

As Introduced

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Representative DeVitis

**Cosponsors: Representatives Young, Ruhl, Hayes, Kunze, Hall, Sprague,
Slaby, Hagan, C., Brown, Butler, Dovilla, Baker, Green, Gonzales,
Wachtmann, Duffey, O'Brien, Bishoff, Patmon**

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A B I L L

To amend sections 5747.08 and 5747.98 and to enact 1
sections 3313.94 and 5747.64 of the Revised Code 2
to authorize a board of education or governing 3
authority of a school to enter into an agreement 4
with a volunteer who is a current or retired law 5
enforcement officer to patrol school premises to 6
prevent or respond to a mass casualty event, to 7
generally provide to a board of education or 8
governing authority of a school and to such a 9
volunteer immunity from civil liability for 10
injury, death, or loss arising from the 11
volunteer's services, and to provide a tax credit 12
for volunteer service. 13

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

Section 1. That sections 5747.08 and 5747.98 be amended and 14
sections 3313.94 and 5747.64 of the Revised Code be enacted to 15
read as follows: 16

Sec. 3313.94. (A) As used in this section: 17

(1) "Board of education" means the board of education or governing authority of a school. 18
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(2) "In good standing" means currently employed, not on probation, and not the subject of a pending criminal disciplinary action or of a criminal or disciplinary action within the past five years that resulted in an adverse judgment or determination. 20
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(3) "Law enforcement officer" and "school" have the same meanings as in section 5747.64 of the Revised Code. 24
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(4) "Retired law enforcement officer" means a person who served as a law enforcement officer and retired from service with a law enforcement agency in good standing. 26
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(B) The sheriff of each county shall maintain a list of persons available to patrol school premises on a volunteer basis. To qualify for inclusion on the list, a person shall be a current law enforcement officer in good standing or a retired law enforcement officer with a current firearms certification issued under section 109.77 of the Revised Code and a current concealed carry license issued under section 2923.125 of the Revised Code. Before including a person on the list, the sheriff shall verify that the person is qualified. In the case of a retired law enforcement officer, verification shall include a criminal records check of the type required for a school district employee under section 3319.391 of the Revised Code. The sheriff shall exclude from the list any person who would be disqualified from employment under section 3319.391 of the Revised Code. The prospective volunteer shall pay the cost of the criminal records check. The sheriff shall require each volunteer on the list who is not a current law enforcement officer in good standing, as a condition of remaining on the list, to undergo a criminal records check every five years. Upon request of a board of education of a school whose premises are located wholly or partially within the county, the sheriff shall provide a paper or electronic copy of the list 29
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to the board. 50

(C) A board of education that wishes to use the services of a 51
volunteer on the list prepared under division (B) of this section 52
may request a copy of the list from the sheriff. The board may 53
enter into an agreement with a volunteer to patrol school premises 54
for the sole purpose of preventing or responding to a mass 55
casualty event connected with illegal activity. If the volunteer 56
is currently employed as a law enforcement officer, the volunteer 57
shall obtain the permission of the volunteer's employer before 58
entering into an agreement under this division. An agreement may 59
include provisions relating to additional training, uniforms, or 60
other matters that the board considers appropriate. A volunteer 61
shall spend not more than nine hours of any week engaged in 62
volunteer activities pursuant to this section. The board may 63
reimburse the volunteer for the cost of a criminal records check. 64

(D) A school district, member of a school district board of 65
education, governing authority of a school, member of a governing 66
authority of a school, and volunteer under this section are not 67
liable in damages in a civil action for injury, death, or loss to 68
person or property allegedly arising from the volunteer's 69
performance of services under this section unless the injury, 70
death, or loss resulted from the volunteer's reckless or wanton 71
conduct. 72

Sec. 5747.08. An annual return with respect to the tax 73
imposed by section 5747.02 of the Revised Code and each tax 74
imposed under Chapter 5748. of the Revised Code shall be made by 75
every taxpayer for any taxable year for which the taxpayer is 76
liable for the tax imposed by that section or under that chapter, 77
unless the total credits allowed under divisions (E), (F), and (G) 78
of section 5747.05 of the Revised Code for the year are equal to 79
or exceed the tax imposed by section 5747.02 of the Revised Code, 80

in which case no return shall be required unless the taxpayer is 81
liable for a tax imposed pursuant to Chapter 5748. of the Revised 82
Code. 83

(A) If an individual is deceased, any return or notice 84
required of that individual under this chapter shall be made and 85
filed by that decedent's executor, administrator, or other person 86
charged with the property of that decedent. 87

(B) If an individual is unable to make a return or notice 88
required by this chapter, the return or notice required of that 89
individual shall be made and filed by the individual's duly 90
authorized agent, guardian, conservator, fiduciary, or other 91
person charged with the care of the person or property of that 92
individual. 93

(C) Returns or notices required of an estate or a trust shall 94
be made and filed by the fiduciary of the estate or trust. 95

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 96
of this section, any pass-through entity may file a single return 97
on behalf of one or more of the entity's investors other than an 98
investor that is a person subject to the tax imposed under section 99
5733.06 of the Revised Code. The single return shall set forth the 100
name, address, and social security number or other identifying 101
number of each of those pass-through entity investors and shall 102
indicate the distributive share of each of those pass-through 103
entity investor's income taxable in this state in accordance with 104
sections 5747.20 to 5747.231 of the Revised Code. Such 105
pass-through entity investors for whom the pass-through entity 106
elects to file a single return are not entitled to the exemption 107
or credit provided for by sections 5747.02 and 5747.022 of the 108
Revised Code; shall calculate the tax before business credits at 109
the highest rate of tax set forth in section 5747.02 of the 110
Revised Code for the taxable year for which the return is filed; 111
and are entitled to only their distributive share of the business 112

credits as defined in division (D)(2) of this section. A single 113
check drawn by the pass-through entity shall accompany the return 114
in full payment of the tax due, as shown on the single return, for 115
such investors, other than investors who are persons subject to 116
the tax imposed under section 5733.06 of the Revised Code. 117

(b)(i) A pass-through entity shall not include in such a 118
single return any investor that is a trust to the extent that any 119
direct or indirect current, future, or contingent beneficiary of 120
the trust is a person subject to the tax imposed under section 121
5733.06 of the Revised Code. 122

(ii) A pass-through entity shall not include in such a single 123
return any investor that is itself a pass-through entity to the 124
extent that any direct or indirect investor in the second 125
pass-through entity is a person subject to the tax imposed under 126
section 5733.06 of the Revised Code. 127

(c) Nothing in division (D) of this section precludes the tax 128
commissioner from requiring such investors to file the return and 129
make the payment of taxes and related interest, penalty, and 130
interest penalty required by this section or section 5747.02, 131
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 132
of this section shall be construed to provide to such an investor 133
or pass-through entity any additional deduction or credit, other 134
than the credit provided by division (J) of this section, solely 135
on account of the entity's filing a return in accordance with this 136
section. Such a pass-through entity also shall make the filing and 137
payment of estimated taxes on behalf of the pass-through entity 138
investors other than an investor that is a person subject to the 139
tax imposed under section 5733.06 of the Revised Code. 140

(2) For the purposes of this section, "business credits" 141
means the credits listed in section 5747.98 of the Revised Code 142
excluding the following credits: 143

(a) The retirement credit under division (B) of section 5747.055 of the Revised Code;	144 145
(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	146 147
(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	148 149
(d) The dependent care credit under section 5747.054 of the Revised Code;	150 151
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	152 153
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	154 155
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	156 157
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	158 159
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	160 161
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	162 163
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	164 165
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	166 167
(m) The low-income credit under section 5747.056 of the Revised Code;	168 169
<u>(n) The credit for law enforcement officer school volunteers or retired law enforcement officer school volunteers under section 5747.64 of the Revised Code.</u>	170 171 172

(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.

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

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

return, they shall file separate returns under this section. 205

If either spouse is not required to file a federal income tax 206
return and either or both are required to file a return pursuant 207
to this chapter, they may elect to file separate or joint returns, 208
and, pursuant to that election, their liabilities are separate or 209
joint and several. If a husband and wife file separate returns 210
pursuant to this chapter, each must claim the taxpayer's own 211
exemption, but not both, as authorized under section 5747.02 of 212
the Revised Code on the taxpayer's own return. 213

(F) Each return or notice required to be filed under this 214
section shall contain the signature of the taxpayer or the 215
taxpayer's duly authorized agent and of the person who prepared 216
the return for the taxpayer, and shall include the taxpayer's 217
social security number. Each return shall be verified by a 218
declaration under the penalties of perjury. The tax commissioner 219
shall prescribe the form that the signature and declaration shall 220
take. 221

(G) Each return or notice required to be filed under this 222
section shall be made and filed as required by section 5747.04 of 223
the Revised Code, on or before the fifteenth day of April of each 224
year, on forms that the tax commissioner shall prescribe, together 225
with remittance made payable to the treasurer of state in the 226
combined amount of the state and all school district income taxes 227
shown to be due on the form, unless the combined amount shown to 228
be due is one dollar or less, in which case that amount need not 229
be remitted. 230

Upon good cause shown, the commissioner may extend the period 231
for filing any notice or return required to be filed under this 232
section and may adopt rules relating to extensions. If the 233
extension results in an extension of time for the payment of any 234
state or school district income tax liability with respect to 235
which the return is filed, the taxpayer shall pay at the time the 236

tax liability is paid an amount of interest computed at the rate 237
per annum prescribed by section 5703.47 of the Revised Code on 238
that liability from the time that payment is due without extension 239
to the time of actual payment. Except as provided in section 240
5747.132 of the Revised Code, in addition to all other interest 241
charges and penalties, all taxes imposed under this chapter or 242
Chapter 5748. of the Revised Code and remaining unpaid after they 243
become due, except combined amounts due of one dollar or less, 244
bear interest at the rate per annum prescribed by section 5703.47 245
of the Revised Code until paid or until the day an assessment is 246
issued under section 5747.13 of the Revised Code, whichever occurs 247
first. 248

If the commissioner considers it necessary in order to ensure 249
the payment of the tax imposed by section 5747.02 of the Revised 250
Code or any tax imposed under Chapter 5748. of the Revised Code, 251
the commissioner may require returns and payments to be made 252
otherwise than as provided in this section. 253

To the extent that any provision in this division conflicts 254
with any provision in section 5747.026 of the Revised Code, the 255
provision in that section prevails. 256

(H) If any report, claim, statement, or other document 257
required to be filed, or any payment required to be made, within a 258
prescribed period or on or before a prescribed date under this 259
chapter is delivered after that period or that date by United 260
States mail to the agency, officer, or office with which the 261
report, claim, statement, or other document is required to be 262
filed, or to which the payment is required to be made, the date of 263
the postmark stamped on the cover in which the report, claim, 264
statement, or other document, or payment is mailed shall be deemed 265
to be the date of delivery or the date of payment. 266

If a payment is required to be made by electronic funds 267
transfer pursuant to section 5747.072 of the Revised Code, the 268

payment is considered to be made when the payment is received by 269
the treasurer of state or credited to an account designated by the 270
treasurer of state for the receipt of tax payments. 271

"The date of the postmark" means, in the event there is more 272
than one date on the cover, the earliest date imprinted on the 273
cover by the United States postal service. 274

(I) The amounts withheld by an employer pursuant to section 275
5747.06 of the Revised Code, a casino operator pursuant to section 276
5747.063 of the Revised Code, or a lottery sales agent pursuant to 277
section 5747.064 of the Revised Code shall be allowed to the 278
recipient of the compensation casino winnings, or lottery prize 279
award as credits against payment of the appropriate taxes imposed 280
on the recipient by section 5747.02 and under Chapter 5748. of the 281
Revised Code. 282

(J) If, in accordance with division (D) of this section, a 283
pass-through entity elects to file a single return and if any 284
investor is required to file the return and make the payment of 285
taxes required by this chapter on account of the investor's other 286
income that is not included in a single return filed by a 287
pass-through entity, the investor is entitled to a refundable 288
credit equal to the investor's proportionate share of the tax paid 289
by the pass-through entity on behalf of the investor. The investor 290
shall claim the credit for the investor's taxable year in which or 291
with which ends the taxable year of the pass-through entity. 292
Nothing in this chapter shall be construed to allow any credit 293
provided in this chapter to be claimed more than once. For the 294
purposes of computing any interest, penalty, or interest penalty, 295
the investor shall be deemed to have paid the refundable credit 296
provided by this division on the day that the pass-through entity 297
paid the estimated tax or the tax giving rise to the credit. 298

(K) The tax commissioner shall ensure that each return 299
required to be filed under this section includes a box that the 300

taxpayer may check to authorize a paid tax preparer who prepared 301
the return to communicate with the department of taxation about 302
matters pertaining to the return. The return or instructions 303
accompanying the return shall indicate that by checking the box 304
the taxpayer authorizes the department of taxation to contact the 305
preparer concerning questions that arise during the processing of 306
the return and authorizes the preparer only to provide the 307
department with information that is missing from the return, to 308
contact the department for information about the processing of the 309
return or the status of the taxpayer's refund or payments, and to 310
respond to notices about mathematical errors, offsets, or return 311
preparation that the taxpayer has received from the department and 312
has shown to the preparer. 313

(L) The tax commissioner shall permit individual taxpayers to 314
instruct the department of taxation to cause any refund of 315
overpaid taxes to be deposited directly into a checking account, 316
savings account, or an individual retirement account or individual 317
retirement annuity, or preexisting college savings plan or program 318
account offered by the Ohio tuition trust authority under Chapter 319
3334. of the Revised Code, as designated by the taxpayer, when the 320
taxpayer files the annual return required by this section 321
electronically. 322

(M) The tax commissioner may adopt rules to administer this 323
section. 324

Sec. 5747.64. (A) As used in this section: 325

(1) "Law enforcement officer" means a sheriff, deputy 326
sheriff, constable, police officer of a township or joint police 327
district, marshal, deputy marshal, municipal police officer, or 328
state highway patrol trooper. 329

(2) "School" means a public or nonpublic school. "School" 330
excludes home instruction as authorized under section 3321.04 of 331

the Revised Code. 332

(3) "Public school" includes schools of a school district, 333
STEM schools established under Chapter 3326. of the Revised Code, 334
and community schools established under Chapter 3314. of the 335
Revised Code. 336

(4) "Nonpublic school" means a nonpublic school for which the 337
state board of education has issued a charter pursuant to section 338
3301.16 of the Revised Code and prescribes minimum standards under 339
division (D)(2) of section 3301.07 of the Revised Code. 340

(B) There is hereby allowed a nonrefundable credit against 341
the tax imposed by section 5747.02 of the Revised Code for a 342
taxpayer who is a law enforcement officer or retired law 343
enforcement officer and who provides safety and security services 344
in a school under section 3313.94 of the Revised Code without 345
receiving compensation. The amount of the credit equals two 346
dollars for each hour or part of an hour that the law enforcement 347
officer or retired law enforcement officer provides such services, 348
but the credit amount claimed by the officer shall not exceed five 349
hundred dollars for any taxable year, not including any amount of 350
credit carried forward from a prior year. 351

The law enforcement officer or retired law enforcement 352
officer shall claim the credit in the order required by section 353
5747.98 of the Revised Code for the taxable year in which the 354
officer provides such services. Any credit amount in excess of the 355
tax due under section 5747.02 of the Revised Code, after allowing 356
for any other credits preceding the credit in that order, may be 357
carried forward for three taxable years, but the amount of the 358
excess credit allowed in any such year shall be deducted from the 359
balance carried forward to the next year. 360

The tax commissioner may request that a law enforcement 361
officer or retired law enforcement officer claiming a credit under 362

this section furnish information as is necessary to support the 363
claim for the credit under this section, and no credit shall be 364
allowed unless the requested information is provided. 365

Sec. 5747.98. (A) To provide a uniform procedure for 366
calculating the amount of tax due under section 5747.02 of the 367
Revised Code, a taxpayer shall claim any credits to which the 368
taxpayer is entitled in the following order: 369

(1) The retirement income credit under division (B) of 370
section 5747.055 of the Revised Code; 371

(2) The senior citizen credit under division (C) of section 372
5747.05 of the Revised Code; 373

(3) The lump sum distribution credit under division (D) of 374
section 5747.05 of the Revised Code; 375

(4) The dependent care credit under section 5747.054 of the 376
Revised Code; 377

(5) The lump sum retirement income credit under division (C) 378
of section 5747.055 of the Revised Code; 379

(6) The lump sum retirement income credit under division (D) 380
of section 5747.055 of the Revised Code; 381

(7) The lump sum retirement income credit under division (E) 382
of section 5747.055 of the Revised Code; 383

(8) The low-income credit under section 5747.056 of the 384
Revised Code; 385

(9) The credit for displaced workers who pay for job training 386
under section 5747.27 of the Revised Code; 387

(10) The campaign contribution credit under section 5747.29 388
of the Revised Code; 389

(11) The twenty-dollar personal exemption credit under 390
section 5747.022 of the Revised Code; 391

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	392 393
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	394 395
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	396 397
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	398 399
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	400 401
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	402 403
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	404 405
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	406 407
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	408 409
(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;	410 411 412
(22) The job training credit under section 5747.39 of the Revised Code;	413 414
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	415 416
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	417 418
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	419 420

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	421 422
(27) <u>The nonrefundable credit for law enforcement officer school volunteers or retired law enforcement officer school volunteers under section 5747.64 of the Revised Code;</u>	423 424 425
(28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	426 427
(28) (29) The small business investment credit under section 5747.81 of the Revised Code;	428 429
(29) (30) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	430 431 432
(30) (31) The enterprise zone credits under section 5709.65 of the Revised Code;	433 434
(31) (32) The research and development credit under section 5747.331 of the Revised Code;	435 436
(32) (33) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	437 438
(33) (34) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	439 440
(34) (35) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	441 442
(35) (36) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	443 444
(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;	445 446 447
(37) (38) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital	448 449

program under sections 150.01 to 150.10 of the Revised Code; 450

~~(38)~~(39) The refundable motion picture production credit 451
under section 5747.66 of the Revised Code~~;~~i 452

~~(39)~~(40) The refundable credit for financial institution 453
taxes paid by a pass-through entity granted under section 5747.65 454
of the Revised Code. 455

(B) For any credit, except the refundable credits enumerated 456
in this section and the credit granted under division (I) of 457
section 5747.08 of the Revised Code, the amount of the credit for 458
a taxable year shall not exceed the tax due after allowing for any 459
other credit that precedes it in the order required under this 460
section. Any excess amount of a particular credit may be carried 461
forward if authorized under the section creating that credit. 462
Nothing in this chapter shall be construed to allow a taxpayer to 463
claim, directly or indirectly, a credit more than once for a 464
taxable year. 465

Section 2. That existing sections 5747.08 and 5747.98 of the 466
Revised Code are hereby repealed. 467

Section 3. The amendment or enactment by this act of sections 468
5747.08, 5747.64, and 5747.98 of the Revised Code applies to 469
taxable years ending on or after the effective date of this act. 470

Section 4. Section 5747.98 of the Revised Code is presented 471
in this act as a composite of the section as amended by both Am. 472
Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly. 473
The General Assembly, applying the principle stated in division 474
(B) of section 1.52 of the Revised Code that amendments are to be 475
harmonized if reasonably capable of simultaneous operation, finds 476
that the composite is the resulting version of the section in 477
effect prior to the effective date of the section as presented in 478
this act. 479