

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 h [municipal] h 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 ~~h [municipal] h~~ 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; ~~h [and] h~~

64 (3) the airport shall have land available for commercial development on, or contiguous  
 65 to, the airport ~~h [:] ; AND~~

65a (4) SUBSECTIONS (1) AND (2) SUNSET ON JANUARY 1, 2006, UNLESS THE LEGISLATURE  
 65b DETERMINES OTHERWISE. ~~h~~

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 ~~h~~ **[may]** **SHALL** ~~h~~ pay a partial rebate from the Economic  
110a 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 h [payroll] QUARTERLY PAYMENT h records rather than adjusting for the difference between  
 128a 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 h [tax credits and] h  
 132 partial rebates offered within it, provided the rules are consistent with state and federal law.

132a h (4) (a) THE DEPARTMENT SHALL MAKE A REPORT TO THE LEGISLATURE'S WORKFORCE AND  
 132b COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE ON THE SUCCESS OF ATTRACTING NEW  
 132c COMMERCIAL PROJECTS TO DEVELOPMENT ZONES UNDER THIS PART AND THE CORRESPONDING  
 132d INCREASE IN NEW, INCREMENTAL JOBS.

132e (b) THE DEPARTMENT SHALL MAKE THE REPORT PRIOR TO THE 2006 GENERAL SESSION OF THE  
 132f LEGISLATURE TO ENABLE THE COMMITTEE TO DETERMINE WHETHER THIS PART SHOULD BE MODIFIED  
 132g DURING THE 2006 GENERAL SESSION. h

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.

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**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**