

IN THE SUPREME COURT OF KANSAS

GOVERNOR LAURA KELLY, in her)	
official capacity,)	
)	
Petitioner,)	Case No.
)	
v.)	
)	
LEGISLATIVE COORDINATING)	
COUNCIL, KANSAS HOUSE OF)	
REPRESENTATIVES and)	
KANSAS SENATE,)	
)	
Respondents.)	

ORIGINAL ACTION
PETITION IN QUO WARRANTO

COMES NOW Petitioner, Governor Laura Kelly, through her undersigned counsel, and respectfully brings this action in quo warranto. As required by Kansas Supreme Court Rule 9.01 (2018 Kan. S. Ct. R. at p. 58), Governor Kelly concurrently files her Memorandum in Support, Motion to Expedite, and Motion to Proceed Ex Parte.

Parties

1. Laura Kelly is the Governor of Kansas.
2. The Legislative Coordinating Council ("LCC") is created by K.S.A. 46-1201. The LCC is composed of seven members, including the "president of the senate, the speaker of the house of representatives, the speaker pro tem of the house of representatives, the majority leader of the senate, the majority leader of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives." *Id.*
3. The Kansas Senate comprises one house of the Kansas Legislature, as created by the Kansas Constitution Art. 2, § 1.
4. The Kansas House of Representatives comprises one house of the Kansas

Legislature, as created by the Kansas Constitution Art. 2, § 1.

Jurisdiction

5. This is an original action in quo warranto pursuant to K.S.A. 60-1201, *et seq.*

6. The Kansas Constitution Art. 3, § 3 vests original jurisdiction for such actions in this Court. Similarly, K.S.A. 60-1202 also vests original jurisdiction in this Court.

7. This Court should exercise its concurrent original jurisdiction over this matter because adequate relief is not available to Petitioners in the district courts. *See* Sup. Ct. R. 901 (b) (Kan. S. Ct. R. at p. 58- 59). Further, the extraordinary issues of public health raised here constitute a matter of great public importance and resolution in this Court will provide speedy adjudication of these important questions and provide much needed guidance to Kansans across the state.

8. For reasons further described in the Memorandum in Support that accompanies this Petition, this Court should exercise its discretion to grant quo warranto relief here because the case raises legal issues of significant public concern; the material facts are not in dispute and are established by the supporting documentary evidence and Exhibits; and there is a compelling need for an expeditious and authoritative ruling on the important legal issues presented. *See* Sup. Ct. R. 901 (b) (Kan. S. Ct. R. at p. 58- 59).

Count I - Quo Warranto
(Unconstitutional Delegation of Authority)

1. According to federal Centers for Disease Control (“CDC”), COVID-19 is a virus that attacks the respiratory system. There is no vaccine. There is no anti-viral treatment. While most who are infected with COVID-19 suffer mild to moderate symptoms, some "patients have pneumonia in both lungs, [and] multi-organ failure" that leads to death. *See* Centers for Disease Control, "What you need to know about coronavirus disease 2019 (COVID-19)," available at

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf> (last visited April 8, 2020).

2. COVID-19 presents a global pandemic. As of this filing, the world has suffered more than 1.4 million COVID-19 infections this spring alone. *See* "Coronavirus: US records highest death toll in single day," British Broadcasting Corporation (April 8, 2020), available at <https://www.bbc.com/news/world-us-canada-52209954> (last visited April 8, 2020).

3. As of April 8, 2020, the CDC reported that COVID-19 had infected approximately 395,000 Americans, causing nearly 13,000 American deaths. *See* <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited April 8, 2020).

4. As of April 8, 2020, Kansas has seen 1,046 cases of COVID-19 across 57 counties. *See* https://public.tableau.com/profile/kdhe.epidemiology#!/vizhome/COVID-19Data_15851817634470/KSCOVID-19CaseData (last visited April 8, 2020).

5. As of April 8, 2020, thirty-eight Kansans have died as a result of COVID-19. *Id.*

6. Facing this pandemic, pursuant to K.S.A. 48-924, Governor Kelly proclaimed a State of Disaster Emergency within Kansas relating to COVID-19 on March 12, 2020. A true and correct copy of the Proclamation of a State of Disaster Emergency is attached hereto as Exhibit A.

7. Similarly, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency related to the COVID-19. A true and correct copy of the Declaration a National Emergency is attached hereto as Exhibit B.

8. On March 19, 2020, the Kansas Senate adopted the Kansas House of Representatives' HCR 5025 ("HCR 5025"). A true and correct copy of HCR 5025 is attached hereto as Exhibit C.

9. Pursuant to K.S.A. 48-924(b)(3), the Legislature ratified the Governor's emergency declaration and extended its operative force until May 1, 2020. *See* HCR 5025 ¶ 2 (beginning "*Be it resolved . . .*").

10. The CDC's guidance is that "[l]imiting face-to-face contact with others is the best way to reduce the spread of coronavirus disease 2019 (COVID-19)." *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html> (last visited April 8, 2020).

11. Stating that it is a "matter of life and death," President Trump instructed all Americans to practice social distancing (namely, dramatically limiting in-person contact with others) through at least April 30, 2020. *See* Cassidy Morrison, "A matter of life and death': Trump calls for social distancing for next month," *The Washington Examiner* (March 31, 2020), available at <https://www.washingtonexaminer.com/news/a-matter-of-life-and-death-trump-calls-for-social-distancing-for-next-month> (last visited April 8, 2020).

12. Pursuant to the Kansas Emergency Management Act, K.S.A. 48-925, on April 7, 2020, Governor Kelly issued Executive Order No. 20-18 (hereinafter "EO 20-18"), which temporarily prohibits mass gatherings of more than 10 people to limit the spread of COVID-19 and rescinds Executive Order 20-14. A true and correct copy of EO 20-18 is attached hereto as Exhibit D.

13. K.S.A. 48-925(c) explicitly authorizes the issuance of EO 20-18. K.S.A. 48-925(c)(7) ("During a state of disaster emergency declared under K.S.A. 48-924 . . . the governor

may . . . control . . . the movement of persons . . . within the [disaster] area."); K.S.A. 48-925(c)(11) (governor may "perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population").

14. The Kansas Emergency Management Act grants the Legislature three checks upon gubernatorial emergency power.

15. First, K.S.A. 48-924(b)(5) states that "[a]t any time, **the legislature by concurrent resolution** may require the governor to terminate a state of disaster emergency." (Emphasis added.)

16. Second, K.S.A. 48-925(b) states that the Governor's orders issued under the act may be revoked at any time by **concurrent resolution of the legislature**." (Emphasis added.)

17. And third, K.S.A. 48-924(b)(3) provides that "governor shall terminate the state of disaster emergency by proclamation . . . [and that] no state of disaster emergency may continue for longer than 15 days unless ratified by **concurrent resolution of the legislature**, that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days." (Emphasis added).

18. Nevertheless, HCR 5025 § (2)(D) attempts to reallocate to the LCC the authority to revoke gubernatorial emergency orders without a concurrent resolution in direct violation of the plain text of K.S.A. 48-925(b).

19. Rather than exercise this check upon gubernatorial emergency authority by concurrent resolution of the Legislature as K.S.A. 48-925(b) requires, HCR 5025 § (2)(D) instead attempts to reallocate this power in the 7-person LCC.

20. The Kansas Constitution Art. 2, §§ 14 and 20, however, mandate that statutes may

only be amended by the introduction of a bill, and presentment to the governor.

21. HCR 5025 § (2)(D) is not a bill as defined by the Kansas Constitution Art. 2, § 20.

22. The Legislature did not present HCR 5025 § (2)(D) to Governor Kelly pursuant to the Kansas Constitution Art. 2, § 14.

23. HCR 5025 § (2)(D) and its attempted reallocation of authority to the LCC violates the plain text of the Kansas Constitution, Art. 2, §§ 14 and 20. *See, e.g., State ex rel. Stephan v. Kansas House of Representatives*, 236 Kan. 45, 64, 687 P.2d 622 (1984) (holding unconstitutional a statute allowing the legislature to adopt, modify, or revoke regulations by concurrent resolution without acting by the introduction of a bill followed by gubernatorial presentment).

24. Nevertheless, on April 8, 2020, the LCC attempted to revoke Governor Kelly's EO 20-18 under its presumed HCR 5025 § (2)(D) reallocated authority. *See* <http://sg001-harmony.sliq.net/00287/Harmony/en/PowerBrowser/PowerBrowserV2/20200408/-1/9503> (last visited April 9, 2020).

25. An action in quo warranto lies, therefore, against all Respondents. *See* K.S.A. 60-1202(1) (providing that an action in quo warranto may be brought when "any person shall usurp, intrude into or unlawfully hold or exercise any public office, or shall claim any franchise within this state, or any office in any corporation created by authority of this state.").

RELIEF SOUGHT

Petitioner seeks the following relief:

- a. A declaration that HCR 5025 § (2)(D) violates the Kansas Constitution;
- b. An order voiding the LCC's April 8, 2020 attempt to revoke EO 20-18;
- c. An order enjoining the LCC from taking any future action under HCR 5025 § (2)(D)'s presumed delegation of authority;

- d. An order granting Petitioner's motion to expedite this proceeding with the utmost speed given the need to resolve this matter before the Easter holiday this Sunday April 12, 2020;
- e. An order granting Petitioner's motion to proceed ex parte, or in the alternative to provide for an expedited briefing schedule;
- f. An order foregoing oral argument in light of the need to expedite this petition and Chief Justice Luckert's Administrative Order 2020-PR-016 (March 18, 2020) implementing COVID-19 protocols; and
- g. Such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED

GOVERNOR LAURA KELLY

/s/Clay Britton

Clay Britton, #23901
Chief Counsel
Office of the Governor
300 SW 10th Avenue, Suite 241-S
Topeka, KS 66612
T: 785-296-3230
F: 785-296-7973
clay.britton@ks.gov

/s/Pedro L. Irigonegaray

Pedro L. Irigonegaray, #08079
IRIGONEGARAY, TURNEY, &
REVENAUGH, L.L.P.
1535 SW 29th Street
Topeka, KS 66611
T: 785-267-6115
F: 785-267-9458
pedro@itrlaw.com

/s/ Lumen N. Mulligan

Lumen N. Mulligan, #21337
Attorney at Law
1616 Indiana St.
Lawrence, KS 66044
T: 785-691-6967
F: 785-691-9362
lumenmulligan1973@gmail.com

*Attorneys for Petitioner
Governor Laura Kelly*

CERTIFICATE OF SERVICE

I certify that on April 9, 2020, a true and correct copy of the above filing was served in accordance with Kansas Supreme Court Rule 9.01 and K.S.A. 60-205, on Respondents by e-mail with additional courtesy copies by personal service at the addresses of Respondents' state offices listed below, and further additional courtesy copies by personal service to Respondent's residences, not listed for privacy reasons to:

Senate President Susan Wagle

Susan.Wagle@senate.ks.gov

Statehouse, Room 333-E

300 SW 10th Avenue

Topeka, KS 66612

Kansas Senate

House Speaker Ron Ryckman, Jr.

Ron.Ryckman@house.ks.gov

Statehouse, Room 368-E

300 SW 10th Avenue

Topeka, KS 66612

Kansas House of Representatives and Legislative Coordinating Council

Courtesy copies to:

Director of Legislative Administrative Services Tom Day

Tom.Day@las.ks.gov

Statehouse, Room 551-S

300 SW 10th Avenue

Topeka, KS 66612

Revisor of Statutes Gordon Self

Gordon.Self@rs.ks.gov

Statehouse, Room 24-E

300 SW 10th Avenue

Topeka, KS 66612

/s/Clay Britton

Clay Britton, #23901

*Attorney for Petitioner
Governor Laura Kelly*

Executive Department
State of Kansas
Topeka, Kansas

By the Governor

By virtue of the authority vested in me by the Kansas Emergency Management Act, Chapter 48, Article 9, of the Kansas Statutes Annotated, to meet the inherent dangers of disasters to which the State and its citizens have been exposed, and upon advice of the State Adjutant General as the Director of the Division of Emergency Management, I hereby proclaim a State of Disaster Emergency as follows:

NATURE OF THE DISASTER:

On March 7, 2020, the Secretary of the Kansas Department of Health & Environment (KDHE) confirmed the first case of novel coronavirus (COVID-19) in the state of Kansas and considers that a public health emergency exists within the state of Kansas. The United States Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19 both globally and in the United States as “high” and the United States Department of Health & Human Services declared a public health emergency for COVID-19 beginning January 27, 2020. The World Health Organization (WHO) declared a global pandemic on March 11, 2020. The first COVID-related fatality occurred in Kansas on March 12, 2020.

The Kansas Department of Health & Environment (KDHE) is providing guidance and taking measures to minimize the risk of exposure and infection to the state’s general public while supporting public health and medical professionals with disease investigation, lab testing, epidemiology surveillance and other activities associated with the control and spread of the virus.

The Kansas Division of Emergency Management (KDEM) is coordinating resources across state government to support local public health and county emergency managers in alleviating the impacts to people, property, and infrastructure and assessing the magnitude and long-term effects of the incident.

DATE THAT DISASTER AFFECTED THE AREA:

March 12, 2020

AREA AFFECTED BY THE DISASTER:

Entire 105 counties in Kansas.

I hereby proclaim, direct and order the Adjutant General of the State of Kansas to activate the disaster response and recovery portions of the Kansas Response Plan. The Adjutant General shall coordinate local and inter-jurisdictional disaster plans applicable to the political subdivisions of areas affected by this Proclamation.

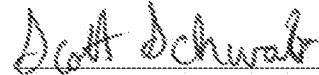
Any or all of the powers conferred upon the Governor by the Kansas Emergency Management Act may be delegated to the Adjutant General as deemed appropriate during this period of proclaimed State of Disaster Emergency. This may be delegated by written orders, or oral orders subsequently reduced to writing with reference to this Proclamation.

I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the order or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statutes, order or rule and regulation would prevent, hinder, or delay in any way necessary action in coping with the disaster as set forth in KSA 48-925(c)(1).

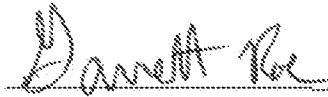
This Proclamation shall be filed promptly with the Division of Emergency Management, the Office of the Secretary of State and each city clerk or county clerk, as appropriate, in the area to which this Proclamation applies. Further dissemination of this Proclamation shall occur by means calculated to bring its contents to the attention of the general public.

DONE At the Capitol in
Topeka Under the Great Seal of
the State this 12, day of March
A.D., 2020

THE GOVERNOR:



Secretary of State



Assistant Secretary of State

Presidential Documents

Exhibit B

Proclamation 9994 of March 13, 2020

Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

By the President of the United States of America

A Proclamation

In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children’s Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. *Certification and Notice.* In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

Sec. 3. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

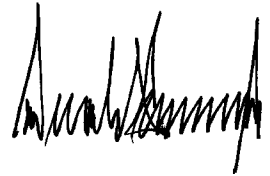
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



HOUSE CONCURRENT RESOLUTION No. 5025

A CONCURRENT RESOLUTION ratifying the March 12, 2020, State of Disaster Emergency declaration, subject to limitations, issued by Governor Laura Kelly and providing for the continuation thereof for the entire 105 counties of Kansas through May 1, 2020, subject to additional extensions of time.

WHEREAS, On March 12, 2020, Governor Laura Kelly issued a State of Disaster Emergency declaration in response to confirmed cases of novel coronavirus (COVID-19) in the state of Kansas and considers that a public health emergency exists within the state of Kansas. The United States Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high," and the United States Department of Health & Human Services declared a public health emergency for COVID-19 beginning January 27, 2020. The World Health Organization (WHO) declared a global pandemic on March 11, 2020: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the State of Disaster Emergency declaration issued on March 12, 2020, for the entire 105 counties of Kansas in accordance with K.S.A. 48-924 is hereby ratified and continued in force and effect on and after March 12, 2020, through May 1, 2020, subject to additional extensions by concurrent resolution of the Legislature or as further provided in this concurrent resolution. If the Legislature is not in session:

(1) As described in K.S.A. 48-924(b)(3), upon specific application by the Governor to the State Finance Council, the State Finance Council may authorize once an extension of such state of disaster emergency by affirmative vote of a majority of the legislative members thereof for a specified period not to exceed 30 days; and

(2) following such State Finance Council action, the Legislative Coordinating Council, representing the Legislature when the Legislature is not in session pursuant to K.S.A. 46-1202:

(A) Is authorized to ratify a declaration, terminate a state of disaster emergency, revoke an order or proclamation or assume any other power granted to the legislature pursuant to K.S.A. 48-924 or K.S.A. 2019 Supp. 48-925;

(B) may authorize additional extensions of such state of disaster emergency by a majority vote of five members thereof for specified periods not to exceed 30 days each;

(C) shall meet not less than every 30 days to:

(i) Review the state of disaster emergency;

(ii) consider any orders or proclamations issued since the last Legislative Coordinating Council meeting; and

(iii) consider whether such orders or proclamations, if any, are an exercise of any power listed in K.S.A. 2019 Supp. 48-925(c)(2), (c)(4), (c)(7), (c)(8) or (c)(11); and

(D) shall have the authority to review and revoke all orders and proclamations issued by the governor pursuant to K.S.A. 2019 Supp. 48-925(b). The chairperson of the Legislative Coordinating Council, in consultation with the attorney general, adjutant general and any other parties the chairperson deems necessary, shall determine if an order or proclamation that is an exercise of a power listed in K.S.A. 2019 Supp. 48-925(c)(2), (c)(4), (c)(7), (c)(8) or (c)(11) has been issued. If the chairperson determines that the order or proclamation is an exercise of such power, the Legislative Coordinating Council shall meet to consider such order or proclamation within three calendar days. At such meeting, the Legislative Coordinating Council may revoke such order or proclamation; and

Be it further resolved: That, for the purposes of this ratification, the Governor shall not have the power or authority to temporarily or

HOUSE CONCURRENT RESOLUTION No. 5025—page 2

permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to K.S.A. 2019 Supp. 48-925(c)(8) or any other executive authority.

I hereby certify that the above CONCURRENT RESOLUTION originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.



GOVERNOR LAURA KELLY

Exhibit D

EXECUTIVE ORDER NO. 20-18

Temporarily prohibiting mass gatherings of more than 10 people
to limit the spread of COVID-19 and rescinding Executive Order 20-14

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 380,000 cases of the illness and more than 11,900 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been 900 reported positive cases of COVID-19—including 27 deaths—in Kansas spread among 57 counties;

WHEREAS, in order to mitigate the spread of COVID-19, on March 24, 2020, I issued Executive Order 20-14, prohibiting mass gatherings of 10 or more people subject to certain exceptions;

WHEREAS, the continued spread of COVID-19 requires enhanced measures to slow the rate of spread, thereby saving lives and decreasing the significant burdens the COVID-19 pandemic is placing on our state's health care system:

WHEREAS, to secure the safety and protection of the civilian population it is necessary to impose heightened limitations on occupancy of confined or enclosed spaces; and

WHEREAS, this Administration will do whatever it can to assist Kansans in these challenging times, including providing preventing the gathering of people into groups that could spread COVID-19 further and frustrate attempts to avoid immediate danger to the health, safety, and welfare of Kansans.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to slow the spread of COVID-19 I hereby direct and order the following:

1. Effective at 12:01 p.m. on Wednesday, April 8, 2020, all public or private mass gatherings, as defined below, are prohibited in the State of Kansas.
 - a. The phrase "mass gathering" as used in this order means any planned or spontaneous, public or private event or convening that will bring together or is likely to bring together more than 10 people in a confined or enclosed space at the same time.
 - b. This prohibition includes, but is not limited to, mass gatherings at: auditoriums, theaters, movie theaters, museums, stadiums, arenas, conference rooms, meeting halls, exhibition centers, taverns, health and fitness centers, recreation centers, licensed pools, and churches or other religious facilities.
 - c. With regard to churches or other religious services or activities, this order prohibits gatherings of more than ten congregants or parishioners in the same building or confined or enclosed space. However, the number of individuals—such as preachers, lay readers, choir or musical performers, or liturgists—conducting or performing a religious service may exceed ten as long as those individuals follow appropriate safety protocols, including maintaining a six-foot distance between individuals and following other directives regarding social distancing, hygiene, and other efforts to slow the spread of COVID-19.
 - d. With regard to funerals or memorial services, the 10-person prohibition of this order does not apply to employees or military service members gathered to conduct the service; the number of other attendees—including friends and family—must not exceed ten.
2. The following activities or facilities are exempt from the prohibitions of this order:
 - a. Meetings or proceedings of the Kansas Senate or Kansas House of Representatives and their legislative committees;
 - b. Operations or facilities of the United States Government;
 - c. Gathering as a family privately;

- d. Airports;
- e. Public, private, or charter schools for instructional purposes, for non-instructional purposes—such as medication pickup, childcare services, providing meals—and when operating as polling places;
- f. Childcare locations (including those that operate within a facility that is otherwise subject to the prohibitions of this order), residential care centers, and group homes;
- g. Hotels and motels, as long as the restaurant and bar guidelines, listed below in subparagraph t, are followed;
- h. Military and National Guard facilities;
- i. Law enforcement, jail, or correctional facilities, including any facility operated by the Department of Corrections;
- j. Any facility being used as part of a government or community response to a natural disaster;
- k. Food pantries and shelter facilities, including day centers, for individuals and families;
- l. Detoxification centers;
- m. Apartment or other multi-family residential buildings, except that the prohibitions of paragraph 1 apply to any non-residential facilities, rooms, or operations in such buildings subject to any other exceptions listed in paragraph 2;
- n. Shopping malls and other retail establishments where large numbers of people are present but are generally not within arm's length of one another for more than 10 minutes;
- o. Hospitals, medical facilities, and pharmacies;
- p. Long-term care and assisted living facilities, as long the facility follows all current Department of Health Services Recommendations for Prevention of COVID-19 in Long-Term Care Facilities and Assisted Living Facilities per the Centers for Disease Control and Prevention;
- q. Libraries;
- r. Senior Centers, but only for the service of meals and only if the requirements listed below are followed:

- i. Preserve social distancing of 6 feet between tables, booths, bar stools, and ordering counters; and
 - ii. Cease self-service of unpackaged food or beverages, such as in salad bars, buffets, or beverage stations;
 - s. Restaurants and bars, but only if the requirements listed below are followed:
 - i. Preserve social distancing of 6 feet between tables, booths, bar stools, and ordering counters; and
 - ii. Cease self-service of unpackaged food or beverages, such as in salad bars, buffets, or beverage stations;
 - t. Retail food establishments (grocery stores, convenience stores, farmer's markets) as long as the requirements listed below are followed:
 - i. Preserve social distancing of 6 feet between tables, booths, bar stools, and ordering counters; and
 - ii. Cease self-service of unpackaged food or beverages, such as in salad bars, buffets, or beverage stations;
 - u. Office spaces and government service centers;
 - v. Manufacturing, processing, distribution, and production facilities;
 - w. Public transportation;
 - x. Utility facilities;
 - y. Job centers; and
 - z. Facilities operated by state or municipal courts.
- 3. All public gatherings that bring together or are likely to bring together 10 or fewer people in a single room or confined or enclosed space at the same time should:
 - a. Preserve social distancing of 6 feet between people, and
 - b. Follow all other public health recommendations issued by the Kansas Department of Health and Environment and all local county and municipal health codes.
- 4. This order supersedes any less restrictive order by any local health department and should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any less restrictive provision in previous executive orders is superseded by this order. Notwithstanding the provisions of this order or Executive Order 20-16, local

authorities shall retain whatever legal authority the otherwise possess to restrict or prevent access to places where people may gather in violation of this order or Executive Order 20-16.

5. Executive Order 20-14 is rescinded and replaced by this order.

This document shall be filed with the Secretary of State as Executive Order No. 20-18. It shall become effective at 12:01 p.m. on Wednesday, April 8, 2020, and remain in force until rescinded, until May 1, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.

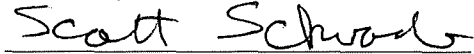
THE GOVERNOR'S OFFICE

BY THE GOVERNOR

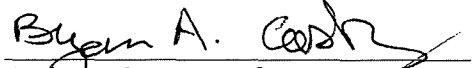


DATED

4.7.2020



Secretary of State



Assistant Secretary of State

