

1                                   **SEPARATION FROM PAYROLL AMENDMENTS**

2   2018 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Karen Mayne**

5                                   House Sponsor: Gage Froerer

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions related to the payment of wages.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ addresses the payment of unpaid wages to a commission-based sales agent after the  
13 employer separates the sales agent from the employer's payroll.

14 **Money Appropriated in this Bill:**

15           None

16 **Other Special Clauses:**

17           None

18 **Utah Code Sections Affected:**

19 AMENDS:

20           **34-28-5**, as last amended by Laws of Utah 2015, Chapter 376

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

23           Section 1. Section **34-28-5** is amended to read:

24           **34-28-5. Separation from payroll -- Resignation -- Cessation because of industrial**  
25 **dispute.**

26           (1) (a) When an employer separates an employee from the employer's payroll the  
27 unpaid wages of the employee become due immediately, and the employer shall pay the wages



28 to the employee within 24 hours of the time of separation at the specified place of payment.

29 (b) An employer satisfies the 24-hour time requirement described in Subsection (1)(a)  
30 if:

31 (i) (A) the employer mails the wages to the employee; and

32 (B) the envelope that contains the wages is postmarked with a date that is no more than  
33 one day after the day on which the employer separates the employee from the employer's  
34 payroll; or

35 (ii) within 24 hours after the employer separates the employee from the employer's  
36 payroll, the employer:

37 (A) initiates a direct deposit of the wages into the employee's account; or

38 (B) hand delivers the wages to the employee.

39 (c) (i) In case of failure to pay wages due an employee within 24 hours of written  
40 demand, the wages of the employee shall continue from the date of demand until paid, but in  
41 no event to exceed 60 days, at the same rate that the employee received at the time of  
42 separation.

43 (ii) The employee may recover the penalty thus accruing to the employee in a civil  
44 action. This action shall be commenced within 60 days from the date of separation.

45 (iii) An employee who has not made a written demand for payment is not entitled to  
46 any penalty under this Subsection (1)(c).

47 (2) If an employee does not have a written contract for a definite period and resigns  
48 the employee's employment, the wages earned and unpaid together with any deposit held by the  
49 employer and properly belonging to the resigned employee for the performance of the  
50 employee's employment duties become due and payable on the next regular payday.

51 (3) If work ceases as the result of an industrial dispute, the wages earned and unpaid at  
52 the time of this cessation become due and payable at the next regular payday, as provided in  
53 Section 34-28-3, including, without abatement or reduction, all amounts due all persons whose  
54 work has been suspended as a result of the industrial dispute, together with any deposit or other  
55 guaranty held by the employer for the faithful performance of the duties of the employment.

56 (4) ~~[This section does not apply to the earnings of]~~ For a sales agent employed in  
57 whole or in part on a commission basis who has custody of accounts, money, or goods of the  
58 sales agent's principal, this section does not apply to the commission-based portion of the sales

59 agent's earnings if the net amount due the agent is determined only after an audit or verification  
60 of sales, accounts, funds, or stocks.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**