

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1245**

Introduced by

Representatives Dosch, D. Johnson, Maragos

Senators Hogue, Lyson, Wardner

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North
2 Dakota Century Code, relating to a sales and use tax exemption for sales by thrift stores owned
3 and operated by nonprofit corporations; to amend and reenact sections 40-57.3-01 and
4 40-57.3-01.1 and subsection 22 of section 57-39.2-04 of the North Dakota Century Code,
5 relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays;
6 and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 40-57.3-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **40-57.3-01. City lodging tax - Imposition - Amount - Disposition.**

11 The governing body of any city may, by ordinance, impose a city tax, not to exceed two
12 percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist
13 court accommodations within the city for periods of ~~less than thirty~~up to ninety consecutive
14 calendar days ~~or one month~~. The tax imposed by this section shall be in addition to the state
15 sales tax on rental accommodations provided in chapter 57-39.2 and any city which imposes
16 the tax upon gross receipts described in this section shall deposit all proceeds in the city
17 visitors' promotion fund. Moneys deposited in the city visitors' promotion fund shall be spent
18 only as provided in this chapter. This chapter applies to all cities and does not limit the authority
19 of a home rule city to levy any taxes authorized by other provisions of law.

20 **SECTION 2. AMENDMENT.** Section 40-57.3-01.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

40-57.3-01.1. City lodging and restaurant tax - Imposition - Amount - Disposition - Referral.

In addition to the tax under section 40-57.3-01, the governing body of any city may, by ordinance, impose a city tax, at a rate not to exceed one percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of ~~less than thirty~~up to ninety consecutive calendar days ~~or one month~~ and upon the gross receipts of a restaurant from any sales of prepared food or beverages, not including alcoholic beverages for consumption off the premises where purchased, which are subject to state sales taxes. For purposes of this section, "restaurant" means any place where food is prepared and intended for individual portion service for consumption on or off the premises and "prepared" includes heating prepackaged food. Accommodations, food, and beverages may all, each, or in any combination be subjected to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided in this section. The tax imposed under this section is in addition to state sales taxes on rental accommodations and restaurant sales and any city which imposes the tax under this section shall deposit all proceeds in the city visitors' promotion capital construction fund. Moneys deposited in the city visitors' promotion capital construction fund shall be spent only as provided in this chapter. An ordinance adopted under this section may not become effective sooner than sixty days after it is adopted by the governing body of the city. The provisions of chapter 40-12 with regard to referral of ordinances apply to an ordinance adopted under this section except that a petition to refer an ordinance adopted under this section must be presented to the governing body of the municipality before four p.m. on the sixtieth day after the ordinance described in the petition was adopted by the governing body of the municipality. Revenues from a tax imposed under this section may not be pledged under section 40-57.3-03 to payment of bonds or evidences of indebtedness until after the time has passed for filing a referral petition against an ordinance under this section or, if a referral petition is filed, until after the referral petition has been submitted to the vote of the electors of the municipality.

SECTION 3. AMENDMENT. Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

22. Gross receipts from the leasing or renting of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a

1 permanent foundation, for residential housing for periods of ~~thirty or more~~ than ninety
2 consecutive days and the gross receipts from the leasing or renting of a hotel or motel
3 room or tourist court accommodations ~~occupied by the same person or persons for~~
4 ~~residential housing~~ for periods of ~~thirty or more~~ than ninety consecutive days.

5 **SECTION 4.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is
6 created and enacted as follows:

7 Gross receipts from sales made by a thrift store owned and operated by a nonprofit
8 corporation exempt from federal taxation under section 501(c)(3) of the Internal
9 Revenue Code [26 U.S.C. 501(c)(3)].

10 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
11 June 30, 2011.