

1 **ACCESS TO INFORMATION GAINED BY THE**
2 **STATE TAX COMMISSION FROM A RETURN**

3 2006 THIRD SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: Wayne A. Harper

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Revenue and Taxation title to allow ~~the Governor's Office of~~
11 ~~Planning and Budget;~~ the Office of the Legislative Fiscal Analyst and the Office of
12 Legislative Research and General Counsel to receive under certain circumstances
13 information gained by the State Tax Commission that is required to be attached to or
13a included in a return filed with the State Tax
14 Commission.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ defines terms;
18 ▶ allows the following offices to receive under certain circumstances information

19 gained by the State Tax Commission that is required to be attached to or included in
19a a return filed with the State Tax
20 Commission:

21 ~~the Governor's Office of Planning and Budget;~~

- 22 • the Office of the Legislative Fiscal Analyst; and
23 • the Office of Legislative Research and General Counsel;
24 ▶ provides that the State Tax Commission may not disclose a person's:
25 • address;
26 • name;
27 • Social Security number; or



- 28 • taxpayer identification number;
- 29 ▶ limits the ability of an office to provide information:
- 30 • gained by the State Tax Commission ~~§~~→ [from] that is required to be attached to
- 30a or included in ←~~§~~ a return filed with the State Tax
- 31 Commission; and
- 32 • that the office receives from the State Tax Commission;
- 33 ▶ addresses the circumstances under which a person may request from an office
- 34 information:
- 35 • gained by the State Tax Commission ~~§~~→ [from] that is required to be attached to
- 35a or included in ←~~§~~ a return filed with the State Tax
- 36 Commission; and
- 37 • that the office receives from the State Tax Commission;
- 38 ▶ provides that penalty provisions do not apply to a person that requests information
- 39 from an office; and
- 40 ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides an immediate effective date.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **59-1-403**, as last amended by Chapters 44, 55, 181 and 182, Laws of Utah 2006

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

50 Section 1. Section **59-1-403** is amended to read:

51 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

52 (1) (a) [~~Except as provided in this section, any~~] Any of the following may not divulge

53 or make known in any manner any information gained by that person from any return filed with

54 the commission:

55 (i) a tax commissioner;

56 (ii) an agent, clerk, or other officer or employee of the commission; or

57 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or

58 town.

59 (b) [~~Except as provided in Subsection (1)(c), an~~] An official charged with the custody
60 of a return filed with the commission is not required to produce the return or evidence of
61 anything contained in the return in any action or proceeding in any court, except:

62 (i) in accordance with judicial order;

63 (ii) on behalf of the commission in any action or proceeding under:

64 (A) this title; or

65 (B) other law under which persons are required to file returns with the commission;

66 (iii) on behalf of the commission in any action or proceeding to which the commission
67 is a party; or

68 (iv) on behalf of any party to any action or proceeding under this title if the report or
69 facts shown by the return are directly involved in the action or proceeding.

70 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
71 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
72 pertinent to the action or proceeding.

73 (2) This section does not prohibit:

74 (a) a person or that person's duly authorized representative from receiving a copy of
75 any return or report filed in connection with that person's own tax;

76 (b) the publication of statistics as long as the statistics are classified to prevent the
77 identification of particular reports or returns; and

78 (c) the inspection by the attorney general or other legal representative of the state of the
79 report or return of any taxpayer:

80 (i) who brings action to set aside or review a tax based on the report or return;

81 (ii) against whom an action or proceeding is contemplated or has been instituted under
82 this title; or

83 (iii) against whom the state has an unsatisfied money judgment.

84 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
85 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
86 Rulemaking Act, provide for a reciprocal exchange of information with:

87 (i) the United States Internal Revenue Service; or

88 (ii) the revenue service of any other state.

89 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and

90 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
91 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
92 and other written statements with the federal government, any other state, any of the political
93 subdivisions of another state, or any political subdivision of this state, except as limited by
94 Sections 59-12-209 and 59-12-210, if ~~[these]~~ the political [subdivisions] subdivision, other
95 state, or the federal government grant substantially similar privileges to this state.

96 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
97 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,
98 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
99 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
100 due.

101 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
102 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
103 requested by the executive secretary, any records, returns, or other information filed with the
104 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
105 regarding the environmental assurance program participation fee.

106 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
107 provide that person sales and purchase volume data reported to the commission on a report,
108 return, or other information filed with the commission under:

- 109 (i) Chapter 13, Part 2, Motor Fuel; or
- 110 (ii) Chapter 13, Part 4, Aviation Fuel.

111 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
112 as defined in Section 59-22-202, the commission shall report to the manufacturer:

113 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
114 manufacturer and reported to the commission for the previous calendar year under Section
115 59-14-407; and

116 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
117 manufacturer for which a tax refund was granted during the previous calendar year under
118 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

119 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
120 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited

121 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

122 (h) Notwithstanding Subsection (1), the commission may:

123 (i) provide to the Division of Consumer Protection within the Department of

124 Commerce and the attorney general data:

125 (A) reported to the commission under Section 59-14-212; or

126 (B) related to a violation under Section 59-14-211; and

127 (ii) upon request provide to any person data reported to the commission under

128 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

129 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee

130 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning

131 and Budget, provide to the committee or office the total amount of revenues collected by the

132 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period

133 specified by the committee or office.

134 (j) Notwithstanding Subsection (1), the commission shall at the request of the

135 Legislature provide to the Legislature the total amount of sales or uses exempt under

136 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.

137 (k) Notwithstanding Subsection (1), the commission shall make the directory required

138 by Section 59-14-603 available for public inspection.

139 (l) Notwithstanding Subsection (1), the commission shall comply with the reporting

140 requirements of Section 10-1-409.

141 (m) Notwithstanding Subsection (1), the commission may share information with

142 federal, state, or local agencies as provided in Subsection 59-14-606(3).

143 (n) (i) Notwithstanding Subsection (1), the commission shall provide the Office of

144 Recovery Services within the Department of Human Services any relevant information

145 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer

146 who has become obligated to the Office of Recovery Services.

147 (ii) The information described in Subsection (3)(n)(i) may be provided by the Office of

148 Recovery Services to any other state's child support collection agency involved in enforcing

149 that support obligation.

150 (o) (i) Notwithstanding Subsection (1), upon request from the state court administrator,

151 the commission shall provide to the state court administrator, the name, address, telephone

152 number, county of residence, and Social Security number on resident returns filed under
153 Chapter 10, Individual Income Tax Act.

154 (ii) The state court administrator may use the information described in Subsection
155 (3)(o)(i) only as a source list for the master jury list described in Section 78-46-10.

156 (p) Notwithstanding Subsection (1), the commission shall at the request of a
157 committee, commission, or task force of the Legislature provide to the committee, commission,
158 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
159 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

160 (q) (i) As used in this Subsection (3)(q), "office" means the:

161 ~~Ŝ→ [(A) Governor's Office of Planning and Budget;~~

162 ~~—(B) (A) ←Ŝ Office of the Legislative Fiscal Analyst; or~~

163 ~~Ŝ→ [(C) (B) ←Ŝ Office of Legislative Research and General Counsel.~~

164 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(q)(iii),

165 ~~the commission shall~~ ~~Ĥ→ [at the request of an office]~~ ~~←Ĥ~~ provide to ~~Ĥ→ [the] an~~ ~~←Ĥ~~ office
165a1 ~~Ĥ→ all~~ ~~←Ĥ~~ information ~~Ŝ→ :~~

165a (A) ~~←Ŝ~~ gained by the

166 ~~commission~~ ~~Ŝ→ [from]~~ ; ~~Ĥ→ [and]~~ ~~←Ĥ~~

166a ~~(B) required to be attached to or included in~~ ~~←Ŝ~~ a return filed with the commission ~~Ĥ→~~
166b ~~[:]~~ ;

166c ~~(C) if the office requests the information in writing for the limited purpose of~~
166d ~~providing:~~

166e ~~(I) information to assist the legislative process; and~~

166f ~~(II) (Aa) a fiscal estimate;~~

166g ~~(Bb) fiscal note information; or~~

166h ~~(Cc) statistical information; and~~

166i ~~(D) for:~~

166j ~~(I) a particular:~~

166k ~~(Aa) time period specified by the office; and~~

166l ~~(Bb) tax, fee, or charge specified by the office; and~~

166m ~~(II) all persons that are required to file a return relating to the particular:~~

166n ~~(Aa) time period specified by the office in accordance with Subsection~~

166o ~~(3)(q)(ii)(D)(I)(Aa); and~~

166p ~~(Bb) tax, fee, or charge specified by the office in accordance with Subsection~~

166q ~~(3)(q)(ii)(D)(I)(Bb). ←Ĥ~~

- 167 (iii) ~~H~~→ (A) ~~←H~~ The commission may not provide to an office a person's:
 168 ~~H~~→ [~~A~~] (I) ~~←H~~ address;
 169 ~~H~~→ [~~B~~] (II) ~~←H~~ name;
 170 ~~H~~→ [~~C~~] (III) ~~←H~~ Social Security number; or
 171 ~~H~~→ [~~D~~] (IV) ~~←H~~ taxpayer identification number.
 171a ~~H~~→ (B) The commission shall in all instances protect the privacy of a person as
 171b required by Subsection (3)(q)(iii)(A). ~~←H~~
 172 (iv) An office may provide information received from the commission in accordance
 173 with this Subsection (3)(q) only:
 174 (A) as:
 175 (I) a fiscal estimate;
 176 (II) fiscal note information; or
 177 (III) statistical information; and
 178 (B) if the information is classified to prevent the identification of a particular return.
 179 (v) (A) A person may not request information from an office under Title 63, Chapter 2,
 180 Government Records Access and Management Act, or this section, if that office received the
 181 information from the commission in accordance with this Subsection (3)(q).
 182 (B) An office may not provide to a person that requests information in accordance with

183 Subsection (3)(q)(v)(A) any information other than the information the office provides in
 184 accordance with Subsection (3)(q)(iv).

184a **H→ (vi) An office may not request from the commission a person's:**

184b **(A) address;**

184c **(B) name;**

184d **(C) Social Security number; or**

184e **(D) taxpayer identification number. ←H**

185 (4) (a) Reports and returns shall be preserved for at least three years.

186 (b) After the three-year period provided in Subsection (4)(a) the commission may
 187 destroy a report or return.

188 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

189 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
 190 the person shall be dismissed from office and be disqualified from holding public office in this
 191 state for a period of five years thereafter.

192 (c) Notwithstanding Subsection (5)(a) or (b), a person that requests information in
 193 accordance with Subsection (3)(q)(v):

194 (i) is not guilty of a class A misdemeanor; and

195 (ii) is not subject to:

196 (A) dismissal from office in accordance with Subsection (5)(b); or

197 (B) disqualification from holding public office in accordance with Subsection (5)(b).

197a **H→ (d) Notwithstanding Subsection (5)(a) or (b), an office that requests information in**
 197b **accordance with Subsection (3)(q)(vi):**

197c **(i) is not guilty of a class A misdemeanor; and**

197d **(ii) is not subject to:**

197e **(A) dismissal from office in accordance with Subsection (5)(b); or**

197f **(B) disqualification from holding public office in accordance with**

197g **Subsection (5)(b). ←H**

198 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
 199 Section 2. **Effective date.**

200 If approved by two-thirds of all the members elected to each house, this bill takes effect
 201 upon approval by the governor, or the day following the constitutional time limit of Utah
 202 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
 203 the date of veto override.

Legislative Review Note
as of 5-19-06 11:26 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 05-22-06 10:42 AM

The Revenue and Taxation Interim Committee recommended this bill.

Fiscal Note
Bill Number SB3002

Access to Information Gained by the State Tax Commission from a Return *23-May-06*
11:53 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst