

Senator Wayne A. Harper proposes the following substitute bill:

**YOUTH ORGANIZATION RESTRICTED
ACCOUNTS AND INCOME TAX CONTRIBUTIONS**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts certain youth organization restricted accounts, provides for the distribution of amounts deposited into the accounts, and enacts income tax contributions for certain youth organizations.

Highlighted Provisions:

This bill:

- ▶ creates the Youth Development Organization Restricted Account;
- ▶ creates the Youth Character Organization Restricted Account;
- ▶ provides for the distribution of amounts deposited into the accounts;
- ▶ provides that the accounts are nonlapsing accounts;
- ▶ enacts an income tax contribution for a youth development organization;
- ▶ enacts an income tax contribution for a youth character organization;
- ▶ provides that if the collections from the contributions do not meet certain threshold amounts, the State Tax Commission shall remove the designations for the 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 an effective date.

30 This bill provides retrospective operation for a taxable year beginning on or after
31 January 1, 2013.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-10-1304**, as last amended by Laws of Utah 2011, Chapter 294

35 **63J-1-602.2 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapters 388

36 and 397

37 ENACTS:

38 **35A-8-1901**, Utah Code Annotated 1953

39 **35A-8-1902**, Utah Code Annotated 1953

40 **35A-8-1903**, Utah Code Annotated 1953

41 **35A-8-1904**, Utah Code Annotated 1953

42 **35A-8-2001**, Utah Code Annotated 1953

43 **35A-8-2002**, Utah Code Annotated 1953

44 **35A-8-2003**, Utah Code Annotated 1953

45 **35A-8-2004**, Utah Code Annotated 1953

46 **59-10-1316**, Utah Code Annotated 1953

47 **59-10-1317**, Utah Code Annotated 1953

48

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

50 Section 1. Section **35A-8-1901** is enacted to read:

51 **Part 19. Youth Development Organization Restricted Account Act**

52 **35A-8-1901. Title.**

53 This part is known as the "Youth Development Organization Restricted Account Act."

54 Section 2. Section **35A-8-1902** is enacted to read:

55 **35A-8-1902. Definitions.**

56 As used in this part:

57 (1) "Account" means the Youth Development Organization Restricted Account created
58 in Section 35A-8-1903.

59 (2) "Qualified youth development organization council" means a youth development
60 organization council in the state that the division determines to be eligible to receive a
61 distribution under Section 35A-8-1904.

62 (3) "Youth development organization" means an organization that:

63 (a) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
64 Code;

65 (b) has more than 180,000 youth members within the state;

66 (c) has as its mission to prepare youth members to make ethical and moral choices over
67 their lifetimes; and

68 (d) accomplishes the mission described in Subsection (3)(c) by building character,
69 teaching citizenship, and developing personal fitness.

70 (4) "Youth development organization council" means a council that:

71 (a) is chartered by a youth development organization;

72 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
73 Code;

74 (c) has more than 35,000 youth members within the state;

75 (d) covers a specified geographic area within the state;

76 (e) has as its mission to prepare youth members to make ethical and moral choices over
77 their lifetimes; and

78 (f) accomplishes the mission described in Subsection (4)(e) by building character,
79 teaching citizenship, and developing personal fitness.

80 (5) "Youth member" means a person who:

81 (a) has a valid membership in a youth development organization;

82 (b) is affiliated with a particular youth development organization council; and

83 (c) is 20 years of age or younger.

84 Section 3. Section **35A-8-1903** is enacted to read:

85 **35A-8-1903. Youth Development Organization Restricted Account -- Creation --**
86 **Interest.**

87 (1) There is created within the General Fund a restricted account known as the "Youth

88 Development Organization Restricted Account."

89 (2) The account shall be funded by:

90 (a) contributions deposited into the account in accordance with Section 59-10-1316;

91 (b) private contributions;

92 (c) donations or grants from public or private entities; and

93 (d) interest described in Subsection (3).

94 (3) (a) The account shall earn interest.

95 (b) Interest earned on the account shall be deposited into the account.

96 (4) The division shall distribute money appropriated by the Legislature to the division
97 from the restricted account as provided in Section 35A-8-1904.

98 Section 4. Section **35A-8-1904** is enacted to read:

99 **35A-8-1904. Division to distribute amounts deposited into Youth Development**
100 **Organization Restricted Account -- Procedures for distribution.**

101 (1) Subject to the other provisions of this section, the division shall distribute amounts
102 deposited into the Youth Development Organization Restricted Account in accordance with
103 Section 35A-8-1903 to one or more qualified youth development organization councils in the
104 state.

105 (2) A qualified youth development organization council that receives a distribution
106 from the division under this section shall expend the distribution only to accomplish the
107 mission of the qualified youth development organization council described in Subsection
108 35A-8-1903(4).

109 (3) An organization that seeks to receive a distribution from the division under this
110 section shall, on or before May 1 of each year, file an application with the division:

111 (a) on a form prescribed by the division;

112 (b) that contains information required by the division to establish that the organization
113 is a youth development organization council in the state; and

114 (c) that contains any other information prescribed by the commission.

115 (4) (a) The division shall, on or before June 1 of each year, determine whether an
116 organization that files an application with the division under Subsection (3) is a youth
117 development organization council in the state.

118 (b) (i) If the division determines that an organization that files an application with the

119 division under Subsection (3) is a youth development organization council, the division shall,
 120 on or before June 15 of each year, issue the organization a certificate stating that the
 121 organization is a qualified youth development organization council.

122 (ii) If the division determines that an organization that files an application with the
 123 division under Subsection (3) is not a youth development organization council, the division
 124 shall provide the organization written notice stating the reasons for its determination.

125 (5) On or before July 1 of each year, the division shall make the distributions required
 126 by this section to each qualified youth development organization council as follows:

127 (a) the division shall, for each qualified youth development organization council,
 128 calculate a percentage:

129 (i) the numerator of which is the youth membership of the qualified youth development
 130 organization council; and

131 (ii) the denominator of which is the total youth membership of the qualified youth
 132 development organization councils;

133 (b) the division shall, for each qualified youth development organization council,
 134 calculate an amount by multiplying the percentage the division calculates under Subsection
 135 (5)(a) by ~~§~~ → **the lesser of:**

135a (i) ~~←~~§ the amount the Legislature appropriates to the division from the account for the fiscal
 136 year; ~~§~~ → **or**

136a (ii) **the balance in the account as of June 1 of that year;** ~~←~~§ **and**

137 (c) ~~§~~ → **the division shall** ~~←~~§ **distribute the amount the division calculates under**
 137a Subsection (5)(b) to each
 138 qualified youth development organization council.

139 Section 5. Section **35A-8-2001** is enacted to read:

140 **Part 20. Youth Character Organization Restricted Account Act**

141 **35A-8-2001. Title.**

142 This part is known as the "Youth Character Organization Restricted Account Act."

143 Section 6. Section **35A-8-2002** is enacted to read:

144 **35A-8-2002. Definitions.**

145 As used in this part:

146 (1) "Account" means the Youth Character Organization Restricted Account created in
 147 Section 35A-8-2003.

148 (2) "Qualified youth character organization council" means a youth character
 149 organization council in the state that the division determines to be eligible to receive a

150 distribution under Section 35A-8-2004.

151 (3) "Youth character organization" means an organization that is chartered under 36

152 U.S.C. §→ [§] Sec. ←§ 80301.

153 (4) "Youth character organization council" means a council that:

154 (a) is chartered by a youth character organization;

155 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue

156 Code; and

157 (c) covers a specified geographic area that includes a geographic area within the state.

158 (5) "Youth member" means a person who:

159 (a) has a valid membership in a youth character organization;

160 (b) is affiliated with a particular youth character organization council; and

161 (c) is 18 years of age or younger.

162 Section 7. Section **35A-8-2003** is enacted to read:

163 **35A-8-2003. Youth Character Organization Restricted Account -- Creation --**

164 **Interest.**

165 (1) There is created within the General Fund a restricted account known as the "Youth
166 Character Organization Restricted Account."

167 (2) The account shall be funded by:

168 (a) contributions deposited into the account in accordance with Section 59-10-1317;

169 (b) private contributions;

170 (c) donations or grants from public or private entities; and

171 (d) interest described in Subsection (3).

172 (3) (a) The account shall earn interest.

173 (b) Interest earned on the account shall be deposited into the account.

174 (4) The division shall distribute money appropriated by the Legislature to the division
175 from the restricted account as provided in Section 35A-8-2004.

176 Section 8. Section **35A-8-2004** is enacted to read:

177 **35A-8-2004. Division to distribute amounts deposited into Youth Character**

178 **Organization Restricted Account -- Procedures for distribution.**

179 (1) Subject to the other provisions of this section, the division shall distribute amounts

180 deposited into the Youth Character Organization Restricted Account in accordance with

181 Section 35A-8-2003 to one or more qualified youth character organization councils in the state.

182 (2) A qualified youth character organization that receives a distribution from the
 183 division under this section shall expend the distribution only to accomplish the purposes
 184 described in 36 U.S.C. ~~§~~ [§] ~~Sec.~~ ~~←~~§ 80302.

185 (3) An organization that seeks to receive a distribution from the division under this
 186 section shall, on or before May 1 of each year, file an application with the division:

187 (a) on a form prescribed by the division;

188 (b) that contains information required by the division to establish that the organization
 189 is a youth character organization council in the state; and

190 (c) that contains any other information prescribed by the commission.

191 (4) (a) The division shall, on or before June 1 of each year, determine whether an
 192 organization that files an application with the division under Subsection (3) is a youth character
 193 organization council in the state.

194 (b) (i) If the division determines that an organization that files an application with the
 195 division under Subsection (3) is a youth character organization council, the division shall, on or
 196 before June 15 of each year, issue the organization a certificate stating that the organization is a
 197 qualified youth character organization council.

198 (ii) If the division determines that an organization that files an application with the
 199 division under Subsection (3) is not a youth character organization council, the division shall
 200 provide the organization written notice stating the reasons for its determination.

201 (5) On or before July 1 of each year, the division shall make the distributions required
 202 by this section to each qualified youth character organization council as follows:

203 (a) the division shall, for each qualified youth character organization council, calculate
 204 a percentage:

205 (i) the numerator of which is the youth membership of the qualified youth character
 206 organization ~~§~~ ~~→~~ council ~~←~~ ~~§~~ ; and

207 (ii) the denominator of which is the total youth membership of the qualified youth
 208 character organization councils;

209 (b) the division shall, for each qualified youth character organization council, calculate
 210 an amount by multiplying the percentage the division calculates under Subsection (5)(a) by ~~§~~ ~~→~~ the
 210a lesser of:

210b (i) ~~←~~ ~~§~~ the

211 amount the Legislature appropriates to the division from the account for the fiscal year; ~~§~~ ~~→~~ or

211a (ii) the balance in the account as of June 1 of that year; ~~←~~ ~~§~~ and

212 (c) ~~§~~ → the division shall ← ~~§~~ distribute the amount the division calculates under
 212a Subsection (5)(b) to each
 213 qualified youth character organization council.

214 Section 9. Section **59-10-1304** is amended to read:

215 **59-10-1304. Removal of designation and prohibitions on collection for certain**
 216 **contributions on income tax return -- Conditions for removal and prohibitions on**
 217 **collection -- Commission reporting requirements.**

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

223 (b) The following contributions apply to Subsection (1)(a):

224 (i) the contribution provided for in Section 59-10-1305;

225 (ii) the contribution provided for in Section 59-10-1306;

226 (iii) the sum of the contributions provided for in Subsection 59-10-1307(1);

227 (iv) the contribution provided for in Section 59-10-1308;

228 (v) the contribution provided for in Section 59-10-1310; [or]

229 (vi) the contribution provided for in Section 59-10-1315[;]; or

230 (vii) the sum of the contributions provided for in:

231 (A) Section 59-10-1316; and

232 (B) Section 59-10-1317.

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

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

238 **59-10-1316. Contribution to Youth Development Organization Restricted**
 239 **Account.**

240 (1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after
 241 January 1, 2013, a resident or nonresident individual who files an individual income tax return
 242 under this chapter may designate on the resident or nonresident individual's individual income

243 tax return a contribution as provided in this section to be:

244 (a) deposited into the Youth Development Organization Restricted Account created in
245 Section 35A-8-1903; and

246 (b) expended as provided in Title 35A, Chapter 8, Part 19, Youth Development
247 Organization Restricted Account Act.

248 (2) The commission shall:

249 (a) determine the total amount of contributions designated in accordance with this
250 section for a taxable year; and

251 (b) credit the amount described in Subsection (2)(a) to the Youth Development
252 Organization Restricted Account.

253 Section 11. Section **59-10-1317** is enacted to read:

254 **59-10-1317. Contribution to Youth Character Organization Restricted Account.**

255 (1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after
256 January 1, 2013, a resident or nonresident individual who files an individual income tax return
257 under this chapter may designate on the resident or nonresident individual's individual income
258 tax return a contribution as provided in this section to be:

259 (a) deposited into the Youth Character Organization Restricted Account created in
260 Section 35A-8-2003; and

261 (b) expended as provided in Title 35A, Chapter 8, Part 20, Youth Character
262 Organization Restricted Account Act.

263 (2) The commission shall:

264 (a) determine the total amount of contributions designated in accordance with this
265 section for a taxable year; and

266 (b) credit the amount described in Subsection (2)(a) to the Youth Character
267 Organization Restricted Account.

268 Section 12. Section **63J-1-602.2 (Effective 07/01/13)** is amended to read:

269 **63J-1-602.2 (Effective 07/01/13). List of nonlapsing funds and accounts -- Title 31**
270 **through Title 45.**

271 (1) Appropriations from the Technology Development Restricted Account created in
272 Section 31A-3-104.

273 (2) Appropriations from the Criminal Background Check Restricted Account created in

274 Section 31A-3-105.

275 (3) Appropriations from the Captive Insurance Restricted Account created in Section
276 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that
277 section free revenue.

278 (4) Appropriations from the Title Licensee Enforcement Restricted Account created in
279 Section 31A-23a-415.

280 (5) Appropriations from the Health Insurance Actuarial Review Restricted Account
281 created in Section 31A-30-115.

282 (6) Appropriations from the Insurance Fraud Investigation Restricted Account created
283 in Section 31A-31-108.

284 (7) Appropriations from the Underage Drinking Prevention Media and Education
285 Campaign Restricted Account created in Section 32B-2-306.

286 (8) The Youth Development Organization Restricted Account created in Section
287 35A-8-1903.

288 (9) The Youth Character Organization Restricted Account created in Section
289 35A-8-2003.

290 [~~(8)~~] (10) Funding for a new program or agency that is designated as nonlapsing under
291 Section 36-24-101.

292 [~~(9)~~] (11) Appropriations from the Oil and Gas Conservation Account created in
293 Section 40-6-14.5.

294 [~~(10)~~] (12) Appropriations from the Electronic Payment Fee Restricted Account
295 created by Section 41-1a-121 to the Motor Vehicle Division.

296 [~~(11)~~] (13) Funds available to the Tax Commission under Section 41-1a-1201 for the:

297 (a) purchase and distribution of license plates and decals; and

298 (b) administration and enforcement of motor vehicle registration requirements.

299 Section 13. **Effective date -- Retrospective operation.**

300 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2014.

301 (2) The actions affecting the following sections have retrospective operation for a
302 taxable year beginning on or after January 1, 2013:

303 (a) Section 59-10-1304;

304 (b) Section 59-10-1316; and

305

(c) Section 59-10-1317.