As Introduced

136th General Assembly
Regular Session
2025-2026

S. B. No. 40

Senator O'Brien
Cosponsors: Senators Koehler, Cirino, Schaffer

A BILL

To amend sections 5747.98 and 5751.98 and to enact sections 5747.74 and 5751.56 of the Revised Code to authorize a nonrefundable tax credit for donations to certain pregnancy resource centers and maternity homes.

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

Section 1. That sections 5747.98 and 5751.98 be amended and sections 5747.74 and 5751.56 of the Revised Code be enacted to read as follows:

Sec. 5747.74. (A) As used in this section, "tax credit certificate" has the same meaning as in section 5751.56 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code equal to the amount stated in a tax credit certificate issued to the taxpayer, to the extent the certificate authorizes the credit to be claimed against that tax liability, except that the amount claimed may not exceed fifty per cent of the applicant's aggregate tax liability for the

taxable year, before applying any other credit against that tax.

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

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

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

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

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

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

The dependent care credit under section 5747.054 of the Revised Code;

The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

The campaign contribution credit under section 5747.29 of the Revised Code;

The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

The joint filing credit under division ~~(G)~~(E) of section 5747.05 of the Revised Code;

The earned income credit under section 5747.71 of the Revised Code;

The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;

The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;

The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;

The nonrefundable vocational job credit under section 5747.057 of the Revised Code;

The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

The enterprise zone credit under section 5709.66 of the Revised Code;

The credit for beginning farmers who participate in a

financial management program under division (B) of section 5747.77 of the Revised Code;

The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;

The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;

The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;

The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

The small business investment credit under section 5747.81 of the Revised Code;

The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;

The opportunity zone investment credit under section 122.84 of the Revised Code;

The enterprise zone credits under section 5709.65 of the Revised Code;

The research and development credit under section 5747.331 of the Revised Code;

The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;

The nonrefundable affordable single-family home credit under section 5747.84 of the Revised Code;

The nonresident credit under division (A) of section 5747.05 of the Revised Code;

The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

The refundable motion picture and broadway theatrical production credit under section 5747.66 of the Revised Code;

The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;

The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;

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;

The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

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.

(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.

Sec. 5751.56. (A) As used in this section:

(1) "Affiliate" means a person that has with another person a legal relationship created or governed by at least one written instrument that demonstrates any of the following:

(a) Common ownership, management, or control;

(b) A franchise agreement;

(c) The granting or extension of a license or other agreement that authorizes a person to use the other person's brand name, trademark, service mark, or other registered identification mark.

(2) "Nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.

(3) "Promote" means to advocate for, assist with, encourage, or popularize through advertising or publicity.

(4)(a) "Qualifying pregnancy resource center" means a person to which all of the following apply:

(i) The person is 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;

(ii) The person maintains its principal office or presence in this state;

(iii) At least fifty per cent of its clients claim to be residents of this state;

(iv) The person's principal purpose is to provide free or low-cost assistance, which may include pregnancy tests, ultrasounds, counseling, material support, and similar services for pregnant women in carrying their pregnancies to term.

(b) "Qualifying pregnancy resource center" includes a maternity home licensed under Chapter 3711. of the Revised Code that meets the requirements described in divisions (A)(4)(a)(i) to (iii) of this section and that is not an organization described in division (A)(4)(c)(iii) of this section.

(c) "Qualifying pregnancy resource center" does not include any of the following:

(i) A hospital as defined in section 3727.01 of the Revised Code;

(ii) A nursing home or residential care facility as defined in section 3721.01 of the Revised Code;

(iii) An organization that does any of the following:

(I) Performs nontherapeutic abortions;

(II) Promotes nontherapeutic abortions;

(III) Contracts with any person that performs or promotes nontherapeutic abortions;

(IV) Is an affiliate of any person that performs or promotes nontherapeutic abortions.

(5) "Tax credit certificate" means the certificate issued

by the tax commissioner under division (C) of this section.

(6) "Certified pregnancy resource center" means a qualifying pregnancy resource center certified by the tax commissioner under division (B) of this section.

(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:

(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;

(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;

(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.

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.

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 division. The commissioner shall post and maintain a list of all qualifying pregnancy resource centers on the department of taxation's web site.

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

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

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

(3) The commissioner may not approve more than ten million dollars in total tax credits in a calendar year and may not approve more than five million dollars in tax credits on the basis of donations to the same certified pregnancy resource center in a calendar year.

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

(E) A taxpayer issued a tax credit certificate authorizing the taxpayer to claim a credit against the tax levied under

section 5751.02 of the Revised Code may claim a credit against that tax equal to the amount stated in the certificate for the tax period in which the certificate is issued, but the amount claimed may not exceed fifty per cent of the applicant's tax liability for the tax period, before applying any other credit against that tax. The credit shall be claimed in the order required by section 5751.98 of the Revised Code. Any credit amount in excess of fifty per cent of the taxpayer's tax liability, after allowing for any other credits preceding the credit in that order, may be carried forward for five calendar years, but the amount of the excess credit claimed in any such year may not exceed fifty per cent of the taxpayer's tax liability for the tax period, before applying any other credit against that tax, and shall be deducted from the balance carried forward to the next year.

Sec. 5751.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order:

The nonrefundable credit for donations to pregnancy resource centers under section 5751.56 of the Revised Code;

The nonrefundable jobs retention credit under division (B) of section 5751.50 of the Revised Code;

The nonrefundable credit for qualified research expenses under division (B) of section 5751.51 of the Revised Code;

The nonrefundable credit for a borrower's qualified research and development loan payments under division (B) of section 5751.52 of the Revised Code;

The nonrefundable credit for calendar years 2010 to 2029

for unused net operating losses under division (B) of section 5751.53 of the Revised Code;

The refundable motion picture and broadway theatrical production credit under section 5751.54 of the Revised Code;

The refundable credit for film and theater capital improvement projects under section 5751.55 of the Revised Code;

The refundable jobs creation credit or job retention credit under division (A) of section 5751.50 of the Revised Code;

The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax period shall not exceed the tax due 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 the credit.

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