

**2013 SENATE FINANCE AND TAXATION**

**SB 2316**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2316  
2/5/2013  
Job Number 18301

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 57-43.2-04.7 of the North Dakota Century Code, relating to a special fuels tax refund for North Dakota taxes paid on special fuels used to operate the power take-off unit or auxiliary engines of a motor vehicle; and to provide an effective date.

## Minutes:

**Chairman Cook** opened the hearing on SB 2316.

**Senator Armstrong** introduced SB 2316.

**Chairman Cook** - I assume this is going to get used more out in an oil patch where truckers are waiting in long lines.

**Senator Armstrong** - I would think that would be used a lot in that scenario.

**Tom Balzer, North Dakota Motor Carriers Association** - We stand in support of SB 2316. Back in the 2009 session this body passed an exemption for refrigerated units and the issue that we had at that time was we wanted to include all of the other auxiliary units. Basically what they are is just a generator slapped on to the side of a truck. The issue was that we couldn't tell how much fuel was being used by the main engine of the truck for over the road use and how much was used for the auxiliary, and in the case of refrigerated units that has a separate tank on that trailer so we could determine how many gallons were going in for that use. The addition of the technology that is there that we can now track how much fuel is being burned by which engine allows this to be a possibility. In 2009 I said by taxing these units that were not used on the road, you are basically double taxing. In the case of a refrigerated unit you're taxing the fuel being burned by the main engine as well as the fuel being burned by the refrigerated unit. What you're seeing in these vehicles is they are parked along the side of the road, they use these generators for internal power for heating or cooling depending on the time of year for these vehicles and being able to burn that, they are not utilizing the road. They are parked in a parking lot, or along the side of the road, or a rest area. When they do, they fire up the main engine, the computer kicks over and they are able to track that usage.

**Chairman Cook** - The bill requires that the computerized information system and a global positioning system are required and it indicates to me that those 2 systems will verify the gallons of fuel that are going to be used to qualify for the claim. Is that what it does, it tells the amount of fuel that's being used or does it tell the amount of time that PTO is running?

**Tom Balzer** - The computer system will do both.

**Senator Miller** - I was talking to Senator Armstrong about his bill, he said if the PTO is on the truck is not in motion. I asked, what about a cement truck? I assume the technology and everything and the tax department can manage that without any problem but obviously when you are going down a road with a cement truck you've got to have the thing turning.

**Tom Balzer** - I don't believe those gallons would be eligible at that time because I don't know that we have the technology to separate what's being drawn at that particular moment.

**Jim Arthaud, MBI Energy Services** - I'm in support of SB 2316. I actually asked Senator Armstrong to help us out on this. Chairman Cook when you asked when guys are sitting in line a long time waiting to unload, theoretically under this bill they wouldn't qualify for an exemption because their PTO is not engaged. PTO is engaged to operate a pump or like a cement mixer on that and then the other fuels that come from a separate tank under refrigeration is. It's defined down further just because you're sitting, you're really not getting an exemption under this bill. It's just for loading and unloading and running your PTO.

**Chairman Cook** - The only time we ran the PTO is to lift a truck hoist. When are you running the PTO now?

**Jim Arthaud** - In our industry we are a fluid management company so we run the PTO when we unload and load. Just to give you an example, our trucking firm, hours on our company owned trucks last year was 1.3 million and for a hundred and some thousand of them were PTO time. So a tremendous amount of time we are just sitting there loading or unloading. It's a 1/3 of our business. With the new technology in conjunction with the GPS you can tell how many gallons are burned, when the PTO is engaged, it's a separate function that gives you a printout and then in conjunction with the GPS you can prove that if you're going up and down the road like a cement truck, if he had his PTO going and he's moving, obviously you wouldn't want to have the state tax department come in and audit you and say how come you asked for an exemption there. Federal D.O.T.'s are trying to mandate electronic logs probably within 2 years which is basically going to require a lot of people to at least have that basic technology. So a lot of people will be able to take advantage of it.

**Ron Ness** - I think in light of the previous speakers comments, this technology is something I didn't even know existed and the intent of the road tax was always to clearly tax fuel for use on the road and so I think the comments are valid and I urge you to take a look at this and consider what the intent of that taxation is.

**Dan Rouse, Tax Department** - We already have and have for many years had a very effective refund process. We have every confidence that we can make it work.

**Chairman Cook** closed the hearing on SB 2316.

**Senator Miller** - I'll move a **Do Pass**.

Seconded by **Vice Chairman Campbell**.

**Roll Call Vote 7-0-0**

Carried by **Vice Chairman Campbell**.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/25/2013**

Bill/Resolution No.: SB 2316

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2316 creates a special fuels tax refund on fuel use by a power take-off unit.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2316 provides for a new refund of special fuels tax for fuel that is used by certain power take-off units. If enacted, SB 2316 will increase refunds and reduce revenues in the highway tax distribution fund, but the amount of qualifying refunds cannot be determined.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/31/2013



Date: 2-5-13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2316**

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Miller Seconded By Senator Campbell

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Campbell

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2316: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2316 was placed on the Eleventh order on the calendar.

**2013 HOUSE FINANCE AND TAXATION**

**SB 2316**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2316  
March 13, 2013  
Job # 19850

Conference Committee

Committee Clerk Signature

*Mary Brubaker*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to a special fuels tax refund for North Dakota taxes paid on special fuels used to operate the power take-off unit or auxiliary engines of a motor vehicle.

## Minutes:

*No attachments.*

**Chairman Belter:** Opened hearing on SB 2316.

**Senator Armstrong:** Introduced bill. This bill says that if you can prove through on board technology on your vehicle that the number of gallons you have burned through your power take off unit we will refund you 19 of the 24 cent tax on diesel fuel. You're not driving when you're using your PTO because you're in a field or on an approach so you're not impacting the roads for the diesel fuel you are burning. It puts the responsibility on the driver; he has to provide the computer technology through an on board computer system to prove exactly how many gallons of diesel fuel he burned while his PTO was engaged in a form complied by the tax commissioner. Then he gets the refund provided it meets those requirements.

**Representative Zaiser:** Assuming we were to pass this bill, where do we start and stop (inaudible as he didn't have his microphone on).

**Senator Armstrong:** With this bill it would be start and stop with power take off units regardless of which business it is. If you have a power take off unit in your vehicle you are not driving when it is engaged so you're not on the road.

**Representative Zaiser:** There are lots of other businesses that are not in the fuel business (inaudible as he didn't have his microphone on)

**Senator Armstrong:** My point is that all of these vehicles are paying taxes for the diesel they use while they are on the highway. I don't look at it so much as an exemption but as a refund because when they burn these gallons of diesel they are not using the tax for what it was intended to be imposed for.

**Representative Froseth:** Is a computerized information system a unit that would have to be purchased and what would the approximate cost be to install a unit like this?

**Senator Armstrong:** I can't talk to the cost but a lot of modern farm equipment and trucks have this type of technology in their car. It's up to the individual if he wants to invest in that technology because he understands he's burning enough of this gas this way. This makes the enforcement aspect of it through the tax department manageable. We wanted verifiable and quantifiable data they can provide to the tax department that says the amount of gallons of gas burned. Technology is going this way and a lot of it is available now.

**Chairman Belter:** I don't see anything where it specifies the type of equipment that is being operated by the PTO or am I missing it in here?

**Senator Armstrong:** It's not in there.

**Chairman Belter:** I'm assuming then that this is introduced for tanker trucks and those types of things that are unloading fuel and water?

**Senator Armstrong:** And your larger agriculture grain trucks and things that aren't burning red dye and anything that is sitting on the side of an approach.

**Chairman Belter:** On our farm we have four trucks that have PTOs on them but we have no use for them. We would have to determine the cost and if we were to take advantage of the write off.

**Senator Armstrong:** That's the exact point of the bill; it becomes up to you if you have the technology. If your truck is in idle then you don't get the benefit of it.

**Representative Zaiser:** What would the cost of that technology be to provide that technology?

**Senator Armstrong:** There is somebody else who will be testifying and they would be able to answer that for you. Technology is getting better and cheaper all the time.

**Chairman Belter:** Further testimony in support of 2316?

**Tony Hauck, member of MBI Energy Services Corporation:** We operate over 500 trucks in North Dakota. We spend 19.2 million miles on the road and burn 10 million gallons of fuel a year and of that we burn 2 million with our PTO engaged. We think the original intent of the fuel tax was to tax people for the use of the roads and we don't use the road. This is a big deal to us as we burn 2 million gallons a year with our PTO engaged and paying \$.20 tax on that which is \$400,000 a year we are paying unfairly. We are here to apply for a credit for the fuel we are burning with our PTO engaged.

**Chairman Belter:** Further testimony in support of 2316? Any opposition to 2316? Any neutral testimony? If not, we will close the hearing on 2316.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2316  
March 13, 2013  
Job #19866

Conference Committee

Committee Clerk Signature

*Mary Buckner*

**Minutes:**

**Chairman Belter:** Let's take a look at this. You don't have to pay the fuel tax if you turn the PTO on.

**Representative Drovdal:** This is coming in to play in the oil field where they bring in all these fracking trucks and they sit and run for 48 hours or 96 hours fracking these wells and they burn up a tremendous amount of gas.

**Vice Chairman Headland:** Do the fracking companies that operate these trucks set their fees for the services they are providing?

**Representative Drovdal:** I really couldn't give you an answer since I'm not an owner of any of those companies but I would get it would be incorporated into the costs.

**Vice Chairman Headland:** I would agree. **Made a motion for a Do Not Pass.**

**Representative Dockter: Seconded.**

**ROLL CALL VOTE: 9 YES 3 NO 2 ABSENT**

**Representative Trottier will carry this bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/25/2013**

Bill/Resolution No.: SB 2316

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**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/31/2013

Date: 3-13-13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2316**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	✓
Rep. Matthew Klein	✓		Rep. Jessica Haak	AB	
Rep. David Drovdal		✓	Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	AB				
Rep. Patrick Hatlestad		✓			
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 9 No 3

Absent 2

Floor Assignment Rep. Trottier

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2316: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2316 was placed on the Fourteenth order on the calendar.**