

1 **GOVERNMENT EMPLOYEES REIMBURSEMENT AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Tim Quinn**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill prohibits government officers or employees from making personal purchases
10 with public funds.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ prohibits a government officer or employee from:
 - 15 • making a personal use expenditure with public funds; and
 - 16 • incurring indebtedness or liability on behalf of, or payable by, a governmental
 - 17 entity, institution of higher education, or political subdivision for a personal use
 - 18 expenditure; and
- 19 ▶ establishes penalties for government officers or employees making personal use
- 20 expenditures with public funds.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **11-55-101**, Utah Code Annotated 1953



- 28 [11-55-102](#), Utah Code Annotated 1953
- 29 [11-55-103](#), Utah Code Annotated 1953
- 30 [53B-7-106](#), Utah Code Annotated 1953
- 31 [63A-3-110](#), Utah Code Annotated 1953

32

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

34 Section 1. Section **11-55-101** is enacted to read:

35 **CHAPTER 55. PERSONAL USE EXPENDITURES FOR**
 36 **POLITICAL SUBDIVISION OFFICERS AND EMPLOYEES**

37 **11-55-101. Title.**

38 This chapter is known as "Personal Use Expenditures for Political Subdivision Officers
39 and Employees."

40 Section 2. Section **11-55-102** is enacted to read:

41 **11-55-102. Definitions.**

42 As used in this chapter:

43 (1) "Employee" means a person who is not an elected or appointed officer and who is
44 employed on a full- or part-time basis by a political subdivision.

45 (2) "Officer" means a person who is elected or appointed to an office or position within
46 a political subdivision.

47 (3) "Personal use expenditure" means an expenditure that:

48 (a) primarily furthers a personal interest of an officer or employee of a political
49 subdivision or the family, a friend, or an associate of an officer or employee of a political
50 subdivision and is not directly related to the performance of an activity as an officer or
51 employee of a political subdivision; or

52 (b) would constitute taxable income under federal law.

53 (4) "Political subdivision" means any county, city, town, school district, community
54 reinvestment agency, special improvement or taxing district, local district, special service
55 district, entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal
56 Cooperation Act, or other governmental subdivision or public corporation.

57 (5) "Public funds" means the same as that term is defined in Section [51-7-3](#).

58 Section 3. Section **11-55-103** is enacted to read:

59 **11-55-103. Personal use expenditures prohibited.**60 (1) An officer or employee of a political subdivision may not:61 (a) use public funds for a personal use expenditure; or62 (b) incur indebtedness or liability on behalf of, or payable by, a political subdivision63 for a personal use expenditure.64 (2) If a political subdivision determines that a political subdivision officer or employee65 has made a personal use expenditure in violation of Subsection (1), the political subdivision66 shall:67 (a) require the political subdivision officer or employee to deposit the amount of the68 personal use expenditure into the fund or account from which:69 (i) the personal use expenditure was disbursed; or70 (ii) payment for the indebtedness or liability for a personal use expenditure was71 disbursed;72 (b) require the political subdivision officer or employee to remit an administrative73 penalty in an amount equal to 50% of the personal use expenditure to the political subdivision;74 and75 (c) deposit the money received under Subsection (2)(b) into the operating fund of the76 political subdivision.77 (3) (a) Any officer or employee of a political subdivision who has been found by the78 political subdivision to have made a personal use expenditure in violation of Subsection (1)79 may appeal the finding of the political subdivision.80 (b) The political subdivision shall establish an appeal process for an appeal made under81 Subsection (3)(a).82 (4) (a) Subject to Subsection (4)(b), a political subdivision may withhold all or a83 portion of the wages of an officer or employee of the political subdivision who has violated84 Subsection (1) until the requirements of Subsection (2) have been met.85 (b) If the officer or employee has requested an appeal under Subsection (3), the86 political subdivision may only withhold the wages of the officer or employee after the appeal87 process has confirmed that the officer or employee violated Subsection (1).88 Section 4. Section **53B-7-106** is enacted to read:89 **53B-7-106. Personal use expenditures for officers and employees of institutions of**

90 **higher education.**

91 (1) As used in this section:

92 (a) "Employee" means a person who is not an elected or appointed officer and who is
93 employed on a full- or part-time basis by an institution of higher education.

94 (b) "Institution of higher education" means an institution that is part of the state system
95 of higher education as described in Section [53B-1-102](#).

96 (c) "Officer" means a person who is elected or appointed to an office or position within
97 an institution of higher education.

98 (d) "Personal use expenditure" means an expenditure that:

99 (i) primarily furthers a personal interest of an officer or employee or the family, a
100 friend, or an associate of an officer or employee of an institution of higher education and is not
101 directly related to the performance of an activity as an officer or employee of an institution of
102 higher education; or

103 (ii) would constitute taxable income under federal law.

104 (e) "Public funds" means the same as that term is defined in Section [51-7-3](#).

105 (2) An officer or employee of an institution of higher education may not:

106 (a) use public funds for a personal use expenditure; or

107 (b) incur indebtedness or liability on behalf of, or payable by, an institution of higher
108 education for a personal use expenditure.

109 (3) If the institution of higher education determines that an officer or employee of an
110 institution of higher education has made a personal use expenditure in violation of Subsection
111 (2), the institution of higher education shall:

112 (a) require the officer or employee to deposit the amount of the personal use
113 expenditure into the fund or account from which:

114 (i) the personal use expenditure was disbursed; or

115 (ii) payment for the indebtedness or liability for a personal use expenditure was
116 disbursed;

117 (b) require the officer or employee to remit an administrative penalty in an amount
118 equal to 50% of the personal use expenditure to the institution of higher education; and

119 (c) deposit the money received under Subsection (3)(b) into the operating fund of the
120 institution of higher education.

121 (4) (a) Any officer or employee of an institution of higher education who has been
122 found by the institution of higher education to have made a personal use expenditure in
123 violation of Subsection (2) may appeal the finding of the institution of higher education.

124 (b) The institution of higher education shall establish an appeal process for an appeal
125 made under Subsection (4)(a).

126 (5) (a) Subject to Subsection (5)(b), an institution of higher education may withhold all
127 or a portion of the wages of an officer or employee of the institution of higher education who
128 has violated Subsection (2) until the requirements of Subsection (3) have been met.

129 (b) If the officer or employee has requested an appeal under Subsection (4), the
130 institution of higher education may only withhold the wages of the officer or employee after the
131 appeal process has confirmed that the officer or employee violated Subsection (2).

132 Section 5. Section **63A-3-110** is enacted to read:

133 **63A-3-110. Personal use expenditures for state officers and employees.**

134 (1) As used in this section:

135 (a) "Employee" means a person who is not an elected or appointed officer and who is
136 employed on a full- or part-time basis by a governmental entity.

137 (b) "Governmental entity" means:

138 (i) an executive branch agency of the state, the offices of the governor, lieutenant
139 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
140 the Board of Examiners, the National Guard, the Career Service Review Office, the State
141 Board of Education, the State Board of Regents, and the State Archives;

142 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal
143 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and
144 legislative committees;

145 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
146 administrative units in the judicial branch;

147 (iv) independent state entities created under Title 63H, Independent State Entities; or

148 (v) the Utah Science Technology and Research Governing Authority created under
149 Section [63M-2-301](#).

150 (c) "Officer" means a person who is elected or appointed to an office or position within
151 a governmental entity.

152 (d) "Personal use expenditure" means an expenditure that:
153 (i) primarily furthers a personal interest of a state officer or employee or a state
154 officer's or employee's family, friend, or associate and is not directly related to the performance
155 of an activity as a state officer or employee; or
156 (ii) would constitute taxable income under federal law.
157 (e) "Public funds" means the same as that term is defined in Section [51-7-3](#).
158 (2) A state officer or employee may not:
159 (a) use public funds for a personal use expenditure; or
160 (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for
161 a personal use expenditure.
162 (3) If the Division of Finance determines that a state officer or employee has made a
163 personal use expenditure in violation of Subsection (2), the Division of Finance shall:
164 (a) require the state officer or employee to deposit the amount of the personal use
165 expenditure into the fund or account from which:
166 (i) the personal use expenditure was disbursed; or
167 (ii) payment for the indebtedness or liability for a personal use expenditure was
168 disbursed;
169 (b) require the state officer or employee to remit an administrative penalty in an
170 amount equal to 50% of the personal use expenditure to the Division of Finance; and
171 (c) deposit the money received under Subsection (3)(b) into the General Fund.
172 (4) (a) Any state officer or employee who has been found by the Division of Finance to
173 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of
174 the Division of Finance to the state auditor.
175 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
176 state auditor shall make rules regarding an appeal process for an appeal made under Subsection
177 (4)(a).
178 (5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a
179 portion of the wages of a state officer or employee who has violated Subsection (2) until the
180 requirements of Subsection (3) have been met.
181 (b) If the state officer or employee has requested an appeal under Subsection (4), the
182 Division of Finance may only withhold the wages of the officer or employee after the state

183 auditor has confirmed that the officer or employee violated Subsection (2).

Legislative Review Note
Office of Legislative Research and General Counsel