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My name is Phillip Slape with the Law Firm of Slape & Howard, and a member of the Kansas Trial Lawyers Association. (KTLA). Over the past 24 years, I have represented Kansans that have been injured on the job. I am testifying in support of SB 361. I respectfully request that the Committee pass the bill favorably.

The State of Kansas has a proud history of protecting injured workers. In 1912, Kansas became one of the first states to enact workers compensation laws. These laws struck a compromise between workers and their employers, often referred to as the “Grand Bargain”. In exchange for workers not having to prove negligence, they would receive prompt medical treatment and wage replacement benefits in exchange for forfeiting their right to trial by jury and to take their employers to court for any additional damages.

Because of this bargain, the only recourse a Kansas worker has for an injury on the job is through worker’s compensation. This is why workers compensation is often referred to as an exclusive remedy. These laws take away the worker’s constitutional right to a jury trial, and therefore do not allow for any further recovery beyond what is in the workers compensation act, regardless of whether the employer was violating safety procedures, not following applicable laws, or acting grossly negligent causing a worker’s injury.

The workers compensation act covers almost every Kansan, regardless of position. The Kansas Constitution demands that the right for its citizens to seek damages through a jury is absolute, and for our workers compensation system to remain constitutional, it is essential that these laws reflect an equitable balance of benefits paid to the injured worker.

If a worker survives an injury, a Permanent Total Disability (PTD) award is the maximum monetary award a worker can receive in Kansas. An award of PTD benefits occurs when a worker is no longer capable of engaging in substantial and gainful employment. In layman’s terms, it occurs when an individual can no longer work. It is currently \$155,000. This means that no matter what the severity of the injury, age of the worker, or any other circumstance, a worker will never receive more than \$155,000. Any monetary benefit that the worker receives counts towards this cap, including weekly benefits that the worker receives while the claim is ongoing. At our current maximum rate, this is barely 4 years of benefits. Most PTD claims take a number of years to reach a conclusion, and by the time an award is issued, the \$155,000 cap has already been severely decreased by weekly benefits received.

The cap has not increased consistent with economic changes in our society. For example, in 1987, the cap was \$125,000. The cap remained at the same level until finally being increased by a mere \$30,000 in 2011, almost a quarter of a century later. It has remained at \$155,000 through today. This number is difficult to justify. Our workers are yet again experiencing a period of stagnation

in the PTD benefit amounts. This shortcoming is apparent when reviewing the wage data that our state collects. If the PTD benefit rates would've increased consistent with the increase in Kansans' wage rates after 1987, the current PTD cap should be set at \$425,000. This is why I am here today to point out how woefully inadequate \$155,000 is to our workers.

Senate Bill 361 addresses this issue by increasing the PTD benefit rate from \$155,000 to a lifetime benefit. This change will make Kansas law consistent with other states. In comparison to our state's cap, 44 states provide lifetime benefits or benefits through the age of social security retirement. Of the clients that our firm represents, less than 1% fall into the PTD category. However, the amount of benefits paid to these individuals is essential to their future. Make no mistake, Kansans that are permanently and totally disabled from on the job injuries represent the most catastrophically injured clients that we represent. It includes those that have been paralyzed, have traumatic brain injuries, or have been so severely injured that they require lifetime care.

The witnesses that are here to present their stories have had injuries that have not only decimated them physically, but financially as well. I cannot state how incredibly unfair and ambiguous the current capped amount is to these workers, and I implore you to listen carefully to their testimony. Kansas should be ashamed that we treat our workers worse than any other state in the nation on this issue.

Please vote yes on SB 361.