

AN ACT

To amend sections 122.171, 718.151, 5701.11, 5725.98, 5729.98, 5733.0610, 5733.98, 5747.058, 5747.98, 5751.50, and 5751.98 of the Revised Code to expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law, to authorize a refundable job retention tax credit, to temporarily extend the look-back period from two years to three years for determining whether a state "on" indicator exists based on the total unemployment rate for purposes of state extended unemployment benefits, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 122.171, 718.151, 5701.11, 5725.98, 5729.98, 5733.0610, 5733.98, 5747.058, 5747.98, 5751.50, and 5751.98 of the Revised Code be amended to read as follows:

Sec. 122.171. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product development determined in accordance with generally accepted accounting principles, but does not include any of the following:

(a) Payments made for the acquisition of personal property through operating leases;

(b) Project costs paid before January 1, 2002;

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.

(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent

employees at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of either of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

(c) The taxpayer had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of all employees employed in the project whose hours of compensation are included in calculating the number of full-time equivalent employees.

(5) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.

(6) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.

(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.

(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of

December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, the superintendent of insurance in the case of an insurance company, and director of development under division (C) of this section, the tax credit authority may grant ~~to an eligible business a nonrefundable credit~~ the following credits against the tax imposed by section 5725.18, 5729.03, 5733.06, ~~or~~ 5747.02, or 5751.02 of the Revised Code:

(1) A nonrefundable credit to an eligible business;

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

The credits authorized in divisions (B)(1) and (2) of this section may be granted for a period up to fifteen taxable years ~~and against or, in the case of the tax levied by Chapter 5751, section 5751.02~~ of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may not exceed seventy-five per cent. The credit shall be claimed in the order required under section 5725.98, 5729.98, 5733.98, ~~or~~ 5747.98, or 5751.98 of the Revised Code. In determining the percentage and

term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the income tax revenue for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

~~Any unused portion of a tax credit may be carried forward for not more than three additional years after the year for which the credit is granted. If a nonrefundable credit allowed under division (B)(1) of this section for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.~~

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, the superintendent of insurance in the case of an insurance company, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

(D) Upon review and consideration of the determinations and recommendations described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if the authority determines all of the following:

(1) The taxpayer's capital investment project will result in the retention of employment in this state.

(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(E) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated income tax revenue to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) A requirement that the taxpayer retain a specified number of full-time equivalent employees at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least five hundred full-time equivalent employees during the entire term of the agreement in the case of a credit granted under division (B)(1) of this section, and one thousand full-time equivalent employees in the case of a credit granted under division (B)(2) of this section.

(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation

of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, or the superintendent of insurance in the case of an insurance company, the chairperson of the authority shall provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development's

certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of (a) the term of the credit plus three years, or (b) seven years, the amount required to be refunded shall not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under

Chapter 5733., 5747., or 5751. of the Revised Code. If the taxpayer is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(K) The director of development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentive programs operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M)(1) The aggregate amount of tax credits issued under division (B)(1) of this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:

~~(1)(a)~~ For 2010, thirteen million dollars;

~~(2)(b)~~ For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;

~~(3)(c)~~ For 2024 and each year thereafter, one hundred ninety-five million dollars.

(2) The aggregate amount of tax credits issued under division (B)(2) of this section during any calendar year for capital improvement projects reviewed and approved by the tax credit authority may not exceed eight million dollars.

The ~~foregoing annual~~ limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

Sec. 718.151. A municipal corporation, by ordinance, may grant a nonrefundable credit against its tax on income to a taxpayer that ~~also~~ receives a nonrefundable tax credit under section 122.171 of the Revised Code and may grant a refundable credit against its tax on income to a taxpayer that receives a refundable tax credit under that section. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the municipal corporation derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before a municipal corporation passes an ordinance allowing such a credit, the municipal corporation and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Sec. 5701.11. The effective date to which this section refers is the effective date of this section as amended by H.B. 58 495 of the ~~128th~~ 129th general assembly.

(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to the Internal Revenue Code, to the Internal Revenue Code "as amended," to other laws of the United States, or to other laws of the United States, "as amended," means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after ~~October 16, 2009~~ December 15, 2010, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that

taxable year.

(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.

Sec. 5725.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code;

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for Ohio job retention under division (B)(2) of section 122.171 of the Revised Code;

~~(7)~~ The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;

~~(7)(8)~~ The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in ~~divisions (A)(6) and (7)~~ of this section, 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.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code;

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for Ohio job retention under division (B)(2) of section 122.171 of the Revised Code;

~~(7)~~ The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

~~(7)(8)~~ The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in ~~divisions (A)(6) and (7)~~ of this section, 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.

Sec. 5733.0610. (A) A refundable corporation franchise tax credit granted by the tax credit authority under section 122.17 or division (B)(2) of section 122.171 of the Revised Code may be claimed under this chapter; in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. The refundable credit shall not be claimed for any tax years following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable corporation franchise tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter; in the order required under section 5733.98 of the Revised Code.

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

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

- (2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;
- (3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;
- (4) The subsidiary corporation credit under section 5733.067 of the Revised Code;
- (5) The savings and loan assessment credit under section 5733.063 of the Revised Code;
- (6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;
- (7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;
- (8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;
- (9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;
- (10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;
- (11) The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;
- (12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;
- (13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;
- (14) The job training credit under section 5733.42 of the Revised Code;
- (15) The credit for qualified research expenses under section 5733.351 of the Revised Code;
- (16) The enterprise zone credit under section 5709.66 of the Revised Code;
- (17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;
- (18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;
- (19) The ethanol plant investment credit under section 5733.46 of the Revised Code;
- (20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;
- (21) The export sales credit under section 5733.069 of the Revised Code;
- (22) The credit for research and development and technology transfer

investors under section 5733.35 of the Revised Code;

(23) The enterprise zone credits under section 5709.65 of the Revised Code;

(24) The credit for using Ohio coal under section 5733.39 of the Revised Code;

(25) The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;

(26) The credit for small telephone companies under section 5733.57 of the Revised Code;

(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

(28) 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;

(29) The research and development credit under section 5733.352 of the Revised Code;

(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;

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

(32) The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;

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

(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;

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

(36) The refundable motion picture production credit under section 5733.59 of the Revised Code.

(B) For any credit except the refundable credits enumerated in ~~divisions (A)(31) to (36)~~ 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. 5747.058. (A) A refundable income tax credit granted by the tax credit authority under section 122.17 or division (B)(2) of section 122.171

of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

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

- (1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
- (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;
- (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;
- (4) The dependent care credit under section 5747.054 of the Revised Code;
- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (8) The low-income credit under section 5747.056 of the Revised Code;
- (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (10) The campaign contribution credit under section 5747.29 of the Revised Code;
- (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;
- (13) The nonresident credit under division (A) of section 5747.05 of the

Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;

(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;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The export sales credit under section 5747.057 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

(30) The enterprise zone credits under section 5709.65 of the Revised Code;

(31) The research and development credit under section 5747.331 of the Revised Code;

(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(33) The refundable credit for rehabilitating a historic building under

section 5747.76 of the Revised Code;

(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

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

(39) 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;

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

(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 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.

Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 or division (B)(2) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under ~~sections~~ section 122.17 or 122.171 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this

chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under ~~sections~~ section 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5751.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order:

(1) The nonrefundable jobs retention credit under division (B) of section 5751.50 of the Revised Code;

(2) The nonrefundable credit for qualified research expenses under division (B) of section 5751.51 of the Revised Code;

(3) The nonrefundable credit for a borrower's qualified research and development loan payments under division (B) of section 5751.52 of the Revised Code;

(4) The nonrefundable credit for calendar years 2010 to 2029 for unused net operating losses under division (B) of section 5751.53 of the Revised Code;

(5) The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code;

(6) The refundable jobs creation credit or job retention credit under division (A) of section 5751.50 of the Revised Code.

(B) For any credit except the ~~credit~~ refundable credits enumerated in ~~division (A)(4)~~ of this section, the amount of the credit for a tax period 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 the credit.

SECTION 2. That existing sections 122.171, 718.151, 5701.11, 5725.98, 5729.98, 5733.0610, 5733.98, 5747.058, 5747.98, 5751.50, and 5751.98 of the Revised Code are hereby repealed.

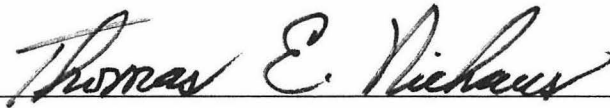
SECTION 3. Notwithstanding any provision of section 4141.301 of the

Revised Code to the contrary, with respect to compensation for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011, the word "two" as used in divisions (A)(3)(a)(ii) and (A)(5) of section 4141.301 of the Revised Code shall be changed to "three."

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the need to enable taxpayers to avoid making miscellaneous adjustments on their 2010 tax returns that increase tax liabilities and in the need, in these times of high unemployment, to provide continued assistance to those who have been struggling to find work in this difficult economic climate, while at the same time protecting the health and safety of the public. Therefore, this act shall go into immediate effect.



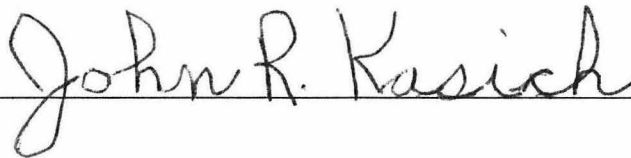
Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed _____ March 2, 2011

Approved _____ 3-7 _____, 2011



Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Mark Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 8th day of March, A. D. 2011.

John R. Hust

Secretary of State.

File No. 3

Effective Date 3/7/11

File No. 3

(129th General Assembly)
(Substitute House Bill Number 58)

AN ACT

To amend sections 122.171, 718.151, 5701.11, 5725.98, 5729.98, 5733.0610, 5733.98, 5747.058, 5747.98, 5751.50, and 5751.98 of the Revised Code to expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law, to authorize a refundable job retention tax credit, to temporarily extend the look-back period from two years to three years for determining whether a state "on" indicator exists based on the total unemployment rate for purposes of state extended unemployment benefits, and to declare an emergency.

Introduced by

Representative Beck

Cosponsors: Representatives Adams, J., Boose, Blair, Derickson, Hackett, Hollington, Martin, Uecker, Amstutz, Stautberg, Letson, McClain, Adams, R., Anielski, Ashford, Baker, Balderson, Brenner, Bubp, Buchy, Burke, Butler, Carey, Carney, Coley, Combs, Damschroder, DeGeeter, Dovilla, Duffey, Fedor, Garland, Gonzales, Goodwin, Grossman, Hall, Hayes, Henne, Huffman, Johnson, Landis, Lundy, Maag, Mallory, McKenney, Mecklenborg, Milkovich, Newbold, O'Brien, Peterson, Phillips, Roegner, Rosenberger, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Thompson, Wachtmann, Young
Speaker Batchelder
Senators Schaffer, Patton, Daniels, Faber, Hite, Hughes, Jones, Obhof, Oelslager, Sawyer, Stewart, Wagoner, Widener, Wilson

Passed by the House of Representatives,

February 15, 2011

Passed by the Senate,

February 23, 2011

*Filed in the office of the Secretary of State at
Columbus, Ohio, on the*

8th day of March, A. D. 2011

Effective 3-7-11

Jon Husted
Secretary of State.

*concurring in Senate
amendments
March 2, 2011*