

As Introduced

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

S. B. No. 159

Senator O'Brien

Cosponsors: Senators Johnson, Schaffer, Antani

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

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| Revised Code; | 48 |
| The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; | 49 50 |
| The campaign contribution credit under section 5747.29 of the Revised Code; | 51 52 |
| The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; | 53 54 |
| The joint filing credit under division (G) of section 5747.05 of the Revised Code; | 55 56 |
| The earned income credit under section 5747.71 of the Revised Code; | 57 58 |
| The nonrefundable credit for education expenses under section 5747.72 of the Revised Code; | 59 60 |
| The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code; | 61 62 63 |
| The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code; | 64 65 66 |
| The nonrefundable vocational job credit under section 5747.057 of the Revised Code; | 67 68 |
| The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code; | 69 70 |
| The enterprise zone credit under section 5709.66 of the Revised Code; | 71 72 |
| The credit for beginning farmers who participate in a financial management program under division (B) of section | 73 74 |

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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 |

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| 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 |
| <u>Sec. 5751.55. (A) As used in this section:</u> | 128 |

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| <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 |

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| <u>include any of the following:</u> | 156 |
| <u>(i) A hospital as defined in section 3727.01 of the</u> | 157 |
| <u>Revised Code;</u> | 158 |
| <u>(ii) A nursing home or residential care facility as</u> | 159 |
| <u>defined in section 3721.01 of the Revised Code;</u> | 160 |
| <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</u> | 164 |
| <u>nontherapeutic abortions;</u> | 165 |
| <u>(IV) Is an affiliate of any person that performs or</u> | 166 |
| <u>promotes nontherapeutic abortions.</u> | 167 |
| <u>(5) "Tax credit certificate" means the certificate issued</u> | 168 |
| <u>by the tax commissioner under division (C) of this section.</u> | 169 |
| <u>(6) "Certified pregnancy resource center" means a</u> | 170 |
| <u>qualifying pregnancy resource center certified by the tax</u> | 171 |
| <u>commissioner under division (B) of this section.</u> | 172 |
| <u>(B) A person may apply to the tax commissioner, on forms</u> | 173 |
| <u>and in the manner prescribed by the commissioner, to be</u> | 174 |
| <u>certified as a qualifying pregnancy resource center. With this</u> | 175 |
| <u>application, the person shall certify that it meets all of the</u> | 176 |
| <u>requirements of a qualifying pregnancy resource center by</u> | 177 |
| <u>submitting the following information:</u> | 178 |
| <u>(1) Verification that the person qualifies as an</u> | 179 |
| <u>organization exempt from taxation under section 501(a) of the</u> | 180 |
| <u>Internal Revenue Code, as described in section 501(c) (3) of the</u> | 181 |
| <u>Internal Revenue Code;</u> | 182 |

(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

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| Sec. 5751.98. (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