

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 159**

**Senator O'Brien**

**Cosponsors: Senators Johnson, Schaffer, Antani**

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**A BILL**

To amend sections 5747.98 and 5751.98 and to enact 1  
sections 5747.74 and 5751.55 of the Revised Code 2  
to authorize a nonrefundable tax credit for 3  
donations to certain pregnancy resource centers. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5747.98 and 5751.98 be amended 5  
and sections 5747.74 and 5751.55 of the Revised Code be enacted 6  
to read as follows: 7

**Sec. 5747.74.** (A) As used in this section, "tax credit 8  
certificate" has the same meaning as in section 5751.55 of the 9  
Revised Code. 10

(B) There is hereby allowed a nonrefundable credit against 11  
a taxpayer's aggregate tax liability under section 5747.02 of 12  
the Revised Code equal to the amount stated in a tax credit 13  
certificate issued to the taxpayer, to the extent the 14  
certificate authorizes the credit to be claimed against that tax 15  
liability, except that the amount claimed may not exceed fifty 16  
per cent of the applicant's aggregate tax liability for the 17  
taxable year, before applying any other credit against that tax. 18

The credit shall be claimed for the taxable year in which 19  
the certificate is issued and in the order required by section 20  
5747.98 of the Revised Code. Any credit amount in excess of 21  
fifty per cent of the taxpayer's tax liability, after allowing 22  
for any other credits preceding the credit in that order, may be 23  
carried forward for five taxable years, but the amount of the 24  
excess credit claimed in any such year may not exceed fifty per 25  
cent of the applicant's tax liability for the taxable year, 26  
before applying any other credit against that tax, and shall be 27  
deducted from the balance carried forward to the next year. 28

(C) If the person issued a tax credit certificate is a 29  
pass-through entity, the credit may be allocated among the 30  
entity's equity owners in proportion to their ownership 31  
interests or in such proportions or amounts as the equity owners 32  
mutually agree. 33

**Sec. 5747.98.** (A) To provide a uniform procedure for 34  
calculating a taxpayer's aggregate tax liability under section 35  
5747.02 of the Revised Code, a taxpayer shall claim any credits 36  
to which the taxpayer is entitled in the following order: 37

The nonrefundable credit for donations to pregnancy 38  
resource centers under section 5747.74 of the Revised Code; 39

Either the retirement income credit under division (B) of 40  
section 5747.055 of the Revised Code or the lump sum retirement 41  
income credits under divisions (C), (D), and (E) of that 42  
section; 43

Either the senior citizen credit under division (F) of 44  
section 5747.055 of the Revised Code or the lump sum 45  
distribution credit under division (G) of that section; 46

The dependent care credit under section 5747.054 of the 47

Revised Code;	48
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	49
The campaign contribution credit under section 5747.29 of the Revised Code;	51
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	53
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	55
The earned income credit under section 5747.71 of the Revised Code;	57
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	59
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	61
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	64
The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	67
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	69
The enterprise zone credit under section 5709.66 of the Revised Code;	71
The credit for beginning farmers who participate in a financial management program under division (B) of section	73
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5747.77 of the Revised Code;	75
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	76 77
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	78 79 80
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	81 82
The small business investment credit under section 5747.81 of the Revised Code;	83 84
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	85 86
The opportunity zone investment credit under section 122.84 of the Revised Code;	87 88
The enterprise zone credits under section 5709.65 of the Revised Code;	89 90
The research and development credit under section 5747.331 of the Revised Code;	91 92
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	93 94
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	95 96
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	97 98
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	99 100

The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	101 102 103
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	104 105
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	106 107 108
The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	109 110 111
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	112 113
The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.	114 115 116
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	117 118 119 120 121 122 123 124 125 126 127
<b><u>Sec. 5751.55. (A) As used in this section:</u></b>	128

<u>(1) "Affiliate" means a person that has with another</u>	129
<u>person a legal relationship created or governed by at least one</u>	130
<u>written instrument that demonstrates any of the following:</u>	131
<u>(a) Common ownership, management, or control;</u>	132
<u>(b) A franchise agreement;</u>	133
<u>(c) The granting or extension of a license or other</u>	134
<u>agreement that authorizes a person to use the other person's</u>	135
<u>brand name, trademark, service mark, or other registered</u>	136
<u>identification mark.</u>	137
<u>(2) "Nontherapeutic abortion" has the same meaning as in</u>	138
<u>section 9.04 of the Revised Code.</u>	139
<u>(3) "Promote" means to advocate for, assist with,</u>	140
<u>encourage, or popularize through advertising or publicity.</u>	141
<u>(4) (a) "Qualifying pregnancy resource center" means a</u>	142
<u>person to which all of the following apply:</u>	143
<u>(i) The person is an organization exempt from taxation</u>	144
<u>under section 501(a) of the Internal Revenue Code, as described</u>	145
<u>in section 501(c) (3) of the Internal Revenue Code;</u>	146
<u>(ii) The person maintains its principal office or presence</u>	147
<u>in this state;</u>	148
<u>(iii) At least fifty per cent of its clients claim to be</u>	149
<u>residents of this state;</u>	150
<u>(iv) The person's principal purpose is to provide free or</u>	151
<u>low-cost assistance, which may include pregnancy tests,</u>	152
<u>ultrasounds, counseling, material support, and similar services</u>	153
<u>for pregnant women in carrying their pregnancies to term.</u>	154
<u>(b) "Qualifying pregnancy resource center" does not</u>	155

<u>include any of the following:</u>	156
<u>(i) A hospital as defined in section 3727.01 of the Revised Code;</u>	157
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<u>(ii) A nursing home or residential care facility as defined in section 3721.01 of the Revised Code;</u>	159
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<u>(iii) An organization that does any of the following:</u>	161
<u>(I) Performs nontherapeutic abortions;</u>	162
<u>(II) Promotes nontherapeutic abortions;</u>	163
<u>(III) Contracts with any person that performs or promotes nontherapeutic abortions;</u>	164
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<u>(IV) Is an affiliate of any person that performs or promotes nontherapeutic abortions.</u>	166
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<u>(5) "Tax credit certificate" means the certificate issued by the tax commissioner under division (C) of this section.</u>	168
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<u>(6) "Certified pregnancy resource center" means a qualifying pregnancy resource center certified by the tax commissioner under division (B) of this section.</u>	170
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<u>(B) A person may apply to the tax commissioner, on forms and in the manner prescribed by the commissioner, to be certified as a qualifying pregnancy resource center. With this application, the person shall certify that it meets all of the requirements of a qualifying pregnancy resource center by submitting the following information:</u>	173
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<u>(1) Verification that the person qualifies as an organization exempt from taxation under section 501(a) of the Internal Revenue Code, as described in section 501(c)(3) of the Internal Revenue Code;</u>	179
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(2) A statement that the person maintains its principal office or presence in this state and that at least fifty per cent of its clients claim to be residents of this state; 183  
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(3) A statement that the person does not perform or promote nontherapeutic abortions, contract with any person that performs or promotes nontherapeutic abortions, and is not an affiliate of any person that performs or promotes nontherapeutic abortions. 186  
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The application shall be signed by an officer of the person under penalty of perjury. The tax commissioner shall review each application and determine if the person meets the requirements of a qualifying pregnancy resource center. The commissioner shall notify the applicant of the commissioner's determination within thirty days after the commissioner receives the application. 191  
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After granting certification to a person, the commissioner may periodically request recertification from the person. Upon receiving a recertification request, the person shall send to the tax commissioner all of the information required under divisions (B) (1) to (3) of this section and anything else required by the commissioner to verify that the person continues to qualify as a qualifying pregnancy resource center. A person granted a certification under this division shall notify the commissioner of any changes that may affect eligibility within sixty days after such a change. The commissioner shall revoke the certification of any person that no longer qualifies as a qualifying pregnancy resource center under this section. After a person's certification is revoked, the person may again be certified if the person submits another application and written certification to the tax commissioner as required under this 198  
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division. The commissioner shall post and maintain a list of all 213  
qualifying pregnancy resource centers on the department of 214  
taxation's web site. 215

(C)(1) A person that contributes cash to one or more 216  
certified pregnancy resource centers in a calendar year may, 217  
within sixty days after making that contribution, submit an 218  
application to the tax commissioner for a tax credit authorized 219  
by this section. The application shall be made on a form and in 220  
a manner that the commissioner shall prescribe. The application 221  
shall state the amount of the contribution, the tax against 222  
which the credit would be claimed, and any other information the 223  
commissioner may require. The applicant shall also include with 224  
the application a copy of a receipt or other document issued by 225  
the qualifying pregnancy resource center acknowledging the 226  
taxpayer's contribution to the center, the amount of the 227  
contribution, and the date the contribution was made. 228

Except as provided in division (C)(3) of this section, the 229  
commissioner shall evaluate applications in the order in which 230  
they are received and issue a determination to an applicant not 231  
later than thirty days after receipt of an application. If the 232  
commissioner denies an application, the determination shall 233  
state the reason for the denial. If the commissioner approves an 234  
application, the determination shall include a tax credit 235  
certificate listing the amount of credit that the applicant may 236  
claim and the tax against which it may be claimed. 237

(2) The amount of the credit shall equal the amount of the 238  
applicant's contribution to a certified pregnancy resource 239  
center in the current calendar year, as approved by the 240  
commissioner and listed on the tax credit certificate. 241

(3) The commissioner may not approve more than ten million 242

dollars in total tax credits in a calendar year and may not 243  
approve more than five million dollars in tax credits on the 244  
basis of donations to the same certified pregnancy resource 245  
center in a calendar year. 246

(D) There is hereby allowed a nonrefundable credit against 247  
a taxpayer's aggregate tax liability under section 5747.02 of 248  
the Revised Code or against the tax imposed under section 249  
5751.02 of the Revised Code, as authorized by the tax credit 250  
certificate, equal to the amount listed on that certificate. The 251  
credit shall be claimed in the manner prescribed by division (E) 252  
of this section or by section 5747.74 of the Revised Code, as 253  
applicable. A taxpayer shall include a copy of the taxpayer's 254  
tax credit certificate with the return on which the credit is 255  
claimed. 256

(E) A taxpayer issued a tax credit certificate authorizing 257  
the taxpayer to claim a credit against the tax levied under 258  
section 5751.02 of the Revised Code may claim a credit against 259  
that tax equal to the amount stated in the certificate for the 260  
tax period in which the certificate is issued, but the amount 261  
claimed may not exceed fifty per cent of the applicant's tax 262  
liability for the tax period, before applying any other credit 263  
against that tax. The credit shall be claimed in the order 264  
required by section 5751.98 of the Revised Code. Any credit 265  
amount in excess of fifty per cent of the taxpayer's tax 266  
liability, after allowing for any other credits preceding the 267  
credit in that order, may be carried forward for five calendar 268  
years, but the amount of the excess credit claimed in any such 269  
year may not exceed fifty per cent of the taxpayer's tax 270  
liability for the tax period, before applying any other credit 271  
against that tax, and shall be deducted from the balance carried 272  
forward to the next year. 273

<b>Sec. 5751.98.</b> (A) To provide a uniform procedure for	274
calculating the amount of tax due under this chapter, a taxpayer	275
shall claim any credits to which it is entitled in the following	276
order:	277
<u>The nonrefundable credit for donations to pregnancy</u>	278
<u>resource centers under section 5751.55 of the Revised Code;</u>	279
The nonrefundable jobs retention credit under division (B)	280
of section 5751.50 of the Revised Code;	281
The nonrefundable credit for qualified research expenses	282
under division (B) of section 5751.51 of the Revised Code;	283
The nonrefundable credit for a borrower's qualified	284
research and development loan payments under division (B) of	285
section 5751.52 of the Revised Code;	286
The nonrefundable credit for calendar years 2010 to 2029	287
for unused net operating losses under division (B) of section	288
5751.53 of the Revised Code;	289
The refundable motion picture and Broadway theatrical	290
production credit under section 5751.54 of the Revised Code;	291
The refundable jobs creation credit or job retention	292
credit under division (A) of section 5751.50 of the Revised	293
Code;	294
The refundable credit for calendar year 2030 for unused	295
net operating losses under division (C) of section 5751.53 of	296
the Revised Code.	297
(B) For any credit except the refundable credits	298
enumerated in this section, the amount of the credit for a tax	299
period shall not exceed the tax due after allowing for any other	300
credit that precedes it in the order required under this	301

section. Any excess amount of a particular credit may be carried 302  
forward if authorized under the section creating the credit. 303

**Section 2.** That existing sections 5747.98 and 5751.98 of 304  
the Revised Code are hereby repealed. 305

**Section 3.** Section 5747.98 of the Revised Code is 306  
presented in this act as a composite of the section as amended 307  
by both H.B. 45 and H.B. 66 of the 134th General Assembly. The 308  
General Assembly, applying the principle stated in division (B) 309  
of section 1.52 of the Revised Code that amendments are to be 310  
harmonized if reasonably capable of simultaneous operation, 311  
finds that the composite is the resulting version of the section 312  
in effect prior to the effective date of the section as 313  
presented in this act. 314