

As Introduced

**129th General Assembly
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H. B. No. 261

Representative McGregor

**Cosponsors: Representatives Stebelton, Combs, Gonzales, Murray, Yuko,
Antonio, Stinziano**

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A B I L L

To amend sections 5747.98 and 5751.98 and to enact 1
sections 5747.78 and 5751.54 of the Revised Code 2
to allow a credit against the personal income tax 3
or commercial activity tax for the installation of 4
an alternative fuel facility. 5

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

Section 1. That sections 5747.98 and 5751.98 be amended and 6
sections 5747.78 and 5751.54 of the Revised Code be enacted to 7
read as follows: 8

Sec. 5747.78. (A) As used in this section: 9

(1) "Alternative fuel" means any of the following if used for 10
the propulsion of a motor vehicle: 11

(a) Compressed natural gas; 12

(b) Liquefied natural gas; 13

(c) Liquefied petroleum gas; 14

(d) Hydrogen; 15

(e) Any liquid, if the percentage of ethanol in the liquid is 16

at least eighty-five per cent; 17

(f) Electricity. 18

(2) "Qualifying facility" means a commercial or residential facility in which equipment used to store or dispense alternative fuel for use in motor vehicles is located, provided that the equipment is labeled for such purposes and clearly identified as associated with storing or dispensing alternative fuel. 19
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(B) A nonrefundable credit may be claimed against the tax imposed by section 5747.02 of the Revised Code by a taxpayer that places a qualifying facility into service in this state on or after the effective date of this section and before January 1, 2015, for the purpose of dispensing alternative fuel for motor vehicles. The credit equals thirty per cent of the total cost of purchasing, constructing, or installing tangible personal property to be incorporated into the qualifying facility, including any equipment, pumps, storage tanks, or related items, to be used for dispensing or storing alternative fuel. 24
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If the qualifying facility is a commercial facility, the taxpayer shall claim one-third of the amount of the credit for the taxable year in which the qualifying facility is placed into service and one-third of the amount of the credit for each of the two succeeding taxable years. The taxpayer may not claim an installment of the credit for any taxable year in which the qualifying facility for which the credit was granted is removed from service or for any subsequent taxable year, except the taxpayer may continue to apply any credit amount that may be carried over from the preceding taxable year. 34
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If the qualifying facility is not a commercial facility, the taxpayer shall claim the full amount of the credit for the taxable year in which the qualifying facility is placed into service. 44
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The credit, to the extent it exceeds the taxpayer's tax 47

liability for a taxable year after allowance for any other credits 48
that precede the credit under section 5747.98 of the Revised Code, 49
may be carried forward to the next succeeding taxable year or 50
years, but the amount of the excess credit claimed for any taxable 51
year shall be deducted from the balance carried forward to the 52
next taxable year. 53

(C) A nonrefundable credit may be claimed under this section 54
by a taxpayer that sells tangible personal property to be 55
incorporated into a qualifying facility to any person, including 56
the state or any of its political subdivisions, that is not 57
subject to the tax imposed by section 5747.02 or 5751.02 of the 58
Revised Code for the taxable year or calendar year in which the 59
facility is placed into service if the purchaser of the property 60
places the facility into service on or after the effective date of 61
this section and before January 1, 2015. The taxpayer shall notify 62
the purchaser that the taxpayer is eligible to receive the credit 63
authorized in this division. The credit shall equal the price, as 64
defined in section 5739.01 of the Revised Code, at which the 65
taxpayer sells the property to the purchaser. The credit shall be 66
claimed in the same manner as provided in division (B) of this 67
section. 68

(D) The taxpayer shall claim a credit allowed under division 69
(B) or (C) of this section in the order required by section 70
5747.98 of the Revised Code. 71

(E) Nothing in this section limits or disallows pass-through 72
treatment of the credit if the person placing a qualifying 73
facility into service or, in the case of the credit under division 74
(C) of this section, the person selling property to be 75
incorporated into a qualifying facility, is a pass-through entity. 76

(F) A credit is not allowed under this section if a credit is 77
claimed under section 5751.54 of the Revised Code on the basis of 78
the same qualifying facility. 79

Sec. 5747.98. (A) To provide a uniform procedure for	80
calculating the amount of tax due under section 5747.02 of the	81
Revised Code, a taxpayer shall claim any credits to which the	82
taxpayer is entitled in the following order:	83
(1) The retirement income credit under division (B) of	84
section 5747.055 of the Revised Code;	85
(2) The senior citizen credit under division (C) of section	86
5747.05 of the Revised Code;	87
(3) The lump sum distribution credit under division (D) of	88
section 5747.05 of the Revised Code;	89
(4) The dependent care credit under section 5747.054 of the	90
Revised Code;	91
(5) The lump sum retirement income credit under division (C)	92
of section 5747.055 of the Revised Code;	93
(6) The lump sum retirement income credit under division (D)	94
of section 5747.055 of the Revised Code;	95
(7) The lump sum retirement income credit under division (E)	96
of section 5747.055 of the Revised Code;	97
(8) The low-income credit under section 5747.056 of the	98
Revised Code;	99
(9) The credit for displaced workers who pay for job training	100
under section 5747.27 of the Revised Code;	101
(10) The campaign contribution credit under section 5747.29	102
of the Revised Code;	103
(11) The twenty-dollar personal exemption credit under	104
section 5747.022 of the Revised Code;	105
(12) The joint filing credit under division (G) of section	106
5747.05 of the Revised Code;	107

(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	108 109
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	110 111
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	112 113
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	114 115
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	116 117
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	118 119
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	120 121
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	122 123
(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;	124 125 126
(22) The job training credit under section 5747.39 of the Revised Code;	127 128
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	129 130
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	131 132
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	133 134
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	135 136

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	137 138
(28) The export sales credit under section 5747.057 of the Revised Code;	139 140
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	141 142
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	143 144
(31) The research and development credit under section 5747.331 of the Revised Code;	145 146
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	147 148
<u>(33) The credits for installing or selling an alternative fuel facility or related property under section 5747.78 of the Revised Code;</u>	149 150 151
(33) (34) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	152 153
(34) (35) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	154 155
(35) (36) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	156 157
(36) (37) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	158 159 160
(37) (38) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	161 162
(38) (39) The refundable credit for tax withheld under section 5747.063 of the Revised Code;	163 164
(39) (40) The refundable credit under section 5747.80 of the	165

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)~~(41) 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. 5751.54. (A) As used in this section:

(1) "Alternative fuel" has the same meaning as in section 5747.78 of the Revised Code.

(2) "Qualifying facility" means a commercial facility in which equipment used to store or dispense alternative fuel for use in motor vehicles is located, provided that the equipment is labeled for such purposes and clearly identified as associated with storing or dispensing alternative fuel.

(B) A nonrefundable credit may be claimed against the tax imposed by section 5751.02 of the Revised Code by a taxpayer who places a qualifying facility into service in this state on or after the effective date of this section and before January 1, 2015, for the purpose of dispensing alternative fuel for motor vehicles. The credit equals thirty per cent of the total cost of purchasing, constructing, or installing tangible personal property to be incorporated into the qualifying facility, including

equipment, pumps, storage tanks, or related items, to be used for 196
dispensing or storing alternative fuel. 197

The taxpayer shall claim the credit in substantially equal 198
installments for each of the taxpayer's annual or quarterly tax 199
periods occurring during the three calendar years following the 200
year in which the qualifying facility is placed into service. The 201
credit, to the extent it exceeds the taxpayer's tax liability for 202
a tax period after allowance for any other credits that precede 203
the credit under section 5751.98 of the Revised Code, may be 204
carried forward to the next succeeding tax period or periods, but 205
the amount of the excess credit claimed for any tax period shall 206
be deducted from the balance carried forward to the next tax 207
period. The taxpayer may not claim an installment of the credit 208
for any tax period in which the qualifying facility is removed 209
from service or for any subsequent tax period, except that the 210
taxpayer may continue to apply any credit amount that may be 211
carried over from preceding tax periods. 212

(C) A nonrefundable credit may be claimed under this section 213
by a taxpayer that sells tangible personal property to be 214
incorporated into a qualifying facility to any person, including 215
the state or any of its political subdivisions, that is not 216
subject to the tax imposed by section 5747.02 or 5751.02 of the 217
Revised Code for the taxable or calendar year in which the 218
facility is placed into service if the purchaser of the property 219
places the facility into service on or after the effective date of 220
this section and before January 1, 2015. The taxpayer shall notify 221
the purchaser that the taxpayer is eligible to receive the credit 222
authorized in this division. The credit shall equal the price, as 223
defined in section 5739.01 of the Revised Code, at which the 224
taxpayer sells the property to the purchaser. The credit shall be 225
claimed in the same manner as provided in division (B) of this 226
section. 227

<u>(D) The taxpayer shall claim a credit allowed under division</u>	228
<u>(B) or (C) of this section in the order required by section</u>	229
<u>5751.98 of the Revised Code.</u>	230
<u>(E) A credit is not allowed under this section if a credit is</u>	231
<u>claimed under section 5747.78 of the Revised Code on the basis of</u>	232
<u>the same qualifying facility.</u>	233
Sec. 5751.98. (A) To provide a uniform procedure for	234
calculating the amount of tax due under this chapter, a taxpayer	235
shall claim any credits to which it is entitled in the following	236
order:	237
(1) The nonrefundable jobs retention credit under division	238
(B) of section 5751.50 of the Revised Code;	239
(2) The nonrefundable credit for qualified research expenses	240
under division (B) of section 5751.51 of the Revised Code;	241
(3) The nonrefundable credit for a borrower's qualified	242
research and development loan payments under division (B) of	243
section 5751.52 of the Revised Code;	244
(4) The nonrefundable credit for calendar years 2010 to 2029	245
for unused net operating losses under division (B) of section	246
5751.53 of the Revised Code;	247
<u>(5) The nonrefundable credits for installing or selling an</u>	248
<u>alternative fuel facility or related property under section</u>	249
<u>5751.54 of the Revised Code;</u>	250
(5) <u>(6)</u> The refundable credit for calendar year 2030 for	251
unused net operating losses under division (C) of section 5751.53	252
of the Revised Code;	253
(6) <u>(7)</u> The refundable jobs creation credit or job retention	254
credit under division (A) of section 5751.50 of the Revised Code.	255
(B) For any credit except the refundable credits enumerated	256

in this section, the amount of the credit for a tax period shall 257
not exceed the tax due after allowing for any other credit that 258
precedes it in the order required under this section. Any excess 259
amount of a particular credit may be carried forward if authorized 260
under the section creating the credit. 261

Section 2. That existing sections 5747.98 and 5751.98 of the 262
Revised Code are hereby repealed. 263