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Karin Brownlee, Secretary

Sam Brownback, Governor

To: House Committee on Commerce and Labor

From: Kathie Sparks, Deputy Secretary of Labor

Date: February 16, 2012

Re: HB 2638

Thank you Chairman Brown, for allowing the Department of Labor to appear today as neutral on HB2638. The bill would make the following changes to Employment Security Law.

- **Holiday pay** would be considered wages in all cases. Under current law, holiday pay that was awarded based on no condition of attendance was considered wages. However, holiday pay that was based on condition of attendance, i.e. attendance on the day before or day after the holiday, was not considered wages.
- **Lump-sum separation pay or severance pay** would now require the Department to calculate the number of weeks' wages represented by the pay and delay the start of unemployment by that number of weeks. Under current law, lump-sum severance pay or separation pay is only counted in the week it is paid to the claimant. The Department believes the employer should include the number of weeks of severance pay the employer is providing along with the amount on the appropriate form instead of the Department making the calculation.
- **Ineligible employers** (New employers who do not have 24 consecutive months of chargeability are not eligible for experience rating) would be charged a flat rate of 2.7% instead of the current 4.0%. The construction industry would remain the same at 6%.  
The cost to the fund in the first year would be as follows:

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| ○ Active Ineligible Non-Construction Taxable Wages 4% | \$12,942,019        |
| Active Ineligible Non-Construction Taxable Wages 2.7% |                     |
| Beginning in 2014 (tax year 2013)                     | <u>\$ 8,735,863</u> |
| Loss of First Year Revenue                            | (\$ 4,206,156)      |

At the end of 2014, the trust fund, under current law is estimated to have a balance of \$36.8 million. This is the first positive balance the fund has had since

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Development Committee  
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2008. The Department requests that the start date of this change be for tax year 2014.

- **Reduced rate multiplier** would be changed for 2014 (tax year 2013) from 1.2 to 1.0. Under state law, if the balance in the Trust Fund on July 31, of the current year meets the state's high cost multiplier, employers can be granted a reduction in their contribution amount for the coming calendar year. Kansas' average high cost multiplier, in current law, is 1.2, which means the balance of the Trust Fund was sufficient to provide benefits for 1.2 years at a rate equivalent to the rate during the worst three quarters of the past 20 years. These reduced contribution rates were in place during 2007, 2008 and 2009. So a reduction in the multiplier would mean the following:

|                                                         |                      |
|---------------------------------------------------------|----------------------|
| ○ Current law, 1.2 multiplier, ending balance of        | \$732,107,063        |
| Provision of HB 2638, 1.0 multiplier, ending balance of | <u>\$610,089,220</u> |
| Difference                                              | (\$122,017,843)      |

The Department currently estimates that the ending balance for 2015 will be \$315,487,131, which is much less than what would be needed to grant a reduction in the contribution amounts.

- **Eliminates the State Security Advisory Council**, however, a technical amendment may be needed on page 20, lines 10 and 11. The Act still refers to the advisory council and so beginning with "and aid of the secretary's advisory councils" should be eliminated from the text.
- **Rating Notice** would be required to be mailed on or before November 15 of each year. The Department wishes to point out that for tax year 2011, the Department mailed out all of the rating notices during the first week of November. The Secretary promised during the 2011 Legislative Session to mail the notices out during the first week of November, and she made sure it happened.

I would be happy to stand for any questions.