

**KANSAS STATE BOARD OF EDUCATION
SPECIAL MEETING MINUTES**

July 5, 2005

CALL TO ORDER

Chairman Abrams called the meeting to order at 9:18 a.m. on Tuesday, July 5, 2005, in the 2nd Floor Conference Room of the State Board of Education Building, 120 SE 10th Avenue in Topeka, Kansas.

ROLL CALL

All members were present:

Steve Abrams	Carol Rupe ? by phone
John Bacon	Iris Van Meter ? by phone
Sue Gamble	Bill Wagnon
Kathy Martin ? by phone	Janet Waugh
Connie Morris	Ken Willard

PRESENTATION BY THE ATTORNEY GENERAL

Attorney General Phill Kline had asked to visit with the State Board about a possible action the State Board could take to potentially avert the closure of schools if the Kansas Legislature fails when it returns to its special session on July 6th to meet a Kansas Supreme Court Order to increase funds for public schools.? Attorney General Kline was accompanied by Julene Miller, an Assistant Attorney General in his office.? Attorney General Kline said it was his number one priority to keep schools open and expressed his concern over the Court?s Order of July 2nd to counselors for the parties in the school finance case to appear July 8th to show cause why the Court should not prevent the expenditure and distribution of funds to schools in light of the Legislature?s inability to comply with the Court?s Order to provide increased funding by its deadline of July 1st.

Attorney General Kline reviewed the state statute, K.S.A. 2004 Supp. 72-6417, that deals with how the State Board of Education certifies the amounts due as general state aid to each school district and shared his interpretation of it.? He proposed that instead of certifying the amounts due to districts monthly, as is the current practice, there was nothing in the law that would preclude the State Board from certifying to the Director of Accounts and Reports an amount payable for each month for an entire year for distribution on a certain date each month when funds are available in order to keep funds flowing to schools despite a Court Order.? The Board could provide necessary updates and corrections on a monthly basis in advance of the payments being made.? Because the State Treasurer is beyond the reach of the Supreme Court in the school finance case, he said the Director of Accounts and Reports could draw warrants on the State Treasurer, based on vouchers approved by the State Board for distribution to school districts.

Attorney General Kline answered Board member questions and added further clarification.? He pointed out that the action he proposed for the Board might help to guarantee that schools remain open this fall, though the Court could reverse it.

Page 2

MINUTES

July 5, 2005

EXECUTIVE SESSION

Mr. Bacon moved, with a second by Mr. Willard, that the Board recess into executive session for 30 minutes in the office of the Interim Commissioner to discuss the proposal with the Board Attorney, Dan Biles, Department General Counsel Rod Bieker, and Interim Commissioner Dennis so that the attorney-client privilege would not be violated and that the open meeting resume at 10:22 a.m.? The motion carried 7-0. Mrs. Van Meter?s, Mrs. Rupe?s and Mrs. Martin?s phone connection had temporarily been disconnected and they did not vote on the motion.? The open meeting resumed at 10:22 a.m.? Mrs. Martin moved, with a second by Mrs. Van Meter, that the executive session be extended for a period of 30 minutes and that the open meeting resume at 10:52 a.m.? The motion carried 10-0.? The open meeting resumed at 10:52 a.m. ?Mr. Bacon moved, with a second by Mr. Willard, that the executive session be extended for an additional 30 minutes, at 11:07, after the Board took a short break, and resume at 11:37 a.m.? The motion carried.? The open meeting resumed at 11:37 a.m. ?Mr. Bacon moved, with a second by Mr. Willard, that the executive session be extended an additional 30 minutes and that the open meeting resume at 12:07 p.m.? The motion carried.? At 12:07 p.m. the open meeting resumed in the second floor conference room.

DISCUSSION AND ACTION ON CERTIFICATION OF GENERAL STATE AID TO SCHOOLS

Chairman Abrams reported that the Board had given Attorney General Kline?s proposal serious consideration and had discussed the pro?s and con?s of it with the Board Attorney.? Chairman Abrams stated that he believed one of the functions of the State Board of Education is to try to keep schools operating and should do everything in its power to accomplish that.? In that regard, the Board had listened carefully to the Attorney General?s proposal and he felt it was important to act.

Mrs. Gamble agreed with Chairman Abrams about keeping schools open.? She said she believed strongly that the Board should do everything it could to keep the schools open, but should do so within the law, adding that she had grave concerns about the proposal.? Mr. Willard stated he believed it was possible to interpret the statute to give the Board certain latitude to take whatever action was necessary to keep schools open.?

Mr. Willard moved, with a second by Mr. Bacon, that the state board shall certify to the director of accounts and reports the anticipated amount due as general state aid to each district in each of the months of August through January, with certification of actual amounts during each of those months.

Mrs. Gamble said she would vote against the motion, believing the proposed interpretation of the law to be illegal.? She added that she would not vote against it if she felt it would accomplish what the proponents hoped it would.? Mrs. Martin stated she agreed with the motion and that Kansas kids should not be the casualties in a battle between the courts and the legislature.

Mrs. Rupe agreed with wanting to keep schools open, but stated she did not want to circumvent the Supreme Court?s Order and that she wanted the legislature to do its job to provide adequate funding for schools.? Mr. Willard said the proposal was not circumventing the Court by doing it before the Court met on June 8th.? The Board would just be doing everything it could to keep schools open.? He added it was incumbent on the Board to do all in its power to keep schools open.?

