

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 121**

**Representative Schaffer**

**Cosponsors: Representatives Carfagna, Lipps, Riedel, Hood, Edwards, Miranda,  
Smith, K., Kent, O'Brien, Antani, Cross, West, Manning, G., Weinstein**

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**A BILL**

To amend sections 5747.08 and 5747.98 and to enact 1  
section 5747.72 of the Revised Code to allow a 2  
credit against the personal income tax for 3  
amounts spent by teachers for instructional 4  
materials. 5

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

**Section 1.** That sections 5747.08 and 5747.98 be amended 6  
and section 5747.72 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 5747.08.** An annual return with respect to the tax 9  
imposed by section 5747.02 of the Revised Code and each tax 10  
imposed under Chapter 5748. of the Revised Code shall be made by 11  
every taxpayer for any taxable year for which the taxpayer is 12  
liable for the tax imposed by that section or under that 13  
chapter, unless the total credits allowed under division (E) of 14  
section 5747.05 and divisions (F) and (G) of section 5747.055 of 15  
the Revised Code for the year are equal to or exceed the tax 16  
imposed by section 5747.02 of the Revised Code, in which case no 17  
return shall be required unless the taxpayer is liable for a tax 18

imposed pursuant to Chapter 5748. of the Revised Code. 19

(A) If an individual is deceased, any return or notice 20  
required of that individual under this chapter shall be made and 21  
filed by that decedent's executor, administrator, or other 22  
person charged with the property of that decedent. 23

(B) If an individual is unable to make a return or notice 24  
required by this chapter, the return or notice required of that 25  
individual shall be made and filed by the individual's duly 26  
authorized agent, guardian, conservator, fiduciary, or other 27  
person charged with the care of the person or property of that 28  
individual. 29

(C) Returns or notices required of an estate or a trust 30  
shall be made and filed by the fiduciary of the estate or trust. 31

(D) (1) (a) Except as otherwise provided in division (D) (1) 32  
(b) of this section, any pass-through entity may file a single 33  
return on behalf of one or more of the entity's investors other 34  
than an investor that is a person subject to the tax imposed 35  
under section 5733.06 of the Revised Code. The single return 36  
shall set forth the name, address, and social security number or 37  
other identifying number of each of those pass-through entity 38  
investors and shall indicate the distributive share of each of 39  
those pass-through entity investor's income taxable in this 40  
state in accordance with sections 5747.20 to 5747.231 of the 41  
Revised Code. Such pass-through entity investors for whom the 42  
pass-through entity elects to file a single return are not 43  
entitled to the exemption or credit provided for by sections 44  
5747.02 and 5747.022 of the Revised Code; shall calculate the 45  
tax before business credits at the highest rate of tax set forth 46  
in section 5747.02 of the Revised Code for the taxable year for 47  
which the return is filed; and are entitled to only their 48

distributive share of the business credits as defined in 49  
division (D) (2) of this section. A single check drawn by the 50  
pass-through entity shall accompany the return in full payment 51  
of the tax due, as shown on the single return, for such 52  
investors, other than investors who are persons subject to the 53  
tax imposed under section 5733.06 of the Revised Code. 54

(b) (i) A pass-through entity shall not include in such a 55  
single return any investor that is a trust to the extent that 56  
any direct or indirect current, future, or contingent 57  
beneficiary of the trust is a person subject to the tax imposed 58  
under section 5733.06 of the Revised Code. 59

(ii) A pass-through entity shall not include in such a 60  
single return any investor that is itself a pass-through entity 61  
to the extent that any direct or indirect investor in the second 62  
pass-through entity is a person subject to the tax imposed under 63  
section 5733.06 of the Revised Code. 64

(c) Nothing in division (D) of this section precludes the 65  
tax commissioner from requiring such investors to file the 66  
return and make the payment of taxes and related interest, 67  
penalty, and interest penalty required by this section or 68  
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 69  
Nothing in division (D) of this section precludes such an 70  
investor from filing the annual return under this section, 71  
utilizing the refundable credit equal to the investor's 72  
proportionate share of the tax paid by the pass-through entity 73  
on behalf of the investor under division (I) of this section, 74  
and making the payment of taxes imposed under section 5747.02 of 75  
the Revised Code. Nothing in division (D) of this section shall 76  
be construed to provide to such an investor or pass-through 77  
entity any additional deduction or credit, other than the credit 78

provided by division (I) of this section, solely on account of 79  
the entity's filing a return in accordance with this section. 80  
Such a pass-through entity also shall make the filing and 81  
payment of estimated taxes on behalf of the pass-through entity 82  
investors other than an investor that is a person subject to the 83  
tax imposed under section 5733.06 of the Revised Code. 84

(2) For the purposes of this section, "business credits" 85  
means the credits listed in section 5747.98 of the Revised Code 86  
excluding the following credits: 87

(a) The retirement income credit under division (B) of 88  
section 5747.055 of the Revised Code; 89

(b) The senior citizen credit under division (F) of 90  
section 5747.055 of the Revised Code; 91

(c) The lump sum distribution credit under division (G) of 92  
section 5747.055 of the Revised Code; 93

(d) The dependent care credit under section 5747.054 of 94  
the Revised Code; 95

(e) The lump sum retirement income credit under division 96  
(C) of section 5747.055 of the Revised Code; 97

(f) The lump sum retirement income credit under division 98  
(D) of section 5747.055 of the Revised Code; 99

(g) The lump sum retirement income credit under division 100  
(E) of section 5747.055 of the Revised Code; 101

(h) The credit for displaced workers who pay for job 102  
training under section 5747.27 of the Revised Code; 103

(i) The twenty-dollar personal exemption credit under 104  
section 5747.022 of the Revised Code; 105

(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	106 107
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	108 109
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	110 111
(m) The earned income tax credit under section 5747.71 of the Revised Code;	112 113
<u>(n) The credit for instructional material under section 5747.72 of the Revised Code.</u>	114 115
(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.	116 117 118 119 120 121 122 123
(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 penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of	124 125 126 127 128 129 130 131 132 133 134

this section. For the purposes of division (D) of this section, 135  
"correct tax due" means the tax that would have been paid by the 136  
pass-through entity had the single return been filed in a manner 137  
reflecting the commissioner's findings. Nothing in division (D) 138  
of this section shall be construed to make or hold a pass- 139  
through entity liable for tax attributable to a pass-through 140  
entity investor's income from a source other than the pass- 141  
through entity electing to file the single return. 142

(E) If a husband and wife file a joint federal income tax 143  
return for a taxable year, they shall file a joint return under 144  
this section for that taxable year, and their liabilities are 145  
joint and several, but, if the federal income tax liability of 146  
either spouse is determined on a separate federal income tax 147  
return, they shall file separate returns under this section. 148

If either spouse is not required to file a federal income 149  
tax return and either or both are required to file a return 150  
pursuant to this chapter, they may elect to file separate or 151  
joint returns, and, pursuant to that election, their liabilities 152  
are separate or joint and several. If a husband and wife file 153  
separate returns pursuant to this chapter, each must claim the 154  
taxpayer's own exemption, but not both, as authorized under 155  
section 5747.02 of the Revised Code on the taxpayer's own 156  
return. 157

(F) Each return or notice required to be filed under this 158  
section shall contain the signature of the taxpayer or the 159  
taxpayer's duly authorized agent and of the person who prepared 160  
the return for the taxpayer, and shall include the taxpayer's 161  
social security number. Each return shall be verified by a 162  
declaration under the penalties of perjury. The tax commissioner 163  
shall prescribe the form that the signature and declaration 164

shall take. 165

(G) Each return or notice required to be filed under this 166  
section shall be made and filed as required by section 5747.04 167  
of the Revised Code, on or before the fifteenth day of April of 168  
each year, on forms that the tax commissioner shall prescribe, 169  
together with remittance made payable to the treasurer of state 170  
in the combined amount of the state and all school district 171  
income taxes shown to be due on the form. 172

Upon good cause shown, the commissioner may extend the 173  
period for filing any notice or return required to be filed 174  
under this section and may adopt rules relating to extensions. 175  
If the extension results in an extension of time for the payment 176  
of any state or school district income tax liability with 177  
respect to which the return is filed, the taxpayer shall pay at 178  
the time the tax liability is paid an amount of interest 179  
computed at the rate per annum prescribed by section 5703.47 of 180  
the Revised Code on that liability from the time that payment is 181  
due without extension to the time of actual payment. Except as 182  
provided in section 5747.132 of the Revised Code, in addition to 183  
all other interest charges and penalties, all taxes imposed 184  
under this chapter or Chapter 5748. of the Revised Code and 185  
remaining unpaid after they become due, except combined amounts 186  
due of one dollar or less, bear interest at the rate per annum 187  
prescribed by section 5703.47 of the Revised Code until paid or 188  
until the day an assessment is issued under section 5747.13 of 189  
the Revised Code, whichever occurs first. 190

If the commissioner considers it necessary in order to 191  
ensure the payment of the tax imposed by section 5747.02 of the 192  
Revised Code or any tax imposed under Chapter 5748. of the 193  
Revised Code, the commissioner may require returns and payments 194

to be made otherwise than as provided in this section. 195

To the extent that any provision in this division 196  
conflicts with any provision in section 5747.026 of the Revised 197  
Code, the provision in that section prevails. 198

(H) The amounts withheld by an employer pursuant to 199  
section 5747.06 of the Revised Code, a casino operator pursuant 200  
to section 5747.063 of the Revised Code, or a lottery sales 201  
agent pursuant to section 5747.064 of the Revised Code shall be 202  
allowed to the recipient of the compensation casino winnings, or 203  
lottery prize award as credits against payment of the 204  
appropriate taxes imposed on the recipient by section 5747.02 205  
and under Chapter 5748. of the Revised Code. 206

(I) If a pass-through entity elects to file a single 207  
return under division (D) of this section and if any investor is 208  
required to file the annual return and make the payment of taxes 209  
required by this chapter on account of the investor's other 210  
income that is not included in a single return filed by a pass- 211  
through entity or any other investor elects to file the annual 212  
return, the investor is entitled to a refundable credit equal to 213  
the investor's proportionate share of the tax paid by the pass- 214  
through entity on behalf of the investor. The investor shall 215  
claim the credit for the investor's taxable year in which or 216  
with which ends the taxable year of the pass-through entity. 217  
Nothing in this chapter shall be construed to allow any credit 218  
provided in this chapter to be claimed more than once. For the 219  
purpose of computing any interest, penalty, or interest penalty, 220  
the investor shall be deemed to have paid the refundable credit 221  
provided by this division on the day that the pass-through 222  
entity paid the estimated tax or the tax giving rise to the 223  
credit. 224



(J) The tax commissioner shall ensure that each return 225  
required to be filed under this section includes a box that the 226  
taxpayer may check to authorize a paid tax preparer who prepared 227  
the return to communicate with the department of taxation about 228  
matters pertaining to the return. The return or instructions 229  
accompanying the return shall indicate that by checking the box 230  
the taxpayer authorizes the department of taxation to contact 231  
the preparer concerning questions that arise during the 232  
processing of the return and authorizes the preparer only to 233  
provide the department with information that is missing from the 234  
return, to contact the department for information about the 235  
processing of the return or the status of the taxpayer's refund 236  
or payments, and to respond to notices about mathematical 237  
errors, offsets, or return preparation that the taxpayer has 238  
received from the department and has shown to the preparer. 239

(K) The tax commissioner shall permit individual taxpayers 240  
to instruct the department of taxation to cause any refund of 241  
overpaid taxes to be deposited directly into a checking account, 242  
savings account, or an individual retirement account or 243  
individual retirement annuity, or preexisting college savings 244  
plan or program account offered by the Ohio tuition trust 245  
authority under Chapter 3334. of the Revised Code, as designated 246  
by the taxpayer, when the taxpayer files the annual return 247  
required by this section electronically. 248

(L) The tax commissioner may adopt rules to administer 249  
this section. 250

**Sec. 5747.72.** (A) As used in this section: 251

(1) "Instructional material" means material used by a 252  
teacher for general classroom instruction, even though the 253  
material may be used from time to time by individual students or 254

groups of students. "Instructional material" does not include 255  
items given to or used solely by an individual student, unless 256  
the student receives instruction at home pursuant to an excuse 257  
from school attendance under division (A) (2) of section 3321.04 258  
of the Revised Code and rules prescribed by the state board of 259  
education and the student is the only student in the classroom 260  
receiving such instruction by the teacher. 261

(2) "Teacher" means a classroom teacher in grades 262  
kindergarten through twelve who holds an educator license under 263  
Chapter 3319. of the Revised Code, or a person who instructs a 264  
child at home and who is qualified to do so for the purposes of 265  
division (A) (2) of section 3321.04 of the Revised Code and rules 266  
prescribed by the state board of education. 267

(3) "Classroom" includes the place in which a child 268  
receives instruction at home pursuant to an excuse from school 269  
attendance under division (A) (2) of section 3321.04 of the 270  
Revised Code and rules prescribed by the state board of 271  
education. 272

(B) There is hereby allowed a nonrefundable credit against 273  
the tax imposed by section 5747.02 of the Revised Code for 274  
amounts spent by a teacher during the teacher's taxable year on 275  
instructional material used in the teacher's classroom. The 276  
amount of the credit shall not exceed one hundred dollars. The 277  
credit shall be claimed in the order required under section 278  
5747.98 of the Revised Code. 279

**Sec. 5747.98.** (A) To provide a uniform procedure for 280  
calculating a taxpayer's aggregate tax liability under section 281  
5747.02 of the Revised Code, a taxpayer shall claim any credits 282  
to which the taxpayer is entitled in the following order: 283

(1) Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;	284 285 286 287
(2) Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;	288 289 290
(3) The dependent care credit under section 5747.054 of the Revised Code;	291 292
(4) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	293 294
(5) The campaign contribution credit under section 5747.29 of the Revised Code;	295 296
(6) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	297 298
(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	299 300
(8) The earned income credit under section 5747.71 of the Revised Code;	301 302
(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	303 304
(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	305 306
(11) The enterprise zone credit under section 5709.66 of the Revised Code;	307 308
(12) <del>The ethanol plant investment credit under section 5747.75 of the Revised Code</del> <u>The credit for instructional</u>	309 310

<u>material under section 5747.72 of the Revised Code;</u>	311
(13) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	312 313
(14) The small business investment credit under section 5747.81 of the Revised Code;	314 315
(15) The enterprise zone credits under section 5709.65 of the Revised Code;	316 317
(16) The research and development credit under section 5747.331 of the Revised Code;	318 319
(17) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	320 321
(18) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	322 323
(19) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	324 325
(20) The refundable motion picture production credit under section 5747.66 of the Revised Code;	326 327
(21) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	328 329 330
(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	331 332
(23) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	333 334 335
(24) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture	336 337

capital program under sections 150.01 to 150.10 of the Revised Code;	338 339
(25) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	340 341
(26) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	342 343 344
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, 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.	345 346 347 348 349 350 351 352 353 354 355
<b>Section 2.</b> That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	356 357
<b>Section 3.</b> That the amendment of sections 5747.08 and 5747.98 and the enactment of section 5747.72 of the Revised Code by this act apply to taxable years ending on or after the effective date of this act.	358 359 360 361