Informational Briefing to House Taxation Committee
State Taxation on Retirement Benefits
February 1, 2017
Dave Trabert, President

Chairman Johnson and Members of the Committee,

We appreciate this opportunity to provide an informational briefing on the taxation of retirement benefits. The information provided herein comes from the Department of Revenue, Kansas Public Employees Retirement System (KPERS), the Kansas Board of Regents (KBOR) and the National Council on State Legislatures.

Individuals can create personal retirement plans but state taxation on those benefits are uniform (whether public or private sector) so this briefing is limited to comparison of the predominant Kansas government retirement plans with their private sector counterparts.

KPERS Pension Benefits

Employee contributions to the KPERS defined benefit plans are made after-tax (employees pay tax on those contributions) but by statute, KPERS benefit payments are exempt from state income tax. Accordingly, KPERS retirees never pay state income tax on the portion of their benefits coming from employer contributions or earnings on all contributions. The amount of tax-exempt income to each retiree varies, depending upon the percentage of pay contributed by statute, life span and whether a retiree elected for regular monthly pension payments or a lump-sum upfront payment and reduced monthly payments thereafter.

Private sector pension income and distributions from 401(k) plans, which comprise the majority of retirement plans offered by private sector employers, are fully taxed.

Kansas Board of Regents

The attached "Board of Regents responses to Questions from Kansas Policy Institute" explains that most benefits-eligible employees participate in the mandatory KBOR 403(b) plan offered by TIAA or Voya. Employee contributions are all pre-tax basis. Thus, contributions are not taxed while they are being made, and by statue, withdrawals are exempt from state income tax. So while KPERS retirees pay state income tax on a portion of their benefits, benefits from the mandatory KBOR 403(b) plan are never subject to state income tax.

KBOR also offers a voluntary 403(b) retirement plan that has only employee contributions (no employer contributions). This program is similar to the State of Kansas 457(b) plan administered by KPERS. Under the voluntary 403(b) retirement plan, participants can elect to make before-tax or after-tax contributions. If the contributions are before-tax, the taxation on that plan is the same as it is for the KBOR mandatory 403(b) retirement plan. Employees at the KBOR state universities and KBOR Office also have the option to participate in the State of Kansas 457 deferred compensation plan where contributions are tax deferred and federal and state income tax is paid on withdrawals.

Kansas Comparison to Other States

According to "State Personal Income Taxes on Pensions and Retirement Income: Tax Year 2010," many states uniformly tax (or don't tax) government and private sector retirement income. Thirty-two states treat retirement income the same, and two more (Mississippi and Illinois) are very close; both exempt government retirement pay and private sector retirement from qualified plans. Fourteen states provide varying degrees of preferential treatment for government retirees but four of those are relatively minor and one (Kentucky) will eventually tax all retirement income equally.

Only Massachusetts comes matches Kansas' preferential treatment for government retirees.

See the attached NCSL summary for detailed descriptions of each state.

Board of Regents responses to Questions from Kansas Policy Institute

1. Do Regents institutions employees (colleges, community colleges, Regents, etc.) participate in that KPERS pension plan?

Please note that the responses I am providing relate to Kansas Board of Regents (KBOR) state university employees as they are the only employees authorized to participate in the KBOR 403(b) retirement plans. Relatively few participate in KPERS. Those who do were either already a KPERS participant before coming to work for a state university and they made an irrevocable decision to stay in KPERS, or those who were classified civil service employees before electing to become unclassified university support staff. Employees of those postsecondary institutions that are coordinated (but not governed) by the Board of Regents are members of KPERS (community and technical colleges) or their own retirement plan (Washburn University). Schedule S, line A19 provides the same state of Kansas tax exemption for their retirement plan

• Amounts received by retired employees of Washburn University as retirement and pension benefits under the university's retirement plan

2. How widespread is participation in TIAA, where employee contributions are not taxed?

If they are not KPERS members, benefits-eligible faculty and staff at KBOR state universities and the KBOR Office participate in the KBOR 403(b) mandatory retirement plan. TIAA is one of two vendors for that plan; the other is Voya. Employee contributions are all pre-tax basis. Thus, contributions are not taxed while they are being made, but are subject to federal tax when the assets are withdrawn. Those withdrawals are not subject to state of Kansas tax, but may be subject to taxation in other states. Approximately 69% of benefits-eligible employees at the KBOR state universities and the KBOR Office participate in the KBOR mandatory retirement plan.

3. Are there any other retirement plans in place, and if so, how are participants taxed (state income) on contributions and withdrawals?

KBOR also offers a voluntary 403(b) retirement plan that has only employee contributions (no employer contributions). This program is similar to the State of Kansas 457(b) plan administered by KPERS. Under the voluntary 403(b) retirement plan, participants can elect to make before-tax or after-tax contributions. If the contributions are before-tax, the taxation on that plan is the same as it is for the KBOR mandatory 403(b) retirement plan. Employees at the KBOR state universities and KBOR Office also have the option to participate in the State of Kansas 457 deferred compensation plan where contributions are tax deferred and federal and state income tax is paid on withdrawals.

4. Instructions for the Kansas income tax form includes [a] statement in the section listing subtractions from Federal Adjusted Gross Income (meaning they are exempt from Kansas income tax: Does that apply to all non-KPERS plans offered by Regents institutions?

These instructions are pertinent to both the KBOR mandatory 403(b) plan and the KBOR voluntary 403(b) plans if before-tax contributions are made.

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME: TAX YEAR 2010

Notes and sources are listed by states following the table; * indicates a substantive note. Amounts excluded are for tax year 2010 unless otherwise specified.
SS = Social Security, RR = Railroad Retirement, which is exempt from state income taxation by federal law.
Exclusions for state and local government pensions apply to pensions from state and out-of-state sources unless otherwise specified.

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
AL	Full	Full	Full	Full	Income from defined benefit plans
AK	No personal income tax.				
AZ	AZ plans: $2,500	$2,500	$2,500	Full	None
AR*	$6,000 per taxpayer	$6,000 per taxpayer	$6,000 per taxpayer	Full	$6,000 from qualified traditional IRAs
CA	None	None	None	Full	None
	Tax credit of $99 (tax year 2010) for each taxpayer or spouse over 65 years of age.				
CO*	65 +, $24,000 55-65, $20,000 Spouses must qualify individually	65 +, $24,000 55-65, $20,000	65 +, $24,000 55-65, $20,000	65 +, $24,000 55-65, $20,000	65 +, $24,000 55-65, $20,000
CT	None	None	50% exclusion	SS: Same as federal	None
DE*	60+, $12,500 under 60, $2,000 Amounts are for each taxpayer. Married taxpayers must individually qualify.	60+, $12,500 under 60, $2,000 Amounts are for each taxpayer. Married taxpayers must individually qualify.	60+, $12,500 under 60, $2,000 Amounts are for each taxpayer. Married taxpayers must individually qualify.	Full	60+, $12,500 under 60, $2,000 Amounts are for each taxpayer. Married taxpayers must individually qualify.
DC	62+, $3,000. DC pensions only.	62+, $3,000	62+, $3,000	Full	None
FL	No personal income tax.				

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
GA	See below	See below	See below	Full	See below
	Taxpayers aged 62 and over are entitled to a retirement income exclusion of $35,000 per taxpayer ($70,000 joint), of which a maximum of $4,000 per taxpayer may be earned income. In addition. SS/RR income are also excluded from taxable income.				
HI	Full	Full	Full	Full	Full except for partial taxation of plans to which employees contributed.
ID	65+, 62+ if disabled: $27,876 filing singly/$41,814 filing jointly, (minus SS/RR benefits) limited to certain public safety officers' benefits. Applies to ID pensions only.	65+, 62+ if disabled: $21,900 filing singly/$32,850 filing jointly, (minus SS/RR benefits). Applies only to CSRS not to FERS benefits	Capped at the same exclusion as CSRS benefits.	Full	None
IL	Full	Full	Full	Full	Full for qualified retirement plans
IN*	None	62+ $2,000 minus Social Security income. Spouses must qualify individually.	62+ $5,000. Spouses must qualify individually	Full	None
	Taxpayers over 65 may be entitled a tax credit of up to $140 (joint returns) depending on income.				
IA*	55+ $6,000 individual; $12,000 joint	55+ $6,000 individual; $12,000 joint	55+ $6,000 individual; $12,000 joint	Exclusion of 55% of taxable SS benefits. Taxation of SS benefits will be phased out by 2014.	55+ $6,000 individual; $12,000 joint

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
KS	Full. Applies to KS plans only.	Full	Full	Full for AGI of $75,000 or less	None
KY	$41,110 per taxpayer; but benefits from Kentucky systems earned before 1/1/98 may be fully excluded.	$41,110 per taxpayer	$41,110 per taxpayer	Full, although SS benefits may limit taxpayer eligibility for the exclusions listed in other categories of retirement income.	$41,110 per taxpayer;
LA	Full for pensions from LA state and local governments. Others: same exclusion as for private pensions	Full	Full	Full	65+: $6,000 single, $12,000 joint
ME	$6,000 for taxpayer plus $6,000 for spouse, or survivor of a pension beneficiary. SS and RR benefits must be deducted from the excluded amount.	$6,000 for taxpayer plus $6,000 for spouse, or survivor of a pension beneficiary. SS and RR benefits must be deducted from the excluded amount.	$6,000 for taxpayer plus $6,000 for spouse, or survivor of a pension beneficiary. SS and RR benefits must be deducted from the excluded amount.	Full	$6,000 less SS/RR, but income from IRAs, SIMPLE IRA's and certain deferred compensation plans is not eligible. Income from government-sponsored 457(b) plans is eligible after age 55.
MD	See below	See below	See below	Full	See below: not applicable to IRA, Roth IRA, SEP or Keogh plans.
	Taxpayers aged 65 and over are entitled to an exemption of $26,100 per person minus SS/RR benefits.				

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
MA	Full for MA pensions; out-of-state are exempt if the state extends reciprocal treatment to MA pensions.	Full	Full	Full	None
MI	Full for MI pensions; capped at the levels for private pensions for out-of-state pensions unless MI has a reciprocal agreement with the other state not to tax pensions.	Full	Full	Full	$45,120 single, $90, 240 joint. Plans under Sections 401(k), 457, and 403(b) of the IRC are not eligible.
	Persons aged 65 and older or older) may subtract interest, dividends, and capital gains included in AGI. This subtraction is limited to a maximum of $10,058 on a single return or $20,115 on a joint return. However, the maximum must be reduced by the retirement pension subtraction				
MN*	None	None	None	SS taxable to extent federally taxed;	None
	Taxpayers aged 65 and over may be entitled to an exemption of up to $9,000 for single taxpayers and $18,000 married and filing jointly if both spouses are over 65. Income limits apply.				
MS	Full	Full	Full	Full	Full for qualified plans
MO*	Age 62+: 65%, capped at $33,703 per spouse: income limits apply. Amount of Social Security exclusion must be deducted from pension exclusion.	Age 62+: 65%, capped at $33,703 per spouse: income limits apply. Amount of Social Security exclusion must be deducted from pension exclusion	15%	65%, income limits apply.	$6,000: income limits apply.

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME: TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
MT*	Up to $3,640 for single filers whose AGI is less than $30,320. For joint filers who both have retirement income, up to $7,680.	Up to $3,640 for single filers whose AGI is less than $30,320. For joint filers who both have retirement income, up to $7,680.	Up to $3,640 for single filers whose AGI is less than $30,320. For joint filers who both have retirement income, up to $7,680.	SS is taxable for taxpayers whose income including SS exceeds $25,000 single, $32,000 joint.	Up to $3,640 for single filers whose AGI is less than $30,320. For joint filers who both have retirement income, up to $7,680.
NE	None	None	None	SS taxable to extent federally taxed.	None
NV	No personal income tax.				
NH	No personal income tax. Residents over the age of 65 are entitled to exempt $1,200 in income subject to the interest and dividends tax.				
NJ	62+, $20,000 joint; $15,000 single, subject to an income ceiling	62+, $20,000 joint; $15,000 single, subject to an income ceiling	Full	Full	62+, $20,000 joint; $15,000 single, subject to an income ceiling
	Taxpayers over the age of 62 are entitled to an additional income exclusion to allow them to reach the amount of the pension exclusion. The sum of the pension exclusion and the additional exclusion may exceed the pension exclusion if the recipient is ineligible to receive Social Security retirement payments.				
NM	None	None	None	None	None
	Taxpayers aged 65 and older are eligible for an income exemption capped at $8,000 single, $16,000 filing jointly, phased out as AGI grows, and ended at AGI of $51,001 for joint filers, $28,501 for single. People aged 100 or older are fully exempt from income tax unless claimed as a dependent				
NY	Full for NY and DC pensions; out-of-state treated like private pensions.	Full	Full	Full	$20,000 for taxpayers aged 59 years, six months and older.
NC*	$4,000 single; $8,000 filing jointly	$4,000 single; $8,000 filing jointly	$4,000 single; $8,000 filing jointly	Full	$2,000 single; $4,000 filing jointly

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
ND	None	None	None	Same as federal	None
OH	None	None	Full	Full	See note
	A retirement income tax credit of as much as $200 is allowed, depending on income. A senior citizen tax credit of $50 per tax return is allowed to filers of 65 or older; each taxpayer may claim it only once. A one-time tax credit is available for lump-sum distributions to people over 65: $50 multiplied by remaining life expectancy.				
OK*	$10,000 per individual. Spouses must qualify individually.	80% of CSRS benefits, plus up to $10,000 in FERS and remaining CSRS benefits.	Greater of 75% of benefits or $10,000 not to exceed amount included in federal AGI.	Full	$10,000 per individual.
OR	62+: 9% credit for retirement income. Income limits apply	Income attributable to service before October 1991 is exempt. In addition: 62+: 9% credit for retirement income. Income limits apply	62+: 9% credit for retirement income. Income limits apply	Full	Payments from certain plans can be subtracted if previously taxed. 62+: 9% credit for retirement income. Income limits apply
PA	Full	Full	Full	Full	Full
RI	None	None	None	Same as federal	None
SC	Under 65: $3,000; over 65: $10,000; see below	Under 65: $3,000; over 65: $10,000; see below	Under 65: $3,000; over 65: $10,000; see below	Full	Under 65: $3,000; over 65: $10,000; see below
	Each taxpayer over 65 is entitled to an income exemption of $15,000 ($30,000, married filing jointly) less the amount of any retirement income exemption claimed.				
SD	No personal income tax				
TN	The individual income tax is imposed only on individuals and other entities receiving interest from bonds and notes and dividends from stock. Persons over 65 with total income less than $16,200 for a single filer or $27,000 for a joint filer are exempt.				
TX	No personal income tax				

STATE PERSONAL INCOME TAXES ON RETIREMENT INCOME:
TAX YEAR 2010

State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security	Private Pension Exclusion
UT	Utah provides individual taxpayers aged 65 and older a non-refundable retirement income tax credit of $450. The credit is reduced and phased out at higher income levels, beginning at $25,000 single and $32,000 married filing jointly.				
VT	None	None	None	Same as federal	None
VA	Virginia provides individual taxpayers aged 65 and older a deduction of up to $12,000 ($24,000 married filing jointly.) The deduction is reduced and phased out at higher income levels, beginning at $50,000 for single taxpayers and at $75,000 for married couples regardless of their filing status. The base is state-adjusted federal AGI.				
WA	No personal income tax				
WV	WV state or local police, deputy sheriffs' or firefighters' retirement benefits are fully exempt. Other WV pensions: $2,000.	$2,000; see below	$22,000; see below	Same as federal; see below	None; see below
	Each West Virginia taxpayer aged 65 or older is entitled to a deduction of $8,000 minus retirement income deductions.				
WI*	65+: $5,000 for filers with an AGI of less than $15,000 (single) or $30,000 (joint)	65+: $5,000 for filers with an AGI of less than $15,000 (single) or $30,000 (joint)	Full	Full	65+: $5,000 for filers with an AGI of less than $15,000 (single) or $30,000 (joint)
WY	No personal income tax				

House Committee on Taxation
Discussion on Retirement Income
Presented by Eric Stafford, Vice President of Government Affairs

THE KANSAS CHAMBER
UNITED FOR BUSINESS

Wednesday, February 1, 2017

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber appreciates the opportunity to provide comments on taxing retirement income as this committee holds a comprehensive review of tax policy in our state.

You have heard a lot of testimony from interested parties who are looking at modifications of the tax plan from 2012. Many comments have been made about tax fairness and what that looks like, or should look like.

The Tax Foundation supports repeal of the small business tax cuts from 2012. One of the arguments made by their representatives was that it is bad tax policy to eliminate income taxes on one group while others are still required to pay it.

According to testimony from the Department of Revenue last week in the Senate Tax Committee, Regents retirees are exempt from state income tax on withdrawals while private sector citizens are fully taxed on pension and 401(k) withdrawals. KPERS retirees as you've heard in recent weeks, are taxed on their contributions but the bulk of their withdrawals which come from the employer are not subject to taxation.

As this committee reviews our state's overall tax policy and looks to fix what some perceive to be a lack of fairness, if taxes are in fact increased to address fairness, we would ask that you consider addressing this specific example of inequity in the treatment of retirement income.

We appreciate the opportunity to offer comments on the subject of retirement income, and I am happy to answer questions the committee might have.

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The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.

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