

GOLDWATER

I N S T I T U T E

February 14th, 2025
Senator Kellie Warren
Chair, Senate Committee on Judiciary
RE: Proponent Testimony on SB 222

Madam Chair and Members of the Senate Committee on Judiciary:

I am writing to submit written testimony in support of SB 222 on behalf of the Goldwater Institute. The Goldwater Institute works in courtrooms, capitols, and communities nationwide to protect constitutional rights and empower individuals to live freer lives.

Across the nation, government agencies often apply overzealous interpretations of their own statutes and regulations which serve to expand their own power in enforcement or regulatory proceedings. In some states, these generous interpretations are then upheld by exceedingly deferential courts, which can expand agency power in a manner that goes against legislative intent. This dynamic effectively turns administrative agencies into law-making entities that step into the constitutional domain of the legislative branch.

In fact, in 2024, the United States Supreme Court finally recognized that agency deference is fundamentally unfair and that courts have the sole constitutional duty to interpret law by overturning *Chevron* deference in *Loper Bright v. Raimondo*. Fortunately, the Kansas Supreme Court rejected deference to state agency interpretations of law and their own regulations in 2013, but the Goldwater Institute recommends codifying and strengthening this standard by passing SB 222.

SB 222 ensures a level playing field by requiring courts to review agency actions without deference. This provision will ensure that judges are neutral arbiters of justice rather than parties biased in favor of administrative power. The legislation's presumption in favor of limiting agency power will create a check on the administrative state's ever-expanding shadow over our individual liberties and protect the legislature's constitutional lawmaking prerogative.

In 2018, based on legislation developed by the Goldwater Institute, Arizona became the first state in the country to adopt this reform. 13 other states have followed suit via legislation or through court decisions. Just last year, Indiana, Idaho and Nebraska each ended judicial deference by adopting similar legislation.

Adopting SB 222 will protect your constituents' constitutional rights before deferential judges and protect the legislative branch's sole authority to create law. We urge you to support this bill.

Sincerely,

Brian Norman
Director of State Affairs
Goldwater Institute