

**AEROSPACE AND AVIATION DEVELOPMENT
ZONE**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Brad L. Dee

This act provides incentives for economic development by creating aerospace and aviation development zones for new commercial development. The act provides partial rebates of new taxes generated as an incentive for the creation of new jobs and economic development for qualified new projects that locate in the development zones, with the incentives financed out of the new state revenues generated by the projects.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

9-2-2001, Utah Code Annotated 1953

9-2-2002, Utah Code Annotated 1953

9-2-2003, Utah Code Annotated 1953

9-2-2004, Utah Code Annotated 1953

9-2-2005, Utah Code Annotated 1953

9-2-2006, Utah Code Annotated 1953

9-2-2007, Utah Code Annotated 1953

9-2-2008, Utah Code Annotated 1953

9-2-2009, Utah Code Annotated 1953

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

Section 1. Section **9-2-2001** is enacted to read:

Part 20. Aerospace and Aviation Development Zone

9-2-2001. Purpose.

(1) The Legislature finds that:

(a) the fostering and development of industry in Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment for its citizens; and

(b) Utah loses prospective high paying jobs, economic impacts, and corresponding incremental new state revenues to competing states due to a wide variety of competing economic development incentives offered by those states.

(2) This part is enacted to address the loss of new economic growth in Utah and the corresponding loss of incremental new state revenues by providing tax increment financial incentives to attract new commercial projects in development zones located on or contiguous to airports in the state.

Section 2. Section **9-2-2002** is enacted to read:

9-2-2002. Definitions.

As used in this part:

(1) "Department" means the Department of Community and Economic Development acting through its executive director.

(2) "Development zone" means the Aerospace and Aviation Development Zone created under Section 9-2-2003.

(3) "Indirect state revenues" means the imputed use of a generally accepted indirect economic multiplier as defined by a fiscal impact model approved by the Governor's Office of Planning and Budget to quantify by estimate the indirect state tax revenues that are in addition to direct state tax revenues.

(4) "New state revenues" means incremental new state tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the state's portion of sales taxes, and company and employee income taxes derived from the projects, together with indirect state revenues generated by the projects, but not to include any portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax revenues.

(5) "Partial rebates" means returning a portion of the new state revenues generated by new commercial projects to companies or individuals that have created new economic growth within a development zone.

Section 3. Section **9-2-2003** is enacted to read:

9-2-2003. Creation of development zones.

The department, with approval by the board, may create an Aerospace and Aviation Development Zone at or around any airport in the state that satisfies the following requirements:

- (1) the airport shall have an instrumental landing system;
- (2) the airport shall have a manned air traffic control tower;
- (3) the airport shall have land available for commercial development on, or contiguous to, the airport; and
- (4) Subsections (1) and (2) sunset on January 1, 2006, unless the Legislature determines otherwise.

Section 4. Section **9-2-2004** is enacted to read:

9-2-2004. Development incentives.

(1) The department, with the approval of the board, may enter into agreements providing for partial rebates of new state revenues generated by new commercial projects to companies or individuals that create new economic growth within the development zone.

(2) In no event may the partial rebates be in excess of 50% of the new state revenues in any given year.

(3) (a) The partial rebates may not exceed 30% of the new state revenues generated over the life of a new commercial project.

(b) For purposes of this part, the life of a new commercial project is limited to 20 years.

(4) Partial rebates are subject to any other limitations adopted by board rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

Section 5. Section **9-2-2005** is enacted to read:

9-2-2005. Qualifications for credits and rebates.

The board shall set standards to qualify for partial rebates under this part, subject to the following:

(1) no partial rebates may be paid prior to verification, by the department, of the new state revenues upon which the tax rebate is based;

(2) partial rebates can only be paid on projects that are within the development zone;

(3) partial rebates can only be paid on projects that bring new, incremental jobs to the state;

(4) qualifying projects must involve direct investment within the geographic boundaries of the development zone;

(5) only aerospace and aviation industry projects, as defined by board rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, are eligible for partial rebates; and

(6) in order to claim payments representing partial rebates of new state revenues, a person must:

(a) enter into a board-approved agreement with the department and affirm by contractual agreement to keep supporting records for at least four years after final payment of partial rebates under this part;

(b) submit to audits for verification of the amounts claimed; and

(c) comply with other conditions as are required by the department.

Section 6. Section **9-2-2006** is enacted to read:

9-2-2006. Payment procedure.

Any payment of partial rebates of new state revenues shall be made in accordance with procedures adopted by the department and approved by the board, to include the following:

(1) within 90 days of the end of each calendar year, any company or individual that has entered into an agreement with the department under this part shall provide the department with documentation of the new state revenues it claims to have generated during that calendar year, the documentation to include the types of taxes and corresponding amounts of taxes paid directly to the Utah State Tax Commission, and sales taxes paid to Utah vendors and suppliers that are indirectly paid to the Utah State Tax Commission;

(2) the department shall audit or review the documentation, make a determination of the amount of partial rebates earned under the agreement, and forward a board-approved request for payment of that amount to the Division of Finance, together with information regarding the name and address of the payee and any other information reasonably requested by the division; and

(3) the Division of Finance shall pay a partial rebate from the Economic Incentive Restricted Account created in Section 9-2-2009 upon receipt of documentation and the board-approved request from the department under Subsection (2).

Section 7. Section **9-2-2007** is enacted to read:

9-2-2007. Department's authority.

(1) The department, with approval of the board and within the limitations of this part, may determine:

- (a) the structure and amount of any partial rebates offered under this part;
- (b) the economic impacts and job creation necessary to qualify for the incentive; and
- (c) the other terms and conditions of any agreement entered into under this part.

(2) In reviewing claims for partial rebates of new state revenues, the department may accept:

(a) as the amount of employee income taxes paid, the amount of employee income taxes withheld and transmitted to the Utah State Tax Commission as evidenced by payroll records rather than adjusting for the difference between taxes withheld and taxes actually paid through filing by employees' annual income tax statements; and

(b) as the amount of company income taxes paid, the amount of corporate franchise and income taxes estimated and transmitted to the Utah State Tax Commission as evidenced by quarterly payment records rather than adjusting for the difference between estimated taxes paid quarterly and taxes actually paid through the filing of the corporation's annual income tax statement.

(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board may make, amend, and revoke rules regarding the development zone and partial rebates offered within it, provided the rules are consistent with state and federal law.

(4) (a) The department shall make a report to the Legislature's Workforce and Community and Economic Development Interim Committee on:

(i) the success of attracting new commercial projects to development zones under this part and the corresponding increase in new, incremental jobs;

(ii) the period of time over which partial rebates of new state revenues shall be granted under this part; and

(iii) the economic impact on the state related to generating new state revenues and rebating a portion of those revenues under this part.

(b) The department shall make the reports prior to the 2005 General Session of the Legislature to enable the committee to determine whether this part should be modified during the 2005 General Session.

Section 8. Section **9-2-2008** is enacted to read:

9-2-2008. Coordination with Industrial Assistance Fund.

Projects that qualify for partial rebates of new state revenues under this part and enter into agreements with the department under this part are ineligible to qualify for additional financial assistance from the Industrial Assistance Fund under Section 9-2-1204.

Section 9. Section **9-2-2009** is enacted to read:

9-2-2009. Establishment of the Economic Incentive Restricted Account.

(1) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.

(2) The account shall be used to make payments as required under Section 9-2-2006.

(3) (a) The Division of Finance shall transfer from the General Fund the amount estimated by the department from new state revenues needed to make the partial rebates as allowed in Section 9-2-2006.

(b) The amount transferred into the account shall be reduced by any unencumbered balances in the account.

(4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving a request for payment, in accordance with Subsection 9-2-2006(2), the Division of Finance shall pay the partial rebates as allowed in Section 9-2-2006, from the account.

(5) (a) Prior to the beginning of each fiscal year, the department shall notify the Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance of:

(i) the estimated amount of new state revenues created from economic growth in the development zones, the estimate detailed by the amounts from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(ii) the estimated amount partial rebates projected to be paid in the upcoming fiscal year, the estimates detailed by the amounts from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax.

(b) The department shall update the estimates required by Subsections (5)(a)(i) and (ii) within 30 days of the signing of each new agreement entered into under this part.