

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 375

Representative Brown

**Cosponsors: Representatives Lightbody, O'Brien, Crossman, Smith, K., Miller, A.,
Crawley, Denson, Boggs, Miller, J., Miranda, Howse, Russo, Lepore-Hagan, West,
Weinstein, Blair**

A BILL

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.77 of the Revised Code to authorize 2
a refundable income tax credit for individuals 3
who pay an extracurricular activity fee on 4
behalf of a student from a low-income family. 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 5747.77 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 tax credit for paying an extracurricular activity fee under section 5747.77 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	124 125 126 127 128 129 130 131 132 133

entity's making the election provided for under division (D) of 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. 5747.77. (A) As used in this section: 251

(1) "Eligible student" means an individual who is entitled 252

to attend a public school in this state under section 3313.64 or 253
3313.65 of the Revised Code and whose family income for the 254
taxable year does not exceed one hundred seventy-five per cent 255
of the official federal poverty guidelines as revised annually 256
in accordance with section 673(2) of the "Omnibus Budget 257
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, for a 258
family size equal to the size of the family whose income is 259
being determined. "Eligible student" may include the taxpayer 260
claiming the credit under this section. 261

(2) "Extracurricular activity" means a student club, 262
organization, activity, or program sponsored by a public school 263
in this state that is not included in the school's graded course 264
of study including those involving music, drama, fine arts, or 265
athletics. "Extracurricular activity" does not include club- 266
sponsored sports, organizations, programs, or activities. 267

(3) "Extracurricular activity fee" means an amount charged 268
by a public school in this state for a student's participation 269
in an extracurricular activity including an amount charged by a 270
public school for the participation of a student who is not 271
enrolled in the school pursuant to section 3313.537, 3313.5311, 272
or 3313.5312 of the Revised Code. "Extracurricular activity fee" 273
does not include any amount charged as tuition for enrollment in 274
a graded course of study or amounts charged in excess of a 275
general participation fee for expenses such as uniforms, 276
equipment, or travel. 277

(4) "Family income" means: 278

(a) If the student's natural or adoptive parents are 279
married, the combined Ohio adjusted gross incomes of both 280
natural or adoptive parents; 281

(b) If the student's natural or adoptive parents have 282
terminated their marriage by a divorce, dissolution of marriage, 283
or annulment, or if the natural or adoptive parents are living 284
separate and apart under a legal separation decree, and a court 285
has issued an order designating a residential parent with 286
respect to the student, the Ohio adjusted gross income of the 287
residential parent; 288

(c) Under the conditions described in division (A) (4) (b) 289
of this section, if a court has issued a shared parenting decree 290
with respect to the student, the Ohio adjusted gross income of 291
either parent; 292

(d) If the student has only one natural or adoptive 293
parent, the Ohio adjusted gross income of that parent; 294

(e) If the student's natural or adoptive parents have 295
never been married, the Ohio adjusted gross income of either 296
parent. 297

(5) "Family size" means the sum obtained by adding each 298
natural or adoptive parent whose Ohio adjusted gross income is 299
included in the computation of family income under this section 300
to the number of dependents claimed by that parent or those 301
parents on their federal income tax return. 302

(6) "Public school" means any school operated by a school 303
district board of education, any community school established 304
under Chapter 3314. of the Revised Code, any STEM school 305
established under Chapter 3326. of the Revised Code, and any 306
college preparatory boarding school established under Chapter 307
3328. of the Revised Code. 308

(B) Subject to the limitation prescribed by division (C) 309
of this section, there is hereby allowed a credit against an 310

individual taxpayer's aggregate tax liability under section 311
5747.02 of the Revised Code equal to the sum of the 312
extracurricular activity fees paid by the taxpayer during the 313
taxable year on behalf of one or more eligible students. If the 314
credit allowed for any taxable year exceeds the aggregate amount 315
of tax otherwise due under section 5747.02 of the Revised Code, 316
after allowing for any other credits preceding the credit in the 317
order prescribed by section 5747.98 of the Revised Code, the 318
excess shall be refunded to the taxpayer. 319

(C) The credit authorized by this section applies only to 320
one extracurricular activity fee per eligible student per 321
taxable year. If two or more taxpayers pay extracurricular 322
activity fees on behalf of the same eligible student in the same 323
taxable year, the taxpayer that made the first such payment 324
shall be entitled to the credit unless an alternative 325
arrangement is mutually agreed upon by all of the taxpayers that 326
made payments on behalf of the eligible student. If the same 327
taxpayer pays more than one extracurricular activity fee on 328
behalf of the same eligible student, the taxpayer may choose 329
which fee to use in computing the amount of the credit. 330

Sec. 5747.98. (A) To provide a uniform procedure for 331
calculating a taxpayer's aggregate tax liability under section 332
5747.02 of the Revised Code, a taxpayer shall claim any credits 333
to which the taxpayer is entitled in the following order: 334

(1) Either the retirement income credit under division (B) 335
of section 5747.055 of the Revised Code or the lump sum 336
retirement income credits under divisions (C), (D), and (E) of 337
that section; 338

(2) Either the senior citizen credit under division (F) of 339
section 5747.055 of the Revised Code or the lump sum 340

distribution credit under division (G) of that section;	341
(3) The dependent care credit under section 5747.054 of the Revised Code;	342 343
(4) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	344 345
(5) The campaign contribution credit under section 5747.29 of the Revised Code;	346 347
(6) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	348 349
(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	350 351
(8) The earned income credit under section 5747.71 of the Revised Code;	352 353
(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	354 355
(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	356 357
(11) The enterprise zone credit under section 5709.66 of the Revised Code;	358 359
(12) The ethanol plant investment credit under section 5747.75 of the Revised Code;	360 361
(13) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	362 363
(14) The small business investment credit under section 5747.81 of the Revised Code;	364 365
(15) The enterprise zone credits under section 5709.65 of	366

the Revised Code;	367
(16) The research and development credit under section 5747.331 of the Revised Code;	368 369
(17) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	370 371
(18) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	372 373
(19) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	374 375
(20) The refundable motion picture production credit under section 5747.66 of the Revised Code;	376 377
(21) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	378 379 380
(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	381 382
(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;	383 384 385
(24) 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;	386 387 388 389
(25) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	390 391
(26) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of	392 393

the Revised Code;	394
<u>(27) The refundable credit for paying an extracurricular activity fee under section 5747.77 of the Revised Code.</u>	395 396
(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.	397 398 399 400 401 402 403 404 405 406 407
Section 2. That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	408 409
Section 3. The amendment or enactment by this act of sections 5747.08, 5747.77, and 5747.98 of the Revised Code applies to taxable years ending on or after the effective date of this section.	410 411 412 413