



Senate Judiciary Committee

February 14, 2025

Chair Warren and members of the Senate Judiciary Committee,

My name is Elizabeth Patton and I am the State Director for Americans for Prosperity- Kansas. Senate Bill 222 is piece of legislation that is critical to cement existing jurisprudence into law. SB 222 seeks to prohibit judicial deference to agency interpretations in Kansas. This bill is not merely a legal technicality; it is a crucial measure for ensuring accountability, preserving individual rights, and upholding the rule of law in our state.

Judicial deference, particularly the kind that has been prevalent in federal courts, allows agencies to interpret laws in ways that can effectively rewrite them, often without appropriate checks and balances. This practice can lead to a situation where unelected bureaucrats wield excessive power, making decisions that extend beyond the original legislative intent. For example, in past cases, we have seen how agencies may exploit their interpretative authority to implement regulations that stifle economic freedom and infringe upon property rights.

Kansas has already taken significant steps toward reform. In 2013, our state Supreme Court decisively ended the practice of judicial deference, declaring it fundamentally flawed. However, recent rulings still suggest that some level of deference remains in practice, which can lead to inconsistent and unpredictable outcomes in administrative actions. This ambiguity is detrimental to citizens and businesses who seek clear and fair regulations.

Senate Bill 222 aims to codify the prohibition of judicial deference, thereby establishing a clear legal framework that requires courts to scrutinize agency actions rigorously. By enacting this legislation, Kansas will join a growing movement across the nation that prioritizes individual liberties and the rule of law. States that have already taken similar steps have seen a revitalization of accountability and transparency in governance.

A statute prohibiting deference will ensure that courts do not favor government agencies in legal disputes, promoting fairness and equality before the law. It will also compel agencies to operate strictly within the limits of the authority granted to them by the legislature. This clarity will not only empower citizens but will also encourage lawmakers to draft more precise and transparent legislation, ultimately leading to a more predictable regulatory environment.

Moreover, passing SB 222 aligns seamlessly with Kansas's constitutional commitment to limited government and the separation of powers. It emphasizes that agencies must adhere strictly to legislative mandates, which is a foundational principle of our democracy. By reinforcing this principle, we can curb bureaucratic overreach and restore the balance of power among the branches of government.

I urge this committee to support Senate Bill 222. This legislation is not just about legal technicalities; it is about safeguarding the freedoms of every individual in Kansas. It is about promoting good governance, enhancing accountability, and ensuring that our legal system reflects the will of the people rather than the preferences of bureaucratic agencies. Let us take this critical step together to protect our rights and uphold the rule of law in our great state.

Thank you for your consideration.

Elizabeth Patton

State Director

Americans for Prosperity-Kansas