

## HB0316S01 compared with HB0316

~~deleted text~~ shows text that was in HB0316 but was deleted in HB0316S01.

Inserted text shows text that was not in HB0316 but was inserted into HB0316S01.

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Representative Bradley G. Last proposes the following substitute bill:

### TAX COMMISSION INFORMATION SHARING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions related to certain offices' access to information attached to or included with a return filed with the State Tax Commission.

##### Highlighted Provisions:

This bill:

- ▶ amends the circumstances under which the State Tax Commission shall share income tax return information with certain offices; and
- ▶ amends the offices' responsibility regarding privacy of return information.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

This bill provides a special effective date.

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### Utah Code Sections Affected:

#### AMENDS:

**59-1-403**, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

#### ENACTS:

**59-1-403.1**, Utah Code Annotated 1953

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

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

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

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
  - (A) this title; or
  - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

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

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

(2) This section does not prohibit:

- (a) a person or that person's duly authorized representative from receiving a copy of

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any return or report filed in connection with that person's own tax;

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

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

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

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

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

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

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program

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participation fee.

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

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

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

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

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

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

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

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

- (A) reported to the commission under Section 59-14-212; or
- (B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

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(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

~~[(A)] (B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.~~

~~[(B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section 36-12-13, the Office of Legislative Research and General Counsel, established in Section 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or the Governor's Office of Management and Budget, created in Section 63J-4-2011.]~~

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection

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(3)(n)(ii)(B) or (C), the commission shall at the request of [~~an office~~] GOED provide to [~~the office~~] GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), [~~an office~~] GOED may not request and the commission may not provide to [~~an office~~] GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to [~~an office~~] GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of [~~an office~~] GOED provide to [~~the office~~] GOED other tax information.

(B) Before providing other tax information to [~~an office~~] GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) [~~An office~~] GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from [~~an office~~] GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if [~~that office~~] GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) [~~An office~~] GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information [~~the office~~] GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

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(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of

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amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to:

(i) the board of the Utah Communications Authority created in Section 63H-7a-201;  
and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(4) (a) Each report and return shall be preserved for at least three years.

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

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

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

(c) Notwithstanding Subsection (5)(a) or (b), [~~an office that requests~~] GOED, when requesting information in accordance with Subsection (3)(n)(iii), or [a person that] an individual who requests information in accordance with Subsection (3)(n)(v):

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

(ii) is not subject to:

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

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

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 2. Section **59-1-403.1** is enacted to read:

### **59-1-403.1. Disclosure of return information.**

(1) As used in this section:

(a) "Office" means:

(i) the Office of the Legislative Fiscal Analyst, established in Section 36-12-13;

(ii) the Office of Legislative Research and General Counsel, established in Section 36-12-12; or

(iii) the Governor's Office of Management and Budget, created in Section 63J-4-201.

(b) (i) "Return information" means information gained by the commission that is required to be attached to or included in a return filed with the commission.



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(ii) "Return information" does not include information that the commission is prohibited from disclosing by federal law, federal regulation, or federal publication.

(2) (a) Notwithstanding Subsection 59-1-403(1), the commission, at the request of an office, shall provide to the office all return information with the items described in Subsection (2)(b) removed.

(b) For purposes of a request for return information made under Subsection (2)(a), the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(3) (a) An office may disclose return information received from the commission in accordance with this section only:

(i) (A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) in a manner that reasonably protects the identification of a particular taxpayer; or

(ii) to another office.

(b) A person may not request return information, other than the return information that the office discloses in accordance with Subsection (3)(a), from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the return information from the commission in accordance with this section.

(c) An office may not disclose to a person that requests return information any return information other than the return information that the office discloses in accordance with Subsection (3)(a).

(4) ~~This section governs an office's authority to access or use~~ Any individual who violates Subsection (3)(a):

(a) is guilty of a class A misdemeanor; and

(b) shall be:

(i) dismissed from office; and

(ii) disqualified from holding public office in this state for a period of five years after dismissal.

(5) (a) An office and the commission may enter into an agreement specifying the procedures for accessing, storing, and destroying return information ~~and an~~ requested in accordance with this section.

(b) An office's ~~authority to~~ access ~~for use~~ to return information is governed by this

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section, and except as provided in Subsection (5)(a), may not be limited by any agreement.

### Section 3. **Effective date.**

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

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**Legislative Review Note**

**~~Office of Legislative Research and General Counsel~~**