



# KANSAS CATHOLIC CONFERENCE LEGISLATIVE SESSION REVIEW SPRING 2020

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Thank you for taking time to read this update from the Kansas Catholic Conference, the official public policy voice of the Kansas Catholic Bishops. Your feedback is encouraged.

Please send comments to Chuck Weber, Executive Director of the Kansas Catholic Conference, email: [Chuck@KansasCatholic.org](mailto:Chuck@KansasCatholic.org)

Please visit our web site at [www.KansasCatholic.org](http://www.KansasCatholic.org)

Facebook: <https://www.facebook.com/kscathconf/>

## EASTER 2020—WE WILL FOREVER REMEMBER

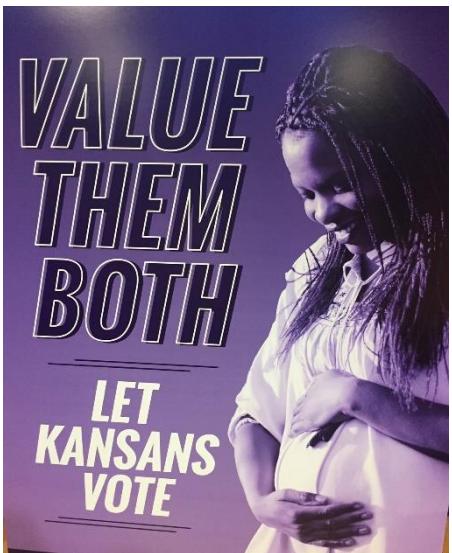
The COVID-19 pandemic meant Eastertide 2020 was like no other Easter in our lifetime. We were unable to gather in our parishes for the liturgies of the Sacred Triduum. We particularly missed the beauty of the Easter Vigil, where baptismal promises are renewed and new Catholics welcomed into the fold. We struggle (at least many do) with livestreamed Mass and Spiritual Communion.

<https://www.catholic.com/audio/caf/spiritual-communion-in-a-time-of-coronavirus>



**Yet, we are an Easter people. A people of joy.** Our Redeemer is Risen! Despite hardships and sorrow, including the loss of income, sickness and even death, Christ walks with us. *With you.* This is our time to encounter Him personally along our own road to Emmaus.

The notion of a journey is also at the heart of the Kansas Catholic Conference's mission. We engage in the important and often contentious arena of politics and public policy. As representatives of the Catholic Church, our mission is not to simply win arguments or pass legislation. We seek **the common good** in policies that ultimately help attain eternal life.



## THE 2020 KANSAS LEGISLATIVE SESSION: FRUSTRATION AND UNFINISHED BUSINESS

Kansas state lawmakers tackled two significant and closely connected issues this year: **The “Value Them Both” state constitutional amendment for life, and Medicaid Expansion.** The Catholic Bishops offered a strategic plan to pass both—but neither passed before COVID-19 shut down the 2020 Session. Here is a look at these two critical pieces of legislation, and why they are important.



### VALUE THEM BOTH AND MEDICAID EXPANSION

The Catholic Bishops of Kansas support expanding access to healthcare — known as “Medicaid Expansion” — but with a crucial condition. We must (and we can) make Medicaid Expansion Pro-Life by passing the Value Them Both state constitutional amendment measure in the legislature first to prevent Medicaid-paid abortions.

Last April, the Kansas Supreme Court discovered and created a nearly unlimited “right” to abortion in the case *Hodes & Nauser v. Schmidt*. The legal building blocks of this decision—the other cases the Kansas Court used to justify *their* decision—were almost entirely cases supportive of taxpayer funding and/or Medicaid funding of abortion.

**This a clear legal indicator that the Kansas Supreme Court (not the Catholic Bishops) are connecting Medicaid Expansion to abortion.**

If the legislature approves Medicaid Expansion without passage of Value Them Both, legal scholars say Kansans will almost certainly be forced to pay for abortions through the Medicaid program. This is why passing Medicaid Expansion without Value Them Both is a major stumbling block. The Kansas Catholic Conference worked with others in trying to remove this obstacle. We were up against the powerful abortion industry, which supports the *Hodes* ruling as it could very well create a taxpayer-funded abortion revenue stream.



**Taxpayer-funded abortion would be a disaster for Kansas.** While it is true we currently have a state law against taxpayer-funded abortions, this law (and virtually all other pro-Life laws in Kansas) are now “presumed unconstitutional” by the Kansas Supreme Court. The first step in stopping Medicaid Expansion from becoming a direct funding stream for the abortion industry is for the legislature to pass the Value Them Both Amendment.



# STOP Tax Funded Abortions

Few people realize that sixteen states currently pay for abortions through state taxpayer Medicaid dollars. Nine of these states were ordered to do so where courts found a “right to abortion” (like Kansas). In 2018, 75% of ALL abortions in Medicaid Expansion state Connecticut (“Husky”) were paid with state taxpayer dollars.

**This is the kind of nightmare scenario Kansas faces.** In fact, we already have a legal problem with abortions and the current Medicaid program. It appears to be only a matter of time before KanCare, Kansans’ Medicaid Program, is forced to pay for abortions. Under Medicaid Expansion, the problem gets even worse.

We know this because taxpayer funded abortion increased in other states after Medicaid Expansion. Alaska funded abortions through Medicaid for decades. After Medicaid Expansion, there was a 13% increase in taxpayer-funded abortions. A detailed legal analysis from Michael New, Ph.D. of the Charlotte Lozier Institute offers compelling evidence of a similar scenario unfolding in Kansas. <https://lozierinstitute.org/an-analysis-of-how-medicaid-expansion-in-kansas-will-affect-abortion-rates/>

Increasing healthcare access should be something all Kansans can get behind. Forcing taxpayers to pay for the destruction of human life is immoral and cruel.

**PASSING THE VALUE THEM BOTH AMENDMENT MEASURE IN THE  
LEGISLATURE WILL GIVE KANSAS CITIZENS THE OPPORTUNITY TO  
REVERSE THE *HODES* ABORTION RULING AT THE BALLOT BOX AND WILL  
ALLOW OUR PRO-LIFE LAWS TO BE ONCE AGAIN ENFORCEABLE.**

The Value Them Both amendment measure passed the Senate, but failed by four votes in the House. Every Democrat in the Kansas Senate and House voted NO. Every Republican voted yes, except Senator John Skubal (Overland Park), and State Representatives Don Hineman (Dighton), Tom Phillips (Manhattan), Bill Pannbacker (Washington) and Jan Kessinger (Overland Park).



# NOW? WHAT?

We are asking every Catholic voter to contact their State Senator or State Representative. If they voted YES, please thank them. If they voted NO, ask them to reconsider if they have the chance and vote YES.

Find your lawmaker at: <https://www.kansascatholic.org/take-action/>

## **COVID-19, “EXECUTIVE ORDERS” AND RESUMING PUBLIC CATHOLIC MASS**

**The Catholic Bishops of Kansas (not the Governor) will make the ultimate decision**

There has been much in the news about Governor Laura Kelly’s “stay at home” Executive Orders connected to COVID-19 and the stated purpose of preserving and protecting public health. There are worthy elements to these Executive Orders--but also cause for concern and misgiving.



One cause for concern is the lack of a spirit of cooperation. As of April 18, the Governor has not reached out to the Kansas Catholic Bishops and the Kansas Catholic Conference for our input or suggestions.

Prior to any local or state government “stay-at-home” order or mandate, the Catholic Bishops of Kansas made the decision to suspend the obligation of the faithful to attend Sunday celebration of the Mass. They directed the cessation of public celebration of the Mass (and other liturgies) unless under special circumstances (i.e., funerals, weddings, baptisms, etc.), and only with social distancing and hygienic guidelines in effect.

Beginning March 17, Governor Kelly began issuing a series of “Executive Orders” prohibiting public or private “mass gatherings” (i.e., gatherings of more than 10 people), but exempted “religious gatherings, as long as attendees can engage in appropriate social distancing.” Additional, Governor Kelly designated religious activities as “essential functions” in our society.

The Catholic Bishops of Kansas wrote a letter to Governor Kelly, expressing their gratitude for her recognition of Religious Liberty as a universal right—in principle and practice. The Bishops offered the Governor their prayers and the assistance of the Catholic community.



**Kansas Grown Farmers Market--Wichita Eagle, file photo used in April 7 article**

On Tuesday, April 7, a newly issued Executive Order, EO NO. 20-18, took a troublesome turn. In that order, the Governor removed churches from the exemption from mass gathering prohibitions. As her explanation, the Governor cited three church-related activities in Kansas, which had taken place *before* the first Executive Order, as “coronavirus clusters” responsible for

spreading COVID-19. While religious or faith-based activities were still considered “essential,” the Governor’s order targeted faith communities while permitting other potential “coronavirus cluster” activities. For instance, local “farmer’s markets” in Wichita and Topeka opened as scheduled. Shopping malls were exempted (though nearly all were closed). Liquor stores and abortion clinics are still open. In fact, there are 25+ exemption categories. What had been clear and balanced now became cause for confusion.

In response, the Kansas Catholic Bishops issued another statement, stating (in part):

**Governor Kelly's new order, EO NO. 20-18, is troubling in that it specifically singles out restrictions on churches and religious activities while granting numerous exemptions to other public gatherings that present the same risk to public health. We question the constitutionality of this new order.**

**EO NO. 20-18 does not change what we are already practicing in Catholic Churches throughout Kansas.**

**These measures remain in place as long as the Catholic Bishops of Kansas, relying upon the best advice of medical professionals, deem them necessary.**

## **CHALLENGE FROM LEGISLATIVE LEADERS AND A DECISION BY THE KANSAS SUPREME COURT**

In addition to concerns expressed by the Catholic bishops, the Kansas Attorney General offered his opinion that the Executive Order was probably unconstitutional and advised that it not be enforced by law enforcement. Legislative leaders who make up what's called the Legislative Coordinating Council (LCC) , a body that acts for the legislature while it is not in session, voted 5-2 to overturn the Executive Order, citing religious liberty considerations, especially the imposition of fines and even jail for those convicted of disobeying the order.



The reaction from the Governor was swift. She called the LCC's action, "Shockingly irresponsible," and appealed the LCC decision directly to the Kansas State Supreme Court. Kansas Department of Health and Environment (KDHE) Secretary Lee Norman tweeted, "I am so angry! Shame!", and compared the prospect of Easter Sunday church services to the infamous Jonestown Massacre of 1978. The KC Star editorial board called it "...a stunning, dangerous step...", even while admitting the Governor's Executive order is "undoubtedly an extraordinary measure."

In a decision issued on Holy Saturday night, the State Supreme Court sided with the Governor, allowing her Executive Order to remain in place. The Supreme Court did not address the constitutional religious liberty concerns, but rather based its decision on an interpretation of the statute governing the LCC's scope of authority. In any case, based on early news reports, very little changed as the vast majority of churches in Kansas were already practicing online and/or safe worship.

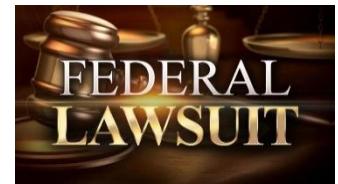
## WHAT DOES ALL THIS MEAN FOR KANSAS CATHOLICS?

The Governor's latest Executive Order (EO NO. 20-18) does not impact what Catholics in Kansas are doing—or *not* doing—in terms of COVID-19 precautions. Again, the Catholic church took precautions to protect the public health before any state mandate. Still, EO NO. 20-18 is troubling and a cause for concern. Why single out churches and religious communities? Is EO NO. 20-18 *really* necessary? Religious Liberty is the first right of Americans for a reason. The Catholic Bishops of Kansas—not the Governor or the government—will decide when public Masses resume.

We look forward to a day when government works with people of faith as partners in the common good, not as sole arbitrators of the law.

Until then, for the Catholic faithful, the continued cessation of public religious services is in place. These directives will remain in place as long as the Catholic Bishops of Kansas and the best advice of medical professionals deem them necessary.

**\* Finally, it should be noted that two Christian churches in Kansas filed a lawsuit in Federal Court on Thursday, April 16, 2020, challenging the constitutionality of EO NO. 20-18. We are grateful for this challenge and will be watching the legal developments.**



## A LOOK AHEAD—WILL THE LEGISLATURE MEET AGAIN THIS YEAR?



The 2020 Kansas Legislative Session is scheduled to resume on Monday, April 27. This will almost certainly not happen as the statewide “stay-at-home” order is in effect until at least May 3. It is quite possible that lawmakers will gather sometime in May.

**In a COVID-19 pandemic environment, there will be great pressure to pass Medicaid Expansion, but not as much pressure to pass Value Them Both UNLESS Kansas Catholics and others make their voices heard.**

### Here are three “action items” for Kansas Catholics

1. **Pray.** Our efforts to pass Value Them Both are consecrated to Our Lady of Guadalupe, Patroness of the Unborn. Call upon her. Sign up and take part in the Kansas Rosary Crusade at [www.KansasRosaryCrusade.org](http://www.KansasRosaryCrusade.org)
2. **Be informed.** The Kansas Catholic Conference is conducting online zoom meetings for groups and individuals where we unpack a clear and concise presentation about the urgency of the situation we face. To take part, please email Kansas Catholic Conference Executive Director Chuck Weber at [Chuck@KansasCatholic.org](mailto:Chuck@KansasCatholic.org)
3. **Get involved!** Go to: <https://www.kansascatholic.org/take-action/> where you can find your State Senator and State Representative—then call or write them. Tell them you support Value Them Both and *then* Medicaid Expansion. Thank you!