

## HB0431S01 compared with HB0431

~~deleted text~~ shows text that was in HB0431 but was deleted in HB0431S01.

Inserted text shows text that was not in HB0431 but was inserted into HB0431S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Tim Quinn proposes the following substitute bill:

### GOVERNMENT EMPLOYEES REIMBURSEMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tim Quinn**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a government officer or employee from:
  - making a personal use expenditure with public funds; and
  - incurring indebtedness or liability on behalf of, or payable by, a governmental entity, institution of higher education, or political subdivision for a personal use expenditure; and
- ▶ establishes penalties for government officers or employees making personal use

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expenditures with public funds.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

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

**11-55-102**, Utah Code Annotated 1953

**11-55-103**, Utah Code Annotated 1953

**53B-7-106**, Utah Code Annotated 1953

**63A-3-110**, Utah Code Annotated 1953

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

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

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

#### **11-55-101. Title.**

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

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

#### **11-55-102. Definitions.**

As used in this chapter:

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

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

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

(a) is not directly related to the performance of an activity as an officer or employee of a political subdivision;

(b) primarily furthers a personal interest of an officer or employee of a political

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subdivision or the family, a friend, or an associate of an officer or employee of a political subdivision; and ~~is not directly related to the performance of an activity as an officer or employee of a political subdivision; or~~

~~(b)(c)~~ would constitute taxable income under federal law.

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

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

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

### **11-55-103. Personal use expenditures prohibited.**

(1) An officer or employee of a political subdivision may not:

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

(b) incur indebtedness or liability on behalf of, or payable by, a political subdivision for a personal use expenditure.

(2) If a political subdivision determines that a political subdivision officer or employee has made a personal use expenditure in violation of Subsection (1), the political subdivision shall:

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

(i) the personal use expenditure was disbursed; or

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

(b) require the political subdivision officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the political subdivision; and

(c) deposit the money received under Subsection (2)(b) into the operating fund of the political subdivision.

(3) (a) Any officer or employee of a political subdivision who has been found by the political subdivision to have made a personal use expenditure in violation of Subsection (1) may appeal the finding of the political subdivision.

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(b) The political subdivision shall establish an appeal process for an appeal made under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), a political subdivision may withhold all or a portion of the wages of an officer or employee of the political subdivision who has violated Subsection (1) until the requirements of Subsection (2) have been met.

(b) If the officer or employee has requested an appeal under Subsection (3), the political subdivision may only withhold the wages of the officer or employee after the appeal process has confirmed that the officer or employee violated Subsection (1).

Section 4. Section **53B-7-106** is enacted to read:

**53B-7-106. Personal use expenditures for officers and employees of institutions of higher education.**

(1) As used in this section:

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

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

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

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

(i) ~~is not directly related to the performance of an activity as an officer or employee of an institution of higher education;~~

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

(~~iii~~) ~~iii~~ would constitute taxable income under federal law.

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

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

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

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

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

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

(i) the personal use expenditure was disbursed; or

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

(b) "Governmental entity" means:

(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,

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the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

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

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

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

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

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

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

(i) ~~is not directly related to the performance of an activity as a state officer or employee;~~

(ii) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and ~~is not directly related to the performance of an activity as a state officer or employee; or~~

~~(iii)~~ would constitute taxable income under federal law.

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

(2) A state officer or employee may not:

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

(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance determines that a state officer or employee has made a personal use expenditure in violation of Subsection (2), the Division of Finance shall:

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

(i) the personal use expenditure was disbursed; or

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

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(b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and

(c) deposit the money received under Subsection (3)(b) into the General Fund.

(4) (a) Any state officer or employee who has been found by the Division of Finance to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the Division of Finance to the state auditor.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state auditor shall make rules regarding an appeal process for an appeal made under Subsection (4)(a).

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the state auditor has confirmed that the officer or employee violated Subsection (2).

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**