

Senator Ross I. Romero proposes the following substitute bill:

**INCOME TAX CONTRIBUTION FOR ELEMENTARY
SCHOOLS**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ross I. Romero

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses an individual income tax contribution for elementary schools.

Highlighted Provisions:

This bill:

- ▶ provides an individual income tax contribution for elementary schools;
- ▶ requires the State Board of Education to provide a list of elementary schools in the state to the State Tax Commission on an annual basis for purposes of the income tax contribution;
- ▶ provides that the school principal, in consultation with the school community council or governing board of a charter school, shall determine the purposes for which amounts an elementary school receives from the contribution shall be expended;
- ▶ provides that if the collections from the contribution and other education-related contributions do not meet a certain threshold amount, the State Tax Commission shall remove the designations for those contributions from the individual income tax return and may not collect the contributions; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides effective dates.

30 This bill provides for retrospective operation for a taxable year beginning on or after
31 January 1, 2012.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53A-1-401**, as last amended by Laws of Utah 2010, Chapter 305

35 **59-10-1304**, as last amended by Laws of Utah 2011, Chapter 294

36 ENACTS:

37 **53A-1a-110**, Utah Code Annotated 1953

38 **59-10-1316**, Utah Code Annotated 1953

39

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

41 Section 1. Section **53A-1-401** is amended to read:

42 **53A-1-401. Powers and duties of State Board of Education -- Adoption of rules --**
43 **Enforcement.**

44 (1) (a) The State Board of Education has general control and supervision of the state's
45 public education system.

46 (b) "General control and supervision" as used in Article X, Sec. 3, of the Utah
47 Constitution means directed to the whole system.

48 (2) The board may not govern, manage, or operate school districts, institutions, and
49 programs, unless granted that authority by statute.

50 (3) The board may adopt rules and policies in accordance with its responsibilities under
51 the constitution and state laws, and may interrupt disbursements of state aid to any district
52 which fails to comply with rules adopted in accordance with this Subsection (3).

53 (4) (a) The board may sell any interest it holds in real property upon a finding by the
54 board that the property interest is surplus.

55 (b) The board may use the money it receives from a sale under Subsection (4)(a) for
56 capital improvements, equipment, or materials, but not for personnel or ongoing costs.

57 (c) If the property interest under Subsection (4)(a) was held for the benefit of an agency
58 or institution administered by the board, the money may only be used for purposes related to
59 the agency or institution.

60 (d) The board shall advise the Legislature of any sale under Subsection (4)(a) and
61 related matters during the next following session of the Legislature.

62 (5) The board shall develop policies and procedures related to federal educational
63 programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs
64 Act.

65 (6) On or before December 31, 2010, the State Board of Education shall review
66 mandates or requirements provided for in board rule to determine whether certain mandates or
67 requirements could be waived to remove funding pressures on public schools on a temporary
68 basis.

69 (7) On or before August 1 of each year, for purposes of the income tax contribution
70 authorized by Section 59-10-1316, the State Board of Education shall provide a list of
71 elementary schools as defined in Section 59-10-1316 in the state to the State Tax Commission.

72 Section 2. Section **53A-1a-110** is enacted to read:

73 **53A-1a-110. Expenditure of amounts received as income tax contributions.**

74 (1) As used in this section, "elementary school" is as defined in Section 59-10-1316.

75 (2) The school principal, in consultation with the school community council or the
76 governing board of a charter school, shall determine the purposes for which an amount an
77 elementary school receives from an income tax contribution under Section 59-10-1316 shall be
78 expended.

79 Section 3. Section **59-10-1304** is amended to read:

80 **59-10-1304. Removal of designation and prohibitions on collection for certain**
81 **contributions on income tax return -- Conditions for removal and prohibitions on**
82 **collection -- Commission reporting requirements.**

83 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)
84 generate less than \$30,000 per year for three consecutive years, the commission shall remove
85 the designation for the contribution from the individual income tax return and may not collect
86 the contribution from a resident or nonresident individual beginning two taxable years after the
87 three-year period for which the contribution generates less than \$30,000 per year.

- 88 (b) The following contributions apply to Subsection (1)(a):
89 (i) the contribution provided for in Section 59-10-1305;
90 (ii) the contribution provided for in Section 59-10-1306;
91 (iii) the sum of the contributions provided for in Subsection 59-10-1307(1) and Section
92 59-10-1316;
93 (iv) the contribution provided for in Section 59-10-1308;
94 (v) the contribution provided for in Section 59-10-1310; or
95 (vi) the contribution provided for in Section 59-10-1315.

96 (2) If the commission removes the designation for a contribution under Subsection (1),
97 the commission shall report to the Revenue and Taxation Interim Committee that the
98 commission removed the designation on or before the November interim meeting of the year in
99 which the commission determines to remove the designation.

100 Section 4. Section **59-10-1316** is enacted to read:

101 **59-10-1316. Contribution for elementary school.**

102 (1) As used in this section, "elementary school" means a public elementary school,
103 including a charter school, that provides instruction to students in grades beginning with
104 kindergarten up to and including grade 6, in whatever kind of school the grade levels exist.

105 (2) Except as provided in Section 59-10-1304 and subject to the other provisions of
106 this section, a resident or nonresident individual that files an individual income tax return under
107 this chapter may designate on the resident or nonresident individual's individual income tax
108 return a contribution to an elementary school in this state from a list of elementary schools the
109 State Board of Education provides to the commission in accordance with Section 53A-1-401.

110 (3) If a resident or nonresident individual designates an amount as a contribution under
111 Subsection (2) but does not designate a particular school to receive the contribution, the
112 contribution shall be made to the Utah State Office of Education.

113 (4) The commission shall:

114 (a) determine annually the total amount of contributions designated to each elementary
115 school and the Utah State Office of Education in accordance with this section; and

116 (b) credit the amounts determined under Subsection (4)(a) to the elementary schools
117 and the Utah State Office of Education.

118 Section 5. **Effective date -- Retrospective operation.**

119 (1) Except as provided in Subsections (2) and (3), this bill has retrospective operation
120 for a taxable year beginning on or after January 1, 2012.

121 (2) The amendments to Section 53A-1-401 take effect on May 8, 2012.

122 (3) The enactment of Section 53A-1a-110 takes effect on May 8, 2012.