

# As Introduced

129th General Assembly  
Regular Session  
2011-2012

S. B. No. 58

Senator Tavares

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## A BILL

To amend sections 5733.98 and 5747.98 and to enact  
sections 5733.421 and 5747.391 of the Revised Code  
to create a tax credit for the employment of  
individuals who have been convicted of felonies.

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

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

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

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

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

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

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

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(2) "Family" means an individual, an individual's spouse, and 20  
children. 21

(3) "Wages" has the same meaning as in section 3306 of the 22  
Internal Revenue Code. 23

(B)(1) Beginning in tax year 2011, a nonrefundable credit is 24  
allowed against the tax imposed by section 5733.06 of the Revised 25  
Code for the wages paid by a taxpayer to a qualified reforming 26  
felon who works at least one hundred twenty hours for the taxpayer 27  
during the taxpayer's taxable year. The amount of the credit shall 28  
be calculated as follows: 29

(a) For each qualified reforming felon who works at least 30  
four hundred hours during the taxable year, the credit equals 31  
forty per cent of the wages paid to the qualified reforming felon, 32  
but shall not exceed two thousand four hundred dollars per 33  
qualified reforming felon. 34

(b) For each qualified reforming felon who works less than 35  
four hundred hours but at least one hundred twenty hours during 36  
the taxable year, the credit equals twenty-five per cent of the 37  
wages paid to the qualified reforming felon, but shall not exceed 38  
one thousand five hundred dollars per qualified reforming felon. 39

The credit shall be claimed in the order required under 40  
section 5733.98 of the Revised Code. The credit, to the extent it 41  
exceeds the taxpayer's tax liability for the tax year after 42  
allowance for any other credits that precede the credit under that 43  
section in that order, may be carried forward for the next five 44  
succeeding tax years, but the amount of any excess credit allowed 45  
in any such year shall be deducted from the balance carried 46  
forward to the succeeding year. 47

(2) A taxpayer who received federally funded payments for 48  
on-the-job training of a qualified reforming felon may not claim 49  
the credit allowed under this section for any portion of the wages 50

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	82
section 5733.45 of the Revised Code;	83
(3) The credit for qualifying affiliated groups under section	84
5733.068 of the Revised Code;	85
(4) The subsidiary corporation credit under section 5733.067	86
of the Revised Code;	87
(5) The savings and loan assessment credit under section	88
5733.063 of the Revised Code;	89
(6) The credit for recycling and litter prevention donations	90
under section 5733.064 of the Revised Code;	91
(7) The credit for employers that enter into agreements with	92
child day-care centers under section 5733.36 of the Revised Code;	93
(8) The credit for employers that reimburse employee child	94
care expenses under section 5733.38 of the Revised Code;	95
(9) The credit for maintaining railroad active grade crossing	96
warning devices under section 5733.43 of the Revised Code;	97
(10) The credit for purchases of lights and reflectors under	98
section 5733.44 of the Revised Code;	99
(11) The job retention credit under division (B) of section	100
5733.0610 of the Revised Code;	101
(12) The credit for tax years 2008 and 2009 for selling	102
alternative fuel under section 5733.48 of the Revised Code;	103
(13) The second credit for purchases of new manufacturing	104
machinery and equipment under section 5733.33 of the Revised Code;	105
(14) The job training credit under section 5733.42 of the	106
Revised Code;	107
(15) The credit for qualified research expenses under section	108
5733.351 of the Revised Code;	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	112
voluntary action under section 5733.34 of the Revised Code;	113
(18) The credit for employers that establish on-site child	114
day-care centers under section 5733.37 of the Revised Code;	115
(19) The ethanol plant investment credit under section	116
5733.46 of the Revised Code;	117
(20) <u>The credit for employers that employ qualified reforming</u>	118
<u>felons under section 5733.421 of the Revised Code;</u>	119
<del>(21)</del> (21) The credit for purchases of qualifying grape production	120
property under section 5733.32 of the Revised Code;	121
<del>(21)</del> (22) The export sales credit under section 5733.069 of	122
the Revised Code;	123
<del>(22)</del> (23) The credit for research and development and	124
technology transfer investors under section 5733.35 of the Revised	125
Code;	126
<del>(23)</del> (24) The enterprise zone credits under section 5709.65 of	127
the Revised Code;	128
<del>(24)</del> (25) The credit for using Ohio coal under section 5733.39	129
of the Revised Code;	130
<del>(25)</del> (26) The credit for purchases of qualified low-income	131
community investments under section 5733.58 of the Revised Code;	132
<del>(26)</del> (27) The credit for small telephone companies under	133
section 5733.57 of the Revised Code;	134
<del>(27)</del> (28) The credit for eligible nonrecurring 9-1-1 charges	135
under section 5733.55 of the Revised Code;	136
<del>(28)</del> (29) For tax year 2005, the credit for providing programs	137
to aid the communicatively impaired under division (A) of section	138
5733.56 of the Revised Code;	139

<del>(29)</del> (30) The research and development credit under section	140
5733.352 of the Revised Code;	141
<del>(30)</del> (31) For tax years 2006 and subsequent tax years, the	142
credit for taxes paid by a qualifying pass-through entity allowed	143
under section 5733.0611 of the Revised Code;	144
<del>(31)</del> (32) The refundable credit for rehabilitating a historic	145
building under section 5733.47 of the Revised Code;	146
<del>(32)</del> (33) The refundable jobs creation credit under division	147
(A) of section 5733.0610 of the Revised Code;	148
<del>(33)</del> (34) The refundable credit for tax withheld under	149
division (B)(2) of section 5747.062 of the Revised Code;	150
<del>(34)</del> (35) The refundable credit under section 5733.49 of the	151
Revised Code for losses on loans made to the Ohio venture capital	152
program under sections 150.01 to 150.10 of the Revised Code;	153
<del>(35)</del> (36) For tax years 2006, 2007, and 2008, the refundable	154
credit allowable under division (B) of section 5733.56 of the	155
Revised Code;	156
<del>(36)</del> (37) The refundable motion picture production credit	157
under section 5733.59 of the Revised Code.	158
(B) For any credit except the credits enumerated in divisions	159
(A) <del>(31)</del> (32) to <del>(36)</del> (37) of this section, the amount of the credit	160
for a tax year shall not exceed the tax due after allowing for any	161
other credit that precedes it in the order required under this	162
section. Any excess amount of a particular credit may be carried	163
forward if authorized under the section creating that credit.	164
<b><u>Sec. 5747.391. (A) As used in this section:</u></b>	165
<u>(1) "Pass-through entity" has the same meaning as in section</u>	166
<u>5733.04 of the Revised Code and includes a sole proprietorship.</u>	167
<u>(2) "Qualified reforming felon" means an individual who:</u>	168

(a) Has been convicted of a felony under any statute of the 169  
United States or any state; 170

(b) Was hired by a pass-through entity within one year after 171  
the conviction or, if sentenced to a term of incarceration, was 172  
hired within one year after being released from incarceration; and 173

(c) Is a member of a family that, in the six months 174  
immediately preceding the date of hiring, had an income that, on 175  
an annual basis, would be seventy per cent or less of the most 176  
recent lower living standard calculated by the federal bureau of 177  
labor statistics. 178

(3) "Family" means an individual, an individual's spouse, and 179  
children. 180

(4) "Wages" has the same meaning as in section 3306 of the 181  
Internal Revenue Code. 182

(B)(1) For taxable years beginning in 2011 or thereafter, a 183  
nonrefundable credit is allowed against the tax imposed by section 184  
5747.02 of the Revised Code for the wages paid by a pass-through 185  
entity to a qualified reforming felon who works at least one 186  
hundred twenty hours for the pass-through entity during the 187  
entity's taxable year ending in or with the taxpayer's taxable 188  
year. The amount of the credit shall be calculated as follows: 189

(a) For each qualified reforming felon who works at least 190  
four hundred hours during the entity's taxable year, the credit 191  
equals forty per cent of the wages paid to the qualified reforming 192  
felon, but shall not exceed two thousand four hundred dollars per 193  
qualified reforming felon. 194

(b) For each qualified reforming felon who works less than 195  
four hundred hours but at least one hundred twenty hours during 196  
the entity's taxable year, the credit equals twenty-five per cent 197  
of the wages paid to the qualified reforming felon, but shall not 198  
exceed one thousand five hundred dollars per qualified reforming 199

felon. 200

The amount of a taxpayer's credit is the taxpayer's 201  
proportionate share of the credit distributed by the pass-through 202  
entity. The credit shall be claimed in the order required under 203  
section 5747.98 of the Revised Code. The credit, to the extent it 204  
exceeds the taxpayer's tax liability for the taxable year after 205  
allowance for any other credits that precede the credit under that 206  
section in that order, may be carried forward for the next five 207  
succeeding taxable years, but the amount of any excess credit 208  
allowed in any such year shall be deducted from the balance 209  
carried forward to the succeeding year. 210

(2) A taxpayer may not claim the credit allowed under this 211  
section for any portion of the wages paid to a qualified reforming 212  
felon for whom the pass-through entity received federally funded 213  
payments for on-the-job training. 214

(3) A taxpayer may not claim the credit allowed under this 215  
section for any portion of the wages paid to a qualified reforming 216  
felon for services that were the same as, or substantially similar 217  
to, services that, but for a strike or lockout, would have been 218  
performed by another employee. 219

(4) If a qualified reforming felon's employment is terminated 220  
during the pass-through entity's taxable year ending in or with 221  
the taxpayer's taxable year and the qualified reforming felon was 222  
employed by the pass-through entity for less than twelve months, a 223  
taxpayer may not claim the full amount of the credit allowed under 224  
this section unless the qualified reforming felon voluntarily 225  
terminated employment; was unable to continue employment due to a 226  
disability or death; or was terminated for cause. If a qualified 227  
reforming felon's employment is terminated for any other reason, 228  
the amount of the credit to which the taxpayer is entitled under 229  
this section is reduced by a percentage equal to the percentage of 230  
the taxable year that the qualified reforming felon was not 231



employed by the pass-through entity. 232

(C) All files, statements, returns, reports, papers, or 233  
documents of any kind relating to qualified reforming felons or 234  
their families are not public records under section 149.43 of the 235  
Revised Code. 236

**Sec. 5747.98.** (A) To provide a uniform procedure for 237  
calculating the amount of tax due under section 5747.02 of the 238  
Revised Code, a taxpayer shall claim any credits to which the 239  
taxpayer is entitled in the following order: 240

(1) The retirement income credit under division (B) of 241  
section 5747.055 of the Revised Code; 242

(2) The senior citizen credit under division (C) of section 243  
5747.05 of the Revised Code; 244

(3) The lump sum distribution credit under division (D) of 245  
section 5747.05 of the Revised Code; 246

(4) The dependent care credit under section 5747.054 of the 247  
Revised Code; 248

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

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

(7) The lump sum retirement income credit under division (E) 253  
of section 5747.055 of the Revised Code; 254

(8) The low-income credit under section 5747.056 of the 255  
Revised Code; 256

(9) The credit for displaced workers who pay for job training 257  
under section 5747.27 of the Revised Code; 258

(10) The campaign contribution credit under section 5747.29 259  
of the Revised Code; 260

(11) The twenty-dollar personal exemption credit under	261
section 5747.022 of the Revised Code;	262
(12) The joint filing credit under division (G) of section	263
5747.05 of the Revised Code;	264
(13) The nonresident credit under division (A) of section	265
5747.05 of the Revised Code;	266
(14) The credit for a resident's out-of-state income under	267
division (B) of section 5747.05 of the Revised Code;	268
(15) The credit for employers that enter into agreements with	269
child day-care centers under section 5747.34 of the Revised Code;	270
(16) The credit for employers that reimburse employee child	271
care expenses under section 5747.36 of the Revised Code;	272
(17) The credit for adoption of a minor child under section	273
5747.37 of the Revised Code;	274
(18) The credit for purchases of lights and reflectors under	275
section 5747.38 of the Revised Code;	276
(19) The job retention credit under division (B) of section	277
5747.058 of the Revised Code;	278
(20) The credit for selling alternative fuel under section	279
5747.77 of the Revised Code;	280
(21) The second credit for purchases of new manufacturing	281
machinery and equipment and the credit for using Ohio coal under	282
section 5747.31 of the Revised Code;	283
(22) The job training credit under section 5747.39 of the	284
Revised Code;	285
(23) The enterprise zone credit under section 5709.66 of the	286
Revised Code;	287
(24) The credit for the eligible costs associated with a	288
voluntary action under section 5747.32 of the Revised Code;	289

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	290 291
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	292 293
(27) <u>The credit for employers that employ qualified reforming felons under section 5747.391 of the Revised Code;</u>	294 295
(28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	296 297
<del>(28)</del> (29) The export sales credit under section 5747.057 of the Revised Code;	298 299
<del>(29)</del> (30) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	300 301 302
<del>(30)</del> (31) The enterprise zone credits under section 5709.65 of the Revised Code;	303 304
<del>(31)</del> (32) The research and development credit under section 5747.331 of the Revised Code;	305 306
<del>(32)</del> (33) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	307 308
<del>(33)</del> (34) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	309 310
<del>(34)</del> (35) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	311 312
<del>(35)</del> (36) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	313 314
<del>(36)</del> (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;	315 316 317
<del>(37)</del> (38) The refundable credit for tax withheld under	318

division (B)(1) of section 5747.062 of the Revised Code; 319

~~(38)~~(39) The refundable credit for tax withheld under section 320  
5747.063 of the Revised Code; 321

~~(39)~~(40) The refundable credit under section 5747.80 of the 322  
Revised Code for losses on loans made to the Ohio venture capital 323  
program under sections 150.01 to 150.10 of the Revised Code; 324

~~(40)~~(41) The refundable motion picture production credit 325  
under section 5747.66 of the Revised Code. 326

(B) For any credit, except the refundable credits enumerated 327  
in this section and the credit granted under division (I) of 328  
section 5747.08 of the Revised Code, the amount of the credit for 329  
a taxable year shall not exceed the tax due after allowing for any 330  
other credit that precedes it in the order required under this 331  
section. Any excess amount of a particular credit may be carried 332  
forward if authorized under the section creating that credit. 333  
Nothing in this chapter shall be construed to allow a taxpayer to 334  
claim, directly or indirectly, a credit more than once for a 335  
taxable year. 336

**Section 2.** That existing sections 5733.98 and 5747.98 of the 337  
Revised Code are hereby repealed. 338