

**LOUISIANA STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION**

**APRIL 27, 2009**

**The Louisiana Purchase Room  
Baton Rouge, LA**

The Louisiana State Board of Elementary and Secondary Education met in special session on April 27, 2009, in the Louisiana Purchase Room, located in the Claiborne Building in Baton Rouge, Louisiana. The meeting was called to order at 9:15 a.m. by Board President Keith Guice.

Board members present were: Mr. Dale Bayard, Mr. John Bennett, Ms. Glenny Lee Buquet, Ms. Penny Dastugue, Mr. Jim Garvey, Ms. Louella Givens, Mr. Keith Guice, Ms. Linda Johnson, Mr. Walter Lee, Ms. Tammie McDaniel, and Mr. Chas Roemer.

Agenda Item 3      On motion of Mr. Lee, seconded by Ms. Johnson, the Board approved the agenda as printed and disseminated, with the addition of Emergency Agenda Items 11 – 14. (Schedule 1)

Agenda Item 4      On motion of Mr. Lee, seconded by Ms. Johnson, the Board approved the minutes of March 12, 2009, amending page 30 as follows:

~~On motion of Ms. Givens, seconded by Mr. Bennett, the Board directed that Comment Cards not be made available at Board meetings.~~

On motion of Mr. Lee, seconded by Ms. Johnson, the Board approved as Notice of Intent revisions to the Louisiana Administrative Code, Title 28, Part I, Section 713. Public Comments, to repeal the following notation:

NOTE: It should be noted that BESE meetings, while open to the public, are not public hearing forums; therefore, public comments shall be allowed at the discretion of the presiding officer or chair, subject to the provisions provided herein.

Mr. Roemer stated that Board meetings are public meetings and comments must be allowed. He stated that the length of comments could be limited, but comments cannot be prohibited. He stated that is law.

Mr. Lee requested that the BESE Legal/Policy Advisor review the Board's policy and Louisiana law pertaining to public comments and present his findings to the Board.

(Schedule 2)

The Board agreed to take Agenda Items 12, 13, and 6 out of order.

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Mr. Guice introduced Superintendent Lloyd Lindsey's wife, Marsha; his son, Lile; and his daughter-in-law, Libby.

Agenda Item 12 On motion of Ms. Johnson, with a unanimous second, the Board adopted the following Resolution:

A RESOLUTION

WHEREAS, Lloyd Lile Lindsey, Junior, came from a family with a tradition in education - his father, Lloyd Lindsey, Senior, and his first cousin, Clyde Lindsey, having both served as East Baton Rouge Parish Superintendent of Schools; and

WHEREAS, Lloyd Lindsey, Junior, started his own career in education as a substitute schoolteacher in Louisiana upon returning from service with the United States Marine Corps in the Vietnam War; and

WHEREAS, Mr. Lindsey later went on to become Headmaster of the Wilkinson County Christian Academy in Woodville, Mississippi, serving in that role from 1980 to 1993; and

WHEREAS, In 1993, Mr. Lindsey became Superintendent of Schools for Louisiana's West Feliciana Parish, and served in that position until his untimely passing on April 15, 2009; and

WHEREAS, Under his guidance, the West Feliciana Parish School System, consistently ranked in the top-five systems statewide in District Performance Scores; and

WHEREAS, Superintendent Lindsey served the education community in a wide array of capacities, was named State Superintendent of the Year by his colleagues in 2003, and was recently selected to chair the School and District Accountability Commission; and

WHEREAS, In addition to his professional duties, he also found time to be a Sunday School teacher, a fire commissioner, and a farmer who could till the soil behind a mule-drawn plow.

(Continues on page 3)

NOW, THEREFORE, BE IT RESOLVED by the Louisiana State Board of Elementary and Secondary Education and the Louisiana Department of Education, on this 27th day of April, 2009, that they recognize Lloyd Lile Lindsey, Junior, for his unsurpassed devotion to educating young people.

L. Keith Guice  
Board President

Paul G. Pastorek  
State Superintendent of Education

(Schedule 3)

Agenda  
Item 13

On motion of Ms. Johnson, with a unanimous second, the Board adopted the following Resolution:

A RESOLUTION

WHEREAS, On April 15, 2009, the West Feliciana Parish School Board lost its longtime Superintendent, Lloyd L. Lindsey, Junior, due to his untimely demise; and

WHEREAS, West Feliciana Parish will long remember the energy, leadership, and stewardship of Superintendent Lindsey; and

WHEREAS, Under the guidance of Superintendent Lindsey, the West Feliciana Parish Public Schools achieved at a superior level, consistently ranking in the top five school districts in the state during the last decade; and

WHEREAS, Those outside the borders of West Feliciana Parish, owe a debt of gratitude for the efforts of Superintendent Lindsey toward improving education statewide, by his unselfish service on bodies such as the School and District Accountability Commission; and

WHEREAS, During this time of transition for the West Feliciana Parish Public School system, issues might arise on which that system may wish to seek the input of the Louisiana Board of Elementary and Secondary Education and the Louisiana Department of Education.

(Continues on page 4)

NOW, THEREFORE, BE IT RESOLVED by the Louisiana State Board of Elementary and Secondary Education and the Louisiana Department of Education, on this 27th day of April, 2009, that they pledge to provide such assistance and support to the West Feliciana Parish School Board as that Board and its staff may find useful and appropriate.

L. Keith Guice  
Board President

Paul G. Pastorek  
State Superintendent of Education

(Schedule 4)

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Public comments regarding 2009 legislation were received from: Ms. Gayle Sloan, Superintendent of the St. Tammany Parish School System and President of the Louisiana Association of School Superintendents; Mr. Barry Erwin, Citizens for a Better Louisiana; Mr. Tom Tate, Louisiana Association of Educators; Senator Bob Kostelka, Senate District 35; Mr. Nolton Senegal, Louisiana School Boards Association; Ms. Alison Ocmann, Louisiana Federation of Teachers; Dr. Noel Hammatt, Louisiana School Boards Association; Mr. Bill Jongbloed, Member of the Calcasieu Parish School Board; Mr. Michael Deshotels, concerned citizen; Mr. Randy Pope, Louisiana Association of School Superintendents; Dr. Gary Jones, Superintendent of the Rapides Parish School System; and Ms. Nash Molpus, Cowen Institute, Tulane University.

Agenda  
Item 6

**Consideration of 2009 Legislation**

(Schedule 5)

6-1 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported House Bill No. 87, which prohibits the delivery of lewd or lascivious communications to juveniles, including textual, visual, written, or oral communications.

6-2 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported House Bill No. 274, which increases fine and imprisonment if the battery of a school teacher requires medical attention.

6-3 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported House Bill No. 476, which raises the age of prohibited sexual contact between an educator and a student from 19 to 21 and requires an age difference of greater than 4 years; expands the crime of unlawful presence

(Motion continues on page 5)

of a sexually violent predator to apply to child care facilities and family child care centers; creates the crime of unlawful participation in a child-related business and the crime of contributing to the endangerment of a minor; and provides relative to the conditions of probation, parole, or suspension of sentence for convicted sex offenders with respect to volunteer work activities.

- 6-4 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported, with amendments, House Bill No. 688, which creates the crime of unlawful disruption of the operation of a school.

Amendments are as follows:

- Needs to define “intimidate,” “harass,” and “violate, disrupt, or interfere with the operation of a school.” The language as written is overly broad.

- 6-5 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported House Bill No. 731, which provides relative to the habitual absence and tardiness of students, including penalties for violations by parents and legal guardians/custodians of such students including fines, school or community service, attendance in parenting classes and family counseling programs, and the suspension of state-issued recreational licenses.

- 6-6 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported House Bill No. 741, which provides relative to the hiring of employees by local public school boards and the disclosure of information of certain instances of sexual misconduct, abuse, and neglect relative thereto.

- 6-7 On motion of Ms. Dastugue, seconded by Ms. Buquet, the Board supported Senate Bill No. 94, which creates the crime of molestation of a juvenile involving an educator.

- 6-8 On motion of Mr. Roemer, seconded by Ms. Buquet, the Board supported House Bill No. 371, which amends nepotism provisions relative to employees of school boards.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. McDaniel, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Givens, Ms. Johnson, Mr. Lee, and Mr. Guice.

The motion passed.

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Ms. Dastugue offered a motion, seconded by Mr. Roemer, that the Board support House Bill 664.

Discussion followed.

Ms. Givens offered a substitute motion, seconded by Ms. Johnson, that the Board direct the Department to confer with the maker of House Bill 664 and suggest that the bill be amended so that there are staggered term limits on city, parish, and other local public school boards with no more than 50% of the board standing for election at any one time.

Discussion followed.

Mr. Lee offered a substitute motion, seconded by Mr. Bayard, that the Board support House Bill 664, adding staggered term limits and that term limits be established for other elected positions that do not require constitutional amendment to do so.

Discussion followed.

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A Roll Vote was taken on Mr. Lee's substitute motion that the Board support House Bill 664, adding staggered term limits and that term limits be established for other elected positions that do not require constitutional amendment to do so.

Yeas: Mr. Bayard and Mr. Lee.

Nays: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. Givens, Ms. Johnson, Ms. McDaniel, Mr. Roemer, and Mr. Guice.

The motion failed.

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A Roll Call Vote was taken on Ms. Givens' substitute motion that the Board direct the Department to confer with the maker of House Bill 664 and suggest that the bill be amended so that there are staggered term limits on city, parish, and other local public school boards with no more than 50% of the board standing for election at any one time.

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Yeas: Mr. Bayard, Ms. Givens, Ms. Johnson, and Mr. Lee.

Nays: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. McDaniel, Mr. Roemer, and Mr. Guice.

The motion failed.

- 6-9 On motion of Ms. Dastugue, seconded by Mr. Roemer, the Board supported House Bill No. 664, which provides term limits for members of city, parish, and other local public school boards.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. McDaniel, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Givens, Ms. Johnson, Mr. Lee, and Mr. Guice.

The motion passed.

- 6-10 On motion of Mr. Roemer, seconded by Ms. Dastugue, the Board supported House Bill No. 808, which provides relative to compensation of and benefits for members of local school boards.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. McDaniel, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Givens, Ms. Johnson, Mr. Lee, and Mr. Guice.

The motion passed.

- 6-11 On motion of Ms. Dastugue, seconded by Mr. Roemer, the Board supported House Bill No. 851, which provides relative to the powers, duties, functions, and responsibilities of city, parish, and other local public school boards; provides relative to prohibitions on the involvement of members of local boards in certain administrative/personnel matters; provides that certain violations shall constitute malfeasance in office; provides for the transfer of certain authority to the local superintendent; and provides for two-thirds vote of the board for hiring or removal of a local superintendent.

A Roll Call Vote was taken.

(Motion continues on page 8)

Yeas: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, Ms. McDaniel, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Givens, Ms. Johnson, Mr. Lee, and Mr. Guice.

The motion passed.

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Ms. Buquet stated that the body of legislation regarding local boards and superintendents has caused much consternation across the state. She stated that she would like to say to her constituents, as well as to all present, that nothing that she has seen in this body of reform gives more power to BESE, as has been stated by some school board members; it gives no new powers to the State Superintendent, as far as she has been able to read. Ms. Buquet stated that Representative Harrison's bill (House Bill No. 496) gives the State Superintendent more power than anything that has been put on here. She stated that she thinks that there is nothing in this body of bills that asks local school boards to act any differently than BESE does. BESE does not hire or fire the Louisiana Department of Education personnel. Ms. Buquet stated that these bills put local school boards much more in line with the way BESE operates, and she does not see that as a bad thing. She stated that there is nothing that says that a good school board member has to change the way he/she operates; there is nothing that says that a good school is being reprimanded. Ms. Buquet stated that she thinks that there has been a lot of hype that comes from emotions and not from the head, and she requested that everyone take that into consideration.

6-12 On motion of Ms. Johnson, seconded by Mr. Bayard, the Board supported House Bill No. 612 and Senate Bill No. 259, which provide relative to the high school career option program, contingent upon the Chair of the High School Redesign Committee, the Chair of the Student/School Performance and Support Committee, the BESE President, and the authors of the bills reaching agreement on amendments.

A Roll Call Vote was taken.

Yeas: Mr. Bayard, Ms. Givens, Ms. Johnson, Mr. Lee, Ms. McDaniel, and Mr. Guice.

Nays: Mr. Bennett, Ms. Buquet, Ms. Dastugue, Mr. Garvey, and Mr. Roemer.

The motion passed.

The Board recessed for lunch at 12:20 p.m. and reconvened at 1:02 p.m.

- 6-13 Ms. Johnson offered a motion, seconded by Ms. Dastugue, that the Board support House Bill No. 498, which permits a local superintendent of schools to provide services, contractual or otherwise, to the State Department of Education, BESE, the RSD, or any combination of such entities.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Dastugue, Mr. Garvey, Ms. Johnson, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Givens, Mr. Lee, and Mr. Guice.

The motion failed for lack of six favorable votes.

The Board took no further action on House Bill No. 498.

- 6-14 On motion of Ms. Johnson, seconded by Mr. Garvey, the Board opposed House Bill No. 496, which abolishes BESE; transfers board duties, functions, and responsibilities to the State Superintendent; and provides for the Superintendent to be appointed by the governor.

- 6-15 On motion of Ms. Johnson, seconded by Ms. Dastugue and Ms. Givens, the Board opposed House Bill No. 508, which requires annual performance evaluations for certain public officials, including the State Superintendent of Education, the Deputy Superintendent, and the Superintendent for Management and Finance.

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Ms. Givens offered a motion, seconded by Mr. Bayard, that the Board support House Bill No. 595.

Discussion followed.

A Roll Call Vote was taken on Ms. Givens' motion to support House Bill No. 595.

Yeas: Ms. Givens.

Nays: Mr. Bayard, Mr. Bennett, Ms. Dastugue, Mr. Garvey, Ms. Johnson, Mr. Lee, Mr. Roemer, and Mr. Guice.

The motion failed.

6-16 On motion of Mr. Garvey, seconded by Ms. Johnson, the Board opposed House Bill No. 595, which provides for a required education program for certain unclassified officials (including the State Superintendent of Education, the Deputy Superintendent, the Superintendent for Management and Finance, and each assistant superintendent) and employees and ties compensation to the conduct of certain duties.

Ms. Givens was recorded as being opposed to the motion.

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Ms. Dastugue offered a motion, seconded by Mr. Garvey, that the Board oppose House Bill No. 839.

Discussion followed.

Mr. Bayard offered a motion, seconded by Mr. Lee, that the Board take no position on House Bill No. 839 until the bill can be amended and revisited.

A Roll Call Vote was taken on Mr. Bayard's substitute motion to take no position on House Bill No. 839 until the bill can be amended and revisited.

Yeas: Mr. Bayard, Mr. Lee, and Mr. Guice.

Nays: Mr. Bennett, Ms. Dastugue, Mr. Garvey, Ms. Givens, Ms. Johnson, Ms. McDaniel, and Mr. Roemer.

The motion failed.

6-17 On motion of Ms. Dastugue, seconded by Mr. Garvey, the Board opposed House Bill No. 839, which requires the State Superintendent of Education to possess certain qualifications at the time of appointment by BESE.

A Roll Call Vote was taken.

Yeas: Mr. Bayard, Mr. Bennett, Ms. Dastugue, Mr. Garvey, Ms. Givens, Ms. Johnson, Ms. McDaniel, Mr. Roemer, and Mr. Guice.

Nays: None.

Abstains: Mr. Lee.

The motion passed.

- 6-18 On motion of Ms. Johnson, seconded by Ms. Dastugue, the Board supported House Bill No. 852, which repeals some boards and commissions and like entities, including the Adult Learning Task Force, the Louisiana Educational Assessment Testing Commission, the interim school board for the Central Community School System, the Louisiana Council on Obesity Prevention and Management, and the Governor's Council on Physical Fitness and Sports (but not the rest of R.S. 17:51 regarding required physical activity in schools), the HIPPY Advisory Board (but not the HIPPY coordinator), and the Process Technology Advisory Board.
- 6-19 On motion of Ms. Johnson, seconded by Ms. Dastugue, the Board supported House Bill No. 687, which prohibits the practice of dentistry in schools.
- 6-20 On motion of Ms. Johnson, seconded by Ms. Dastugue, the Board supported House Bill No. 176, which permits a child who is in at least the ninth grade and is less than 15 years of age to participate in the classroom instruction component of the driver education program operated by BESE and the State Department of Education.
- 6-21 On motion of Ms. Johnson, seconded by Ms. McDaniel, the Board opposed, unless amended, House Bill No. 308, which provides for participation in a dual enrollment program at postsecondary education institutions by certain high school students enrolled in BESE-approved nonpublic schools or BESE-approved home study programs.

Amendment is as follows:

- The bill should state that only residual funds available after all public school students are serviced can be made available to nonpublic and home school students.

A Roll Call Vote was taken.

Yeas: Mr. Bayard, Mr. Bennett, Ms. Dastugue, Ms. Givens, Ms. Johnson, Mr. Lee, Ms. McDaniel, and Mr. Guice.

Nays: Mr. Garvey and Mr. Roemer.

The motion passed.

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On motion of Ms. Johnson, seconded by Ms. Givens, the Board amended the agenda to add Agenda Item 15, "Consideration of a discussion regarding the replacement of the BESE Executive Director."

There was no opposition to the motion.

6-22 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board opposed House Bill No. 400, which provides relative to required physical activity for students.

6-23 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board supported, if amended, Senate Bill No. 285, which provides for a comprehensive system of articulation and transfer of credit between and among public secondary and postsecondary educational institutions. It was noted that the Department will work with the author of the bill on suggested amendments. The amendments may address:

- Convening all practitioners/postsecondary partners to discuss the seamless transition from secondary to postsecondary.
- Aligning all industry-based certifications for teachers.
- Providing for teacher obtainment of industry-based certifications prior to student obtainment.
- Encouraging more students that are trained for industry-based certifications to consider dual enrollment/advanced placement opportunities.

6-24 On motion of Ms. Dastugue, seconded by Ms. Givens, the Board supported, if amended, Senate Bill No. 316, which provides for a comprehensive approach to improving graduation rates and ensuring college and career readiness for high school students. It was noted that the Department will work with the author of the bill on suggested amendments. The amendments may address:

- 80 percent graduation target.
- Making requirements of the State Superintendent of Education that he does not have the authority to do by law.

6-25 On motion of Ms. Dastugue, seconded by Mr. Roemer, the Board opposed House Bill No. 721, which provides relative to special educational services.

- 6-26 On motion of Ms. Givens, seconded by Mr. Lee, the Board opposed House Bill No. 179 and House Bill No. 440, which provide relative to requirements for pupil progression, with the understanding that the State Superintendent of Education will inform the authors of the bills that the Board and Department are already considering policy amendments that would have the same intent.
- 6-27 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board opposed House Bill No. 209, which provides that certain LEAP test requirements shall not be applicable to students with exceptionalities, with the understanding that the State Superintendent of Education will inform the authors of the bills that the Board and Department are already considering policy amendments that would have the same intent.
- 6-28 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board opposed House Bill No. 495, which exempts from transfer to RSD a high school that meets the following criteria:
- is located in a parish with a population between 120,000 and 145,000 people;
  - has a student population of 313;
  - in August 2008, received an "academically unacceptable" rating for the 4<sup>th</sup> consecutive year;
  - in February 2009, was approved by BESE to remain under local jurisdiction pursuant to an MOU; and
  - in 2008, had a SPS of 22.4.
- 6-29 On motion of Ms. Dastugue, seconded by Ms. Givens, the Board supported House Bill No. 752, which allows the Recovery School District (RSD) to enroll certain students in a virtual or cyber school or educational program at the request of a parent/legal guardian, if there is sufficient capacity at the appropriate grade level.
- Ms. Givens was recorded as being opposed to the motion.
- 6-30 On motion of Ms. Dastugue, seconded by Ms. McDaniel, the Board opposed, unless amended, House Bill No. 848, which provides relative to reductions to the Recovery School District's annual appropriation for certain retiree health care costs and allocation of the amount reduced. Further, the Board granted the State Superintendent of Education authority to negotiate and develop a position for BESE after conferring with the Chair of the State Authorized School Oversight Committee and the Board President.

6-31 On motion of Ms. Johnson, seconded by Mr. Garvey, the Board supported, as amended, House Bill No. 570, which provides relative to policies, procedures, and practices at public elementary and secondary schools concerning electronic communications by an employee at a school to a student at that school.

Amendments are as follows:

- It is overly broad in providing that electronic communication between a school employee and a student relative to educational services can only be by a means provided by or otherwise made available by the school system for this purpose and that any electronic communication between a school employee and a student using a means other than one provided by or otherwise made available by the school system shall be reported by the employee and that failure to so report shall constitute a willful neglect of duty.
- It should be within the discretion of the local board to establish exceptions.

6-32 On motion of Ms. Dastugue, seconded by Ms. Givens, the Board supported House Bill No. 571, which abolishes corporal punishment in schools.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Dastugue, Mr. Garvey, Ms. Givens, Ms. Johnson, and Mr. Roemer.

Nays: Mr. Bayard, Ms. Lee, Ms. McDaniel, and Mr. Guice.

The motion passed.

6-33 On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board supported, as amended, House Bill No. 590, which provides educational stability for children in foster care.

Amendments are as follows:

- Page 2, Lines 16-18; the designated location, from which the school district provides transportation to and from, shall be within the school district in which the child is enrolled and determined to be appropriate by such governing authority and the Department of Social Services.
- Transportation will be at the expense of the Department of Social Services as defined by the LEA.

- 6-34 On motion of Ms. Johnson, seconded by Mr. Roemer, the Board supported Senate Bill No. 223, which provides relative to the removal of students from the classroom for certain inappropriate behavior and for parental notification; allows for the assignment of missed school work and for receiving credit for same.
- 6-35 On motion of Ms. Johnson, seconded by Ms. McDaniel, the Board supported House Bill No. 187, which provides relative to the approval by certain persons of proposals to create Type 3 or Type 4 charter schools by means of converting preexisting public schools.
- 6-36 Ms. Givens offered a motion, seconded by Ms. Dastugue, that the Board support House Bill No. 519, which provides relative to the fee that a chartering authority may charge a school for certain administrative overhead costs incurred by the authority.
- Yeas: Ms. Dastugue, Mr. Lee, Ms. McDaniel, and Mr. Guice.
- Nays: Mr. Bayard, Mr. Garvey, Ms. Givens, and Mr. Roemer.
- The motion failed for lack of six favorable votes.
- The Board took no further action on House Bill No. 519.
- 6-37 On motion of Ms. McDaniel, seconded by Ms. Dastugue, the Board supported Senate Bill No. 146, which provides relative to charter schools.
- A Roll Call Vote was taken.
- Yeas: Mr. Bayard, Ms. Dastugue, Mr. Garvey, Mr. Lee, Ms. McDaniel, Mr. Roemer, and Mr. Guice.
- Nays. Ms. Givens and Ms. Johnson.
- The motion passed.
- 6-38 On motion of Ms. Johnson, seconded by Mr. Garvey, the Board supported House Bill No. 112, which includes nonresident aliens holding J-1 visas who teach in Louisiana public schools through a J-1 exchange visitor program to be included in the definition of teacher for purposes of TRSL.
- 6-39 On motion of Ms. Johnson, seconded by Ms. Givens, the Board opposed House Bill No. 156, which requires TRSL membership for charter school employees.

- 6-40 On motion of Ms. Johnson, seconded by Ms. Givens, the Board supported House Bill No. 651, which provides that an employer who hires a retired bus driver must pay its pro rata share of any actuarial cost in aggregate attributable to the reemployment of such bus driver (as opposed to current law, which requires all of the actuarial costs) and requires that such payment be made not later than June 30<sup>th</sup> following the approval of the Public Retirement Systems' Actuarial Committee's actuarial report (as opposed to current law, which requires payment before the driver again retires).
- 6-41 On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board opposed, unless amended, House Bill No. 114, concerning the Teachers' Retirement System of Louisiana, which provides relative to rehired retirees.

Amendments are as follows:

- Current law states: "During the period of his return to active service, the retiree and his employer shall make contributions to the retirement system as provided by this Chapter, but the retiree shall receive no additional service credit nor accrue any additional retirement benefits in the retirement system. Upon termination of such active service, the member shall, upon application, be refunded the employee contributions paid since reemployment. The refund shall be without interest. The retirement system shall retain the employer contributions". This bill states that this portion of the law "shall not apply to any retiree who is reemployed in any position other than that of classroom teacher offering instructional services to students." This would seem to indicate that such retirees could earn additional service credit and accrue additional retirement benefits in TRSL. Clarity is needed as to the author's intent.
- This bill also states that a retiree who is reemployed by an employer in the TRSL system in any position other than as a classroom teacher offering instructional services to students cannot be paid more than would be paid by that particular employer to a classroom teacher offering instructional services to students with zero experience and a bachelor's degree. This means that there is a salary cap on a board hiring a TRSL retiree in an administrative position or any other position other than that of classroom teacher offering instructional services to students. This section should be amended to allow the local system to set the appropriate salary for a person employed in an administrative position.

(Motion continues on page 17)

- Further, the proposed language states that any employment contract with such a retiree, "including but not limited to a written contract containing performance objectives pursuant to R.S. 11:444, shall reflect the salary limitation provided for in this Paragraph". R.S. 11:444 makes no reference to contracts or performance objectives. The correct citation is R.S. 17:444 concerning promotions to, and employment into, positions of higher salary (although, given the salary limitation, the employment would not, in fact, be to a position of higher salary).

6-42 On motion of Ms. Johnson, seconded by Ms. McDaniel, the Board supported House Bill No. 354, which extends the length of time relative to the utilization of design-build contracts.

6-43 On motion of Ms. Givens, seconded by Mr. Garvey, the Board supported, as amended, House Bill No. 689, which creates the Louisiana Statewide Education Facilities Fund.

Amendments are as follows:

- Needs to specify purpose/use of the fund.
- Should include an appropriation of at least \$40,000.

Ms. McDaniel and Ms. Dastugue were recorded as being opposed to the motion.

6-44 On motion of Ms. Givens, seconded by Mr. Garvey, the Board supported, as amended, Senate Bill No. 90, which establishes and provides for the Louisiana Statewide Education Facilities Authority within the Department of Education for the purpose of providing funding, coordination, assistance, and oversight for the repair, renovation, and construction of public school facilities.

Amendments are as follows:

- Needs to specify purpose/use of the fund.
- Should include an appropriation of at least \$40,000.

Ms. McDaniel and Ms. Dastugue were recorded as being opposed to the motion.

6-45 On motion of Ms. Givens, seconded by Ms. Johnson, the Board opposed House Bill No. 27, which authorizes handgun permit holders to carry concealed weapons on the campus of a college or university or a postsecondary vocational-technical school.

6-46 On motion of Ms. Givens, seconded by Ms. Johnson, the Board opposed House Bill No. 218, which provides for twice a year inspection and operation of fire safety and prevention equipment at public elementary and secondary schools.

6-47 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board supported, as amended, House Bill No. 47, which establishes minimum academic eligibility requirements for participation by certain students in interscholastic athletics and other extracurricular activities.

Amendments are as follows:

- Require the LHSAA to gradually increase the GPA to 2.0.
- Require BESE to implement the same GPA requirements for public school students participating in other extracurricular activities.

6-48 On motion of Ms. McDaniel, seconded by Mr. Guice, the Board opposed House Bill No. 531, which provides eligibility for certain home study students to participate in public school interscholastic extracurricular activities.

Ms. Dastugue and Mr. Garvey were recorded as being opposed to the motion.

6-49 On motion of Ms. Givens, seconded by Ms. McDaniel, the Board supported, as amended, House Bill No. 525, which provides for a salary supplement to teachers employed in economically distressed public school systems.

Amendment is as follows:

- Amend bill to be effective upon availability of funding.

6-50 On motion of Ms. Givens, seconded by Ms. McDaniel, the Board supported House Bill No. 621, which provides relative to the certification of foreign associate teachers.

6-51 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board supported House Bill No. 767, which provides relative to beverages offered for sale to students in public high schools.

Mr. Guice was recorded as being opposed to the motion.

6-52 On motion of Ms. Givens, seconded by Mr. Garvey, the Board supported, as amended, Senate Bill No. 309, which provides for health-related fitness assessments to determine physical fitness levels of students in schools.

Amendments are as follows:

- Page 1, Line 10 - replace "pilot program" with "statewide expansion program."
- Page 2, Line 3 - replace "sixty-four parishes" with "sixty-nine local education agencies (LEAs)."
- Page 2 Line 9 - replace "pilot" with "expansion."
- Page 2 Line 24 - replace "pilot" with "expansion."
- Page 3 - delete Lines 11 and 12; replace with "Not later than September 1 of each year, the Department of Education in collaboration with the University of Louisiana at Lafayette Cecil J. Picard Center shall provide an annual report concerning the implementation of the physical fitness assessment to the State Board of Elementary and Secondary"; Lines 13 to 15 remain unchanged.
- Page 3 Line 23 - after "Council" and before "shall", add "in consultation with the Department of Education, Department of Health and Hospitals, and the University of Louisiana at Lafayette Cecil J. Picard Center."

6-53 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board supported House Bill No. 442, which transfers the Motorcycle Safety, Awareness, and Operator Training Program to the Department of Public Safety and Corrections (DPSC).

6-54 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board supported House Bill No. 535, which establishes a statewide council within the Health Works Commission overseeing the coordination of resources involving medical simulation training centers.

6-55 On motion of Ms. Dastugue, seconded by Mr. Garvey, the Board supported House Bill No. 576, which authorizes the State Superintendent of Education to set certain fees and rates for the Cecil J. Picard Educational and Recreational Center, subject to BESE approval.

6-56 Ms. Dastugue offered a motion, seconded by Ms. McDaniel, that the Board support House Bill No. 821, which provides relative to the allocation and reporting of certain education funding.

A Roll Call Vote was taken.

(Motion continues on page 20)

Yeas: Ms. Dastugue, Mr. Garvey, Ms. Johnson, Ms. McDaniel, and Mr. Guice.

Nays: Mr. Bayard, Ms. Givens, and Mr. Lee.

The motion failed for lack of six favorable votes.

The Board took no further action on House Bill No. 821.

6-57 On motion of Ms. Givens, seconded by Mr. Bayard, the Board supported Senate Bill No. 19, which creates the TOPS-Tech Plus Award.

6-58 On motion of Ms. Givens, seconded by Mr. Garvey, the Board supported, as amended, Senate Bill No. 42, which dedicates state funds for the purpose of providing for health insurance premiums of certain plan members in hurricane-affected areas.

Amendments are as follows:

- Needs to specify/define “certain system retirees” for Orleans and define “subsidy of health insurance premiums” and proposed recipients of same for the remaining three parishes.
- Subject to the appropriation of funding.

6-59 On motion of Ms. Givens, seconded by Ms. Dastugue, the Board opposed, unless amended, Senate Bill No. 220, which provides that local school boards located in parishes with a population greater than 470,000 are required to provide bus transportation only to students attending public schools directly operated by the local school board.

Amendment is as follows:

- The legislation should mandate that all schools are required to contribute their pro rata share for transportation provided for children in their parish.

The Board returned to the regular agenda order.

Agenda Item 5 On motion of Mr. Lee, seconded by Ms. Givens, the Board deferred until May 2009: “Consideration of receiving information on the ARRA (American Recovery and Reinvestment Act of 2009).” (Schedule 6)

Agenda Item 7 On motion of Ms. Johnson, seconded by Ms. McDaniel, the Board deferred until May 2009: “Consideration of a discussion regarding Memorandums of Understanding for AUS schools.” (Schedule 7)

Agenda Item 8      On motion of Mr. Garvey, seconded by Ms. Givens, the Board approved the Department's recommendation that the following 19 Jefferson Parish schools, in which there was a greater than 50% shift in student population due to the Dandridge Consent Order, should receive 2008-2009 Baseline School Performance Scores using the 2008-2009 assessment data and the district's choice of the district average for the attendance and non-dropout indices or the actual data from 2007-2008 at the schools:

Adams Middle School,  
Alexander Elementary School,  
Ames Elementary School,  
Audubon Elementary School,  
Bridgedale Elementary School,  
Clancy Elementary School,  
George Cox Elementary School,  
Harris Middle School,  
Hart Elementary School,  
Keller Elementary School,  
Lincoln Elementary School,  
Pitre Elementary School,  
Pittman Elementary School,  
Rillieux Elementary School,  
Roosevelt Elementary School,  
Strehle Elementary School,  
Wall Elementary School,  
Washington Elementary School, and  
Westwego Elementary.

(Schedule 8)

Agenda Item 9      **Received and/or Referred**

Agenda Item 9-A      On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board received the resolutions from the Allen, Ascension, Beauregard, Bossier, Evangeline, Monroe City, St. Charles, St. John, Tangipahoa, and Washington Parish School Boards regarding their opposition to 2009 draft legislation under consideration regarding local school boards. (Schedule 9)

Agenda Item 9-B      On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board received the resolutions from the Lafourche and St. John the Baptist Parish School Boards regarding its support of the Resolution adopted by BESE asking the Louisiana State Legislature, through its leadership, to form a task force to study national school board governance best practices and to make recommendations for improvements. (Schedule 10)

- Agenda Item 9-C      On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board received the resolution from the St. Charles Parish School Board, which strongly encourages BESE, the Louisiana Legislature, and the Governor to refrain from placing an additional financial burden on local school systems through proposed legislation that would require school systems to track the spending of additional funding provided by the state for at-risk students down to the student level. (Schedule 11)
- Agenda Item 9-D      On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board received the resolution from the St. Charles Parish School Board, which strongly encourages BESE, the Louisiana Legislature, and the Governor to continue the constitutional protection of the Minimum Foundation Program (MFP) formula. (Schedule 12)
- Agenda Item 9-E      On motion of Ms. McDaniel, seconded by Ms. Johnson, the Board received and referred to the Student/School Performance and Support Committee and the School and District Accountability Commission: Consideration of directing the State Superintendent of Education to begin the process of eliminating the GEE and replacing it with EOC tests, including the development of a timeline, a schedule for introducing the EOC tests, a communication process to begin positively informing students and parents, a proposed date upon which the tests will become a high stakes test, and other items as appropriate.
- Agenda Item 10      **NOTE:** The Board agreed to defer on Agenda Item 10, "Consideration of Executive Session on litigation concerning the Orleans Parish School Board (OPSB), et. al. v. Lexington Insurance Company, et. al., Civil District Court for the Parish of Orleans, No. 06-7342, Division L, Section 7, and on litigation concerning Sharon Louding v. Advance Baton Rouge, et al., Suit No. 577,369, Section 26, 19<sup>th</sup> Judicial District Court, East Baton Rouge Parish," until the end of the meeting. See Agenda Item 10 on page 24 for the Board's final action on this item.
- Agenda Item 11      **Received and/or Referred**
- Agenda Item 11-A      On motion of Ms. Johnson, seconded by Mr. Bayard, the Board received the resolution from the LaSalle Parish School Board regarding its opposition to and rejection of any recommendations by the State Superintendent of Education, the Louisiana Department of Education, the Board of Elementary and Secondary Education, or any other agency to change or diminish the rights, duties, and responsibilities of local school boards to manage the educational process of the children they represent. (Schedule 13)

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There was lengthy discussion regarding Agenda Item 14, "Consideration of Executive Session regarding the professional competence of the State Superintendent of Education insofar as his employment contract provides for the confidentiality of his annual performance evaluation."

Agenda Item 14 On motion of Ms. Dastugue, seconded by Mr. Lee, the Board received the information regarding Agenda Item 14, "Consideration of Executive Session regarding the professional competence of the State Superintendent of Education insofar as his employment contract provides for the confidentiality of his annual performance evaluation."

Agenda Item 15 On motion of Mr. Garvey, seconded by Ms. Givens, the Board directed the Board's Officers and immediate past President to:

- develop a plan, to be sent to BESE members within one week, regarding the process for selecting the BESE Executive Director;
- request permission from the Division of Administration to double encumber funds for the position of BESE Executive Director, if necessary; and
- proceed with the plan up to the point of, but not including the point of, employment of the BESE Executive Director.

The Board returned to Agenda Item 10, "Consideration of Executive Session on litigation concerning the Orleans Parish School Board (OPSB), et. al. v. Lexington Insurance Company, et. al., Civil District Court for the Parish of Orleans, No. 06-7342, Division L, Section 7, and on litigation concerning Sharon Louding v. Advance Baton Rouge, et al., Suit No. 577,369, Section 26,19<sup>th</sup> Judicial District Court, East Baton Rouge Parish."

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On motion of Ms. Givens, seconded by Ms. McDaniel, the Board went into Executive Session at 5:00 p.m. to discuss litigation concerning:

- Orleans Parish School Board (OPSB), et. al. v. Lexington Insurance Company, et. al., Civil District Court for the Parish of Orleans, No. 06-7342, Division L, Section 7; and
- Sharon Louding v. Advance Baton Rouge, et al., Suit No. 577,369, Section 26,19<sup>th</sup> Judicial District Court, East Baton Rouge Parish;

A Roll Call Vote was taken.

(Motion continues on page 24)\

Yeas: Ms. Dastugue, Mr. Garvey, Ms. Givens, Ms. Johnson, Mr. Lee, Ms. McDaniel, and Mr. Guice.

Nays: None.

The Roll Call Vote on the motion to go into Executive Session passed. It was noted that no votes would be taken while the Board was in Executive Session; all votes would be made in public.

On motion of Ms. Dastugue, seconded by Ms. Johnson, the Board reconvened into Regular Session at 5:27 p.m. A quorum was present.

Agenda  
Item 10

- Motion 1      On motion of Ms. Givens, seconded by Ms. Dastugue, the Board approved the recommendations of counsel concerning the settlement of the claims against Lexington Insurance Company in connection with litigation entitled Orleans Parish School Board (OPSB) v. Lexington Insurance Company, et. al., Civil District Court for the Parish of Orleans, State of Louisiana, Docket No. 2006-7342, Division L, Section 7, and to receive the settlement proceeds and place the funds in the joint account with OPSB.
- Motion 2      On motion of Mr. Garvey, seconded by Ms. Johnson, the Board authorized the Board President and Officers to take action that is deemed necessary, as advised by the State Superintendent, prior to the next regularly scheduled Board meeting, regarding the litigation concerning Orleans Parish School Board (OPSB) v. Lexington Insurance Company, et. al., Civil District Court for the Parish of Orleans, State of Louisiana, Docket No. 2006-7342, Division L, Section 7.
- Motion 3      On motion of Ms. Dastugue, seconded by Ms. Johnson, the Board received the report on litigation concerning Sharon Louding v. Advance Baton Rouge, et al., Suit No. 577,369, Section 26, 19<sup>th</sup> Judicial District Court, East Baton Rouge Parish.

With no further business to come before the Board, the meeting was adjourned at 5:40 p.m.