

- SUBJECT:** Creating a tax credit for diesel fuel used for certain purposes
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 10 ayes — D. Bonnen, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, Springer, C. Turner, Wray
- 1 nay — Y. Davis
- WITNESSES:** For — Matt Grabner, Ryan, LLC; David Bishop, Texas Trucking Association; John Esparza, Texas Trucking Association; (*Registered, but did not testify*: Michael Stewart, Lattimore Materials and US Concrete; Steve Carr, Republic Services; Chris Macomb, Waste Management of Texas, Inc.; Tara Snowden, Zachry Corporation)
- Against — None
- On — (*Registered, but did not testify*: David Reed, Comptroller of Public Accounts)
- BACKGROUND:** Tax Code, ch. 162 imposes a motor vehicle fuel tax on gasoline and diesel sold in the state. A portion of that money is directed to the State Highway Fund. Sec. 162.202 imposes a 20-cent tax on each gallon of diesel fuel.
- “License holder” is defined by Tax Code, sec. 162.001 as a person holding one of a number of licenses issued by the comptroller, including an interstate trucker, a motor vehicle dealer, or a supplier, distributor, or importer of motor vehicle fuels.
- Tax Code, sec. 162.125(e) provides that certain people may take a credit if they paid a fuel tax on gasoline used by auxiliary power units or power take-off equipment on any motor vehicle.
- DIGEST:** HB 2318 would allow a license holder, as defined by Tax Code, sec. 162.001, to take a tax credit on diesel fuel used in the state by auxiliary power units or power take-off equipment on any motor vehicle if the

usage by the auxiliary equipment could be accurately measured. A person who did not hold a license could file a refund claim with the comptroller.

If it there was no separate metering device or other approved measuring method, the license holder could take the credit and claim the refund on a percentage of the diesel fuel consumed. The comptroller would determine the percentage of tax credit granted.

The bill would provide that fuel used for idling, or for an air conditioning or heating system used to provide for the comfort of the operator or passengers was not eligible for the tax credit.

This bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

HB 2318 would correct a fundamental unfairness in the state's tax system. The state collects a fuel tax on each gallon of gas or diesel sold to offset the cost of maintaining the wear and tear on the roads. However, power take-offs and auxiliary power units do not contribute to road wear, which is why the state does not charge a fuel tax on gasoline used by those types of machinery. This bill would make the tax system fairer by ensuring a tax credit existed for buyers of diesel who used it for the same purpose.

The fuel taxes collected should reflect the actual amount of wear and tear necessitated by the use of the fuel. While this bill would cost money, it would uphold a long-standing principle in the state's Tax Code and eliminate a source of an unfair tax burden.

**OPPONENTS  
SAY:**

HB 2318 would result in a loss of millions of dollars in tax revenue, and the state should not cut taxes when it faces needs in critical areas such as transportation and public education.

In addition, the Legislature should consider not just the cost of this individual exemption but also the aggregate cost of all exemptions and tax cuts proposed during this biennium. This aggregate cost could make this and other tax exemptions unsustainable during future budget periods.

NOTES:           The Legislative Budget Board's fiscal note estimates that this bill would have a negative impact of approximately \$4.3 million on general revenue related funds through fiscal 2016-17.