

**Representative Michael R. Styler** proposes to substitute the following bill:

**REIMBURSEMENT OF LEGAL FEES AND  
COSTS TO OFFICERS AND EMPLOYEES**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael R. Styler**

AN ACT RELATING TO REIMBURSEMENT OF LEGAL FEES AND COSTS TO  
GOVERNMENT OFFICERS AND EMPLOYEES; ALLOWING RECOVERY OF  
ATTORNEYS' FEES AND COSTS AGAINST THE GOVERNMENT UNDER CERTAIN  
CIRCUMSTANCES; PROVIDING LIMITED RETROACTIVITY OF THE CHANGES; AND  
MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-30a-2**, as last amended by Chapter 131, Laws of Utah 1983

This act enacts uncodified material.

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

Section 1. Section **63-30a-2** is amended to read:

**63-30a-2. Indictment or information against officer or employee -- Reimbursement  
of attorneys' fees and court costs incurred in defense.**

(1) If a state grand jury indicts<sub>2</sub> or if an information is filed against<sub>2</sub> an officer or employee,  
in connection with or arising out of any act or omission of that officer or employee during the  
performance of his duties, within the scope of his employment<sub>2</sub> or under color of his authority, and  
that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless  
the indictment or information is quashed or dismissed upon application or motion of the  
prosecuting attorney, that officer or employee [~~shall be entitled to~~] may recover [~~from the public  
entity~~] reasonable attorneys' fees and court costs necessarily incurred in the defense of that

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1 indictment or information from the public entity, unless the officer or employee is found guilty of  
2 substantially the same misconduct that formed the basis for the indictment or information.

3 (2) If the officer or employee is acquitted of some of the charges or counts, or portions of  
4 the indictment or information are quashed or dismissed, that officer or employee may recover from  
5 the public entity reasonable attorneys' fees and court costs necessarily incurred in the defense of  
6 those charges, counts, or portions of the indictment or information that were quashed, dismissed  
7 or resulted in a judgment of acquittal, unless the misconduct covered by those charges, counts, or  
8 portions of the indictment or information that were quashed, dismissed or resulted in a judgment  
9 of acquittal is substantially the same misconduct that formed the basis for charges, counts, or  
10 portions of the indictment or information of which the officer or employee was found guilty.

11 (3) An officer or employee who may recover under this section may also recover  
12 reasonable attorney's fees and costs necessarily incurred by the officer or employee in recovering  
13 the attorneys' fees and costs allowed under this section, including attorney's fees and costs incurred  
14 on appeal.

15 (4) Notwithstanding any other provision of this section, an officer or employee may not  
16 recover for the costs incurred in defense of any charge, count, or portion of the indictment or  
17 information that is quashed or dismissed upon application or motion of the prosecuting attorney.

18 Section 2. **Limited retroactivity.**

19 The amendments to Section 63-30a-2 effected by House Bill 421, 1998 Annual General  
20 Session of the Utah Legislature, apply to claims arising before May 4, 1998 if those claims are  
21 filed:

22 (1) as provided in Title 63, Chapter 30, Governmental Immunity Act; and

23 (2) within two years after the cause of action arises.