

**RESOLUTION #2002-05 DISCRETIONARY AND CASHOUT PAYMENTS**  
(Amends Resolution #2002-03; Amended by Resolution #2016-01)

October 10, 2002

**WHEREAS**, Utah Code Annotated § 49-11-103(1)(a)(iv) states that a primary purpose of creating the Retirement Systems and the Utah Governors and Legislators Retirement Plan is to provide for funding on an actuarially sound basis; and

**WHEREAS**, Utah Code Annotated § 49-11-203(1)(g) requires that the Board maintain the systems, plans and programs on an actuarially sound basis; and

**WHEREAS**, Utah Code Annotated § 49-11-203(1)(k) grants the Board the specific authority to interpret and define any provision and term under this Title when the Board or Office provides written documentation which demonstrates that the interpretation or definition promotes uniformity in the administration of the systems or maintains the actuarial soundness of the systems, plans or programs; and

**WHEREAS**, the term “compensation”, which is used to determine a benefit, is defined in Utah Code Annotated § 49-12-102, § 49-13-102, § 49-14-102, § 49-15-102, § 49-16-102, § 49-17-102, § 49-18-102, § 49-22-102, § 49-23-102; and<sup>1</sup>

**WHEREAS**, the Board’s actuary has determined that allowing members to use Discretionary Payments as “compensation” negatively affects the actuarial soundness of the systems, plans and programs; and

**WHEREAS**, the Board desires to maintain the actuarial soundness of the systems, plans and programs by prohibiting discretionary payments from being used as “compensation”; and

**WHEREAS**, the types and categories of payments made to members by participating employers varies greatly; and

**WHEREAS**, such differences in payments results in inconsistencies in determining which payments are included as “compensation”; and

**WHEREAS**, such inconsistencies result in differences in the final average salary of members thereby affecting the amount of retirement benefits; and

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<sup>1</sup> Deleted “§ 49-12-102 (1), § 49-13-102 (1), § 49-14-102(1), § 49-15-102(1), § 49-16-102(1), § 49-17-102(1), § 49-18-102(1)” and inserted “§ 49-12-102, § 49-13-102, § 49-14-102, § 49-15-102, § 49-16-102, § 49-17-102, § 49-18-102, § 49-22-102, § 49-23-102” per Board Resolution #2016-01 Master Resolution Amendments and Repealer

**RESOLUTION #2002-05 DISCRETIONARY AND CASHOUT PAYMENTS (CONTINUED)**

**WHEREAS**, the Board desires to maintain uniformity and fairness in the administration of the systems by prohibiting discretionary payments from being used as compensation and further desires to set guidelines for determining which types and categories of payments shall be included as “compensation”; and

**WHEREAS**, the Board desires to clarify the rule set forth in Resolution #2002-03 passed May 15, 2002;

**NOW, THEREFORE, BE IT RESOLVED** that “Discretionary Payments” means any payments by a participating employer to a member (other than those referred to in the last paragraph) which allows the member the choice to take the payment as salary or in some other form.

**BE IT FURTHER RESOLVED** that Discretionary Payments shall not be included in “compensation” as defined in Utah Code Annotated, Title 49.

**BE IT FURTHER RESOLVED**, that, during an employer’s fiscal year, cashouts of vacation leave, sick leave and comp time (or similar cashouts as determined by the Executive Director) may be used as “compensation” under Utah Code Annotated, Title 49, up to the amount that such benefit may accrue in a single year under employer policies. For example, if an member earns \$100 per day and is eligible to accrue 10 days of sick leave per year, up to \$1000 of sick leave cashout could be included as compensation in the year in which the cashout occurred. This Resolution does not affect any payments excluded from compensation by statute.