

As Passed by the House

**130th General Assembly
Regular Session
2013-2014**

Sub. H. B. No. 408

Representatives Sears, Amstutz

**Cosponsors: Representatives Burkley, Duffey, Ruhl, McGregor, Baker,
Stebelton, Sprague, Brenner, Derickson, Romanchuk, Smith, Schuring,
Ashford, Antonio, Beck, Anielski, Barnes, Boose, Brown, Conditt, Dovilla,
Green, Grossman, Hackett, Hall, Hayes, Hill, Johnson, Maag, McClain,
Ramos, Sheehy, Terhar, Young Speaker Batchelder**

—

A B I L L

To amend sections 131.51 and 5747.98 and to enact	1
section 5747.78 of the Revised Code to authorize	2
an income tax credit for donations to the	3
permanent endowment fund of an eligible community	4
foundation and to require the Director of Budget	5
and Management to reimburse the Local Government	6
Fund and the Public Library Fund for revenue lost	7
because of the credit.	8

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

Section 1. That sections 131.51 and 5747.98 be amended and	9
section 5747.78 of the Revised Code be enacted to read as follows:	10

Sec. 131.51. (A) On or before July 5, 2013, the tax	11
commissioner shall compute the following amounts and certify those	12
amounts to the director of budget and management:	13

(1) A percentage calculated by multiplying one hundred by the	14
quotient obtained by dividing the total amount credited to the	15

local government fund in fiscal year 2013 by the total amount of 16
tax revenue credited to the general revenue fund in fiscal year 17
2013. The percentage shall be rounded to the nearest one-hundredth 18
of one per cent. 19

(2) A percentage calculated by multiplying one hundred by the 20
quotient obtained by dividing the total amount credited to the 21
public library fund in fiscal year 2013 by the total amount of tax 22
revenue credited to the general revenue fund in fiscal year 2013. 23
The percentage shall be rounded to the nearest one-hundredth of 24
one per cent. 25

(B) On or before the seventh day of each month, the director 26
of budget and management shall credit to the local government fund 27
an amount equal to the product obtained by multiplying the 28
percentage calculated under division (A)(1) of this section by the 29
total tax revenue credited to the general revenue fund during the 30
preceding month. In determining the total tax revenue credited to 31
the general revenue fund during the preceding month, the director 32
shall include amounts transferred from the fund during the 33
preceding month under this division and division (C) of this 34
section. Money shall be distributed from the local government fund 35
as required under section 5747.50 of the Revised Code during the 36
same month in which it is credited to the fund. 37

(C) On or before the seventh day of each month, the director 38
of budget and management shall credit to the public library fund 39
an amount equal to the product obtained by multiplying the 40
percentage calculated under division (A)(2) of this section by the 41
total tax revenue credited to the general revenue fund during the 42
preceding month. In determining the total tax revenue credited to 43
the general revenue fund during the preceding month, the director 44
shall include amounts transferred from the fund during the 45
preceding month under this division and division (B) of this 46
section. Money shall be distributed from the public library fund 47

as required under section 5747.47 of the Revised Code during the 48
same month in which it is credited to the fund. 49

(D)(1) On or before the seventh day of each June, the 50
director of budget and management shall credit to the local 51
government fund an amount equal to the product obtained by 52
multiplying the percentage calculated under division (A)(1) of 53
this section by the aggregate amount of credits claimed by 54
taxpayers under section 5747.78 of the Revised Code for taxable 55
years ending during the preceding year. 56

(2) On or before the seventh day of each June, the director 57
of budget and management shall credit to the public library fund 58
an amount equal to the product obtained by multiplying the 59
percentage calculated under division (A)(2) of this section by the 60
aggregate amount of credits claimed by taxpayers under section 61
5747.78 of the Revised Code for taxable years ending during the 62
preceding year. 63

(3) The tax commissioner shall provide any information to the 64
director that the director requires to perform the duties required 65
by division (D) of this section. 66

(E) The director of budget and management shall develop a 67
schedule identifying the specific tax revenue sources to be used 68
to make the monthly transfers required under divisions (B) and (C) 69
of this section and the annual transfers required under division 70
(D) of this section. The director may, from time to time, revise 71
the schedule as the director considers necessary. 72

Sec. 5747.78. (A)(1) "Eligible community foundation" means a 73
qualified community foundation as defined in section 2109.303 of 74
the Revised Code that has been accredited by the community 75
foundations national standards board. 76

(2) "Authorized donation" means a donation authorized by the 77

department of taxation and made to a permanent endowment fund of 78
an eligible community foundation within sixty days after the date 79
of authorization by the department. 80

(3) "Donation" means an irrevocable gift of cash or publicly 81
traded securities. 82

(4) "Permanent endowment fund" means a fund that is held in 83
perpetuity by an eligible community foundation, that is used for 84
the benefit of charitable causes in this state, and that has an 85
annual spending rate of five per cent or less. 86

(B) A nonrefundable credit is allowed against the tax imposed 87
by section 5747.02 of the Revised Code for a taxpayer that makes 88
an authorized donation to a permanent endowment fund of an 89
eligible community foundation in a taxable year beginning on or 90
after January 1, 2014, and before January 1, 2019. For total 91
authorized donations during a taxpayer's taxable year of less than 92
one thousand dollars, the credit shall equal fifty per cent of the 93
authorized donations. For total authorized donations during a 94
taxpayer's taxable year of one thousand dollars or more, the 95
credit shall equal twenty per cent of the amount of the authorized 96
donations made during the taxable year, not to exceed ten thousand 97
dollars in the case of an individual return or twenty thousand 98
dollars in the case of a joint return. 99

The credit shall be claimed in the order required under 100
section 5747.98 of the Revised Code. The amount of the credit may 101
not exceed the tax otherwise due after allowing for all other 102
credits in that order. The taxpayer may carry forward any balance 103
of the credit in excess of the amount claimed for up to five 104
ensuing taxable years, and shall deduct any amount claimed for 105
such a year from the amount claimed in any ensuing year. 106

(C) Before making a donation, a taxpayer shall apply to the 107
department of taxation for authorization of the donation in the 108

manner prescribed by the department. The department shall approve 109
or deny the application and shall issue written notice of the 110
department's decision to the taxpayer within twenty days after 111
receiving the application. The department shall review 112
applications in the order in which the applications are received. 113

The department shall approve an application if the taxpayer 114
agrees to make a donation to a permanent endowment fund of an 115
eligible community foundation and if the total annual credit limit 116
has not been reached. If the application is approved, the 117
department's notice shall indicate the amount of the credit 118
authorized. If the donation is not received by the intended 119
recipient eligible community foundation within sixty days after 120
the date of the approval, the eligible community foundation shall 121
so notify the department, and the department shall deduct the 122
amount of the authorized credit from the total amount of credits 123
the agency has authorized for the purpose of determining whether 124
the total annual credit limit has been reached. If the donation is 125
received within sixty days after the date of approval, the 126
recipient eligible community foundation shall issue a receipt to 127
the taxpayer. For the purposes of this division, the "total annual 128
credit limit" equals twenty million dollars each calendar year. 129

(D) The department of taxation is authorized to charge a 130
reasonable fee for the filing of an application under division (C) 131
of this section to defray the costs of processing the application 132
and administering this section. 133

(E) The tax commissioner shall request from each eligible 134
community foundation for which the commissioner approves an 135
application under division (C) of this section a report from the 136
foundation of the total amount of all donations the foundation 137
received in the preceding calendar or foundation fiscal year and 138
the number of donations received in that period in each of the 139
following ranges: less than five hundred dollars, five hundred to 140

one thousand dollars, more than one thousand dollars to two 141
thousand five hundred dollars, more than two thousand five hundred 142
dollars to five thousand dollars, more than five thousand dollars 143
to ten thousand dollars, and more than ten thousand dollars. The 144
commissioner may disapprove applications under division (C) of 145
this section for donations to any eligible community foundation 146
that fails to comply with the commissioner's request within ninety 147
days after the request is made. 148

(F) Not later than the last day of June 2015, 2016, 2017, 149
2018, and 2019, the tax commissioner shall prepare a report 150
showing, for the twelve-month period ending with the preceding 151
April, the number of authorized donations for which a credit was 152
claimed under this section, the total amount of such donations, 153
and the amount of credits granted for such donations. Each of the 154
reports prepared in 2016, 2017, 2018, and 2019 shall include that 155
information from each report prepared under this division for 156
preceding years. 157

The commissioner shall submit copies of the report to the 158
governor, the office of budget and management, the president and 159
minority leader of the senate, the speaker and minority leader of 160
the house of representatives, and the chairpersons and ranking 161
members of the standing committees primarily responsible for 162
appropriations and for taxation. 163

(G) The department of taxation shall adopt rules as necessary 164
to implement this section. 165

Sec. 5747.98. (A) To provide a uniform procedure for 166
calculating the amount of tax due under section 5747.02 of the 167
Revised Code, a taxpayer shall claim any credits to which the 168
taxpayer is entitled in the following order: 169

(1) The retirement income credit under division (B) of 170
section 5747.055 of the Revised Code; 171

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	172 173
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	174 175
(4) The dependent care credit under section 5747.054 of the Revised Code;	176 177
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	178 179
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	180 181
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	182 183
(8) The low-income credit under section 5747.056 of the Revised Code;	184 185
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	186 187
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	188 189
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	190 191
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	192 193
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	194 195
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	196 197
(15) The earned income credit under section 5747.71 of the Revised Code;	198 199
(16) The credit for employers that reimburse employee child	200

care expenses under section 5747.36 of the Revised Code;	201
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	202 203
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	204 205
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	206 207
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	208 209
(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;	210 211 212
(22) The job training credit under section 5747.39 of the Revised Code;	213 214
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	215 216
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	217 218
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	219 220
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	221 222
(27) <u>The credit for donations to a permanent endowment fund of an eligible community foundation under section 5747.78 of the Revised Code;</u>	223 224 225
(28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	226 227
(28) (29) The small business investment credit under section 5747.81 of the Revised Code;	228 229

~~(29)~~(30) The enterprise zone credits under section 5709.65 of the Revised Code; 230 231

~~(30)~~(31) The research and development credit under section 5747.331 of the Revised Code; 232 233

~~(31)~~(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code; 234 235

~~(32)~~(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code; 236 237

~~(33)~~(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code; 238 239

~~(34)~~(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; 240 241

~~(35)~~(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code; 242 243 244

~~(36)~~(37) 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; 245 246 247

~~(37)~~(38) The refundable motion picture production credit under section 5747.66 of the Revised Code; 248 249

~~(38)~~(39) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code. 250 251 252

(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. 253 254 255 256 257 258 259

Nothing in this chapter shall be construed to allow a taxpayer to 260
claim, directly or indirectly, a credit more than once for a 261
taxable year. 262

Section 2. That existing sections 131.51 and 5747.98 of the 263
Revised Code are hereby repealed. 264