

As Introduced

128th General Assembly
Regular Session
2009-2010

S. B. No. 145

Senator Miller, R.

—

A BILL

To amend sections 5733.98 and 5747.98 and to enact 1
sections 5733.421 and 5747.391 of the Revised Code 2
to create a tax credit for wages paid by employers 3
to employees who have been convicted of felonies. 4

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

Section 1. That sections 5733.98 and 5747.98 be amended and 5
sections 5733.421 and 5747.391 of the Revised Code be enacted to 6
read as follows: 7

Sec. 5733.421. (A) As used in this section: 8

(1) "Qualified reforming felon" means an individual who: 9

(a) Has been convicted of a felony under any statute of the 10
United States or any state; 11

(b) Was hired by a taxpayer within one year after the 12
conviction or, if sentenced to a term of incarceration, was hired 13
within one year after being released from incarceration; and 14

(c) Is a member of a family that, in the six months 15
immediately preceding the date of hiring, had an income that, on 16
an annual basis, would be seventy per cent or less of the most 17
recent lower living standard calculated by the federal bureau of 18
labor statistics. 19

(2) "Family" means an individual, an individual's spouse, and children. 20
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(3) "Wages" has the same meaning as in section 3306 of the Internal Revenue Code. 22
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(B)(1) Beginning in tax year 2009, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for the wages paid by a taxpayer to a qualified reforming felon who works at least one hundred twenty hours for the taxpayer during the taxpayer's taxable year. The amount of the credit shall be calculated as follows: 24
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(a) For each qualified reforming felon who works at least four hundred hours during the taxable year, the credit equals forty per cent of the wages paid to the qualified reforming felon, but shall not exceed two thousand four hundred dollars per qualified reforming felon. 30
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(b) For each qualified reforming felon who works less than four hundred hours but at least one hundred twenty hours during the taxable year, the credit equals twenty-five per cent of the wages paid to the qualified reforming felon, but shall not exceed one thousand five hundred dollars per qualified reforming felon. 35
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The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax year after allowance for any other credits that precede the credit under that section in that order, may be carried forward for the next five succeeding tax years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding year. 40
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(2) A taxpayer who received federally funded payments for on-the-job training of a qualified reforming felon may not claim the credit allowed under this section for any portion of the wages 48
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paid to that qualified reforming felon. 51

(3) A taxpayer may not claim the credit allowed under this 52
section for any portion of the wages paid to a qualified reforming 53
felon for services that were the same as, or substantially similar 54
to, services that, but for a strike or lockout, would have been 55
performed by another employee. 56

(4) If a qualified reforming felon's employment is terminated 57
during the taxable year and the qualified reforming felon was 58
employed by the taxpayer for less than twelve months, the taxpayer 59
may not claim the full amount of the credit allowed under this 60
section unless the qualified reforming felon voluntarily 61
terminated employment; was unable to continue employment due to a 62
disability or death; or was terminated for cause. If a qualified 63
reforming felon's employment is terminated for any other reason, 64
the amount of the credit to which the taxpayer is entitled under 65
this section is reduced by a percentage equal to the percentage of 66
the taxable year that the qualified reforming felon was not 67
employed by the taxpayer. 68

(C) All files, statements, returns, reports, papers, or 69
documents of any kind relating to qualified reforming felons or 70
their families are not public records under section 149.43 of the 71
Revised Code. 72

Sec. 5733.98. (A) To provide a uniform procedure for 73
calculating the amount of tax imposed by section 5733.06 of the 74
Revised Code that is due under this chapter, a taxpayer shall 75
claim any credits to which it is entitled in the following order, 76
except as otherwise provided in section 5733.058 of the Revised 77
Code: 78

(1) For tax year 2005, the credit for taxes paid by a 79
qualifying pass-through entity allowed under section 5733.0611 of 80
the Revised Code; 81

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;	82 83
(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	84 85
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	86 87
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	88 89
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	90 91
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	92 93
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	94 95
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	96 97
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	98 99
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	100 101
(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;	102 103
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	104 105
(14) The job training credit under section 5733.42 of the Revised Code;	106 107
(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;	108 109
(16) The enterprise zone credit under section 5709.66 of the	110

Revised Code;	111
(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	112 113
(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	114 115
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	116 117
(20) <u>The credit for employers that employ qualified reforming felons under section 5733.421 of the Revised Code;</u>	118 119
<u>(21)</u> The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	120 121
(21) <u>(22)</u> The export sales credit under section 5733.069 of the Revised Code;	122 123
(22) <u>(23)</u> The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	124 125 126
(23) <u>(24)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	127 128
(24) <u>(25)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	129 130
(25) <u>(26)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	131 132
(26) <u>(27)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	133 134
(27) <u>(28)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	135 136 137
(28) <u>(29)</u> The research and development credit under section 5733.352 of the Revised Code;	138 139

~~(29)~~(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

~~(30)~~(31) The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;

~~(31)~~(32) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(32)~~(33) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(33)~~(34) The refundable credit under section 5733.49 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;

~~(34)~~(35) For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of this section, the amount of the credit for a tax year 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 that credit.

Sec. 5747.391. (A) As used in this section:

(1) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code and includes a sole proprietorship.

(2) "Qualified reforming felon" means an individual who:

(a) Has been convicted of a felony under any statute of the United States or any state;

(b) Was hired by a pass-through entity within one year after

the conviction or, if sentenced to a term of incarceration, was 169
hired within one year after being released from incarceration; and 170

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(c) Is a member of a family that, in the six months 172
immediately preceding the date of hiring, had an income that, on 173
an annual basis, would be seventy per cent or less of the most 174
recent lower living standard calculated by the federal bureau of 175
labor statistics. 176

(3) "Family" means an individual, an individual's spouse, and 177
children. 178

(4) "Wages" has the same meaning as in section 3306 of the 179
Internal Revenue Code. 180

(B)(1) For taxable years beginning in 2009 or thereafter, a 181
nonrefundable credit is allowed against the tax imposed by section 182
5747.02 of the Revised Code for the wages paid by a pass-through 183
entity to a qualified reforming felon who works at least one 184
hundred twenty hours for the pass-through entity during the 185
entity's taxable year ending in or with the taxpayer's taxable 186
year. The amount of the credit shall be calculated as follows: 187

(a) For each qualified reforming felon who works at least 188
four hundred hours during the entity's taxable year, the credit 189
equals forty per cent of the wages paid to the qualified reforming 190
felon, but shall not exceed two thousand four hundred dollars per 191
qualified reforming felon. 192

(b) For each qualified reforming felon who works less than 193
four hundred hours but at least one hundred twenty hours during 194
the entity's taxable year, the credit equals twenty-five per cent 195
of the wages paid to the qualified reforming felon, but shall not 196
exceed one thousand five hundred dollars per qualified reforming 197
felon. 198

The amount of a taxpayer's credit is the taxpayer's 199

proportionate share of the credit distributed by the pass-through 200
entity. The credit shall be claimed in the order required under 201
section 5747.98 of the Revised Code. The credit, to the extent it 202
exceeds the taxpayer's tax liability for the taxable year after 203
allowance for any other credits that precede the credit under that 204
section in that order, may be carried forward for the next five 205
succeeding taxable years, but the amount of any excess credit 206
allowed in any such year shall be deducted from the balance 207
carried forward to the succeeding year. 208

(2) A taxpayer may not claim the credit allowed under this 209
section for any portion of the wages paid to a qualified reforming 210
felon for whom the pass-through entity received federally funded 211
payments for on-the-job training. 212

(3) A taxpayer may not claim the credit allowed under this 213
section for any portion of the wages paid to a qualified reforming 214
felon for services that were the same as, or substantially similar 215
to, services that, but for a strike or lockout, would have been 216
performed by another employee. 217

(4) If a qualified reforming felon's employment is terminated 218
during the pass-through entity's taxable year ending in or with 219
the taxpayer's taxable year and the qualified reforming felon was 220
employed by the pass-through entity for less than twelve months, a 221
taxpayer may not claim the full amount of the credit allowed under 222
this section unless the qualified reforming felon voluntarily 223
terminated employment; was unable to continue employment due to a 224
disability or death; or was terminated for cause. If a qualified 225
reforming felon's employment is terminated for any other reason, 226
the amount of the credit to which the taxpayer is entitled under 227
this section is reduced by a percentage equal to the percentage of 228
the taxable year that the qualified reforming felon was not 229
employed by the pass-through entity. 230

(C) All files, statements, returns, reports, papers, or 231

documents of any kind relating to qualified reforming felons or 232
their families are not public records under section 149.43 of the 233
Revised Code. 234

Sec. 5747.98. (A) To provide a uniform procedure for 235
calculating the amount of tax due under section 5747.02 of the 236
Revised Code, a taxpayer shall claim any credits to which the 237
taxpayer is entitled in the following order: 238

(1) The retirement income credit under division (B) of 239
section 5747.055 of the Revised Code; 240

(2) The senior citizen credit under division (C) of section 241
5747.05 of the Revised Code; 242

(3) The lump sum distribution credit under division (D) of 243
section 5747.05 of the Revised Code; 244

(4) The dependent care credit under section 5747.054 of the 245
Revised Code; 246

(5) The lump sum retirement income credit under division (C) 247
of section 5747.055 of the Revised Code; 248

(6) The lump sum retirement income credit under division (D) 249
of section 5747.055 of the Revised Code; 250

(7) The lump sum retirement income credit under division (E) 251
of section 5747.055 of the Revised Code; 252

(8) The low-income credit under section 5747.056 of the 253
Revised Code; 254

(9) The credit for displaced workers who pay for job training 255
under section 5747.27 of the Revised Code; 256

(10) The campaign contribution credit under section 5747.29 257
of the Revised Code; 258

(11) The twenty-dollar personal exemption credit under 259
section 5747.022 of the Revised Code; 260

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	261 262
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	263 264
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	265 266
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	267 268
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	269 270
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	271 272
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	273 274
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	275 276
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	277 278
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	279 280 281
(22) The job training credit under section 5747.39 of the Revised Code;	282 283
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	284 285
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	286 287
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	288 289

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	290 291
<u>(27) The credit for employers that employ qualified reforming felons under section 5747.391 of the Revised Code;</u>	292 293
<u>(28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;</u>	294 295
(28) <u>(29) The export sales credit under section 5747.057 of the Revised Code;</u>	296 297
(29) <u>(30) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;</u>	298 299 300
(30) <u>(31) The enterprise zone credits under section 5709.65 of the Revised Code;</u>	301 302
(31) <u>(32) The research and development credit under section 5747.331 of the Revised Code;</u>	303 304
(32) <u>(33) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;</u>	305 306
(33) <u>(34) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;</u>	307 308
(34) <u>(35) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;</u>	309 310
(35) <u>(36) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;</u>	311 312
(36) <u>(37) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;</u>	313 314 315
(37) <u>(38) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;</u>	316 317
(38) <u>(39) The refundable credit under section 5747.80 of the</u>	318

Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code. 319
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(B) For any credit, except the credits enumerated in divisions (A)~~(33)~~(34) to ~~(38)~~(39) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year 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 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. 321
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Section 2. That existing sections 5733.98 and 5747.98 of the Revised Code are hereby repealed. 331
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