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## LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAMS IN KANSAS, NEBRASKA, AND WYOMING

This memorandum describes law enforcement and correctional officer retirement programs in Kansas, Nebraska, and Wyoming.

### KANSAS

Kansas has one retirement plan that may be characterized as a law enforcement retirement plan. Corrections employees are members of the Kansas Public Employees Retirement System, but their benefits are calculated differently than those of noncorrections employees. Section 74-49-51 of the Kansas Statutes Annotated provides that the purpose of the Kansas Police and Firemen's Retirement System is to provide an orderly means whereby police and firemen employed by participating employers and who have attained retirement age or who have become disabled may be retired from active service without prejudice and without inflicting a hardship on the employees retired and to enable them to accumulate reserves for themselves and their dependents to provide for old age, disability, death, and termination of employment, and for the purpose of effecting economy and efficiency in the administration of governmental affairs.

Employees of the Kansas Highway Patrol and Kansas Bureau of Investigation are required to be members of the Kansas Police and Firemen's Retirement System. Board of Regents institutions and any county, city, township, or other political subdivision of the state that employs one or more employees as police officers, firefighters, emergency medical technicians, or campus police are eligible to affiliate with the system. The system currently has 10,175 members from 69 state and local agencies. For purposes of the system, police officer means an employee assigned to a police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, and who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas Law Enforcement Training Center. In addition, members are classified as either Tier I or Tier II members. Tier I members are members who were employed prior to July 1, 1989, and who did not elect Tier II coverage. Tier II members are members who were employed prior to July 1, 1989, who did elect Tier II coverage as well as all members employed on or after July 1, 1989. Finally, some current members may also be considered either Tier I or Tier II transfer or

Brazelton members. Transfer members are members who are former members of a local plan who elected to participate in the Kansas Police and Firemen's Retirement System. Brazelton members are members who participated in a class action lawsuit, *Brazelton v. Kansas Public Employees Retirement System*, 227 K.443, 607 P.2d 510 (1980), whose contributions are lower and whose benefits are offset by Social Security.

Contribution rates vary according to the classification of membership. Tier I and Tier II members contribute 7 percent of compensation, except in the case of a member whose employment is covered by Social Security and the member is a member of the class certified in the case of *Brazelton v. Kansas Public Employees Retirement System*, 227 K.443, 607 P.2d 510 (1980), the employee contribution is reduced by the amount of the member's contribution to Social Security. The current contribution rate for Brazelton members is .008 percent. Also, the employee contribution for Tier I and Tier II members is reduced to 2 percent after attaining 32 complete years of service.

Employer contribution rates fluctuate and are determined separately for each employer. Section 74-49-67 of the Kansas Statutes Annotated provides that upon the basis of an annual actuarial valuation and appraisal of the system, the Kansas Public Employees Retirement System Board of Trustees shall certify, on or before July 15 of each year, to each participating employer an actuarially determined estimate of the rate of contribution that is required to be paid by each participating employer to pay all the liabilities that are to accrue under the system from and after the entry date as determined by the board upon recommendation of the actuary. The rate must be uniform for all participating employers and must be comprised of a rate for benefits accruing after June 30, 1993, and a rate for amortization of the additional liability for benefits provided by the system which is attributable to service rendered before July 1, 1993. Additional liability must be amortized over a period of 40 years commencing on July 1, 1993, by annual payments that increase 4 percent for each year remaining in the amortization. The employer's rate of contribution determined under this section does not include the cost of administration of the system. For fiscal year 2002, July 1, 2001, through June 30, 2002, the employer contribution rates are 9.13 percent for the Kansas Highway Patrol, 7.76 percent for the Kansas Bureau of Investigation,

6.65 percent for the Kansas Board of Regents, and various rates for local employers.

Concerning vesting of benefits, Tier I members vest after 20 years of service credit and Tier II members vest after 15 years of service credit. The retirement benefit is calculated using a formula of final average salary times a statutory multiplier times years of service. The current statutory multiplier is 2.5 percent. Final average salary for members who were hired before July 1, 1993, is the average of the three highest years of the last five years of employment, including additional compensation such as sick leave and annual leave. Final average salary for members hired on or after July 1, 1993, is the average of the three highest of the last five years of employment with no additional compensation included.

A member is not permitted to retire for age and service and receive retirement benefits before having contributed to the retirement system for at least 12 months. Age and service retirement benefits cannot exceed 80 percent of final average salary. The normal retirement age and service requirement for Tier I members is 55 years with 20 years of service credit and the early retirement date for Tier I members is 50 years with 20 years of service credit. The normal retirement date for Tier II members is 50 years with 25 years of service credit, 55 years with 20 years of service credit, or 60 years with 15 years of service credit. The early retirement date for Tier II members is 50 years with 20 years of service credit. The retirement date for transfer members is age 50 with 25 years of service and reduced benefits are available at age 50 with 20 years of service.

A member may choose several retirement options, including a maximum benefit with no survivor, joint and survivor, life certain, and partial lump sum options. Disability benefits are based upon whether the disability was job-related, the classification of the member, and whether the member has children. For Tier I members whose disability is job-related, the disability benefit is 50 percent of final average salary plus 10 percent for each eligible dependent to a maximum benefit of 75 percent of final average salary. If there are no dependents, the disability benefit is the higher of 50 percent of final average salary or 2.5 percent for each year of service credit, to a maximum of 80 percent of final average salary. For Tier II members, the disability benefit is 50 percent of final average salary with service credit to normal retirement. However, benefits are offset \$1 for every \$2 of earnings over \$10,000.

Death benefits are based upon whether the member was active or inactive, whether the death was service or non-service-connected, and whether the member was receiving disability benefits at the time of death. If the death was job-related and there is a surviving spouse or children, the spouse receives 50 percent of final

average salary until death. Each child, up to age 18 or up to age 23 if a full-time student, receives 10 percent of final average salary. The total may not exceed 75 percent of final average salary. If the death was non-job-related and there is a surviving spouse or children, the spouse receives a lump sum payment of 100 percent of final average salary plus a monthly benefit of final average salary times 2.5 percent times years of service up to a maximum of 50 percent of final average salary. If there is no surviving spouse or children, the death benefit is 100 percent of current annual salary less refundable contributions and interest to a named beneficiary.

Correctional officers are members of the Kansas Public Employees Retirement regular system, but their benefits are calculated differently. For purposes of determining benefits, correctional officer members are classified as either Group A or Group B members. Group A members are persons certified to the board of trustees by the Secretary of Corrections and who are employees of the Department of Corrections and who are in a position in a job class in the Corrections Officer class series, including Corrections Officer I, Corrections Officer II, Corrections Supervisor I, Corrections Supervisor II, and Corrections Supervisor III or in a position in the Corrections Counselor I, Corrections Counselor II, Unit Team Supervisor, or Corrections Classification Administrator job class, or who are promoted from one of these positions to a position in a job class of warden or deputy warden of a correctional institution, work release supervisor, training officer correctional institutions, or corrections administrator security specialist if the person was employed and had at least three consecutive years of service in any one or more positions in the job classes described above immediately preceding promotion to the position in a job class of warden, deputy warden, work release supervisor, training officer, or corrections administrator security specialist. Group B members are persons certified to the board by the Secretary of Corrections who are employed by the Department of Corrections and who are in a position for which the duties and responsibilities directly and primarily involve operation of power plant facilities within a correctional institution and involve regular contact with inmates, who are in a position for which the duties and responsibilities directly and primarily involve the operation of the correctional industries activity of the Department of Corrections within a correctional institution and involve regular contact with inmates, who are in a position for which the duties and responsibilities directly and primarily involve supervision of food service operations within a correctional institution and involve regular contact with inmates, or who are in a position for which the duties and responsibilities directly and primarily involve supervision of maintenance operations within a correctional institution and involve regular contact with inmates.

Concerning contributions, the member is required to contribute 4 percent of gross earnings and, as with the Police and Firemen's Retirement System, the employer contribution rate is set by the board. For fiscal year 2002, the employer rate is 7.44 percent for Group A members and 6.27 percent for Group B members. The retirement benefit formula is final average salary times a statutory multiplier times years of service. The statutory multiplier is 1.75 percent for participating service and 1 percent for prior service. For members hired on or after July 1, 1993, final average salary is the average of the three highest years of employment excluding additional compensation such as sick leave and annual leave. For members hired prior to July 1, 1993, final average salary is the greater of either a four-year final average salary, including additional compensation, such as sick leave and annual leave, or a three-year final average salary excluding additional compensation.

Group A members are entitled to a normal retirement benefit at age 55 or at any age when the member's age and years of service combined equal 85. An early retirement benefit is available at age 50 with 10 years of service. The early retirement reduction factor is .2 percent for each month under age 55. Members must have been employed for three years immediately prior to retirement to receive a benefit. Group B members are entitled to normal retirement benefits to age 60 or at any age when the member's age and years of service combined equal 85. An early retirement benefit is available at age 55 with 10 years of service. The early retirement reduction factor is .2 percent for each month under age 60. As with Group A members, Group B members must have been employed for three years immediately prior to retirement.

Disability is available to members who are totally disabled for 180 consecutive days and who no longer receive compensation from their employer. The annual benefit is equal to two-thirds of the member's annual salary less Social Security and any other employer-provided disability benefits. The minimum monthly benefit is \$100. The member is also entitled to service credit for the period of approved disability, and when determining retirement benefits, the final average salary is recalculated if the member is disabled for at least five years.

Members are also entitled to death benefits. If the death is not job-related, the named beneficiary is entitled to the actual contributions and interest and employer-provided life insurance equal to 150 percent of the member's salary at the time of death. If the member met the age and service requirements to retire at the time of death and the spouse is the sole named beneficiary, the spouse may elect to receive monthly benefits under a survivor option in lieu of receiving a return of the contributions plus interest in a lump sum.

If a member with 15 or more years of service dies and was not of retirement age and the spouse is the sole beneficiary, then the spouse can elect one of the survivor options at the time the member would have first been of retirement age. If the death is job-related, the spouse and children under age 18, or up to age 23 if full-time students, or dependent parents, in this order of preference, are entitled to a \$50,000 lump sum payment and a monthly amount based on 50 percent of the member's final average salary subject to reduction for benefits received under workers' compensation. This benefit is in addition to the insured death benefit and the return of contributions plus interest as for non-job-related deaths. The minimum job-related death benefit is \$100 per month.

Concerning postretirement benefits, effective July 1, 2001, at retirement, a member may elect to receive a lump sum payment of up to 50 percent of the actuarial present value of the member's monthly retirement benefit. The monthly retirement benefit is then reduced accordingly. There are six different survivor options available at retirement, with "pop-up options" to the maximum amount allowed when a survivor predeceases the retired member. If survivor benefits are not payable, the named beneficiary is entitled to the return of any contributions and interest remaining in the member's account.

There is a 30-day waiting period following a member's effective date of retirement before the member may go back to work for a participating employer. If a retired member returns to work for the same employer for whom the member worked during the last two years of participation, the retired member may continue to receive retirement benefits and continue to work until earnings equal \$15,000 in a calendar year. At that point, the retired member must either forfeit retirement benefits for the remainder of the calendar year or stop working for the remainder of the calendar year.

## NEBRASKA

The Nebraska Public Employees Retirement Systems administers five statewide retirement plans and one deferred compensation plan for the state of Nebraska. Three of the five statewide plans are defined benefit plans and the other two are defined contribution plans. However, only one of the plans may be characterized as a law enforcement retirement plan--the Nebraska State Patrol Retirement System.

The Nebraska State Patrol Retirement System is a defined benefit retirement plan. Every sworn officer of the Nebraska State Patrol who is employed on or after September 7, 1947, is a member of the system. Employees are required to contribute 11 percent of their gross salary which is matched by the state. The maximum retirement benefit payable is 75 percent of the retiree's final average monthly salary. Therefore,

25 years is the maximum number of years that apply toward retirement benefit calculations. If employees work more than 25 years, the extra years do not increase retirement benefits, but if during those years the salary increases, the final average monthly salary used to calculate benefits increases.

Members are entitled to a normal retirement at age 55 with 10 or more years of service. The retirement formula is 3 percent times years of service equals percent of final average monthly salary (or  $3\% \times \text{service} = \% \text{ of final average salary}$ ). Members are entitled to early retirement if they are at least age 50 but not yet age 55 and if they have 10 or more years of service. Benefits are calculated using the normal formula reduced by five-ninths of 1 percent for each month the member's age precedes age 55 or five-ninths of 1 percent for each month the member's years of service precedes 25 years, whichever provides the member with the greater benefit.

Members who are disabled are entitled to a disability retirement benefit. Disability is defined as the complete inability of the patrol officer, for reasons of accident or illness, to perform the duties of a patrol officer. There is no age reduction for disability benefits, and the disability retirement benefit is 50 percent of the member's regular monthly salary at the date the member became disabled if the member had 17 years of service or less. If the member had more than 17 years of service at the time of disability, the amount of the disability benefit is calculated based upon a formula of years of service times 3 percent times salary at date of disablement equals the calculated benefit amount (or  $\text{service} \times 3\% \times \text{salary} = \text{benefit}$ ). However, by law, the calculated benefit amount may not exceed 75 percent of the final average monthly salary, which is the maximum benefit for a normal retirement.

Members are also entitled to death benefits. If death occurs before retirement, benefits are calculated as if the member had retired under disability. The surviving spouse and dependent children under age 19, in the spouse's care, are entitled to receive 100 percent of the member's benefit as calculated for disability retirement until the youngest dependent child reaches age 19. At that time the spouse's benefit is reduced to 75 percent of the member's benefit for the spouse's life or until the spouse remarries. If the spouse remarries or dies before the youngest dependent child reaches age 19, the child's benefit is reduced to 75 percent of the member's benefit until age 19. If there is no spouse living at the date of the member's death, either because of death or divorce, the member's children under age 19, if any, are entitled to receive 75 percent of the member's benefit until the youngest child attains the age of 19. If there is more than one child under age 19 at the date of the member's death, the benefit is divided equally among the children. If there are no children under age 19 living at the time of the member's

death, the surviving spouse receives 75 percent of the member's benefit for life or until remarriage. If there is no spouse or children under age 19, a lump sum payment of the member's contributions and interest is paid to a designated beneficiary, or the member's estate if there is no designated beneficiary. If death occurs after retirement, the member's regular benefit continues to the member's spouse and or children at the same percentages that apply to death before retirement. A surviving spouse is eligible to receive benefits only if married to the member at the time the member retires. If the member does not have a spouse or children under age 19, the balance is paid to the member's beneficiary or estate. Members are not covered by Social Security.

## WYOMING

Wyoming has two retirement plans that apply to law enforcement officers. Certain law enforcement officers are entitled to enhanced benefits under the Wyoming Retirement Act, and law enforcement officers employed as highway patrolmen, game and fish wardens, and criminal investigators may be members of the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System. For purposes of the enhanced benefits under the Wyoming Retirement Act, law enforcement officers are members who are employed as county sheriffs, deputy county sheriffs, municipal police officers, University of Wyoming campus police officers, jailers, or dispatchers for law enforcement agencies. Law enforcement members pay an additional 3.73 percent of their salary in addition to the 5.57 percent contribution rate required by the Wyoming retirement system. The additional 3.73 percent is an employee-only contribution not matched by the employer and is refundable along with regular contributions and interest if the member chooses to withdraw from the retirement system at termination. The employer contribution is 5.68 percent of salary. In addition, the state is required to pick up and pay the employees' contributions, and political subdivisions may pay their employees' contributions.

Normal retirement benefits for law enforcement officers are payable when the officer has at least four years of service credit as a law enforcement officer and is at least 60 years of age, has at least 25 years of service credit as a law enforcement officer and is at least 50 years of age, or is at least 55 years of age and has a combined total years of service credit and years of age that equals at least 75. Early retirement benefits are payable to law enforcement officers who have at least four but less than 25 years of service credit and are at least age 50 but not yet 60 years of age or are less than 50 years of age and have at least 25 years of service credit as a law enforcement officer.

The normal retirement benefit for a member who first becomes covered under the Wyoming Retirement Act

after June 30, 1981, is equal to 2.125 percent of the highest average salary multiplied by the member's years of service credit for the first 15 years of service credit and 2.25 percent of the highest average salary multiplied by the member's years of service credit for any years of service credit exceeding 15 years. The retirement benefit for a member with service after March 31, 1953, but prior to July 1, 1981, is equal to a monthly benefit amount based on the actuarial equivalent of double the member's account with any applicable increase or 2.125 percent of the member's highest average salary multiplied by the member's years of service credit for the first 15 years of service credit and 2.25 percent of the member's highest average salary multiplied by the member's years of service credit for years of service credit exceeding 15 years.

The Wyoming Retirement Act also provides for retirement benefit adjustments. Effective July 1, 2001, and on each July 1 thereafter, any retirement benefit, survivor benefit, or disability benefit received by eligible individuals is to be adjusted. Before each July 1, the Retirement Board is to determine the percentage increase in the cost of living for the preceding calendar year. The percentage increase in the cost of living for a calendar year is equal to the annual percentage increase in the cost of living as of the immediately following January 1 as shown by the Wyoming cost-of-living index as determined by the Division of Economic Analysis of the Department of Administration and Information. The benefits existing on each July 1 for each eligible individual must be increased by the lesser of the percentage increase in the cost of living as determined by the board or 3 percent. The amount of any percentage increase in the cost of living that exceeds 3 percent must be accumulated and added to the percentage increases in the cost of living for future years. Individuals who have been receiving applicable benefits for at least two years, either alone or in combination with a member, if the individual is a survivor, are eligible for these benefits. An increase in benefits under this provision is effective only upon a determination by the system's actuary that the increase is actuarially sound. The actuary must annually report its determination pursuant to this provision to the Governor and the joint appropriations interim committee, and the total benefit adjustment under this provision may not exceed 3 percent in any one year.

If a member dies before retirement under the system, the member's account plus an additional amount equal to the member's account must be paid to the member's designated beneficiaries or in the absence of designated beneficiaries to the member's estate. If the member is vested, instead of a lump sum payment, a beneficiary may elect to receive the actuarial equivalent of the lump sum of any benefit for life which is available to a retired member. A beneficiary,

who is the surviving spouse of the deceased member and who elects to receive the actuarial equivalent of the lump sum as a life benefit, may, within 18 months of the death of the member, elect to receive the lump sum death benefit otherwise provided plus interest accumulated on that account less any payments received by the surviving spouse. If a member receiving benefits or the member's beneficiary receiving retirement benefits dies before the total amount of benefits paid to either the member or the member's beneficiary or both equals the amount of the member's account at retirement, then the excess, if any, must be paid to any other named beneficiary, if any, or to the member's estate.

A member in service who has 10 or more years of service credit during which contributions have been paid because of illness or injury outside of or in the scope of employment or any law enforcement officer in service for whom contributions have been paid because of injury in the scope of employment may retire on account of a total or partial disability in accordance with rules adopted by the board. Upon retirement for a total disability, a member is entitled to receive a monthly disability retirement benefit for the period of the member's disability equal to 100 percent of the member's service retirement benefit as if the member were eligible for normal retirement benefits. Upon retirement for a partial disability, a member is entitled to receive a monthly disability retirement benefit for the period of disability equal to 50 percent of the normal retirement benefit payable to the member as if the member were eligible for normal retirement benefits. Disability benefits are payable for the life of the member or until the member is no longer disabled.

Persons employed by the Wyoming State Highway Patrol Division as sworn law enforcement officers, persons commissioned as full-time law enforcement officers of the Wyoming State Game and Fish Department, criminal investigators, and persons designated and appointed as capitol police are entitled to participate in the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System. For purposes of this plan, criminal investigator means a full-time special agent employed by the Division of Criminal Investigation of the Attorney General's office who is a sworn peace officer. Employees covered by this plan contribute 11.02 percent of salary. However, contributions are picked up by the member's employer. Employers are required to contribute 11.33 percent of all salaries paid to their employees.

Employees retiring with 25 or more years of service may elect to retire and receive a benefit upon attaining age 50. Employees in service who have attained age 65 must be retired not later than the last day of the calendar month in which their 65th birthday occurs.

The service retirement allowance payable to an employee at age 50 is equal to 2.5 percent of the

employee's highest average salary for each year of credited service in the program, provided the retirement allowance does not exceed 75 percent of the highest average salary. Effective July 1, 2001, and on each July 1 thereafter, any service retirement allowance, survivor benefit, or disability benefit received by eligible individuals under the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System must be adjusted. Before each July 1, the board is required to determine the percentage increase in the cost of living for the preceding calendar year. The percentage increase in the cost of living for a calendar year is equal to the annual percentage increase in the cost of living as of the immediately following January 1 as shown by the Wyoming cost-of-living index as determined by the Division of Economic Analysis of the Department of Administration and Information. The benefits existing on each July 1 for each eligible individual must be increased by the lesser of the percentage increase in the cost of living as determined by the board or by 2.25 percent. The amount of any percentage increase in the cost of living that exceeds 2.25 percent must be accumulated and added to the percentage increases in the cost of living for future years. Individuals who have been receiving applicable benefits for at least two years, either alone or in combination with an eligible employee if the individual is a survivor, are eligible for the increased benefit. An increase in benefits under this provision is effective only upon a determination by the actuary of the Wyoming retirement system that the increase is actuarially sound. The actuary is required to report its annual determination under this provision to the Governor and joint appropriations interim committee. The total benefit adjustment under this provision may not exceed 2.25 percent in any one year.

A member who suffers a partial or total disability resulting from an individual and specific act, the type of which would normally occur only while employed as an employee, is eligible for a duty-connected disability allowance. If the specific act involves a traumatic event that directly causes an immediate cardiovascular condition resulting in partial or total disability, the employee is eligible for a partial or total duty-connected disability allowance. An employee with 10 years of credited service who suffers a partial or total disability and who is not eligible for a duty-connected disability

allowance is eligible for an ordinary partial or total disability allowance. The determination of disability and its cause must be made by the board after receiving the recommendation of its medical committee. Disability allowances are 50 percent of the highest average salary for duty-connected or ordinary total disability, 35 percent of highest average salary for duty-connected partial disability, or 25 percent of highest average salary for ordinary partial disability.

If a member of the State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System dies as a result of an activity related to official duty as an employee prior to retirement, a monthly death benefit equal to 50 percent of the member's final actual salary at the time of death is paid to the surviving spouse. In addition, an amount equal to 5 percent of the final actual salary is paid as a benefit for each unmarried child under the age of 18 years, provided the total death benefit paid to the surviving spouse and children does not exceed the employee's final actual salary.

If a member dies prior to retirement and the member's death is not related to official duty as an employee, a monthly nonduty death benefit is paid to the surviving spouse, equal to 2 percent of the member's final actual salary at the time of death for each year of credited service. The maximum nonduty death benefit payable to a spouse may not exceed 50 percent of the member's final actual salary. In addition, an amount equal to 5 percent of the final actual salary must be paid as a benefit for each unmarried child under the age of 18 years. The total nonduty death benefit paid to the surviving spouse and children may not exceed 60 percent of the employee's final actual salary.

If a retired member of the retirement program dies, the spouse of the deceased member is entitled to receive a benefit equal to 50 percent of the retirement allowance. In determining the benefit to be paid to the spouse, no reduction due to Social Security may be taken into account. In addition, an amount equal to 5 percent of the final actual salary is paid as a benefit for each unmarried child under the age of 18 years. The total benefit paid to the surviving spouse and children on the death of the retired member in accordance with this provision may not exceed 60 percent of the employee's final actual salary.