

1 **ECONOMIC DEVELOPMENT INCENTIVES**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Brad L. Dee**

5 David N. Cox

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8 **LONG TITLE**

9 **General Description:**

10 This bill creates new provisions related to business development within the Department
11 of Community and Economic Development by establishing an Economic Development
12 Incentives Act.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides tax incremental financial incentives to attract new commercial projects in
16 economic development zones;
- 17 ▶ provides definitions related to the creation of economic development zones and tax
18 incentives for establishing new commercial projects in those zones;
- 19 ▶ provides requirements for the establishment of economic development zones;
- 20 ▶ allows the Department of Community and Economic Development to enter into
21 agreements providing for partial rebates of new state revenues generated by new
22 commercial projects within an economic development zone;
- 23 ▶ provides qualification criteria for partial rebates and establishes payment
24 procedures;
- 25 ▶ provides that projects qualifying for partial rebates under the Economic
26 Development Incentives Act are ineligible for additional financial assistance from
27 the Industrial Assistance Fund; and



28 ▶ provides for a report to the Legislature's Workforce Services and Community and
29 Economic Development Interim Committee on the success of the program and its
30 economic impact on the state.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **9-2-2009**, as enacted by Chapter 247, Laws of Utah 2003

38 ENACTS:

39 **9-2-2201**, Utah Code Annotated 1953

40 **9-2-2202**, Utah Code Annotated 1953

41 **9-2-2203**, Utah Code Annotated 1953

42 **9-2-2204**, Utah Code Annotated 1953

43 **9-2-2205**, Utah Code Annotated 1953

44 **9-2-2206**, Utah Code Annotated 1953

45 **9-2-2207**, Utah Code Annotated 1953



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

48 Section 1. Section **9-2-2009** is amended to read:

49 **9-2-2009. Establishment of the Economic Incentive Restricted Account.**

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

52 (2) The account shall be used to make payments as required under [~~Section~~] Sections
53 9-2-2006 and 9-2-2205.

54 (3) (a) The Division of Finance shall transfer from the General Fund the amount
55 estimated by the department from new state revenues needed to make the partial rebates as
56 allowed in [~~Section~~] Sections 9-2-2006 and 9-2-2205.

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

59 (4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving a
60 request for payment, in accordance with Subsection 9-2-2006(2) or 9-2-2205(2), the Division
61 of Finance shall pay the partial rebates as allowed in Section 9-2-2006 or 9-2-2205, from the
62 account.

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

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

68 (A) sales tax;

69 (B) income tax; and

70 (C) corporate franchise and income tax; and

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

73 (A) sales tax;

74 (B) income tax; and

75 (C) corporate franchise and income tax.

76 (b) The department shall update the estimates required by Subsections (5)(a)(i) and (ii)
77 within 30 days of the signing of each new agreement entered into under this part or Title 9,
78 Chapter 2, Part 22, Economic Development Incentives Act.

79 Section 2. Section **9-2-2201** is enacted to read:

80 **Part 22. Economic Development Incentives Act**

81 **9-2-2201. Title.**

82 This part is known as the "Economic Development Incentives Act."

83 Section 3. Section **9-2-2202** is enacted to read:

84 **9-2-2202. Findings.**

85 (1) The Legislature finds that:

86 (a) to foster and develop industry in Utah is a public purpose necessary to assure
87 adequate employment for, and the welfare of, Utah's citizens and the growth of the state's
88 economy;

89 (b) Utah loses prospective high paying jobs, economic impacts, and corresponding

90 incremental new state and local revenues to competing states because of a wide variety of
 91 competing economic incentives offered by those states; and

92 (c) economic development initiatives and interests of state and local economic
 93 development officials should be aligned and united in the creation of higher paying jobs that
 94 will lift the wage levels of the communities in which those jobs will be created.

95 (2) This part is enacted to:

96 (a) address the loss of new economic growth in Utah and the corresponding loss of
 97 incremental new state and local revenues by providing tax incremental financial incentives to
 98 attract new commercial projects in economic development zones in the state; and

99 (b) provide a cooperative and unified working relationship between state and local
 100 economic development efforts.

101 Section 4. Section **9-2-2203** is enacted to read:

102 **9-2-2203. Definitions.**

103 As used in this part:

104 (1) "Department" means the Department of Community and Economic Development.

105 (2) "Development zone" means an economic development zone created under Section
 106 9-2-2204

107 (3) "High paying jobs" means the annual wages of employment positions that compare
 108 favorably against the median wage of a community in which the jobs will exist.

109 ~~§~~ → [(4) **"Indirect revenues" means the imputed use of a generally accepted indirect**
 110 **economic multiplier as defined by a fiscal impact model approved by the Governor's Office of**
 111 **Planning and Budget to quantify by estimate the indirect tax revenues that are in addition to**
 112 **direct tax revenues;**

113 ~~—(5)] (4) ←~~§~~ "Local incentives" means financial and other assistance provided by local taxing~~
 114 authorities within a development zone, which may include:

115 (a) partial rebates of new local revenues; and

116 (b) other sources of funds under authority of state law or local ordinances, or both state
 117 law and local ordinances.

118 ~~§~~ → [(6) (5) ←~~§~~ "New incremental jobs" means jobs that are:

119 (a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and

120 (b) created in addition to the baseline count of jobs already in existence within a

121 company or employed by an individual.

122 ~~§~~ → [(7)] (6) ← ~~§~~ "New local revenues" mean incremental new local tax revenues that are
122a generated

123 as a result of new economic commercial projects in a development zone, to include the local
124 government's portion of sales taxes, property taxes, impact fees, and other taxes or fees, or both
125 taxes and fees, derived from the projects, ~~§~~ → [together with indirect local government revenues
126 generated by the projects.] ← ~~§~~ but not to include any portion of sales taxes earmarked for state
127 government or other taxing jurisdictions eligible for sales tax revenues.

128 ~~§~~ → [(8)] (7) ← ~~§~~ "New state revenues" means incremental new state tax revenues that are
128a generated

129 as a result of new economic commercial projects in a developmental zone, to include the state's
130 portion of sales taxes, and company and employee income taxes derived from the projects,
131 ~~§~~ → [together with indirect state revenues generated by the projects.] ← ~~§~~ but not to include any
131a portion of
132 sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax
133 revenues.

134 ~~§~~ → [(9)] (8) ← ~~§~~ "Partial rebates" means returning a portion of the new local revenues and
134a new state
135 revenues generated by new commercial projects to companies or individuals that have created
136 new economic growth within a development zone.

137 Section 5. Section **9-2-2204** is enacted to read:

138 **9-2-2204. Creation of economic development zones -- Incentives.**

139 (1) The department, with approval by the board, may create an economic development
140 zone in the state that satisfies all of the following requirements:

141 (a) the area is zoned commercial, industrial, manufacturing, business park, research
142 park, or other appropriate use in a community approved master plan; and

143 (b) the request to create a development zone has been forwarded to the department
144 after first being approved by an appropriate local government entity that has committed or will
145 commit to provide local incentives.

146 (2) The department, with the approval of the board, may enter into agreements
147 providing for partial rebates of new state revenues generated by new commercial projects to
148 companies or individuals that create new economic growth within a development zone under
149 the same restrictions and limitations as provided in Section 9-2-2004.

149a **§→ (b) The limitations and restrictions applied to partial rebates of new state revenues in**

149b **Section 9-2-2004 also apply to partial rebates of new local revenues under this part. ←§**

150 Section 6. Section **9-2-2205** is enacted to read:

151 **9-2-2205. Qualifications for rebates -- Payment procedure.**

152 (1) The board shall set standards to qualify for partial rebates under this part, subject to
 153 the following:

154 (a) the qualification criteria established in Subsections 9-2-2005(1), (2), (3), (4) and
 155 (6); and

156 (b) only projects that include significant capital investment, the creation of high paying
 157 jobs, or significant purchases from Utah vendors and providers, or any combination of these
 158 three economic factors, as defined by board rule made in accordance with Title 63, Chapter
 159 46a, Utah Administrative Rulemaking Act, are eligible for partial rebates.

160 (2) A payment of partial rebates of new state revenues shall be made in accordance
 161 with procedures adopted by the department and approved by the board, to include the payment
 162 procedures described in Section 9-2-2006 as applied to partial rebates authorized under this
 163 part.

164 Section 7. Section **9-2-2206** is enacted to read:

165 **9-2-2206. Department's authority -- Report to Legislature.**

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

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

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

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

171 (2) In reviewing claims for partial rebates of new state revenues, the department may
 172 accept the same type of information and evidence allowed under Subsections 9-2-2007(2)(a)
 173 and (b).

174 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 175 board may make, amend, and ~~H→~~ [revoke] repeal ~~←H~~ rules regarding a development zone
 175a and partial rebates
 176 offered within it, provided the rules are consistent with state and federal law.

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

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

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

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

185 (b) The department shall make the report prior to the 2006 General Session of the
186 Legislature to enable the committee to determine whether this part should be modified during
187 the 2006 General Session.

188 Section 8. Section **9-2-2207** is enacted to read:

189 **9-2-2207. Coordination with the Industrial Assistance Fund.**

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

Legislative Review Note
as of 12-7-04 8:42 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-07-04 1:56 PM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

Mixed Membership Committee Note
as of 12-07-04 1:56 PM

The Utah Technology Commission recommended this bill.

Membership:	8 legislators	5 non-legislators	
Legislative Vote:	4 voting for	0 voting against	4 absent

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 st

Individual and Business Impact

Passage of this bill could encourage business to come to the state as a result of the incremental tax provisions in the bill.

Office of the Legislative Fiscal Analyst