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TESTIMONY

TO: HOUSE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE

FROM: SCOTT HEIDNER, EXECUTIVE DIRECTOR
KANSAS SELF INSURERS ASSOCIATION

RE: HB 2531

DATE: FEBRUARY 2, 2012

Chairman Brown, members of the Committee, thank you for the opportunity to testify today. My name is Scott Heidner, and I'm appearing today on behalf of the Kansas Self Insurers Association (KSIA). KSIA represents both public and private employers who self insure for workers compensation, as well as group funded pools. We are here in support of HB 2531.

There are several issues with the current selection and retention processes for workers compensation Administrative Law Judges (ALJs) and Board of Appeal members who serve as a disincentive to those who would consider serving. One of the more pressing issues, addressed and improved in HB 2531, is the selection process for these positions.

The selection process is currently shared by two organizations that, while working in good faith, often find themselves polarized in their views. Nor do they represent a large cross section of those that are affected by the interpretation of workers compensation laws. The process will benefit from the input of a more comprehensive and inclusive selection panel as designed in HB 2531. KSIA is excited about the opportunity to be a part of this panel and helping ensure that Kansas workers compensation laws are interpreted by a high quality slate of ALJs and Board of Appeal members.

We would also like to offer what we hope is a friendly amendment. Currently, one of the reasons we struggle to get a large number of high quality candidates is the uncertainty about job security. While it is completely healthy to hold judges accountable and have a mechanism to remove them if they do not perform at a satisfactory level, the effectiveness of the current system is damaged by the fact that incumbent judges, no matter how strong the quality of their work, have no better chance of retaining their position than a new applicant does of unseating them and taking their job. All applicants are thrown back into the pool and start from scratch. The reality is that the quality of candidate that the system needs probably has a lucrative law practice with an established client base. Applying for one of these positions almost certainly

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means a pay cut for high quality applicants, and the knowledge that they are no more likely to keep a new job as an ALJ or Board of Appeal member at the end of their first term than a new applicant is a strong disincentive to high quality applicants.

We would suggest an amendment that would have the new selection panel review sitting judges first and make a retention decision on a stand-alone basis. If the decision is made not to retain that judge, they could either go back into the pool with new applicants or be precluded from reapplying. We would be open to either option. We understand that the Department of Labor is open to such an amendment, and we would be happy to work with all parties in drafting language to accomplish that plan.

Thank you for the opportunity to appear in support of HB 2531. I'll be happy to stand for questions at the appropriate time.