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**House Committee on Commerce, Labor, and Economic Development
Testimony in Support of House Bill 2231
Presented by John Webb, Senior Legal Counsel, Direct Selling Association**

Monday, February 15, 2021

Mister Chairman and members of the committee, my name is John Webb, Senior Legal Counsel for the Direct Selling Association. Thank you for this opportunity to speak with you today in support of this important legislative initiative.

The Direct Selling Association (“DSA”) would like to **voice its strong support for HB 2231. The bill would clearly define and establish penalties for operating or participating in a pyramid promotional scheme.**

DSA is the national trade association for companies that sell their products and services directly to consumers through an independent, entrepreneurial salesforce. Over 204,000 Kansas residents are involved in direct selling. In 2019, direct selling contributed more than \$380 million to the Kansas economy.

The current law is deficient and does not draw a clear line of delineation between legitimate direct selling companies and pyramid schemes. The lack of a clear pyramid scheme definition in the current statute may create confusion among the public, particularly when considering that some pyramid schemes masquerade as legitimate direct selling companies to defraud consumers. The state attorney general’s office had the opportunity to review the bill and have no concerns with the change.

This bill clearly defines a pyramid scheme as any plan or operation in which compensation is provided primarily for the recruitment of others and makes clear that personal use of products is a legitimate business practice. Paying compensation based upon purchases of goods, services or intangible property for personal use, consumption or resale is an entirely legitimate and standard practice within the direct selling industry.

This legislation is needed to protect consumers because pyramid schemes are illegal businesses that defraud consumers. It would give law enforcement in Kansas more guidance on identifying and prosecuting pyramid schemes and guide legitimate direct selling companies on what constitutes acceptable business practices.

The bill would clearly differentiate the legal income-earning opportunities offered by legitimate direct selling companies from the scams perpetrated by fly-by-night promoters of pyramid schemes and encouraging adoption of a right of return for inventory purchased by individual direct sellers.

The Council of State Governments (CSG), one of the country's preeminent state public policy organizations, adopted this legislative language into its 2004 Volume of Suggested State Legislation (2004 SSL, Vol. 63), based on the 2003 **South Dakota** law. Specific legislation was subsequently enacted into law in **Idaho, Washington, Georgia, Utah, Nebraska, Virginia, Tennessee, Indiana, New Jersey, South Carolina, Mississippi, Michigan, Arkansas, and Ohio** as those states moved to update their laws. In 2020 **Pennsylvania** adopted the model. Ten other states have similar laws consistent with the CSG language, including **Texas, Louisiana, and Oklahoma**. A total of **Twenty-six states** have adopted this or similar language, and it has been successfully used to prosecute purported pyramid schemes in multiple jurisdictions.

Nobody wins when pyramids schemes prevail, not consumers or legitimate direct selling companies. **DSA urges you to vote for HB 2231 to protect consumers and provide guidance to legitimate direct selling companies.** Thank you, and I would be happy to answer any questions.