

GOLDWATER

I N S T I T U T E

January 29, 2026

Rep. Erica Layon

Chair, House Committee on Executive Departments and Administration

RE: Support HB 1211 – Judicial Deference Reform

Chair Layon and Members of the Committee:

I am writing to offer written comments in support of HB 1211 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*. However, this decision does not apply to state courts. New Hampshire courts can still defer to state agency interpretations of law and regulations.¹

HB 1211 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. 15 other states have followed suit via legislation or through court decisions.

Adopting HB 1211 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

¹ <https://pacificlegal.org/state-deference-map/>