

Part 1 General Provisions

63A-3-101 Creation.

There is created within the department the Division of Finance, to be administered by a director.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-102 Director of division -- Appointment.

- (1) The executive director shall appoint the director of the Division of Finance with the approval of the governor.
- (2) The director of the Division of Finance shall serve at the pleasure of the executive director.
- (3) The director of the Division of Finance is the state's chief fiscal officer and the state's accounting officer.

Enacted by Chapter 212, 1993 General Session

63A-3-103 Duties of director of division -- Application to institutions of higher education.

- (1) The director of the Division of Finance shall:
 - (a) define fiscal procedures relating to approval and allocation of funds;
 - (b) provide for the accounting control of funds;
 - (c) promulgate rules that:
 - (i) establish procedures for maintaining detailed records of all types of leases;
 - (ii) account for all types of leases in accordance with generally accepted accounting principles;
 - (iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and
 - (iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;
 - (d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
 - (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
 - (ii) other information or analysis requested by the Rate Committee;
 - (e) oversee the Office of State Debt Collection;
 - (f) publish the state's current constitutional debt limit on the public finance website established by the state auditor in accordance with Section 67-3-12; and
 - (g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.
- (2)
 - (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the Utah Board of Higher Education under Title 53B, State System of Higher Education.
 - (b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

- (3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:
- (a) not later than 60 days after a request from the state auditor; and
 - (b) at the end of each fiscal year.

Amended by Chapter 84, 2021 General Session

63A-3-104 Appropriation for contingency purposes -- Procedure for allotment -- Legislative intent.

- (1)
- (a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one agency.
 - (b) In advance of making any such allotment, the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount to be allotted, and the justification for the allotment.
- (2) It is the intent of the Legislature that such transfers be made only for unforeseeable emergencies, and allotments shall not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Amended by Chapter 298, 2016 General Session

63A-3-105 Securities deposited with state treasurer -- Release.

- (1) The director of the Division of Finance shall collect and deposit with the state treasurer all stocks, evidences of indebtedness, bonds, and securities of every kind and nature belonging to the state or any of its departments.
- (2) The state treasurer shall keep a complete record of the items deposited under Subsection (1) and credit each to the proper fund or account. The treasurer shall release the items only upon the order of the director.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-106 Per diem rates for board members.

- (1) As used in this section and Section 63A-3-107:
- (a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.
 - (b) "Board member" means a person appointed or designated by statute to serve on a board.
 - (c) "Executive branch" means an agency within the executive branch of state government.
 - (d)
 - (i) "Governmental entity" has the same meaning, except as provided in Subsection (1)(d)(ii), as provided under Section 63G-2-103.
 - (ii) "Governmental entity" does not include an association as defined in Section 53G-7-1101.
 - (e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.
 - (f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.
 - (g) "Official meeting" means a meeting of a board that is called in accordance with statute.

- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.
- (3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:
 - (a) within the executive branch, except as provided under Subsection (3)(b);
 - (b) within higher education, unless higher education pays the costs of the per diem;
 - (c) on a board that is:
 - (i) not included under Subsection (3)(a) or (b); and
 - (ii) created by a statute that adopts the per diem rates by reference to:
 - (A) this section; and
 - (B) the rule authorized by this section; and
 - (d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:
 - (i) this section; or
 - (ii) the rule establishing the per diem rates.
- (4)
 - (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.
 - (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.
- (5) A board member may decline to receive per diem for the board member's service.
- (6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 415, 2018 General Session

63A-3-107 Travel expenses of board members and state officers and employees.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.
- (2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:
 - (a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);
 - (b) a board member, an officer, or employee of higher education, unless higher education pays the costs of the travel expenses;
 - (c) a board member who:
 - (i) is not included under Subsection (2)(a) or (b); and
 - (ii) serves on a board created by a statute that adopts the travel expense rates by reference to:
 - (A) this section; and
 - (B) the rule authorized by this section; and
 - (d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:
 - (i) this section; or

- (ii) the rule establishing the travel expense provisions.
- (3) The Division of Finance shall make the travel expense rules on the basis of:
 - (a) a mileage allowance; and
 - (b) reimbursement for other travel expenses incurred.
- (4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.
- (5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.
- (6) A board member may decline to receive travel expenses for the board member's service.
- (7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

63A-3-109 Contribution dependent accounts -- Annual report.

- (1) As used in this section:
 - (a)
 - (i) "Contribution" means a voluntary donation of money or other valuable property to a state fund or account.
 - (ii) "Contribution" does not include:
 - (A) a fee or tax levied by a state entity; or
 - (B) a voluntary donation made under Title 41, Chapter 1a, Motor Vehicle Act or Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act.
 - (b)
 - (i) "Contribution dependent account" means a state fund or account that:
 - (A) receives at least 50% of the fund's or account's revenue from contributions; and
 - (B) is not intended to be used to directly provide services exclusively to a person who makes a contribution to the fund or account.
 - (ii) "Contribution dependent account" does not include a fiduciary fund as defined in Section 51-5-4.
- (2) The Division of Finance shall annually prepare a report that:
 - (a) lists each contribution dependent account that did not receive at least \$30,000 in contributions during at least one of the three fiscal years before the day on which the report is compiled; and
 - (b) recommends that the Legislature close each contribution dependent account listed in the report.
- (3) The Division of Finance shall present the report described in Subsection (2) to the Executive Appropriations Committee by November 30 of each year.

Amended by Chapter 451, 2022 General Session

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 State Board of Education, and the Utah Board of Higher Education;
 - (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 Administrative Office of the Courts, and similar administrative units in the judicial branch; or
 - (iv) independent state entities created under Title 63H, Independent State Entities.
 - (c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.
 - (d)
 - (i) "Personal use expenditure" means an expenditure made without the authority of law that:
 - (A) is not directly related to the performance of an activity as a state officer or employee;
 - (B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and
 - (C) would constitute taxable income under federal law.
 - (ii) "Personal use expenditure" does not include:
 - (A) a de minimis or incidental expenditure; or
 - (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.
 - (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 or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity 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;
 - (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 a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.
- (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 appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).
- (6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.
- (7) A state officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Amended by Chapter 360, 2020 General Session

Amended by Chapter 365, 2020 General Session

63A-3-112 Digital user asset collection.

- (1) As used in this section:
 - (a) "Agency" means a state government entity that receives payments for services or fees and is eligible to enter into a contract for payment services with the division.
 - (b) "Agency payment" means a payment that is due directly to an agency and that the agency collects either directly or through a third-party payment processor with whom the division has a contract.
 - (c) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.
 - (d) "Digital security" means a digital asset which constitutes a security, as that term is defined in Section 70A-8-101.
 - (e)
 - (i) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.
 - (ii) "Digital user asset" includes an open blockchain token.
 - (iii) "Digital user asset" does not include a digital security.
 - (f) "Participating agency" means an agency that meets the division's requirements to accept payments made through a service provider with whom the division has a contract.
 - (g) "Political subdivision" means the same as that term is defined in Section 63G-7-102.
 - (h) "Political subdivision payment" means a payment that is due directly to a political subdivision and that the political subdivision collects either directly or through a third-party payment processor with whom the political subdivision has a contract.
 - (i) "Service provider" means a person with demonstrated experience exchanging digital user assets for legal tender.
- (2) The division shall contract with a service provider to provide a service to process an agency payment for a participating agency by:
 - (a) taking the payment in the form of a digital user asset; and
 - (b) converting the digital user asset into legal tender to pay the agency payment.
- (3)
 - (a) When contracting with a service provider to provide the service described in Subsection (2), the division has discretion to choose a service provider that can only provide the exchange service for a limited class or type of digital user asset.

- (b) The division may contract with more than one service provider to provide the service described in Subsection (2).
 - (c) Nothing in this section shall be interpreted to require the division to provide the service described in Subsection (2) for all types of digital user assets.
- (4)
- (a) The person paying the agency payment bears responsibility for any costs the service provider charges for the service provider's service.
 - (b) The division may collect a fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs to the division of providing the service described in Subsection (2).
- (5) The division shall contract to provide the service described in Subsection (2) on or before January 1, 2023.
- (6) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:
- (a) establish standards that a person must meet to be eligible to enter into a contract as a service provider; and
 - (b) establish requirements an agency must meet to be a participating agency.
- (7) A political subdivision may enter into an agreement with the division for the division to contract with a service provider to, on behalf of the political subdivision:
- (a) provide a service to collect a political subdivision payment in the form of a digital user asset; and
 - (b) convert the digital user asset into legal tender to pay the political subdivision payment.
- (8) Nothing in this section shall be interpreted to impose liability upon the person paying the agency payment or a participating agency for a change in value of the digital user asset after the moment of payment to the service provider.

Enacted by Chapter 405, 2022 General Session