

As Introduced

134th General Assembly

Regular Session

2021-2022

S. B. No. 124

Senator Hoagland

A BILL

To amend sections 2744.01 and 5747.98 and to enact
section 5747.72 of the Revised Code to authorize
a refundable income tax credit for donations of
cash, property, or services to townships.

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

Section 1. That sections 2744.01 and 5747.98 be amended
and section 5747.72 of the Revised Code be enacted to read as
follows:

Sec. 2744.01. As used in this chapter:

(A) "Emergency call" means a call to duty, including, but
not limited to, communications from citizens, police dispatches,
and personal observations by peace officers of inherently
dangerous situations that demand an immediate response on the
part of a peace officer.

(B) "Employee" means an officer, agent, employee, or
servant, whether or not compensated or full-time or part-time,
who is authorized to act and is acting within the scope of the
officer's, agent's, employee's, or servant's employment for a
political subdivision. "Employee" does not include an
independent contractor ~~and does not include, a taxpayer who~~

donates services under section 5747.72 of the Revised Code, or 20
any individual engaged by a school district pursuant to section 21
3319.301 of the Revised Code. "Employee" includes any elected or 22
appointed official of a political subdivision. "Employee" also 23
includes a person who has been convicted of or pleaded guilty to 24
a criminal offense and who has been sentenced to perform 25
community service work in a political subdivision whether 26
pursuant to section 2951.02 of the Revised Code or otherwise, 27
and a child who is found to be a delinquent child and who is 28
ordered by a juvenile court pursuant to section 2152.19 or 29
2152.20 of the Revised Code to perform community service or 30
community work in a political subdivision. 31

(C) (1) "Governmental function" means a function of a 32
political subdivision that is specified in division (C) (2) of 33
this section or that satisfies any of the following: 34

(a) A function that is imposed upon the state as an 35
obligation of sovereignty and that is performed by a political 36
subdivision voluntarily or pursuant to legislative requirement; 37

(b) A function that is for the common good of all citizens 38
of the state; 39

(c) A function that promotes or preserves the public 40
peace, health, safety, or welfare; that involves activities that 41
are not engaged in or not customarily engaged in by 42
nongovernmental persons; and that is not specified in division 43
(G) (2) of this section as a proprietary function. 44

(2) A "governmental function" includes, but is not limited 45
to, the following: 46

(a) The provision or nonprovision of police, fire, 47
emergency medical, ambulance, and rescue services or protection; 48

(b) The power to preserve the peace; to prevent and 49
suppress riots, disturbances, and disorderly assemblages; to 50
prevent, mitigate, and clean up releases of oil and hazardous 51
and extremely hazardous substances as defined in section 3750.01 52
of the Revised Code; and to protect persons and property; 53

(c) The provision of a system of public education; 54

(d) The provision of a free public library system; 55

(e) The regulation of the use of, and the maintenance and 56
repair of, roads, highways, streets, avenues, alleys, sidewalks, 57
bridges, aqueducts, viaducts, and public grounds; 58

(f) Judicial, quasi-judicial, prosecutorial, legislative, 59
and quasi-legislative functions; 60

(g) The construction, reconstruction, repair, renovation, 61
maintenance, and operation of buildings that are used in 62
connection with the performance of a governmental function, 63
including, but not limited to, office buildings and courthouses; 64

(h) The design, construction, reconstruction, renovation, 65
repair, maintenance, and operation of jails, places of juvenile 66
detention, workhouses, or any other detention facility, as 67
defined in section 2921.01 of the Revised Code; 68

(i) The enforcement or nonperformance of any law; 69

(j) The regulation of traffic, and the erection or 70
nonerection of traffic signs, signals, or control devices; 71

(k) The collection and disposal of solid wastes, as 72
defined in section 3734.01 of the Revised Code, including, but 73
not limited to, the operation of solid waste disposal 74
facilities, as "facilities" is defined in that section, and the 75
collection and management of hazardous waste generated by 76

households. As used in division (C) (2) (k) of this section, 77
"hazardous waste generated by households" means solid waste 78
originally generated by individual households that is listed 79
specifically as hazardous waste in or exhibits one or more 80
characteristics of hazardous waste as defined by rules adopted 81
under section 3734.12 of the Revised Code, but that is excluded 82
from regulation as a hazardous waste by those rules. 83

(l) The provision or nonprovision, planning or design, 84
construction, or reconstruction of a public improvement, 85
including, but not limited to, a sewer system; 86

(m) The operation of a job and family services department 87
or agency, including, but not limited to, the provision of 88
assistance to aged and infirm persons and to persons who are 89
indigent; 90

(n) The operation of a health board, department, or 91
agency, including, but not limited to, any statutorily required 92
or permissive program for the provision of immunizations or 93
other inoculations to all or some members of the public, 94
provided that a "governmental function" does not include the 95
supply, manufacture, distribution, or development of any drug or 96
vaccine employed in any such immunization or inoculation program 97
by any supplier, manufacturer, distributor, or developer of the 98
drug or vaccine; 99

(o) The operation of mental health facilities, 100
developmental disabilities facilities, alcohol treatment and 101
control centers, and children's homes or agencies; 102

(p) The provision or nonprovision of inspection services 103
of all types, including, but not limited to, inspections in 104
connection with building, zoning, sanitation, fire, plumbing, 105

and electrical codes, and the taking of actions in connection 106
with those types of codes, including, but not limited to, the 107
approval of plans for the construction of buildings or 108
structures and the issuance or revocation of building permits or 109
stop work orders in connection with buildings or structures; 110

(q) Urban renewal projects and the elimination of slum 111
conditions, including the performance of any activity that a 112
county land reutilization corporation is authorized to perform 113
under Chapter 1724. or 5722. of the Revised Code; 114

(r) Flood control measures; 115

(s) The design, construction, reconstruction, renovation, 116
operation, care, repair, and maintenance of a township cemetery; 117

(t) The issuance of revenue obligations under section 118
140.06 of the Revised Code; 119

(u) The design, construction, reconstruction, renovation, 120
repair, maintenance, and operation of any school athletic 121
facility, school auditorium, or gymnasium or any recreational 122
area or facility, including, but not limited to, any of the 123
following: 124

(i) A park, playground, or playfield; 125

(ii) An indoor recreational facility; 126

(iii) A zoo or zoological park; 127

(iv) A bath, swimming pool, pond, water park, wading pool, 128
wave pool, water slide, or other type of aquatic facility; 129

(v) A golf course; 130

(vi) A bicycle motocross facility or other type of 131
recreational area or facility in which bicycling, skating, skate 132

boarding, or scooter riding is engaged; 133

(vii) A rope course or climbing walls; 134

(viii) An all-purpose vehicle facility in which all- 135
purpose vehicles, as defined in section 4519.01 of the Revised 136
Code, are contained, maintained, or operated for recreational 137
activities. 138

(v) The provision of public defender services by a county 139
or joint county public defender's office pursuant to Chapter 140
120. of the Revised Code; 141

(w) (i) At any time before regulations prescribed pursuant 142
to 49 U.S.C.A 20153 become effective, the designation, 143
establishment, design, construction, implementation, operation, 144
repair, or maintenance of a public road rail crossing in a zone 145
within a municipal corporation in which, by ordinance, the 146
legislative authority of the municipal corporation regulates the 147
sounding of locomotive horns, whistles, or bells; 148

(ii) On and after the effective date of regulations 149
prescribed pursuant to 49 U.S.C.A. 20153, the designation, 150
establishment, design, construction, implementation, operation, 151
repair, or maintenance of a public road rail crossing in such a 152
zone or of a supplementary safety measure, as defined in 49 153
U.S.C.A 20153, at or for a public road rail crossing, if and to 154
the extent that the public road rail crossing is excepted, 155
pursuant to subsection (c) of that section, from the requirement 156
of the regulations prescribed under subsection (b) of that 157
section. 158

(x) A function that the general assembly mandates a 159
political subdivision to perform. 160

(D) "Law" means any provision of the constitution, 161

statutes, or rules of the United States or of this state; 162
provisions of charters, ordinances, resolutions, and rules of 163
political subdivisions; and written policies adopted by boards 164
of education. When used in connection with the "common law," 165
this definition does not apply. 166

(E) "Motor vehicle" has the same meaning as in section 167
4511.01 of the Revised Code. 168

(F) "Political subdivision" or "subdivision" means a 169
municipal corporation, township, county, school district, or 170
other body corporate and politic responsible for governmental 171
activities in a geographic area smaller than that of the state. 172
"Political subdivision" includes, but is not limited to, a 173
county hospital commission appointed under section 339.14 of the 174
Revised Code, board of hospital commissioners appointed for a 175
municipal hospital under section 749.04 of the Revised Code, 176
board of hospital trustees appointed for a municipal hospital 177
under section 749.22 of the Revised Code, regional planning 178
commission created pursuant to section 713.21 of the Revised 179
Code, county planning commission created pursuant to section 180
713.22 of the Revised Code, joint planning council created 181
pursuant to section 713.231 of the Revised Code, interstate 182
regional planning commission created pursuant to section 713.30 183
of the Revised Code, port authority created pursuant to section 184
4582.02 or 4582.26 of the Revised Code or in existence on 185
December 16, 1964, regional council established by political 186
subdivisions pursuant to Chapter 167. of the Revised Code, 187
emergency planning district and joint emergency planning 188
district designated under section 3750.03 of the Revised Code, 189
joint emergency medical services district created pursuant to 190
section 307.052 of the Revised Code, fire and ambulance district 191
created pursuant to section 505.375 of the Revised Code, joint 192

interstate emergency planning district established by an 193
agreement entered into under that section, county solid waste 194
management district and joint solid waste management district 195
established under section 343.01 or 343.012 of the Revised Code, 196
community school established under Chapter 3314. of the Revised 197
Code, county land reutilization corporation organized under 198
Chapter 1724. of the Revised Code, the county or counties served 199
by a community-based correctional facility and program or 200
district community-based correctional facility and program 201
established and operated under sections 2301.51 to 2301.58 of 202
the Revised Code, a community-based correctional facility and 203
program or district community-based correctional facility and 204
program that is so established and operated, and the facility 205
governing board of a community-based correctional facility and 206
program or district community-based correctional facility and 207
program that is so established and operated. 208

(G) (1) "Proprietary function" means a function of a 209
political subdivision that is specified in division (G) (2) of 210
this section or that satisfies both of the following: 211

(a) The function is not one described in division (C) (1) 212
(a) or (b) of this section and is not one specified in division 213
(C) (2) of this section; 214

(b) The function is one that promotes or preserves the 215
public peace, health, safety, or welfare and that involves 216
activities that are customarily engaged in by nongovernmental 217
persons. 218

(2) A "proprietary function" includes, but is not limited 219
to, the following: 220

(a) The operation of a hospital by one or more political 221

subdivisions;	222
(b) The design, construction, reconstruction, renovation,	223
repair, maintenance, and operation of a public cemetery other	224
than a township cemetery;	225
(c) The establishment, maintenance, and operation of a	226
utility, including, but not limited to, a light, gas, power, or	227
heat plant, a railroad, a busline or other transit company, an	228
airport, and a municipal corporation water supply system;	229
(d) The maintenance, destruction, operation, and upkeep of	230
a sewer system;	231
(e) The operation and control of a public stadium,	232
auditorium, civic or social center, exhibition hall, arts and	233
crafts center, band or orchestra, or off-street parking	234
facility.	235
(H) "Public roads" means public roads, highways, streets,	236
avenues, alleys, and bridges within a political subdivision.	237
"Public roads" does not include berms, shoulders, rights-of-way,	238
or traffic control devices unless the traffic control devices	239
are mandated by the Ohio manual of uniform traffic control	240
devices.	241
(I) "State" means the state of Ohio, including, but not	242
limited to, the general assembly, the supreme court, the offices	243
of all elected state officers, and all departments, boards,	244
offices, commissions, agencies, colleges and universities,	245
institutions, and other instrumentalities of the state of Ohio.	246
"State" does not include political subdivisions.	247
<u>Sec. 5747.72. (A) As used in this section, "qualifying</u>	248
<u>donation" means a donation of cash, real or tangible personal</u>	249
<u>property, or services to a township that has approved the</u>	250

donation pursuant to division (C) of this section. The value of 251
a qualifying donation other than cash shall equal the fair 252
market value of the property or services donated. 253

(B) A refundable credit is allowed against a taxpayer's 254
aggregate liability under section 5747.02 of the Revised Code 255
for qualifying donations to townships. The amount of the credit 256
shall equal the lesser of five thousand dollars or the total 257
qualifying donations made during the taxable year by the 258
taxpayer to one or more townships. The taxpayer shall claim the 259
credit for the taxable year in which the qualifying donations 260
are made. 261

(C) In order for a donation to qualify for the credit 262
allowed under this section, the taxpayer must receive the 263
approval of the township to make the donation. A township may 264
establish its own approval process, but shall require that the 265
taxpayer present a plan for the donation and that the donation 266
receive the approval of a majority of the board of township 267
trustees. 268

(D) For any taxable year in which a taxpayer makes one or 269
more qualifying donations to a township, the taxpayer shall 270
request, and an officer of the township shall provide, a receipt 271
that includes an itemized list of the qualifying donations made 272
by the taxpayer, the value of each donation, and the date on 273
which each donation was made. 274

The tax commissioner may request, and the taxpayer shall 275
provide upon such request, the receipt and any other supporting 276
documentation for the credit, including documentation relating 277
to the fair market value of property or services. 278

(E) The credit shall be claimed in the order required 279

under section 5747.98 of the Revised Code. If the credit allowed 280
for any taxable year exceeds the aggregate amount of tax 281
otherwise due under section 5747.02 of the Revised Code, after 282
allowing for any other credits preceding the credit in the order 283
prescribed by section 5747.98 of the Revised Code, the excess 284
shall be refunded to the taxpayer. 285

Sec. 5747.98. (A) To provide a uniform procedure for 286
calculating a taxpayer's aggregate tax liability under section 287
5747.02 of the Revised Code, a taxpayer shall claim any credits 288
to which the taxpayer is entitled in the following order: 289

Either the retirement income credit under division (B) of 290
section 5747.055 of the Revised Code or the lump sum retirement 291
income credits under divisions (C), (D), and (E) of that 292
section; 293

Either the senior citizen credit under division (F) of 294
section 5747.055 of the Revised Code or the lump sum 295
distribution credit under division (G) of that section; 296

The dependent care credit under section 5747.054 of the 297
Revised Code; 298

The credit for displaced workers who pay for job training 299
under section 5747.27 of the Revised Code; 300

The campaign contribution credit under section 5747.29 of 301
the Revised Code; 302

The twenty-dollar personal exemption credit under section 303
5747.022 of the Revised Code; 304

The joint filing credit under division (G) of section 305
5747.05 of the Revised Code; 306

The earned income credit under section 5747.71 of the 307

Revised Code;	308
The credit for adoption of a minor child under section	309
5747.37 of the Revised Code;	310
The nonrefundable job retention credit under division (B)	311
of section 5747.058 of the Revised Code;	312
The enterprise zone credit under section 5709.66 of the	313
Revised Code;	314
The credit for purchases of qualifying grape production	315
property under section 5747.28 of the Revised Code;	316
The small business investment credit under section 5747.81	317
of the Revised Code;	318
The nonrefundable lead abatement credit under section	319
5747.26 of the Revised Code;	320
The opportunity zone investment credit under section	321
122.84 of the Revised Code;	322
The enterprise zone credits under section 5709.65 of the	323
Revised Code;	324
The research and development credit under section 5747.331	325
of the Revised Code;	326
The credit for rehabilitating a historic building under	327
section 5747.76 of the Revised Code;	328
The nonresident credit under division (A) of section	329
5747.05 of the Revised Code;	330
The credit for a resident's out-of-state income under	331
division (B) of section 5747.05 of the Revised Code;	332
The refundable motion picture and Broadway theatrical	333

production credit under section 5747.66 of the Revised Code; 334

The refundable jobs creation credit or job retention 335
credit under division (A) of section 5747.058 of the Revised 336
Code; 337

The refundable credit for taxes paid by a qualifying 338
entity granted under section 5747.059 of the Revised Code; 339

The refundable credits for taxes paid by a qualifying 340
pass-through entity granted under division (I) of section 341
5747.08 of the Revised Code; 342

The refundable credit under section 5747.80 of the Revised 343
Code for losses on loans made to the Ohio venture capital 344
program under sections 150.01 to 150.10 of the Revised Code; 345

The refundable credit for rehabilitating a historic 346
building under section 5747.76 of the Revised Code; 347

The refundable credit for qualifying donations to 348
townships under section 5747.72 of the Revised Code. 349

(B) For any credit, except the refundable credits 350
enumerated in this section and the credit granted under division 351
(H) of section 5747.08 of the Revised Code, the amount of the 352
credit for a taxable year shall not exceed the taxpayer's 353
aggregate amount of tax due under section 5747.02 of the Revised 354
Code, after allowing for any other credit that precedes it in 355
the order required under this section. Any excess amount of a 356
particular credit may be carried forward if authorized under the 357
section creating that credit. Nothing in this chapter shall be 358
construed to allow a taxpayer to claim, directly or indirectly, 359
a credit more than once for a taxable year. 360

Section 2. That existing sections 2744.01 and 5747.98 of 361

the Revised Code are hereby repealed. 362

Section 3. The amendment or enactment by this act of 363
sections 5747.72 and 5747.98 of the Revised Code applies to 364
taxable years beginning on and after January 1, 2021. 365