

**Senator Kevin T. Van Tassell** proposes the following substitute bill:

**GOVERNMENT EMPLOYEES REIMBURSEMENT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tim Quinn**

Senate Sponsor: Kevin T. Van Tassell

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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;
- ▶ establishes administrative penalties for government officers or employees making personal use expenditures with public funds;
- ▶ prohibits a government officer or employee who has been convicted of misusing public money from disbursing public funds or accessing public accounts; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **76-8-402**, as last amended by Laws of Utah 1999, Chapter 106

31 ENACTS:

32 **11-55-101**, Utah Code Annotated 1953

33 **11-55-102**, Utah Code Annotated 1953

34 **11-55-103**, Utah Code Annotated 1953

35 **11-55-104**, Utah Code Annotated 1953

36 **53B-7-106**, Utah Code Annotated 1953

37 **63A-3-110**, Utah Code Annotated 1953



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

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

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

43 **11-55-101. Title.**

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

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

47 **11-55-102. Definitions.**

48 As used in this chapter:

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

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

53 (3) (a) "Personal use expenditure" means an expenditure made without the authority of  
54 law that:

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

57 (ii) primarily furthers a personal interest of an officer or employee of a political  
58 subdivision or the family, a friend, or an associate of an officer or employee of a political  
59 subdivision; and

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

61 (b) "Personal use expenditure" does not include:

62 (i) a de minimis or incidental expenditure; or

63 (ii) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to  
64 travel to and from the officer or employee's official duties, including a minimal allowance for a  
65 detour as provided by the political subdivision.

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

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

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

72 **11-55-103. Personal use expenditures prohibited.**

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

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

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

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

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

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

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

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

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

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

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

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

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

101 Section 4. Section **11-55-104** is enacted to read:

102 **11-55-104. Relation to other actions -- Prohibition on disbursing funds and**  
103 **accessing accounts.**

104 (1) Nothing in this chapter immunizes a political subdivision officer or employee from  
105 or precludes any criminal prosecution or civil or employment action for an unlawful personal  
106 use expenditure.

107 (2) A political subdivision officer or employee who has been convicted of misusing  
108 public money under Section [76-8-402](#) may not disburse public funds or access public accounts.

109 Section 5. Section **53B-7-106** is enacted to read:

110 **53B-7-106. Personal use expenditures for officers and employees of institutions of**  
111 **higher education.**

112 (1) As used in this section:

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

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

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

119 (d) (i) "Personal use expenditure" means an expenditure made without the authority of  
120 law that:

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

123 (B) primarily furthers a personal interest of an officer or employee of an institution of  
124 higher education or the family, a friend, or an associate of an officer or employee of an  
125 institution of higher education; and

126 (C) would constitute taxable income under federal law.

127 (ii) "Personal use expenditure" does not include:

128 (A) a de minimis or incidental expenditure; or

129 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to  
130 travel to and from the officer or employee's official duties, including a minimal allowance for a  
131 detour as provided by the institution of higher education.

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

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

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

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

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

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

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

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

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

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

149 (4) (a) Any officer or employee of an institution of higher education who has been

150 found by the institution of higher education to have made a personal use expenditure in  
151 violation of Subsection (2) may appeal the finding of the institution of higher education.

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

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

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

160 (6) Nothing in this chapter immunizes an officer or employee of an institution of higher  
161 education from or precludes any criminal prosecution or civil or employment action for an  
162 unlawful personal use expenditure.

163 (7) An officer or employee of an institution of higher education who has been  
164 convicted of misusing public money under Section [76-8-402](#) may not disburse public funds or  
165 access public accounts.

166 Section 6. Section **63A-3-110** is enacted to read:

167 **63A-3-110. Personal use expenditures for state officers and employees.**

168 (1) As used in this section:

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

171 (b) "Governmental entity" means:

172 (i) an executive branch agency of the state, the offices of the governor, lieutenant  
173 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and  
174 the State Board of Regents;

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

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

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

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

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

185 (d) (i) "Personal use expenditure" means an expenditure made without the authority of  
186 law that:

187 (A) is not directly related to the performance of an activity as a state officer or  
188 employee;

189 (B) primarily furthers a personal interest of a state officer or employee or a state  
190 officer's or employee's family, friend, or associate; and

191 (C) would constitute taxable income under federal law.

192 (ii) "Personal use expenditure" does not include:

193 (A) a de minimis or incidental expenditure; or

194 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to  
195 travel to and from the officer or employee's official duties, including a minimal allowance for a  
196 detour as provided by the state.

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

198 (2) A state officer or employee may not:

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

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

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

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

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

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

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

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

213 (4) (a) Any state officer or employee who has been found by a governmental entity to  
214 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of  
215 the governmental entity.

216 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
217 Division of Finance shall make rules regarding an appeal process for an appeal made under  
218 Subsection (4)(a), including the designation of an appeal authority.

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

222 (b) If the state officer or employee has requested an appeal under Subsection (4), the  
223 Division of Finance may only withhold the wages of the officer or employee after the appeal  
224 authority described in Subsection (4)(b) has confirmed that the officer or employee violated  
225 Subsection (2).

226 (6) Nothing in this chapter immunizes a state officer or employee from or precludes  
227 any criminal prosecution or civil or employment action for an unlawful personal use  
228 expenditure.

229 (7) A state officer or employee who has been convicted of misusing public money  
230 under Section 76-8-402 may not disburse public funds or access public accounts.

231 Section 7. Section 76-8-402 is amended to read:

232 **76-8-402. Misusing public money.**

233 (1) Every public officer of this state or a political subdivision, or of any county, city,  
234 town, precinct, or district of this state, and every other person charged, either by law or under  
235 contract, with the receipt, safekeeping, transfer, disbursement, or use of public money commits  
236 an offense if the officer or other charged person:

237 (a) appropriates the money or any portion of it to his own use or benefit or to the use or  
238 benefit of another without authority of law;

239 (b) loans or transfers the money or any portion of it without authority of law;

240 (c) fails to keep the money in his possession until disbursed or paid out by authority of  
241 law;

242 (d) unlawfully deposits the money or any portion in any bank or with any other person;



243 (e) knowingly keeps any false account or makes any false entry or erasure in any  
244 account of or relating to the money;

245 (f) fraudulently alters, falsifies, conceals, destroys, or obliterates any such account;

246 (g) willfully refuses or omits to pay over, on demand, any public money in his hands,  
247 upon the presentation of a draft, order, or warrant drawn upon such money by competent  
248 authority;

249 (h) willfully omits to transfer the money when the transfer is required by law; or

250 (i) willfully omits or refuses to pay over, to any officer or person authorized by law to  
251 receive it, any money received by him under any duty imposed by law so to pay over the same.

252 (2) A violation of Subsection (1) is a felony of the third degree, except it is a felony of  
253 the second degree if:

254 (a) the value of the money exceeds \$5,000;

255 (b) the amount of the false account exceeds \$5,000;

256 (c) the amount falsely entered exceeds \$5,000;

257 (d) the amount that is the difference between the original amount and the fraudulently  
258 altered amount exceeds \$5,000; or

259 (e) the amount falsely erased, fraudulently concealed, destroyed, obliterated, or  
260 falsified in the account exceeds \$5,000.

261 (3) In addition to the penalty described in Subsection (2), a public officer who violates  
262 Subsection (1):

263 (a) is subject to the penalties described in Section 76-8-404[-]; and

264 (b) may not disburse public funds or access public accounts.