

As Re-reported by the Senate Education Committee

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Sub. H. B. No. 11

**Representatives Schlichter, J. Stewart, Latta, Hartnett, C. Evans, S. Patton,
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Daniels, DeGeeter, Dolan, Domenick, Driehaus, D. Evans, Faber, Fende,
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Mitchell, Otterman, Perry, Redfern, Reinhard, Sayre, Schaffer, Skindell,
G. Smith, D. Stewart, Strahorn, Sykes, Trakas, Uecker, Ujvagi, Wagoner,
White, Widener, Widowfield
Senators Fedor, Carey, Cates, Gardner, Jacobson, Padgett, Mumper,
Fingerhut**

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A B I L L

To amend sections 3313.616 and 5735.142 of the 1
Revised Code to grant high school diplomas to 2
certain veterans of the Vietnam Conflict; to 3
permit school districts, educational service 4
centers, and county MR/DD boards in fiscal year 5
2006 to apply to use funds appropriated for school 6
bus purchases to pay the cost of purchasing fuel 7
for buses; and to reimburse county MR/DD boards 8
for certain motor fuel taxes. 9

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

Section 1. That sections 3313.616 and 5735.142 of the Revised Code be amended to read as follows:

Sec. 3313.616. (A)(1) Notwithstanding the requirements of sections 3313.61, 3313.611, and 3313.612 of the Revised Code, the board of education of any city, exempted village, or local school district or the governing authority of any chartered nonpublic school may grant a high school diploma to any veteran of World War II ~~or~~, the Korean conflict, or the Vietnam conflict who is a resident of this state or who was previously enrolled in any high school in this state if all of the following apply:

(a) The veteran either:

(i) Left a public or nonpublic school located in any state prior to graduation in order to serve in the armed forces of the United States;

(ii) Left a public or nonpublic school located in any state prior to graduation due to family circumstances and subsequently entered the armed forces of the United States.

(b) The veteran received an honorable discharge from the armed forces of the United States.

(c) The veteran has not been granted a diploma as provided in section 3313.61 or 3313.612 of the Revised Code, a diploma of adult education as provided in section 3313.611 of the Revised Code, or a diploma under this section.

(2) If a veteran who would otherwise qualify for a diploma under this section is deceased, the board of education of any school district or the governing authority of any chartered nonpublic school may award such diploma to the veteran posthumously and may present that diploma to a living relative of the veteran.

(B) The governor's office of veterans' affairs, in accordance with section 111.15 of the Revised Code, and with the advice and consent of the veterans advisory committee established under division (K) of section 5902.02 of the Revised Code, shall develop and adopt rules to implement this section. Such rules shall include, but not be limited to, rules establishing procedures for application and verification of eligible veterans for a diploma under this section.

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code has been paid, for the purpose of operating a transit bus shall be reimbursed in the amount of the tax paid on motor fuel used by public transportation systems providing transit or paratransit service on a regular and continuing basis within the state;

(2) A city, exempted village, joint vocational, or local school district or educational service center that purchases any motor fuel for school district or service center operations, on which any tax imposed by section 5735.29 of the Revised Code that became effective on or after July 1, 2003, has been paid, may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of the total tax imposed by such section and paid on motor fuel.

(3) A county board of mental retardation and developmental disabilities that, on or after July 1, 2005, purchases any motor fuel for county board operations, on which any tax imposed by section 5735.29 of the Revised Code has been paid may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of the total tax imposed by such section and paid on motor fuel purchased on or after July 1, 2005.

(B) Such person, school district, ~~or~~ educational service center, or county board shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for operating transit buses used by local transit systems in furnishing scheduled common carrier, public passenger land transportation service along regular routes primarily in one or more municipal corporations or for operating vehicles used for school district ~~or~~, service center, or county board operations. However, no claim shall be made for the tax on fewer than one hundred gallons of motor fuel. A school district ~~or~~, educational service center, or county board shall not apply for a refund for any tax paid on motor fuel that is sold by the district ~~or educational~~, service center, or county board. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing the purchase, together with evidence of payment thereof.

(C) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

The commissioner may require that the application be supported by the affidavit of the claimant. No refund shall be authorized or ordered for any single claim for the tax on fewer than one hundred gallons of motor fuel. No refund shall be authorized or ordered on motor fuel that is sold by a school district ~~or~~, educational service center, or county board.

(D) The refund authorized by this section or section 5703.70

of the Revised Code shall be reduced by the cents per gallon 102
amount of any qualified fuel credit received under section 103
5735.145 of the Revised Code, as determined by the commissioner, 104
for each gallon of qualified fuel included in the total gallonage 105
of motor fuel upon which the refund is computed. 106

(E) The right to receive any refund under this section or 107
section 5703.70 of the Revised Code is not assignable. The payment 108
of this refund shall not be made to any person or entity other 109
than the person or entity originally entitled thereto who used the 110
motor fuel upon which the claim for refund is based, except that 111
the refund when allowed and certified, as provided in this 112
section, may be paid to the executor, the administrator, the 113
receiver, the trustee in bankruptcy, or the assignee in insolvency 114
proceedings of the person. 115

Section 2. That existing sections 3313.616 and 5735.142 of 116
the Revised Code are hereby repealed. 117

Section 3. (A) Notwithstanding anything to the contrary in 118
division (E) of section 3317.024 of the Revised Code, in section 119
3317.07 of the Revised Code or in rules adopted under that 120
section, or in Section 206.09.21 of Am. Sub. H.B. 66 of the 126th 121
General Assembly, during fiscal year 2006 only, upon receipt of a 122
waiver granted by the Superintendent of Public Instruction a 123
school district, educational service center, or county MR/DD board 124
may use the portion of the funds paid under appropriation item 125
200-503, Bus Purchase Allowance, as approved in the waiver for 126
purchasing fuel for school buses. 127

(B) In the manner specified by the Superintendent of Public 128
Instruction for purposes of this section, a school district, 129
educational service center, or county MR/DD board may apply to the 130
Superintendent for a waiver to use funds paid during fiscal year 131
2006 under appropriation item 200-503, Bus Purchase Allowance, to 132

purchase fuel for school buses. The Superintendent shall require
the school district, educational service center, or county MR/DD
board to report to the Superintendent by December 31, 2005, its
total expenditures for fuel for buses in fiscal year 2005 and its
estimated expenditures for fuel for buses in fiscal year 2006. The
Superintendent may grant a waiver to a school district,
educational service center, or county MR/DD board only if the
following conditions are met:

(1) The district, service center, or county MR/DD board
demonstrates to the Superintendent's satisfaction that it has a
sufficient supply of buses or contracted bus service to meet its
pupil transportation obligations for fiscal year 2006 without
spending all or part of its allocation of funds under
appropriation item 200-503, Bus Purchase Allowance.

(2) The district's, service center's, or county MR/DD board's
estimate of expenditures for fuel for buses in fiscal year 2006 is
higher than its expenditures for fuel for buses in fiscal year
2005.

The Superintendent shall prescribe in the waiver the portion
of those funds allocated to the school district, service center,
or county MR/DD board under appropriation item 200-503, Bus
Purchase Allowance, that may be used for purchasing fuel for
buses, which portion shall not exceed the difference between the
estimated expenditures for fuel for buses in fiscal year 2006 and
the expenditures for fuel for buses in fiscal year 2005.

(C) Not later than July 31, 2006, each school district,
educational service center, and county MR/DD board that receives a
waiver under this section shall report to the Superintendent of
Public Instruction its actual expenditures to purchase fuel for
school buses in fiscal year 2006. If the Superintendent determines
that the district, service center, or county MR/DD board did not

spend all of the funds from appropriation item 200-503, Bus 164
Purchase Allowance, prescribed in the waiver to purchase fuel for 165
buses, the district, service center, or county MR/DD board shall 166
allocate the remainder of those funds for school bus purchases in 167
fiscal year 2007. 168

(D) The Office of Pupil Transportation within the Department 169
of Education may audit school districts, educational service 170
centers, and county MR/DD boards that apply for waivers to ensure 171
the accuracy of the data reported under this section. If the 172
Office finds that a district, service center, or county MR/DD 173
board has reported data inaccurately, the Department shall apply 174
division (L) of section 3301.0714 of the Revised Code to that 175
district, service center, or county MR/DD board. 176