

**As Passed by the House**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Sub. H. B. No. 399**

**Representatives Brown, Lampton**

**Cosponsors: Representatives Troy, Brennan, Baker, Carruthers, Click, Cross, Dell'Aquila, Dobos, Forhan, Grim, Hoops, Isaacsohn, Jarrells, Lipps, Liston, Mathews, Miller, A., Mohamed, Patton, Piccolantonio, Plummer, Ray, Rogers, Russo, Schmidt, Seitz, Sims, Somani, Weinstein, Whitted, Williams, Young, T.**

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**A BILL**

To amend section 5747.98 and to enact section 1  
5747.74 of the Revised Code to create an income 2  
tax credit for employers that provide paid leave 3  
to organ donors. 4

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

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

**Sec. 5747.74.** (A) As used in this section: 7

(1) "Employee donor" means an employee who, while living, 8  
donates all or part of such person's liver, pancreas, kidney, 9  
intestine, lung, or bone marrow in accordance with the "National 10  
Organ Transplant Act," 42 U.S.C. 273, et seq. 11

(2) "Qualifying employer" means a taxpayer or a pass- 12  
through entity who is registered and authorized to use the e- 13  
verify federal employment verification program jointly 14  
administered by the United States department of homeland 15

security and the social security administration under 8 U.S.C. 16  
1324a, or any of its successor programs. 17

(3) "Donation leave benefits" means compensation paid to 18  
an employee donor while the employee is on leave for a period 19  
that is medically necessary for such employee to recover from 20  
the employee's living donation, provided that the compensation 21  
is equal to the compensation the employee would have received if 22  
the employee had worked for the qualifying employer in the 23  
employee's job for that period and is paid as part of a policy 24  
of the employer for living donation that does not deduct time 25  
from the employee's other paid leave time. 26

(B) (1) There is hereby allowed a nonrefundable credit 27  
against a taxpayer's aggregate tax liability for a taxpayer who 28  
is a qualifying employer, or who owns a direct or indirect 29  
interest in a qualifying employer, that paid donation leave 30  
benefits to an employee donor. The total credit available with 31  
respect to an employee donor for each living donation shall 32  
equal the lesser of the amount of donation leave benefits paid 33  
to the employee or three hundred dollars for each day of 34  
donation leave benefits paid, provided that the credit shall not 35  
be allowed for more than thirty days of donation leave benefits 36  
paid. 37

In the case of a taxpayer who is a qualifying employer, 38  
the credit shall be claimed for the taxable year in which the 39  
donation leave benefits are paid. If a taxpayer holds a direct 40  
or indirect equity interest in a qualifying employer that paid 41  
donation leave benefits, the taxpayer shall claim the taxpayer's 42  
distributive or proportionate share of the credit for the 43  
taxpayer's taxable year that includes the last day of the 44  
entity's taxable year. 45

The total amount of donation leave benefits paid by a 46  
qualifying employer and eligible for the credit allowed under 47  
this section per taxable year shall not exceed fifty four 48  
thousand dollars. 49

(C) The credit shall be claimed in the order required 50  
under section 5747.98 of the Revised Code. Any credit amount in 51  
excess of the aggregate amount of tax due under section 5747.02 52  
of the Revised Code, after allowing for any other credits 53  
preceding the credit in that order, may be carried forward for 54  
three taxable years, but the amount of the excess credit allowed 55  
in any such year shall be deducted from the balance carried 56  
forward to the next year. 57

(D) On or before September 1, 2025, and on the first day 58  
of each September thereafter, the tax commissioner shall issue a 59  
report regarding the credit authorized under this section to the 60  
chairpersons of the standing committees of the house of 61  
representatives and senate that deal primarily with taxation. 62  
The report shall include, for the preceding taxable year, the 63  
total number of taxpayers that claimed a credit under this 64  
section and the total value of all credits earned and all 65  
credits claimed. 66

(E) The tax commissioner may require a taxpayer to furnish 67  
any information necessary to support a claim for a credit under 68  
this section, including the taxpayer's living donation leave 69  
policy and pay stubs for the employee donor or a signed 70  
attestation from the employee donor providing the date of the 71  
donation and the period of time for which leave from work was 72  
prescribed as medically necessary. The commissioner may 73  
promulgate any rules necessary to administer this section. 74

**Sec. 5747.98.** (A) To provide a uniform procedure for 75

calculating a taxpayer's aggregate tax liability under section 76  
5747.02 of the Revised Code, a taxpayer shall claim any credits 77  
to which the taxpayer is entitled in the following order: 78

Either the retirement income credit under division (B) of 79  
section 5747.055 of the Revised Code or the lump sum retirement 80  
income credits under divisions (C), (D), and (E) of that 81  
section; 82

Either the senior citizen credit under division (F) of 83  
section 5747.055 of the Revised Code or the lump sum 84  
distribution credit under division (G) of that section; 85

The dependent care credit under section 5747.054 of the 86  
Revised Code; 87

The credit for displaced workers who pay for job training 88  
under section 5747.27 of the Revised Code; 89

The campaign contribution credit under section 5747.29 of 90  
the Revised Code; 91

The twenty-dollar personal exemption credit under section 92  
5747.022 of the Revised Code; 93

The joint filing credit under division (G) of section 94  
5747.05 of the Revised Code; 95

The earned income credit under section 5747.71 of the 96  
Revised Code; 97

The nonrefundable credit for education expenses under 98  
section 5747.72 of the Revised Code; 99

The nonrefundable credit for donations to scholarship 100  
granting organizations under section 5747.73 of the Revised 101  
Code; 102

The nonrefundable credit for tuition paid to a	103
nonchartered nonpublic school under section 5747.75 of the	104
Revised Code;	105
The nonrefundable vocational job credit under section	106
5747.057 of the Revised Code;	107
The nonrefundable job retention credit under division (B)	108
of section 5747.058 of the Revised Code;	109
The enterprise zone credit under section 5709.66 of the	110
Revised Code;	111
The credit for beginning farmers who participate in a	112
financial management program under division (B) of section	113
5747.77 of the Revised Code;	114
<u>The credit for organ donation leave benefits under section</u>	115
<u>5747.74 of the Revised Code;</u>	116
The credit for commercial vehicle operator training	117
expenses under section 5747.82 of the Revised Code;	118
The nonrefundable welcome home Ohio (WHO) program credit	119
under section 122.633 of the Revised Code;	120
The credit for selling or renting agricultural assets to	121
beginning farmers under division (A) of section 5747.77 of the	122
Revised Code;	123
The credit for purchases of qualifying grape production	124
property under section 5747.28 of the Revised Code;	125
The small business investment credit under section 5747.81	126
of the Revised Code;	127
The nonrefundable lead abatement credit under section	128
5747.26 of the Revised Code;	129

The opportunity zone investment credit under section 122.84 of the Revised Code;	130 131
The enterprise zone credits under section 5709.65 of the Revised Code;	132 133
The research and development credit under section 5747.331 of the Revised Code;	134 135
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	136 137
The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;	138 139
The nonrefundable affordable single-family home credit under section 5747.84 of the Revised Code;	140 141
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	142 143
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	144 145
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	146 147
The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;	148 149
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	150 151 152
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	153 154
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section	155 156

5747.08 of the Revised Code;	157
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;	158 159 160
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	161 162
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.	163 164 165
(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.	166 167 168 169 170 171 172 173 174 175 176
<b>Section 2.</b> That existing section 5747.98 of the Revised Code is hereby repealed.	177 178
<b>Section 3.</b> The amendment or enactment by this act of sections 5747.74 and 5747.98 of the Revised Code applies to taxable years beginning on or after January 1, 2024.	179 180 181