(126th General Assembly)
(Substitute House Bill Number 11)

AN ACT

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

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 amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

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

SECTION 2. That existing sections 3313.616 and 5735.142 of the Revised Code are hereby repealed.

SECTION 3. (A) Notwithstanding anything to the contrary in division (E) of section 3317.024 of the Revised Code, in section 3317.07 of the Revised Code or in rules adopted under that section, or in Section 206.09.21 of Am. Sub. H.B. 66 of the 126th General Assembly, during fiscal year 2006 only,

upon receipt of a waiver granted by the Superintendent of Public Instruction a school district, educational service center, or county MR/DD board may use the portion of the funds paid under appropriation item 200-503, Bus Purchase Allowance, as approved in the waiver for purchasing fuel for school buses.

(B) In the manner specified by the Superintendent of Public Instruction for purposes of this section, a school district, educational service center, or county MR/DD board may apply to the Superintendent for a waiver to use funds paid during fiscal year 2006 under appropriation item 200-503, Bus Purchase Allowance, to 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 Purchase Allowance, prescribed in the waiver to purchase fuel for buses, the district, service center, or county MR/DD board shall allocate the remainder of those funds for school bus purchases in fiscal year 2007.

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

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____