As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 441

Representatives Lanese, Dever

A BILL

То	amend sections 126.35 and 5747.11 and to enact	1
	section 5747.114 of the Revised Code to allow	2
	the Department of Taxation to provide taxpayers	3
	who file electronic returns the option of	4
	receiving their income tax refund in the form of	5
	a prepaid card.	6

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

Section 1. That sections 120.33 and 3/4/.11 be amended and	/
section 5747.114 of the Revised Code be enacted to read as	8
follows:	9
Sec. 126.35. (A) The director of budget and management	10
shall draw warrants or process electronic funds transfers	11
against the treasurer of state pursuant to all requests for	12
payment that the director has approved under section 126.07 of	
the Revised Code.	14
(B) Unless a cash assistance payment is to be made by	15
electronic benefit transfer, payment by the director of budget	16
and management to a participant in the Ohio works first program	17
pursuant to Chapter 5107. of the Revised Code, a recipient of	18
disability financial assistance pursuant to Chapter 5115. of the	19

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Revised Code, or a recipient of cash assistance provided under	20
the refugee assistance program established under section 5101.49	21
of the Revised Code shall be made by direct deposit to the	22
account of the participant or recipient in the financial	23
institution designated under section 329.03 of the Revised Code.	24
Payment by the director of budget and management to a recipient	25
of benefits distributed through the medium of electronic benefit	26
transfer pursuant to section 5101.33 of the Revised Code shall	27
be by electronic benefit transfer. Payment by the director of	28
budget and management as compensation to an employee of the	29
state who has, pursuant to section 124.151 of the Revised Code,	30
designated a financial institution and account for the direct	31
deposit of such payments shall be made by direct deposit to the	32
account of the employee. Payment to any other payee who has	33
designated a financial institution and account for the direct	34
deposit of such payment may be made by direct deposit to the	35
account of the payee in the financial institution as provided in	36
section 9.37 of the Revised Code. Accounts maintained by the	37
director of budget and management or the director's agent in a	38
financial institution for the purpose of effectuating payment by	39
direct deposit or electronic benefit transfer shall be	40
maintained in accordance with section 135.18 of the Revised	41
Code.	42

(C) All Except as provided in section 5747.114 of the 43 Revised Code, all other payments from the state treasury shall 44 be made by paper warrants, electronic funds transfers, or by 45 direct deposit payable to the respective payees. The director of 46 budget and management may mail the paper warrants to the 47 respective payees or distribute them through other state 48 agencies, whichever the director determines to be the better 49 procedure. 50

Sec. 5747.11. (A) The tax commissioner shall refund to	51
employers, qualifying entities, or taxpayers subject to a tax	52
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter	53
5748. of the Revised Code the amount of any overpayment of such	54
tax.	55
	F.C.
(B) Except as otherwise provided under divisions (D) and	56
(E) of this section, applications for refund shall be filed with	57
the tax commissioner, on the form prescribed by the	58
commissioner, within four years from the date of the illegal,	59
erroneous, or excessive payment of the tax, or within any	60
additional period allowed by division (B)(3)(b) of section	61
5747.05, division (B) of section 5747.10, division (A) of	62
section 5747.13, or division (C) of section 5747.45 of the	63
Revised Code.	64
	CE
On filing of the refund application, the commissioner	65
shall determine the amount of refund due and, if that amount	66
exceeds one dollar, certify such amount to the director of	67
budget and management and treasurer of state for payment from	68
the tax refund fund created by section 5703.052 of the Revised	69
Code. Payment shall be made as provided in <u>section 5747.114 or</u>	70
division (C) of section 126.35 of the Revised Code.	71
(C)(1) Interest shall be allowed and paid at the rate per	72
annum prescribed by section 5703.47 of the Revised Code on	73
amounts refunded with respect to the tax imposed under section	74
5747.02 or Chapter 5748. of the Revised Code from the date of	75
the overpayment until the date of the refund of the overpayment,	76
except that if any overpayment is refunded within ninety days	77
after the final filing date of the annual return or ninety days	78
after the return is filed, whichever is later, no interest shall	79

be allowed on such overpayment. If the overpayment results from

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the carryback of a net operating loss or net capital loss to a	81
previous taxable year, the overpayment is deemed not to have	82
been made prior to the filing date, including any extension	83
thereof, for the taxable year in which the net operating loss or	84
net capital loss arises. For purposes of the payment of interest	85
on overpayments, no amount of tax, for any taxable year, shall	86
be treated as having been paid before the date on which the tax	87
return for that year was due without regard to any extension of	88
time for filing such return.	89
(2) Interest shall be allowed at the rate per annum	90
prescribed by section 5703.47 of the Revised Code on amounts	91
refunded with respect to the taxes imposed under sections	92
5733.41 and 5747.41 of the Revised Code. The interest shall run	93
from whichever of the following days is the latest until the day	94
the refund is paid: the day the illegal, erroneous, or excessive	95
payment was made; the ninetieth day after the final day the	96
annual report was required to be filed under section 5747.42 of	97
the Revised Code; or the ninetieth day after the day that report	98
was filed.	99
(D) "Ninety days" shall be substituted for "four years" in	100
division (B) of this section if the taxpayer satisfies both of	101
the following conditions:	102
(1) The taxpayer has applied for a refund based in whole	103
or in part upon section 5747.059 of the Revised Code;	104
(2) The taxpayer asserts that either the imposition or	105
collection of the tax imposed or charged by this chapter or any	106
portion of such tax violates the Constitution of the United	107
States or the Constitution of Ohio.	108

(E)(1) Division (E)(2) of this section applies only if all

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of the following conditions are satisfied:	110
(a) A qualifying entity pays an amount of the tax imposed	111
by section 5733.41 or 5747.41 of the Revised Code;	112
(b) The taxpayer is a qualifying investor as to that	113
qualifying entity;	114
(c) The taxpayer did not claim the credit provided for in	115
section 5747.059 of the Revised Code as to the tax described in	116
division (E)(1)(a) of this section;	
(d) The four-year period described in division (B) of this	118
section has ended as to the taxable year for which the taxpayer	119
otherwise would have claimed that credit.	120
(2) A taxpayer shall file an application for refund	121
pursuant to division (E) of this section within one year after	122
the date the payment described in division (E)(1)(a) of this	123
section is made. An application filed under division (E)(2) of	124
this section shall claim refund only of overpayments resulting	125
from the taxpayer's failure to claim the credit described in	126
division (E)(1)(c) of this section. Nothing in division (E) of	127
this section shall be construed to relieve a taxpayer from	128
complying with division (A)(16) of section 5747.01 of the	129
Revised Code.	130
Sec. 5747.114. The tax commissioner may establish a	131
program under which taxpayers that file income tax returns	132
electronically may elect to receive a tax refund in the form of	133
a prepaid card. Under the program, the commissioner shall	134
provide taxpayers with information on the features of the	
prepaid card program, including any fee or fees which may be	136
charged to the taxpayer in accessing the taxpayer's refund, and	137
on the other refund options available to taxpayers.	138

The commissioner may enter into agreements with one or	139
more issuers of prepaid cards whereby the issuer agrees to	140
supply prepaid cards to taxpayers and to credit prepaid cards	141
with the refund amounts specified by the commissioner. Each such	142
agreement may specify that any fees associated with the use of a	143
prepaid card shall be incurred by the taxpayer.	144
As used in this section, "prepaid card" means a card,	145
code, or other device that is issued to a person in a specified	146
amount, whether or not that amount may be increased or reloaded	
by the cardholder, in exchange for payment and that is usable at	148
automated teller machines or redeemable upon presentation at	149
multiple, unaffiliated merchants for goods or services.	150
Section 2. That existing sections 126.35 and 5747.11 of	151
the Revised Code are hereby repealed.	152