



# Utah State Legislature

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## CONFERENCE COMMITTEE REPORT

March 3, 2004

Mr. President and Mr. Speaker:

The Joint Conference Committee comprised of Sens. Bramble, Hellewell, and Allen, and Reps. Harper, Cox, and King, recommends **H.B. 273, TAX AND CHARGE AMENDMENTS**, by Representative W. Harper, with the following amendments:

Include all the House amendments on pages 1, 2, 3, 13, 13a, 13b, 47, 48, 50, 51, 56, 108, 113, 114, 132, 133, 162, and 188 of the lilac copies dated 2-25-2004, with the following changes:

1. *Page 1, Lines 26 through 27:*

26        § **[[+]]**        ▶    **provides that certain state sales and use tax revenues ARE REQUIRED TO <sup>h</sup> be**  
26a    **deposited into the Remote**  
27    **Sales Restricted Account; **[[+]]** §**

2. *Page 2, Lines 28 through 31:*

28        § **[[+]]**        ▶    **~~H [ repeals language requiring ]~~ **REQUIRES** <sup>h</sup> the Division of Finance to deposit any**  
28a    **revenues in the**  
29    **Remote Sales Restricted Account <sup>h</sup> AS OF JULY 1, 2004 <sup>h</sup> into the General Fund;**  
30        ▶    **provides that the Remote Sales Restricted Account shall earn interest and that the**  
31    **interest shall be deposited into the account; **[[+]]** §**

Bill Number



HB0273

Action Class



C

3. Page 55, Line 1694 through Page 56, Line 1705:

1694       §    [[+]] (7) (a) Notwithstanding Subsection (3)(a), for fiscal years  
          beginning on or after fiscal  
1695 year [[-2003-04]] 2004-05 , the commission shall each year on or before the  
          September 30 immediately  
1696 following the last day of the fiscal year deposit the difference described in  
          Subsection (7)(b)  
1697 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that  
          difference is  
1698 greater than \$0.  
1699       (b) The difference described in Subsection (7)(a) is equal to the difference  
          between:  
1700       (i) the total amount of the following revenues the commission received from  
          sellers  
1701 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year  
          immediately  
1702 preceding the September 30 described in Subsection (7)(a):  
1703       (A) revenues under Subsection (2)(a)(i); and  
1704       (B) revenues under Subsection (2)(b)(i); and  
1705       (ii) [[-\$7,279,673]] \$8,779,673 . [[+]] §

4. Page 56, Lines 1710 through 1715b:

1710       § [E] [[(-2) ~~On or before December 1, 2004, the Division of Finance shall~~

1711 ~~deposit any~~

1712 ~~revenues in the Remote Sales Restricted Account into the General Fund.~~] []

1713       [[+]] (2) The account shall be funded from the portion of the sales and use  
          tax deposited by  
1714 the commission as provided in Section 59-12-103.  
1715       (3) (a) The account shall earn interest.  
          (b) The interest described in Subsection (3)(a) shall be deposited into the  
          account.  
1715a       ~~Ê~~ (4) THE DIVISION OF FINANCE SHALL DEPOSIT ANY REVENUES IN

Bill Number



HB0273

Action Class



C

**THE REMOTE SALES**

**1715b RESTRICTED ACCOUNT AS OF JULY 1, 2004, INTO THE GENERAL FUND.**

[[~~17~~]] §

5. *Page 70, Lines 2151 through 2153:*

2151 (1) (a) Except as provided in Subsection (1)(e) or Sections 59-12-107.1 through  
[~~59-12-107.3~~] 59-12-107.4 and subject to Subsection (1)(f) ,  
2152 each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if  
2153 within this state the seller:

6. *Page 72, Line 2211:*

2211 within this state.

(f) (i) As used in this Subsection (1)(f):

(A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in this state;

(B) "common ownership" is as defined in Section 59-7-101;

(C) "related seller" means a seller that:

(I) is not required to pay or collect and remit sales and use taxes under Subsection (1)(a) or Section 59-12-103.1;

(II) is:

(Aa) related to a seller that is required to pay or collect and remit sales and use taxes under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

(Bb) a limited liability company owned by the parent corporation of an affiliated group if that parent corporation of the affiliated group is required to pay or collect and remit sales and use taxes under Subsection (1)(a); and

(III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

(ii) A seller is not required to pay or collect and remit sales and use taxes under Subsection (1)(a):

(A) if the seller is a related seller;

(B) if the seller to which the related seller is related does not engage in any of the following activities on behalf of the related seller:

(I) advertising;

(II) marketing;

(III) sales; or

(IV) other services; and

(C) if the seller to which the related seller is related accepts the return of an item sold by the related seller, the seller to which the related seller is related accepts the return of that item:

(I) sold by a seller that is not a related seller; and

(II) on the same terms as the return of an item sold by that seller to which the related seller is

Bill Number



HB0273

Action Class



C

related.

7. *Page 72, Lines 2212 through 2213:*

- 2212 (2) (a) Except as provided in Sections 59-12-107.1 through [~~59-12-107.3~~  
~~59-12-107.4~~,
- 2213 ~~[[ a seller shall collect ]]~~ a tax under this chapter shall be collected from a purchaser.

Respectfully,

Sen. Bramble  
Senate Chair, Conference Committee

Rep. Harper  
House Chair, Conference Committee

Voting: 0-0-0

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Bill Number



HB0273

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