Governor Kelly closes Kansas schools

See page 11

Educators tackle challenge of continued learning from a distance.

Details inside
Important tasks for school boards right now

KASB executive, leadership services and legal staff are providing information on critical tasks for local school boards as they confront the COVID pandemic.

First, boards must determine how to conduct school board meetings that comply with both health directives like social distancing and the Kansas Open Meetings Act.

The Kansas Attorney General has proposed new regulations for conducting open meetings that have received temporary approval and are now in force. These changes allow boards to conduct meetings virtually and without the public physically present but require steps to ensure the public still have access to listen, and if possible, view board meetings. The board must conduct business in a way that people not physically present can follow the action.

The board may wish to modify or suspend its policy on public comments. This should be done like any policy change; at an open meeting following usual procedures. Further, the board should make sure the public is notified in advance, and at the beginning of each meeting, of any change in how the meeting will be conducted.

Second, boards must approve the district’s application to the State Board of Education for a waiver from the minimum school term requirement, which includes the district’s continuous learning plan.

Because schools are not physically operating in the usual sense, districts will not be able to comply with the minimum school in hours or days required by law. The Legislature amended state law to give the State Board authority to waive that law for emergencies.

It also included a provision in the budget bill requiring local districts adopt continuous learning plans for students. Local boards must approve those plans and submit them to the Kansas State Department of Education by April 8 for approval by the State Board.

The learning plan must address:

- **Academic support.** How continuous learning will be made available to every student; whether online learning will be used and if so, how all students will have adequate access to devices, internet and tech support; how services will provided for special needs students and Career Technical Education; and how graduation of current seniors will be addressed.

- **Social and emotional support.** How counselors and social workers will be used and how districts will engage with families and caregivers.

**Family Community Connection.** Plans to keep families informed; collect, evaluate and respond to feedback from families; and support families as they facilitate learning at home.

Other. Monitoring and evaluating the plan and results.

Third, boards must determine what modifications must be made to the district’s negotiated agreement.

Because most teachers will not be able to be physically in school buildings and implement the continuous learning plan according to terms of the negotiated agreement, it may be necessary to modify those forms through a Memorandum of Understanding (MOU).

KASB has been working with the Kansas National Education Association to develop model MOUs, and has also collected samples to address various circumstances, These models should be adopted to fit local needs and circumstances by joint agreement of the board and association. In addition, all deadlines and requirements under the current board-teacher bargaining law remain in effect.

---

**KASB Board of Directors**

<table>
<thead>
<tr>
<th>Region</th>
<th>Representative</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Jason Winbolt, Spring Hill USD 230</td>
<td><a href="mailto:winbolt@usd230.org">winbolt@usd230.org</a></td>
</tr>
<tr>
<td>2</td>
<td>Art Gutierrez, Emporia USD 253</td>
<td><a href="mailto:art.gutierrez@usd253.net">art.gutierrez@usd253.net</a></td>
</tr>
<tr>
<td>3</td>
<td>Kevin Cole, Labette County USD 506</td>
<td><a href="mailto:kecole86@gmail.com">kecole86@gmail.com</a></td>
</tr>
<tr>
<td>4</td>
<td>Pam Dankenbring, Marysville USD 364</td>
<td><a href="mailto:pdankenbring@usd364.org">pdankenbring@usd364.org</a></td>
</tr>
<tr>
<td>5</td>
<td>Tina Rae Scott, Morris County USD 417</td>
<td><a href="mailto:tscott@cgrove417.org">tscott@cgrove417.org</a></td>
</tr>
<tr>
<td>6</td>
<td>Greg Tice, Renwick USD 267</td>
<td><a href="mailto:gt@sptarchitecture.com">gt@sptarchitecture.com</a></td>
</tr>
<tr>
<td>7</td>
<td>Darin Holecek, Ellsworth USD 327</td>
<td><a href="mailto:holecek5@hotmail.com">holecek5@hotmail.com</a></td>
</tr>
<tr>
<td>8</td>
<td>Gary Yost, Otis-Bison USD 403</td>
<td><a href="mailto:yost.gary@yahoo.com">yost.gary@yahoo.com</a></td>
</tr>
<tr>
<td>9</td>
<td>Brad Bergsma, Goodland USD 352</td>
<td><a href="mailto:brad.bergsma@nwktc.edu">brad.bergsma@nwktc.edu</a></td>
</tr>
<tr>
<td>10</td>
<td>Lara Bors, Garden City USD 457</td>
<td><a href="mailto:lara.borslaw@gmail.com">lara.borslaw@gmail.com</a></td>
</tr>
<tr>
<td>11</td>
<td>Mike Seitz, Blue Valley USD 229</td>
<td><a href="mailto:mseitz@bluevalleyk12.org">mseitz@bluevalleyk12.org</a></td>
</tr>
<tr>
<td>12</td>
<td>Laura Guy, Shawnee Mission USD 512</td>
<td><a href="mailto:lguy@clearcreek.com">lguy@clearcreek.com</a></td>
</tr>
<tr>
<td>13</td>
<td>Valdenia Winn, Kansas City USD 500</td>
<td><a href="mailto:valdenia.winn@kckps.org">valdenia.winn@kckps.org</a></td>
</tr>
<tr>
<td>14</td>
<td>Stan Reeser, Wichita USD 259</td>
<td><a href="mailto:stanwreeser@gmail.com">stanwreeser@gmail.com</a></td>
</tr>
<tr>
<td>15</td>
<td>Joe Beveridge, Olathe USD 233</td>
<td><a href="mailto:joebev@gmail.com">joebev@gmail.com</a></td>
</tr>
<tr>
<td>Ex Officio</td>
<td>Frank Henderson, Jr., Seaman USD 345</td>
<td><a href="mailto:hendersf@msn.com">hendersf@msn.com</a></td>
</tr>
</tbody>
</table>

**Past President**

Dayna Miller

Basehor-Linwood USD 458
daynamiller67@gmail.com

**President - Elect**

Lori Blake

Southeast of Saline USD 306
lcblake520@gmail.com

**President**

Shannon Kimball

Lawrence USD 497
skimball@usd497.org

**Past President**

Dayna Miller

Basehor-Linwood USD 458
cdmiller67@gmail.com

**President**

Shannon Kimball

Lawrence USD 497
skimball@usd497.org

**Past President**

Dayna Miller

Basehor-Linwood USD 458
cdmiller67@gmail.com

**President - Elect**

Lori Blake

Southeast of Saline USD 306
lcblake520@gmail.com
Celebrating Public Schools

IN THIS ISSUE

6 Basics get done; future has many unknowns
Legislators finished a budget and then returned to their homes amid the coronavirus threat. But many proposals related to Kansas public schools remain on the Legislature’s plate. The prospects of continuing work on those proposals, however, is iffy, as is the state’s revenue and economic forecast.

9 Federal follow-through
After many stumbles, Washington, D.C. put together an historic stimulus package to try to prepare the country for an economic shock. What’s in the law for public schools?

15 Employee benefits
We have you covered. KASB Risk Management Group stands ready to support you with questions you may have surrounding your Section 125 plans, enrollment procedures and compliance concerns.

16 Just the facts
With the volume of COVID-19 information out there, now is the time to become a smart consumer of information. Read beyond the headlines, seek experts and check multiple sources.

18 Legal issues
School boards must keep meetings open to the public, but the health crisis has produced new guidance on how to hold meetings while complying with social distancing.

COLUMNS

4 President’s Perspective
Concerns from students, parents, teachers and staff show how important public schools are to the fabric of our communities. Schools must figure out how to maintain their vital functions, as best we can, in ways never expected.

5 I’m From Kansas
It occurred to me that times of crisis are expository. We need to soak in what the changes will mean after the crisis has passed.

COVER STORY

11 Coronavirus and Kansas public schools
Schools are often called the centers of our communities and now they have been canceled, at least temporarily. What impact will that have? KASB has prepared a summary of what has transpired during this unprecedented disruption of public education.
President’s Perspective
Shannon Kimball, Lawrence USD 497

Addressing a different kind of emergency

I have so many thoughts about “what now,” but for the moment I want to acknowledge the loss and sadness that many of us feel about the decision to close school facilities in Kansas.

As the mother of three children, I am concerned about their health and future. As a local board member, I am part of our district leadership team working our way through these challenging times. And as president of KASB, I understand the need to provide leadership and vision while taking care of local and personal concerns.

First, our top concern is the health of our students, their families, our staff and communities. No one knows exactly the right actions to take in the first moments of a health emergency, but most of us would agree it is more dangerous to do too little than too much.

Whether or not individuals agree with the actions by state officials, it is now up to local school leaders to deal with this new reality. This is something school board members, especially those who just took office a few months ago, never envisioned. Expected or not, these board members are the people each of our 286 school communities have chosen to make decisions for our schools and the students they serve. Our school community reaches beyond just the K-12 system, of course. From early education to post-secondary education, along with special education service providers and education service centers, all are working to find the best solutions for our children. Our communities are looking to you. KASB will be here to help.

New challenges for schools

The decision to close schools for the rest of this school year does not end the relationship between schools, their students and families. It does not – and should not – mean learning will end until next August. The concerns you are hearing from students, parents, teachers and staff and others shows just how important our public schools are to the fabric of communities. With assistance from state leaders and educational organizations, our schools will have to figure out how to maintain their vital functions, as best we can, in ways never expected.

We must continue to focus on the individual needs of our students. What happens in the next few months will not be the same, or as good, as what we have been doing. Choices will have to be made. One of the realities of public education is that we serve children with very different levels of need and support. Some are far more at risk of educational loss and even meeting basic human needs. Schools must craft plans to reflect those different needs.

Likewise, our oldest students are deeply concerned about how this will affect their transition from school to adult life. We also must do our best to assist them through that transition.

As we move past the immediate shock and fear, we can see this as an opportunity to learn about how schools can and must change to do better for students. We can learn what works and what doesn’t work when K-12 education is not defined by a single time and place.

Kansas may be better positioned to handle this emergency better than most states. Education leaders here have been involved in a process to redesign or reimagine how schools operate. The key principles of that process include meeting both the academic and social/emotional needs of students; building deeper relationships with parents and communities; giving students more choices over how, when and where they learn; and helping students find more real-world relevance in their educational experience.

Each of these principles can and will be tested in our response to this current crisis. No one would have asked for this situation to force schools to look at change, but we know now schools must change, at least in the short term.

Leadership is rising to a challenge, learning from the experience, and using it to create a better future. Whether it is responding to a flood, tornado or any other emergency, Kansans have always worked together for the common good. Boards of Education have always honored the tremendous responsibility they bear for public schools in their care. We are being called on again to address a different kind of emergency than we have faced in our lifetimes. But as we have done in the past, working together we will make sure the success of each and every student remains our top goal.
I love a parade! Lessons from a crisis

Suffering from quarantine-fever this week, my dog Miss Pinkerton and I went for a walk through the neighborhood. As we meandered around the first corner, we were excited to see that the whole community had come out to greet us. I had my headphones on, so I couldn’t hear what folks were saying, and just assumed they were shouting salutations our way. It was amazing that these folks knew I had been a teacher back in 1983, as they were holding signs exclaiming their love for teachers.

Shot down again, I soon realized this outpouring of support wasn’t for Pinky and me at all, it was for the teachers of our neighborhood elementary school. Kids love their teachers, and teachers love their kids. Signs, chalk drawings, laughter, and excitement were in abundance as staff from the school paraded through the neighborhood. It reminded me of a fourth of July parade, but with social distancing. This happened before the governor’s stay-home order.

It occurred to me that times of crisis are expository. Because the one we are in is unfolding slowly, we can take some time to learn from it.

Lesson number one is a reinforcement of the contention that education is about relationships. Upon learning of school closures, the first reaction from my daughter-in-law, who teaches elementary school, was “I’m going to miss my kids.”

A second lesson is that education is capable of change, and it can be done quickly.

We need to soak in what the changes being made will mean after the crisis has passed. We may learn that new, innovative delivery systems are better for some students, or in some circumstances. But the relationship will always be critical.

Another set of lessons is about people.

Anyone who is a fan of popular culture knows that the disaster genre generally revolves around a set of stereotypical characters. Brad Pitt is the heroic scientist in “World War Z,” Dr. Smith is the sniveling coward who only cares for himself in “Lost in Space,” Gandalf the wise elder in the Lord of the Rings trilogy, Doc McCoy, the emotion-driven good guy in “Star Trek.” Twitter fans can watch accounts to see where folks fall out in these stereotypical roles in our current world. What I have seen from Kansas educators is way more Brad Pitt and Bones McCoy than Dr. Smith!

A final lesson is at the state level. In Kansas, we have been living the Canned Heat classic “Let’s Work Together.” While some states have also followed this model, others seem to be emulating that old country and western classic, “Long-haired Redneck.” Just change the words, and you have “Where governors stare at superintendents, who are looking at the teachers, who are praying they get out of here alive.”

The work-together spirit of Kansans, from the bipartisan approach of the House and governor to the cooperation and leadership of the State Board and Commissioner, to the can-do attitude of the local school districts and staff, Kansas is a model for how to work through a crisis.

Another set of lessons is about people.

Anyone who is a fan of popular culture knows that the disaster genre generally revolves around a set of stereotypical characters. Brad Pitt is the heroic scientist in “World War Z,” Dr. Smith is the sniveling coward who only cares for himself in “Lost in Space,” Gandalf the wise elder in the Lord of the Rings trilogy, Doc McCoy, the emotion-driven good guy in “Star Trek.” Twitter fans can watch accounts to see where folks fall out in these stereotypical roles in our current world. What I have seen from Kansas educators is way more Brad Pitt and Bones McCoy than Dr. Smith!

A final lesson is at the state level. In Kansas, we have been living the Canned Heat classic “Let’s Work Together.” While some states have also followed this model, others seem to be emulating that old country and western classic, “Long-haired Redneck.” Just change the words, and you have “Where governors stare at superintendents, who are looking at the teachers, who are praying they get out of here alive.”

The work-together spirit of Kansans, from the bipartisan approach of the House and governor to the cooperation and leadership of the State Board and Commissioner, to the can-do attitude of the local school districts and staff, Kansas is a model for how to work through a crisis.

So, throw yourselves a parade, but stay inside, maintain social distancing and wash your hands!
Legislature approves school funding
Much unfinished business remains for wrap-up session

By Mark Tallman, mtallman@kasb.org

The Kansas Legislature approved a budget that keeps in place base state aid and special education aid increases approved last year and maintains most other programs at current levels before adjourning March 19.

The Legislature ended the regular session two weeks early. The House and Senate are expected to return for the wrap-up session on Monday, April 27, but that is subject to change in light of the COVID-19 crisis. As a result, a long list of bills passed by each chamber remains unfinished business.

**Details of school funding in the budget**

The budget bill, **SB 66**, generally adopted the Governor’s budget proposal that adds $137.3 million, including $117.5 million from the State General Fund, for the State’s new estimates of expenditures for state aid to K-12 schools. The increase is primarily due to the Base Aid for Student Excellence (BASE) increasing from $4,436 to $4,569 for FY 2021, as approved last year by the Legislature and Kansas Supreme Court to settle the Gannon school finance case. The budget also increased special education state aid by $7.5 million.

The increase is slightly lower than expected last session because school district enrollment was slightly lower than expected. The State Board of Education recommended using that “savings” to increase special education state aid. The approved budget does not make that change, but the budget committees agreed to review the issue during the final wrap-up session.

The budget bill added $5 million not recommended by the Governor to continue school safety and security grants. It keeps $12.7 million recommended by the Governor for school-based Mental Health Intervention Teams, but deletes language proposed by the Governor to expand entities that could partner with districts to provide these services.

The budget bill, **SB 66**, generally adopted the Governor’s budget proposal that adds $137.3 million, including $117.5 million from the State General Fund, for the State’s new estimates of expenditures for state aid to K-12 schools.

The final budget agreement did not include adding $1.2 million to fully fund Career and Technical Education Transportation and $97,000 for a statewide dyslexia coordinator in the Department of Education.

The budget bill also maintains the high-density at-risk weighting factor for two years. That weighting was scheduled to “sunset” at the end of this year unless the Legislature extends it. Although both the House and Senate have passed bills to extend the weighting from three to five years, a final agreement was not reached.

The bill also includes language directing the State Board of Education to require school districts to submit continuous learning plans to receive a waiver from school attendance requirements in FY 2020. That directive was included the Governor’s executive order closing most school functions until May 29.
Finally, the bill includes language increasing the cap on municipal bond interest rates at the daily yield of the 10-year treasury bonds for FY 2021, plus 6.0 percent on bonds excluded from federal gross income and 7.0 percent on bonds included in federal gross income. Without this step, financial experts say it would be difficult to sell municipal bonds at current rates.

Gov. Laura Kelly signed the budget into law on March 25.

**School term waiver authority**

The Legislature passed SB 142 and the Governor received and signed it. The bill amends current law regarding the minimum number of school hours required each school year. State law requires students in kindergarten attend at least 465 school hours, students in grades 1 through 11 attend at least 1,116 school hours, and students in grade 12 attend at least 1,086 school hours per school year unless a waiver is received from the State Board of Education.

The bill expands the circumstances in which a local board of education may apply for a waiver to the State Board to include conditions restricting the operation of public schools. It also amends the definition of “disaster” to include any declaration of a state of disaster emergency issued by the Governor or the closure of schools by order of the county or joint board of health, a local health officer, or the Secretary of Health and Environment.

The bill would also include a statement of legislative intent that school districts shall continue to pay hourly employees, including, but not limited to, paraprofessionals and custodial employees, during any school shutdown due to a disaster.

**Unresolved issues**

**At-Risk Funding.** The House passed HB 2540 on vote of 111-14. It would extend the high-density at-risk weighting for five years. The Legislature had placed a “sunset” on the weighting which would end the program this year unless the Legislature acts. The budget bill keeps the weighting in place for two years. The House bill requires spending at-risk funding on programs approved and listed by the State Board of Education or one-year provisional programs and adds reporting requirements. Passed House 111-14. The Senate Education Committee amended the weighting extension for three years; allows provisional programs for three years; and allows use of at-risk funds for professional development. The bill is on Senate General Orders but was not considered by the full Senate.

**Capital Improvement Aid.** The Senate voted 40-0 to pass SB 382, which would amend the state capital improvement aid schedule by excluding Fort Leavenworth. The effect would be to increase the state aid rate for most districts and increase the number of districts eligible for state aid. The Senate version would apply to all bonds passed after July 1, 2015. It also removes virtual students from valuation per pupil calculation. KASB supported the bill. The House K-12 Education Budget Committee amended the bill to apply only to bonds issued after July 1, 2020, and added provisions of

*Continued on page 8*
House bills:

**HB 2506** – Expanding the military spouse and service-member’s expedited licensure law to certain other license, certificate or registration applicants. Passed House 123-2.

**HB 2507** – Providing liability protection for businesses that participate in high school work-based learning programs. Passed House 97-27.


**S. Sub for HB 2487** – Including emotional disability rather than emotional disturbance in the definitions of “children with disabilities” and “individuals with disabilities.” Passed House 118-7.

**HB 2515** – Creating the Kansas promise scholarship program for postsecondary technical certificate and associate degree students. Passed House 116-6.

**HB 2618** – Establishing a state broadband grant program under the department of commerce to encourage the deployment of broadband in the state. Passed House 120-5.

**Senate bills:**

**SB 337** – Allowing accredited private school students to participate in free ACT testing. Passed Senate 39-0.

**SB 384** – Requiring annual report on educational outcomes for foster care students. Passed Senate 40-0.

**SB 335** – Authorizing school districts to pay all or a portion of student costs for dual or concurrent enrollment. Passed Senate 37-2.

**SB 284** – Authorizing disability placards for school vehicles. Passed Senate 40-0.

---

state budget

*Continued from page 7*

another bill, HB 2465, expansion of tax credits for low income private school students, KASB opposes. The full House has not voted on the bill.

**Other bills passed by House and Senate.** These following bills have passed one house but not the other. In most cases, the subject has been “bundled” into other bills passed so they could be considered in a conference committee during the wrap-up session. However, none of these bills have passed the second chamber so are not in conference committee.
Federal COVID-19 bill includes school aid

By Leah Fliter, lfliter@kasb.org

President Trump has signed into law an historic, $2 trillion economic stimulus package intended to address the wide-ranging impacts of the COVID-19 pandemic. The new law contains several billion dollars in education funding to assist state governments and local K-12 public schools respond to students’ needs.

The CARES (Coronavirus Aid, Relief and Economic Security) Act legislation contains $30.75 billion for an Education Stabilization Fund to assist states, school districts, and higher education institutions for costs related to the coronavirus pandemic. K-12 public schools will receive $13.5 billion.

The CARES Act follows previous Congressional action on two previous COVID-19-related bills. One provided $8.9 billion to support health care response to the virus and a second measure dedicated more than $100 billion for paid sick leave, enhanced unemployment insurance, and free COVID-19 testing.

In a March 22 letter to the Kansas Congressional delegation, KASB President Shannon L. Kimball, who serves on the USD 497 Lawrence board of education, urged federal lawmakers to consider the numerous impacts of the pandemic on the nation’s K-12 public schools as they crafted the stimulus legislation.

“As our state and our nation grapple with the COVID pandemic, KASB and our member districts envision additional challenges regarding sick leave and family leave, the need for additional flexibility, funding and guidance to serve children with disabilities, and continuing costs associated with technology and remote learning,” Kimball wrote. She also stressed the need for increased federal reimbursement for school meals.

“I and my colleagues across the nation urge Congress to provide the full federal measure of funding for the Individuals with Disabilities Education Act, which currently provides less than 16 percent of the federal government’s promised reimbursement of the additional costs associated with educating children with disabilities. We regard the education of those students not only as a legal responsibility but also a moral one, and the additional challenges and costs associated with delivering education to disabled students when school buildings are closed must be met,” Kimball stated. IDEA funding was not addressed in the CARES Act.

While several important programs and initiatives received some funding, the overall total for public K-12 education in the CARES Act falls short of the $75 billion that education advocates

Continued on page 10
COVID-19 aid

Continued from page 9

called for. Additionally, $2 billion for E-Rate funding to help students connect to the Internet at home was not included in the CARES Act.

NSBA is advocating for an additional emergency supplemental bill to pay for items not included in the CARES Act and will continue pushing for targeted funding for technology and access issues through the E-Rate program.

Here’s a breakdown of pre-K through 12 funding in the CARES Act:

Elementary and secondary education will receive $13.5 billion through grants to states. At least 90 percent of those funds must support local school district coronavirus-response activities, such as planning and coordinating long-term school closures; purchasing educational technology to support online learning for all students; and additional activities authorized by federal elementary and secondary education laws. The new law also includes a separate $25 million rural development line item that is pegged for distance learning.

In order to receive its share of the $13.5 billion grants to states, Kansas must provide K-12 education funding in Fiscal Years 2021 and 2022 of (at least) the average of the past three years’ levels. Education Secretary Betsy DeVos is authorized to waive that requirement upon request from the state. School districts must also guarantee to the extent practicable that they will pay their employees and contractors during the period of disruption attributed to the coronavirus.

The bill contains several waiver provisions, which DeVos must accept or reject within 30 days of receipt. Waiver requests would generally fall into two categories. In the first category, states and tribes may submit a request for a waiver from accountability and testing requirements. They may also submit a request for a waiver from reporting progress toward interim and long-term ESSA goals.

In the second waiver category, school districts could submit requests for waivers to: make it easier to run school wide Title I programs; remove Title IV Part A spending caps on priority areas and to spend additional funding on digital devices; eliminate the 15 percent carry over cap on Title I funds; and exemptions from ESSA definitions of professional development.

Within 30 days of enactment of the CARES law, DeVos must notify Congress if she believes additional waivers are needed from IDEA, ESSA, the Rehabilitation Act, or the Perkins CTE Act to give states or districts additional flexibility. Special Education advocates are concerned about the possibility of DeVos granting waivers to the IDEA Act, which governs special education programs.

**Governor’s Emergency Education Fund**

In addition to the $13.5 billion grants to states, Governors in each state will receive a share of $3 billion for emergency support for school districts that have been most significantly affected by the coronavirus pandemic to continue to provide educational services to their students and to support ongoing operations.

**Additional program funds to be distributed nationwide:**

- $15.5 billion for the Supplemental Nutrition Assistance Program (SNAP);
- $8.8 billion for Child Nutrition programs to provide meals when schools are not in session;
- $3.5 billion for Child Care and Developmental Block Grants to beef up state and local programs;
- $750 million to Head Start;
- $100 million to Project SERV to assist with school cleaning and to support mental health and distance learning;
- $69 million for schools administered by the Bureau of Indian Affairs; and
- $5 million for local health departments to offer guidance on cleaning and disinfecting schools and daycare centers.
Coronavirus brings big changes to Kansas public education

The start of 2020 seems so far away.

When the year began, education advocates prepared for the legislative session, schools were dealing with an explosion in vaping and Washington, D.C. was locked in an impeachment battle.

As Kansas leaders gathered in Topeka in January, there was no mention of COVID-19, or ventilators, or school closures, or economic collapse. News of what was starting in Wuhan, China was only beginning to surface.

What a difference a couple of months can make.

The spread of the virus and its destruction has been breathtaking. On Jan. 7, Chinese authorities identified a new coronavirus. Within two months, thousands were dead around the world and the outbreak was blooming in the United States.

Without a cure for the virus, governments sought to slow its spread by implementing lockdowns to keep people separated from others. One way to do this was to shut down schools.

On March 17, Gov. Laura Kelly ordered all schools in Kansas closed to regular classes for the remainder of the school year, making Kansas the first state to take such action. In the same executive order, Kelly called on the Kansas State Department of Education to implement continuous learning plans for the nearly 500,000 students who would be remaining at home.

On a smaller scale, there have been disruptions in education, such as when a school is damaged by a storm. But never has there been a statewide end of the school year in which the buildings were put off limits and teachers could no longer gather their students for instruction. Schools are often called the centers of our communities and now they have been canceled, at least temporarily. What impact will that have? As

Continued on page 12
of this writing, Kansans have thrown themselves to the task of providing meals, lessons and love for our students. Probably the most important lesson we can provide to our students — and the one that will be remembered most — is how we reacted to this emergency.

KASB has prepared a summary of what has transpired during this unprecedented disruption of public education and this historic response by educators, policymakers and everyday citizens. We hope this handy guide to documents and policies will help as we go forward and continue teaching the next generation of Kansans.

**School closure for health and safety**

- Commission of Education
  Randy Watson “strongly recommends” public schools close for two weeks. (March 16)
- Statewide organizations representing school boards, teachers and administrators offer support and guidance for dealing with school closure. [Joint statement by Education Organizations](https://kasb.org), March 16. (KASB COVID-Resources page)
- Governor Laura Kelly orders schools all public and private school closed for most operations until May 29 due to health emergency but directs learning to continue; with certain exemptions that comply with health directives. (March 17)
- [Governor’s executive order](https://kasb.org), [Video of Governor’s News Conference](https://kasb.org), [Joint News Release by Education Organizations](https://kasb.org), [Key Points from Governor’s Address on the Executive Order](https://kasb.org), (KASB COVID-19 Resources page)
- KASB President Shannon Kimball calls on school board members to rise to this challenge, learn from the experience and use it to create a better future, March 19. [Statement](https://kasb.org) (KASB COVID-19 Resources page)

**Kansas Legislature passes legislation to facilitate school closing while maintaining learning, paying employees; approves budget.**

- SB 142, passed March 17 and signed by the Governor March 19, clarifies State Board of Education authority to waive minimum school term requirements based on a disaster declaration or health emergency. The bill also expresses Legislative intent that any school district applying for a waiver continue to pay all current hourly employees, including, but not limited to, paras, maintenance and custodial employees. [Bill information](https://kasb.org)
- The state budget bill, SB 66, passed March 19, provides full funding for base state aid per pupil and other school finance programs adopted by the Legislature in response to the Gannon school finance case. It also includes language “to require the State Board of Education to require school districts submit continuous learning plans to receive a waiver from school attendance requirements in FY 2020.”

**State Department of Education issues requirements, assistance, guidelines for continuing student services.**

- KSDE convened a task force of educators to develop guidance for continuous learning to finish the school term. The goal is to focus on providing the most essential learning for students over the next two months. Methods may include virtual learning, non-technology (delivering and collecting materials from homes), home visits and small
groups, depending on what can be delivered while meeting health guidelines. The report was released March 20. Report (KASB COVID-19 Resources page)

- To receive a waiver for the school term requirements, local boards must approve and districts must submit a waiver application by April 8, which must include the district’s plan for continuous learning.
- As required by federal and state law, school districts must continue to provide special education services to exceptional children.
- Kansas State Department of Education Guidance on Compliance with the Individuals with Disabilities Education Act and the Kansas Special Education for Exceptional Children Act during the COVID-19 Pandemic (KASB COVID-19 Resource Page)
- School districts are continuing to provide meal service to students. This may include both pick-up at school and home delivery, and meal service when schools are closed. KSDE News Release, KSDE School Nutrition Programs Updates
- There is not currently a statewide order for closure of child care facilities, including child care facilities operated by school districts. Kansas Department of Health and Environment Guidance for Supporting Families in Accessing Healthy and Safe Child Care During the COVID-19 Outbreak

A family in the Gardner-Edgerton school district prepares for home learning.

- KSDE: Child care updates for superintendents and early childhood administrators in schools

School boards must continue to meet and comply with open meetings requirements.

- Local boards of education continue to meet at least monthly to conduct business as required by state law and district policies. However, these meetings may be modified in some ways to respond to health directives.
- Kansas Attorney General Derek Schmidt has proposed new regulations to cover open meetings issues when districts are practicing social distancing. Boards are allowed to meet by telecommunications and to limit in-person attendance, but must ensure that the public still has the ability to observe the meeting in some way and can follow the action of the meeting (who is speaking, voting, etc.) Open meeting guidance from Kansas Attorney General March 20 2020. (KASB COVID-19 Resources page)

Students will have continuous learning opportunities and expectations, but some requirements may be modified.

- The target for beginning to provide structured continuing learning for students outside of the traditional school building and classroom was March 30.
- The state minimum requirements for high school graduation have not changed. Local school boards may reduce the number of credits required to graduate if their policy exceeds state requirements. Continued on page 14
Feeding children during the public health emergency

Kansas school districts are finding creative ways to get breakfasts and lunches to school children while they are away from school. Lawrence USD 497 staff are joining school employees across the state handing out meals while protecting everyone from the virus.

COVID-19

Continued from page 13

- It will be up to local educators and policies to determine whether students demonstrate competency to earn credits or promotion from grade level through continuous learning programs.
- The Kansas State High School Activities Association has indicated that it will use student academic performance or progress in this semester to determine eligibility for next year.
- The U.S. Department of Education has allowed the state to waive state academic assessment due to school closures.
- School districts must continue to comply with student privacy laws. Student Data Privacy During the COVID-19 Pandemic (KASB COVID-19 Resources page)

School districts are expected to continue to employ almost all current staff and continue to provide employee rights and benefits.

- Certificated employees will continue to be paid based and work according to their contracts to provide continuous learning for students while maintaining social distancing.
- School districts will continue to follow state laws regarding staff evaluation, continuing contracts and professional negotiations. These include the third Friday in May (May 15) deadline for non-renewal notices and March 31 date for exchanging notice of items under the professional negotiations act.
- The Kansas Legislature expressed its intent that classified (hourly) employees continue to be paid. Districts may consider addressing this through leave without pay or providing other duties for such employers while observing social distancing and other health steps.
- KSDE is recommending that long-term substitutes and supplemental contracts continue to be paid based on the expected payment of these individuals.

Click for state resources for school leaders.
In this “new normal” we find ourselves in both personally and professionally, I thought the best article may be one of truth and logic.

Now that sounds ironic, huh? If you are like me, I have had to slow my daily intake of the news. Not because the news is not part of reality, not because I do not want to be informed, and not even because I believe it is untrue. I am needing enough information to comprehend our new reality, stay informed, and attempt to stay positive.

With an attempt to stay informed and stay positive within our new reality – no better time than now to talk about insurance, specifically employee benefits. That last sentence just eliminated a good portion of the readership, but I promise, if you read on, there is value here!

Nearly every one of our almost 350 KASB members organizations have a Section 125 plan that includes both core (Medical, Dental and Vision) benefits and supplemental offerings (Flexible Spending Accounts, Dependent Day Care Programs, Disability, Cancer, Accident, etc.). With these benefits there is typically some member engagement with what is called a Third-Party Administrator or TPA to assist both with compliance of the plan and also enrollment assistance into the plan for employees. This enrollment process can take many forms. Within the education space our members reside in, the standard is some form of one-on-one enrollment process where an insurance professional works directly with individual employees to educate and evaluate needs and complete required paperwork.

Next, there is the operation of timing of that enrollment process. These plans renew with a “plan year,” and for many of our membership they have some version of a fall plan year or renewal month. Many of our members operate “early or spring enrollment periods” to avoid the fall rush of back to school. Or, more importantly, it allows the vendors to spread their service work out across many months as to not have all their work come 30-60 days before a plan year starts.

Reality – There is a new normal, and it is important to be informed about what is actually “required” at the employer level, both from an annual enrollment process as well as a timing of that enrollment operation.

Purpose of employee benefits enrollment

By Rod Spangler
Director, KASB Risk Management Group

Truth – A great majority of what is done annually within your Section 125 plan is driven by and from the vendors or TPAs that assist with the management of your plan.

Truth – A spring benefits enrollment period is not required by law; it is typically required by your TPA. Your focus should be on the rollout and management of your district’s continuous learning plan, feeding and supporting your students and families, not on recreating a new employee benefit enrollment process at this time. You can legally and easily suspend your employee benefits enrollment and still provide the same benefits value and support for your employees at a later date or even in a different enrollment format.

Truth – An annual enrollment is not required by law. It is typically required by your TPA. Your Section 125 plan governs that enrollment process, your TPA does not.

Truth – Annual enrollments or open enrollment windows are a benefit to your employees so they can educate themselves and make benefit changes or upgrades that work best for their families. Your plan document can drive what is allowed and legal from an enrollment perspective. You can and should drive this, not your vendor.

Truth – Several employee benefit enrollment options exist, and your plan document can drive this for you as the employer. Your options are as follows:

• Default/Negative Enrollment (utilizing default election language for employee’s initial plan year and rolling election for subsequent plan years)
• Negative Enrollment (rolling election only)
• Mandatory Enrollment

Truth – Flexible Spending Accounts (Medical Reimbursement and Dependent Day Care) are the only plans that require annual elections. There is great flexibility as to how to manage this annual required

Continued on page 17
Looking at the Data
Ted Carter, KASB Chief Data Officer

Be a smart information consumer

There is a lot of information out there about COVID-19 in general, how it impacts schools, and how schools should respond. And unfortunately, not all of it is accurate or complete. Here are a few tips and suggestions on navigating through all of it.

Information sources

One thing that has become much more important over the past several years is the consideration of where the information is coming from. Social media and the internet in general have made it much easier for anyone with a computer, tablet, or phone to present themselves as a credible news source. In addition, some sources that could be counted on to be impartial in the past may take a partisan political approach to reporting information. Here are a few things to consider:

- Don’t just read the headlines: Headlines are designed to grab your attention and are therefore going to be as sensational as possible, but they rarely give you a fully accurate picture of the information contained in the article. Read the article before you believe the headline.
- Seek out the experts: Particularly in relation to the science behind COVID-19, it is much better to go to the source of the information being quoted by the news media. It is worth taking an additional step to go directly to sources like the CDC or WHO rather than just trusting the news media outlet’s interpretation of this information.

Data trends

One of the things we hear a lot about currently is the rate of infection, the number of cases in the country, state, county, city, etc. Different sources are painting very different pictures about how severe the issue is and where areas stand in comparison to others. It is easy to get lost quickly. Here are few things to consider:

- Look for percentages or ratios instead of raw numbers: The news has been spending a lot of time talking about the totally number of cases, deaths, etc. and comparing different areas based on these raw numbers. The problem is that these comparisons don’t take into consideration the total number of people in the areas. Look for information sources that provide percentages or ratios such as “X out of 100 people” instead.
- Consider the source of increases: As the U.S. and areas within it see increases in the number of cases, deaths, etc. it is important to remember there are two things that could be leading to these increases. The first is an actual increase in the number of people infected or who have died from the disease, and the second is an increase in the accuracy of the measurement. Because tests have been less readily available here than in other countries, our numbers have appeared much lower, but now that tests are becoming
The final piece of advice I want to offer is this: pace yourself. It is easy to become completely fixated on the coronavirus. All of our normal sources of information are inundated with stories about COVID-19. Yes, it is important to stay informed and to be aware of what is going on. But it is also important to remain positive and to protect your mental and emotional health. Determine how much information you need in order to feel aware and prepared, and then make sure you are taking time away from it and focusing on the other important things in your life. Our families, our schools, and our communities need us to be healthy in every sense of the word if we are going to get through this together.

Benefits

Continued from page 15

enrollment. Your vendors should work in support of this for you.

Truth – You, as the employer, have options. You, as the employer, should drive those options. Do not let the vendor dictate actions that are not required. In fact, employers can update or “amend” their plan documents to an enrollment option that is far more flexible and beneficial for both you as the employer and your remote workforce. Those amendments can occur now for the upcoming plan year.

Reality – As the employer, you and your plan document can dictate this process. You do have flexibility that you and your employees deserve during this time. Your vendors should support you during this time. Your 125 vendors should not be requiring processes that are more in support of their operations than your own local needs at this time.

Reality – You are the customer, not your TPA or benefits vendor.

Take the Control Back – Contact your TPA, express your concern and allow them to support you in your new reality. Remember everyone’s reality is different, yours is always the most important. They will respond.

We have you covered – KASB Risk Management Group stands ready to support you with questions you may have surrounding your 125 plans, enrollment procedures and compliance concerns.

more available our numbers are increasing more rapidly, and this increase is not a pure indication of how fast the virus is spreading.

• Look for meaningful comparisons: Any trend data can be easily manipulated to appear more or less severe using cleverly designed graphs or by any number of other means. It is important to try to put what you are seeing in some kind of context. Seek out sources that provide comparisons with other pandemics and other trends so that you have a frame of reference.

Pace Yourself
Open meetings in emergency health crisis

At this point in time, districts are familiar with the intricate dance of holding an open meeting. However, with COVID-19 crawling its way through the country, many districts are confused as to how the requirement to keep meetings open to the public in the traditional notion and the safety practice of social distancing can be read in harmony.

Fortunately, on March 20, 2020, Kansas Attorney General Derek Schmidt released guidance on how district can handle board meetings while not exposing themselves or the public to potential infection. During a declared emergency by the Governor, public entities should utilize the following guidelines when conducting their meetings.

- The Kansas Open Meetings Act (hereafter “KOMA”) remains in full force and effect unless explicitly suspended by emergency order of the governor. The Governor has not currently suspended any requirement of the KOMA.
- If the members of the public body themselves are not physically gathered in one place – for example, if the meeting itself is conducted by telephone or videoconferencing – then members of the public must be able to join in the electronic conferencing in order to listen to or observe the meeting.
- If the members of the public body are physically gathered for a meeting but cannot allow members of the public to be present because of emergency limitations, then the public body must take steps to allow members of the public to listen to or observe the meeting by telephone, videoconferencing, television broadcast, or similar method.
- When the public is participating in a public meeting by telephone or other medium of interactive communication, members of the body must take steps to help the public understand the proceedings despite not being physically present. For example, each speaker in the meeting should identify herself or himself by name before speaking or voting so remote listeners or observers can more readily know who is speaking; likewise, each motion should be clearly stated and each vote tally clearly announced.
- The procedure for any executive session must be clearly explained at the outset of a meeting.
- There must be no cost for the public to participate.
- There must be a method for distributing any agenda or other written materials that ordinarily could be picked up in person by members of the public attending the meeting. Those procedures must be explained to the public before the meeting begins.

Keen observers will note a marked departure from the physical location requirement that has been a mainstay for all meetings of a public body. Traditionally, a physical location has always been required for those who do not have access to the technology needed to access the meeting held via technological means. The new regulations allow district to hold completely virtual meetings during qualifying times of
emergency. It is important to note that an emergency proclamation from the Governor is not the same as an emergency order suspending or altering the requirements of the KOMA. We are currently in a state of public health emergency; no order has been issued by the Governor to suspend or alter the KOMA.

It is also very important to note that these are temporary regulations that will, in all likelihood, have an expiration in the near future. This is just a temporary fix to get us through this difficult time.

In addition to the regulation itself, which will be legally binding, the Attorney General also has issued a Best Practices document with additional actions that are strongly recommended. These recommendations include:

- Before shifting to new meeting procedures that do not allow in-person public attendance, produce and widely disseminate to the general public through news media, social media, email and other means a notice explaining why and how the ordinary meeting procedures will change, how the public may receive notice of meetings, and how the public may continue to participate in meetings.
- Audio or video record the meeting and post to the public body’s website so members of the public who could not participate later can review what occurred.
- Post to a public website any materials that will be distributed during the meeting, such as any agenda, agenda packet, or presentation.

All districts should keep in mind that the overarching purpose of the KOMA is to allow for transparency in governmental policy making. When confronted with a question of whether the district is in compliance with the KOMA during this trying time or any other, consider if we are doing our best to be available to the public observation.

Please do not hesitate to contact a KASB attorney with any questions regarding open government compliance. A citizens guide to the Kansas open government laws and a list of frequently asked questions can be found at [https://ag.ks.gov/open-government](https://ag.ks.gov/open-government).
School employment considerations during a public health emergency

With all the changing news and guidance put out on a state and federal level concerning COVID-19, emergency family medical leave, and open meetings, it’s important to not lose sight of those statutory timelines that districts are required to follow. The considerations that fall into this category include, but are not limited to, negotiations, evaluations, and notifications of contract nonrenewal. At the time of publication, there has been no statement from the Kansas State Department of Education (hereafter “KSDE”) or the Governor concerning these statutory requirements.

This means that notice letters are still due March 31, 2020, and meetings* to negotiate must still be carried out, although they may be postponed or conducted via other interactive means. It is in the best interest of the board and the teachers to communicate desires to postpone negotiations meetings early so as to not get caught unawares.

*Note: Unless a majority of board members (four or more board members) attend the negotiations meetings, it is not a “meeting” for the purposes of the KOMA and therefore the temporary regulation discussed above would not apply. If a majority of the board is present, it becomes a “meeting” under the KOMA and therefore subject to the open meetings laws and temporary regulations. However, this does not mean that the meeting is not open to the public. Kansas law dictates that negotiations are open for public observation; negotiation team caucuses are not. If a majority of board members are present for negotiations meetings, those caucuses become open under the KOMA and therefore open to the public. For this reason, we encourage districts to only have one or two board members on the negotiations team and report back to the board.

Moving to employee evaluations, districts must remember that employees in their first two years of employment are statutorily required to be evaluated no later than the 60th day of the semester. This may get slightly confusing with Governor Kelly’s order to close all public school buildings; however, with the guidelines of Continuous Learning put out by the state, it has been made clear that districts are still required to provide some services to student and the countdown towards the 60th day is still ticking.

By way of contract nonrenewal, the board is still required to provide notice of intent to nonrenew contracts on or before the third Friday in May, May 15, 2020. The notice of intent to nonrenew must be issued from the board; a superintendent’s email will not suffice. To outline the timeline of nonrenewal please see the chart above.

It is important to note that the teacher’s notice deadline is also still in place. Teachers subject to the continuing contract laws are required to provide notice of their desire to not continue their contract on or before the 14th calendar day after the deadline for nonrenewal, Friday, May 29, 2020.

If you have any questions about these deadlines or how new laws may affect them, please do not hesitate to contact a KASB attorney.

THE 1-2-3 NONRENEWAL PROCESS

Step 1 – Board passes the resolution of intent to nonrenew the contract. Must be done in open session at a board meeting.

Step 2 - The teacher must receive written notice of the intent to nonrenew from the board on or before the third Friday in May. (May 15, 2020)

Step 3 - Board takes the final action to nonrenew. This may be done after the notice date.

* KASB has sample forms
Retired teachers: Are they covered by the district’s negotiated agreement?

This topic comes up rather often as districts make the choice to hire retired teachers to fill some positions in schools across Kansas. While this is a perfectly legal practice, it should be handled very carefully, and districts should be aware of the potential legal considerations when hiring a retired KPERS employee.

The most important topic to address is deciding if retired teachers that come back to work for a district are covered by the negotiated agreement. Remember, in Kansas, only professional employees are part of the collective bargaining unit and therefore covered by the negotiated agreement. K.S.A. 72-2218(c) defines professional employees as follows:

Professional employee means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity, but shall not mean any such person who is an administrative employee and, commencing in the 2006-2007 school year, shall not mean any person who is a retirant from school employment of the Kansas public employees retirement system, regardless of whether an agreement between a board of education and an exclusive representative of professional employees that covers terms and conditions of professional service provides to the contrary.

As defined in statute, “professional employee” specifically excludes retired Kansas teachers. They do not receive the benefits of the negotiated agreement. Therefore, districts can set the terms of employment on an employee-by-employee basis.

However, districts should be aware that one constant across all retired teacher contracts. KPERS requires a 30% penalty contribution on earnings over $25,000. This penalty should be kept in mind when determining rate of pay for retired teachers as it does rather substantially impact the dollar amount of the contract. It is also important to remember that retired teachers, while not subject to the terms of the negotiated agreement, are subject to the continuing contract law. This means the will need to be included in the timeline for nonrenewals discussed the previous article.

The KASB Legal Department recommends districts use a separate contract for retired teachers than any other employee. This contract is available upon request for KASB. If you wish to have KASB review a retired teacher contract or would like a sample contract, please contact a KASB attorney at 785-273-3600.

These articles provided by KASB Legal Services are not intended to be legal advice. If you have questions, contact KASB at 800.432.2471.
What’s Coming Up?

Legal Assistance Fund Members
Clerks, Human Resources, Payroll Support
• 2 p.m.
• Tuesday, April 7, 2020
KASB will host a question and answer session centered on employee payroll, benefits and leave for organizations who are members of the KASB Legal Assistance Fund. Registration information will be emailed to members.

Important
Due to the COVID-19 public health crisis, KASB canceled all in-person meetings for March and April. We will continue to follow the guidance of local and state health officials regarding future meetings. We plan to continue with the May 27 School Law Workshop in Wichita, and have rescheduled the Women’s Leadership Summit for June 23 and 24, 2020. Please watch for KASB emails, read our daily News Briefs and follow KASB social media for announcements and plans. Thank you!

KASB Resources

Information for all KASB members and the public can be found at kasc.org/covid-19-resources-kasb
Additional resources and support for our KASB Legal Assistance Fund members can be found through our member portal. Log into the portal from the KASB homepage (see Quick Start Guide at right) then navigate to Member Resources>Legal Assistance Fund>COVID-19 Resources.

KASB will continue to schedule support sessions and meetings for our members. Please watch for KASB emails, read our daily News Briefs and follow KASB social media for opportunities and schedules.

Board Members and District Leaders
Virtual Roundtables
6-7:30 p.m. Online
• Thursday, April 2, 2020
• Wednesday, April 8, 2020
• Thursday, April 9, 2020
KASB will conduct virtual board roundtable meetings, focusing on the policy and legal challenges of operating school districts during the COVID-19 crisis and school closure.
For registration information, go to www.kasb.org and click on Upcoming Events for additional information and the agenda.
Once registered, participants will receive a registration confirmation from pinpoint@kasb.org that will include a Zoom link to join the meeting.