

**ECONOMIC DEVELOPMENT INCENTIVES**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

Senate Sponsor: Sheldon L. Killpack

David N. Cox  
Steven R. Mascaro

Karen W. Morgan  
LaWanna Lou Shurtliff

Peggy Wallace

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ provides tax incremental financial incentives to attract new commercial projects in economic development zones;
- ▶ provides definitions related to the creation of economic development zones and tax incentives for establishing new commercial projects in those zones;
- ▶ provides requirements for the establishment of economic development zones;
- ▶ allows the Department of Community and Economic Development to enter into agreements providing for partial rebates of new state revenues generated by new commercial projects within an economic development zone;
  - ▶ provides qualification criteria for partial rebates and establishes payment procedures;
  - ▶ provides that projects qualifying for partial rebates under the Economic Development Incentives Act are ineligible for additional financial assistance from the Industrial Assistance Fund; and
  - ▶ provides for a report to the Legislature's Workforce Services and Community and

Economic Development Interim Committee on the success of the program and its economic impact on the state.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

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

**ENACTS:**

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

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

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

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

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

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

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

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

Section 1. Section **9-2-2009** is amended 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~~] Sections 9-2-2006 and 9-2-2205.

(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~~] Sections 9-2-2006 and 9-2-2205.

(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) or 9-2-2205(2), the Division of Finance shall pay the partial rebates as allowed in Section 9-2-2006 or 9-2-2205, 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 or Title 9, Chapter 2, Part 22, Economic Development Incentives Act.

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

**Part 22. Economic Development Incentives Act**

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

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

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

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

(1) The Legislature finds that:

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

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

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

(2) This part is enacted to:

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

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

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

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

As used in this part:

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

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

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

(4) "Local incentives" means financial and other assistance provided by local taxing authorities within a development zone, which may include:

(a) partial rebates of new local revenues; and

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

law and local ordinances.

(5) "New incremental jobs" means jobs that are:

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

(b) created in addition to the baseline count of jobs already in existence within a company or employed by an individual.

(6) "New local revenues" mean incremental new local tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the local government's portion of sales taxes, property taxes, impact fees, and other taxes or fees, or both taxes and fees, derived from the projects, but not to include any portion of sales taxes earmarked for state government or other taxing jurisdictions eligible for sales tax revenues.

(7) "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, but not to include any portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax revenues.

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

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

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

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

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

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

(2) (a) 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 a development zone under the same restrictions and limitations as provided in Section 9-2-2004.

(b) The limitations and restrictions applied to partial rebates of new state revenues in Section 9-2-2004 also apply to partial rebates of new local revenues under this part.

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

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

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

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

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

(2) A 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 payment procedures described in Section 9-2-2006 as applied to partial rebates authorized under this part.

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

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

(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 an agreement entered into under this part.

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

(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board may make, amend, and repeal rules regarding a 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 Services 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 report prior to the 2006 General Session of the Legislature to enable the committee to determine whether this part should be modified during the 2006 General Session.

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

**9-2-2207. Coordination with the 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.