

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

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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;
63 (ii) a monthly vehicle allowance; or
64 (iii) a government vehicle that an officer or employee uses to travel to and from the
65 officer or employee's official duties, including an allowance for personal use as provided by a
66 written policy of the political subdivision.

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

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

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

73 **11-55-103. Personal use expenditures prohibited.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

105 (1) Nothing in this chapter:

106 (a) immunizes a political subdivision officer or employee from or precludes any
107 criminal prosecution or civil or employment action for an unlawful personal use expenditure;
108 or

109 (b) limits or supersedes the authority of a political subdivision to set compensation in
110 accordance with Section [10-3-818](#).

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

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

114 **53B-7-106. Personal use expenditures for officers and employees of institutions of**
115 **higher education.**

116 (1) As used in this section:

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

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

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

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

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

127 (B) primarily furthers a personal interest of an officer or employee of an institution of
128 higher education or the family, a friend, or an associate of an officer or employee of an
129 institution of higher education; and

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

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

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

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

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

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

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

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

141 (3) If the institution of higher education determines that an officer or employee of an

142 institution of higher education has intentionally made a personal use expenditure in violation of
143 Subsection (2), the institution of higher education shall:

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

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

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

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

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

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

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

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

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

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

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

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

171 **63A-3-110. Personal use expenditures for state officers and employees.**

172 (1) As used in this section:

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

175 (b) "Governmental entity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

236 **76-8-402. Misusing public money.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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