

As Passed by the Senate

**126th General Assembly
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Am. S. B. No. 190

**Senators Carey, Amstutz, Zurz, Fingerhut, Dann, Roberts, Austria, Spada,
Harris, Coughlin, Gardner, Grendell, Hagan, Clancy, Hottinger, Niehaus,
Armbruster, Schuler**

—

A BILL

To amend sections 5725.31, 5729.07, 5733.42, and 1
5747.39 of the Revised Code to extend the job 2
training tax credit for an additional year and to 3
declare an emergency. 4

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

Section 1. That sections 5725.31, 5729.07, 5733.42, and 5
5747.39 of the Revised Code be amended to read as follows: 6

Sec. 5725.31. (A) As used in this section: 7

(1) "Eligible employee" and "eligible training costs" have 8
the same meanings as in section 5733.42 of the Revised Code. 9

(2) "Tax assessed under this chapter" means, in the case of a 10
dealer in intangibles, the tax assessed under sections 5725.13 to 11
5725.17 of the Revised Code and, in the case of a domestic 12
insurance company, the taxes assessed under sections 5725.18 to 13
5725.26 of the Revised Code. 14

(3) "Taxpayer" means a dealer in intangibles or a domestic 15
insurance company subject to a tax assessed under this chapter. 16

(4) "Credit period" means, in the case of a dealer in 17

intangibles, the calendar year ending on the thirty-first day of
December next preceding the day the report is required to be
returned under section 5725.14 of the Revised Code and, in the
case of a domestic insurance company, the calendar year ending on
the thirty-first day of December next preceding the day the annual
statement is required to be returned under section 5725.18 or
5725.181 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against
the tax imposed under this chapter for a taxpayer for which a tax
credit certificate is issued under section 5733.42 of the Revised
Code. The credit may be claimed for credit periods beginning on or
after January 1, 2003, and ending on or before December 31, ~~2005~~
2006. The amount of the credit for the credit period beginning on
January 1, 2003, shall equal one-half of the average of the
eligible training costs paid or incurred by the taxpayer during
calendar years 1998, 1999, and 2000, not to exceed one thousand
dollars for each eligible employee on account of whom eligible
training costs were paid or incurred by the taxpayer. The amount
of the credit for the credit period beginning on January 1, 2004,
shall equal one-half of the average of the eligible training costs
paid or incurred by the taxpayer during calendar years 2002, 2003,
and 2004, not to exceed one thousand dollars for each eligible
employee on account of whom eligible training costs were paid or
incurred by the taxpayer. The amount of the credit for the credit
period beginning on January 1, 2005, shall equal one-half of the
average of the eligible training costs paid or incurred by the
taxpayer during calendar years 2003, 2004, and 2005, not to exceed
one thousand dollars for each eligible employee on account of whom
eligible training costs were paid or incurred by the taxpayer. ~~The~~
The amount of the credit for the credit period beginning on
January 1, 2006, shall equal one-half of the average of the
eligible training costs paid or incurred by the taxpayer during

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calendar years 2004, 2005, and 2006, not to exceed one thousand 50
dollars for each eligible employee on account of whom eligible 51
training costs were paid or incurred by the taxpayer. 52

The credit claimed by a taxpayer each credit period shall not 53
exceed one hundred thousand dollars. 54

A taxpayer shall apply to the director of job and family 55
services for a tax credit certificate in the manner prescribed by 56
division (C) of section 5733.42 of the Revised Code. Divisions (C) 57
to (H) of that section govern the tax credit allowed by this 58
section, except that "credit period" shall be substituted for "tax 59
year with respect to a calendar year" wherever that phrase appears 60
in those divisions and that a taxpayer under this section shall be 61
considered a taxpayer for the purposes of that section. 62

A taxpayer may carry forward the credit allowed under this 63
section to the extent that the credit exceeds the taxpayer's tax 64
due for the credit period. The taxpayer may carry the excess 65
credit forward for three credit periods following the credit 66
period for which the credit is first claimed under this section. 67
The credit allowed by this section is in addition to any credit 68
allowed under section 5729.031 of the Revised Code. 69

Sec. 5729.07. As used in this section: 70

(A) "Eligible employee" and "eligible training costs" have 71
the same meanings as in section 5733.42 of the Revised Code. 72

(B) "Credit period" means the calendar year ending on the 73
thirty-first day of December next preceding the day the annual 74
statement is required to be returned under section 5729.02 of the 75
Revised Code. 76

There is hereby allowed a nonrefundable credit against the 77
tax imposed under this chapter for a foreign insurance company for 78
which a tax credit certificate is issued under section 5733.42 of 79

the Revised Code. The credit may be claimed for credit periods
beginning on or after January 1, 2003, and ending on or before
December 31, ~~2005~~ 2006. The amount of the credit for the credit
period beginning on January 1, 2003, shall equal one-half of the
average of the eligible training costs paid or incurred by the
company during calendar years 1998, 1999, and 2000, not to exceed
one thousand dollars for each eligible employee on account of whom
eligible training costs were paid or incurred by the company. The
amount of the credit for the credit period beginning on January 1,
2004, shall equal one-half of the average of the eligible training
costs paid or incurred by the company during calendar years 2002,
2003, and 2004, not to exceed one thousand dollars for each
eligible employee on account of whom eligible training costs were
paid or incurred by the company. The amount of the credit for the
credit period beginning on January 1, 2005, shall equal one-half
of the average of the eligible training costs paid or incurred by
the company during calendar years 2003, 2004, and 2005, not to
exceed one thousand dollars for each eligible employee on account
of whom eligible training costs were paid or incurred by the
company. The amount of the credit for the credit period
beginning on January 1, 2006, shall equal one-half of the average
of the eligible training costs paid or incurred by the company
during calendar years 2004, 2005, and 2006, not to exceed one
thousand dollars for each eligible employee on account of whom
eligible training costs were paid or incurred by the company.

The credit claimed by a company for each credit period shall
not exceed one hundred thousand dollars.

A foreign insurance company shall apply to the director of
job and family services for a tax credit certificate in the manner
prescribed by division (C) of section 5733.42 of the Revised Code.
Divisions (C) to (H) of that section govern the tax credit allowed
by this section, except that "credit period" shall be substituted

for "tax year with respect to a calendar year" wherever that 112
phrase appears in those divisions and that the company shall be 113
considered a taxpayer for the purposes of those divisions. 114

A foreign insurance company may carry forward the credit 115
allowed under this section to the extent that the credit exceeds 116
the company's tax due for the credit period. The company may carry 117
the excess credit forward for three credit periods following the 118
credit period for which the credit is first claimed under this 119
section. The credit allowed by this section is in addition to any 120
credit allowed under section 5729.031 of the Revised Code. 121

The reduction in the tax due under this chapter to the extent 122
of the credit allowed by this section does not increase the amount 123
of the tax otherwise due under section 5729.06 of the Revised 124
Code. 125

Sec. 5733.42. (A) As used in this section: 126

(1) "Eligible training program" means a program to provide 127
job skills to eligible employees who are unable effectively to 128
function on the job due to skill deficiencies or who would 129
otherwise be displaced because of their skill deficiencies or 130
inability to use new technology, or to provide job skills to 131
eligible employees that enable them to perform other job duties 132
for the taxpayer. Eligible training programs do not include 133
executive, management, or personal enrichment training programs, 134
or training programs intended exclusively for personal career 135
development. 136

(2) "Eligible employee" means an individual who is employed 137
in this state by a taxpayer and has been so employed by the same 138
taxpayer for at least one hundred eighty consecutive days before 139
the day an application for the credit is filed under this section. 140
"Eligible employee" does not include any employee for which a 141

credit is claimed pursuant to division (A)(5) of section 5709.65 142
of the Revised Code for all or any part of the same year, an 143
employee who is not a full-time employee, or executive or 144
managerial personnel, except for the immediate supervisors of 145
nonexecutive, nonmanagerial personnel. 146

(3) "Eligible training costs" means: 147

(a) Direct instructional costs, such as instructor salaries, 148
materials and supplies, textbooks and manuals, videotapes, and 149
other instructional media and training equipment used exclusively 150
for the purpose of training eligible employees; 151

(b) Wages paid to eligible employees for time devoted 152
exclusively to an eligible training program during normal paid 153
working hours. 154

(4) "Full-time employee" means an individual who is employed 155
for consideration for at least thirty-five hours per week, or who 156
renders any other standard of service generally accepted by custom 157
or specified by contract as full-time employment. 158

(5) "Partnership" includes a limited liability company formed 159
under Chapter 1705. of the Revised Code or under the laws of 160
another state, provided that the company is not classified for 161
federal income tax purposes as an association taxable as a 162
corporation. 163

(B) There is hereby allowed a nonrefundable credit against 164
the tax imposed by section 5733.06 of the Revised Code for 165
taxpayers for which a tax credit certificate is issued under 166
division (C) of this section. The credit may be claimed for tax 167
years 2004, 2005, ~~and 2006,~~ and 2007. The amount of the credit for 168
tax year 2004 shall equal one-half of the average of the eligible 169
training costs paid or incurred by the taxpayer during calendar 170
years 1999, 2000, and 2001, not to exceed one thousand dollars for 171
each eligible employee on account of whom eligible training costs 172

were paid or incurred by the taxpayer during those calendar years. 173
The amount of the credit for tax year 2005 shall equal one-half of 174
the average of the eligible training costs paid or incurred by the 175
taxpayer during calendar years 2002, 2003, and 2004, not to exceed 176
one thousand dollars for each eligible employee on account of whom 177
eligible training costs were paid or incurred by the taxpayer 178
during those calendar years. The amount of the credit for tax year 179
2006 shall equal one-half of the average of the eligible training 180
costs paid or incurred by the taxpayer during calendar years 2003, 181
2004, and 2005, not to exceed one thousand dollars for each 182
eligible employee on account of whom eligible training costs were 183
paid or incurred by the taxpayer during those calendar years. ~~The~~ 184
The amount of the credit for tax year 2007 shall equal one-half of 185
the average of the eligible training costs paid or incurred by the 186
taxpayer during calendar years 2004, 2005, and 2006, not to exceed 187
one thousand dollars for each eligible employee on account of whom 188
eligible training costs were paid or incurred by the taxpayer 189
during those calendar years. 190

The credit claimed by a taxpayer each tax year shall not 191
exceed one hundred thousand dollars. 192

(C) A taxpayer who proposes to conduct an eligible training 193
program may apply to the director of job and family services for a 194
tax credit certificate under this section. The taxpayer may apply 195
for such a certificate for tax years 2004, 2005, ~~and~~ 2006, and 196
2007, subject to division (L) of this section. The director shall 197
prescribe the form of the application, which shall require a 198
detailed description of the proposed training program. The 199
director may require applicants to remit an application fee with 200
each application filed with the director. The fee shall not exceed 201
the reasonable and necessary expenses incurred by the director in 202
receiving, reviewing, and approving such applications and issuing 203
tax credit certificates. Proceeds from fees shall be used solely 204

for the purpose of receiving, reviewing, and approving such 205
applications and issuing such certificates. 206

After receipt of an application, the director shall authorize 207
a credit under this section by issuing a tax credit certificate, 208
in the form prescribed by the director, if the director determines 209
all of the following: 210

(1) The proposed training program is an eligible training 211
program under this section; 212

(2) The proposed training program is economically sound and 213
will benefit the people of this state by improving workforce 214
skills and strengthening the economy of this state; 215

(3) Receiving the tax credit is a major factor in the 216
taxpayer's decision to go forward with the training program; 217

(4) Authorization of the credit is consistent with division 218
(H) of this section. 219

The credit also is allowed for a taxpayer that is a partner 220
in a partnership that pays or incurs eligible training costs. Such 221
a taxpayer shall determine the taxpayer's credit amount in the 222
manner prescribed by division (K) of this section. 223

(D) If the director of job and family services denies an 224
application for a tax credit certificate, the director shall send 225
notice of the denial and the reason for denial to the applicant by 226
certified mail, return receipt requested. If the director 227
determines that an authorized training program, as actually 228
conducted, fails to meet the requirements of this section or to 229
comply with any condition set forth in the authorization, the 230
director may reduce the amount of the tax credit previously 231
granted. If the director reduces a tax credit, the director shall 232
send notice of the reduction and the reason for the reduction to 233
the taxpayer by certified mail, return receipt requested, and 234
shall certify the reduction to the tax commissioner or, in the 235

case of the reduction of a credit claimed by an insurance company, 236
the superintendent of insurance. The tax commissioner or 237
superintendent of insurance shall reduce the credit that may be 238
claimed by the taxpayer accordingly. Within sixty days after 239
receiving a notice of denial or notice of reduction of the tax 240
credit, an applicant or taxpayer may request, in writing, a 241
hearing before the director to review the denial or reduction. 242
Within sixty days after receiving a request that is filed within 243
the prescribed time, the director shall hold such a hearing at a 244
location to be determined by the director. Within thirty days 245
after the hearing is adjourned, the director shall issue a 246
redetermination affirming, reversing, or modifying the denial or 247
reduction of the tax credit and send notice of the redetermination 248
to the applicant or taxpayer by certified mail, return receipt 249
requested, and shall issue a notice of the redetermination to the 250
tax commissioner or superintendent of insurance. If an applicant 251
or taxpayer is aggrieved by the director's redetermination, the 252
applicant or taxpayer may appeal the redetermination to the board 253
of tax appeals in the manner prescribed by section 5717.02 of the 254
Revised Code. 255

(E) A taxpayer to which a tax credit certificate is issued 256
shall retain records indicating the eligible training costs it 257
pays or incurs for the eligible training program for which the 258
certificate is issued for four years following the end of the tax 259
year for which the credit is claimed. Such records shall be open 260
to inspection by the director of job and family services upon the 261
director's request during business hours. 262

Financial statements and other information submitted by an 263
applicant to the director of job and family services for a tax 264
credit under this section, and any information taken for any 265
purpose from such statements or information, are not public 266
records subject to section 149.43 of the Revised Code. However, 267

the director of job and family services, the tax commissioner, or 268
superintendent of insurance may make use of the statements and 269
other information for purposes of issuing public reports or in 270
connection with court proceedings concerning tax credits allowed 271
under this section and sections 5725.31, 5729.07, and 5747.39 of 272
the Revised Code. 273

(F) The director of job and family services, in accordance 274
with Chapter 119. of the Revised Code, shall adopt rules necessary 275
to implement this section and sections 5725.31, 5729.07, and 276
5747.39 of the Revised Code. The rules shall be adopted after 277
consultation with the tax commissioner and the superintendent of 278
insurance. The rules shall require that if a taxpayer to which a 279
tax credit certificate is issued under any of those sections 280
permanently relocates or transfers employees trained under the tax 281
credit certificate to another state or country within two years of 282
receiving the certificate, the taxpayer shall repay the total 283
amount of the tax credit received by the taxpayer for any 284
employees permanently relocated or transferred. At the time the 285
director gives public notice under division (A) of section 119.03 286
of the Revised Code of the adoption of the rules, the director 287
shall submit copies of the proposed rules to the chairpersons and 288
ranking minority members of the standing committees in the senate 289
and the house of representatives to which legislation on economic 290
development matters are customarily referred. 291

(G) On or before the thirtieth day of September of 2001, 292
2003, 2004, 2005, ~~and~~ 2006, and 2007, the director of job and 293
family services shall submit a report to the governor, the 294
president of the senate, and the speaker of the house of 295
representatives on the tax credit program under this section and 296
sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The 297
report shall include information on the number of training 298
programs that were authorized under those sections during the 299

preceding calendar year, a description of each authorized training 300
program, the dollar amounts of the credits granted, and an 301
estimate of the impact of the credits on the economy of this 302
state. 303

(H) The aggregate amount of credits authorized under this 304
section and sections 5725.31, 5729.07, and 5747.39 of the Revised 305
Code shall not exceed twenty million dollars per calendar year. No 306
more than ten million dollars in credits per calendar year shall 307
be authorized for persons engaged primarily in manufacturing. No 308
less than five million dollars in credits per calendar year shall 309
be set aside for persons engaged primarily in activities other 310
than manufacturing and having fewer than five hundred employees. 311
Subject to such limits, the director of job and family services 312
shall adopt a rule under division (F) of this section that 313
establishes criteria and procedures for distribution of the 314
credits. 315

(I) A nonrefundable credit allowed under this section shall 316
be claimed in the order required under section 5733.98 of the 317
Revised Code. 318

(J) The taxpayer may carry forward any credit amount in 319
excess of its tax due after allowing for any other credits that 320
precede the credit under this section in the order required under 321
section 5733.98 of the Revised Code. The excess credit may be 322
carried forward for three years following the tax year for which 323
it is first claimed under this section. 324

(K) A taxpayer that is a partner in a partnership on the last 325
day of the third calendar year of the three-year period during 326
which the partnership pays or incurs eligible training costs may 327
claim a credit under this section for the tax year immediately 328
following that calendar year. The amount of a partner's credit 329
equals the partner's interest in the partnership on the last day 330
of such calendar year multiplied by the credit available to the 331

partnership as computed by the partnership. 332

(L) The director of job and family services shall not 333
authorize any credits under this section and sections 5725.31, 334
5729.07, and 5747.39 of the Revised Code for eligible training 335
costs paid or incurred after December 31, ~~2005~~ 2006. 336

Sec. 5747.39. (A) As used in this section, "eligible 337
employee" and "eligible training costs" have the same meanings as 338
in section 5733.42 of the Revised Code, and "pass-through entity" 339
includes a sole proprietorship. 340

(B)(1) For taxable years beginning ~~after~~ in 2003, 2004, ~~and~~ 341
~~2005, and 2006,~~ there is hereby allowed a nonrefundable credit 342
against the tax imposed by section 5747.02 of the Revised Code for 343
a taxpayer that is an investor in a pass-through entity for which 344
a tax credit certificate is issued under section 5733.42 of the 345
Revised Code. For the taxable year beginning in 2003, the amount 346
of eligible training costs for which a credit may be claimed by 347
all taxpayers that are investors in an entity shall equal one-half 348
of the average of the eligible training costs incurred by the 349
entity during calendar years 1999, 2000, and 2001, but shall not 350
exceed one thousand dollars for each eligible employee on account 351
of whom such costs were paid or incurred by the entity, ~~and the~~ 352
~~total amount of credits that may be claimed by all such taxpayers~~ 353
~~shall not exceed one hundred thousand dollars. The~~ 354

~~The~~ amount of a taxpayer's credit for the taxpayer's taxable 355
year beginning in 2003 shall equal the taxpayer's interest in the 356
entity on December 31, 2001, multiplied by the credit available to 357
the entity as computed by the entity. 358

(2) For the taxable year beginning in 2004, the amount of the 359
eligible training costs for which a credit may be claimed by all 360
taxpayers that are investors in an entity shall equal one-half of 361

the average of the eligible training costs incurred by the entity 362
during calendar years 2002, 2003, and 2004, but shall not exceed 363
one thousand dollars for each eligible employee on account of whom 364
such costs were paid or incurred by the entity, ~~and the total~~ 365
~~amount of credits that may be claimed by all such taxpayers shall~~ 366
~~not exceed one hundred thousand dollars.~~ The amount of a 367
taxpayer's credit for the taxpayer's taxable year beginning in 368
2004 shall equal the taxpayer's interest in the entity on December 369
31, 2004, multiplied by the credit available to the entity as 370
computed by the entity. 371

(3) For the taxable year beginning in 2005, the amount of the 372
eligible training costs for which a credit may be claimed by all 373
taxpayers that are investors in an entity shall equal one-half of 374
the average of the eligible training costs incurred by the entity 375
during calendar years 2003, 2004, and 2005, but shall not exceed 376
one thousand dollars for each eligible employee on account of whom 377
such costs were paid or incurred by the entity, ~~and the total~~ 378
~~amount of credits that may be claimed by all such taxpayers shall~~ 379
~~not exceed one hundred thousand dollars.~~ The amount of a 380
taxpayer's credit for the taxpayer's taxable year beginning in 381
2005 shall equal the taxpayer's interest in the entity on December 382
31, 2005, multiplied by the credit available to the entity as 383
computed by the entity. 384

(4) For the taxable year beginning in 2006, the amount of the 385
eligible training costs for which a credit may be claimed by all 386
taxpayers that are investors in an entity shall equal one-half of 387
the average of the eligible training costs incurred by the entity 388
during calendar years 2004, 2005, and 2006, but shall not exceed 389
one thousand dollars for each eligible employee on account of whom 390
such costs were paid or incurred by the entity. The amount of a 391
taxpayer's credit for the taxpayer's taxable year beginning in 392
2006 shall equal the taxpayer's interest in the entity on December 393

31, 2006, multiplied by the credit available to the entity as 394
computed by the entity. 395

(5) The total amount of credits that may be claimed by all 396
such taxpayers with respect to each pass-through entity for each 397
taxable year shall not exceed one hundred thousand dollars. 398

(C) The credit shall be claimed in the order prescribed by 399
section 5747.98 of the Revised Code. A taxpayer may carry forward 400
the credit to the extent that the taxpayer's credit exceeds the 401
taxpayer's tax due after allowing for any other credits that 402
precede the credit allowed by this section in the order prescribed 403
by section 5747.98 of the Revised Code. The taxpayer may carry the 404
excess credit forward for three taxable years following the 405
taxable year for which the taxpayer first claims the credit under 406
this section. 407

(D) A pass-through entity shall apply to the director of job 408
and family services for a tax credit certificate in the manner 409
prescribed by division (C) of section 5733.42 of the Revised Code. 410
Divisions (C) to (H) of that section govern the tax credit allowed 411
by this section, except that "taxable year" shall be substituted 412
for "tax year" wherever that phrase appears in those divisions, 413
and that "pass-through entity" shall be substituted for "taxpayer" 414
wherever "taxpayer" appears in those divisions. 415

Section 2. That existing sections 5725.31, 5729.07, 5733.42, 416
and 5747.39 of the Revised Code are hereby repealed. 417

Section 3. This act is hereby declared to be an emergency 418
measure necessary for the immediate preservation of the public 419
peace, health, and safety. The reason for such necessity is that 420
the job training tax credit is scheduled to expire, but the credit 421
is needed for an additional year to encourage Ohio employers to 422
provide further job skill training programs to employees. 423

Therefore, this act shall go into immediate effect.

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