

**2017 SENATE POLITICAL SUBDIVISIONS**

**SB 2316**

# 2017 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2316  
2/9/2017  
Job # 28089

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system

### Minutes:

Written testimony #1 Huber amendment

**Chairman Burckhard** opened the hearing for SB 2316. All senators are present.

(1.19-7.40) **Jeff Huber**, the State Fire Marshal here in North Dakota. He explained the proposed amendments (written testimony #1) in SB 2316. (Huber amendment not titled or numbered).

**Sen. D. Larson**: I am not exactly sure what you mean with Section 8, that you propose to remove it, so all of this underlined language you want to have out of here? **Mr. Jeff Huber** replied, yes. **Sen. D. Larson**: So the new language that is in the bill you don't want in the bill? **Mr. Jeff Huber**: Right. The underlined language should be taken out. That was apparently some new section added that they were going to put in. **Sen. D. Larson**: And it's not needed because why?

**Sen. Anderson**: Most of my questions were about that section because it looks like to me it required reporting for a lot of entities like drug stores and hardware stores and so forth, that would have some of these products on it. I didn't think that was necessary so I am glad to see they are going to remove it.

(8.53-12.48) **Mr. Jeff Huber** continued with his explanation of his amendments.

**Chairman Burckhard**: I would like to see the Christmas tree bill after the amendments are inserted in there. We don't have that convenience this morning. This is painstakingly, painstakingly doing it this way.

**Sen. Kannianen**: I am just wondering about the International Code council, could you describe who makes up that council as far as section 2, replacing NFPA with national codes, NFPA with international building and fire codes, what is the process behind that, the reasoning for that.



**Mr. Jeff Huber:** The International Code Council is made up of the quite a few different people, similar to like the National Fire Protection Association where there are fire chiefs that are represented, state fire marshals represented, individuals from the building associations, those type of groups, so it's a conglomerate of different people from different areas. What they do is every 3 years they look at working on the 2018 codes. The state of ND then has a similar process where they have people that are represented by the Fire Marshal's office, Fire Departments, also the building associations, electricians and those groups of people; and then what they do is they look at the code that the International Code Council produces and see how they are going to adopt to the ND building code and residential code. The fire code is automatically adapted when the building code is adopted. The reason that is it's through NDCC 10-7. It is an automatic update of the fire code type process.

**Sen. Kannianen:** Who makes up the International Code Council? **Mr. Jeff Huber:** The International Code Council came along as a result of several different building codes that existed at the time in the U.S., like the Uniform Fire Code and some older codes. Those kind of came together underneath the International Code Council. This is a highly respected code and there are some changes made from the code council compared to what the state requires that type of thing. It's a whittling down to each process. Then each local jurisdiction can look at it and try to adopt it as well. Home Rule cities can look at those changes and decide what they want to adopt.

**Sen. Dotzenrod:** It looks like in your amendments say pg. 3, there is a phrase here "your adding in four places and chief of a fire department or fire protection district" and it looks like the old sections that your amending there did not require the approval of a local fire official. You are leaving the State Fire Marshall as is, but then your adding "and chief of a fire department or fire protection district", so it appears what this change is doing is now in addition to getting a filing and approving at the state fire marshal. We want those plans in addition to be looked at and approved by the local fire chief. Is that what this is doing?

**Mr. Jeff Huber:** Yes, that is correct. **Sen. Dotzenrod:** Has that been prompted by some incident that occurred? It's a change for a lot of local fire departments where they have volunteer fire departments, it looks like there is something like a new duty there? **Mr. Jeff Huber:** It is bringing it up to what is currently being done by several of the major departments with their own Building and Fire Inspection processes. It doesn't mean that the rural departments have to participate in that process. We as the State Fire Marshal's office would then serve to be able to do that process. Larger departments have their own processes but would like to be able to be included in that instead of having something done in their jurisdiction that they may not be aware of. We are trying to get that relationship built to what is already current. **Sen. Dotzenrod:** I couldn't distinguish it in the bill or your amendment whether we have something that would apply to the volunteer fire departments as well as the full time, but your saying that those duties do not fall on those volunteer or rural districts.

**Mr. Jeff Huber:** Only if they want to participate.

**(19.40-22.50) Steve Dirksen,** Fire Chief, Fargo. Spoke in support of SB2316.

Clarification for Sen.Dotzenrod. He had a question regarding the Fire Marshal and then reporting it to the fire chiefs. That came as some of my prompting because that is how we currently do it in Fargo. We didn't want to have plans instead of the State Fire Marshal be



reviewed by the State Fire Marshall without us doing that. We work very closely with the schools and all the builders in our communities and we have a good relationship and it's our firefighters that are going into those buildings and we want the assurance that those plans have been reviewed and the sprinkler systems and fire detection systems that are in there are for those who live, work, and play and also for protection for fire fighters when going into that building. The full intention of that is that those communities that do that plan review, that it stays in that place, when we do that review at the local level where there is not that plan review process and that would fall on the State Fire Marshal to review that and be part of that. That's kind of there, and I do support that amendment from the original language. I am up here with 2 different rolls, and where we stand. We do have a question of what the intent is with the changes on page 2 line 20 and then page 4 where it talks about the private or contracting department. To make them eligible, we all support the funding from the premium tax going back to the communities that are paying the tax to support their fire departments instead of going to the contractor. May we suggest the fire departments that are getting that money are real fire departments. But if a community chooses to make that a contract decision with somebody, that money would come to the city auditor or the fire protection district treasurer for their determination of who gets their money dispersed.

**Sen. Anderson:** It seems to me that the money would always come to the local subdivision and they contract, they would have to pay the money out to whoever the contractor was. It seems to me how it would work and if I am wrong about that, someone should tell.

**Mr. Steve Dirksen:** I would agree with you. I would think that it should go to the political subdivisions for that, that would what I would recommend going forward.

**Sen. J. Lee:** Question for Mr. Huber, if he had any comments on Chief Dirksen's comments about going through the political subdivisions and how you might like to see addressed?

**Mr. Jeff Huber:** I agree totally with him. It does need to be identified to a specific location like that as compared to the money going out of state for that service. It needs to go directly to the political subdivision.

(24.55- 27.07) **Greg Wilz:** Deputy Director of the Department of Emergency Services, and Homeland Security Division Director He shared his neutral testimony for SB 2316. I was happy to see the amendment this morning that strikes out all of section 8 out of the bill. SB2110 which has already been through committee and acted out on the floor instituted the changes we needed in the hazardous material laws for ND for the next number of years. This new language as Jeff has stated, was a bit conflicting, but there was some interpretation that could be applied there, and was concern about additional reporting and we were as well. That language is stricken. One additional concern, and I don't know if it a concern with substance or not, and I ask for time to have the committee not take any action on this bill, but the bottom line is on pg. 5, number 11, if I've got this right the amendment strikes from the bill the repealing of section 18-01-34. I would like a chance to look at this. I think that language also conflicts with what's in 37-17 regarding hazardous materials reporting. That probably needs to still be repealed to keep the law simple and easy to understand.

**Sen. Dotzenrod:** On page 4, the section 7 of the bill, there taking out the language that's been there for some time that deals with the capacity of these storage tanks. We're taking



out 19,000 gallons and this is 85,000 gallons referenced on line 6, and just inserting into its place to comply with these fire codes, the National Fire Protection Association. Then there is another reference to the another code section for the motor fuel, by doing this do we effectively have any more limits on fuel tank capacities or are they much gone or do we have fuel tank capacity and these codes kind of depend where you're at. If you're in the city limits or if you have certain protections around the tanks. We are getting rid of specific gallon references and we're replacing it with something that I am not sure that I really understand what we are replacing with. Have we ended the idea that there is some limit on storage capacity of these tanks?

**Mr. Greg Wilz:** I think I can take a stab at answering that but you've got experts that can answer that question that are in the audience.

**Sen. J. Lee:** At little information, 18-10-16 which is being repealed is a section which calls for the fire marshal to establish rural routing systems, so I don't think there is probably any question about that. Do you want that deleted, Mr. Huber? But 18-01-34 is the toxic and hazardous substance of section of law that is currently there and that has been offset now by SB2110. Mr. Wilz is that correct?

**Mr. Greg Wilz:** I do believe that is correct.

(30.15- 31.23) **Joel Boespflug**, President of the North Dakota Fire Chiefs Association. As we listened to the bill, the bill in its original format we were not in favor. However, listening this morning to the amendments provided by the State Fire Marshal, we are in support of those amendments, and support of the comments made by Chief Dirksen out of Fargo regarding the contracted fire type groups and the plan review for school construction. We are also in favor of the amendment discussed by Mr. Wilz in regard to the conflict with Section 18 and section 37 on the substance reporting. The amendments seem to be in concurrence with our group.

**Chairman Burckhard:** Basically with the amendments that you've heard proposed, and the input from Mr. Wilz, you are now in favor of.

**Mr. Joel Boespflug:** And the additional comments provided by Chief Dirksen as well.

**Senator Dotzenrod:** Can Mr. Huber answer my question about these tank limits? We kind of crossed off the specific gallons and replaced them and I imagine there are still some limits but they probably buried depending on where you're at.

**Mr. Jeff Huber:** What it is they are finding a lot of problems with the large bulk tanks in all one area type thing. Especially the fuel dispensing area. If you have 90,000 of gallons of fuel like in a gas station, it becomes a real problematic situation. These are what we are trying to address to that process. All the tanks that are currently in place are not affected, this is only for installing new tanks. That's what that is about.

**Sen. Dotzenrod:** It does answer my question. There has been a big push to get the big buried tanks out of the ground. Going to see more storage and larger storage around the

state and above the ground, so I think it sounds like it's covered. It would also specify retainer walls.

**Mr. Jeff Huber:** We went with not specifically trying to get into the exact code, we tried to cover the entire code. There are exceptions to the rules too.

**Sen. J. Lee:** May we perhaps ask Ian to develop the amendment that would include all of the recommendations that we've heard.

**Chairman Burckhard:** A Christmas tree version so we can actually understand it. Ian can you do that.

**Sen. J. Lee:** What I was intending was all of the pages from Mr. Huber that has all of those additions and then making sure that we also have it cleared up that the fire premium tax funds will be going to the political subdivision and not directly to a fire district.

**Chairman Burckhard:** Closed the hearing on SB 2316.



# 2017 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2316  
2/9/2017  
Job # 28196

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system

### Minutes:

Written testimony #1 Christmas tree amendment by Mr. Huber

**Chairman Burckhard** opened the committee for discussion on SB 2316. All senators are present.

**Chairman Burckhard:** The Christmas tree version was composed by Mr. Huber. It was reviewed by the committee. It seemed like we had a lot of agreement in the room with these proposed amendments, as I recall. (Testimony #1)

**Sen. J. Lee:** We also had Mr. Dirksen, the Fire Chief from Fargo, talk about the fire premium tax which he recommended going to the political subdivision and not to the fire department or fire protection district and so Ian may have done some homework on that and share what he's learned so far.

**Ian:** I have an understanding that the commissioners want to collect all of premium tax on the fire insurance. **Chairman Burckhard:** So if I have a home owners' policy part of that premium goes to this group. **Ian** responded: yes. One there is a standard premium that is paid. **Chairman Burckhard:** Where we are in Minot, that part goes to the Minot Fire Department? **Ian:** No, it goes to the insurance commissioner into a fund and that fund distributes it to certain districts. I am not sure how the districts (he was cut off).

**Senator Anderson:** The concern was if it went to the local fire district or whether it went to the contracts. **Sen. Judy Lee:** To the political subdivisions.

**Chairman Burckhard:** It would go to the auditor and then the auditor would give it to the right fire department. **Sen. Judy Lee:** Whoever the entity is that is doing the firefighting should be paid by the political subdivision. This would be your county auditor or whoever. That isn't in the amendment but we might want to allow Ian a little more time on that so we can see where the statute is so we can clarify the fact that it would go to the political subdivision, is that kind of where you understood Mr. Dirksen going?

**Sen. Anderson:** If that's already in the law, then were okay. If it's not, then maybe we should say something. **Sen. Judy Lee:** That is exactly what we need to know.

**Chairman Burckhard:** Can you do that Ian, a little more research. **Ian,** I can.

**Senator Diane Larson:** I see something that is not in this bill. On page 2, in referencing the Christmas tree bill, but it is not something that Ian did. On pg. 2, line 21, it says 'for varying for of at least 8'. **Chairman Burckhard:** for at least 8 months, cross off 'of'.

**Sen. Judy Lee:** Everything else looks good. I would like to know just to assure us that if it is already in statute, if we need to fix it then we can do that if everybody is on the same page.

**Ian:** I don't know if you contributed so part of it goes to the North Dakota Firefighters Association, part of it goes to the Fire Fighter Death Benefit Fund, and the rest of it goes to specifically to eligible city not within a certified fire protection district and each certified rural fire protection district or title A, rural firefighting and fire departments certified. It's by the State Marshall.

**Senator Anderson:** Are you ready for a motion. I'll move the amendment that we have before us on 2316. The amendment doesn't have a number on it, but we'll call it the Huber amendment. **Chairman Burckhard:** It was moved and 2<sup>nd</sup> for the amendment on SB2316.

## **2<sup>nd</sup>. Senator Diane Larson**

### **Committee Discussion:**

**Senator Anderson:** One of the things I heard is its uncommon I think for a group that is close knit as the Firefighters, and the fire districts, and the Emergency management people and so forth, they usually work together. We have a new Fire Marshall and he kind of proposed this bill without consulting the rest of them. That's why then the long list of amendments came up because he didn't realize how the rest of them work together and maybe he'll learn that now that it's better to work together before you come up with a process. But that was what some of the others said. Now they don't have a problem with it, so it should be okay.

**Sen. Judy Lee:** Mr. Boespflug who testified is the previous fire marshal and have been there for years.

**Chairman Burckhard:** They all seemed to be good with the amendments. We are talking about the number. Moved and seconded, any other discussion.

**Roll call vote 6 Yea, 0 No, 0 Absent motion passes.**

**Chairman Burckhard now we could use a motion as amended for SB 2316.**

**Senator Anderson:** I move 2316 do pass as amended

**2<sup>nd</sup> Senator Kannianen**

**Roll call vote: 6 Yea, 0 No, 0 Absent**

**Motion passes**

**Carrier: Senator Burckhard**



# 2017 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2316  
2/16/2017  
Job # 28435

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system

### Minutes:

Written testimony #1 Greg Wilz proposed amendment #  
17.0948.01001

**Chairman Burckhard** opened the committee for further discussion on SB 2316. Senators J. Lee, D. Larson, J. Dotzenrod, J. Kannianen were in attendance. Senator Anderson was absent.

**Chairman Burckhard:** The first bill to be reworked is SB 2316. We had a do pass as amended, and then Mr. Wilz, contacted me to say that he needs to visit with the committee.

**Greg Wilz: Homeland Security Director, Deputy Director of the Department of Emergency Services.** So as you recall from the bill of the testimony that day I did get up to speak. There were a couple of concerns that we had, but with the amendments that were provided we were in general support of the bill. So I do have the bill in front of you. I did hand out a list of amendments and literally those amendments are the amendments (amendment # 17.0948.01001) that all looked at and approved, with the exception of the last page. He referenced page 5 of the bill, the original bill in lines 11,12, said 'section 9 repeal' and then it says repeal sections 18:01:34 and 18: 10.16 of the North Dakota Century Code are repealed. The amendment that was provided to you on the day of the hearing is essentially just took one of those sections of code out, so you only repealed one. Our concern is the original bill was correct, both of those sections need to be repealed. I have them in front of me, so section 18-10-16 is language that is essentially says 'The state fire marshal, with the advice and cooperation of the North Dakota Fire Fighters Association, may establish a system of rural routings which must be as uniform as practical throughout the state, for the purpose of aiding rural firefighting equipment and other emergency vehicles in locating and arriving quickly'... the bottom line here folks is this language is antiquated. That function is being done by the PSAPS, the dispatch centers for years and is now actually automated. With the computer aided dispatch system that the 911, centers have that function is all done based on a state wide seamless base map that is electronic and that language does need to come go. The other piece is under 18-01-34 where it says, and in that particular section, everything that's in there, that deals with disclosure of information concerning toxic and hazardous



substances. List to the State Fire Marshal and local fire departments exceptions with ability of information restricted and penalty. All of that existing hazardous/chemical program is located within 37-17. There is literally all of this language in there. The Dept. of Emergency Services has been by century code and by law, responsible for the hazardous chemical program within the state of ND. We manage it, we put the response teams together and we deal with the federal grants that support it, all of the reporting processes are in there. There were bolstered last session, you all made us as a repository for every hazardous material spill and we worked the federal program which is called Tier 2 reporting, it goes by many names. So that also is antiquated language. I submit to you that while I love the former Fire Marshal he was great guy, but he was just reluctant to tap into and change and update some of the Century Code within his area. This language does need to go, so the original bill, in terms of repealing that lines 11 & 12, where it is section 9 repeal needs to stay and the amendment that I provided to you essentially keeps that in the original bill.

**Chairman Burckhard:** Is this the amendment where you gave us this morning? **Mr. Greg Wilz:** replied, yes. That bill retains that repeal language in lines 11 and 12.

**Sen. Dotzenrod:** The bill as it was introduced on pg 5 bill, it says 'repeal' and also of course in the title, referred to this 18-01-34 to get rid of it. Then if I remember right we had some amendments that came into our committee that said 'well maybe we shouldn't repeal it', that is also correct, so now, what you say is maybe we should repeal it?

**Mr. Greg Wilz:** Yes, you absolutely should and the amendments that were provided to you that day, were done in a very short time frame and were not necessarily coordinated amongst all the stakeholders. I am here to tell you that the language if we leave 18-01-34 in, it just conflicts with what is in 37-17 and it does not do any good to keep it there. We have adequate language there.

**Sen. Dotzenrod:** We have this set of amendments proposed here, and there is no number on them, but you want us to withdraw from these?

**Mr. Greg Wilz:** That's the set I handed out today, that is the exact same amendments that you all looked at, with the exception that repealed that did not repeal the 18-01-34. **Chairman Burckhard:** That's kind of the dilemma. We've got proposed amendments and neither one of them says the date or number or so that's what we are trying to clarify here. **Mr. Greg Wilz:** I understand and that's why I really wanted to appear before you rather than just send these in to the committee.

**Sen. J. Lee:** No I am just looking at my notes, and I do this stuff as a rule, but anyway the previous amendment did delete 18-01-34 but it did not delete 18-10-16. So the toxic substance was the one deleted in those amendments, which Mr. Huber provided for us when we first heard the bill. But his amendments left in 18-10-16, so you're just asking that the second one be also deleted. I get it. I am clarifying it and we already did that.

**Mr. Greg Wilz:** Both of those sections need to be repealed. That is in its simplest form.

**Sen. J. Lee:** Yes, I got it. Would you like a motion to reconsider?

**Jeff Huber,** State Fire Marshal, for ND. I am in full agreement with Mr. Wilz. Absolutely, I mean that Greg and I originally talked previously several months ago, before this ever came



up and this was an example of trying to reflect exactly what he said, it just didn't work out quite that way. So, were trying to get it where it actually reflects what it is supposed to be currently happening. That is what the entire bill is trying to reflect current practices and current standards and current codes. That's what we are trying to do.

**Sen. Dotzenrod:** I just want to make sure that the copy I have in front of me reflects the position you've taken. We've got the Christmas tree bill and I think you want us to take the overstrike off on page 1, on line 7.

**Sen. J. Lee:** We have to do all the original amendments plus just this one which is repealing the addition section.

**Sen. Dotzenrod:** That is my understanding that everything in the Christmas tree bill is right, except for this repeal that we've got to get repealed 18-01-34 back into the bill.

**Sen. J. Lee:** and in the title. **Chairman Burckhard:** I believe that is correct.

**Sen. Kannianen:** It was a good catch by Sen. Dotzenrod, so in this amendment that was handed out today, it removed it down here, but we need to strike out the 1<sup>st</sup> line that talks about the title.

**Chairman Burckhard:** The problem is we don't what we were handed out today isn't dated or anything either, so I want to make sure that what we have in front of us today is the real one. We have to note the correction we need to make.

**Sen. J. Lee:** just put 2.16 on the top and we'll know which one.

**Sen. J. Lee** moved that we reconsider our actions by which we amended and past SB2316.  
**2<sup>nd</sup>. Senator D. Larson**

**Chairman Burckhard:** Moved and seconded that we undo what we have done, which was done on February 9, 2017.

**Chairman Burckhard:** You also have it explained that it needs to go back to the original bill, we don't deal with the amendments we had before, they are all irrelevant. We are dealing with the original bill and the amendments Mr. Wilz proposed today.

**Roll call vote for the motion:** 5 Yea, 0 No, 1 Absent: Motion passes

**Senator J. Lee:** I move that we amend 2316, with the amendments proposed by Mr. Wilz today with the exception of deleting the first line on pg. 1, line 7, so that the repeal of both sections will remain in the title.

**2<sup>nd</sup>: Senator Dotzenrod on the motion**

**Roll call vote:** 5 Yea, 0 No, 1 Absent

**Amendment passes**

**Sen. J. Lee:** I move that we do pass the amended version of 2316.

**2<sup>nd</sup> Senator Dotzenrod**

**Roll call vote:** 5 Yea, 0 No, 1 Absent

**Motion passes.**

**Carrier: Senator Burckhard**



February 10, 2017

CH  
2/10/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2316

Page 1, line 1, remove "to create and enact a new section to chapter 37-17.1 of the North Dakota"

Page 1, remove line 2

Page 1, line 7, replace "sections 18-01-34 and" with "section"

Page 1, line 8, remove "disclosure of information concerning toxic or hazardous substances and"

Page 3, line 6, after "marshal" insert ", chief of a fire department or fire protection district,"

Page 3, line 8, after "marshal" insert "and chief of a fire department or fire protection district"

Page 3, line 13, after "marshal" insert "and chief of a fire department or fire protection district"

Page 3, line 18, after "marshal" insert "and chief of a fire department or fire protection district"

Page 4, remove lines 11 through 31

Page 5, remove lines 1 through 10

Page 5, line 11, replace "Sections 18-01-34 and" with "Section"

Page 5, line 12, replace "are" with "is"

Renumber accordingly

February 16, 2017

CH  
2/16/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2316

Page 1, line 1, remove "create and enact a new section to chapter 37-17.1 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "to"

Page 3, line 6, after "marshal" insert ", chief of the fire department or fire protection district with jurisdiction,"

Page 3, line 8, after "marshal" insert "and the chief of the fire department or fire protection district with jurisdiction"

Page 3, line 13, after "marshal" insert "and the chief of the fire department or fire protection district"

Page 3, line 18, after "marshal" insert "and the chief of the fire department or fire protection district"

Page 4, remove lines 11 through 31

Page 5, remove lines 1 through 10

Renumber accordingly



Date: 2.9.17  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2316

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: Higher amendment 17.8162.01001

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Howard Anderson Seconded By Sen. Diane Larson

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson	✓				
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2.9.17  
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2316

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. H. Anderson Seconded By Sen. J. Kannianen

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	X		Senator Jim Dotzenrod	X	
Vice-Chairman Howard Anderson	X				
Senator Jordan Kannianen	X				
Senator Diane Larson	X				
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Burckhard

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



Date: 2.16.17  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2316

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Judy Lee Seconded By Sen. Diane Larson

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson					
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

Date: 2.16.17  
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2316

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: 17.8162.01002

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Judy Lee Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson					
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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



Date: 2.16.17  
Roll Call Vote #: 3

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2316

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: 17.8162.01002

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Judy Lee Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson					
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Chairman Burckhard

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

**REPORT OF STANDING COMMITTEE**

**SB 2316: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2316 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 37-17.1 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "to"

Page 3, line 6, after "marshal" insert ", chief of the fire department or fire protection district with jurisdiction,"

Page 3, line 8, after "marshal" insert "and the chief of the fire department or fire protection district with jurisdiction"

Page 3, line 13, after "marshal" insert "and the chief of the fire department or fire protection district"

Page 3, line 18, after "marshal" insert "and the chief of the fire department or fire protection district"

Page 4, remove lines 11 through 31

Page 5, remove lines 1 through 10

Renumber accordingly



**2017 HOUSE POLITICAL SUBDIVISIONS**

**SB 2316**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

SB 2316  
3/16/2017  
Job # 29357

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Carmen Hickel*

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

Relating to powers and duties of the state fire marshal regarding explosives, participation in the fire insurance tax distribution fund, the submission plans and specifications for school buildings, and aboveground petroleum storage tanks; relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system; and to provide a penalty

### Minutes:

1,2,3,4

**Chairman Klemin:** Opened the hearing on SB 2316.

**Rep. Pyle:** Introduced the bill.

**Ken Sisk, Chief Deputy of State Fire Marshal's office:** (#1 first engrossment copy of the bill and proposed amendments) Explained the proposed amendment. Explained the changes on the engrossed bill.

**Chairman Klemin:** Section 1 of this bill requires the report of fires and the timing within which that report must be made and where that report must be made to.

**Mr. Sisk:** Correct.

**Rep K. Koppelman:** In section 2 if perhaps the original language is better than what the bill proposes, on lines 8 and 9 on page 2. We have been reticent in ND to adopt other documents by reference. It would be very reticent to ever adopt an international code as part of our statute. If that changed back to the language in the bill would you be ok with that along with your amendments? It would be removing the overstrikes on page 2 line 8 and removing the new underscored language.

**Chairman Klemin:** Why did you want to change it from national fire codes to the international fire codes?

**Mr. Sisk:** Currently the state fire marshal operates under the instruction of the international fire code. In the international fire code, it references the national fire protection agency.



Currently the state of ND on the building code side of things they reference and work out of the international building code and the international fire code a member of that group.

**Rep K. Koppelman:** On lines 11 and 12 the language that is being removed seems like reasonable language in current statute as well.

**Mr. Sisk:** I would like to take a little time and not give a response that I'm not prepared for.

**Rep. Guggisberg:** The point is the reason we are being asked to amend this bill again is because the person that testified in the Senate is no longer in leadership in the fire marshal's office and it probably had something to do with this bill. Instead of mandating that we use the international fire code it will be used as a reference code. Is that correct? And the state will adopt pieces of the fire code that are good?

**Rep. Maragos:** Do the national codes and fire protection association follow the international building code and international fire codes to the letter?

**Mr. Sisk:** They are two separate entities but a lot of the language is the same but not all of it is the same.

**Rep. Maragos:** Why do we switch from the national to international, what is the rational? I can ask the question when someone else comes up.

**Mr. Sisk:** Section 3 this is for the insurance and premium tax fund. He continues to explain the bill. Section 4 plans and specifications of all new school building.

**Rep K. Koppelman:** In section 4 on line 6, talks about private school plans and specifications, to inserting, architects and engineers preparing the plans. I assume architects and engineers are going to be used? Maybe we are inadvertently requiring private schools to use architects and engineers where they otherwise wouldn't be in law. Was that considered? That wasn't your intent, I assume?

**Mr. Sisk:** It was not the intent. Page 3 subsection 12 we are adding, chief of the department, to make sure the local jurisdiction is involved in a new building that is constructed. Line 18 repeats that intent.

**Chairman Klemin:** Why are we deleting the language on line 13 through 16?

**Mr. Sisk:** That was removed because our office was not included in all of the process of reviewing other plans.

**Chairman Klemin:** Would the chief of the fire department or protection district be included in that?

**Mr. Sisk:** They would be yes. Section 6 is covered by the proposed amendment. Section 7 I do not have a lot of knowledge. Basically we are asking they comply with the current editions of NFPA code 30 and 30A for motor fuel dispensing facilities and repair garages.

**Rep K. Koppelman:** Is there anything in the current law or the language that is being struck in that section that is antiquated? So if we returned section 7 back to current law would that present a problem of any kind?

**Mr. Sisk:** Joel Boespflug would like to speak on that.

**Rep. Guggisberg:** Since we are taking international out of the other sections, could I have an explanation between that code and the other codes? Maybe that would be best for Chief Boespflug.

**Chairman Klemin:** Section 8 has a repeal of two section, what are those two sections and why do you want to repeal them?

**Mr. Sisk:** Antiquated material, outdated.

**Joel Boespflug, President of the ND Fire Chief's Association:** (Attachment #2) (Time 21:54 24:40) Explained the changes they made to the bill with the colored sections.

**Chairman Klemin:** I have a question on local and state, the rules adopted by the state fire marshal may not be more restrictive than those promulgated by the local and state building and fire codes. If a local building code was less restrictive than the state code, which one applies?

**Mr. Boespflug:** There are 13 cities in the state that have adopted the international fire code and amend them locally. The intent was to ensure that there is reference and correlation to both the international fire codes and if there is any reference to any state provisions.

**Chairman Klemin:** You might have differences from one locality to another. How is the state fire marshal supposed to know which one to use? It has to go with the least restrictive of 13 of them if they are all different?

**Mr. Boespflug:** If this was to say, state building and fire codes?

**Chairman Klemin:** You do have state building and fire codes that cover explosives?

**Mr. Boespflug:** We do.

**Rep K. Koppelman:** So are you saying just removing the words, local and, from your amendment is that what you are suggesting?

**Mr. Boespflug:** I believe that would work.

**Rep K. Koppelman:** If that change is made then what would a local fire code contain versus the state code? We are talking about the state fire marshal what we would be saying that the state fire marshal can do nothing more restrictive than a state code, which makes sense. But then it would also imply that if there is a local code that is less restrictive he or she could override that. Is that correct? Are there local codes that are less restrictive than the state code?



**Mr. Boespflug:** To the best of my knowledge that is not a situation now where a locality is less restrictive. The state code through administrative rule adopts the international fire code, so that section 56 would apply, and it also references national fire protection association 1124. That would be more restrictive than the local codes that I am aware of.

**Rep K. Koppelman:** Removing that would be fine if that is the case. You mentioned adopting things by administrative rule, who does that? Is it the state fire marshal's office that adopts those rules?

**Mr. Boespflug:** The codes that relate to building, fuel, gas, mechanical, residential those are done through the department of commerce with the building officials. The state fire code is done through administrative rule though the state fire marshal's office.

**Rep K. Koppelman:** That office is subject to the promulgation standards under 28-32 in the Century Code. So you come before the administrative rules committee with those rules?

**Mr. Boespflug:** That is my understanding yet today. Section 3 line 18 we have a concern. In line 15 it talks about the eligibility for participation in fund. For over a hundred years the premium tax has been a funding source for fire departments. Roughly 2% of the dollars that are sold in that fire protection area is returned to the fire department as a form of reducing fire loss and aiding that fire department. That is the fund it is referring to. We don't feel a contracted fire department should be receiving those funds. We believe the city or the fire district that contracts with that agency should receive those funds and determine how they are going to deal with their contract. We would recommend line 18 be stricken from the bill.

**Rep K. Koppelman:** You are saying to access whatever is available in that fund it should be the political subdivision that is receiving that and not a fire department, whether it is contracted or not? The way the law reads it is the city or township that gets it, correct?

**Mr. Boespflug:** This section might be saying these entities are required to ensure their certificate of existence and their equipment to maintain their IOSO standard. If it were to be interpreted in regard to the funding of who would be able to receive that, the way it is working today is if those monies were to come into the Bismarck Fire Department those are fully disclosed. There is not a problem for those premium funds coming directly to a department, however if that department is private and contracted we feel that fire district or township or city should be receiving those monies. Just in a contracted situation.

**Rep K. Koppelman:** Are there private contracted fire services in ND?

**Mr. Boespflug:** Yes, there are.

**Rep K. Koppelman:** West Fargo is the largest volunteer department but is that considered private if it is a volunteer department? Or what do you mean by private?

**Mr. Boespflug:** They are not a city agency, even though they are volunteer the city has a contract with that department.

**Rep K. Koppelman:** I was on a city council that was contracted with a fire department, so the city could still receive that money and somehow filter it to that department?

**Mr. Boespflug:** Our intent would be if a private company was in place they are not a city fire department, they are not a rural fire department, not a fire district, what we are looking for is so that payment is at least disclosed to the governing body.

**Rep K. Koppelman:** They do receive other donations or benefits or contributions, they wouldn't be at a disadvantage versus a city department, would they be?

**Mr. Boespflug:** If a governing body is paying an agency to provide a service that it is not double dipping. So they don't receive the contract monies and receive these monies. Section 4 is in regard to schools. It is our understanding that a private school reports their plans to the fire marshal however a public school reports to both DPI and the fire marshal. We have made a couple of recommended changes in line 5, we believe, in case of, should be reinserted, Architects and engineers preparing, should be stricken, they must be submitted, reinserted, shall submit school plans and specifications, be stricken to flow better with the verbiage.

**Rep K. Koppelman:** I agree with what you are attempting to do. The statue is cumbersome in the case of private school plans. Maybe just say, private school plans and specifications must be submitted directly to the state fire marshal. Is that simpler?

**Mr. Boespflug:** I agree. In section 5 line 17 add, the person.

**Rep. Pyle:** I would suggest, the individual.

**Rep K. Koppelman:** I would suggest the opposite I think we should strike, architect or engineer, and insert, person.

**Mr. Boespflug:** That is better than what we came up with.

**Rep. Guggisberg:** If we are going to take out, architect and engineer, the person qualified to prepare the plans, so it is just not anybody can write plans and submit them.

**Rep K. Koppelman:** I don't think it's this document that governs who is qualified to prepare plans. I think that is elsewhere in code.

**Chairman Klemin:** It's the tense of this, it's the duty of the person preparing the plans to notify the state fire marshal when the building has been completed. It seems it should be the person who prepared the plans.

**Rep K. Koppelman:** I think the second, person, can be deleted as well. Change, supervising, to, supervises.

**Mr. Boespflug:** The reason for that notification is that if we have a situation where a school is being built and completed there can be no occupancy until the final testing is completed. So it is valuable to know when it is completed so those tests can occur.



**Rep K. Koppelman:** Maybe add the words, who is, in front of supervising the construction.

**Rep K. Koppelman:** In section 6 line 25, 26, I am wondering, the change from the state building code to the national building code, needs to be changed as well back to the original language.

**Chairman Klemin:** That is what Mr. Sisk proposed this morning.

**Mr. Boespflug:** I know Fire Marshal Sisk had support from Jonathan Byers, I think that amendments that were submitted this morning are good.

**Rep K. Koppelman:** On line 25 change it to, state and local building codes. Eliminate line 26.

**Mr. Boespflug:** Our intent was to have reference to local and state fire and building codes, they are based off the international fire code.

**Rep. Guggisberg:** To be clear I think this section is about the reference data that should be used to make determinations of the rest of the chapter. Is there such a thing as the state or local building code? That they could use for reference or is the reference the international building code, international fire NFPA?

**Mr. Boespflug:** You are correct. All of the upper tier we have the international building and fire NFPA. The state building code is based on the international building code as well as the local building codes. The fire codes are the same.

**Rep. Guggisberg:** I think this just says these are the codes that we should reference in regards to the state and local fire codes. So if we take those codes out then there won't be anything to reference.

**Mr. Boespflug:** In 1990's during the legislative session that was a time underground tanks were under new rules. So this language came from that time. This would reduce the number of tanks.

**Chairman Klemin:** What about preexisting tanks are they going to have to be replaced?

**Mr. Boespflug:** No, this appears to be only new.

**Chairman Klemin:** I received an email from Mutch Oil Company, he was concerned about the reduction. Why should they be reduced in size?

**Mr. Boespflug:** If we take a look at standards that is referenced that is where you will find the maximum size and maximum number of tanks. This was put in place to utilize existing resources.

**Chairman Klemin:** You have the word, current additions, we had an issue with the word current this morning.

**Rep K. Koppelman:** We talked with our legal counsel and you cannot address something that is flexible and changes over time is not possible in law.

**Chairman Klemin:** Are you saying the language should be, to comply with?

**Rep K. Koppelman:** We would have to remove words, current conditions of.

**Chairman Klemin:** You have attached some statutes are those being repealed?

**Mr. Boespflug:** Yes, this is antiquated language. Both are irrelevant.

**Mike Rud, President of the ND Petroleum Marketers Association:** (Testimony #3)  
(Time 55:48 to 59:20)

**Rep K. Koppelman:** To clarify you said the rules were changing. What is in the current law if we got rid of section 7 of the bill and left current law in place does that conflict with EPA?

**Mr. Rud:** The underground storage tank program is what the EPA regulates. The above ground storage they do not have any authority with that.

**Chairman Klemin:** This applies to new aboveground tanks but that would include a replacement tank?

**Mr. Rud:** If we had to replace a tank it would go to a 12,000-gallon tank.

**Tom Haahr, CEO/GM of Farmers Union Oil Co. of Devils Lake:** (Testimony # 4) (Time 1:01:14 to 1:04:20)

**Rep. Ertelt:** You are not opposing section 7?

**Mr. Rud:** Yes, we would like to keep what the current statute says.

**Chairman Klemin:** No other testimony. Closed the hearing. Assigned Rep K. Koppelman to take the amendments to Legislative Council. And leave in section 7 and the committee can decide whether we are going to remove that section from the bill.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

SB 2316  
3/17/2017  
Job # 29391

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Carmen Hickle*

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

Relating to powers and duties of the state fire marshal regarding explosives, participation in the fire insurance tax distribution fund, the submission plans and specifications for school buildings, and aboveground petroleum storage tanks; relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system; and to provide a penalty

### Minutes:

1,2

**Chairman Klemin:** Opened for committee work on SB 2316.

**Rep K. Koppelman:** (Proposed amendments #1, #2) Explained the amendments. #2 is identical to #1 with the exception section 7.

**Rep K. Koppelman:** made a motion to approve amendments #2. 17.8162.03002.

**Vice Chairman Hatlestad:** Second the motion.

**Rep. Zubke:** You said to remove section 7, I did not understand the intent was to remove section 7. I thought the intent was to leave it as it is.

**Rep K. Koppelman:** The first set leaves section 7 in and the second set removes section 7. The reason I moved the second set is if we remove section 7 of the bill the current law stays in place.

**Rep. Zubke:** I understand.

**Rep. Guggisberg:** I understand why the bulk dealers don't want to go to the EPA standard but the difference is quite significant in the size. My community has its own standards that we follow and codes that we follow. This is going to deal with the small communities that have volunteer fire departments.

**Chairman Klemin:** Most of these tanks are 19,000 gallons, is that the statuesque?



**Rep. Guggisberg:** Yes, that is correct. But the standards made are based on what they think the capabilities of the fire departments are.

**Chairman Klemin:** It is subject to local building ordinance, so those towns could make the requirements individually, correct?

**Rep. Guggisberg:** That is correct, I don't think this is on the radar of many small towns.

**Chairman Klemin:** Maybe the state fire marshal can communicate that they could change this if they want to.

**Rep K. Koppelman:** What the public policy question for us here is whether we want to change the law, if we remove section 7 nothing changes in the law, nothing changes for those communities, nothing changes for the bulk dealers. If we insert section 7 then we are saying those large tanks can't be replaced, they have to be replaced with something smaller.

**Chairman Klemin:** The proposed amendment what we are talking about is on the last 2 lines. I would propose we just divide the question.

**Rep K. Koppelman:** I withdraw my motion. I would move the corrected version of the amendments numbered 03002 with the exception of the last 2 lines of that amendment.

**Vice Chairman Hatlestad:** Second the motion.

**Rep. Hanson:** The title makes reference to section 7.

**Chairman Klemin:** We will have Legislative Council correct this.

**Voice vote carried**

**Chairman Klemin:** Now we have page 3 remove lines 29 & 30, page 4 remove lines 1 through 10 before us.

**Rep K. Koppelman:** Made a motion to remove those lines and note that it says to renumber accordingly.

**Vice Chairman Hatlestad:** Second the motion.

**Voice vote carried**

**Rep K. Koppelman:** Made a do pass as twice amended motion.

**Vice Chairman Hatlestad:** Second the motion.

**SB 2316 passed 11 yes, 2 no, 2 absent.**

**Rep. Longmuir will be the carrier**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

SB 2316  
3/30/2017  
Job # 29832

☐ Subcommittee  
☐ Conference Committee

*Carmen Hickle*

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

Relating to powers and duties of the state fire marshal regarding explosives, participation in the fire insurance tax distribution fund, the submission plans and specifications for school buildings, and aboveground petroleum storage tanks; relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system; and to provide a penalty

### Minutes:

1

**Chairman Klemin:** Opened for committee work rerefered back after the Attorney General's office discovered there was an issue with the section that was being repealed.

**Rep. Maragos:** Made a motion to reconsider.

**Rep. Longmuir:** Motion to reconsider.

**Roll call vote 13 yes, 0 no, 2 absent.**

**Chairman Klemin:** (Proposed amendment #1) The Attorney General's office discovered an issue, originally as introduced in the Senate this relates to sell or store hazardous substances. Under existing law, they are required to report to the state fire marshal and to local fire departments. The Senate removed that provision that changed the reporting to the Department of Emergency Services. The original bill also repealed section 18-01-34. The result is there is no reporting at all. What the amendment that I handed out is to remove the repeal of section 18-01-34 on page 4 line 11.

**Rep. Maragos:** Made a motion to adopt the amendments.

**Rep K. Koppelman:** Second the motion to adopt the amendments.

**Voice vote carried.**

**Chairman Klemin:** We have the previous amendments that we put on so they are still on the bill.

**Rep K. Koppelman:** What is the current version of the engrossed bill?

**Chairman Klemin:** We are on the previous version which was .0300. We take the same bill we previously amended and we are adding an additional amendment to remove the repealer on that one section.

**Rep. Longmuir:** Made a motion do pass as amended.

**Rep. Johnson:** Second the motion.

**Roll call vote 13 yes, 0 no, 2 absent.**

**Rep. Longmuir:** Will be the carrier.



# 2017 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

SB 2316  
3/30/2017  
Job 29946

- ☐ Subcommittee  
☐ Conference Committee

*Carmen Hickle*

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

Relating to powers and duties of the state fire marshal regarding explosives, participation in the fire insurance tax distribution fund, the submission plans and specifications for school buildings, and aboveground petroleum storage tanks; relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system; and to provide a penalty

Minutes:

1

**Chairman Klemin:** (Proposed amendment #1) Opened for committee work, after we met this morning Greg Wilz from the Department of Emergency Services that we did have the bill right the first time. The existing law already requires reporting to the Department of Emergency Services and that is why it was not necessary to also have it reported to the State Fire Marshal. We need to reconsider what we did this morning and put the bill back the way it was.

**Rep. Longmuir:** Made a motion to reconsider.

**Vice Chairman Hatlestad:** Second the motion to reconsider.

**Roll call vote 11 yes, 0 no, 4 absent.**

**Chairman Klemin:** We need a motion to reconsider the amendment that we added today to remove the repealer of section 18-01-34. .03005

House Political Subdivisions Committee  
SB 2316  
March 30, 2017

**Rep. Beadle:** Made a motion to reconsider to adopt the amendments.

**Rep. Zubke:** Second the motion.

**Voice vote carried.**

**Rep. Zubke:** Made a do pass as amended motion.

**Vice Chairman Hatlestad:** Second the motion.

**Carried do pass as amended 10 yes, 1 no, 4 absent.**

**Rep. Longmuir:** Will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

Page 1, line 2, after the first comma insert "and"

Page 1, line 2, remove ", and 23-13-16"

Page 1, line 4, after the first comma insert "and"

Page 1, line 4, remove "and aboveground"

Page 1, line 5, remove "petroleum storage tanks"

Page 2, line 8, replace "current international" with "state and local"

Page 2, line 8, remove "codes"

Page 2, line 9, remove the first "international"

Page 2, line 9, remove "of the international code council"

Page 2, line 11, remove the overstrike over "~~The state fire marshal may make reasonable provision for the application or~~"

Page 2, remove the overstrike over line 12

Page 2, line 18, remove "or private or public contracted fire service agency"

Page 3, line 6, remove "Architects and engineers preparing"

Page 3, line 6, overstrike "private" and insert immediately thereafter "Private"

Page 3, line 6, remove the overstrike over "~~must be~~"

Page 3, line 7, remove the overstrike over "~~submitted~~"

Page 3, line 7, remove "shall submit school plans and specifications"

Page 3, line 17, overstrike "architect or engineer preparing" and insert immediately thereafter "individual who prepared"

Page 3, line 17, after the second "or" insert "the individual who is"

Page 3, line 25, replace "The international building code" with "State and local fire and building codes"

Page 3, line 26, overstrike "The"

Page 3, line 26, remove "international fire code"

Page 3 line 26, overstrike the period

Page 3, line 27, overstrike "3."

Page 3, line 28, replace "4." with "3."

Page 3, remove lines 29 and 30

Page 4, remove lines 1 through 10



Renumber accordingly

3/17/17 D+  
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

- Page 1, line 2, after the first comma insert "and"
- Page 1, line 2, remove ", and 23-13-16"
- Page 1, line 4, after the first comma insert "and"
- Page 1, line 4, remove ", and aboveground"
- Page 1, line 5, remove "petroleum storage tanks"
- Page 2, line 8, replace "current international" with "state and local"
- Page 2, line 8, remove "codes"
- Page 2, line 9, remove the first "international"
- Page 2, line 9, remove "of the international code council"
- Page 2, line 11, remove the overstrike over "~~The state fire marshal may make reasonable provision for the application of~~"
- Page 2, remove the overstrike over line 12
- Page 2, line 18, remove "or private or public contracted fire service agency"
- Page 3, line 6, remove "Architects and engineers preparing"
- Page 3, line 6, overstrike "private" and insert immediately thereafter "Private"
- Page 3, line 6, remove the overstrike over "~~must be~~"
- Page 3, line 7, remove the overstrike over "~~submitted~~"
- Page 3, line 7, remove "shall submit school plans and specifications"
- Page 3, line 17, overstrike "architect or engineer preparing" and insert immediately thereafter "person that prepared"
- Page 3, line 17, after the second "or" insert "the person that is"
- Page 3, line 25, replace "The international building code" with "State and local fire and building codes"
- Page 3, line 26, overstrike "The"
- Page 3, line 26, remove "international fire code"
- Page 3 line 26, overstrike the period
- Page 3, line 27, overstrike "3."
- Page 3, line 28, replace "4." with "3."
- Page 3, remove lines 29 and 30
- Page 4, remove lines 1 through 10



Renumber accordingly

3/17/17 DA  
2082

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

In addition to the amendments adopted by the House as printed on pages 1051 and 1052 of the House Journal, Engrossed Senate Bill No. 2316 is further amended as follows:

Page 1, line 5, replace "sections 18-01-34 and" with "section"

Page 1, line 6, remove "disclosure of information concerning toxic or hazardous substances and"

Page 4, line 11, replace "Sections 18-01-34 and" with "Section"

Page 4, line 12, replace "are" with "is"

Renumber accordingly

Date: 3-17-17  
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: 17.8162.03002 - except last two lines

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. K. Koppelman Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

VOICE VOTE CARRIED



Date: 3-17-17  
Roll Call Vote: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: Delete Section 7 out of bill

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. K. Koppelman Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote Carried

Date: 3-17-17  
Roll Call Vote: 3

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Koppelman Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg		/
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/	/			
Rep. Zubke	/				

Total (Yes) 11 No 2

Absent 2

Floor Assignment Rep Longmuir

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

Date: 3-30-17  
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Maragos Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 13 No 0

Absent 2

Floor Assignment \_\_\_\_\_

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



Date: 3-30-17  
Roll Call Vote: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: 17.8162.03005

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. maragos Seconded By Rep. K. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice vote Carried

Date: 3-30-17  
Roll Call Vote: 3

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Longmuir Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Longmuir

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

Date: 3-30-17  
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☒ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Longmuir Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 11 No 0

Absent 4

Floor Assignment \_\_\_\_\_

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



Date: 3-30-17  
Roll Call Vote: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ \_\_\_\_\_  
Amendment 17.8126.03005

Motion Made By Rep. Beadle Seconded By Rep. Zubke

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote Carried

Date: 3-30-17  
Roll Call Vote: 3

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2316

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By

Rep. Zubke

Seconded By

Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/	/			
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 10 No 1

Absent 4

Floor Assignment Rep. Longmuir

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

**REPORT OF STANDING COMMITTEE**

**SB 2316, as engrossed: Political Subdivisions Committee (Rep. Klemin, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2316  
was placed on the Sixth order on the calendar.

Page 1, line 2, after the first comma insert "and"

Page 1, line 2, remove ", and 23-13-16"

Page 1, line 4, after the first comma insert "and"

Page 1, line 4, remove ", and aboveground"

Page 1, line 5, remove "petroleum storage tanks"

Page 2, line 8, replace "current international" with "state and local"

Page 2, line 8, remove "codes"

Page 2, line 9, remove the first "international"

Page 2, line 9, remove "of the international code council"

Page 2, line 11, remove the overstrike over "~~The state fire marshal may make reasonable  
provision for the application of~~"

Page 2, remove the overstrike over line 12

Page 2, line 18, remove "or private or public contracted fire service agency"

Page 3, line 6, remove "Architects and engineers preparing"

Page 3, line 6, overstrike "private" and insert immediately thereafter "Private"

Page 3, line 6, remove the overstrike over "~~must be~~"

Page 3, line 7, remove the overstrike over "~~submitted~~"

Page 3, line 7, remove "shall submit school plans and specifications"

Page 3, line 17, overstrike "architect or engineer preparing" and insert immediately thereafter  
"person that prepared"

Page 3, line 17, after the second "or" insert "the person that is"

Page 3, line 25, replace "The international building code" with "State and local fire and  
building codes"

Page 3, line 26, overstrike "The"

Page 3, line 26, remove "international fire code"

Page 3 line 26, overstrike the period

Page 3, line 27, overstrike "3."

Page 3, line 28, replace "4." with "3."

Page 3, remove lines 29 and 30



Page 4, remove lines 1 through 10

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2316, as engrossed and amended: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2316, as amended, was placed on the Sixth order on the calendar.

Page 1, line 2, after the first comma insert "and"

Page 1, line 2, remove ", and 23-13-16"

Page 1, line 4, after the first comma insert "and"

Page 1, line 4, remove ", and aboveground"

Page 1, line 5, remove "petroleum storage tanks"

Page 2, line 8, replace "current international" with "state and local"

Page 2, line 8, remove "codes"

Page 2, line 9, remove the first "international"

Page 2, line 9, remove "of the international code council"

Page 2, line 11, remove the overstrike over "~~The state fire marshal may make reasonable provision for the application of~~"

Page 2, remove the overstrike over line 12

Page 2, line 18, remove "or private or public contracted fire service agency"

Page 3, line 6, remove "Architects and engineers preparing"

Page 3, line 6, overstrike "private" and insert immediately thereafter "Private"

Page 3, line 6, remove the overstrike over "~~must be~~"

Page 3, line 7, remove the overstrike over "~~submitted~~"

Page 3, line 7, remove "shall submit school plans and specifications"

Page 3, line 17, overstrike "architect or engineer preparing" and insert immediately thereafter "person that prepared"

Page 3, line 17, after the second "or" insert "the person that is"

Page 3, line 25, replace "The international building code" with "State and local fire and building codes"

Page 3, line 26, overstrike "The"

Page 3, line 26, remove "international fire code"

Page 3 line 26, overstrike the period

Page 3, line 27, overstrike "3."

Page 3, line 28, replace "4." with "3."

Page 3, remove lines 29 and 30

Page 4, remove lines 1 through 10

Renumber accordingly



**2017 CONFERENCE COMMITTEE**

**SB 2316**

# 2017 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2316  
4/10/2017  
Job # 30000

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



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

Relating to disclosure of information concerning toxic or hazardous substances and the duty of the state fire marshal to establish a rural routing system; and to provide a penalty.

### Minutes:

Written testimony #1 Mike Rud  
Written testimony #2 Tom Haahr

**Chairman Burchhard** opened SB2316 for a conference committee. Sen. Burckhard; Chairman, Sen. Kannianen, and Sen. Dotzenrod, Rep. Rich S. Becker; Chairman, Sen. Longmuir, Rep. Simons was present.

**Chairman Burckhard:** Rep. Becker do you want to talk to what improvements you may have made for us to combine? We have Mr. Wilz, Mr. Rud, Mr. Ken Sisk, who is the new state fire marshal. He is the interim director.

**Rep. Becker:** We met as a House group and you were right, this has been amended and engrossed a couple of times, and I think the official bill right now is the 04000 version, and I think that the first thing I would like to say is it appears that we're not that far apart. I am anticipating and hoping that we won't go to many conference committees. I don't think we have a need to do that. The second point that I would like to make is that there has been out in the real world with fire protection and some of the code in Chapter 18. There have been some changes with the people coming and going. So one thing that I think might help our situation and that we can share with you, is we do happen to have somebody who I have been calling on as our expert witness which is Rep. Longmuir who comes from this field, has this background up in the Stanley, ND area, and ask him since he has knowledge of the people involved and some of the situation, that he maybe just give us a quick overview from his point of view. We'll go from there.

**Rep. Longmuir:** Things happened between the hearing that the Senate held in February, and in the House side. During that time the person, the fire marshal has since left that position, and so the bill as it had first appeared before the Senate, Mr. Huber had kind of operated in a vacuum. So there wasn't good communication with anyone, so what happened when Chief Deputy Fire Marshall Sisk testified before us he literally had been handed the paper and said, we need to take of this. It was just difficult. Then what happened then the North Dakota Petroleum Marketers Association objected to a certain section of the bill. They



didn't object to the entire bill. But what they were objecting to was in Section 7, they were changing the size requirements on the storage tanks which presented difficulties for the industry because the 19,000 barrel, gallon, were actually already in place and it had been an industry standard that they had used over the years. So, the reduction to 12,000 created some issues. Rep. Longmuir handed out two letters of testimony that we received and would be very helpful for the committee to review this morning and it describes some of the industry concerns that they had regarding the reduction of those sizes. The one is the letter from the ND Petroleum Association from Mr. Rud (**Testimony #1**) and then we also had testimony from the Chairman of the Board, Tom Haahr, (**Testimony #2**) also operating the operation in Devils Lake. At our testimony also present was Joel Boespflug, President of the North Dakota Fire Chiefs Association. In the discussion we had in our committee level, the storage tank issue was kind of a separate issue from what really needed to be done. So, as a committee we reviewed it and felt that their request was a good request and that's why we removed Section 7 in the law would basically stay the same as it is. One of the things that did come up in the discussion was from the fire-fighting perspective with all the mutual aides and things, is something like that is on fire there is a lot of mutual aid and things such as that. The burden it would put on the industry was we felt was burdensome.

**Chairman Burckhard:** Mr. Sisk, are you okay with final version of the bill that we've got here? Have you had a chance to look at it?

**Mr. Sisk, Mr. Wilz and Mr. Rud** all replied yes.

**Sen. Dotzenrod:** The section 7, in the original bill, there was no reference there specifically to 12,000. Evidently the 12,000 comes from this code that they are referring too, on Line 8 and Line 9. Is that right? Those numbers that are in there, they are not going to change, evidently there are national, a national code? By taking out section 7 we're going to lose our state law of 19,000? Correct. When we had the bill open, I don't think we had any reference to the size specific. I think we had some questions, about what would be the implications if we did this. But I don't remember that we talked that it would lower the number from 19,000 to a smaller number. I guess maybe we talked about that part, I didn't remember the 12,000.

**Chairman Burckhard:** In my notes, there was in my original testimony questions about the International Code Council. It seems like we figured that out.

**Rep. Becker:** I was confused too, that would the small towns be happy with being enforced to go to a 19,000 storage tank and with everything we read, is that would actually be better for them than the 12,000. So that was a major point to overcome. The fact that this now is in the International Code or federal code perhaps, it doesn't cause the people here in this room any heartache or any problem. So then we're getting down to some very minor points, we're not contesting these. But when I read through the bill, I don't know where it started, perhaps back to the original version but in 04000, if you look at section 1, lines 13-14, I asked Rep. Longmuir if this is where typos or just what. But at one point in time we had within 5 days, after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged, in an amount which \$25, I can't imagine in this day and age anything being \$25.00. We are willing to ride with that if that's not a problem and remove the 5 days to 30 days, or the bill has moved it from 5 to 30 days. It seems reasonable. I don't really quibble about that. But I still have a little concern of the \$25. It's too small to worry



about and if I were an operator and had to report something you're not ever going to find anything less than \$25. I say it to ask for anybody who has an understanding of where that language came from?

**Chairman Burckhard:** It seems like a pretty small amount, is this to say this theirs is always going to be a need then, right? Why is it such a small amount of money?

**Mr. Ken Sisk,** Interim State Fire Marshal: Based on the previous two fire marshals one being Mr. Ray Lambert, he just touched real lightly that that when that bill was original back in 1970's that was just kind of an agreeable price amongst the legislator at that time.

**Chairman Burckhard:** It wouldn't make any sense to raise it to \$100.00, or a \$1000. Just leave it as it is.

**Rep. Becker:** Whoever has to represent this bill, on the floor, I am sure somebody is going to say what can you do for \$25 and that's why I raise it. As long as you are comfortable with the response to that, I think we are in good shape.

**Sen. Kannianen:** There was an issue about the insurance premium tax on section 3.

**Chairman Burckhard:** Which number of bill are you referring too? 01, the original?

**Sen. Kannianen:** Like in the original part of the change included adding the contracted fire service agencies to that section and then in the House version it was taken out. I was just wondering about the background on that one too?

**Sen. Kannianen:** Are you talking about section 2, section 3?

**Rep. Becker:** Section 3 what of the original bill?

**Sen. Kannianen:** If you look at that original bill, page 2, line 20 adding the private or public contracted fire service agencies under that section in regards to being eligible for those benefits. I remember the original testimony of the previous fire marshal talking about how it puts it in line with other sections of Century Code, I was curious of the other conversation was to take it out.

**Rep. Longmuir:** Mr. Sisk can speak to that, as that was specifically addressed in our committee to take it out.

**Mr. Sisk:** What that is, we do have some fire departments in the state that are contracted by their local entity and use this case in point. The West Fargo Fire Department is actually paid by the City of West Fargo, so they are contracted. I believe what the intent of the previous fire marshal, is that those departments are eligible to receive that premium but the premium money should go back to the entity that is paying that fire department. So instead of the money going to the West Fargo Fire Department, it would go to the city of West Fargo and then they would just issue that back to the West Fargo Fire Department.

**Chairman Burckhard:** Does that make sense to you? That is the way it should be done.

**Mr. Sisk:** Replied yes.

**Rep. Becker:** Just out of curiosity, could you offer your opinion as to why this is better. I would think it is kind of going through one extra step to get to where it was going to go to anyway.

**Mr. Sisk:** As Rep. Longmuir had mentioned previously, this was all tossed into my lap very quickly. What I can offer though is that the reason that this was brought to light was that some fire departments if they are contracted by their local city, they would actually in laymen's terms be "double dipping", because if they would be getting the insurance money plus they would also be getting paid, so we just wanted to assure the money went to the proper agency.

**Rep. Longmuir:** Actually it was a representative from West Fargo, that brought that to our attention and specifically mentioned the double dipping. So that was the reason for taking it out, but Rep. Kim Koppelman felt that that was not appropriate and that was his amendment actually that took that out of the bill.

**Rep. Becker:** Rep. Simon do you have concerns or questions at this point?

**Rep. Simons:** No I do not, I am very happy that we are keeping the language as it is, just to take care of these small towns.

**Chairman Burckhard:** So do we need a motion? Do you know what the proper motion is, if the conference committee wants the first House to agree?

**Ian Arendt:** If there are no further changes, the Senate would accede to the House amendments.

**Sen. Kannianen:** I move to accede to the House amendments  
**2<sup>nd</sup> Sen. Dotzenrod**

#### **Committee Discussion:**

**Sen. Dotzenrod:** Under the heading of discussion, we also took out Section 8 and that was the toxic or hazardous substances. I don't know if there was a feeling that this was going to be another case of a lot of having to report, having to keep track, having to file, it would just become an extra chore or what is the logic on getting rid of that?

**Rep. Longmuir:** That was covered in another section of the Century Code. It goes into what is called Tier 2 reporting. So this did was take out double language. The reporting is actually going according to ND Century Code 37:17-21-07-01, which actually goes to Mr. Wilz's department. All the hazardous chemicals are kept in that location.

**Sen. Dotzenrod:** Again, the chapter I see the section 8 is a new section to chapter 37. But the section we reference is also in chapter 37, so we're in the same chapter. It is not showing up in some other distant far away part of the code. All of this is in the same chapter. We don't need a new section because evidently because it is already in there.

**Rep. Longmuir:** correct. Section 18 would disappear. 18-01-34 and is now reporting in 37:17.1-07, which is referred to as the Tier 2 reporting.



Senate Political Subdivisions Committee  
SB 2316  
April 10, 2017  
Page 5

Roll call vote: **Sen. Burckhard Y, Sen. Kannianen Y, Sen. Dotzenrod Y**  
**Rep. Becker Y, Rep. Longmuir Y, Rep. Simons Y**  
**6-0-0**

Chairman Burckhard: Motion passes  
**Carrier: Senate: Sen. Kannianen**  
**House: Rep. Longmuir**

**Chairman Burckhard:** Closed the conference committee.



Date: 4/10/2017  
Roll Call Vote 1:  
Vote #: 1

**2017 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2316 as (re) engrossed

Senate "Enter committee name" Committee

- Action Taken ☒ **SENATE accede to House Amendments**  
☐ **SENATE accede to House Amendments and further amend**  
☐ **HOUSE recede from House amendments**  
☐ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Kannianen Seconded by: Sen. Dotzenrod

Senators	4/10			Yes	No		Representatives	4/10			Yes	No
Sen. Randall Burckhard, Chm	x			x			Rep. Rich S. Becker	x			x	
Sen. Kannianen	x			x			Rep. D. Longmuir	x			x	
Sen. Dotzenrod	x			x			Rep. L. Simons	x			x	
Total Senate Vote				3	0		Total Rep. Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Kannianen House Carrier Rep. Longmuir

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2316, as engrossed:** Your conference committee (Sens. Burckhard, Kannianen, Dotzenrod and Reps. Rich S. Becker, Longmuir, Simons) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1081-1082 and place SB 2316 on the Seventh order.

Engrossed SB 2316 was placed on the Seventh order of business on the calendar.

**2017 TESTIMONY**

**SB 2316**



SB 2316  
2.9.17  
Written testimony  
#1  
p. 1/3

Senate Bill 2316

Jeff Huber, State Fire Marshal  
February 9, 2016  
Senate Political Subdivisions Committee

Mr. Chairman, members of the Committee, I am Jeff Huber the State Fire Marshal for North Dakota. I am here today to explain the proposed amendments suggested in SB 2316, as well as some additional changes.

**Section 1**

Page 1, line 15, this aligns with the current reporting requirements for the State's National Fire Incident Reporting System (NFIRS), which is a requirement of the United States Fire Administration (USFA)

Page 1, line 17, during the collection of fire department certificate of existence forms, which is required under N.D.C.C. § 18-04-02, it was noted that several fire departments and fire protection districts were using contractors from other states and private entities to provide fire protection for their jurisdictions. This process was not aligned with N.D.C.C. § 18-04-01, eligibility for participation in the fund created from premium tax on fire insurance companies. Some contracting departments were not in compliance with the Insurance Service Office (ISO) class 9 rating or fire reporting requirements.

Page 1, line 22, this measure complies with the current federal requirements for reporting fires. This software is provided free to all fire departments through the federal government. Our office issues identification numbers to the departments, provides training for the entry of data, and helps correct mistakes entered into the system software.

**Section 2**

Page 2, line 14, this section aligns the North Dakota Century Codes (N.D.C.C) with the current legislated building and fire codes and eliminates duplication.

**Section 3**

This section inserts private and public contracted fire service to align with Page 1, line 17.

**Section 4**

These changes provide local jurisdictions the appropriate input into new construction and renovation projects. This process already occurs.

SB23/6  
2.9.17  
1.1  
P.2/3

#### Section 5

These changes provide local jurisdictions the appropriate input into new construction and renovation projects. This process already occurs.

#### Section 6

This aligns with N.D.A.C. Article 10-07.

#### Section 7

The current statute does not align with the quantities permitted by the current fire codes. This change also identifies which fire code regulates above ground fuel storage and dispensing tanks.

#### Section 8

We propose to remove the section.

#### Section 9

Removes N.D.C.C. § 18-01-34 (*Disclosure of information concerning toxic or hazardous substances - List to state fire marshal and local fire departments - Exceptions - Availability of information restricted - Penalty*) and corrects the language.

I hope that I have helped clarify these amendments for you today. Thank you for the opportunity to address the Committee.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2316

Page 1, line 7, replace "sections 18-01-34 and" with "section"

Page 1, line 8, remove "disclosure of information concerning toxic or hazardous substances and"

Page 3, line 6, after "marshal" insert ", chief of a fire department or fire protection district"

Page 3, line 8, after "marshal" insert "and chief of a fire department or fire protection district"

Page 3, line 13, after "marshal" insert "and chief of a fire department or fire protection district"

Page 3, line 18, after "marshal" insert "and chief of a fire department or fire protection district"

Page 4, remove lines 11 through 31

Page 5, remove lines 1 through 10

Renumber accordingly



SB 2316  
2.9.17  
testimony #1  
pgs 1-5

17.8162.#####

Sixty-fifth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO SB 2316

Introduced by

Senators Oehlke, Schaible, Grabinger

Representatives Dockter, Pyle, Guggisberg

A BILL for an Act to create and enact a new section to chapter 37-17.1 of the North Dakota Century Code, relating to disclosure of information concerning toxic or hazardous substances; to amend and reenact sections 18-01-06, 18-01-33, 18-04-01, 18-12-03, 18-12-05, 18-12-25, and 23-13-16 of the North Dakota Century Code, relating to powers and duties of the state fire marshal regarding explosives, participation in the fire insurance tax distribution fund, the submission plans and specifications for school buildings, and aboveground petroleum storage tanks; to repeal ~~sections 18-01-34 and~~ section 18-10-16 of the North Dakota Century Code, relating to ~~disclosure of information concerning toxic or hazardous substances and~~ the duty of the state fire marshal to establish a rural routing system; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 18-01-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection districts must report fires.**

Within ~~five~~thirty days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged in an amount which exceeds twenty-five dollars, an organization that is contracted by a political subdivision for fire protection or the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshal or enter the information in the national fire incident reporting system software. Such report must show whether such fire was the result of carelessness, accident, or design. The provisions of this

1 section must be complied with, insofar as the same are applicable, if the fire is of unknown  
2 origin, regardless of the amount of damage caused thereby.

3 **SECTION 2. AMENDMENT.** Section 18-01-33 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **18-01-33. State fire marshal may adopt rules for explosives - Penalty.**

6 The state fire marshal may adopt safety rules for the storage, sale, and use of combustibles  
7 and explosives, not otherwise provided by law. Any person who willfully refuses to comply with  
8 the safety rules adopted by the state fire marshal is guilty of a class B misdemeanor. Rules  
9 adopted by the state fire marshal may not be more restrictive than those promulgated by the  
10 ~~national fire codes of the national fire protection association~~ current international building codes  
11 and international fire codes of the international code council and do not apply to the  
12 transportation of explosives and dangerous articles regulated by the interstate commerce  
13 commission. ~~The state fire marshal may make reasonable provision for the application or~~  
14 ~~nonapplication of all or any portion of the national fire codes.~~

15 **SECTION 3. AMENDMENT.** Section 18-04-01 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **18-04-01. Eligibility for participation in fund created from premium tax on fire**  
18 **insurance companies.**

19 1. To become eligible for the benefits provided under this chapter, a city, or one or more  
20 townships or fire districts or private or public contracted fire service agency, shall  
21 maintain therein for ~~a period~~ of at least eight months before the filing of the certificate  
22 required under section 18-04-02 ~~an organized~~ fire protection district, or  
23 department ~~which~~:

24 1. a. Has been in actual existence for the period specified in this section;  
25 2. b. ~~Meets~~ Provides the minimum requirements for class 9 fire protection or better;  
26 and

27 3. c. Has been in compliance with the requirements to report fires as set forth in  
28 section 18-01-06.

29 2. Change in a fire department's name, or incorporation into a fire district, ~~must be~~ is  
30 deemed a waiver of the eight-month waiting period for filing a certificate of existence  
31 under section 18-04-02.

32 **SECTION 4. AMENDMENT.** Section 18-12-03 of the North Dakota Century Code is



amended and reenacted as follows:

**18-12-03. Plans and specifications.**

Plans and specifications for all new public school buildings and for all additions to and remodeling of existing public school buildings must be submitted for approval to the state fire marshal, chief of a fire department or fire protection district, and the superintendent of public instruction or to the state board of higher education. ~~In the case of Architects and engineers preparing private school plans and specifications, they must be submitted~~ shall submit school plans and specifications directly to the state fire marshal and chief of a fire department or fire protection district for approval.

**SECTION 5. AMENDMENT.** Section 18-12-05 of the North Dakota Century Code is amended and reenacted as follows:

**18-12-05. State fire marshal.**

The state fire marshal and chief of a fire department or fire protection district shall approve plans and specifications for school buildings before construction is started. The state fire marshal shall review public school building plans upon referral from the superintendent of public instruction or the state board of higher education. In the case of private school buildings the architects and engineers preparing plans shall submit them to the state fire marshal for approval. It is the duty of the architect or engineer preparing the plans or supervising the construction to notify the state fire marshal and chief of a fire department or fire protection district when the building has been completed.

**SECTION 6. AMENDMENT.** Section 18-12-25 of the North Dakota Century Code is amended and reenacted as follows:

**18-12-25. Reference data.**

The following data must be used as reference and as an aid in the interpretation of this chapter:

1. ~~State building code~~ The international building code.
2. ~~The national fire codes -- national fire protection association~~ international fire code.
3. The National Electrical Code - national fire protection association.
4. The national fire protection association.

**SECTION 7. AMENDMENT.** Section 23-13-16 of the North Dakota Century Code is amended and reenacted as follows:

**23-13-16. Aboveground storage tanks permitted - Limitations.**



1 Subject to local zoning ordinances, a business selling petroleum products for dispensing  
2 into motor vehicles may install and utilize new aboveground tanks ~~with a maximum capacity not~~  
3 ~~exceeding nineteen thousand gallons [71922.6 liters] for the storage of petroleum products. No~~  
4 ~~business selling petroleum products for dispensing into motor vehicles may use aboveground~~  
5 ~~storage tanks with an aggregate capacity of more than ninety-five thousand gallons [359613~~  
6 ~~liters] for the storage of petroleum products at one location~~that comply with the current editions  
7 of the National Fire Protection Association Code 30 for flammable and combustible liquids and  
8 the National Fire Protection Association Code 30A for motor fuel dispensing facilities and repair  
9 garages.

10 **SECTION 8. A new section to chapter 37-17.1 of the North Dakota Century Code is created**  
11 **and enacted as follows:**

12 **—Disclosure of information concerning toxic or hazardous substances – List to**  
13 **department of emergency services and local fire departments – Exceptions – Availability**  
14 **of information restricted – Penalty.**

15 **— A person that produces, either as a direct or indirect result of conducting the production of**  
16 **goods or services, routinely stores, or sells a hazardous substance in this state shall submit to**  
17 **the department of emergency services and to the fire department in the fire district in which is**  
18 **located a facility owned and operated by the person, a list of hazardous substances that are**  
19 **consistently generated by, used by, stored at, or transported from the facility. As used in this**  
20 **section, "hazardous substance" means a chemical or substance or mixture of chemicals and**  
21 **substances which is defined as a hazardous substance under the federal Comprehensive**  
22 **Environmental Response, Compensation, and Liability Act of 1980 [Pub. L. 96-510], as**  
23 **amended, and meets or exceeds the listed reportable quantity for that substance. As used in**  
24 **this section, "facility" means any building or other structure or place where hazardous**  
25 **substances are used, manufactured, or stored, and includes areas where hazardous**  
26 **substances are handled, mixed, processed, packaged, or repackaged. The information must be**  
27 **provided in sufficient specificity that, in accordance with rules adopted by the department of**  
28 **emergency services, the department of emergency services and the local fire departments are**  
29 **informed of the nature of the hazardous substances, the hazards presented by the hazardous**  
30 **substances, and the appropriate response in dealing with an emergency involving the**  
31 **hazardous substances. The department of emergency services, by rule, shall except persons**  
32 **from the requirements of this section if the persons do not generate, use, store, or transport**

sufficient amounts of hazardous substances to create a significant threat to public safety.

Persons that have copies of emergency response plans meeting the requirements of the federal Resource Conservation and Recovery Act of 1976 on file with the state fire marshal or department of emergency services and the local fire district are deemed to be in compliance with the requirements of this section. The department of emergency services and local fire departments receiving information under this section may make the information received available only to other governmental emergency response departments. Any person that violates this section is guilty of a class B misdemeanor.

**SECTION 9. REPEAL.** ~~Sections 18-01-34 and~~ Section 18-10-16 of the North Dakota Century Code ~~are~~is repealed.



under the provisions of this chapter. Nothing herein contained may impair, affect, or discharge any previously existing contract, obligation, lien, or change of said district or districts.

SB2316  
2.16.17  
Greg Wiltz  
testimony  
#1

**18-10-14. Rate of tax fixed.**

Repealed by S.L. 2015, ch. 439, § 104.

**18-10-15. Payments by certain organizations.**

Any club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within a rural fire protection district and outside the boundaries of any city shall pay to the board of directors of the district annually for fire protection such amount as may be agreed upon, but not less than twenty-five percent of the amount which would be levied against such property under the provisions of this chapter if such property were subject to such levy.

Funds derived from such payments must be expended by the district for firefighting supplies and equipment and the training of fire department personnel. The board of directors shall file an annual statement with the state fire marshal showing the names of persons or organizations making payments and the amounts of payments made under this section.

**18-10-16. State fire marshal to establish rural routing systems.**

The state fire marshal, with the advice and cooperation of the North Dakota firefighters association, may establish a system of rural routings which must be as uniform as is practicable throughout the state, for the purpose of aiding rural firefighting equipment and other emergency vehicles in locating and arriving quickly at the scene of a fire or other emergency within any area which they might logically be called upon to serve.

**18-10-17. Rural fire protection district - Civil immunity.**

No rural fire protection district, nor any personnel of the district, acting within the scope of its authority is liable for any claim resulting from the failure to provide or maintain sufficient personnel, equipment, or other fire protection facilities; or doing any extinguishment or fire prevention work, rescue, resuscitation, or first aid; or any other official acts within the scope of official duties; provided, however, this section does not provide immunity for damages resulting from acts of gross negligence.

Repeal



17.8162.03000

## FIRST ENGROSSMENT

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2316

Introduced by

Senators Oehlke, Schaible, Grabinger

Representatives Dockter, Pyle, Guggisberg

1 A BILL for an Act to amend and reenact sections 18-01-06, 18-01-33, 18-04-01, 18-12-03,  
2 18-12-05, 18-12-25, and 23-13-16 of the North Dakota Century Code, relating to powers and  
3 duties of the state fire marshal regarding explosives, participation in the fire insurance tax  
4 distribution fund, the submission plans and specifications for school buildings, and aboveground  
5 petroleum storage tanks; to repeal sections 18-01-34 and 18-10-16 of the North Dakota Century  
6 Code, relating to disclosure of information concerning toxic or hazardous substances and the  
7 duty of the state fire marshal to establish a rural routing system; and to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 18-01-06 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection**  
12 **districts must report fires.**

13 Within ~~fivethirty~~ days after the occurrence of any fire in which property in a city or rural fire  
14 protection district has been destroyed or damaged in an amount which exceeds twenty-five  
15 dollars, an organization that is contracted by a political subdivision for fire protection or the fire  
16 chief of such city or rural fire protection district, if a fire department is maintained therein, or the  
17 auditor of the city or the secretary of the rural fire protection district, if a fire department is not  
18 maintained therein, shall report the cause, if known, and the origin and circumstances of the fire  
19 and the name of the owner and occupant of such property, to the state fire marshal or enter the  
20 information in the national fire incident reporting system software. Such report must show  
21 whether such fire was the result of carelessness, accident, or design. The provisions of this  
22 section must be complied with, insofar as the same are applicable, if the fire is of unknown  
23 origin, regardless of the amount of damage caused thereby.

1       **SECTION 2. AMENDMENT.** Section 18-01-33 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **18-01-33. State fire marshal may adopt rules for explosives - Penalty.**

4       The state fire marshal may adopt safety rules for the storage, sale, and use of combustibles  
5 and explosives, not otherwise provided by law. Any person who willfully refuses to comply with  
6 the safety rules adopted by the state fire marshal is guilty of a class B misdemeanor. Rules  
7 adopted by the state fire marshal may not be more restrictive than those promulgated by the  
8 ~~national fire codes of the national fire protection association~~current international building codes  
9 and international fire codes of the international code council and do not apply to the  
10 transportation of explosives and dangerous articles regulated by the interstate commerce  
11 commission. ~~The state fire marshal may make reasonable provision for the application or~~  
12 ~~nonapplication of all or any portion of the national fire codes.~~

13       **SECTION 3. AMENDMENT.** Section 18-04-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **18-04-01. Eligibility for participation in fund created from premium tax on fire**  
16 **insurance companies.**

17       1. To become eligible for the benefits provided under this chapter, a city, or one or more  
18 townships or fire districts or private or public contracted fire service agency, shall  
19 maintain therein for ~~a period of~~ at least eight months before the filing of the certificate  
20 required under section 18-04-02 ~~an organized~~a fire district, fire protection district, or  
21 ~~department which~~that:

22       4. a. Has been in actual existence for the period specified in this section;

23       2. b. ~~Meets~~Provides the minimum requirements for class 9 fire protection or better;  
24 and

25       3. c. Has been in compliance with the requirements to report fires as set forth in  
26 section 18-01-06.

27       2. Change in a fire department's name, or incorporation into a fire district, ~~must be~~is  
28 deemed a waiver of the eight-month waiting period for filing a certificate of existence  
29 under section 18-04-02.

30       **SECTION 4. AMENDMENT.** Section 18-12-03 of the North Dakota Century Code is  
31 amended and reenacted as follows:



1       **18-12-03. Plans and specifications.**

2       Plans and specifications for all new public school buildings and for all additions to and  
3 remodeling of existing public school buildings must be submitted for approval to the state fire  
4 marshal, chief of the fire department or fire protection district with jurisdiction, and the  
5 superintendent of public instruction or ~~to the state board of higher education. In the case~~  
6 ~~of Architects and engineers preparing private school plans and specifications, they must be~~  
7 submitted shall submit school plans and specifications directly to the state fire marshal and the  
8 chief of the fire department or fire protection district with jurisdiction for approval.

9       **SECTION 5. AMENDMENT.** Section 18-12-05 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **18-12-05. State fire marshal.**

12       The state fire marshal and the chief of the fire department or fire protection district shall  
13 approve plans and specifications for school buildings before construction is started. ~~The state~~  
14 ~~fire marshal shall review public school building plans upon referral from the superintendent of~~  
15 ~~public instruction or the state board of higher education. In the case of private school buildings~~  
16 ~~the architects and engineers preparing plans shall submit them to the state fire marshal for~~  
17 approval. It is the duty of the architect or engineer preparing the plans or supervising the  
18 construction to notify the state fire marshal and the chief of the fire department or fire protection  
19 district when the building has been completed.

20       **SECTION 6. AMENDMENT.** Section 18-12-25 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **18-12-25. Reference data.**

23       The following data must be used as reference and as an aid in the interpretation of this  
24 chapter:

- 25       1. ~~State building code~~ The international building code.  
26       2. ~~The national fire codes~~ national fire protection association international fire code.  
27       3. The National Electrical Code - national fire protection association.  
28       4. The national fire protection association.

29       **SECTION 7. AMENDMENT.** Section 23-13-16 of the North Dakota Century Code is  
30 amended and reenacted as follows:



1       **23-13-16. Aboveground storage tanks permitted - Limitations.**

2       Subject to local zoning ordinances, a business selling petroleum products for dispensing  
3 into motor vehicles may install and utilize new aboveground tanks ~~with a maximum capacity not~~  
4 ~~exceeding nineteen thousand gallons [71922.6 liters] for the storage of petroleum products. No~~  
5 ~~business selling petroleum products for dispensing into motor vehicles may use aboveground~~  
6 ~~storage tanks with an aggregate capacity of more than ninety-five thousand gallons [359613-~~  
7 ~~liters] for the storage of petroleum products at one location~~that comply with the current editions  
8 of the National Fire Protection Association Code 30 for flammable and combustible liquids and  
9 the National Fire Protection Association Code 30A for motor fuel dispensing facilities and repair  
10 garages.

11       **SECTION 8. REPEAL.** Sections 18-01-34 and 18-10-16 of the North Dakota Century Code  
12 are repealed.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

Page 3, line 25, remove the overstrike over "~~State~~"

Page 3, line 25, after "State" insert "and local building codes"

Page 3, line 25, remove "The international building code"

Page 3, line 26, replace "international fire code" with "state and local fire codes"

Renumber accordingly

SB 2316

#2

17.8162.03000

FIRST ENGROSSMENT

3-16-17

Sixty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2316**

Introduced by

Senators Oehlke, Schaible, Grabinger

Representatives Dockter, Pyle, Guggisberg

1 A BILL for an Act to amend and reenact sections 18-01-06, 18-01-33, 18-04-01, 18-12-03,  
2 18-12-05, 18-12-25, and 23-13-16 of the North Dakota Century Code, relating to powers and  
3 duties of the state fire marshal regarding explosives, participation in the fire insurance tax  
4 distribution fund, the submission plans and specifications for school buildings, and aboveground  
5 petroleum storage tanks; to repeal sections 18-01-34 and 18-10-16 of the North Dakota Century  
6 Code, relating to disclosure of information concerning toxic or hazardous substances and the  
7 duty of the state fire marshal to establish a rural routing system; and to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 18-01-06 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection**  
12 **districts must report fires.**

13 Within ~~five~~thirty days after the occurrence of any fire in which property in a city or rural fire  
14 protection district has been destroyed or damaged in an amount which exceeds twenty-five  
15 dollars, an organization that is contracted by a political subdivision for fire protection or the fire  
16 chief of such city or rural fire protection district, if a fire department is maintained therein, or the  
17 auditor of the city or the secretary of the rural fire protection district, if a fire department is not  
18 maintained therein, shall report the cause, if known, and the origin and circumstances of the fire  
19 and the name of the owner and occupant of such property, to the state fire marshal or enter the  
20 information in the national fire incident reporting system software. Such report must show  
21 whether such fire was the result of carelessness, accident, or design. The provisions of this  
22 section must be complied with, insofar as the same are applicable, if the fire is of unknown  
23 origin, regardless of the amount of damage caused thereby.



1       **SECTION 2. AMENDMENT.** Section 18-01-33 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **18-01-33. State fire marshal may adopt rules for explosives - Penalty.**

4       The state fire marshal may adopt safety rules for the storage, sale, and use of combustibles  
5 and explosives, not otherwise provided by law. Any person who willfully refuses to comply with  
6 the safety rules adopted by the state fire marshal is guilty of a class B misdemeanor. Rules  
7 adopted by the state fire marshal may not be more restrictive than those promulgated by the  
8 ~~national fire codes of the national fire protection association~~ <sup>local and state</sup> ~~current international building codes~~  
9 and ~~international fire codes of the international code council~~ and do not apply to the  
10 transportation of explosives and dangerous articles regulated by the interstate commerce  
11 commission. ~~The state fire marshal may make reasonable provision for the application or~~  
12 ~~nonapplication of all or any portion of the national fire codes.~~

13       **SECTION 3. AMENDMENT.** Section 18-04-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **18-04-01. Eligibility for participation in fund created from premium tax on fire**  
16 **insurance companies.**

17       1. To become eligible for the benefits provided under this chapter, a city, or one or more  
18 townships or fire districts ~~or private or public contracted fire service agency,~~ shall  
19 maintain therein for ~~a period of~~ at least eight months before the filing of the certificate  
20 required under section 18-04-02 ~~an organized~~ a fire district, fire protection district, or  
21 department which that:

22       1. a. Has been in actual existence for the period specified in this section;  
23       2. b. ~~Meets~~ Provides the minimum requirements for class 9 fire protection or better;  
24               and  
25       3. c. Has been in compliance with the requirements to report fires as set forth in  
26               section 18-01-06.

27       2. Change in a fire department's name, or incorporation into a fire district, ~~must be~~ is  
28 deemed a waiver of the eight-month waiting period for filing a certificate of existence  
29 under section 18-04-02.

30       **SECTION 4. AMENDMENT.** Section 18-12-03 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **18-12-03. Plans and specifications.**

2       Plans and specifications for all new public school buildings and for all additions to and  
3 remodeling of existing public school buildings must be submitted for approval to the state fire  
4 marshal, chief of the fire department or fire protection district with jurisdiction, and the  
5 superintendent of public instruction or to the state board of higher education. In the case  
6 of Architects and engineers preparing private school plans and specifications, they must be  
7 submitted shall submit school plans and specifications directly to the state fire marshal and the  
8 chief of the fire department or fire protection district with jurisdiction for approval.

9       **SECTION 5. AMENDMENT.** Section 18-12-05 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **18-12-05. State fire marshal.**

12       The state fire marshal and the chief of the fire department or fire protection district shall  
13 approve plans and specifications for school buildings before construction is started. ~~The state~~  
14 ~~fire marshal shall review public school building plans upon referral from the superintendent of~~  
15 ~~public instruction or the state board of higher education. In the case of private school buildings~~  
16 ~~the architects and engineers preparing plans shall submit them to the state fire marshal for~~  
17 ~~approval.~~ It is the duty of the architect or engineer preparing the plans or the person supervising the  
18 construction to notify the state fire marshal and the chief of the fire department or fire protection  
19 district when the building has been completed

20       **SECTION 6. AMENDMENT.** Section 18-12-25 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **18-12-25. Reference data.**

23       The following data must be used as reference and as an aid in the interpretation of this  
24 chapter:

- 25       1. ~~State building code~~ The international building code.
- 26       2. ~~The national fire codes—national fire protection association~~ international fire code.
- 27       3. The National Electrical Code - national fire protection association.
- 28       4. The national fire protection association.

29       **SECTION 7. AMENDMENT.** Section 23-13-16 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1        **23-13-16. Aboveground storage tanks permitted - Limitations.**

2        Subject to local zoning ordinances, a business selling petroleum products for dispensing  
3        into motor vehicles may install and utilize new aboveground tanks ~~with a maximum capacity not~~  
4        ~~exceeding nineteen thousand gallons [71922.6 liters] for the storage of petroleum products. No~~  
5        ~~business selling petroleum products for dispensing into motor vehicles may use aboveground~~  
6        ~~storage tanks with an aggregate capacity of more than ninety-five thousand gallons [359613-~~  
7        ~~liters] for the storage of petroleum products at one location~~that comply with the current editions  
8        of the National Fire Protection Association Code 30 for flammable and combustible liquids and  
9        the National Fire Protection Association Code 30A for motor fuel dispensing facilities and repair  
10       garages.

11       **SECTION 8. REPEAL.** Sections 18-01-34 and 18-10-16 of the North Dakota Century Code  
12       are repealed.



**18-10-16. State fire marshal to establish rural routing systems.**

The state fire marshal, with the advice and cooperation of the North Dakota firefighters association, may establish a system of rural routings which must be as uniform as is practicable throughout the state, for the purpose of aiding rural firefighting equipment and other emergency vehicles in locating and arriving quickly at the scene of a fire or other emergency within any area which they might logically be called upon to serve.

**18-01-34. Disclosure of information concerning toxic or hazardous substances - List to state fire marshal and local fire departments - Exceptions - Availability of information restricted - Penalty.**

Every person who produces, either as a direct or indirect result of conducting the production of goods or services, routinely stores, or sells a hazardous substance in this state shall submit to the state fire marshal and to the fire department in the fire district in which is located a facility owned and operated by the person, a list of hazardous substances that are consistently generated by, used by, stored at, or transported from the facility. As used in this section, "hazardous substance" means a chemical or substance or mixture of chemicals and substances which is defined as a hazardous substance under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [Pub. L. 96-510], as amended, and meets or exceeds the listed reportable quantity for that substance. As used in this section, "facility" means any building or other structure or place where hazardous substances are used, manufactured, or stored, and includes areas where hazardous substances are handled, mixed, processed, packaged, or repackaged. The information must be provided in sufficient specificity, in accordance with rules adopted by the state fire marshal, that the state fire marshal and the local fire departments are informed of the nature of the hazardous substances, the hazards presented by the hazardous substances, and the appropriate response in dealing with an emergency involving the hazardous substances. The state fire marshal shall by rule except persons from the requirements of this section when the persons do not generate, use, store, or transport sufficient amounts of hazardous substances to create a significant threat to public safety. Persons who have copies of emergency response plans meeting the requirements of the federal Resource Conservation and Recovery Act of 1976 on file with the state fire marshal and the local fire district must be deemed to be in compliance with the requirements of this section. The state fire marshal and local fire departments receiving information under this section may make the information received available only to other governmental emergency response departments. Any person who violates this section is guilty of a class B misdemeanor.



SB 2316 # 3  
3-16-17  
**ND PETROLEUM MARKETERS ASSOCIATION**

1014 East Central Avenue • PO Box 1956 • Bismarck, ND 58502  
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**Testimony SB 2316**

March 16, 2017 – House Political Subdivisions

Chairman Klemin and members of the Committee:

For the record, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers Association. NDPMA represents over 500 ND retail gas businesses from the Mom and Pop stores to the larger retailers. These retail operations provide thousands of jobs across the state. On behalf of our association members, I'm here in opposition to the removal of current language in Section 7 of SB 2316.

The current language in Section 7 of this bill was drafted nearly 30 years ago. The language came about because at the time, convenience stores were starting to become a trend across the state. As a result of this public demand, retail gas merchants were faced with a dilemma at many existing bulk plants: Should they build a convenience store adjacent to the bulk plant and pipe product off the bulk plant or should they bury new underground tanks to service the retail store? Obviously, for cost efficiency the best answer was to use the tanks already in place. So, this is the scenario that took place and still exists today at many rural retail stores across ND. The current language not only served to satisfy the fire marshals concerns, but it allowed the gas retailer to use the existing bulk plant in the most cost efficient manner.

Our members have always placed the highest priorities on public safety and environmental protection when it comes to dispensing motor fuels to the state's consumers. To the association's knowledge the current regulations of 95,000 aggregate gallon storage capacity with a maximum tank size of 19,000 gallons has never caused any serious safety or environmental issues in this state.

After a long discussion between NDPMA members over crossover, the Association can see no real good reasons to lower the storage capacity numbers. With all due respect to Mr. Huber who has agreed to grandfather into law any existing sites, we have no

guarantee the next ND regulator serving in this capacity will grant us the same consideration.

So if the current system isn't broken and its regulations are being followed to the best degree possible, what do we need to fix?

Again, NDPMA urges you to keep the current language in Section 7 of SB 2316 intact. Thank you for your time and consideration on this issue.



3-16-17

Good morning Chairman Klemin and members of the committee;

My name is Tom Haahr and I am the CEO/GM of Farmers Union Oil Co. of Devils Lake. I also currently serve as Chairman of the North Dakota Petroleum Marketers Assn. I have been a part of the petroleum industry for the last 28 years.

The company I manage has a total of 7 retail locations in rural North Dakota serving 5 communities. I am here to oppose the decrease in gallons for a retail site being serviced by aboveground tanks in SB 2316.

I believe going from our current 95,000 gallon limit to 48,000 will prohibit service and possible future growth in many of our small communities around the state.

As rural communities in our great state continue to decline in population, suppliers that currently serve them will be limited as to how we can, due to lack of workers. This will cause more stand alone or cardtrol sites that will likely be supplied by current bulk plants that exist in those communities.

We currently have 3 sites that would qualify for this scenario.

To operate as a bulk plant and a retail facility you would need a minimum of 6 to 7 tanks if you were a branded marketer and wanted to

maintain your current agreement. At 6 tanks, this would make the average capacity 8,000 gallons per tank. Our current tanker trucks haul 9,600 gallons of diesel or 11,000 gallons of gasoline. Ideally we would prefer to have 12,000 gallon tanks or larger to improve efficiency in our deliveries. While I understand the need for safety in our industry, I believe that with electronic monitoring and aboveground tanks being visible, it is far easier to notice leaks and problems with these sites as opposed to underground tanks. There are many areas where the water table is too high which also makes underground tank usage impossible or at the very least, cost prohibitive.

One of our current bulk plants currently has 3-50,000 gal tanks, 1-30,000 gal tank, 3-18,000 gal tanks and 2-15,000 gallon tanks. While this may not be typical, I do know of several others like it throughout the state.

Most branded marketing agreements require 3 different grades of gasoline and one diesel product, but to serve as both a bulk plant and retail site, many more tanks are needed.

Please consider keeping the current gallons at 95,000 as to not restrict service and future growth to rural North Dakota. Thank You

Tom Haahr

CEO/GM

Farmers Union Oil Co

17.8162.03001  
Title.

Prepared by the Legislative Council staff for  
Representative K. Koppelman  
March 16, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

Page 2, line 8, replace "current international" with "state and local"

Page 2, line 8, remove "codes"

Page 2, line 9, remove the first "international"

Page 2, line 9, remove "of the international code council"

Page 2, line 11, remove the overstrike over "~~The state fire marshal may make reasonable provision for the application or~~"

Page 2, remove the overstrike over line 12

Page 2, line 18, remove "or private or public contracted fire service agency"

Page 3, line 6, remove "Architects and engineers preparing"

Page 3, line 6, overstrike "private" and insert immediately thereafter "Private"

Page 3, line 6, remove the overstrike over "must be"

Page 3, line 7, remove the overstrike over "submitted"

Page 3, line 7, remove "shall submit school plans and specifications"

Page 3, line 17, overstrike "architect or engineer preparing" and insert immediately thereafter "individual who prepared"

Page 3, line 17, after the second "or" insert "the individual who is"

Page 3, line 25, replace "The international building code" with "State and local fire and building codes"

Page 3, line 26, overstrike "The"

Page 3, line 26, remove "international fire code"

Page 3 line 26, overstrike the period

Page 3, line 27, overstrike "3."

Page 3, line 28, replace "4." with "3."

Renumber accordingly



17.8162.03002  
Title.

Prepared by the Legislative Council staff for  
Representative K. Koppelman  
March 16, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

- Page 1, line 2, after the first comma insert "and"
- Page 1, line 2, remove ", and 23-13-16"
- Page 1, line 4, after the first comma insert "and"
- Page 1, line 4, remove "and aboveground"
- Page 1, line 5, remove "petroleum storage tanks"
- Page 2, line 8, replace "current international" with "state and local"
- Page 2, line 8, remove "codes"
- Page 2, line 9, remove the first "international"
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- Page 3, line 27, overstrike "3."
- Page 3, line 28, replace "4." with "3."
- Page 3, remove lines 29 and 30
- Page 4, remove lines 1 through 10

Renumber accordingly

17.8162.03005  
Title.

SB 2314

3-30-17

#1

Prepared by the Legislative Council staff for  
Representative Klemin  
March 23, 2017

# PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2316

In addition to the amendments adopted by the House as printed on pages 1051 and 1052 of the House Journal, Engrossed Senate Bill No. 2316 is further amended as follows:

Page 1, line 5, replace "sections 18-01-34 and" with "section"

Page 1, line 6, remove "disclosure of information concerning toxic or hazardous substances and"

Page 4, line 11, replace "Sections 18-01-34 and" with "Section"

Page 4, line 12, replace "are" with "is"

Renumber accordingly





## ND PETROLEUM MARKETERS ASSOCIATION

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SB 2316  
4.10.17  
#1  
P.1/2

### Testimony SB 2316

March 16, 2017 – House Political Subdivisions

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SB2316  
4.10.17  
#1 p.2/2

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CEO/GM

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