

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 405

Representatives Budish, Hottinger

**Cosponsors: Representatives Patterson, Boyd, Barborak, Reece, Ruhl,
Hagan, R., Lundy, Mallory, Winburn, Pillich, Perales, Hood, Stebelton,
Grossman**

—

A B I L L

To amend sections 5747.08 and 5747.98 and to enact 1
sections 3333.51 and 5747.82 of the Revised Code 2
to grant an income tax credit to individuals who 3
earn degrees in science, technology, engineering, 4
or math-based fields of study. 5

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

Section 1. That sections 5747.08 and 5747.98 be amended and 6
sections 3333.51 and 5747.82 of the Revised Code be enacted to 7
read as follows: 8

Sec. 3333.51. (A) As used in this section: 9

(1) "Approved field of study" means a field of study in the 10
natural sciences, technology, engineering, or mathematics that the 11
Ohio board of regents determines is associated with job creation 12
and retention in Ohio. 13

(2) "Institution of higher education" means all of the 14
following: 15

(a) An institution of higher education, as defined in section 16

3345.12 of the Revised Code; 17

(b) An institution authorized by the Ohio board of regents 18
under Chapter 1713. of the Revised Code to grant degrees and that 19
is accredited by the appropriate regional and professional 20
accrediting associations within whose jurisdiction it falls; 21

(c) Private career schools holding program authorizations 22
issued by the state board of career colleges and schools under 23
division (C) of section 3332.05 of the Revised Code; 24

(d) Private institutions exempt from regulation under Chapter 25
3332. of the Revised Code as prescribed in section 3333.046 of the 26
Revised Code; 27

(e) Any institution located outside Ohio designated as an 28
"institution of higher education" by the Ohio board of regents for 29
purposes of this section. 30

(3) "Active duty" means active duty pursuant to an executive 31
order of the president of the United States, an act of the 32
congress of the United States, or a proclamation of the governor. 33

(B)(1) For the purpose of developing and maintaining a highly 34
qualified workforce and thereby to improve the economic welfare of 35
all Ohioans, an individual who graduates on or after the effective 36
date of the enactment of this section from an institution of 37
higher education with a degree in an approved field of study is 38
allowed a credit against the tax imposed by section 5747.02 of the 39
Revised Code. Except as provided in division (D)(1) of this 40
section, the credit shall equal five thousand dollars in the case 41
of an associate's degree; twenty thousand dollars in the case of a 42
baccalaureate degree; and thirty thousand dollars in the case of a 43
master's or doctoral degree. Except as otherwise provided in this 44
section, the individual shall claim one-tenth of the credit amount 45
for the individual's taxable year in which the individual's credit 46
application was approved and one-tenth of the credit amount in 47

each of the succeeding nine taxable years. 48

(2) An individual is liable to the state for credit taken 49
with respect to a degree, and forfeits unused credit and any 50
credit carry-forward, if the individual has been allowed the 51
credit for five or fewer of the individual's taxable years, the 52
individual is a nonresident of Ohio, and the individual is not a 53
full-time student at an institution of higher education in an 54
approved field of study or is not serving in active duty as a 55
member of the national guard or a reserve unit of the armed forces 56
of the United States. A credit shall not be considered to have 57
been allowed for taxable years for which a deferral under division 58
(D) of this section has been authorized and used. Any amount for 59
which an individual is liable under this division may be collected 60
by assessment under section 5747.13 of the Revised Code, and shall 61
be considered as taxes imposed under section 5747.02 of the 62
Revised Code. 63

(C) An individual shall apply for a credit to the Ohio board 64
of regents or to the board's designee on a form approved by the 65
board or designee and shall submit any documents required by the 66
board or designee. If the individual qualifies for a credit, the 67
board or designee shall issue a tax credit certificate to the 68
individual. The certificate shall state the individual's name and 69
social security number, the date the credit application was 70
approved, the credit amount, and the taxable years for which the 71
credit shall be claimed. 72

(D)(1) An individual who has received a credit certificate 73
for an associate's or baccalaureate degree or both may apply for 74
an additional certificate for receipt of a more advanced degree 75
from an institution of higher education in an approved field of 76
study. The credit amount for the additional degree equals the 77
credit amount for the degree as provided in division (B) of this 78
section less the credit amount for the degree or degrees for which 79

a credit certificate has previously been issued. The credit shall 80
be applied for, approved, and claimed in the manner required under 81
division (B) of this section. 82

(2) An individual who has received a credit certificate 83
pursuant to this section may apply to the Ohio board of regents or 84
the board's designee to defer claiming the credit and any related 85
credit carry-forward for a taxable year during which the 86
individual is either of the following: 87

(a) Enrolled full time in an institution of higher education 88
to pursue a more advanced degree in an approved field of study; 89

(b) A member of the national guard or a reserve unit of the 90
armed forces of the United States serving in active duty. 91

An individual described in division (D)(2)(a) of this section 92
may defer claiming the credit until the individual's taxable year 93
in which the individual is no longer a full-time student in an 94
institution of higher education in an approved field of study or 95
in which the individual receives a credit certificate for the more 96
advanced degree, whichever is earlier. An individual described in 97
division (D)(2)(b) of this section may defer claiming the credit 98
until the individual's next taxable year that does not include the 99
period of the individual's active duty deployment. 100

An individual applying for a deferral under division (D)(2) 101
of this section shall submit the application on a form approved by 102
the board or designee. The application shall be accompanied by 103
such documents as the board or designee requires. 104

(E) The Ohio board of regents may designate an entity, 105
including a nonprofit private organization, to perform the 106
administrative duties conferred upon the board by this section. 107

(F) The Ohio board of regents shall identify institutions of 108
higher education and approved fields of study, and shall specify 109
the information required to be disclosed in credit certificate and 110

deferral applications and the documents required to be submitted. 111
In identifying approved fields of study, the board shall give 112
priority to those related to information technology, power and 113
propulsion, advanced materials, instruments and controls, 114
electronics, and biotechnology and biosciences. 115

Sec. 5747.08. An annual return with respect to the tax 116
imposed by section 5747.02 of the Revised Code and each tax 117
imposed under Chapter 5748. of the Revised Code shall be made by 118
every taxpayer for any taxable year for which the taxpayer is 119
liable for the tax imposed by that section or under that chapter, 120
unless the total credits allowed under divisions (E), (F), and (G) 121
of section 5747.05 of the Revised Code for the year are equal to 122
or exceed the tax imposed by section 5747.02 of the Revised Code, 123
in which case no return shall be required unless the taxpayer is 124
liable for a tax imposed pursuant to Chapter 5748. of the Revised 125
Code. 126

(A) If an individual is deceased, any return or notice 127
required of that individual under this chapter shall be made and 128
filed by that decedent's executor, administrator, or other person 129
charged with the property of that decedent. 130

(B) If an individual is unable to make a return or notice 131
required by this chapter, the return or notice required of that 132
individual shall be made and filed by the individual's duly 133
authorized agent, guardian, conservator, fiduciary, or other 134
person charged with the care of the person or property of that 135
individual. 136

(C) Returns or notices required of an estate or a trust shall 137
be made and filed by the fiduciary of the estate or trust. 138

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 139
of this section, any pass-through entity may file a single return 140
on behalf of one or more of the entity's investors other than an 141

investor that is a person subject to the tax imposed under section 142
5733.06 of the Revised Code. The single return shall set forth the 143
name, address, and social security number or other identifying 144
number of each of those pass-through entity investors and shall 145
indicate the distributive share of each of those pass-through 146
entity investor's income taxable in this state in accordance with 147
sections 5747.20 to 5747.231 of the Revised Code. Such 148
pass-through entity investors for whom the pass-through entity 149
elects to file a single return are not entitled to the exemption 150
or credit provided for by sections 5747.02 and 5747.022 of the 151
Revised Code; shall calculate the tax before business credits at 152
the highest rate of tax set forth in section 5747.02 of the 153
Revised Code for the taxable year for which the return is filed; 154
and are entitled to only their distributive share of the business 155
credits as defined in division (D)(2) of this section. A single 156
check drawn by the pass-through entity shall accompany the return 157
in full payment of the tax due, as shown on the single return, for 158
such investors, other than investors who are persons subject to 159
the tax imposed under section 5733.06 of the Revised Code. 160

(b)(i) A pass-through entity shall not include in such a 161
single return any investor that is a trust to the extent that any 162
direct or indirect current, future, or contingent beneficiary of 163
the trust is a person subject to the tax imposed under section 164
5733.06 of the Revised Code. 165

(ii) A pass-through entity shall not include in such a single 166
return any investor that is itself a pass-through entity to the 167
extent that any direct or indirect investor in the second 168
pass-through entity is a person subject to the tax imposed under 169
section 5733.06 of the Revised Code. 170

(c) Nothing in division (D) of this section precludes the tax 171
commissioner from requiring such investors to file the return and 172
make the payment of taxes and related interest, penalty, and 173

interest penalty required by this section or section 5747.02, 174
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 175
of this section precludes such an investor from filing the annual 176
return under this section, utilizing the refundable credit equal 177
to the investor's proportionate share of the tax paid by the 178
pass-through entity on behalf of the investor under division (J) 179
of this section, and making the payment of taxes imposed under 180
section 5747.02 of the Revised Code. Nothing in division (D) of 181
this section shall be construed to provide to such an investor or 182
pass-through entity any additional deduction or credit, other than 183
the credit provided by division (J) of this section, solely on 184
account of the entity's filing a return in accordance with this 185
section. Such a pass-through entity also shall make the filing and 186
payment of estimated taxes on behalf of the pass-through entity 187
investors other than an investor that is a person subject to the 188
tax imposed under section 5733.06 of the Revised Code. 189

(2) For the purposes of this section, "business credits" 190
means the credits listed in section 5747.98 of the Revised Code 191
excluding the following credits: 192

(a) The retirement credit under division (B) of section 193
5747.055 of the Revised Code; 194

(b) The senior citizen credit under division (C) of section 195
5747.05 of the Revised Code; 196

(c) The lump sum distribution credit under division (D) of 197
section 5747.05 of the Revised Code; 198

(d) The dependent care credit under section 5747.054 of the 199
Revised Code; 200

(e) The lump sum retirement income credit under division (C) 201
of section 5747.055 of the Revised Code; 202

(f) The lump sum retirement income credit under division (D) 203
of section 5747.055 of the Revised Code; 204

(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	205 206
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	207 208
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	209 210
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	211 212
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	213 214
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	215 216
(m) The low-income credit under section 5747.056 of the Revised Code;	217 218
(n) The earned income tax credit under section 5747.71 of the Revised Code;	219 220
<u>(o) The credit for graduates from institutions of higher education in approved fields of study under section 5747.82 of the Revised Code.</u>	221 222 223
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	224 225 226 227 228 229 230 231
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or	232 233 234

penalties imposed by this chapter if the tax commissioner finds 235
that the single return does not reflect the correct tax due by the 236
pass-through entity investors covered by that return. Nothing in 237
this division shall be construed to limit or alter the liability, 238
if any, imposed on pass-through entity investors for unpaid or 239
underpaid taxes, interest, interest penalty, or penalties as a 240
result of the pass-through entity's making the election provided 241
for under division (D) of this section. For the purposes of 242
division (D) of this section, "correct tax due" means the tax that 243
would have been paid by the pass-through entity had the single 244
return been filed in a manner reflecting the commissioner's 245
findings. Nothing in division (D) of this section shall be 246
construed to make or hold a pass-through entity liable for tax 247
attributable to a pass-through entity investor's income from a 248
source other than the pass-through entity electing to file the 249
single return. 250

(E) If a husband and wife file a joint federal income tax 251
return for a taxable year, they shall file a joint return under 252
this section for that taxable year, and their liabilities are 253
joint and several, but, if the federal income tax liability of 254
either spouse is determined on a separate federal income tax 255
return, they shall file separate returns under this section. 256

If either spouse is not required to file a federal income tax 257
return and either or both are required to file a return pursuant 258
to this chapter, they may elect to file separate or joint returns, 259
and, pursuant to that election, their liabilities are separate or 260
joint and several. If a husband and wife file separate returns 261
pursuant to this chapter, each must claim the taxpayer's own 262
exemption, but not both, as authorized under section 5747.02 of 263
the Revised Code on the taxpayer's own return. 264

(F) Each return or notice required to be filed under this 265
section shall contain the signature of the taxpayer or the 266

taxpayer's duly authorized agent and of the person who prepared 267
the return for the taxpayer, and shall include the taxpayer's 268
social security number. Each return shall be verified by a 269
declaration under the penalties of perjury. The tax commissioner 270
shall prescribe the form that the signature and declaration shall 271
take. 272

(G) Each return or notice required to be filed under this 273
section shall be made and filed as required by section 5747.04 of 274
the Revised Code, on or before the fifteenth day of April of each 275
year, on forms that the tax commissioner shall prescribe, together 276
with remittance made payable to the treasurer of state in the 277
combined amount of the state and all school district income taxes 278
shown to be due on the form. 279

Upon good cause shown, the commissioner may extend the period 280
for filing any notice or return required to be filed under this 281
section and may adopt rules relating to extensions. If the 282
extension results in an extension of time for the payment of any 283
state or school district income tax liability with respect to 284
which the return is filed, the taxpayer shall pay at the time the 285
tax liability is paid an amount of interest computed at the rate 286
per annum prescribed by section 5703.47 of the Revised Code on 287
that liability from the time that payment is due without extension 288
to the time of actual payment. Except as provided in section 289
5747.132 of the Revised Code, in addition to all other interest 290
charges and penalties, all taxes imposed under this chapter or 291
Chapter 5748. of the Revised Code and remaining unpaid after they 292
become due, except combined amounts due of one dollar or less, 293
bear interest at the rate per annum prescribed by section 5703.47 294
of the Revised Code until paid or until the day an assessment is 295
issued under section 5747.13 of the Revised Code, whichever occurs 296
first. 297

If the commissioner considers it necessary in order to ensure 298

the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

To the extent that any provision in this division conflicts with any provision in section 5747.026 of the Revised Code, the provision in that section prevails.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by an employer pursuant to section 5747.06 of the Revised Code, a casino operator pursuant to section 5747.063 of the Revised Code, or a lottery sales agent pursuant to section 5747.064 of the Revised Code shall be allowed to the recipient of the compensation casino winnings, or lottery prize award as credits against payment of the appropriate taxes imposed

on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If a pass-through entity elects to file a single return under division (D) of this section and if any investor is required to file the annual return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity or any other investor elects to file the annual return, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purpose of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

(K) The tax commissioner shall ensure that each return required to be filed under this section includes a box that the taxpayer may check to authorize a paid tax preparer who prepared the return to communicate with the department of taxation about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the department of taxation to contact the preparer concerning questions that arise during the processing of the return and authorizes the preparer only to provide the department with information that is missing from the return, to contact the department for information about the processing of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return

preparation that the taxpayer has received from the department and 362
has shown to the preparer. 363

(L) The tax commissioner shall permit individual taxpayers to 364
instruct the department of taxation to cause any refund of 365
overpaid taxes to be deposited directly into a checking account, 366
savings account, or an individual retirement account or individual 367
retirement annuity, or preexisting college savings plan or program 368
account offered by the Ohio tuition trust authority under Chapter 369
3334. of the Revised Code, as designated by the taxpayer, when the 370
taxpayer files the annual return required by this section 371
electronically. 372

(M) The tax commissioner may adopt rules to administer this 373
section. 374

Sec. 5747.82. A taxpayer to whom a tax credit certificate has 375
been issued under section 3333.51 of the Revised Code is allowed a 376
nonrefundable credit against the tax imposed by section 5747.02 of 377
the Revised Code. The credit shall be claimed as provided in 378
section 3333.51 of the Revised Code and in the order required 379
under section 5747.98 of the Revised Code. The amount of credit 380
claimed for a taxable year shall not exceed the tax otherwise due 381
after allowing for all preceding credits in that order. If the 382
amount of credit allowed for a taxable year exceeds the tax 383
otherwise due, the excess may be carried forward to the next 384
taxable year. Excess credit allowed in a taxable year shall be 385
deducted from the balance carried forward to the ensuing taxable 386
year. If a credit may not be claimed for a taxable year, excess 387
credit with respect to the same credit certificate may not be 388
claimed. 389

Sec. 5747.98. (A) To provide a uniform procedure for 390
calculating the amount of tax due under section 5747.02 of the 391

Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:	392 393
(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	394 395
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	396 397
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	398 399
(4) The dependent care credit under section 5747.054 of the Revised Code;	400 401
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	402 403
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	404 405
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	406 407
(8) The low-income credit under section 5747.056 of the Revised Code;	408 409
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	410 411
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	412 413
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	414 415
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	416 417
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	418 419
(14) The credit for a resident's out-of-state income under	420

division (B) of section 5747.05 of the Revised Code;	421
(15) The earned income credit under section 5747.71 of the Revised Code;	422 423
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code <u>The credit for graduates from institutions of higher education in approved fields of study under section 5747.82 of the Revised Code;</u>	424 425 426 427
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	428 429
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	430 431
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	432 433
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	434 435
(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;	436 437 438
(22) The job training credit under section 5747.39 of the Revised Code;	439 440
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	441 442
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	443 444
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	445 446
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	447 448
(27) The credit for purchases of qualifying grape production	449

property under section 5747.28 of the Revised Code;	450
(28) The small business investment credit under section 5747.81 of the Revised Code;	451 452
(29) The enterprise zone credits under section 5709.65 of the Revised Code;	453 454
(30) The research and development credit under section 5747.331 of the Revised Code;	455 456
(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	457 458
(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	459 460
(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	461 462
(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	463 464
(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	465 466 467
(36) 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;	468 469 470
(37) The refundable motion picture production credit under section 5747.66 of the Revised Code;	471 472
(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	473 474 475
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for	476 477 478

a taxable year shall not exceed the tax due after allowing for any 479
other credit that precedes it in the order required under this 480
section. Any excess amount of a particular credit may be carried 481
forward if authorized under the section creating that credit. 482
Nothing in this chapter shall be construed to allow a taxpayer to 483
claim, directly or indirectly, a credit more than once for a 484
taxable year. 485

Section 2. That existing sections 5747.08 and 5747.98 of the 486
Revised Code are hereby repealed. 487