

RECYCLING MARKET DEVELOPMENT ZONE TAX CREDIT

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the carry forward provisions of the recycling market development zone income tax credits.

Highlighted Provisions:

This bill:

- ▶ modifies the carry forward provisions of the recycling market development zone income tax credits by:
 - allowing a carry forward for the amount of the credit that the claimant did not use during the taxable year; and
 - limiting the carry forward to the credit allowed for purchases of machinery and equipment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-610, as last amended by Laws of Utah 2019, Chapter 247

59-10-1002, as last amended by Laws of Utah 2006, Fourth Special Session, Chapter 2

59-10-1007, as last amended by Laws of Utah 2019, Chapter 247

30 **63I-1-263**, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468,
31 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter
32 246

33

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

35 Section 1. Section **59-7-610** is amended to read:

36 **59-7-610. Recycling market development zones tax credits.**

37 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
38 a recycling market development zone as defined in Section **63N-2-402** may claim the following
39 nonrefundable tax credits:

40 (a) a tax credit of 5% of the purchase price paid for machinery and equipment used
41 directly in:

42 (i) commercial composting; or

43 (ii) manufacturing facilities or plant units that:

44 (A) manufacture, process, compound, or produce recycled items of tangible personal
45 property for sale; or

46 (B) reduce or reuse postconsumer waste material; and

47 (b) a tax credit equal to the lesser of:

48 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
49 inventory, and utilities made by the taxpayer for establishing and operating recycling or
50 composting technology in Utah; and

51 (ii) \$2,000.

52 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
53 from the Governor's Office of Economic Development a written certification, on a form
54 approved by the commission, that includes:

55 (i) a statement that the taxpayer is operating a business within the boundaries of a
56 recycling market development zone;

57 (ii) for claims of the tax credit described in Subsection (1)(a):

58 (A) the type of the machinery and equipment that the taxpayer purchased;
59 (B) the date that the taxpayer purchased the machinery and equipment;
60 (C) the purchase price for the machinery and equipment;
61 (D) the total purchase price for all machinery and equipment for which the taxpayer is
62 claiming a tax credit;

63 (E) a statement that the machinery and equipment are integral to the composting or
64 recycling process; and

65 (F) the amount of the taxpayer's tax credit; and

66 (iii) for claims of the tax credit described in Subsection (1)(b):

67 (A) the type of net expenditure that the taxpayer made to a third party;

68 (B) the date that the taxpayer made the payment to a third party;

69 (C) the amount that the taxpayer paid to each third party;

70 (D) the total amount that the taxpayer paid to all third parties;

71 (E) a statement that the net expenditures support the establishment and operation of
72 recycling or composting technology in Utah; and

73 (F) the amount of the taxpayer's tax credit.

74 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
75 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

76 (ii) The taxpayer shall retain a copy of the written certification for the same period of
77 time that a person is required to keep books and records under Section [59-1-1406](#).

78 (c) The Governor's Office of Economic Development shall submit to the commission
79 an electronic list that includes:

80 (i) the name and identifying information of each taxpayer to which the office issues a
81 written certification; and

82 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.

83 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
84 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
85 calculated:

- 86 (a) for the taxable year in which the taxpayer made the purchases or payments;
87 (b) before any other tax credits the taxpayer may claim for the taxable year; and
88 (c) before the taxpayer claiming a tax credit authorized by this section.

89 (4) The commission shall make rules governing what information a taxpayer shall file
90 with the commission to verify the entitlement to and amount of a tax credit.

91 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
92 the next three taxable years, the amount of ~~[the tax credit that exceeds the taxpayer's income~~
93 ~~tax liability]~~ a tax credit described in Subsection (1)(a) that the taxpayer does not use for the
94 taxable year.

95 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
96 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
97 Section 63N-2-213.

98 (7) A taxpayer may not claim ~~[or carry forward]~~ a tax credit described in Subsection
99 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
100 Section 63N-2-213.

101 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
102 taxable year during which the taxpayer claims the targeted business income tax credit under
103 Section 59-7-624.

104 Section 2. Section 59-10-1002 is amended to read:

105 **59-10-1002. Definitions.**

106 As used in this part:

107 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2),
108 "claimant" means a resident or nonresident person that has state taxable income.

109 (b) "Claimant" does not include an estate or trust.

110 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident
111 estate or a resident estate that has state taxable income.

112 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,
113 or trust may:

114 (a) claim:

115 (i) as provided by statute; and

116 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability

117 under this chapter for a taxable year; and

118 (b) carry forward or carry back:

119 (i) if allowed by statute; and

120 (ii) unless otherwise provided in statute, to the extent that the amount of the tax credit
121 exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year.

122 (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust
123 or a resident trust that has state taxable income.

124 Section 3. Section 59-10-1007 is amended to read:

125 **59-10-1007. Recycling market development zones tax credits.**

126 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
127 market development zone as defined in Section 63N-2-402 may claim the following
128 nonrefundable tax credits:

129 (a) a tax credit of 5% of the purchase price paid for machinery and equipment used
130 directly in:

131 (i) commercial composting; or

132 (ii) manufacturing facilities or plant units that:

133 (A) manufacture, process, compound, or produce recycled items of tangible personal
134 property for sale; or

135 (B) reduce or reuse postconsumer waste material; and

136 (b) a tax credit equal to the lesser of:

137 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
138 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
139 recycling or composting technology in Utah; and

140 (ii) \$2,000.

141 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust

shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of ~~[the tax credit that exceeds the taxpayer's income tax liability]~~ a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust claims the

targeted business income tax credit under Section 59-10-1112.

Section 4. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed [on] July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,

226 2020.

227 (11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

228 (a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

229 (b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

230 (c) in Subsection 63H-6-104(2)(e), the language that states ", of whom only one may
231 be a legislator, in accordance with Subsection (3)(e)," is repealed;

232 (d) Subsection 63H-6-104(3)(a)(i) is amended to read:

233 "(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under
234 Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the
235 year that the board member was appointed.";

236 (e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the
237 president of the Senate, the speaker of the House, the governor," is repealed and replaced with
238 "the governor"; and

239 (f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is
240 repealed.

241 (12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

242 (13) Section 63M-7-212 is repealed [on] December 31, 2019.

243 (14) On July 1, 2025:

244 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource
245 Development Coordinating Committee," is repealed;

246 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed
247 sites for the transplant of species to local government officials having jurisdiction over areas
248 that may be affected by a transplant.";

249 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development
250 Coordinating Committee" is repealed;

251 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development
252 Coordinating Committee created in Section 63J-4-501 and" is repealed;

253 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development

Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1[(53)](55), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[(53)](55), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2[(23)](24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

"(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce

Services Interim Committee."

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed [on] January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to ~~Subsection~~ Subsections (26)(c) and (d), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or

310 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

311 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
312 the expenditure is made on or after January 1, 2021.

313 (d)[~~Notwithstanding Subsections (26)(b) and (c), a~~] A person may carry forward a tax
314 credit in accordance with Section 59-7-610 or 59-10-1007 if:

315 (i) the person is entitled to a tax credit under [Section] Subsection 59-7-610(1)(a) or
316 59-10-1007(1)(a); and

317 (ii) [(A) for the purchase price of machinery or equipment described in Section
318 59-7-610 or 59-10-1007;] the machinery or equipment is purchased on or before December 31,
319 2020[; or].

320 [(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b);
321 the expenditure is made on or before December 31, 2020.]

322 (27) Section 63N-2-512 is repealed [on] July 1, 2021.

323 (28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
324 January 1, 2021.

325 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
326 calendar years beginning on or after January 1, 2021.

327 (c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in
328 accordance with Section 59-9-107 if:

329 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
330 31, 2020; and

331 (ii) the qualified equity investment that is the basis of the tax credit is certified under
332 Section 63N-2-603 on or before December 31, 2023.

333 (29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

334 (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed
335 July 1, 2023.

336 (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
337 is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

"(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.";

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states ", president, or speaker, respectively," is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

"(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.".

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states "Talent Ready Utah," is repealed; and

(c) in Subsection 9-22-114(5), the language that states "representatives of Talent Ready Utah," is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.