



Senate Committee on Judiciary
Testimony in Support of HCR 5014
Eric Stafford, Vice President of Government Affairs

Wednesday, March 2, 2022

Madam Chair and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We appreciate the opportunity to speak in support of HCR 5014, a constitutional amendment granting legislative oversight into the rules and regulations adopted by the Executive branch. HCR 5014 is identical to the Senate version we supported earlier this session- SCR 1618

In 2018, the Legislature was considering HB 2526 to modify the state's rule and regulation process. The Chamber and other business allies offered testimony to the bill with a proposed amendment based on Wisconsin's REINS Act (Regulations from the Executive in Need of Scrutiny) requiring agencies seeking to adopt new rules and regulations to conduct an economic impact analysis on impacted parties. Our proposed amendment also would provide the Legislature the authority to introduce a bill to revoke rules and regulations. At that time we were informed that because of a Kansas Supreme Court case from 1984, this provision would not be allowed.

Ultimately, the Legislature passed a bill that was signed into law by Governor Colyer with the stronger economic impact analysis provisions based on Wisconsin's law. Fast forward to 2022, HCR 5014 would restore the Legislature's ability to repeal rules and regs adopted by state agencies. In the *Stephen v. Kansas House, Senate, and Governor Carlin* decision, the legislature "may adopt, modify or revoke administrative rules and regulations by concurrent resolutions passed by the legislature without presentment to the governor." It was challenged as violating the separation of powers "by authorizing the legislature to usurp the executive power to administer and enforce laws." The Court ruled the statute in question was unconstitutional and the ability for the legislature to review rules and regulations went away.

HCR 5014 is a proposed constitutional amendment that would restore checks and balances between the legislative and executive branches of government by allowing Kansas voters to decide whether the legislature shall have the authority to "establish procedures to revoke or suspend rules and regulations." Just last November, we provided testimony in opposition to regulations proposed by the Kansas Department of Labor which circumvent and conflict with Kansas statute passed by the Legislature. HCR 5014 would allow the Legislature to vote to reject those regulations- something the Joint Committee on Administrative Rules and Regulations could not do last fall.

We pursued HB 2526 in 2018 with the goal of offering stronger legislative oversight into the powers of the executive branch but found ourselves limited in the extent by which we could amend existing law. HCR 5014 would fully restore the ability of the legislature to hold state agencies accountable when adopting rules and regulations. We would ask for your support of this proposed constitutional amendment, and I'm happy to answer questions at the appropriate time.