

1                   **ANNUAL LEAVE PROGRAM II FOR STATE EMPLOYEES**

2   2014 GENERAL SESSION

3   STATE OF UTAH

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

5                                   House Sponsor: \_\_\_\_\_

6  
7 **LONG TITLE**

8 **General Description:**

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

12 **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ defines "annual leave II";
- 15                   ▶ provides that beginning January 3, 2015, a state agency will offer annual leave II in  
16 lieu of annual leave to eligible state employees;
- 17                   ▶ provides that any unused annual leave accrued before January 3, 2015, may be used  
18 under the same rules that applied to the leave on January 1, 2014;
- 19                   ▶ requires a state agency to set aside the cost of each hour of annual leave II for each  
20 eligible employee for deposit into the State Employees' Annual Leave Program II  
21 Trust Fund;
- 22                   ▶ provides for rulemaking authority; and
- 23                   ▶ enacts the State Employees' Annual Leave Program II Trust Fund Act, which creates  
24 the State Employees' Annual Leave Program II Trust Fund and board and provides  
25 for administration of the trust fund.

26 **Money Appropriated in this Bill:**

27                   None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **67-19-14.6**, Utah Code Annotated 1953

33 **67-19f-101**, Utah Code Annotated 1953

34 **67-19f-102**, Utah Code Annotated 1953

35 **67-19f-201**, Utah Code Annotated 1953

36 **67-19f-202**, Utah Code Annotated 1953

37 **67-19f-301**, Utah Code Annotated 1953

38 **67-19f-302**, Utah Code Annotated 1953

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

41 Section 1. Section **67-19-14.6** is enacted to read:

42 **67-19-14.6. Annual leave -- Definition -- Previously accrued hours -- Recognition**  
43 **of liability.**

44 (1) (a) As used in this section, "annual leave II" means leave hours an employing  
45 agency provides to an employee, beginning January 3, 2015, as time off from work for personal  
46 use without affecting the employee's pay.

47 (b) "Annual leave II" does not include:

48 (i) legal holidays under Section **63G-1-301**;

49 (ii) time off as compensation for actual time worked in excess of an employee's defined  
50 work period;

51 (iii) sick leave;

52 (iv) paid or unpaid administrative leave; or

53 (v) other paid or unpaid leave from work provided by:

54 (A) state statute or administrative rule; or

55 (B) federal law or regulation.

56 (2) Beginning on January 3, 2015, a state agency shall offer annual leave II in lieu of  
57 annual leave to an employee who is eligible to receive paid leave.

58 (3) An employing agency shall allow an employee who has an unused balance of

59 accrued annual leave before January 3, 2015, to use the annual leave under the same rules that  
60 applied to the leave on January 1, 2014.

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

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

65 (i) the employee hourly rate of pay;

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

68 (iii) other applicable employer paid benefits; and

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

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

74 (6) For annual leave hours accrued before January 3, 2015, an employing agency shall  
75 continue to comply with the Division of Finance requirements for contributions to the  
76 termination pool.

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

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

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

82 Section 2. Section **67-19f-101** is enacted to read:

83 **Part 1. State Employees' Annual Leave Program II Trust Fund Act**  
84 **67-19f-101. Title.**

85 This chapter is known as the "State Employees' Annual Leave Program II Trust Fund  
86 Act."

87 Section 3. Section **67-19f-102** is enacted to read:

88 **67-19f-102. Definitions.**

89 As used in this chapter:

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

91 (2) "Board of trustees" or "board" means the board of trustees created in Section  
92 [67-19f-202](#).

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

95 (4) "Trust fund" means the State Employees' Annual Leave Program II Trust Fund  
96 created in Section [67-19f-201](#).

97 Section 4. Section **67-19f-201** is enacted to read:

98 **Part 2. State Employees' Annual Leave Program II Trust Fund**  
99 **[67-19f-201](#). Trust fund -- Creation -- Oversight -- Dissolution.**

100 (1) There is created a trust fund entitled the "State Employees' Annual Leave Program  
101 II Trust Fund."

102 (2) The trust fund consists of:

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

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

106 (c) income; and

107 (d) revenue received from other sources.

108 (3) The Division of Finance shall account for the receipt and expenditures of trust fund  
109 money.

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

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

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

115 (5) The board of trustees created in Section [67-19f-202](#) may expend money from the  
116 trust fund for:

117 (a) reimbursement to the employer of the costs paid to the trust fund in accordance  
118 with Section [67-19-14.6](#) as annual leave II is used by an employee; and

119 (b) reasonable administrative costs that the board of trustees incurs in performing its  
120 duties as trustee of the trust fund.

- 121 (6) The board of trustees shall ensure that:
- 122 (a) money deposited into the trust fund is expended only for the costs of annual leave
- 123 II, including any allotted benefits under Subsection [67-19-14.6\(4\)](#); and
- 124 (b) assets of the trust fund are dedicated to providing annual leave II established by
- 125 statute and rule.

126 Section 5. Section **67-19f-202** is enacted to read:

127 **67-19f-202. Board of trustees of the State Employees' Annual Leave Program II**  
128 **Trust Fund.**

- 129 (1) (a) There is created a board of trustees of the State Employees' Annual Leave
- 130 Program II Trust Fund composed of the following three members:
- 131 (i) the state treasurer or the state treasurer's designee;
- 132 (ii) the director of the Division of Finance or the director's designee; and
- 133 (iii) the executive director of the Governor's Office of Management and Budget or the
- 134 executive director's designee.
- 135 (b) The state treasurer is chair of the board.
- 136 (c) Three members of the board is a quorum.
- 137 (d) A member may not receive compensation or benefits for the member's service, but
- 138 may receive per diem and travel expenses as allowed in:
- 139 (i) Section [63A-3-106](#);
- 140 (ii) Section [63A-3-107](#); and
- 141 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
- 142 [63A-3-107](#).
- 143 (e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the
- 144 board of trustees.
- 145 (ii) The Division of Finance shall provide accounting services for the trust fund.
- 146 (2) The board shall:
- 147 (a) on behalf of the state, act as trustee of the trust fund created under Section
- 148 [67-19f-201](#) and exercise the state's fiduciary responsibilities;
- 149 (b) meet at least twice per year;
- 150 (c) review and approve the policies, projections, rules, criteria, procedures, forms,
- 151 standards, performance goals, and actuarial reports for the trust fund;

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

153 (e) review financial records for the trust fund, including trust fund receipts,  
154 expenditures, and investments; and

155 (f) do any other things necessary to perform the state's fiduciary obligations under the  
156 trust fund.

157 (3) The board may:

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

159 (b) for purposes of the trust fund, establish labor additive rates to charge for the  
160 administrative expenses of the trust fund.

161 (4) The attorney general shall:

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

163 (b) attend, or direct an attorney from the Office of the Attorney General to attend, each  
164 meeting of the board of trustees.

165 Section 6. Section **67-19f-301** is enacted to read:

166 **Part 3. Investment of Trust Funds**

167 **67-19f-301. Investment of State Employees' Annual Leave Program II Trust**  
168 **Fund.**

169 (1) The state treasurer shall invest the assets of the trust fund with the primary goal of  
170 providing for the stability, income, and growth of the principal.

171 (2) Nothing in this section requires a specific outcome in investing.

172 (3) The state treasurer may deduct any administrative costs incurred in managing trust  
173 fund assets from earnings before distributing the trust fund assets.

174 (4) (a) The state treasurer may employ professional asset managers to assist in the  
175 investment of assets of the trust fund.

176 (b) The treasurer may only provide compensation to asset managers from earnings  
177 generated by the trust fund's investments.

178 Section 7. Section **67-19f-302** is enacted to read:

179 **67-19f-302. State treasurer to follow "prudent investor" rule -- Standard of care.**

180 (1) The state treasurer shall invest and manage the trust fund assets as a prudent  
181 investor would, by:

182 (a) considering the purposes, terms, distribution requirements, and other circumstances

183 of the trust fund; and

184 (b) exercising reasonable care, skill, and caution in order to meet the standard of care  
185 of a prudent investor.

186 (2) In determining whether the state treasurer has met the standard of care of a prudent  
187 investor, the judge or finder of fact shall:

188 (a) consider the state treasurer's actions in light of the facts and circumstances existing  
189 at the time of the investment decision or action, and not by hindsight; and

190 (b) evaluate the state treasurer's investment and management decisions respecting  
191 individual assets:

192 (i) not in isolation, but in the context of the trust fund portfolio as a whole; and

193 (ii) as a part of an overall investment strategy that has risk and return objectives  
194 reasonably suited to the trust fund.

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**Legislative Review Note**

**as of 3-3-14 2:16 PM**

**Office of Legislative Research and General Counsel**