

1 **h** [~~REAUTHORIZATION OF THE~~] **h** **RECYCLING**

2 **MARKET DEVELOPMENT ZONE ACT h AND RELATED TAX CREDITS h**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ben C. Ferry**

6 AN ACT RELATING TO STATE AFFAIRS h [;] **AND REVENUE AND TAXATION; MODIFYING TAX**
6a **CREDIT PROVISIONS; h** EXTENDING THE SUNSET DATE OF THE
7 RECYCLING MARKET DEVELOPMENT ZONE ACT AND ACCOMPANYING SECTIONS;
8 CLARIFYING WHEN CERTAIN TAX CREDITS CAN BE CLAIMED OR CARRIED
9 FORWARD; AND MAKING TECHNICAL CHANGES.

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

11 AMENDS:

11a **h 59-7-610, as enacted by Chapter 236, Laws of Utah 1996**

11b **59-10-108.7, as enacted by Chapter 236, Laws of Utah 1996 h**

12 **63-55-209, as last amended by Chapters 21, 76 and 156, Laws of Utah 1999**

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

13a **h Section 1. Section 59-7-610, is amended to read:**

13b **59-7-610. Credit -- Recycling market development zone.**

13c **(1) For tax years beginning on or after January 1, 1996, the following state tax credits are**
13d **applicable to businesses operating in a recycling market development zone as defined in Section**
13e **9-2-1602:**

13f **(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid**
13g **[during the taxable year] for machinery and equipment used directly in:**

13h **(A) commercial composting; or**

13i **(B) manufacturing facilities or plant units that:**

13j **(I) manufacture, process, compound, or produce recycled items of tangible personal property**
13k **for sale; or**

13l **(II) reduce or reuse postconsumer waste material.**

13m **(ii) The Department of Community and Economic Development shall certify that the**
machinery

13n **and equipment are integral to the composting or recycling process on a form provided by the tax h**

13o **h** commission before the taxpayer is entitled to the tax credit under this section.

13p (iii) The taxpayer shall enclose with its tax return the certification received under Subsection
13q (1)(a)(ii).

13r (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to
13s \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
13t taxpayer for establishing and operating recycling or composting technology in Utah, with an annual
13u maximum credit of \$2,000.

13v (2) The total nonrefundable credit allowed under this section may not exceed 40% of the Utah
13w income tax liability of the taxpayer prior to any credits in the taxable year of purchase prior to
claiming
13x the credit authorized by this section.

13y (3) (a) Any tax credit not used for the taxable year in which the purchase price on composting
13z or recycling machinery and equipment was paid may be carried over for credit against the business's
13aa income taxes in the three succeeding taxable years until the total credit amount is used.

13ab (b) Tax credits not claimed by a business on its state income tax return within three years are
13ac forfeited.

13ad (4) The tax commission shall make rules governing what information shall be filed with the
tax
13ae commission to verify the entitlement to and amount of a tax credit.

13af (5) (a) NOTWITHSTANDING SUBSECTION (1)(a), § FOR TAXABLE YEARS BEGINNING ON
13afa OR AFTER JANUARY 1, 2001, § A TAXPAYER MAY NOT CLAIM OR CARRY
13ag FORWARD A TAX CREDIT DESCRIBED IN SUBSECTION (1)(a) IN A TAXABLE YEAR DURING WHICH
13ah THE TAXPAYER CLAIMS OR CARRIES FORWARD A TAX CREDIT UNDER SECTION 9-2-413.

13ai (b) FOR A TAXABLE YEAR OTHER THAN A TAXABLE YEAR DURING WHICH THE TAXPAYER
13aj MAY NOT CLAIM OR CARRY FORWARD A TAX CREDIT IN ACCORDANCE WITH SUBSECTION (5)(a),
13ak A TAXPAYER MAY CLAIM OR CARRY FORWARD A TAX CREDIT DESCRIBED IN SUBSECTION (1)(a):

13al (i) IF THE TAXPAYER MAY CLAIM OR CARRY FORWARD THE CREDIT IN ACCORDANCE
13am WITH SUBSECTIONS (1) AND (2); AND

13an (ii) SUBJECT TO SUBSECTIONS (3) AND (4).

13ao (6) NOTWITHSTANDING SUBSECTION (1)(b), § FOR TAXABLE YEARS BEGINNING ON OR
13aoa AFTER JANUARY 1, 2001, § A TAXPAYER MAY NOT CLAIM A TAX CREDIT
13ap DESCRIBED IN SUBSECTION (1)(b) IN A TAXABLE YEAR DURING WHICH THE TAXPAYER CLAIMS
13aq OR CARRIES FORWARD A TAX CREDIT UNDER SECTION 9-2-413.

13ar Section 2. Section 59-10-108.7, is amended to read:

13as 59-10-108.7. Recycling market development zones credit.

13at (1) For tax years beginning on or after January 1, 1996, the following state tax credits are
13au applicable to an individual in a recycling market development zone as defined in Section 9-2-1602:

13av (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid
13aw [~~during the taxable year~~] for machinery and equipment used directly in:

13ax (A) commercial composting; or

13ay (B) manufacturing facilities or plant units that:

13az (l) manufacture, process, compound, or produce recycled items of tangible personal property
13ba for sale; or

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(II) reduce or reuse postconsumer waste material. ^h

13bc **h** (ii) The Department of Community and Economic Development shall certify that the
 13bd machinery and equipment are integral to the composting or recycling process on a form provided by
 13be the tax commission before the taxpayer is entitled to the tax credit under this section.

13bf (iii) The taxpayer shall enclose with its tax return the certification received under Subsection
 13bg (1)(a)(ii).

13bh (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to
 13bi \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
 13bj taxpayer for establishing and operating recycling or composting technology in Utah, with an annual
 13bk maximum credit of \$2,000.

13bl (2) The total credit allowed under this section may not exceed 40% of the Utah income tax
 13bm liability of the taxpayer prior to any credits in the taxable year of purchase prior to claiming the credit
 13bn authorized by this section.

13bo (3) (a) Any tax credit not used for the taxable year in which the purchase price on composting
 13bp or recycling machinery and equipment was paid may be carried over for credit against the
 13bq individual's
 13br income taxes in the three succeeding taxable years until the total credit amount is used.

13bs (b) Tax credits not claimed by an individual on the individual's state income tax return within
 13bt three years are forfeited.

13bu (4) The tax commission shall make rules governing what information shall be filed with the
 13bv tax
 13bva commission to verify the entitlement to and amount of a tax credit.

13bw **(5) (a) NOTWITHSTANDING SUBSECTION (1)(a), § FOR TAXABLE YEARS BEGINNING ON**
 13bx **OR AFTER JANUARY 1, 2001, § A TAXPAYER MAY NOT CLAIM OR CARRY**
 13by **FORWARD A TAX CREDIT DESCRIBED IN SUBSECTION (1)(a) IN A TAXABLE YEAR DURING WHICH**
 13bz **THE TAXPAYER CLAIMS OR CARRIES FORWARD A TAX CREDIT UNDER SECTION 9-2-413.**

13ca **(b) FOR A TAXABLE YEAR OTHER THAN A TAXABLE YEAR DURING WHICH THE TAXPAYER**
 13cb **MAY NOT CLAIM OR CARRY FORWARD A TAX CREDIT IN ACCORDANCE WITH SUBSECTION (5)(a),**
 13cc **A TAXPAYER MAY CLAIM OR CARRY FORWARD A TAX CREDIT DESCRIBED IN SUBSECTION (1)(a):**

13cd **(i) IF THE TAXPAYER MAY CLAIM OR CARRY FORWARD THE CREDIT IN ACCORDANCE**
 13ce **WITH SUBSECTIONS (1) AND (2); AND**

13cf **(ii) SUBJECT TO SUBSECTIONS (3) AND (4).**

13cg **(6) NOTWITHSTANDING SUBSECTION (1)(b), § FOR TAXABLE YEARS BEGINNING ON OR**
 14 **AFTER JANUARY 1, 2001, § A TAXPAYER MAY NOT CLAIM A TAX CREDIT**
 15 **DESCRIBED IN SUBSECTION (1)(b) IN A TAXABLE YEAR DURING WHICH THE TAXPAYER**
 16 **CLAIMS OR CARRIES FORWARD A TAX CREDIT UNDER SECTION 9-2-413. h**

17 Section ~~h [1:] 3.~~ **h** Section **63-55-209** is amended to read:

18 **63-55-209. Repeal dates, Title 9.**

19 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
 20 repealed July 1, 2004.

~~[(2) Title 9, Chapter 2, Part 3, Small Business Advisory Council, is repealed July 1, 1999.]~~

~~[(3)] (2)~~ Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

~~[(5)] (3)~~ Section 9-2-1208 regarding waste tire recycling loans is repealed July 1, 2000.

21 ~~[(6)](4)~~ (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is
22 repealed July 1, ~~[2000;]~~ § ~~[2004]~~ 2010 § .

23 (b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in
24 recycling market development zones, are repealed for tax years beginning on or after January 1,
25 ~~[2001]~~ § ~~[2005]~~ 2011 § .

26 (c) Notwithstanding Subsection (4)(b), a person may not claim a tax credit under Section
27 59-7-610 or 59-10-108.7:

28 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
 29 59-10-108.7 if the machinery or equipment is purchased on or after July 1, § [2004] 2010 § ; or
 30 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if the
 31 expenditure is made on or after July 1, § [2004] 2010 § .

32 (d) Notwithstanding Subsections (4)(b) and (c), a person may carry forward a tax credit
 33 in accordance with Section 59-7-610 or 59-10-108.7 if:

34 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

35 (ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610
 36 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, § [2004] 2010 § ; or

37 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), the
 38 expenditure is made on or before June 30, § [2004] 2010 § .

39 [~~7~~] (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed
 40 July 1, 2009.

41 [~~8~~] Title 9, Chapter 4, Part 4, Disaster Relief, is repealed July 1, 1999.]

42 [~~9~~] (6) Title 9, Chapter 4, Part 9, Utah Housing Finance Agency Act, is repealed July 1,
 43 2006.

44 [~~4~~] (7) Title 9, Chapter 13, Utah Technology and Small Business Finance Act, is repealed
 45 July 1, 2002.

Legislative Review Note
as of 11-18-99 2:35 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Business, Labor, and Economic Development Interim Committee recommended this bill.