

**Testimony before the Senate Judiciary Committee
Opposing HRC 5014
Presented by Tad Kramar**

March 2, 2022

Madam Chairwoman and Honorable Members of the Committee:

I am Tad Kramar, a retired business and regulatory law attorney living in Big Springs, Kansas. Thank you for the opportunity to testify in opposition to HCR 5014.

HCR 5014 would amend the Kansas Constitution to give the Kansas Legislature, by simple majority vote, sweeping authority to revoke or suspend any rule or regulation of any executive branch officer or agency. It would eviscerate the delicate checks and balances among the three branches of government and usurp the executive power to administer and enforce laws, contrary to the fundamental American doctrine of separation of powers.

Kansas courts have upheld the separation of powers as “an outstanding feature of the American constitutional system.” *State Ex Rel. Stephan v. Kansas House of Representatives*, 236 Kan. 45, 59 (1984). Each of the three branches of government has its own responsibilities and powers, and one branch should not extend its own powers to interfere with the operations of another branch.

Legislative power is the power to make, amend and repeal laws. Making rules and regulations is substantially a function of administering and enforcing laws. Rules are generally adopted after an extensive rulemaking process involving public input. Rules add the details needed to administer and enforce laws. The legislature deals with a vast amount of proposed legislation in a limited amount of time, which makes it difficult and inadvisable for the legislature to delve into the level of detail needed for rulemaking.

Giving the legislature the power to revoke regulations would be micromanagement of the executive branch and significantly interfere with its ability to administer and enforce laws. It is an attempt to gain direct control over delegated administrative power.

Other actions can be taken to address this issue that do not violate the crucial separation of powers principle. If an affected person believes an agency rule goes beyond the agency’s authority, that person can sue the agency and the court can invalidate the rule if appropriate. It is also possible for the legislature to amend the relevant law to clarify the matter in question.

HCR 5014 would micromanage and interfere with the operations of the executive branch in violation of the essential American doctrine of separation of powers. Please oppose HCR 5014. Thank you for your consideration.