

1                   **RECYCLING MARKET DEVELOPMENT ZONE TAX CREDIT**  
2                                   **AMENDMENTS**

3                                   2020 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Kay J. Christofferson**

6                                   Senate Sponsor: Lincoln Fillmore

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8                   **LONG TITLE**

9                   **General Description:**

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

12                   **Highlighted Provisions:**

13                   This bill:

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

21                   **Money Appropriated in this Bill:**

22                   None

23                   **Other Special Clauses:**

24                   This bill provides retrospective operation.

25                   **Utah Code Sections Affected:**

26                   AMENDS:

27                   **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247



28 [59-10-1002](#), as last amended by Laws of Utah 2006, Fourth Special Session, Chapter 2  
29 [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

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

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

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

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

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

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

151 (D) the total purchase price for all machinery and equipment for which the claimant,

152 estate, or trust is claiming a tax credit;

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

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

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

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

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

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

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

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

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

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

167 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the  
168 same period of time that a person is required to keep books and records under Section  
169 [59-1-1406](#).

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

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

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

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

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

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

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

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

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

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

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

196 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available  
197 under this section for a taxable year during which the claimant, estate, or trust claims the  
198 targeted business income tax credit under Section 59-10-1112.

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

200 **63I-1-263. Repeal dates, Titles 63A to 63N.**

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

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

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

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

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

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

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

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

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

- 214 1, 2028.
- 215 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,  
216 2025.
- 217 (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,  
218 2020.
- 219 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is  
220 repealed July 1, 2021.
- 221 (8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,  
222 2023.
- 223 (9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,  
224 2025.
- 225 (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  
254 Coordinating Committee and" is repealed;

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

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

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

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

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

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

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

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

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

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

273 (b) When repealing Subsection 63J-1-602.1~~(53)~~(55), the Office of Legislative  
274 Research and General Counsel shall, in addition to the office's authority under Subsection  
275 36-12-12(3), make necessary changes to subsection numbering and cross references.

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

278 (20) Subsection [63J-4-708](#)(1), in relation to the Talent Ready Utah Board, on January  
279 1, 2023, is amended to read:

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

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

285 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are  
286 repealed;

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

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

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

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

292 "(2) The commission shall:

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

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

297 (22) The Crime Victim Reparations and Assistance Board, created in Section  
298 [63M-7-504](#), is repealed July 1, 2027.

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

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

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

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

305 (b) Subject to ~~[Subsection]~~ Subsections (26)(c) and (d), Sections [59-7-610](#) and  
306 [59-10-1007](#) regarding tax credits for certain persons in recycling market development zones,

307 are repealed for taxable years beginning on or after January 1, 2021.

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

309 (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.

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

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

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

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

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

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

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

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

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

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

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

354 (34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,  
355 2023.

356 **Section 5. Retrospective operation.**

357 This bill has retrospective operation for a taxable year beginning on or after January 1,  
358 2019.