

1                   **STATE EMPLOYEES' ANNUAL LEAVE TRUST FUND**

2                                   **AMENDMENTS**

3   2015 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Deidre M. Henderson**

6   House Sponsor: Steve Eliason

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Utah State Personnel Management Act and the State Employees'  
11 Annual Leave Program II Trust Fund Act by amending state employee leave provisions.

12   **Highlighted Provisions:**

13           This bill:

14           ▶ amends the name of the "State Employees' Annual Leave Program II Trust Fund" to  
15 the "State Employees' Annual Leave Trust Fund";

16           ▶ allows certain transfers to the State Employees' Annual Leave Trust Fund from the  
17 termination pool for annual leave liabilities and allows costs for both annual leave  
18 and annual leave II to be paid from the fund;

19           ▶ prohibits a creditor from obtaining assets of the trust fund; and

20           ▶ makes technical changes.

21   **Money Appropriated in this Bill:**

22           None

23   **Other Special Clauses:**

24           None

25   **Utah Code Sections Affected:**

26   AMENDS:

27           **67-19-14.6**, as enacted by Laws of Utah 2014, Chapter 437

28           **67-19f-101**, as enacted by Laws of Utah 2014, Chapter 437

29           **67-19f-102**, as enacted by Laws of Utah 2014, Chapter 437

30 **67-19f-201**, as enacted by Laws of Utah 2014, Chapter 437

31 **67-19f-202**, as enacted by Laws of Utah 2014, Chapter 437

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33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **67-19-14.6** is amended to read:

35 **67-19-14.6. Annual leave -- Definitions -- Previously accrued hours -- Recognition**  
36 **of liability.**

37 (1) As used in this section:

38 (a) (i) "Annual leave II" means leave hours an employing agency provides to an  
39 employee, beginning on the change date established in Subsection (2), as time off from work  
40 for personal use without affecting the employee's pay.

41 (ii) "Annual leave II" does not include:

42 (A) legal holidays under Section **63G-1-301**;

43 (B) time off as compensation for actual time worked in excess of an employee's  
44 defined work period;

45 (C) sick leave;

46 (D) paid or unpaid administrative leave; or

47 (E) other paid or unpaid leave from work provided by state statute, administrative rule,  
48 or by federal law or regulation.

49 (b) "Change date" means the date established by the Division of Finance under  
50 Subsection (2) when annual leave II begins for a state agency.

51 (2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
52 the Division of Finance shall establish a date that is no later than January 2, 2016, when a state  
53 agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to  
54 receive paid leave.

55 (3) An employing agency shall allow an employee who has an unused balance of  
56 accrued annual leave before the change date, to use the annual leave under the same rules that  
57 applied to the leave on the change date.

58 (4) (a) At the time of employee accrual of annual leave II, an employing agency shall  
59 set aside the cost of each hour of annual leave II for each eligible employee in an amount  
60 determined in accordance with rules made by the Division of Finance.

61 (b) The rules made under Subsection (4)(a) shall consider:

62 (i) the employee hourly rate of pay;

63 (ii) applicable employer paid taxes that would be required if the employee was paid for  
64 the annual leave II instead of using it for time off;

65 (iii) other applicable employer paid benefits; and

66 (iv) adjustments due to employee hourly rate changes, including the effect on accrued  
67 annual leave II balances.

68 (c) The Division of Finance shall provide that the amount of costs set aside under  
69 Subsection (4)(a) and deposited into the fund increase by at least the projected increase in  
70 annual leave liability for that year, until the year-end trust fund balances are reached as required  
71 under Subsection [67-19f-201\(3\)\(b\)](#).

72 (5) The cost set aside under Subsection (4) shall be deposited by the Division of  
73 Finance into the State Employees' Annual Leave [~~Program H~~] Trust Fund created in Section  
74 [67-19f-201](#).

75 (6) For annual leave hours accrued before the change date, an employing agency shall  
76 continue to comply with the Division of Finance requirements for contributions to the  
77 termination pool.

78 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

79 (a) the department shall make rules for the accrual and use of annual leave II provided  
80 under this section; and

81 (b) the Division of Finance shall make rules for the set aside provisions under  
82 Subsections (4) and (5).

83 Section 2. Section **67-19f-101** is amended to read:

84 **CHAPTER 19f. STATE EMPLOYEES' ANNUAL LEAVE**

85 **TRUST FUND ACT**

86 **67-19f-101. Title.**

87 This chapter is known as the "State Employees' Annual Leave [~~Program H~~] Trust Fund  
88 Act."

89 Section 3. Section **67-19f-102** is amended to read:

90 **67-19f-102. Definitions.**

91 As used in this chapter:

92 (1) "Annual leave II" is as defined in Section [67-19-14.6](#).

93 (2) "Board of trustees" or "board" means the board of trustees created in Section  
94 [67-19f-202](#).

95 (3) "Income" means the revenues received by the state treasurer from investments of  
96 the trust fund principal.

97 (4) "Trust fund" means the State Employees' Annual Leave [~~Program H~~] Trust Fund  
98 created in Section [67-19f-201](#).

99 Section 4. Section **67-19f-201** is amended to read:

100 **67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.**

101 (1) There is created a trust fund entitled the "State Employees' Annual Leave [~~Program~~  
102 H] Trust Fund."

103 (2) The trust fund consists of:

104 (a) ongoing revenue provided from a state agency set aside for accrued annual leave II  
105 required under Section [67-19-14.6](#);

106 (b) appropriations made to the trust fund by the Legislature, if any;

107 (c) transfers from the termination pool described in Subsection [67-19-14.6\(6\)](#) made by  
108 the Division of Finance to the trust fund for annual leave liabilities accrued before the change  
109 date established under Section [67-19-14.6](#);

110 [~~(c)~~] (d) income; and

111 [~~(d)~~] (e) revenue received from other sources.

112 (3) (a) The Division of Finance shall account for the receipt and expenditures of trust  
113 fund money.

114           (b) The Division of Finance shall make the necessary adjustments to the amount of set  
115 aside costs required under Subsection 67-19-14.6(4)(a) to provide that upon the trust fund's  
116 accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances  
117 remain equal to at least 10% of the total state employee annual leave liability.

118           (4) (a) The state treasurer shall invest trust fund money by following the procedures  
119 and requirements of Part 3, Investment of Trust Funds.

120           (b) (i) The trust fund shall earn interest.

121           (ii) The state treasurer shall deposit all interest or other income earned from investment  
122 of the trust fund back into the trust fund.

123           (5) The board of trustees created in Section 67-19f-202 may expend money from the  
124 trust fund for:

125           (a) reimbursement to the employer of the costs paid to the trust fund in accordance  
126 with Section 67-19-14.6 as annual leave II is used by an employee; ~~and~~

127           (b) payments based on accrued annual leave and on accrued annual leave II that are  
128 made upon termination of an employee; and

129           ~~[(b)]~~ (c) reasonable administrative costs that the board of trustees incurs in performing  
130 its duties as trustee of the trust fund.

131           (6) The board of trustees shall ensure that:

132           (a) money deposited into the trust fund is ~~[expended only for the costs of annual leave~~  
133 ~~II, including any allotted benefits under Subsection 67-19-14.6(4)]~~ irrevocable and is expended  
134 only for the costs described in Subsection (5); and

135           (b) assets of the trust fund are dedicated to providing annual leave and annual leave II  
136 established by statute and rule.

137           (7) A creditor of the board of trustees or a state agency liable for annual leave benefits  
138 may not seize, attach, or otherwise obtain assets of the trust fund.

139           Section 5. Section 67-19f-202 is amended to read:

140           **67-19f-202. Board of trustees of the State Employees' Annual Leave Trust Fund.**

141           (1) (a) There is created a board of trustees of the State Employees' Annual Leave

142 [~~Program H~~] Trust Fund composed of the following three members:

- 143 (i) the state treasurer or the state treasurer's designee;
- 144 (ii) the director of the Division of Finance or the director's designee; and
- 145 (iii) the executive director of the Governor's Office of Management and Budget or the
- 146 executive director's designee.

147 (b) The state treasurer is chair of the board.

148 (c) Three members of the board is a quorum.

149 (d) A member may not receive compensation or benefits for the member's service, but

150 may receive per diem and travel expenses as allowed in:

151 (i) Section 63A-3-106;

152 (ii) Section 63A-3-107; and

153 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and

154 63A-3-107.

155 (e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the

156 board of trustees.

157 (ii) The Division of Finance shall provide accounting services for the trust fund.

158 (2) The board shall:

159 (a) on behalf of the state, act as trustee of the trust fund created under Section

160 67-19f-201 and exercise the state's fiduciary responsibilities;

161 (b) meet at least twice per year;

162 (c) review and approve the policies, projections, rules, criteria, procedures, forms,

163 standards, performance goals, and actuarial reports for the trust fund;

164 (d) review and approve the budget for the trust fund;

165 (e) review financial records for the trust fund, including trust fund receipts,

166 expenditures, and investments; and

167 (f) do any other things necessary to perform the state's fiduciary obligations under the

168 trust fund.

169 (3) The board may:

170 (a) commission and obtain actuarial studies of the liabilities for the trust fund; and

171 (b) for purposes of the trust fund, establish labor additive rates to charge for the

172 administrative expenses of the trust fund.

173 (4) The attorney general shall:

174 (a) act as legal counsel and provide legal representation to the board of trustees; and

175 (b) attend, or direct an attorney from the Office of the Attorney General to attend, each

176 meeting of the board of trustees.