

IN LIEU FEE ON AIRPLANES

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO THE PROPERTY TAX ACT; REPLACING THE UNIFORM TAX ON AIRCRAFT REQUIRED TO BE REGISTERED WITH THE STATE WITH A STATEWIDE UNIFORM ANNUAL FEE; PROVIDING FOR THE COLLECTION OF THE UNIFORM FEE AND THE DISTRIBUTION OF REVENUES FROM THE UNIFORM FEE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

59-2-404, as last amended by Chapter 223, Laws of Utah 1992

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 county -- Distribution of fees -- Rules to implement section.

(1) There is levied in lieu of the ad valorem tax [~~a uniform tax~~] an annual statewide 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~~] as follows:

~~[(a) 1/2% for aerial applicators as defined in Section 59-2-102; and]~~

~~[(b) 1% for all other aircraft required to be registered with the state.]~~

<u>Weight/Type of Aircraft</u>	<u>Uniform Fee</u>
<u>Aircraft Weighing 12,500 lbs. or less</u>	
<u>Balloon, glider, ultralight, or</u>	
<u>single-engine, piston-driven</u>	<u>\$125</u>
<u>Multiengine, piston-driven</u>	<u>\$250</u>

28	<u>Single-engine, jet or turboprop</u>	<u>\$250</u>
29	<u>Multiengine, jet or turboprop</u>	<u>\$500</u>
30	<u>Aircraft Weighing More Than 12,500 lbs</u>	<u>\$1,000</u>

31 (2) The uniform [tax] fee shall be collected by the counties with the registration fee [and
32 ~~distributed to the taxing districts in accordance with Article XIII, Sec. 14, Utah Constitution~~].

33 (3) (a) The revenues collected in each county from the uniform fee shall be distributed by
34 the county to each taxing entity in which the aircraft is located in the same proportion in which
35 revenue collected from ad valorem real property tax is distributed.

36 (b) Each taxing entity shall distribute the revenues received under Subsection (3)(a) in the
37 same proportion in which revenue collected from ad valorem real property tax is distributed.

38 [(3)] (4) The commission shall promulgate rules in accordance with Title 63, Chapter 46a,
39 Utah Administrative Rulemaking Act, to implement this section.

40 Section 2. **Effective date.**

41 This act takes effect on January 1, 2000.

Legislative Review Note

as of 1-14-99 5:59 PM

This legislation raises the following constitutional or statutory concerns:

Utah Constitution Article XIII, Section 14 provides that if the Legislature exempts certain "tangible personal property . . . required by law to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air . . . it shall provide for uniform statewide fees or uniform statewide rates of assessment or levy in lieu of the tax on such property." For purposes of imposing the uniform fee authorized under Utah Constitution Article XIII, Section 14, this legislation creates various classes of property. The various classes of property are subject to flat annual fees in differing amounts. Utah courts have not yet ruled on the issue of whether a fee that is imposed at different rates based on the classification of property meets the uniformity requirement of Utah Constitution Article XIII, Section 14. A limited legal review of this issue suggests that it is unclear whether a court would find that the classifications and differential rates provided for in this legislation meet the constitutional uniformity requirement.

Office of Legislative Research and General Counsel