

ELEVENTH DAY

THURSDAY, FEBRUARY 3, 2005

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Barrientos.

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

The Reverend Stephen Warren, First Baptist Church, Buda, offered the invocation as follows:

Our heavenly Father, creator and sustainer of us all, we humbly come before You asking that You give to us Your wisdom in everything that we do and try to accomplish in this day and in the days to come. Bless our leaders of our state as they seek to lead our state. We thank You for the love that You continually give to us. Please forgive us when we fail You and forget to acknowledge You. We ask that You be with our men and women who are so gallantly serving in our armed forces and that You keep them safe and out of harm's way. Please give comfort and peace to the families that are remaining here at home as they wait for their loved ones to come home. Lord, continue to watch over our great state and nation and be with our leaders as they seek to serve us. In Your precious name we ask these things. Amen.

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

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Barrientos was granted leave of absence for today on account of an illness in the family.

CO-AUTHOR OF SENATE BILL 107

On motion of Senator Estes, Senator Williams will be shown as Co-author of **SB 107**.

CO-AUTHOR OF SENATE BILL 112

On motion of Senator Van de Putte, Senator Eltife will be shown as Co-author of **SB 112**.

SENATE RESOLUTION 84

Senator Carona offered the following resolution:

SR 84, In memory of Lyle L Gordon of Midlothian.

The resolution was read.

On motion of Senator Carona, the resolution was adopted by a rising vote of the Senate.

In honor of the memory of Lyle L Gordon of Midlothian, the text of **SR 84** is printed at the end of today's *Senate Journal*.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

PHYSICIAN OF THE DAY

Senator Zaffirini was recognized and presented Dr. Leonides Cigarroa, Jr., of Laredo as the Physician of the Day.

The Senate welcomed Dr. Cigarroa and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Lindsay submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Secretary of State: J. Roger Williams, Parker County.

Members, Texas Appraiser Licensing and Certification Board: Elroy Carson, Lubbock County; Clinton P. Sayers, Travis County; Dona Sherman Scurry, El Paso County; Shirley J. Ward, Brewster County.

Members, Texas Statewide Emergency Services Personnel Retirement Fund State Board of Trustees: Kyle A. Donaldson, Sutton County; Graciela G. Flores, Nueces County; Rex W. Klesel, Brazoria County.

Members, Texas Board of Professional Engineers: Jose F. Cardenas, P.E., El Paso County; Shannon K. McClendon, Hays County.

Members, Finance Commission of Texas: Mike Bradford, Midland County; Hector Delgado, Dallas County; Kenneth H. Harris, Travis County; William James White, Williamson County.

Fire Fighters' Pension Commissioner: Lisa K. Ivie Miller, Travis County.

Members, On-site Wastewater Treatment Research Council: John R. Blount, Harris County; Linda Drake, Smith County; Janet Dee Meyers, Denton County; Charles Montel Rutledge, Brazos County; Timothy N. Taylor, Nacogdoches County.

Members, Texas Underground Facility Notification Corporation Board of Directors: Joseph F. Berry, Brazoria County; Judith H. Devenport, Midland County; Janet Woodward Holland, Palo Pinto County; Dexter L. Keyes, Bell County; John W. Linton, Lubbock County.

Members, Texas State Board of Examiners of Perfusionists: Scott Bostow Johnson, Bexar County; Guadalupe M. "Lupita" Mendez, Bexar County; Sheila M. Tello, Nueces County.

Members, Texas State Board of Plumbing Examiners: Tammy Betancourt, Harris County; Louis A. "Tony" Cortes, Guadalupe County; Robert Frank Jalnos, Bexar County; Richard Allen Lord, Harris County.

Members, Texas Public Finance Authority Board of Directors: Mark A. Ellis, Harris County; Ruth Corry Schiermeyer, Lubbock County.

Members, Texas County and District Retirement System Board of Trustees: Jerry V. Bigham, Randall County; Daniel R. Haggerty, El Paso County; Jan Kennady, Comal County; Robert C. "Bob" Willis, Polk County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Lindsay gave notice that he would on Monday, February 7, 2005, at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate members of the speech and debate team from Bowie High School in Austin.

The Senate welcomed its guests.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 10:38 a.m. agreed to adjourn, in memory of Lyle L Gordon of Midlothian, upon completion of the introduction of bills and resolutions on first reading, until 1:30 p.m. Monday, February 7, 2005.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 96 by Shapleigh

Relating to the provision of online services to assist a person starting a business in this state.

To Subcommittee on Emerging Technologies and Economic Development.

SB 105 by Shapleigh

Relating to a report on the use of money from the Texas Enterprise Fund.

To Subcommittee on Emerging Technologies and Economic Development.

SB 150 by Wentworth

Relating to authorizing measures to support efforts to attract major motor sports racing events to this state.

To Subcommittee on Emerging Technologies and Economic Development.

SB 201 by Gallegos

Relating to a prohibition of discrimination by public educational institutions.

To Committee on Education.

SB 202 by Van de Putte

Relating to including lactation education in public elementary and secondary school curriculum.

To Committee on Education.

SB 203 by Van de Putte

Relating to the amount of money available to certain disabled peace officers from the compensation to victims of crime fund.

To Committee on Criminal Justice.

SB 204 by Van de Putte

Relating to additional state funding for certain juvenile justice alternative education programs.

To Committee on Education.

SB 205 by Van de Putte

Relating to inclusion of a public school student's body mass index in the student's grade report card.

To Committee on Education.

SB 206 by Van de Putte

Relating to the punishment for the offense of trafficking of persons.

To Committee on Criminal Justice.

SB 207 by Lucio

Relating to a school district policy concerning the use of school counselors' work time.

To Committee on Education.

SB 208 by Lucio

Relating to health benefit plan coverage for an enrollee with certain mental disorders, including autism or another pervasive developmental disorder.

To Committee on State Affairs.

SB 209 by Barrientos

Relating to the State Preservation Board's authority to prohibit lobbying or political activity on the Capitol grounds.

To Committee on Administration.

SB 210 by Carona

Relating to security fees in certain civil and criminal cases.

To Committee on Criminal Justice.

SB 211 by Lindsay

Relating to the eligibility of certain officers to serve as election judges or clerks.

To Committee on State Affairs.

SB 212 by Shapleigh

Relating to the provision of employment services by the Texas Workforce Commission to the families of military personnel stationed in this state.

To Committee on Veteran Affairs and Military Installations.

SB 213 by Shapleigh

Relating to requiring more Spanish language content for online services provided by state agencies.

To Committee on Government Organization.

SB 214 by Van de Putte

Relating to providing interpreter services to certain recipients of medical assistance or their parents or guardians.

To Committee on Health and Human Services.

SB 215 by Van de Putte

Relating to health benefit plan coverage for certain mental disorders in children.

To Committee on State Affairs.

SB 216 by Van de Putte

Relating to the authority of a local child fatality review team to obtain relevant records at no cost to the team.

To Committee on Health and Human Services.

SB 217 by Shapiro

Relating to reporting positive alcohol and drug tests of holders of commercial driver's licenses.

To Committee on Transportation and Homeland Security.

SB 218 by Barrientos

Relating to the coverage of certain treatments for multiple myeloma and Hodgkin's disease under an evidence of coverage issued by a health maintenance organization.

To Committee on State Affairs.

SB 219 by Carona

Relating to notaries public.

To Committee on Jurisprudence.

SB 220 by Carona

Relating to the maintenance of records by a notary public.
To Committee on Jurisprudence.

SB 221 by Zaffirini

Relating to the possession and self-administration of certain prescription medications by public school students while on school property or at a school-related event or activity.
To Committee on Education.

SB 222 by Zaffirini

Relating to exempting books purchased by university and college students from the sales tax for a limited period.
To Committee on Finance.

SB 223 by Ellis

Relating to the creation of a commission to investigate and prevent wrongful convictions.
To Committee on Criminal Justice.

SB 224 by Ellis

Relating to the eminent domain power of certain municipal management districts.
To Committee on Intergovernmental Relations.

SB 225 by Ellis

Relating to compensation for wrongful imprisonment.
To Committee on Criminal Justice.

SB 226 by Ellis

Relating to the punishment for a capital felony committed by a person who is younger than 18 years of age at the time of committing the felony.
To Committee on Criminal Justice.

SB 227 by Ellis

Relating to consideration by the Board of Pardons and Paroles of an application for a pardon based on innocence.
To Committee on Criminal Justice.

SB 228 by Ellis

Relating to the authority of the governor to grant one or more reprieves in a capital case.
To Committee on Criminal Justice.

SB 229 by Lucio, Shapleigh, Zaffirini

Relating to the Advisory Oversight Community Outreach Committee in the Department of Public Safety.
To Committee on International Relations and Trade.

SB 230 by West

Relating to regional funding of indigent health care services.
To Committee on Health and Human Services.

SB 231 by Ellis

Relating to the applicability of the death penalty to a capital offense committed by a person with mental retardation.

To Committee on Criminal Justice.

SB 232 by Ellis

Relating to the State Bar of Texas fee to provide legal services to the indigent.

To Committee on Jurisprudence.

SB 233 by Ellis

Relating to state antiquities.

To Committee on Government Organization.

SB 234 by Harris

Relating to the appointment of grand jury bailiffs in Tarrant County.

To Committee on Jurisprudence.

SB 235 by Harris

Relating to the qualifications of bailiffs and grand jury bailiffs for certain courts.

To Committee on Jurisprudence.

SB 236 by Van de Putte, Fraser

Relating to liability for certain unfair methods of competition or deceptive acts or practices in the business of insurance.

To Committee on State Affairs.

SB 237 by Carona

Relating to disclosure of the total amount of discount provided in a package arrangement by a funeral establishment, cemetery, or crematory.

To Committee on Business and Commerce.

SB 238 by Janek

Relating to training for members of the governing boards of public institutions of higher education.

To Subcommittee on Higher Education.

SB 239 by Janek

Relating to an exemption from the fee for a birth or death record requested by a law enforcement agency, a child fatality review team, or the child fatality review team committee.

To Committee on Health and Human Services.

SB 240 by Wentworth

Relating to the time allowed for execution of a search warrant issued to obtain a specimen for DNA analysis.

To Committee on Criminal Justice.

SB 241 by Wentworth

Relating to the creation of an appellate judicial system for the Third Court of Appeals District.

To Committee on Jurisprudence.

SB 242 by Wentworth

Relating to the creation of an additional judicial district in Hays County.
To Committee on Jurisprudence.

SB 243 by Wentworth

Relating to requiring disclosure of certain information about the conveyance of real property, including the purchase price of the property, for use in appraising property for taxation; providing penalties.
To Committee on Intergovernmental Relations.

SB 244 by Wentworth

Relating to priority of payment relating to property owners' association assessments.
To Committee on Intergovernmental Relations.

SB 245 by Gallegos

Relating to local government authorization of charitable solicitation by a pedestrian.
To Committee on Intergovernmental Relations.

SB 246 by Gallegos

Relating to the creation of an offense involving certain sales of tickets to events; providing a penalty.
To Committee on Business and Commerce.

SB 247 by West

Relating to permitting samples of produce at certain municipally owned farmers' markets.
To Committee on Health and Human Services.

SB 248 by West

Relating to authorizing the use of approved nonsurgical methods to sterilize dogs and cats.
To Committee on Health and Human Services.

SB 249 by West

Relating to rates for professional liability insurance for physicians and health care providers.
To Committee on State Affairs.

SB 250 by West

Relating to the information contained on a driver's license or personal identification certificate.
To Committee on Transportation and Homeland Security.

SB 251 by West

Relating to the questioning of prospective jurors during voir dire examination.
To Committee on Jurisprudence.

SB 252 by Estes, Fraser, Seliger, Shapleigh, Van de Putte

Relating to a project of a development corporation in connection with a military base or facility.
To Subcommittee on Base Realignment and Closure.

SB 253 by West, Harris

Relating to the eligibility of juvenile justice alternative education programs for free textbooks for use in the programs.

To Committee on Education.

SB 254 by Shapiro

Relating to the removal of certain restrictions imposed on the programs, enrollment, and admission policies of The University of Texas at Dallas.

To Committee on Education.

SB 255 by Carona

Relating to the removal of data from data processing equipment disposed of or transferred by state agencies.

To Committee on Government Organization.

SB 256 by Williams

Relating to the release of certain student information by a school district.

To Committee on Education.

SB 257 by Williams

Relating to the forfeiture of contraband used or intended to be used in the commission of certain criminal offenses.

To Committee on Criminal Justice.

SB 258 by Williams

Relating to the disposition of certain obscene material and child pornography.

To Committee on Criminal Justice.

SB 259 by Williams

Relating to the use of excess money in the compensation to victims of crime fund.

To Committee on Criminal Justice.

SB 260 by Williams

Relating to the division of legal fees between attorneys in different law firms.

To Committee on Jurisprudence.

SB 261 by Williams

Relating to the creation of a program to educate the public on the value of health coverage and to increase public awareness of health coverage options.

To Committee on State Affairs.

SB 262 by Williams

Relating to benefits from the Employees Retirement System of Texas for law enforcement officers commissioned by the Texas State Board of Pharmacy.

To Committee on State Affairs.

SB 263 by Williams

Relating to use of certain information relating to tax audits; providing penalties.

To Committee on Finance.

SB 264 by Williams

Relating to the authority of the Montgomery County Hospital District to issue certain bonds or incur or assume other debt.

To Committee on Intergovernmental Relations.

SB 265 by Williams

Relating to certain continuing education requirements for insurance agents.

To Committee on Business and Commerce.

SB 266 by Williams

Relating to the release of certain information regarding a workers' compensation claim.

To Committee on State Affairs.

SB 267 by Williams

Relating to the exclusion from emergency services districts of certain territory subject to ad valorem assessments.

To Committee on Intergovernmental Relations.

SB 268 by Madla, Armbrister, Duncan, Fraser, Shapleigh

Relating to the repeal of the statutory provision governing the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

To Committee on Natural Resources.

SB 269 by Madla

Relating to certain administrative fees and taxes collected by the Texas Alcoholic Beverage Commission.

To Committee on Business and Commerce.

SB 270 by Madla

Relating to mass gatherings outside the limits of a municipality.

To Committee on Intergovernmental Relations.

SB 271 by Zaffirini

Relating to the issuance of a certificate of birth resulting in stillbirth on request of a parent.

To Committee on Health and Human Services.

SB 272 by Williams

Relating to the creation of an oyster license management program.

To Subcommittee on Agriculture and Coastal Resources.

SB 273 by Shapleigh

Relating to referring a child with mental illness to an appropriate local mental health authority before completion of probation.

To Committee on Criminal Justice.

SB 274 by Barrientos

Relating to funding of the Communities In Schools program.

To Committee on Education.

SB 275 by Staples, Deuell, Eltife

Relating to authorizing The University of Texas at Tyler to offer doctoral degree programs in nursing and human resource development.

To Subcommittee on Higher Education.

SB 276 by Staples, Deuell, Eltife

Relating to authorizing The University of Texas Health Science Center at Tyler to offer courses and degree programs in allied health and related fields.

To Subcommittee on Higher Education.

SB 277 by Lucio, Shapleigh, Zaffirini

Relating to use of money in the Texas Enterprise Fund.

To Subcommittee on Emerging Technologies and Economic Development.

SB 278 by Lucio

Relating to the provision of financial assistance to counties for roadway projects serving border colonias.

To Committee on International Relations and Trade.

SB 279 by Gallegos

Relating to restrictions on the location of certain sex offenders and to notice reflecting that location.

To Committee on Criminal Justice.

SB 280 by Gallegos

Relating to an injunction to prevent violations by automotive wrecking and salvage yards in certain counties.

To Committee on Intergovernmental Relations.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 87 by West, Recognizing Jerry Cook on the occasion of his retirement from the Duncanville Independent School District.

SR 90 by Nelson, Congratulating Tammy Dombeck for being honored by the White Settlement Area Chamber of Commerce.

HCR 43 (Estes), Commemorating the 20th anniversary of the creation of the Texas Silver-Haired Legislature.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 10:50 a.m. adjourned, in memory of Lyle L Gordon of Midlothian, until 1:30 p.m. Monday, February 7, 2005.

In Memory
of
Lyle L Gordon

Senate Resolution 84

WHEREAS, The family and friends of U.S. Marine Captain Lyle L Gordon of Midlothian suffered an immeasurable loss with the death of this valiant soldier on January 26, 2005, at the age of 30; and

WHEREAS, Assigned to Marine Heavy Helicopter Squadron 361, Marine Aircraft Group 16, 3rd Marine Aircraft Wing, Captain Gordon died in the crash of a CH-53E helicopter near Ar Rutbah, Iraq; and

WHEREAS, Born on September 11, 1974, he graduated from Midlothian High School in 1993 and Texas A&M University in 1999 with a bachelor's degree in animal sciences; a member of the Corps of Cadets, the Marine Reserve, and the school's rugby team, this proud Aggie had a dream to fly since he was a small boy; and

WHEREAS, Captain Gordon attended Marine Officer Candidacy School in 1999 and served in Japan and Korea before leaving for his tour of duty in Iraq in September 2004; generous and compassionate, he volunteered at Christmastime to deliver more than 100 packages from Midlothian students to soldiers who may not have received other holiday gifts; and

WHEREAS, Our state and nation are fortunate to have men and women whose love for their country inspires them to take up military service, yet the tragic death of this exemplary young man is a sobering reminder of the cost of war; Captain Gordon embodied the highest ideals of the U.S. Armed Forces, and those who knew and loved him will forever carry him close in their hearts; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby pay tribute to the life of Captain Lyle L Gordon and extend profound sympathy to the members of his family: to his wife, Kaci Yates Gordon; to his parents, Dickey and Mary Gordon; to his brother, Boyd Gordon; and to his other relatives and friends; and, be it further

RESOLVED, That an official copy of this resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of U.S. Marine Captain Lyle L Gordon.

CARONA
AVERITT