

# Journal of the Senate

NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Friday, January 25, 2002—9:30 a.m.

The Senate was called to order by Vice-President Sandy Praeger.

The roll was called with thirty-three senators present.

Senators Allen, Brungardt, Donovan, Downey, Gilstrap, Harrington and Lee were excused.

Vice-President Praeger introduced as guest chaplain, Rev. Norton C. "Butch" Ritter, First United Methodist Church, Emporia, Kansas, who delivered the invocation:

Almighty God,

To you belong all realms, all power, all glory. Yet you delegate the power of temporal leadership to your creatures. In this nation you have given us the freedom to establish our own government, to oversee the welfare of our land and the many people it supports. Today, we pray for those whom we the people have chosen to lead us.

It is not easy for them to lead such a diverse people, whose many wants cannot all be satisfied. It is not easy to discern which actions will produce the greatest good for the greatest number. It is not easy to withstand the huge personal temptations that come with power. It is not easy to bear the extraordinary pressures in the complex world of politics.

Assist our elected leaders. Bless them with the stamina, the toughness, and the integrity to fight for what is right and honorable in your sight.

Grant our nation a succession of lawmakers and executives who have learned how to do justice, love mercy and walk humbly before you. Protect them from losing their wits, their nerve or their souls.

Help us, as citizens, to bear our share of the burden of democratic government. Make us love peace and fair-dealing. Moderate our passions with calmness and self-control. Allow us to see situations from the point of view of others that we may discern what is the common good.

Equip all civil servants with sound understanding, farsighted planning and personal integrity. Amen.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 444**, An act concerning civil procedure for limited actions; relating to evictions; form of summons; amending K.S.A. 2001 Supp. 61-3805 and repealing the existing section, by Committee on Judiciary.

**SB 445**, An act concerning civil procedure; relating to judgment liens; amending K.S.A. 2001 Supp. 60-2418 and repealing the existing section, by Committee on Judiciary.

**SB 446**, An act concerning district courts; relating to the purchase of supplies and equipment; amending K.S.A. 19-260b and repealing the existing section, by Committee on Judiciary.

**SB 447**, An act concerning the state board of healing arts; relating to compensation of review committee members and expert witnesses; amending K.S.A. 65-2016 and 65-2878a

and K.S.A. 2001 Supp. 65-2840c and repealing the existing sections, by Committee on Public Health and Welfare.

**SB 448**, An act concerning the state board of healing arts; relating to the exclusion of certain team physicians from the licensure requirement; amending K.S.A. 65-2869 and 65-2872 and repealing the existing sections, by Committee on Public Health and Welfare.

**SB 449**, An act relating to certificates of title; concerning electronic certificates of title; amending K.S.A. 8-126, 8-135, 58-4202 and 58-4204 and repealing the existing sections, by Committee on Transportation.

**SB 450**, An act relating to cigarette taxation; increasing the rate imposed thereon; amending K.S.A. 79-3310 and 79-3312 and K.S.A. 2001 Supp. 79-3311 and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 451**, An act relating to sales and compensating use taxation; increasing the rate thereof; amending K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603b, by Committee on Assessment and Taxation.

**SB 452**, An act providing for the financing for the comprehensive transportation program; concerning vehicle registration fees; relating to the taxation of motor vehicle fuels; amending K.S.A. 8-143, 8-143b, 8-143c, 8-143g, 8-143h, 8-143i, 8-143j, 8-143k, 8-172, 8-195, 8-2406, 8-2409 and 8-2425 and K.S.A. 2001 Supp. 79-3492b, 79-34,118, 79-34,141 and 79-34,142 and repealing the existing sections, by Committee on Assessment and Taxation.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 435, SB 436, SB 437, SB 438 (Separately).**

Assessment and Taxation: **SB 425.**

Education: **SB 442.**

Natural Resources: **SB 430, SB 431.**

Federal and State Affairs: **SB 439, SB 440, SB 441.**

Judiciary: **SB 432, SB 433, 434, SB 443.**

Ways and Means: **SB 426, SB 427, SB 428, SB 429, SB 438 (Separately).**

#### MESSAGE FROM THE GOVERNOR

January 24, 2002

*To the Senate of the State of Kansas:*

Submitted herewith for confirmation by the Senate are appointments made by me as Governor of the State of Kansas as of January 24, 2002, pursuant to law.

BILL GRAVES  
Governor

*Secretary, Department of Wildlife and Parks, J. Michael Hayden, pursuant to the authority vested in me by KSA 32-801, effective upon the date of confirmation by the Senate to serve at the pleasure of Governor.*

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Brownlee introduced the following Senate resolution, which was read:

Senate Resolution No. 1803—

A RESOLUTION congratulating and commending the Olathe North High School football team and Coach Gene Wier for winning the 2001 Class 6A state football championship.

WHEREAS, The Olathe North High School football team won the 2001 Kansas State High School Activities Association Class 6A 2001 state football championship with a thrilling 21-7 victory over Manhattan High School in the state championship game at Emporia on Saturday, November 17; and

WHEREAS, The Olathe North High School "Eagles" football team finished the season with a 12-0 record; and

WHEREAS, The victory over Manhattan set a school record of 25 consecutive wins and earned them the state championship for the fifth time in six years; and

WHEREAS, The Eagles' leading running back, Maurice Mack, carried the ball 35 times for 171 yards, extending his rushing total to over 2000 yards for the year 2001, and threw a touchdown pass to the Eagles' quarterback, Dallas Browning; and

WHEREAS, Coach Wier stated that although he had coached the team to five championships this one was the best; and

WHEREAS, The members of this outstanding football team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team is due to its excellent teamwork, strong competitive spirit and determination to win plus the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Olathe North High School football team and Coach Wier be congratulated and commended for winning the 2001 Kansas State High School Activities Association Class 6A state football championship; and

*Be it further resolved:* That the Secretary of the Senate be directed to send five enrolled copies of this resolution to Larry Anderson, Principal, Olathe North Senior High School, 600 E. Prairie, Olathe, Kansas 66061.

On emergency motion of Senator Brownlee **SR 1803** was adopted unanimously.

Guests introduced and welcomed were James Ater, Athletic Director, Olathe North High School; Gene Wier, Football Coach; and team members, Jonathan Lamb, Josh Carroll, Royal Whitaker, Maurice Mack and Steve Atkins.

Senator Brownlee introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1804—

A RESOLUTION congratulating and commending Coach Gene Wier.

WHEREAS, Gene Wier has been the football coach at Olathe North High School for the past 21 years and has an overall record of 175 wins and 36 losses. His teams have won 12 league titles, 11 district titles and 5 state titles, including the 2001 Class 6A football championship. His teams have had four undefeated seasons, 24 consecutive wins in 1996-1997 and 25 consecutive wins from 1999 through the 2001 season; and

WHEREAS, He has coached four Simone Award winners, which award is given to the top prep football player in the Kansas City area and has coached two 2,000 yard rushers, Darren Sproles and Maurice Mack, who are the only Sunflower League players ever to rush for 2,000 yards in a season; and

WHEREAS, Coach Wier has been named as the Chiefs and Metro Sports Kansas Coach of the year the past two seasons: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Coach Wier upon the great record he has compiled while being the football coach at Olathe North High School; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Coach Gene Wier, Olathe North Senior High School, 600 E. Prairie, Olathe, Kansas 66061.

On emergency motion of Senator Brownlee **SR 1804** was adopted unanimously.

Senator Brownlee again recognized Coach Wier and congratulated him for his outstanding career.

Senators Haley and Gooch introduced the following Senate resolution, which was read:

SENATE RESOLUTION NO. 1805—

A RESOLUTION honoring Langston Hughes upon the centennial of his birth.

WHEREAS, Langston Hughes was born in Joplin, Missouri, on February 1, 1902. He was raised by his mother, Carrie Hughes, after his parents separated, and lived in Lawrence, Topeka and Kansas City before moving to Ohio at the age of 12. He started writing poetry while in the eighth grade and was voted the Class Poet by his high school senior class. Sent by his father to Columbia University to study engineering, he quit college shortly thereafter upon the publication of his famous poem, "The Negro Speaks of Rivers." Subsequently, he traveled to Senegal, Nigeria, Cameroon, Belgium, Congo, Angola, Guinea, Italy, Russia, France, and Spain before finally settling in Harlem, New York, in 1924; and

WHEREAS, Hughes' astounding literary works inspired and transformed the consciousness of the Harlem Renaissance. Between 1924 and his death on May 22, 1967, he wrote sixteen books of poems, two novels, three collections of short stories, four volumes of "editorial" and "documentary" fiction, twenty plays, children's poetry, musicals and operas, three autobiographies, a dozen radio and television scripts, and dozens of magazine articles. In addition, he edited seven anthologies; and

WHEREAS, The State of Kansas recognizes and honors Mr. Hughes' lifelong struggle to fight racism and social injustice. Through his writings and lectures, he relentlessly attacked segregation and reshaped Afro-centric thought around the world; and

WHEREAS, The University of Kansas will celebrate the art and legacy of America's premier public poet by sponsoring the Langston Hughes Symposium on February 7-10, 2002. This centennial celebration of his birth will include a three-day symposium of scholars and performance artists from around the world who will explore themes related to Hughes' life, work and influence. Subsequently, a year-long series of events are planned to promote reading, listening and appreciating poetry; and

WHEREAS, The United States Postal Service will be issuing a memorial Langston Hughes stamp in conjunction with the National Park Service and with input from the Kansas Fever Committee: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we honor Langston Hughes upon the centennial year of his birth and encourage participation in the University of Kansas Symposium in his name; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Robert Hemenway, Chancellor, University of Kansas, 230 Strong Hall, Lawrence, Kansas 66044-1063; the Kansas Fever Committee, 901 S.W. Tyler, No. 111, Topeka, Kansas 66612; plus a copy to Senator Gouch and four copies to Senator Haley. On emergency motion of Senator Gooch **SR 1805** was adopted unanimously.

Senators Hensley, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1806—

A RESOLUTION in memory of Antonio Gutierrez.

WHEREAS, Antonio A. Gutierrez, 70, of Topeka, died Friday, December 28, 2001. He was a letter carrier for 32 years and subsequently served as the postmaster at the Kansas legislative post office in the state capitol; and

WHEREAS, Mr. Gutierrez was born in Topeka on October 25, 1931. He was a member of the Sacred Heart Catholic Church. He served in the United States Air Force during the Korean War. Mr. Gutierrez was a member of the National Association of Letter Carriers, Branch 10, a charter member of both the Topeka Jazz Workshop and the Oakland Optimist Club, and was a volunteer at St. Francis Hospital and the Topeka and Shawnee County Public Library; and

WHEREAS, Mr. Gutierrez was preceded in death by his first wife and a son, Vincent Gutierrez. He married Pauline Palacio on February 27, 1960, in Topeka. She survives. Other survivors include four daughters, two sons, two sisters and 13 grandchildren; and

WHEREAS, Mr. Gutierrez will be remembered as a dedicated public servant in the capitol post office and as a devoted husband and father: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we extend our deepest sympathy to the family of Antonio Gutierrez; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Mrs. Antonio Gutierrez, 201 N.E. Freeman Avenue, Topeka, Ks. 66616 and 11 copies to Senator Hensley. On emergency motion of Senator Hensley **SR 1806** was adopted unanimously.

Senator Hensley welcomed and introduced Tony's wife, Pauline Gutierrez, accompanied by family members, Lisa Gutierrez-Houser, Lori Wickliffe, Kevin Wickliffe, Lauren

Wickliffe, Sean Wickliffe, Lydia Schmidt, Kevin Schmidt, Stephen Schmidt, Isabel Schmidt, Mary Schmidt, Claire Schmidt, Ronald Gutierrez, Monica Gutierrez Anthony Gutierrez, Amy Gutierrez, Edward Gutierrez, Jessica Gutierrez, Antonio Gutierrez II, Robert Gutierrez, Christina Gutierrez and Emily Gutierrez.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 397** be amended on page 4, in line 17, by striking “serviced” and inserting “served”;

On page 6, in line 32, by striking “communications” and inserting “telecommunications”;

On page 7, in line 10, by striking “communications” and inserting “telecommunications”;

On page 9, in line 6, by striking “a” where it appears for the last time; in line 24, by striking “franchise”; also in line 24, after “contract” by inserting “franchise”; in line 26, by striking “restrictions” and inserting “regulations”;

On page 10, after line 29, by inserting the following:

“(s) Subsections (c) through (r) apply only to telecommunications local exchange service providers.”;

On page 12, in line 4, by striking “and” where it appears for the last time and inserting “or”; in line 16, by striking “restrictions” and inserting “regulations”;

On page 13, in line 38, by striking “contracts” and inserting “contractors”; and the bill be passed as amended.

#### REPORT ON ENROLLED BILLS

**SR 1803**, **SR 1804** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 25, 2002.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Monday, January 28, 2002.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

