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**Written Testimony on SB 38
Senate Standing Committee on Commerce**

Mdm. Chair and Members of the Committee:

My name is Brett Flachsbarth, and I currently serve as the Deputy Secretary of the Kansas Department of Labor. I have been with the agency since 2005, and during that time I have worked in a variety of roles related to the Unemployment Insurance program. This includes serving as Counsel to the Employment Security Board of Review, Chief of Unemployment Appeals and Director of Unemployment Insurance. I'm testifying today in favor of Senate Bill 38 on behalf of the Kansas Department of Labor and Acting Secretary Delia Garcia.

Nearly 50 years ago, Congress passed legislation that potentially denies unemployment compensation to individuals working in three categories of employment related to education: employees of an educational institution; employees of an educational service agency; and, if the state law provides, employees who provide services to or on behalf of an educational institution. Under federal law, any employee in one of these categories may not be paid unemployment compensation between academic terms if that employee has "reasonable assurance" of performing service in the following term.

But the denial related to employees who provide services to or on behalf of an educational institution — such as private contractor school bus drivers — is optional under federal law. Our state invoked this option when K.S.A. 44-706(p) was added to Kansas law in 1987, denying private contractor school bus drivers who were off work between academic terms. *See* L. 1987, ch. 192, § 1. The law has not changed in the last 32 years. But Kansas is in the small minority of states within our region who deny private contractor school bus drivers.

Further, other private industry employees who provide service to educational institutions are not subject to between academic term unemployment compensation denials like bus drivers. This includes private contractor food service workers and custodial staff. Even private contractor bus monitors who work for the same employer, and ride on the exact same buses being driven by the workers at issue, are not subject to the same denial of benefits. Finally, employees of private industries — such as construction or manufacturing — who have periods of layoff or lack of work are qualified for unemployment benefits, even if the period of non-work is multiple weeks or regular in nature.

The public policy behind the employment security law is to help prevent economic insecurity for individuals who find themselves without a job through no fault of their own. K.S.A. 44-702. Senate Bill 38 does nothing more than give the hardworking Kansans who are employed as private contractor school bus drivers the same equal treatment under the employment security law as other private sector employees. They will still have to remain able to work, available for work and actively seeking work in order to receive unemployment benefits between academic terms. K.S.A. 44-705. Further, they would still be subject to disqualification for benefits for refusing an offer of suitable work. K.S.A. 44-706(c).

Thank you for your time and attention as you consider this bill. I am happy to stand for any questions you may have.