

1 **AEROSPACE AND AVIATION DEVELOPMENT**

2 **ZONE**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Brad L. Dee**

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

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

12 ENACTS:

13 **9-2-2001**, Utah Code Annotated 1953

14 **9-2-2002**, Utah Code Annotated 1953

15 **9-2-2003**, Utah Code Annotated 1953

16 **9-2-2004**, Utah Code Annotated 1953

17 **9-2-2005**, Utah Code Annotated 1953

18 **9-2-2006**, Utah Code Annotated 1953

19 **9-2-2007**, Utah Code Annotated 1953

20 **9-2-2008**, Utah Code Annotated 1953

21 **9-2-2009**, Utah Code Annotated 1953

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

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

24 **Part 20. Aerospace and Aviation Development Zone**

25 **9-2-2001. Purpose.**

26 (1) The Legislature finds that:

27 (a) the fostering and development of industry in Utah is a state public purpose



28 necessary to assure the welfare of its citizens, the growth of its economy, and adequate
29 employment for its citizens; and

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

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

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

38 **9-2-2002. Definitions.**

39 As used in this part:

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

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

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

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

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

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

58 **9-2-2003. Creation of development zones.**

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

- 62 (1) the airport shall have an instrumental landing system;
63 (2) the airport shall have a manned air traffic control tower; and
64 (3) the airport shall have land available for commercial development on, or contiguous
65 to, the airport.

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

67 **9-2-2004. Development incentives.**

- 68 (1) The department, with the approval of the board, may enter into agreements
69 providing for partial rebates of new state revenues generated by new commercial projects to
70 companies or individuals that create new economic growth within the development zone.
71 (2) In no event may the partial rebates be in excess of 50% of the new state revenues.
72 (3) Partial rebates are subject to any other limitations adopted by board rule made in
73 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

75 **9-2-2005. Qualifications for credits and rebates.**

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

- 78 (1) no partial rebates may be paid prior to verification, by the department, of the new
79 state revenues upon which the tax rebate is based;
80 (2) partial rebates can only be paid on projects that are within the development zone;
81 (3) partial rebates can only be paid on projects that bring new, incremental jobs to the
82 state;
83 (4) qualifying projects must involve direct investment within the geographic
84 boundaries of the development zone;
85 (5) only aerospace and aviation industry projects, as defined by board rule made in
86 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, are eligible for
87 partial rebates; and
88 (6) in order to claim payments representing partial rebates of new state revenues, a
89 person must:

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

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

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

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

96 **9-2-2006. Payment procedure.**

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

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

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

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

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

114 **9-2-2007. Department's authority.**

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

117 (a) the structure and amount of any partial rebates offered under this part;

118 (b) the economic impacts and job creation necessary to qualify for the incentive; and

119 (c) the other terms and conditions of any agreement entered into under this part.

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

121 accept:

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

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

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

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

134 **9-2-2008. Coordination with Industrial Assistance Fund.**

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

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

139 **9-2-2009. Establishment of the Economic Incentive Restricted Account.**

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

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

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

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

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

151 (5) (a) Prior to the beginning of each fiscal year, the department shall notify the

152 Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the
153 Division of Finance of:

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

156 (A) sales tax;

157 (B) income tax; and

158 (C) corporate franchise and income tax; and

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

161 (A) sales tax;

162 (B) income tax; and

163 (C) corporate franchise and income tax.

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

Legislative Review Note
as of 2-24-03 9:49 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

There is no current fiscal impact. Passage of this bill could however, divert future state revenues as a result of the incremental tax provisions of the bill. This loss could be offset to a certain extent as a result of increased jobs coming into the state.

Individual and Business Impact

Passage of this bill could encourage aerospace and aviation companies to relocate to the state.

Office of the Legislative Fiscal Analyst