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**Testimony regarding Governor's appointment  
for 14th Judicial Position on Kansas Court of Appeals  
Terry Forsyth, President  
Working Kansas Alliance  
September 3, 2013**

Chairman King and members of the committee:

Thank you for allowing the Working Kansas Alliance (WKA) to submit this testimony. The WKA is composed of both union and non-union member organizations representing 500,000 Kansas working men and women. Today, we respectfully request the Kansas Senate not consent to the appointment of Caleb Stegall for the 14<sup>th</sup> Judicial Position on the Kansas Court of Appeals.

The Senate and Kansans have been denied sufficient information by Governor Brownback that his appointment is the best-qualified candidate for the job. Working Kansans are used to competing for our jobs. We expect nothing less from our judges.

The Senate's confirmation of Court of Appeals judges is a powerful new charge; it should not be merely a partisan rubber stamp of a governor's choice. Before voting to confirm, the Senate must carefully scrutinize with a dispassionate view any appointment any governor makes. Before voting to confirm, the Senate must conclude that the appointment is not only a person of recognized integrity, character, ability, experience and judicial temperament, but also that any person appointed by the governor is in fact the best qualified applicant for the job.

The Governor has not given Kansans, or the Senate, any measuring stick to independently establish his claim that Mr. Stegall is "the single most qualified person" to serve as the 14<sup>th</sup> Court of Appeals judge. The Governor's selection process was conducted entirely in secret and out of the public eye. He has refused to voluntarily disclose the names of all those that applied. The active efforts to conceal the selection and interview process fly in the face of the promises of transparency. The hiring process also raises reasonable questions in the mind of the public about the independence and impartiality of a judge who is also a sitting governor's former Chief Counsel.

WKA finds Governor Brownback's secret hiring process all the more mysterious considering his actions as a U.S. Senator from Kansas. In 2005, then-Senator Brownback championed a rigorous Senate review with transparency and disclosure by the White House regarding the nomination by President George W. Bush of his White House counsel Harriet Miers to the U.S.

Supreme Court. Upon the withdrawal of Ms. Miers' nomination, Senator Brownback was quoted as saying,

“...she had no record and the record that was available was in the White House, and that was not gonna be provided to us, so it was the sort of thing that she's caught between where she serves and where the president had nominated her to serve. And the Senate was just not willing to give its advice and consent blindly on a position of such importance to the future of the country.” (NPR, Sen. Brownback on Miers Withdrawal, October 27, 2005, <http://www.npr.org/templates/story/story.php?storyId=4976915>)

And yet, in 2013, Governor Brownback expects the Kansas Senate to give its consent “blindly” to his appointment of his General Counsel.

WKA opposed the “court packing” scheme that was passed in 2013 that allows business interests and their allies to hand-pick judges in workers compensation cases and the unemployment system. The new process implemented to select these judges does not even attempt to display fairness. Given his record of supporting legislation that eliminates the impartiality of one set of judges, why should Kansans trust that Governor Brownback's selection process for the 14<sup>th</sup> Court of Appeals judge was fair, or that his appointment really has the necessary character to be unbiased and impartial once he becomes judge?

The Kansas Senate must exercise diligence in order to assure that the Court of Appeals remains filled with excellent jurists. The Senate must guard the Judicial Branch as a separate, co-equal branch of government and assure that the Court of Appeals continues to be independent, fair, impartial, and that even the appearance of bias or impropriety is avoided. Given the astounding lack of transparency applied to this appointment, the Working Kansas Alliance respectfully requests that the Senate not consent to the appointment of Caleb Stegall for the 14<sup>th</sup> Judicial Position on the Kansas Court of Appeals.