

Approved March 7, 1991  
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at  
Chairperson

1:00 ~~xxx~~ a.m./p.m. on Monday, March 4, 1991 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department  
Ms. Avis Swartzman, Revisor of Statutes  
Mr. Dale Dennis, Assistant Commissioner of Education  
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

SB 96 - School districts, educator excellence recognition award program  
Ms. Pat Baker, Associate Executive Director, General Counsel, Kansas  
Association of School Boards  
Ms. Brilla Scott, Associate Executive Director, United School Administrators  
of Kansas

Opponents:

Mr. Chuck Tilman, President of Kansas-National Education Association

After calling the meeting to order, the Chair called upon Ms. Pat Baker, associate executive director, Kansas Association of School Boards. Ms. Baker stated that her organization supports SB 96, because it "provides one more avenue to encourage our teaching staffs". (Attachment 1)

Ms. Brilla Scott, associate executive director, United School Administrators of Kansas, urged passage of SB 96 on behalf of her organization, because "educators will receive tangible encouragement to continue their outstanding teaching, while others will be prompted to work toward improved classroom performance". (Attachment 2)

In his testimony against passage of SB 96, Mr. Chuck Tilman, president of Kansas-National Education Association, stated that "the exclusion of educators' input in the development of such an awards program by removing it from the negotiations process will provide no constructive improvement within the school setting". (Attachment 3)

After the Chair called for further testimony on SB 96, he declared that the hearing on SB 96 was concluded and that the bill would be taken under advisement.

The Chair then asked the Committee to turn its attention to SB 26, relating to school finance.

SB 26 - School districts, finance. Re Proposal No. 35.

The Chair reviewed the components of SB 26 which, the Chairman said, had been agreed upon tentatively by the Committee at its previous meeting: 1) District wealth, and 2) the definition of 4th Enrollment Category. He then opened the floor for discussion and/or action on the 30-mill minimum tax levy, the third of four basic components contained in SB 26, as described by the Chairman.

The revisor distributed copies of a draft (PAS26j3), Attachment 4, for a proposed amendment she had prepared at the request of Senator Parrish and explained the amendment to the Committee.

Senator Parrish, responding to the Chairman's request, explained that the objective of her proposed amendment to SB 26 is to reduce state Categorical Aid Entitlements for districts levying less than 3/5 of the state median levy.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,  
room 123-S Statehouse, at 1:00 ~~am~~/p.m. on Monday, March 4, 19 91

Mr. Dale Dennis, staff, responding to a question regarding Senator Parrish's proposed amendment, said that, based on the current year, the amendment could cause a \$4million tax increase statewide.

Replying to a question relating to increased statewide property taxes based on the 30-mill minimum mill levy, Mr. Dennis estimated a "ball park" figure in the \$15million range.

Senator Montgomery distributed copies of Bill Draft PAS26j2, Attachment 5, for a proposed amendment which, he said, he would like the Committee to consider. Senator Montgomery explained that his proposed amendment would add a surtax to the individual income tax (Attachment 5, page 4), (PAS26j2). Senator Montgomery said he felt that most people are leaning towards an income tax as a way to raise new revenue for schools. He estimated that his proposed 15% surtax would generate about \$120million. Senator Montgomery said he was trying to address the small business property tax situation. He informed members that he would like the substance of his proposed amendment to become part of the school finance formula.

Senator Parrish moved that the Committee adopt the substance of Bill Draft PAS26j3, Attachment 4, as an amendment to SB 26. Senator Karr seconded the motion. Following a call for a division (five yeas and three nays), the Chair ruled that the amendment was adopted.

Senator Montgomery moved to further amend SB 26 as stated in Bill Draft PAS26j2, Attachment 5. Senator Allen seconded the motion, but the Chair ruled that the amendment was not adopted.

When the Chair asked if there were any further proposals for amendments to SB 26 relating to the 30-mill minimum tax levy, there was no response.

The Chair then announced that the last component of SB 26 to be considered by the Committee is budget lids, and he reminded members that the budget limitations are set at 102% and 106% in SB 26, as recommended by the Special Committee on School Finance.

Senator Montgomery moved to amend SB 26 by establishing budget limitations at 100% and 103%. Senator Frahm seconded the motion. Replying to a question, Mr. Dennis, staff, estimated that budget lids of 100% and 103% could cause property taxes to increase by about \$140million. When the Chair called for the question, the Chair ruled that the amendment was not adopted.

Replying to another question, Mr. Dennis, staff, estimated taxes could increase by \$150million with budget lids of 101% and 103%

Senator Allen moved that budget limitations be set at 101% and 103%. Senator Kerr seconded the motion. Following a call for a division, the Chair ruled that the amendment was adopted.

When the Chair called for further dicussion and/or action on SB 26, Senator Parrish moved to amend SB 26 by including in it the language found in New Sec. 8., page 13, of SB 110, the Governor's proposal for school finance. Senator Parrish explained that she would like to include this section in SB 26 in the event that new moneys might be available. Senator Parrish's motion was seconded by Senator Karr, but the Chair ruled that the motion died due to a tie vote.

When the Chair called for a vote on SB 26, Senator Anderson moved that SB 26, as amended, be recommended favorably for passage. Senator Karr seconded the motion, and the motion carried.

The Chair informed members that the Committee would convene again today upon adjournment in room 254-E, and he adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 123-S DATE: Monday, March 4, 1991

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
John Marshall	Topeka	Harris News Service
Joe Cur	Lawrence	LDK
Ron Hein	Topeka	Mesa
Jim Youally	Overland Park	USD #512
Selen Stephens	P.V.	USD #229
Pat Baker	Topeka	KASB
Jim Emerit	INDEPENDENCE	Ks. St. Bd of Ed.
Connie Hubbell	Topeka	SD Bd of Ed
Ann L Burnett	Topeka	USD 501 #
Nerise Apt	Topeka	USD #500
Dan Rhodes	TOPEKA	DAB
Grilla Highfile Scott	Topeka	USA
Bernie Koca	Wichita	Wichita Chamber
Judith Stucky	Burlington	USD 244
Larry Clark	Burlington, KS	USD 244
Colby Y. Wader	Colby, Ks.	Colby Ambassador
Robin Nicholas	Wichita	USD 259
Richard Ford	Colby	Colby Ambassadors
Matt Hamell	Colby 67701	Colby Ambassador
Robert Diller	Merks, Ks	
Bruce Besch	Colby	Colby Ambassador
Dan Haas	Overland Park	KCPK
TREVA POTTEN	TOPEKA	PEOPLES NAT. GAS
RANDY GORDON	LAWRENCE	Rep. Freeman

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 123-S DATE: Monday, March 4, 1991

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
HAROLD PITTS	Topeka	KWTA
Jacques Dates	Topeka	SQE
J. Bob	Topeka	44th Street USD's
Veryl Peter	Topeka	KSDE
CHUCK STUFAST	TOPEKA	U.S.A.



Testimony on S.B. 96  
before the  
Senate Committee on Education

by

Patricia E. Baker  
Associate Executive Director/General Counsel  
Kansas Association of School Boards

March 4, 1991

Thank you, Mr. Chairman, Committee members. I appreciate the opportunity to appear in support of Senate Bill 96.

As everyone in education is searching for ways to improve our schools, the provisions of Senate Bill 96 would provide one piece of improvement. Recognition of excellent performance including monetary rewards are well established motivators in employer/employee relations. Schools have sought the ability to reward employees for outstanding performance.

By its very nature, collective bargaining has a "leveling effect." It addresses neither the best nor the worst of teaching abilities or efforts. Poor teachers may be "evaluated" into improvement or alternative careers. Average teachers benefit the most from the provisions of a negotiated agreement. How are we to give recognition to our best? A pat on the back is nice, but financial reward is certainly a visible sign of recognition and appreciation.

EDUC  
1 P.M., 3/4/91  
A1-1

As we in Kansas look to performance based education and means for improved student performance, the provisions of Senate Bill 96 provide just one more avenue to encourage our teaching staffs. Thank you.

EDUC  
1 p.m., 3/4/91  
A1-2



**SB 96**  
**ESTABLISHMENT OF EDUCATOR EXCELLENCE RECOGNITION PROGRAMS**

**Testimony presented before the Senate Education Committee**

by  
**Brilla Highfill Scott, Associate Executive Director**  
**United School Administrators of Kansas**

**March 4, 1991**

**Mister Chairman and Members of the Senate Education Committee:**

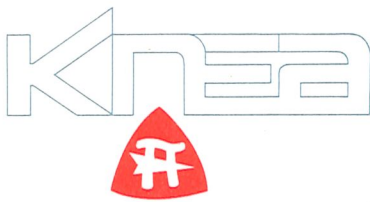
United School Administrators supports SB 96 which establishes educator excellence recognition award programs. This bill makes it possible for boards of education to recognize and make cash awards for outstanding teaching in their schools.

Business and industry have been successful in utilizing the cash incentive method of acknowledging quality performance. With the passage of this legislation, you will provide boards of education with needed flexibility outside the negotiated agreement. In turn, educators will receive tangible encouragement to continue their outstanding teaching while others will be prompted to work toward improved classroom performance.

United School Administrators of Kansas urges your support of SB 96.

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EDUC.  
1 P.M., 3/4/91  
A2



Chuck Tilman Testimony before the  
Senate Education Committee  
Monday, March 4, 1991

Thank you, Mr. Chairman. I am Chuck Tilman, President of Kansas-NEA. I appreciate this opportunity to visit with the committee about SB 96.

Kansas-NEA opposes SB 96. With one exception, that portion of the bill designated as Section 2.(d), all of the actions defined within this bill may be established under current provisions of the law. A school district may establish and maintain an award program which identifies, recognizes and makes cash awards to employees of a school district, using whatever criteria they choose, for whatever amounts it chooses. This may all be done within the framework of the negotiations process.

It is this last concept which is the major difference between current provisions of the law and what this bill proposes. Section 2.(d) of this proposal specifically excludes the development of an awards program from the professional negotiations process.

Kansas-NEA members are adamant in their belief that any merit pay plan, no matter what title it is given, can be established in local school districts only through the collective bargaining process. In addition, they are opposed to any such plan being implemented in a district until a base salary and salary schedule have been established which is appropriate for the professional services and training of the educator. As Kansas educators' salaries slip further and further behind in comparison to those of their colleagues across the nation, it is obvious that legislative efforts need to be focused upon raising the pay of all persons in the profession. To do

EDUC  
1 P.M., 3/4/91  
A 3-1



otherwise is detrimental not only to educators, but the entire educational process.

Kansas-NEA further believes that merit pay plans should set clearly defined and objective criteria by which all educators can attain and advance within the system. Given the current and projected financial conditions of local school districts, the imposition of the proposed plan would artificially limit the number of recipients.

We further believe that after such a merit pay plan is negotiated, educators must be given a majority voice in the program development and selection process. However, the opportunity for classroom educators to have any voice has been specifically excluded from this proposed legislation.

This legislation ignores one of the few recommendations which is consistent within the various education reform reports and proposals - the increased involvement of teachers within all the decision-making processes in education. The exclusion of educators' input in the development of such an awards program by removing it from the negotiations process will provide no constructive improvement within the school setting.

Kansas-NEA believes that current legislation already allows the objectives of this proposal to be implemented. We believe that the negotiations process is the proper vehicle for the development of any such plan. For these reasons, we do not believe that the SB 96 should be enacted.

Thank you for listening to our concerns.

EDUC  
1 P.M., 3/4/91  
A3-2

## Proposed Amendment to Senate Bill No. 26, As Amended

Insert the following subsection in K.S.A. 72-7055:

"(g) (1) In addition to the amounts authorized to be budgeted and expended under the provisions of this section in any school year, each district to which the provisions of this subsection apply shall budget for operating expenses an amount equal to the difference between the estimated amount which will be produced by the district's estimated general fund tax levy and the estimated amount which would be produced by a general fund tax levied at  $3/5$  of the mill rate which the state board estimates will be the median general fund tax levy mill rate of all districts for the school year or an amount equal to the amount of categorical state aid which the state board estimates the district will be entitled to receive for the school year, whichever is the lesser amount.

(2) In each school year, the state board shall determine the amount of categorical state aid entitlements of each district to which the provisions of this subsection apply. If the amount of categorical state aid entitlements of a district is in excess of the amount budgeted under provision (1), the state board shall deduct an amount equal to the budgeted amount from the amount of categorical state aid to which the district is entitled. Any amount remaining in the school district income tax fund at the conclusion of the school year as a result of the effectuation of this subsection shall be transferred to the state general fund.

(3) Any amount budgeted by a district under provision (1) may be expended for operating expenses in the school year in which budgeted, but no such amount shall be included in the legally adopted budget of operating expenses of the district for the purpose of determination of local effort rate under K.S.A. 72-7045, and amendments thereto, or general state aid under K.S.A. 72-7043, and amendments thereto, nor shall any such amount be included in the budget of operating expenses per pupil of the district for the purposes of this section in the next succeeding

EDUC  
1p.m. 3/4/91  
A4-1

school year.

(4) All amounts estimated by the state board under the provisions of this subsection shall subsequently be adjusted to reflect actual amounts. If, as a result of any estimate made by the state board under this subsection, any district is paid more categorical state aid than it is entitled to receive, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund. If any such district fails so to remit, the state board shall deduct the excess amounts so paid from future payments of categorical state aid becoming due to such district. If any district is paid less categorical state aid than it is entitled to receive, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

(5) For the purposes of this subsection, the term categorical state aid means and includes state transportation aid, state aid entitlements for food service, bilingual education, inservice education, driver training, and parent education programs, and entitlements of districts to payments from the school district income tax fund.

(6) The provisions of this subsection apply to every district which the state board estimates will have a general fund tax levy mill rate for the school year which is less than  $\frac{3}{5}$  of the mill rate which the state board estimates will be the median general fund tax levy mill rate of all districts for the school year. In estimating general fund tax levy mill rates, the state board shall take into consideration the amounts authorized to be budgeted under all other subsections of this section.";

On page 12, in line 3, by striking "shall" and inserting "may"; in line 5, by striking "a" and inserting "that"; in line 8, by striking all before "and" and inserting "district's legally

EDUC

1 p.m. 3/4/91

A4-2

adopted budget of operating expenses which is not financed from any other source provided by law"; in line 12, by striking all after the period; by striking all of lines 13 through 30; in line 36, by striking all after "district"; in line 37, by striking all before the comma; by striking all of lines 41, 42 and 43;

On page 13, by striking all of lines 1 and 2

EDUC  
1 p.m 3/4/91  
A4-3

## Proposed Amendment to Senate Bill No. 26

On page 14, following line 19, by inserting four new sections as follows:

"Sec. 10. K.S.A. 79-32,105 is hereby amended to read as follows: 79-32,105. (a) The director shall pay to the state treasurer of-the-state daily the entire amount collected during the preceding day, under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the "Kansas income tax act" and the state treasurer shall credit the same, less amounts withheld as provided in subsection (b), ~~which~~ and less amounts shall--be credited to the school district ad valorem tax reduction fund as provided in subsection (c), to the state general fund.

(b) A revolving fund, designated as "income tax refund fund" not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds and for the payment of interest as provided in subsection ~~(e)~~ (f). The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) The state treasurer shall credit the entire amount attributable to the school district ad valorem tax reduction portion of the amount paid as provided in subsection (a) to the school district ad valorem tax reduction fund.

~~(e)~~ (d) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. Upon receipt of

1 PM 3/4/91  
A5-1

such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer's tax liability in the taxpayer's next succeeding taxable year.

(d) (e) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) (f) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a

EDUC  
1 AM. 3/4/91  
A5-2

net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises. For purposes of this paragraph, the return for the loss year shall not be deemed to be filed before claim for such overpayment is filed;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a tax return which is filed after the last date prescribed for filing such return, determined with regard to extensions, no interest shall be allowed or paid for any period before the date on which the return is filed;

(6) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(7) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due

EDUC  
1pm 3/4/91  
A5-3

thereon, is deposited in the United States mail.

Sec. 11. K.S.A. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) Resident Individuals. Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, ~~which tax.~~ Such tax shall consist of a normal tax and a school district ad valorem tax reduction tax and shall be computed in accordance with the following tax schedules:

(1) Married individuals filing joint returns.

If the taxable income is:	The <u>normal</u> tax is:
Not over \$35,000 .....	3.65% of Kansas taxable income
Over \$35,000 .....	\$1,278 plus 5.15% of excess over \$35,000

The school district ad valorem tax reduction tax is 15% of the amount of the normal tax

(2) All other individuals.

If the taxable income is:	The <u>normal</u> tax is:
Not over \$27,500 .....	4.5% of Kansas taxable income
Over \$27,500 .....	\$1,238 plus 5.95% of excess over \$27,500

The school district ad valorem tax reduction tax is 15% of the amount of the normal tax

In lieu of the tax schedules hereinbefore prescribed, any individual taxpayer who elects to deduct federal income tax liability as defined by K.S.A. 79-32,120, and amendments thereto, from Kansas adjusted gross income, shall compute tax liability in accordance with the following tax schedules:

(3) Married individuals filing joint returns.

If the taxable income is:	The <u>normal</u> tax is:
Not over \$20,000 .....	4.75% of Kansas taxable income
Over \$20,000 but not over \$35,000 .....	\$950 plus 5% of excess over \$20,000
Over \$35,000 but not over \$45,000 .....	\$1,700 plus 8.5% of excess over \$35,000

EDUC  
1 P.M. 3/4/91  
A5-4



Over \$45,000 ..... \$2,550 plus 8.75% of excess over \$45,000

The school district ad valorem tax reduction tax is 15% of the amount of the normal tax

(4) All other individuals.

If the taxable income is:	The <u>normal</u> tax is:
Not over \$2,000 .....	4.75% of Kansas taxable income
Over \$2,000 but not over \$10,000 .....	\$95 plus 5.6% of excess over \$2,000
Over \$10,000 but not over \$20,000 .....	\$543 plus 5.75% of excess over \$10,000
Over \$20,000 but not over \$30,000 .....	\$1,118 plus 8.5% of excess over \$20,000
Over \$30,000 .....	\$1,968 plus 8.75% of excess over \$30,000

The school district ad valorem tax reduction tax is 15% of the amount of the normal tax

(b) Nonresident Individuals. A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, ~~which.~~ Such tax shall be an amount equal to the normal tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) Corporations. A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax, and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4 1/2% of the Kansas taxable income of such corporation; and

(2) the surtax shall be in an amount equal to 2 1/4% of the Kansas taxable income of such corporation in excess of \$25,000.

(d) Fiduciaries. A tax is hereby imposed upon the Kansas taxable income of estates and trusts. Such tax shall be computed at the rates provided in paragraph (2) of subsection (a) hereof for computation of the normal tax.

New Sec. 12. (a) There is hereby established the school

EDUC  
1 PM 3/4/91  
A5-5

district ad valorem tax reduction fund which shall consist of all amounts credited to such fund under the provisions of K.S.A. 79-32,105, and amendments thereto. For taxable year 1992, and each taxable year thereafter, each school district is entitled to an amount equal to the amount attributable to the portion of the school district ad valorem tax reduction tax that was collected from residents of the school district. On July 1 of each year, commencing on July 1, 1993, the secretary of revenue shall certify to the state board of education the entitlements of school districts for distribution thereto. Such certification shall be based on state income tax returns filed and attributed to each district, with any adjustments or corrections made by the director of taxation. The state board shall distribute the total amount in the fund to school districts. Each school district shall be paid the amount of the district's entitlement as prescribed and certified under the provisions of this subsection.

(b) The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each school district upon vouchers approved by the state board of education. Upon receipt of such warrant, each district treasurer shall credit the amount thereof to the general fund of the school district.

(c) The general fund tax levy of each school district upon taxable tangible property located within such district shall be reduced by an amount equal to the amount distributed to the school district pursuant to this section.

New Sec. 13. The provisions of K.S.A. 79-32,105 and 79-32,110, as amended by this act, shall be applicable to all taxable years commencing after December 31, 1991.";

By renumbering sections 10, 11 and 12 as sections 14, 15 and 16, respectively;

Also on page 14, in line 23, after "K.S.A.", by inserting "79-32,105 and 79-32,110 and K.S.A.";

In the title, in line 11, after "K.S.A.", by inserting "79-32,105 and 79-32,110 and K.S.A."

EDUC  
1 PM 3/4/91  
A5-6