRIADO: Mr. Spiller, we've discussed how there are numerous examples of American citizens—United States citizens—being arrested by ICE, correct?

SPILLER: By the federal government, yes.

NEAVE CRIADO: By the federal government. So you're aware that there have been mistakes made in the past where American citizens have been trapped into similar bills like this, correct?

SPILLER: Yes, I would agree that the federal government has made many, many mistakes, and they continue to do so on a daily basis on the southern border. But this bill has to do with state law. I'm not saying that we're exempt from making some mistakes, but hopefully those won't be repeated.

NEAVE CRIADO: But if you're aware that the possibility exists that even the federal government has dropped the ball and several hundred American citizens have gotten arrested, then that can happen under this bill, as well. You're objecting to this amendment. Explain why.

SPILLER: Well, I think that the bill goes to great lengths to provide protection to law enforcement and yet, bad actors—people that act in bad faith, with conscious indifference, or with recklessness—they don't get the same protections as those acting within the course and scope of their employment. And so there are penalties where there should be penalties and immunity and indemnification where there should be. This does not change anything as far as a plaintiff's ability to recover or file suit. None of those things are changed. People can still seek redress in state court or federal court, so I think it's important to have that. People still have the ability to do that. As a matter of fact, for state employees, it's even broader as far as caps or the lack thereof. So those protections are in there for citizens and yet still provide protection for law enforcement.

NEAVE CRIADO: Just so we're clear—could a United States citizen who is wrongfully arrested under this bill that then sues either the local government or the state, can they get paid by the local government or the state if they're wrongly arrested?

SPILLER: I think that the section of the bill that provides for recovery and provides for how we deal with wrongs. Civil wrongs are addressed in the bill, created in the bill, and there are protections in there that would not otherwise exist under law.

NEAVE CRIADO: So American citizens would get paid if they're wrongfully arrested underneath your bill?

SPILLER: Getting paid and recovering are two different things. I mean, you can go to court and get a judgment. I wish I could guarantee that people that get a judgment are going to get paid, but that's not what this is about. That's a whole separate issue.

NEAVE CRIADO: I apologize. I should have clarified whether there's a settlement or a judgment. They could get legal recourse under your bill if they're wrongfully arrested?

SPILLER: If they feel that they meet the requirements that there have been violations—either state court violations or federal court violations—this bill does not prohibit them from seeking compensation for damages in court, whether it be state court or federal court.

BRYANT: Members of the house, I have a very high opinion of the job that's been done by our Border Patrol. They've done a very fine job, the best that they could do. I'm not sure what Mr. Spiller's referring to right there, but I think all of us owe them a thank you for the hard work and the risk that they take every day. But they make mistakes sometimes, and in fact, they've made quite a few mistakes that are documented in their own records.

Let me just tell you about a few of them. ICE—Immigrations, Customs, and Enforcement—arrested 674 American citizens by accident in the course of their work, detained 122, and removed 70 of them from the United States. Now, if you think that they do a good job, like I do, generally, what kind of a job do you think local officials—that are one of these 35 different agencies that have peace officers—are going to do when they don't know anything about this field? They're very likely to make mistake after mistake after mistake. Mr. Spiller said, "Oh well, this bill is safe. It's not going to affect the lives of American citizens, no matter what ethnic background they might have." He said he has provisions in it to provide for recovery. Well, let me just read to you from the bill, and I urge you to pick it up and read it yourself. It's Section 117.002. It says, "A local government official, employee, or contractor is immune from liability for damages arising from a cause of action under state law resulting from an action taken by that official, employer, or contractor to enforce Chapter 51" of the Penal Code, or an order issued under Article 5B.002 of this bill. It takes away their immunity—rather, it grants them immunity and they can't be sued successfully. It does exactly what I said that it does. And this amendment would say if you make

the mistake or if you are purposely doing other than what you should be doing and it results in the removal of a United States citizen from this country, you do not have immunity, and you are not going to get indemnity. It's as plain as it can be. It is wrong to consider proceeding otherwise. I urge you to vote for the U.S. citizens in this country that are going to be faced with a significant threat of being removed from this country unless those who have the power to enforce the law know they better be very careful about it. Vote aye.

A record vote was requested.

Amendment No. 9 failed of adoption by (Record 46): 60 Yeas, 83 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — Herrero.

#### **Amendment No. 10**

Representative Walle offered the following amendment to **SB 4**:

Amend **SB 4** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

**AMENDMENT NO. 10 - REMARKS**

REPRESENTATIVE WALLE: Members, **SB 4** raises severe, severe constitutional concerns under both the U.S. and Texas Constitutions due to its potential ex post facto nature. Members, **SB 4** creates a new state criminal offense for actions that previously were not classified as state crimes. If applied, members—if applied retroactively, it would penalize individuals, family members, aunts, uncles, tíos, abuelitas, primos, compadres, or any individuals for actions undertaken before the law's enactment. A clear violation of the ex post facto clauses both in the U.S. and state constitutions. I'd like to read those two portions. Under the U.S. Constitution, there is the ex post facto clause, and it states under Article I, Section 9, Clause 3, that no bill of attainder or ex post facto law shall be passed. And similarly, members, that as it applies to states in Article I, Section 10, Clause 1, that no state shall pass any ex post facto law or law impairing the obligations of contracts or grant of any title of nobility. Furthermore, members, the Texas Constitution also under Article I, Section 16, has a provision regarding bills of attainder or ex post facto or retroactive laws impairing obligation of contracts, and that clause says that no bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts shall be made. So these clauses expressly, members—expressly forbid the passage of laws that criminalize actions retroactively or increase penalties after the fact. Thus, applying **SB 4** to individuals who entered Texas prior to its enactment would constitute a direct violation of these constitutional provisions and constitutional protections, rendering the law unconstitutional under both the Texas and federal legal frameworks. Therefore, this amendment would prohibit the criminalization of individuals for alleged acts committed prior to the enactment of this bill. That's what the amendment does.

REPRESENTATIVE SPILLER: Briefly, we covered this earlier in the day. So for the reasons I stated there, I'm still opposed to this. I believe that we are adequately protected under our laws and under our Constitution.

WALLE: We did cover this earlier this afternoon. And one of the things that we discussed during that debate from the front mic and the back mic was the retroactivity of actions committed—or let me backtrack—of actions committed prior to the enactment of this bill. In plain English, members, we do not—it's been a practice, it's been a constitutional practice that we do not criminalize behavior prior to enactment of laws once they're passed. They are to be seen moving forward. And this bill particularly criminalizes behavior that would be alleged to have happened prior to the enactment of this act. So that's one of the underpinnings of this Texas and U.S. Constitution of not passing laws that retroactively criminalize behavior because we're going to be back here facing litigation, using state resources to defend this litigation. Because we know that this law—I don't think anybody in this body believes that this law is constitutional on its face.

A record vote was requested.

Amendment No. 10 failed of adoption by (Record 47): 60 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Nays — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick; Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Rane; Rogers; Schaefer; Schatzline; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

Absent — Herrero; Schofield.

#### SB 4 - REMARKS

REPRESENTATIVE WU: Members, I know y'all hate listening to me, so I'll keep this short. You know who I really miss? I miss David Simpson. Some of y'all still might remember who he is. He came in with us way back when, ran off to run for senate, and something else—I can't remember exactly what. But you know, David and I disagreed on a lot of stuff. He was pretty far right. There wasn't a lot that we agreed on. But what I respected about him was that when we had discussions and I could clearly point out, "Look, this thing that you're about to do that you said you support is contradictory. It's antithetical to what you say you believe in. That it's contrary to the Constitution. It's contrary to our laws. It's contrary to our philosophies." And he would listen and go, "Let me think on that." And he would come back the next day, and he would talk to me like, "You know what? I spent all night thinking about it. I read through some stuff. I prayed on it, and I think you're right. I think this is contrary to what I've stated in the past, and I'm going to change my vote." I respect that. We don't agree on a lot of stuff. But when it came down to doing what the Constitution demands, doing what's right, doing what's legal, it was important to him. And I respected the hell out of him for doing that. And before we even talk about—before we get to the whole how does this affect immigrants, how does this affect our communities, and all this stuff, we have to get to the core question of legality. And this is something that this body never really wants to go into and hates



discussing—because I'm the guy who comes here time and time again and says this thing that you're going to do is unconstitutional on its face. And this is going to be one of those times.

The plain letter of the law, the Constitution that you all raise your right hands, put your left hand on the Bible, and you swore to uphold. You swore under the threat of wrath of God, you swore on the Bible that you would protect and defend and you would obey it. The Constitution of the United States says very clearly—the 10th Amendment—any powers that are designated to the United States government, to the federal government, is strictly prohibited to the state government. Well let me tell you, the Constitution of the United States says point blank that our borders, our immigration service, and dealing with the nationalization of immigrants is solely the purview of the federal government. And a state legislature doesn't get to come in and say, "Well, we disagree." But nobody here really cares about that right? Because this is not a vote on policy. This is not a vote on what's right. This is not a vote on our adherence to our Constitution. This is a vote on politics. This is a vote that y'all want to look tough on so you can go home and tell your constituents look what we did to them. Look what we did to these people that we've been talking about. Look how we were going to make them suffer, punish them, and punish their communities. Look how we're going to terrorize them.

You know what one thing I'm grateful for is? Thank you for numbering this **SB 4** as well because we can—because we were here in 2017 railing against **SB 4** back then. And we're still railing against **SB 4** now. Legislation that we told you repeatedly—this legislation would have a detrimental effect on lawful immigrants in our community. We told you that. You didn't believe us. And after **SB 4** was passed in 2017, we saw dramatic changes in our communities of people who were documented and undocumented. People who were citizens. People who were green card holders. People who are on their pathway to become legal. They stopped going to school. They stopped going to the hospitals. They stopped taking care of themselves. And worst of all, worst of all for our communities, they stopped calling the police. Incidents of domestic violence shot through the roof—assaults, robberies—because we made it. We announced publicly that it was open season on immigrants. We announced publicly that no immigrant was going to go to the police because they would be too afraid. And we saw the rise in crimes against Latinos. My own community—I saw the rise of crime against Asian Americans because we got thrown in that lump too. It was perceived that Asian Americans wouldn't call the police. We just dealt with a situation like that in my community. A man was followed home after midnight, after he closed up his business. He was robbed, and he was shot six times. And we know that Asian Americans are targeted because of this perception that they won't call the police because they'll be too afraid because they're immigrants. This is going to reinforce that. And just like we told you after the passage of **SB 4** last time, we give you the same warning now—that this law, as we have said over and over again, will affect lawful immigrants. And that is not justice. It is not fairness. But I guess it is politics.

(Goldman in the chair)

REPRESENTATIVE J. JONES: I stand here today—and this is my first session—and I'm looking at how all this is going. And it just makes me not have a lot of faith because I think you judge a people, you judge a state, not by how we treat those of us that have, but how we treat the least, the last, and the lost. I find it hypocritical that we are institutionalizing racism against people from the southern border. But we're not doing it to people from the northern border. The big elephant in the room. People from the southern border are people of color, generally, and they're Latino. You come from the Canadian border, and they're white. People don't want to talk about that. It makes me sad because it's state-sanctioned racism. This bill does not protect wrongly arrested, detained, or deported Americans. It doesn't even protect Americans, but it will indemnify a mall cop. That doesn't make any sense, and it's un-American.

This country was founded on immigration. The proponents of this bill wouldn't even create a criminal law that criminalizes hiring people from the southern border. But we want to criminalize the least and the last of us. This is a bill that will separate children from their parents. If any of us in here had anything with our families—we don't even want them to take our kids to detention. But we don't mind doing it to people of color from the southern border. Very rarely am I at a loss for words. Logic makes sense to me. Reason makes sense to me. And I don't want to be here any more than anybody else. It's November. My birthday was this week. But this is important. And the fact that we limited amendments on very important things because we don't want to be here because this is the fourth special session—if we don't fight it here before it goes into action, when are we going to fight it? After people are arrested? After people's lives are destroyed? And it's not just the people who are detained, arrested, and deported. It is their families. If someone took you from your life and prohibited you because they took you to some country that you maybe have never been in—you can't pay your mortgage, you can't pay your rent, you can't pay your car note. We are literally destroying families in Texas. We are destroying families. And so I'm sad this is a partisan vote. I've had people say "Well, Jo, that was a good amendment, but you know, I just can't vote for it." It doesn't make sense to me. We've got to be better than this. We are the very people that represent all the people in Texas. And we are charged with creating laws that are fair for everyone who is here. For everyone.

This bill is oxymoronic. It's hypocritical. It's un-American. And I know that if I voted any way other than the way I'm going to vote, which is against this bill, I wouldn't be able to sleep at night. I wouldn't be able to look at my constituents, especially my Hispanic constituents, and tell them that I didn't do everything that I could do to protect them. It's not all right to be racist. And I will stop pulling the race card when you stop being racist. I will pull it from the bottom of the card deck because it's relevant. It's racist. And sometimes people don't know they're racist. But that's why the people that have gotten up here to challenge this bill have tried to explain it to you, because sometimes you need to hear it from other people. In any case—and you know what, yelling down people doesn't stop it.

And I tell you this—when or if this passes, I'm going to be embarrassed to be a part of a body that legally sanctioned racism against Hispanic people from the border. I'm urging you to please don't vote party lines. Vote for humanity.

REPRESENTATIVE MOODY: Immigration is all one conversation. From the hopeful words inscribed on the Statue of Liberty to the racist manifesto of the El Paso shooter to this bill here today, it's all one discussion. And when we make that conversation about people rather than about systems, we're calling for that conversation to be a judgment of those people. We can all agree that the system we have needs work. But we should be as good as America's promise to the people who come through Texas. The Bridge of the Americas shouldn't send a different message than Ellis Island. This conversation that we have can happen through a lens of hope or a lens of fear. We should appreciate the fact that we have built a country and a state that people want to be a part of. A country that is a beacon of hope. We have broken systems, so we should be fixing those systems and not engendering fear and anger towards people. When we engender nothing but fear and anger, we can end up with a multitude of terrible situations. I'll give you one from last week where a group of kids from my district were playing a football game—much like a lot of the kids from your districts were last week. A microphone was left on in the booth, and the kids from my district, who might look a little different from the kids in the district they were visiting, were described as "some chalupa eating bastards." Kids playing football. This is what an adult thinks is okay to say about them. At the other end of that spectrum, four years ago, a young man travels across this state armed to the teeth to kill Mexicans, citing an invasion into this country. Those are the things that happen when we engender nothing but fear and anger. We are better than that. People are not our problem. The systems that we have are our problem. And if we want to fix them, that should be our focus.

Today, we didn't do that. We chose to demonize and vilify people—to take away their humanity and their dignity. And the tragedy of that conversation is that those are the same people who look at our state and our country and still see hope. Members, I've walked off this floor defeated many times, and I always tell myself and others around me that I have enough hope to keep fighting. And I'm going to try to tell myself that tonight too, but I don't know if I believe it anymore.

REPRESENTATIVE ROMERO: I know that Representative Patterson said that we'd already debated this bill, and there's no real reason for us to continue to go over those amendments over again. And I did speak against this bill the last time, so of course I'm going to speak against it again today, but I'll change it up a little bit. Yesterday was my birthday, and I have a tradition as an elected official to go refire on my birthday. I'm always surrounded by my mom and my dad, and I didn't know they were going to throw me a surprise birthday party because it was my 50th. And when I walked in, it was a great surprise. I didn't know that all the fruits of my grandparents on both sides that are still alive were going to be there. All my aunts, all my uncles, my cousins, my nieces, my nephews, all of us immigrants from Zacatecas. I don't apologize. And I've said it in the past that when my brother and sister, Juan and Alejandra, came, they were in the hands of

my mother, Maria, and yes, they came here, as you would say, illegally. But yet, I look around, and I see doctors, nurses, realtors, business owners, pastors—real fruits, real stories of America, producing for this country, and this body's forgotten about it.

So I have a question for all of you today because many of you have done an incredible job of ignoring every single amendment that made sense here tonight. We probably could have gotten on Representative King's if we had had an opportunity to see that during second reading, and you'd have done good things for your local governments, but that didn't happen. So the question is, you as members—and you can keep talking. You don't have to pay attention, but this is an important question. When you push that red button or that green button, have you ever thought that it may or may not be a sin? Have you? Because I can assure you that it is. If the act of a law here becomes harm, even death, as I explained to you guys here when Officer Garrett Hull, the law enforcement officer fighting crime—not checking someone's immigration status first before you call in the police—but just fighting crime because he didn't care, crime is crime. Well, he lost his life. And his family no longer had a father, a husband, a brother—gone. Is that act, for those of us that voted on that **SB 4** in favor, are we responsible for that at all? I would say we are. And I can assure you that with this bill, people are going to get hurt. But we're in our bubbles. You don't live in my community or in the community of many of us, like Ana Hernandez and Armando Walle, myself, Victoria Neave, that are surrounded by the immigrant community. Exactly the community that's being described that it's not going to call law enforcement, and yes, crime is going to get worse in Texas in those communities. It may just be one of your law enforcement officers that we've been asking far too much of them—and this bill asks a lot of law enforcement officers, not to mention what it's asking our taxpayers to do to take on a federal responsibility. It doesn't make sense to spend this kind of money. But when you have this kind of money, you don't have to have any sense. But I can assure you when you vote red or green, I hope you're thinking about whether it's a sin or not. Because it can be.

REPRESENTATIVE FLORES: I stand here before you as a freshman, and I just wouldn't normally be up here because it's not my style, but I feel compelled to say something. I'm very disappointed in this process. I'm a lawyer, and I believe in process, and I believe in advocacy. And I was not given the opportunity to advocate for people that I care about—victims of domestic violence, victims of crime who might be too afraid to call police because they're afraid of being asked their nationality or where they're from. And so I don't really have anything prepared, but I'm just speaking from the heart about how much I wish we could listen to one another because we're right, we aren't listening to one another. There were some very valid arguments made on this floor about why this bill is wrong in so many instances and how it does not protect our constitutional rights of citizens and how it does not protect victims of crime and abuse. You know, I think there was more interest in hearing about meatloaf and mashed potatoes than there was in hearing about protecting people in our communities.

This is a country of immigrants and so is a state. I'm just very disappointed that we're now putting people at risk, putting people in danger, and not listening to one another and really upholding our oath of office in saying we would protect and defend our Constitution of our state and of our country. So my amendments were very simple, and it would have done a lot of good. And I'm just sorry that you weren't able to hear those arguments. And I'm sorry that people were not listening and didn't take the time to think about it and care about that.

REPRESENTATIVE C. MORALES: I stand before you today as a proud Mexican, a Latina, as a daughter of this land, and as a reflection of the immigrant spirit that has contributed so richly to the tapestry of this state. The bill we are discussing today is not just a theoretical document to me. It is a matter that strikes the heart of what my family and countless others have experienced. I want to talk about the real human cost of legislation like this. This bill, with its harsh stance on immigration enforcement, does not just affect those who have crossed borders in search of a better life. It affects every person who shares my heritage. It targets, intentionally or not, the very essence of our identity and paints us all with a broad brush of suspicion. The implications of racial profiling are personal to me. I see the faces of my family, our children, my grandchildren, who happen to be a little darker skinned than yours, my friends, my community members, who carry the burden of proof for their existence in their own neighborhoods where they should feel safe and accepted. This bill could mean that my niece returning from her college classes could be stopped and questioned. Not because of anything she's done, but just for who she is. We know the narrative all too well. We've lived it. The whispers that they don't belong here. You know we hear that, yet in my community, they say the border crossed us. The lingering glances at a family dinner out, wondering how do they have the money to pay for that. These are the daily realities that this bill will exacerbate by legitimizing a system that already looks at us through a lens of bias.

This bill goes beyond the issue of legal versus illegal. It's about whether we are willing to allow laws that institutionalize discrimination and deepen divides in our community. It's about whether we sit idly by while the rights of individuals are compromised by the color of their skin or the accent which they speak. I ask you to consider the message we send to the young Latinas and Latinos of this state. Will we tell them that despite their dreams, their hard work, their aspirations, they will always be viewed as potential criminals in their own home? Is this the legacy we want to leave? I urge you—as legislators, as human beings—to oppose this bill. Stand with us for a state that celebrates its diversity, that understands the contributions of immigrants, and that does not sacrifice justice and equality in the name of enforcement. Let us instead draft legislation that reflects our shared values, that fortifies our communities, and that respects the dignity of every individual. Together, we can protect our state and our people without compromising the principles that make us who we are.

(Speaker in the chair)

REPRESENTATIVE MARTINEZ FISCHER: Let me say what everybody's thinking. We've been here too long. We have been in this building for far too long. Those of you who are senior and have been here through more sessions know that we have been here too long. If we can't get the people's business done in 140 days—for our strict constructionists that we have in this building—and then we can't get it done in a special session or another, then we've been here too long. And what I see in this proposal is a square legislative peg trying to go through a round hole. And rather than address the problem and do what we tell our constituents we're going to do, which is close the door, put a hot pot of coffee on, roll up our sleeves, and fix a problem, we don't do any of that. Instead, we opt for the idea that we're going to hard wire a proposal, and as long as the senate's okay, we're okay. And if they're going to miss the mark, we're going to miss the mark. Nobody really cares about getting it right; they just care about getting it done. And when we do that, I hate to tell you, we are no longer lawmaking, we are no longer legislating, we are no longer a coequal branch of government. We have become the warm-up act for the judiciary. Because that's exactly where this is going to go. We're going to spend all day here, and all night, so that we can have a debate, get things reduced to writing and placed in the journal, and then we go to a federal courtroom somewhere and we hash it all out and we let them decide. We have to be honest about that. If that's what you were elected to do, if that's what you campaigned on, if that's why you said you needed to come to Austin, well then, mission accomplished. For everybody else who said I'm going to come up here and fix problems, I'm going to bring my real world experience, my life experience, my business acumen—we're going to run government like a business, we're going to do all these things, well this isn't it. This isn't it. It's not happening.

The City of San Antonio, the city that I represent, has been the only city that had to successfully defend a lawsuit on the old **SB 4**. The old law that we have today said that local law enforcement cooperates with ICE, and when you don't, you can be sued, and you can even be removed from office. So on a lawsuit against the City of San Antonio, the suit was to remove the chief of police for an incident that occurred within the city limits. The lawsuit was brought by the attorney general, and we won that lawsuit. And the same lawyers and the same minds that defeated the attorney general in the **SB 4** suit are saying today that when you look at this proposal and an officer arrives on the scene, they have two conflicting choices. One is to comply with **SB 4**—stop, call ICE, let them take over, let them assert jurisdiction, and go away. And now we've just ignored everything that Representative Spiller and folks who have hardwired this proposal. I suggest that for all the cities' attorneys out there—and county attorneys—that are evaluating this law, I think that the best and least expensive option is to say, "You know what? We are not going to arrest, we're not going to detain, we're not going to house, we're not going to magistrate, we're not going to transport when this is all said and over." Because that's what this bill does. We're just going to go back to the old **SB 4** and say, "Hey ICE, we have someone.

We think they may belong to you, come get them." Because if they don't do that, there will be a lawsuit. There will be a suit to remove a chief or remove a mayor or remove a county judge, and that's what you're enabling.

Let's face it, the law enforcement community, they don't have our privilege to put on fancy clothes and get here on a mic and act important and debate and ask questions and do amendments and interpret rules. They don't have that luxury. They have to get on the scene, and they have to make a call. And their most important job is to make sure they can go home at the end of the night and hug their family and loved ones. And we're not putting them in that position. In fact, we're making it harder. So if you think we're taking a vote today because now we figured out the immigration process, we're wrong. If you think we're taking a vote today and we've all of a sudden provided some clear regulatory certainty for our local governments, our local law enforcement community, we're not doing that either. And I can assure you, somewhere in one of these 254 counties that we represent there is going to be someone that says, "I don't know what to do now because I'm damned if I do if I use the old **SB 4**, and I'm damned if I don't if I use the new **SB 4**."

A federal judge somewhere in this state is going to make that decision for us. And so if we know that we shouldn't just opt for—the easy and efficient thing to do is to go through the charade and give it to somebody else. We should own the responsibility, we should work earnestly to try to fix it, and we should take input from both sides. Because I can tell you there is not a single party or a single member who thinks they understand this immigration issue, that they are the one-stop shop, that they can fix it all. I have never seen a member on any subject in this house ever get up on this microphone and say, "I know better than anybody else and the other 149 of you, your opinion doesn't matter, your expertise doesn't matter, your background doesn't matter, your perspective doesn't matter." Because that's kind of what we did today. It's kind of what we did today, and I don't think we should be proud of that. And so we're going to go home—we're going to make it home, hopefully some of you will make it home before the 10 o'clock news. But I don't think we should be proud of this work, and I don't think we should be proud when we see our law enforcement officials back home and say that we were bringing them something that's going to really help them with their jobs. We've just made it a whole lot harder. And as a matter of fact, I would hope, and I think, that many of them are probably going to choose not to enforce this and just go to the other option and just say we're going to turn these over to the federal officials. And then we've done nothing. So I'm going to be voting against this for this reason. For those of you who thought you were voting yes for something that you fixed, maybe you have something that you might want to reconsider and join me by voting no.

**SB 4** was passed by (Record 48): 83 Yeas, 61 Nays, 1 Present, not voting.

Yeas — Allison; Anderson; Ashby; Bailes; Bell, C.; Bell, K.; Bonnen; Buckley; Bumgarner; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Craddick; Cunningham; Darby; Dean; DeAyala; Dorazio; Frank; Frazier; Gates; Gerdes; Geren; Goldman; Guillen; Harris, C.E.; Harris, C.J.; Harrison; Hayes; Hefner; Holland; Hull; Hunter; Isaac; Jetton; Kacal; King, K.; Kitzman; Klick;

Kuempel; Lambert; Landgraf; Leach; Leo-Wilson; Lopez, J.; Lozano; Lujan; Metcalf; Meyer; Morrison; Murr; Noble; Oliverson; Orr; Patterson; Paul; Price; Raney; Rogers; Schaefer; Schatzline; Schofield; Shaheen; Shine; Slawson; Smith; Smithee; Spiller; Stucky; Swanson; Tepper; Thimesch; Thompson, E.; Tinderholt; Toth; Troxclair; VanDeaver; Vasut; Wilson.

Nays — Allen; Bernal; Bhojani; Bowers; Bryant; Bucy; Campos; Canales; Cole; Collier; Cortez; Davis; Dutton; Flores; Gámez; Garcia; Gervin-Hawkins; González, J.; González, M.; Goodwin; Guerra; Hernandez; Herrero; Hinojosa; Howard; Johnson, A.; Johnson, J.D.; Johnson, J.E.; Jones, J.; King, T.; Longoria; Lopez, R.; Manuel; Martinez; Martinez Fischer; Meza; Moody; Morales, C.; Morales, E.; Morales Shaw; Muñoz; Neave Criado; Ordaz; Ortega; Perez; Plesa; Ramos; Raymond; Reynolds; Romero; Rose; Rosenthal; Sherman; Talarico; Thierry; Thompson, S.; Turner; Vo; Walle; Wu; Zwiener.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchía; Harless; Jones, V.; Lalani.

### STATEMENT OF VOTE

When Record No. 48 was taken, I was excused because of important business. I would have voted yes.

Harless

### REASON FOR VOTE

Representative Plesa submitted the following reason for vote to be printed in the journal:

**SB 4** fails to provide any explanation of what this bill looks like in action. Basic questions regarding the implementation of this wide sweeping bill could not be answered at the time of debate. There was no explanation of how this bill interacts with conflicting state and federal laws. There was no cost evaluation, not even a ballpark figure, provided to lawmakers when the bill hit the House floor. We are being asked to vote for a policy proposal that is not fully flushed out and has not been thought through. This is a piece of legislation that was crafted without the input of border communities, their residents, their law enforcement officials, immigrant communities, or federal immigration practitioners. **SB 4** puts a strain on our law enforcement officers and asks them to take on additional responsibilities without increasing their pay at a time when we are facing a record workforce shortage in law enforcement.

Under this bill, we are asking law enforcement officers to make complex determinations on the spot that are typically made by federal judges after reviewing the totality of the circumstances. **SB 4** undermines the trust and relationships law enforcement has worked hard to build with communities of color and immigrant communities. The cost of this bill remains unknown to all at this time, but the true cost of this bill will be borne by local police and county sheriffs' departments. I supported an amendment to indemnify local governments from bearing the cost of this bill. Unfortunately, the amendment failed to be adopted. Without Chairman Tracy King's amendment, our municipal law



enforcement officers and county sheriffs will have to bear this expense. Those departments are funded by local tax revenue collected from property taxes. **SB 4** will cause our property taxes to rise by unknown levels as the bill lacks a cost evaluation. This is not good policy and after working all session to reduce property taxes by billions of dollars, I cannot support raising them at high rates unbeknownst to lawmakers or taxpayers.

In addition to concerns around the cost, I have heard concerns from members of both parties and both chambers about the constitutionality of **SB 4**. The supremacy clause of the U.S. Constitution, a document which I took an oath to protect, clearly places all immigration matters in the purview of the federal government. **SB 4** clearly oversteps the jurisdiction of the state government. **SB 4** continues disregarding the Constitution by removing due process protections, even for American citizens. There are too many concerns, unanswered questions, and clear constitutional violations for this bill to be anything other than a vehicle for litigation in the United States Supreme Court. The cost of this litigation will also be placed upon the taxpayers of our state. It is the responsibility of the legislature to ensure that the government is spending the taxpayer's money responsibly and passing a bill without clear details on implementation or a cost effectiveness report is fiscally irresponsible and a disservice to Texans. Without a detailed plan, robust debate and amendment, or proper parliamentary procedure in either chamber, I cannot, in good faith, vote for this bill that does not adhere to accountability to the people of Texas and perpetuates divisive stereotypes and dehumanizing rhetoric. The kind of rhetoric that has put a target on diverse communities like the one I'm blessed to represent.

#### **REMARKS ORDERED PRINTED**

Representative Romero moved to print all remarks on **SB 4** on third reading.

The motion prevailed.

#### **RECESS**

Representative C. Bell moved that the house recess until 10 a.m. Friday, November 17 in memory of Brent Dorman of Centerville.

The motion prevailed.

The house accordingly, at 7:59 p.m., recessed until 10 a.m. Friday, November 17.

