

1 AVIATION AMENDMENTS

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 Senate Sponsor: Wayne L. Niederhauser

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the uniform fees for certain aircraft;
- 14 ▶ amends the registration fee for certain aircraft to 0.4% of the average wholesale
15 Aircraft Bluebook Price Digest market value;
- 16 ▶ exempts certain aircraft without an airworthiness certificate from registration
17 requirements;
- 18 ▶ provides a \$100 registration fee for:
 - 19 • aircraft not listed in the Aviation Bluebook Digest;
 - 20 • aircraft 50 years of age or older;
 - 21 • experimental aircraft; and
 - 22 • antique aircraft;
- 23 ▶ requires the Tax Commission to issue a registration card to an owner of an aircraft in
24 compliance with the registration requirements;
- 25 ▶ requires an owner of registered aircraft to carry a registration card in the owner's
26 aircraft;
- 27 ▶ requires the Tax Commission to register aircraft and collect certain fees;
- 28 ▶ requires the Utah Division of Aeronautics to maintain a statewide database of
29 aircraft based in the state;

- 30 ▶ requires that an airport owner provide a list of all aircraft based at the owner's
- 31 airport to the Utah Division of Aeronautics; and
- 32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill takes effect on January 1, 2009.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **59-2-404**, as last amended by Laws of Utah 1999, Chapter 181
- 40 **72-10-102**, as last amended by Laws of Utah 2003, Chapter 183
- 41 **72-10-110**, as last amended by Laws of Utah 1999, Chapter 181
- 42 **72-10-116**, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and
- 43 amended by Laws of Utah 1998, Chapter 270

44 REPEALS:

- 45 **72-10-111**, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

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

49 **59-2-404. Uniform fee on aircraft -- Collection of fee by commission --**

50 **Distribution of fees.**

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

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

55 [Calendar Year	Uniform Fee]
56 [2000	0.4%]
57 [2001	0.3%]

58 [2002 and all subsequent years] 0.2%; and]

59 [(b) for all other aircraft required to be registered with the state as follows:]

60 [Calendar Year] Uniform Fee]

61 [2000] 0.8%]

62 [2001] 0.6%]

63 [2002 and all subsequent years] 0.4%.]

64 (1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),

65 beginning on January 1, 2009, an aircraft, required to be registered with the state is:

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

67 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee of
68 \$25.

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

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

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

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

80 [~~3~~] (4) The commission shall promulgate rules to implement this section.

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

82 **72-10-102. Definitions.**

83 As used in this chapter:

84 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air
85 navigation.

86 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
87 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or
88 other air navigation facilities.

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

91 (a) compensation or other reward;

92 (b) advertising the occupation;

93 (c) calling his facilities an air school, or any equivalent term; or

94 (d) employing or using other instructors.

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

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

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

100 (a) is used or is made available for landing and takeoff;

101 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
102 passengers and cargo; and

103 (c) meets the minimum requirements established by the division as to size and design,
104 surface, marking, equipment, and operation.

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

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

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

113 [~~(10) "Antique aircraft" means a civil aircraft that is:~~]

114 ~~[(a) 30 years old or older, calculated as to include the current year;]~~
115 ~~[(b) primarily a collector's item and used solely for recreational or display purposes;]~~
116 ~~[(c) not used for daily or regular transportation; and]~~
117 ~~[(d) not used for commercial operations.]~~
118 ~~[(H)]~~ (10) "Civil aircraft" means any aircraft other than a public aircraft.
119 ~~[(I)]~~ (11) "Commercial aircraft" means aircraft used for commercial purposes.
120 ~~[(J)]~~ (12) "Commercial airport" means a landing area, landing strip, or airport that
121 may be used for commercial operations.
122 ~~[(K)]~~ (13) "Commercial flight operator" means a person who conducts commercial
123 operations.
124 ~~[(L)]~~ (14) "Commercial operations" means:
125 (a) any operations of an aircraft for compensation or hire or any services performed
126 incidental to the operation of any aircraft for which a fee is charged or compensation is
127 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
128 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
129 distribution of chemicals or other substances, and the operation of aircraft for hunting and
130 fishing; or
131 (b) the brokering or selling of any of these services; but
132 (c) does not include any operations of aircraft as common carriers certificated by the
133 federal government or the services incidental to those operations.
134 ~~[(M)]~~ (15) "Dealer" means any person who is actively engaged in the business of flying
135 for demonstration purposes, or selling or exchanging aircraft, and who has an established place
136 of business.
137 ~~[(N)]~~ (16) "Division" means the Operations Division in the Department of
138 Transportation, created in Section 72-1-204.
139 ~~[(O)]~~ (17) "Experimental aircraft" means:
140 (a) any aircraft designated by the Federal Aviation Administration or the military as
141 experimental and used solely for the purpose of experiments, or tests regarding the structure or

142 functioning of aircraft, engines, or their accessories; and

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

144 (i) being custom or amateur built; and

145 (ii) used for recreational, educational, or display purposes.

146 [~~(19)~~] (18) "Flight" means any kind of locomotion by aircraft while in the air.

147 [~~(20)~~] (19) "Flying club" means five or more persons who for neither profit nor reward
148 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

149 [~~(21)~~] (20) "Glider" means an aircraft heavier than air, similar to an airplane, but
150 without a power plant.

151 [~~(22)~~] (21) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
152 overhauls aircraft, engines, or accessories.

153 [~~(23)~~] (22) "Parachute jumper" means any person who has passed the required test for
154 jumping with a parachute from an aircraft, and has passed an examination showing that he
155 possesses the required physical and mental qualifications for the jumping.

156 [~~(24)~~] (23) "Parachute rigger" means any person who has passed the required test for
157 packing, repairing, and maintaining parachutes.

158 [~~(25)~~] (24) "Passenger aircraft" means aircraft used for transporting persons, in addition
159 to the pilot or crew, with or without their necessary personal belongings.

160 [~~(26)~~] (25) "Person" means any individual, corporation, limited liability company, or
161 association of individuals.

162 [~~(27)~~] (26) "Pilot" means any person who operates the controls of an aircraft while
163 in-flight.

164 [~~(28)~~] (27) "Primary glider" means any glider that has a gliding angle of less than ten to
165 one.

166 [~~(29)~~] (28) "Public aircraft" means an aircraft used exclusively in the service of any
167 government or of any political subdivision, including the government of the United States, of
168 the District of Columbia, and of any state, territory, or insular possession of the United States,
169 but not including any government-owned aircraft engaged in carrying persons or goods for

170 commercial purposes.

171 ~~[(30)]~~ (29) "Reckless flying" means the operation or piloting of any aircraft recklessly,
172 or in a manner as to endanger the property, life, or body of any person, due regard being given
173 to the prevailing weather conditions, field conditions, and to the territory being flown over.

174 ~~[(31)]~~ (30) "Registration number" means the number assigned by the Federal Aviation
175 Administration to any aircraft, whether or not the number includes a letter or letters.

176 ~~[(32)]~~ (31) "Secondary glider" means any glider that has a gliding angle between ten to
177 one and 16 to one, inclusive.

178 ~~[(33)]~~ (32) "Soaring glider" means any glider that has a gliding angle of more than 16 to
179 one.

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

181 **72-10-110. Aircraft registration information requirements -- Registration fee --**
182 **Administration -- Partial year registration.**

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

185 (a) a description of the aircraft, including:

186 (i) the manufacturer or builder;

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

190 (iii) gross weight;

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

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

194 (2) (a) Except as provided in ~~[Section 72-10-111]~~ Subsection (3), at the time
195 application is made for registration or renewal of registration of an aircraft under this chapter,
196 an annual registration fee ~~[shall be paid as follows:]~~ of 0.4% of the average wholesale value of
197 the aircraft shall be paid.

198 ~~[(i) \$25 for each balloon, glider, ultralight, helicopter, or propellor driven aircraft;]~~

199 ~~[(ii) \$5,000 for each jet aircraft with a maximum gross takeoff weight under 20,000~~

200 ~~lbs.; and]~~

201 ~~[(iii) \$10,000 for each jet aircraft with a maximum gross takeoff weight of 20,000 lbs.~~

202 ~~or more.]~~

203 (b) For purposes of calculating the value of the aircraft under Subsection (2)(a), the Tax

204 Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price

205 Digest.

206 (3) Notwithstanding Subsection (2):

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

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

209 (ii) an experimental aircraft.

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

211 (i) \$100; or

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

213 (c) an aircraft that does not have a valid airworthiness certificate for a period of six

214 months or more:

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

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

217 certificate.

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

219 if:

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

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

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

223 ~~[(b)]~~ (5) The registration fees assessed under this chapter shall be collected by the

224 ~~[county and remitted to the]~~ Tax Commission to be distributed as provided in Subsection

225 ~~[(2)(c)]~~ (6).

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

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

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

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

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

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

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

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

246 **72-10-116. Airport license required -- Issuance by division -- Restrictions on use**
 247 **of lands or waters of another -- Annual fee.**

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

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

252 (b) ~~Any~~ A person who owns or operates an airport open to public use shall file an
 253 application with the division for a license for the facility.

254 (c) Semi-annually, an owner or operator described in Subsection (2)(b) shall provide a
255 list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.

256 [~~2~~] (3) (a) A license shall be granted whenever it is reasonably necessary for the
257 accommodation and convenience of the public and may be granted in other cases in the
258 discretion of the division.

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

261 [~~3~~] (4) (a) The landing or taking off of aircraft on or from the lands or waters of
262 another without consent is unlawful, except in the case of a forced landing.

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

265 [~~4~~] (5) (a) A student pilot may not land on any area without the knowledge of the
266 operator, instructor, or school from which the student is flying.

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

269 [~~5~~] (6) A certificate of registration is not required of, and the rules made under this
270 title do not apply to an airport owned or operated by the government of the United States.

271 [~~6~~] (7) The division, with the approval of the commission, may charge a fee
272 determined by the division pursuant to Section 63-38-3.2 for the issuance of an annual airport
273 license.

274 **Section 5. Repealer.**

275 This bill repeals:

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

277 **Section 6. Effective date.**

278 This bill takes effect on January 1, 2009.