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**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: Special Committee on Government Overreach and Impact of COVID-19 Mandates  
From: Office of Revisor of Statutes  
Date: November 12, 2021  
Re: Overview of 22rs2357

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The proposed draft of 22rs2357 would provide exceptions to unemployment benefit eligibility rules for otherwise eligible claimants who left work or were discharged for refusing to comply with a COVID-19 vaccine requirement after being denied an exemption and retroactively provide benefits for such claimants who were denied benefits.

Section 1 of the draft would amend K.S.A. 44-703, the definition section for the employment security law that is applicable to all other sections in the bill. New subsection (ii) on page 31 defines “COVID-19 vaccine requirement” to mean that an employer: (A) Requires an individual to receive a COVID-19 vaccine; (B) requires an individual to provide documentation certifying receipt of a COVID-19 vaccine; or (C) enforces a requirement described in subparagraph (A) or (B) that is imposed by the federal government or another entity.

Section 2 of the draft would amend K.S.A. 44-705 concerning eligibility for benefits. Under current law, the general rule is that an unemployed individual is eligible to receive benefits if, among other things, the individual is “available for work” and pursuing work. The new provision in subsection (c), beginning on page 32, would provide that an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits by declining to accept work that requires compliance with a COVID-19 vaccine requirement as a condition of employment if the individual has requested an exemption or accommodation from such requirement provided by state or federal law and such request was denied.

Section 3 of the draft would amend K.S.A. 44-706 concerning exceptions to rules regarding disqualification from benefits. Under current law in subsection (a), the general rule is that an individual is disqualified from benefits if the individual left work voluntarily without good cause attributable to the work or the employer. New subsection (a)(13) on page 41 would provide that an individual is not disqualified from benefits for leaving work voluntarily if the individual left work due to refusal to comply with a COVID-19 vaccine requirement after the individual requested an exemption or accommodation from such requirement provided by state or federal law and such request was denied.

Similarly, under current law in subsection (b), the general rule is that an individual is disqualified from benefits if the individual has been discharged or suspended for misconduct connected with the individual's work. New subsection (b)(4)(D) on page 48 would provide that an individual is not disqualified from benefits if the employer discharged the individual for refusal to comply with a COVID-19 vaccine requirement after the individual requested an exemption or accommodation from such requirement provided by state or federal law and such request was denied.

Finally, under current law in subsection (c), the general rule is that an individual is disqualified from benefits if the individual has failed, without good cause, to either apply for suitable work or to accept suitable work when offered to the individual. New subsection (c)(5) on page 49 would provide that an individual is not disqualified on that basis if the position offered would require the individual to comply with a COVID-19 vaccine requirement, the individual has requested an exemption or accommodation from such requirement provided by state or federal law and such request was denied.

Section 4 of the draft would amend K.S.A. 44-709 concerning the process and procedure regarding claims for benefits. New subsection (l), beginning on page 65, would provide retroactive benefits to September 9, 2021, for any week that a claimant would otherwise have been eligible, if such claimant was disqualified from receiving such benefits on the grounds that the claimant voluntarily left employment without good cause or was discharged or suspended for misconduct as the result of the claimant's refusal to comply with a COVID-19 vaccine requirement after the individual requested an exemption or accommodation from such requirement provided by state or federal law and such request was denied. September 9, 2021, is the date that President Biden announced two executive orders and two proposed federal agency actions regarding COVID-19 mandates.

Under the new subsection, the claimant may make the request for retroactive benefits, but the secretary of labor would also be required to independently review any claims that meet the criteria described above. The claimant or the employer may appeal an award or denial of retroactive benefits using appeal provisions in current law. Finally, the secretary is required to develop and implement procedures to enable claimants to retroactively substantiate and file claims for retroactive benefits.