

**PROPERTY TAX - EXEMPTION FROM  
ROLLBACK TAX AND IN LIEU FEES**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

AN ACT RELATING TO THE PROPERTY TAX ACT; PROVIDING DEFINITIONS;  
PROVIDING THAT CERTAIN ACQUISITIONS OF PROPERTY BY A COUNTY, CITY, OR  
TOWN ARE NOT SUBJECT TO THE ROLLBACK TAX OR IN LIEU FEES UNDER THE  
FARMLAND ASSESSMENT ACT; ~~h [PROVIDING]~~ **CLARIFYING** h THAT A DEDICATION OF  
A PUBLIC  
RIGHT-OF-WAY TO A GOVERNMENTAL ENTITY IS ~~h [NOT]~~ h SUBJECT TO THE  
ROLLBACK  
TAX ~~h [OR IN LIEU FEES UNDER THE FARMLAND ASSESSMENT ACT]~~ h ; CLARIFYING  
THE  
APPLICATION OF THE ROLLBACK TAX AND IN LIEU FEES UNDER THE FARMLAND  
ASSESSMENT ACT; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**59-2-511**, as last amended by Chapter 260, Laws of Utah 1990

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

Section 1. Section **59-2-511** is amended to read:

**59-2-511. Acquisition of farmland by government agency -- Requirements.**

~~[(1) The acquisition by a government agency of land which is being valued, assessed, and  
taxed under this part, if there is a change in use, subjects the land so acquired to the rollback tax  
imposed by this part, unless:]~~

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

- 28           (ii) a city;
- 29           (iii) a town;
- 30           (iv) a school district; or
- 31           (v) a special district; or
- 32           (d) an entity created by the state or the United States, including:
- 33           (i) an agency;
- 34           (ii) a board;
- 35           (iii) a bureau;
- 36           (iv) a commission;
- 37           (v) a committee;
- 38           (vi) a department;
- 39           (vii) a division;
- 40           (viii) an institution;
- 41           (ix) an instrumentality; or
- 42           (x) an office.
- 43           (2) (a) Except as provided in Subsections (3) through (5), property acquired by a
- 44 governmental entity is subject to the rollback tax imposed by this part if:
- 45           (i) prior to the governmental entity acquiring the property, the property is:
- 46           (A) valued under this part;
- 47           (B) assessed under this part; and
- 48           (C) taxed under this part; and
- 49           (ii) after the governmental entity acquires the property, the property is not actively devoted
- 50 to agricultural use.
- 51           (b) If property is subject to the rollback tax under Subsection (2)(a):
- 52           (i) the owner of record shall pay the rollback tax imposed by this part before title may pass;
- 53 and
- 54           (ii) prior to the governmental entity acquiring the property, the governmental entity shall:
- 55           (A) provide notice of the sale to the county assessor of the county in which the property
- 56 is located; and
- 57           (B) receive a clearance from the county assessor of the county in which the property is
- 58 located stating that:

59 (I) rollback taxes have been paid; or

60 (II) the property is not subject to rollback taxes imposed by this part.

61 (c) A dedication of a public right-of-way to a governmental entity is subject to the rollback  
62 tax.

63 (3) (a) Except as provided in Subsections (4) ~~h~~ ~~through (6)~~ AND (5) ~~h~~ , property acquired  
63a by a

64 governmental entity is not subject to the rollback tax imposed by this part, but is subject to a  
65 one-time in lieu fee payment as provided in Subsection (3)(b), if:

66 [(a)] (i) the [land acquisition is] governmental entity acquires the property by eminent  
67 domain;

68 [(b)] (ii) (A) the [land] property is under the threat or imminence of eminent domain  
69 proceedings; and

70 (B) the governmental entity provides written notice of the proceedings to the owner of  
71 record [is notified in writing of the proceedings]; or

72 [(c) the land] (iii) the property is donated to [a] the governmental entity[, but excluding  
73 dedications of public rights-of-way].

74 [(2) The tax shall be paid by the owner of record before title may pass. Prior to payment  
75 by the acquiring agency, it shall notify the county assessor of the county in which the property is  
76 located of the sale and receive a clearance from the assessor that rollback taxes have been paid or  
77 that the property is not subject to the assessment.]

78 [(3) If land is acquired pursuant to Subsection (1)(a), (b), or (c), the acquiring government  
79 agency shall make a one-time in lieu fee payment to the taxing entity entitled to the rollback tax  
80 in the amount of the rollback tax due and payable.]

81 (b) (i) If a governmental entity acquires property under Subsection (3)(a), the governmental  
82 entity shall make a one-time in lieu fee payment:

83 (A) to the county assessor of the county in which the property is located; and

84 (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

85 (ii) A county receiving an in lieu fee payment under Subsection (3)(b)(i) shall distribute  
86 the revenues generated by the payment:

87 (A) to the taxing entities in which the property is located; and

88 (B) in the same proportion as the revenue from real property taxes is distributed.

89 (4) (a) If a county, city, or town acquires property that is to be used for a conservation

90 purpose described in Section 170(h), Internal Revenue Code:

91 (i) the property is not subject to the rollback tax imposed by this part; and

92 (ii) the county, city, or town acquiring the property is not required to make an in lieu fee  
93 payment under Subsection (3)(b).

94 (b) Subsection (4)(a) applies regardless of whether:

95 (i) the county, city, or town acquires the property by eminent domain; or

96 (ii) (A) the property is under the threat or imminence of eminent domain proceedings; and

97 (B) the county, city, or town provides written notice of the proceedings to the owner of  
98 record.

98a h (c) PROPERTY ACQUIRED BY A COUNTY, CITY, OR TOWN UNDER THIS SUBSECTION (4)  
IS

98b SUBJECT TO THE ROLLBACK TAX IMPOSED BY THIS PART IF THE COUNTY, CITY, OR TOWN DOES  
98c NOT USE THE PROPERTY FOR A CONSERVATION PURPOSE DESCRIBED IN SECTION 170(h),  
98d INTERNAL REVENUE CODE. h

99 (5) h [If] EXCEPT AS PROVIDED IN SECTION 59-2-506, IF h a governmental entity acquires  
99a property and converts the property into a conservation  
100 easement under Section 59-2-506:

101 (a) the property is not subject to the rollback tax imposed by this part; and

102 (b) the governmental entity acquiring the property is not required to make an in lieu fee  
103 payment under Subsection (3)(b).

**Legislative Review Note**  
**as of 1-25-99 3:11 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**