

February 14, 2025

Statement of Pacific Legal Foundation before the House Judiciary Committee in support of Senate Bill 222, Prohibiting deference to the agency's interpretation by a state court or an officer hearing an administrative action

Chair Warren and members of the Committee:

My name is James Manley, and I am State Policy Chief at Pacific Legal Foundation. PLF is a nonprofit public interest law firm dedicated to defending Americans' liberties when threatened by government overreach and abuse. Since our founding 50 years ago, we have been helping Americans fight for their constitutional rights in courthouses and legislatures across the country. We have won 18 cases at the United States Supreme Court, and helped enact more than three dozen laws in legislatures across the country.

I write to express PLF's strong support for Senate Bill 222, a proposal to codify judicial deference doctrine in Kansas. In 2013, the Kansas Supreme Court ended judicial deference in the state when it held that deference "has been abandoned, abrogated, disallowed, disapproved, ousted, overruled, and permanently relegated to the history books where it will never again affect the outcome of an appeal." *Douglas v. Ad Astra Info. Sys.*, 293 P.3d 723, 728 (2013). However, Kansas courts still "recognize that an agency ruling within its area of expertise is entitled to some deference." *Hanson v. Kan. Corp. Comm'n*, 490 P.3d 1216, 1224 (2021).

Judicial deference—such as the *Chevron*-style deference long criticized at the federal level—allows agencies to effectively rewrite laws under the guise of interpretation, often granting the agencies themselves excessive power and insulating their decisions from meaningful judicial review. As PLF has extensively [documented](#), this practice undermines accountability, allowing unelected bureaucrats to expand their authority beyond legislative intent. Deference has resulted in regulatory overreach, chilling economic freedom, and violating property rights.

By passing this legislation, Kansas would cement its position as a leader among a growing movement of states committed to protecting individual liberties and the rule of law by outlawing judicial deference. A full list is available at statedeference.org.

Cementing Kansas's deference doctrine in statute ensures that the courts cannot put a thumb on the scale in favor of government and ensuring agencies exercise only the power the legislature has delegated to them. As PLF's [Three Pillars of Regulatory Reform](#) framework emphasizes, eliminating judicial deference fosters transparency and fairness, ensuring that laws reflect the will of the people rather than the preferences of bureaucrats.



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Moreover, codifying Kansas's deference doctrine aligns with the state's constitutional commitment to limited government and separation of powers. By requiring agencies to adhere strictly to legislative mandates, this reform would not only curb bureaucratic overreach but also incentivize clearer and more precise lawmaking. The result is a legal system where citizens, businesses, and local governments can better predict and comply with regulatory requirements.

I urge you and your colleagues to support Senate Bill 222 as a critical step toward safeguarding individual freedoms, promoting good governance, and upholding the rule of law in Kansas.

Thank you for the opportunity to testify. I am happy to answer any questions; my contact information is listed below.

Respectfully,

James M. Manley
State Policy Chief