

Caring for Constituents Affected by the Vaccine Mandate

In an historic one-day special session of the Kansas Legislature, Republicans gathered on Monday, November 22nd and united to push back against federal overreach from the current administration's COVID-19 mandates. Never in the history of our state has the legislature called itself back into a special session. This unprecedented action was necessitated by equally unprecedented orders from the Biden administration when it unilaterally enacted these mandates, without respecting the constitutional lawmaking power reserved to Congress. Never in the history of our Republic has the federal government forced Kansans to choose between their personal beliefs and their livelihoods. Working together, Republicans passed legislation to protect the religious freedom, health freedom, and employee rights of Kansans. Governor Kelly signed HB2001 into law on Tuesday, November 23rd.

The "Special Committee on Government Overreach and the Impact of the Covid 19 Mandates" that was authorized by the Legislative Coordinating Council on September 27th first listened to days of public testimony regarding the hardships endured concerning mandatory vaccination. They then worked diligently to create constitutionally sound legislation that was debated, amended, and passed during the efficient, one-day special session. It was important to quickly pass legislation that was easily understood and become law that would withstand scrutiny, helping real Kansans struggling in the face of federal overreach.

Facts about HB 2001-This bill ensures Kansans are not subject to overreaching federal COVID mandates. It does so by offering several broad exemptions:

1. Employers will be required to grant a medical exemption subject to a waiver request signed by the employee's health care provider. The health care decisions of Kansans are best made by the individual and their health care provider, not their employer or the Biden administration.
2. Religious freedom is protected by providing a broad exemption for sincerely held religious beliefs. HB 2001 bars an employer from asking invasive questions about an individual's religious background and the nature of their beliefs. All that is required to receive a religious exemption is a signed, written statement from the employee.
3. Employees are protected from punitive action. If an employee receives a COVID-19 exemption they should not suffer retaliatory actions from their employer.
4. Administrative enforcement mechanisms are in place. If an employee is improperly denied an exemption, they can file a complaint with the Kansas Department of Labor. The Department of Labor is required to promptly investigate, and it must be completed within 60 calendar days. During the investigation the employer may resolve the complaint by reinstating the employee with back pay. If the Department of Labor finds that a violation has occurred and the employer does not correct that violation, the Kansas Attorney General is authorized to fine the employer. For employers with fewer than 100 employees the fine is not to exceed \$10,000 per violation. For employers with 100 or more employees the fine is up to \$50,000 per violation. These fines will be paid into the Kansas Unemployment Trust Fund.
5. HB2001 *is not* anti-employer. It is pro-employee, and it opposes federal overreach. Employers are provided with clear direction on the exemption process. Employers that ignore the exemption requirements or take punitive action against their employees will face repercussions.

6. HB2001 is *not* anti-vaccine. Kansans can be pro-vaccine and still not support the massive overreach of the Biden administration. Every Kansan has different circumstances and different reasons for the choice they make regarding the vaccine. We must allow individuals to decide for themselves the best way to manage their health without onerous mandates.
7. Language is included ensuring that an individual will be eligible for unemployment benefits if they lose their job because of a violation of this bill. If an employee has a valid exemption and is unlawfully terminated, they should not lose their livelihood while their complaint is being investigated by the Department of Labor. If employers follow the law and grant exemptions this provision should rarely come into play.

Kansas already has a shortage of workers. “*Help Wanted*” signs are everywhere. The last thing our economy can handle is a deluge of additional vacancies due to people *who want to continue working* being forced out of the workforce.

The United States is experiencing levels of inflation not seen in decades, making the prospect of being unemployed an even more difficult scenario for Kansans. HB2001 puts an end to the unfair situation of being forced to choose one’s livelihood or one’s personal health care/religious beliefs.

Kansas is currently involved in three multi-state lawsuits filed by Attorney General Schmidt challenging the Biden administration’s COVID-19 vaccine mandates:

1. For health care facilities that participate in Medicare and Medicaid programs.
2. For those who have contracts with the federal government.
3. Regarding the OSHA mandate requiring private employers with more than 100 employees to force their employees to either be vaccinated or receive frequent COVID-19 testing. This mandate would affect the greatest number of Kansans but is currently on hold due to recent action from the U.S. Court of Appeals for the 5th Circuit.

We are optimistic for continued success in the courts. While these lawsuits continue to work through the court system, the actions taken this week by the Kansas legislature will provide necessary protections and stability for Kansas workers and their families. We will return for our regular session on January 10, taking up other policy options as needed to address remaining concerns. Thank you.