

As Introduced

**130th General Assembly
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H. B. No. 260

Representative Gonzales

Cosponsors: Representatives Hood, Becker, Wachtmann, McGregor, Beck

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A B I L L

To amend sections 126.35 and 5747.11 and to enact 1
section 5747.114 of the Revised Code to allow the 2
Department of Taxation to provide taxpayers who 3
file electronic returns the option of receiving 4
their income tax refund in the form of a credit 5
card, debit card, prepaid card, or other device 6
used to electronically transfer funds. 7

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

Section 1. That sections 126.35 and 5747.11 be amended and 8
section 5747.114 of the Revised Code be enacted to read as 9
follows: 10

Sec. 126.35. (A) The director of budget and management shall 11
draw warrants against the treasurer of state pursuant to all 12
requests for payment that the director has approved under section 13
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 and 16
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

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

(C) All Except as provided in section 5747.114 of the Revised 42
Code, all other payments from the state treasury shall be made by 43
paper warrants or by direct deposit payable to the respective 44
payees. The director of budget and management may mail the paper 45
warrants to the respective payees or distribute them through other 46
state agencies, whichever the director determines to be the better 47
procedure. 48

(D) If the average ~~per transaction~~ per-transaction cost the 49
director of budget and management incurs in making direct deposits 50
for a state agency exceeds the average ~~per transaction~~ 51

per-transaction cost the director incurs in drawing paper warrants 52
for all public offices during the same period of time, the 53
director may certify the difference in cost and the number of 54
direct deposits for the agency to the director of administrative 55
services. The director of administrative services shall reimburse 56
the director of budget and management for such additional costs 57
and add the amount to the processing charge assessed upon the 58
state agency. 59

Sec. 5747.11. (A) The tax commissioner shall refund to 60
employers, qualifying entities, or taxpayers, with respect to any 61
tax imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 62
5748. of the Revised Code: 63

(1) Overpayments of more than one dollar; 64

(2) Amounts in excess of one dollar paid illegally or 65
erroneously; 66

(3) Amounts in excess of one dollar paid on an illegal, 67
erroneous, or excessive assessment. 68

(B) Except as otherwise provided under divisions (D) and (E) 69
of this section, applications for refund shall be filed with the 70
tax commissioner, on the form prescribed by the commissioner, 71
within four years from the date of the illegal, erroneous, or 72
excessive payment of the tax, or within any additional period 73
allowed by division (B)(3)(b) of section 5747.05, division (B) of 74
section 5747.10, division (A) of section 5747.13, or division (C) 75
of section 5747.45 of the Revised Code. 76

On filing of the refund application, the commissioner shall 77
determine the amount of refund due and certify such amount to the 78
director of budget and management and treasurer of state for 79
payment from the tax refund fund created by section 5703.052 of 80
the Revised Code. Payment shall be made as provided in section 81

5747.114 or division (C) of section 126.35 of the Revised Code. 82

(C)(1) Interest shall be allowed and paid upon any illegal or 83
erroneous assessment in excess of one dollar in respect of the tax 84
imposed under section 5747.02 or Chapter 5748. of the Revised Code 85
at the rate per annum prescribed by section 5703.47 of the Revised 86
Code from the date of the payment of the illegal or erroneous 87
assessment until the date the refund of such amount is paid. If 88
such refund results from the filing of a return or report, or the 89
payment accompanying such return or report, by an employer or 90
taxpayer, rather than from an assessment by the commissioner, such 91
interest shall run from a period ninety days after the final 92
filing date of the annual return until the date the refund is 93
paid. 94

(2) Interest shall be allowed and paid at the rate per annum 95
prescribed by section 5703.47 of the Revised Code upon any 96
overpayment in excess of one dollar in respect of the tax imposed 97
under section 5747.02 or Chapter 5748. of the Revised Code from 98
the date of the overpayment until the date of the refund of the 99
overpayment, except that if any overpayment is refunded within 100
ninety days after the final filing date of the annual return or 101
ninety days after the return is filed, whichever is later, no 102
interest shall be allowed on such overpayment. If the overpayment 103
results from the carryback of a net operating loss or net capital 104
loss to a previous taxable year, the overpayment is deemed not to 105
have been made prior to the filing date, including any extension 106
thereof, for the taxable year in which the net operating loss or 107
net capital loss arises. For purposes of the payment of interest 108
on overpayments, no amount of tax, for any taxable year, shall be 109
treated as having been paid before the date on which the tax 110
return for that year was due without regard to any extension of 111
time for filing such return. 112

(3) Interest shall be allowed at the rate per annum 113

prescribed by section 5703.47 of the Revised Code on amounts 114
refunded with respect to the taxes imposed under sections 5733.41 115
and 5747.41 of the Revised Code. The interest shall run from 116
whichever of the following days is the latest until the day the 117
refund is paid: the day the illegal, erroneous, or excessive 118
payment was made; the ninetieth day after the final day the annual 119
report was required to be filed under section 5747.42 of the 120
Revised Code; or the ninetieth day after the day that report was 121
filed. 122

(D) "Ninety days" shall be substituted for "four years" in 123
division (B) of this section if the taxpayer satisfies both of the 124
following conditions: 125

(1) The taxpayer has applied for a refund based in whole or 126
in part upon section 5747.059 of the Revised Code; 127

(2) The taxpayer asserts that either the imposition or 128
collection of the tax imposed or charged by this chapter or any 129
portion of such tax violates the Constitution of the United States 130
or the Constitution of Ohio. 131

(E)(1) Division (E)(2) of this section applies only if all of 132
the following conditions are satisfied: 133

(a) A qualifying entity pays an amount of the tax imposed by 134
section 5733.41 or 5747.41 of the Revised Code; 135

(b) The taxpayer is a qualifying investor as to that 136
qualifying entity; 137

(c) The taxpayer did not claim the credit provided for in 138
section 5747.059 of the Revised Code as to the tax described in 139
division (E)(1)(a) of this section; 140

(d) The four-year period described in division (B) of this 141
section has ended as to the taxable year for which the taxpayer 142
otherwise would have claimed that credit. 143

(2) A taxpayer shall file an application for refund pursuant 144
to division (E) of this section within one year after the date the 145
payment described in division (E)(1)(a) of this section is made. 146
An application filed under division (E)(2) of this section shall 147
claim refund only of overpayments resulting from the taxpayer's 148
failure to claim the credit described in division (E)(1)(c) of 149
this section. Nothing in division (E) of this section shall be 150
construed to relieve a taxpayer from complying with division 151
(A)(16) of section 5747.01 of the Revised Code. 152

Sec. 5747.114. The tax commissioner may establish a program 153
under which taxpayers that file income tax returns electronically 154
may elect to receive a tax refund in the form of a financial 155
transaction device. Under the program, the commissioner shall 156
provide taxpayers with information on the features of the 157
financial transaction device program, including any fee or fees 158
which may be charged to a taxpayer in accessing the taxpayer's 159
refund, and on the other refund options available to taxpayers. 160

The commissioner may enter into agreements with one or more 161
issuers of financial transaction devices whereby the issuer agrees 162
to supply financial transaction devices for taxpayers and to 163
credit financial transaction devices with the refund amounts 164
specified by the commissioner. Each such agreement may specify 165
that any fees associated with the use of a financial transaction 166
device shall be incurred by the taxpayer. 167

As used in this section, "financial transaction device" has 168
the same meaning as in section 113.40 of the Revised Code. 169

Section 2. That existing sections 126.35 and 5747.11 of the 170
Revised Code are hereby repealed. 171