AVIATION AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends provisions in the Property Tax Act and the Uniform Aeronautical Regulatory Act relating to the taxation and registration of aircraft.

Highlighted Provisions:

This bill:

- amends the uniform fees for certain aircraft;
- amends the registration fee for certain aircraft to 0.4% of the average wholesale Aircraft Bluebook Price Digest market value;
- exempts certain aircraft without an airworthiness certificate from registration requirements;
- provides a $100 registration fee for:
  - aircraft not listed in the Aviation Bluebook Digest;
  - aircraft 50 years of age or older;
  - experimental aircraft; and
  - antique aircraft;
- requires the Tax Commission to issue a registration card to an owner of an aircraft in compliance with the registration requirements;
- requires an owner of registered aircraft to carry a registration card in the owner's aircraft;
- requires the Tax Commission to register aircraft and collect certain fees;
- requires the Utah Division of Aeronautics to maintain a statewide database of aircraft based in the state;
requires that an airport owner provide a list of all aircraft based at the owner's airport to the Utah Division of Aeronautics; and

makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.

Utah Code Sections Affected:

AMENDS:

59-2-404, as last amended by Laws of Utah 1999, Chapter 181
72-10-102, as last amended by Laws of Utah 2003, Chapter 183
72-10-110, as last amended by Laws of Utah 1999, Chapter 181
72-10-116, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and amended by Laws of Utah 1998, Chapter 270

REPEALS:

72-10-111, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

Section 1. Section 59-2-404 is amended to read:

59-2-404. Uniform fee on aircraft -- Collection of fee by commission -- Distribution of fees.

[(†) There is levied in lieu of the ad valorem tax a uniform fee on aircraft required to be registered with the state in an amount equal to the following percent of the average wholesale market value of the aircraft as established by the commission:]

[(a) for aerial applicators as defined in Section 59-2-102 as follows:]  

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Uniform Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>0.4%</td>
</tr>
<tr>
<td>2001</td>
<td>0.3%</td>
</tr>
</tbody>
</table>
[(b) for all other aircraft required to be registered with the state as follows:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Uniform Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>0.8%</td>
</tr>
<tr>
<td>2001</td>
<td>0.6%</td>
</tr>
<tr>
<td>2002 and all subsequent years</td>
<td>0.4%</td>
</tr>
</tbody>
</table>

(1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2009, an aircraft, required to be registered with the state is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee of $25.

(2) (a) The uniform fee shall be collected by the [counties] commission with the registration fee and distributed to the [taxing districts in accordance with Article XIII, Sec. 14, Utah Constitution] county in which the aircraft is based.

(b) A based aircraft is an aircraft which is hangared, tied down, or parked at the airport for a plurality of the year.

(3) (a) The uniform fees received by a county under Subsection (2) shall be distributed to each taxing entity within the county in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (3)(a) that receives revenues from the uniform fee imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(4) The commission shall promulgate rules to implement this section.

Section 2. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.
(2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(3) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

(a) compensation or other reward;
(b) advertising the occupation;
(c) calling his facilities an air school, or any equivalent term; or
(d) employing or using other instructors.

(4) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(5) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(6) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;
(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo; and
(c) meets the minimum requirements established by the division as to size and design, surface, marking, equipment, and operation.

(7) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(8) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(9) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(10) "Antique aircraft" means a civil aircraft that is:
[(a) 30 years old or older, calculated as to include the current year;]
[(b) primarily a collector’s item and used solely for recreational or display purposes;]
[(c) not used for daily or regular transportation; and]
[(d) not used for commercial operations.]

[(11)] "Civil aircraft" means any aircraft other than a public aircraft.
[(12)] "Commercial aircraft" means aircraft used for commercial purposes.
[(13)] "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.
[(14)] "Commercial flight operator" means a person who conducts commercial operations.
[(15)] "Commercial operations" means:
(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or
(b) the brokering or selling of any of these services; but
(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.
[(16)] "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.
[(17)] "Division" means the Operations Division in the Department of Transportation, created in Section 72-1-204.
[(18)] "Experimental aircraft" means:
(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or
functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(1) being custom or amateur built; and

(2) used for recreational, educational, or display purposes.

(18) "Flight" means any kind of locomotion by aircraft while in the air.

(19) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

(20) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

(21) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

(22) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

(23) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

(24) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

(25) "Person" means any individual, corporation, limited liability company, or association of individuals.

(26) "Pilot" means any person who operates the controls of an aircraft while in-flight.

(27) "Primary glider" means any glider that has a gliding angle of less than ten to one.

(28) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for
"Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

"Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

"Secondary glider" means any glider that has a gliding angle between ten to one and 16 to one, inclusive.

"Soaring glider" means any glider that has a gliding angle of more than 16 to one.

Section 3. Section 72-10-110 is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration[, including under Section 72-10-111,] shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in [Section 72-10-111] Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee [shall be paid as follows:] of 0.4% of the average wholesale value of the aircraft shall be paid.
[(i) $25 for each balloon, glider, ultralight, helicopter, or propeller driven aircraft;]

[(ii) $5,000 for each jet aircraft with a maximum gross takeoff weight under 20,000 lbs.; and]

[(iii) $10,000 for each jet aircraft with a maximum gross takeoff weight of 20,000 lbs. or more.]

(b) For purposes of calculating the value of the aircraft under Subsection (2)(a), the Tax Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(3) Notwithstanding Subsection (2): 

(a) the following aircraft shall pay an annual registration fee of $100: 

(i) an aircraft not listed in the Aircraft Bluebook Price Digest; or

(ii) an experimental aircraft.

(b) An aircraft 50 years or older shall pay the lesser of: 

(i) $100; or

(ii) the uniform fee provided for under Subsection (2)(a); and

(c) an aircraft that does not have a valid airworthiness certificate for a period of six months or more: 

(i) may not apply for a certificate of registration required under Section 72-10-109; and 

(ii) is exempt from paying a registration fee until the aircraft has a valid airworthiness certificate.

(4) (a) The Tax Commission shall provide a registration card to an owner of an aircraft if: 

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the Tax Commission to be distributed as provided in Subsection [(2)(e)] (6).
(c) (6) (a) After deducting the costs of administering all aircraft registrations under this chapter, the Tax Commission shall deposit all remaining aircraft registration fees in the Transportation Fund's Restricted Revenue Account for aeronautical operations of the Department of Transportation to be used as provided in Subsection 59-13-402(2).

(b) All interest earned on monies in the Transportation Fund's Restricted Revenue Account shall be deposited into the Transportation Fund's Restricted Revenue Account for aeronautical operations.

(d) (7) Aircraft which are registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) The Utah Division of Aeronautics shall maintain a statewide database of all aircraft based within the state.

(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the Tax Commission with the data the Tax Commission requires from the database described in Subsection (8)(a).

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (8)(a).

(9) The Tax Commission may suspend or revoke a registration if it determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 4. Section 72-10-116 is amended to read:

72-10-116. Airport license required -- Issuance by division -- Restrictions on use of lands or waters of another -- Annual fee.

(1) For purposes of this section, aircraft based at the owner's airport means an aircraft which is hangared, tied down, or parked at an owner's airport for a plurality of the year.

[(+)] (2) (a) An airport open to public use may not be used or operated unless it is duly licensed by the division.

(b) [Any] A person who owns or operates an airport open to public use shall file an application with the division for a license for the facility.
(c) Semi-annually, an owner or operator described in Subsection (2)(b) shall provide a list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.

[(2)] (3) (a) A license shall be granted whenever it is reasonably necessary for the accommodation and convenience of the public and may be granted in other cases in the discretion of the division.

(b) The division may not issue a license if the division finds that the facility is not constructed, equipped, and operated in accordance with the standards set by the department.

[(3)] (4) (a) The landing or taking off of aircraft on or from the lands or waters of another without consent is unlawful, except in the case of a forced landing.

(b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft, operator, or any of them is liable.

[(4)] (5) (a) A student pilot may not land on any area without the knowledge of the operator, instructor, or school from which the student is flying.

(b) The use of private landing fields must not impose a hazard upon the person or property of others.

[(5)] (6) A certificate of registration is not required of, and the rules made under this title do not apply to an airport owned or operated by the government of the United States.

[(6)] (7) The division, with the approval of the commission, may charge a fee determined by the division pursuant to Section 63-38-3.2 for the issuance of an annual airport license.

Section 5. **Repealer.**

This bill repeals:

Section **72-10-111, Registration of antique or experimental aircraft.**

Section 6. **Effective date.**

This bill takes effect on January 1, 2009.