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ELECTRONIC PROCESS FOR PAYROLL

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: John P. Holmgren

AN ACT RELATING TO LABOR AND FINANCIAL INSTITUTIONS; ADDRESSING
PAYROLL BY ELECTRONIC MEANS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

34-28-3, as last amended by Chapter 90, Laws of Utah 1996

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

Section 1. Section **34-28-3** is amended to read:

34-28-3. Regular paydays -- Currency or negotiable checks required -- Deposit in financial institution -- Statement of total deductions -- Unlawful withholding or diversion of wages.

(1) (a) An employer shall pay the wages earned by an employee at regular intervals but in periods no longer than semimonthly on days to be designated in advance by the employer as the regular payday. [The]

(b) An employer shall pay for services rendered during each pay period within ten days after the close of that period.

~~(b)~~ (c) If a payday falls on a Saturday, Sunday, or legal holiday, ~~[payment of]~~ an employer shall pay wages earned during the pay period ~~[shall be made]~~ on the day preceding the Saturday, Sunday, or legal holiday.

~~(c)~~ (d) If an employer hires employees on a yearly salary basis, the employer may pay an employee on a monthly basis by paying on or before the seventh of the month following the month for which services were rendered.

~~(d)~~ (e) All wages shall be paid in full to the employee:

(i) in lawful money of the United States;

1 (ii) by checks or drafts on a depository institution, as defined in Section 7-1-103,
2 convertible into cash on demand at full face value; or

3 (iii) by electronic transfer to the depository institution designated by the employee.

4 (2) A person, firm, corporation, agent, or officer may not issue in payment of wages due
5 or as an advance on wages to be earned for services performed or to be performed within this state
6 any order, check, or draft unless:

7 (a) it is negotiable and payable in cash, on demand, without discount, at a depository
8 institution[;]; and

9 (b) the name and address of [~~which must appear~~] the depository institution appears on the
10 instrument.

11 ~~h~~ [F] (3)(a) [~~An~~] **EXCEPT AS PROVIDED IN SUBSECTION (3)(b), AN** employee may
11a [~~elect to not~~] **REFUSE TO** have the employee's wages deposited by electronic
12 transfer under Subsection (1)(d)(iii) by filing a written request with the employer. [H] ~~h~~

12a ~~h~~ (b) **AN EMPLOYEE MAY NOT REFUSE TO HAVE THE EMPLOYEE'S WAGES DEPOSITED BY**
12b **ELECTRONIC TRANSFER UNDER SUBSECTION (3)(a) IF:**

12c **(i) FOR THE CALENDAR YEAR PROCEEDING THE PAY-PERIOD FOR WHICH THE EMPLOYEE**
12d **IS BEING PAID, THE EMPLOYER'S FEDERAL EMPLOYMENT TAX DEPOSITS WERE EQUAL TO OR IN**
12e **EXCESS OF \$250,000; AND**

12f **(ii) AT LEAST TWO-THIRDS OF THE EMPLOYEES OF THE EMPLOYER HAVE THEIR WAGES**
12g **DEPOSITED BY ELECTRONIC TRANSFER.** ~~h~~

13 [~~(b)~~] ~~h~~ [(3)] (c) ~~h~~ An employer may not designate a particular depository institution for the
14 exclusive payment or deposit of a check for wages.

15 (4) If any deduction is made from the wages paid, the employer shall, on each regular
16 payday, furnish the employee with a statement showing the total amount of each deduction.

17 (5) It is unlawful for an employer to withhold or divert part of an employee's wages unless:

18 (a) the employer is required to withhold or divert the wages by:

19 (i) court order; or [by]

20 (ii) state or federal law;

21 (b) the employee expressly authorizes the deduction in writing; or

22 (c) the employer presents evidence that in the opinion of the hearing officer or the

23 administrative law judge would warrant an offset.

24 (6) It is unlawful for an employer to require an employee to rebate, refund, offset, or return
25 any part of the wage, salary, or compensation to be paid to the employee except as provided in
26 Subsection (5).

27 (7) An employer is not prohibited from pursuing legitimate claims of damages, offsets,
28 or recoupments in a civil action against an employee.

Legislative Review Note
as of 12-22-97 1:22 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel