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Testimony on Senate Bill 541
Submitted to the Kansas Senate Judiciary Committee
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Thank you Chair Warren, Vice-Chair Wilborn, Minority Member Haley and Committee:

My Name is Ryan Kriegshauser, I am an attorney who has represented numerous clients with regard to COVID-19 mandates and restrictions. In particular, we provided testimony last year on behalf of a gym that brought suit against the state for governmental use compensation under the Kansas Emergency Management Act. That lawsuit is based on current law and a currently provided remedy under K.S.A. 48-933. Prior to the start of the last legislative session, both my client and the Kansas Attorney General agreed to enter a Stay of Proceedings to allow the legislature to take up wide-spread public policy questions such litigation poses. The sheer number of businesses and individuals with similar claims that could be brought under current law implicates potentially hundreds of millions of dollars of liability to the state and county governments. Last year, the legislature passed 2021 Senate Bill 273 which was ultimately vetoed by the Governor. *Prospectively*, Senate Bill 541 provides clarity to the relief due businesses that are directly impacted affected by COVID-19 or other government mandates. Our case will continue to seek judicial resolution on what the government currently owes the businesses it shut down during the beginning of the pandemic in 2020. However, clarification is needed in case the government seeks to take similar action in the future.

That being said, Senate Bill 541 does much more. Throughout the past two years, we have seen extraordinary actions taken by school boards and cities in the name of COVID-19 mitigation. The burdens imposed by these mandates have primarily fallen on school children. I believe you heard testimony from individuals affected by these mandates last week, including from a few of our clients. Additionally, the legislature passed 2021 Senate Bill 40 which has been the subject of litigation, including in front of the Kansas Supreme Court. Senate Bill 541 removes some of the timelines about which Judge Hauber in Johnson County expressed constitutional concern, even though the Kansas Supreme Court declined to follow his lead.

Finally, in previous sessions, the legislature seemed to perceive the power to issue COVID-19 mandates as emanating primarily from the Kansas Emergency Management Act. In fact, government entities continued to issue mandates after emergency declarations dissipated. Senate Bill 541 decouples the notion that these mandates are tied to emergency declarations but rather recognizes that the authority on which these mandates is based exists in other areas of the law. I am happy to take your questions.