

# Journal of the Senate

SEVENTEENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 4, 2004—2:30 p.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with forty senators present.

Vice President Vratil introduced as guest chaplain, Rev. Bill Thomas, Stony Point Christian Church, Kansas City, Kansas, who delivered the invocation:

Dear Heavenly Father,

We humbly bow before you in these halls of power to recognize you as our leader, our creator and our God. We know the truth of what you spoke to your people long ago when you said, "If my people who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then I will hear from heaven and I will forgive their sin and I will heal their land." We have come to do that today, Heavenly Father. We do seek your face and pray. We ask you to forgive us our sin and heal our land.

Father, we pray that you would bless these men and women assembled. May they sense your Spirit as they make decisions that affect all of us. Though there are differences in party and background, may they find a sense of unity in purpose and calling. In times of struggle and difficulty, Father, we know that our greatest strength is our faith; faith in You; faith in Your Son Jesus Christ and faith in our fellow man. We pray today, as the disciples did long ago, "Lord, increase our faith."

Father, may this day's activities be pleasing and acceptable in Your sight. May you be honored by all these assembled. We pray these things in the name of the one who is the Way, the Truth and the Life. It is in Jesus' name we pray, Amen.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 435**, An act concerning income taxation; relating to credits for contributions to community service organizations; addiction recovery and crime prevention facilities; amending K.S.A. 79-32,194 and K.S.A. 2003 Supp. 79-32,195, 79-32,196, 79-32,197, 79-32,197a and 79-32,198 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 436**, An act concerning civil procedure; relating to limitations on actions; amending K.S.A. 60-523 and repealing the existing section, by Committee on Judiciary.

**SB 437**, An act concerning civil procedure; relating to small claims; amending K.S.A. 61-2706 and K.S.A. 2003 Supp. 61-2703 and 61-2713 and repealing the existing sections, by Committee on Judiciary.

**SB 438**, An act concerning crimes and punishment; creating the crime of automated teller machine robbery; aggravated automated teller machine robbery, by Committee on Judiciary.

**SB 439**, An act concerning payday loans; pertaining to loan amounts and fees therefor; amending K.S.A. 2003 Supp. 16a-2-404 and repealing the existing section, by Committee on Financial Institutions and Insurance.

**SB 440**, An act concerning employment security law; relating to rating successor employers; amending K.S.A. 2003 Supp. 44-704b, 44-706, 44-709, 44-710 and 44-710a and repealing the existing sections, by Committee on Commerce.

**SB 441**, An act concerning workers compensation; relating to the date of accident; amending K.S.A. 2003 Supp. 44-508 and repealing the existing section, by Committee on Commerce.

**SB 442**, An act concerning fees for services provided by the state treasurer's office; establishing the treasurer services reimbursement fund, by Committee on Ways and Means.

**SB 443**, An act concerning the behavioral science regulatory board; relating to disciplinary authority; amending K.S.A. 65-5809, 65-6311, 74-5324, 74-5369, 74-7507 and 74-7508 and repealing the existing sections; also repealing K.S.A. 65-6318, 74-5335 and 74-5343, by Committee on Public Health and Welfare.

**SB 444**, An act concerning sales taxation; relating to destination sourcing rules; amending K.S.A. 2003 Supp. 12-191, 79-3603, 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682 and repealing the existing sections; also repealing K.S.A. 2003 Supp. 79-3603c, by Committee on Assessment and Taxation.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 428**.

Elections and Local Government: **SB 434**.

Judiciary: **SB 429, SB 430, SB 431, SB 432, SB 433**.

Public Health and Welfare: **SB 425, SB 426**.

Ways and Means: **SB 427**.

#### REFERRAL OF APPOINTMENTS

The following appointment made by the Governor and submitted to the senate for confirmation, was referred to Committee as indicated:

*Adjutant General:*

Colonel Tod M. Bunting, to serve at the pleasure of the Governor.  
(Federal and State Affairs)

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2522, HB 2528, HB 2549**.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2522, HB 2528, HB 2549** were thereupon introduced and read by title.

#### CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

*Kansas Racing and Gaming Commission:*

Carol H. Sader, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Racing and Gaming Commission:*

Stanley M. Teeter, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Securities Commission, Commissioner:*

Chris Biggs, to serve at the pleasure of the Governor.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Technology Enterprise Corporation, Board of Directors:*

Edmond (Ted) Q. Haggart, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Technology Enterprise Corporation, Board of Directors:*

Gerald D. Loper, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Technology Enterprise Corporation, Board of Directors:*

Linda L. Reinhardt, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Kansas Water Authority, Chairperson:*

Steve Irsik, to serve at the pleasure of the Governor.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-

skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Public Employee Relations Board:*

Kenneth W. Gorman, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*Public Employee Relations Board:*

H. Wayne Maichel, to fulfill an unexpired term, ending March 15, 2005.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Banking Board:*

Mark C. Parman, to serve a term of 3 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Banking Board:*

Jane S. Schnellbacher, to serve a term of 3 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Banking Board:*

Joseph A. Smith, to serve a term of 3 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Board of Indigents' Defense Services:*

Lawrence P. Daniels, to serve a term of 3 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Board of Regents:*

Janice B. DeBauge, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Board of Regents:*

Frank D. Gaines, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

*State Board of Regents:*

Nelson Galle, to serve a term of 4 years.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

#### **FINAL ACTION ON CONSENT CALENDAR**

**SB 306, SB 340** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**SB 306**, An Act repealing K.S.A. 74-8840; relating to certain audits of the accounts and transactions of the racing and gaming commission.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 340**, An act concerning insurance; relating to risk-based capital requirements; amending K.S.A. 2003 Supp. 40-2c01 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 295, SB 307, SB 311, SB 323, SB 324, SB 338** were considered on final action.

**SB 295**, An act concerning certain boards; relating to the terms of members thereof; amending K.S.A. 2-3709 and K.S.A. 2003 Supp. 76-3304 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 307**, An act concerning sales taxation; relating to countywide retailers' sales tax in Clay county; amending K.S.A. 2003 Supp. 12-187 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 311**, An act concerning insurance; relating to the issuance of insurance policies in a foreign language; amending K.S.A. 40-216 and K.S.A. 2003 Supp. 40-2404 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 323**, An act concerning the state general fund; relating to revenue estimates; amending K.S.A. 2003 Supp. 75-6701 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 324**, An act concerning the courts; relating to appellate jurisdiction; amending K.S.A. 60-2102 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 324**. This bill would expedite the appeals process in the district court's decision of December 2, 2003, which held the Kansas school finance law was unconstitutional.

However, I strongly believe the Legislature should not hide behind this bill as a way of ignoring our most important constitutional duty — to adequately and equitably fund public education.

We cannot ignore this duty because the reality of our current situation is not good. Teacher salaries have dropped to 41st in the nation, many school districts are unable to provide their employees health insurance, the achievement gap is ever-increasing, and more and more of our students are at risk of failing or dropping out.

We cannot ignore our duty unless we would rather spend the taxpayers' money in the courtroom, not the classroom; unless we would rather spend their money on litigation, not on education.

Mr. President, we cannot hide behind this bill, but rather we must act now in this session to provide for adequate and equitable funding for public education. We must act now, not because a judge tells us we must, but because it is the right thing to do. — ANTHONY HENSLEY

Senators Adkins, Downey, Gilstrap and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 324**.

I vote yes on **SB 324**.

Passage of this bill allows the appeals process to function at an accelerated pace. This is important to provide sufficient time for this Legislature to act responsibly as we consider the court's opinions and seek to address the issue of public education financing.

This bill is not an easy escape route designed to avoid dealing with school finance. Quite the contrary, I expect this bill to serve as a conduit for quick action by the court and the clarification of one of the most important issues in state government.

Judge Bullock's unusual decision to refuse to allow for an immediate appeal seems to be an attempt to force his will on the legislative branch. We must fulfill our constitutional responsibilities in an orderly manner.

This is a complex issue. For example, despite comments by various leaders to the contrary, the evidence shows the achievement gap is narrowing, not widening. Rhetoric must give way to facts and common sense.

**SB 324** will allow us to get to the business of handling the school finance issue in a more fair and reasonable time frame, sooner rather than later.—DAVE KERR

MR. PRESIDENT: **SB 324** has my affirmative vote for passage because it will help move the appeal process regarding finances for our public schools. There are 25 states that are engaged in lawsuits across the country concerning their finance formulas; Kansas deserves to have its "day in court" as the legislature meets the challenge of funding a suitable education for its students.—LANA OLEEN

**SB 338**. An act concerning liens; pertaining to the perfection of certain liens; amending K.S.A. 2003 Supp. 58-244 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 305** be amended on page 3, by striking all in lines 28 through 31 and inserting the following:

“(33) (A) Counties may not exempt from or effect changes in the Kansas liquor control act, except as provided by paragraph (B).

(B) Counties may adopt resolutions which do not conflict with or are more restrictive than or supplemental to the Kansas liquor control act.

(34) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act, except as provided by paragraph (B).

(B) Counties may adopt resolutions which do not conflict with or are more restrictive than or supplemental to the Kansas cereal malt beverage act.”;

On page 4, in line 4, preceding “Except” by inserting “(a)”; also in line 4, by striking “delegated” and inserting “provided”; in line 14, by striking all following “is”; in line 15, by striking “mental” and inserting “in conflict with or contrary”; in line 17, preceding “Nothing” by inserting “(b)”; preceding line 25, by inserting the following:

“(c) Nothing in this section shall be construed as prohibiting cities and counties from enacting ordinances and resolutions which are not in conflict with or more restrictive than or supplemental to the Kansas liquor control act.

(d) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.”;

On page 7, in line 38, by striking all following “premises”; in line 39, by striking all preceding the period; in line 41, by striking “resi-”; in line 42, by striking “dence” and inserting “residency”; in line 43, by striking all following “section”;

On page 8, by striking all in line 1; in line 2, by striking all preceding the comma; in line 7, by striking “such township is” and inserting “the premises for which licensure is sought are”; in line 18, by striking “township” and inserting “county”; in line 23, by striking “within such township”; in line 24, by striking “in which such township is located”; in line 26, by striking all following “director”; in line 27, by striking “township”;

On page 9, in line 38, by striking “\$.18” and inserting “\$.30”; also in line 38, by striking “\$.20” and inserting “\$.334”; in line 39, by striking “\$.10” and inserting “\$.167”; in line 40, by striking “\$.30” and inserting “\$.60”; also in line 40, by striking “\$.75” and inserting “\$.1.50”; in line 42, by striking “\$.2.50” and inserting “\$.4.00”;

On page 11, in line 16, by striking “ $\frac{1}{10}$ ” and inserting “6.25%”;

On page 12, preceding line 10, by inserting the following:

“New Sec 8. On June 1, 2004, a tax at the rate of \$.12 per gallon on all beer and cereal malt beverage, \$.30 per gallon for wine containing 14% or less of alcohol by volume, \$.75 per gallon for wine containing more than 14% of alcohol by volume, \$1.50 per gallon on alcohol and spirits, \$.134 per gallon on wort and liquid malt, and \$.067 per pound of malt syrup and malt extract, is hereby imposed on the manufacture, use, sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on June 1, 2004, by a licensed distributor or retail dealer as to which the tax has been imposed as provided in K.S.A. 41-501, and amendments thereto. Such tax shall be paid by the licensed distributor or retail dealer owning such alcoholic liquors, cereal malt beverage or beer at such time and date. On or before June 25, 2004, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such alcoholic liquors, cereal malt beverage or beer so owned at 12:01 a.m. on June 2, 2004, and such report shall be accompanied by a remittance of the tax due.

The license of any licensed distributor or retail dealer who fails to make such report or pay such tax, within the time prescribed, shall be subject to suspension or revocation as provided by K.S.A. 41-320, and amendments thereto. All taxes collected by the director under this section shall be paid into the state treasury and the state treasurer shall credit the same to the state general fund.”;

By renumbering sections accordingly;

Also on page 12, in line 43, by striking “10” and inserting “11”;

On page 13, in line 4, by striking “a reso-”; in line 5, by striking “lution” and inserting “an ordinance”; in line 7, by striking “resolution” and inserting “ordinance”; in line 8, by striking “res-”; in line 9, by striking “olution” and inserting “ordinance”; in line 11, by striking “resolution” and inserting “ordinance”; in line 13, by striking “resolution” and inserting “ordinance”;

On page 16, in line 37, by striking “15” and inserting “16”;

On page 17, in line 2, by striking all following “is”; in line 3, by striking “or supplemental” and inserting “in conflict with or contrary”; preceding line 5, by inserting the following:

“(c) Nothing in this section shall be construed as prohibiting cities and counties from enacting ordinances and resolutions which are not in conflict with or more restrictive than or supplemental to the Kansas cereal malt beverage act.

(d) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.”;

On page 18, in line 12, by striking all following “(h)”; by striking all in line 13; in line 14, by striking all preceding “retailer” and inserting “A”; in line 16, preceding the period, where it appears for the last time, by inserting “. if such sales have been approved as provided by section 11 or 16, and amendments thereto”; by striking all in lines 24 through 43;

On page 19, by striking all in lines 1 through 12 and inserting the following:

“Sec. 17. K.S.A. 41-2727 is hereby amended to read as follows: 41-2727. (a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under the legal age for consumption of cereal malt beverage to violate the provisions of ~~K.S.A. 41-2701, et seq.~~ *the Kansas cereal malt beverage act*, and amendments thereto, in order to develop a program or system which determines and encourages compliance with the provisions thereof prohibiting the furnishing or sale of cereal malt beverages to a person under the legal age for consumption of cereal malt beverage or the consumption of cereal malt beverages by such persons.

(b) No person shall engage or direct a person under the legal age for consumption of cereal malt beverage to violate any provision of ~~K.S.A. 41-2701 et seq.~~ *the Kansas cereal malt beverage act*, and amendments thereto, for purposes of determining compliance therewith unless such person is:

(1) An officer having authority to enforce the provisions of ~~K.S.A. 41-2701 et seq.~~ *the Kansas cereal malt beverage act*, and amendments thereto;

(2) an authorized representative of the attorney general, a county attorney or a district attorney; or

(3) a licensee under the provisions of ~~K.S.A. 41-2701, et seq.~~ *the Kansas cereal malt beverage act*, and amendments thereto, or such licensee’s designee pursuant to a self-compliance program designed to increase compliance with the provisions of ~~K.S.A. 41-2701 et seq.~~ *the Kansas cereal malt beverage act*, and amendments thereto, if such program has been approved by the director.

(c) *The governing body of any city and the board of county commissioners of any county which issues or renews licenses under the Kansas cereal malt beverage act shall develop and implement a program or system which determines and encourages compliance with the provisions of the Kansas cereal malt beverage act prohibiting the furnishing to or sale of cereal malt beverages to a person under the legal age for consumption of cereal malt beverage or the consumption of cereal malt beverages by such persons. Under such program or system, each retailer shall be subject to at least one compliance check each calendar quarter. Compliance checks may be conducted in coordination with the division of alcoholic beverage control or with the retailer under a self-compliance program approved by the governing body of the city or the board of county commissioners.”;*

Also on page 19, in line 14, by striking “and 41-2704” and inserting “, 41-2704 and 41-2727”;

On page 1, in the title, in line 11, by striking “and 41-2704” and inserting “, 41-2704 and 41-2727”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 298** be amended on page 1, in line 18, by striking all after “no”; in line 19, by striking “docketed” and inserting “garnishment shall be issued”; in line 21, after “to” by inserting “the clerk of the district court for remittance to”; in line 22, by striking “state general” and inserting “judicial branch”; after line 22, by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 61-3502 is hereby amended to read as follows: 61-3502. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person

can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) Except as otherwise provided by law, no garnishment shall be issued under article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court for remittance to the state treasurer. The state treasurer shall deposit and credit the fees to the judicial branch fund.

New Sec. 3. There is hereby created the judicial branch fund. The state treasurer shall deposit moneys, in accordance with K.S.A. 2003 Supp. 60-729 and 61-3502, and amendments thereto, to the judicial branch fund. All expenditures from the judicial branch fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the supreme court or by a person or persons designated by the chief justice.”;

And by renumbering sections accordingly;

Also on page 1, in line 23, by striking “is” and inserting “and 61-3502 are”;

In the title, in line 10, after “60-729”, by inserting “and 61-3502”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Also **SB 315** be amended on page 1, in line 15, by striking “No” and inserting “In any action pursuant to article 16 chapter 60 of the Kansas Statutes Annotated, and amendments thereto, no”; in line 18, by striking all after “\$21”; by striking all in line 19; in line 20, by striking “July 1, 2005,”; and the bill be passed as amended.

#### REPORT ON ENROLLED BILLS

**SR 1807, SR 1808** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 4, 2004.

#### COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Umbarger in the chair.

On motion of Senator Umbarger the following report was adopted:

Recommended **SB 352, SB 353** be passed.

**SB 292, SB 368** be amended by adoption of the committee amendments, and the bills be passed as amended.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 292, SB 352, SB 353, SB 368** were advanced to Final Action and roll call.

**SB 292**, An act concerning fire protection; authorizing payment for acquisition, installation or maintenance of fire hydrants by fire districts and townships; amending K.S.A. 2003 Supp. 12-3915, 19-3601a, 19-3612e, 19-3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-1913, 80-1917 and 80-1921 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 352**, An act concerning weights and measures; relating to installation of scales by service companies; amending K.S.A. 83-301 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 353.** An act concerning agriculture; relating to noxious weeds; sericea lespedeza disaster area; amending K.S.A. 2003 Supp. 2-1315, 2-1908 and 2-1915 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 368.** An act concerning motor vehicle fuel taxes; relating to claims for refunds; amending K.S.A. 79-3458 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, February 5, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

