

2011 HOUSE FINANCE AND TAXATION

HB 1245

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1245
January 18, 2011
#13053

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more: and to provide an effective date.

Minutes:

See attached testimony #1, #2, #3, #4, #5, #6, #7, and #8

Representative Dosch: Sponsor. Support. Introduced HB 1245. We're not asking for a new exemption to be put in the tax code, we're actually asking to eliminate one. In the lodging industry if you rent a hotel room or if you live in a hotel room for 30 or more days it is exempt from tax. What this bill seeks to do is eliminate that tax exemption. It's primarily being introduced for cities in the central and western part of the state and the effects the oil industry has had on this. If you look at the fiscal note on this you can see that it could be substantial to communities. From a lodging standpoint, we are neutral on this, whether we charge a tax or not. It gets submitted to the state anyway so it doesn't make much of a difference to us. However, it does put the hotel industries in a precarious situation. Often times employees are the ones who have to determine whether a lodging stay is tax exempt or not tax exempt. For example, the airline industry; they come in and for their crews they will have rooms rented in a hotel every day but because they are different people who come in they are required to pay tax on that room. Versus individuals in the oil industry they may come in and rent a room for an entire month and they are tax exempt. From a hotel standpoint, we have to determine is it the same person in that room for the entire 30 days or isn't or crews that come on and off. It puts the hotel in an awkward situation where all of a sudden our employees are trying to determine is this taxable or isn't it? By eliminating this item out of the law it would certainly simplify everything and treat everyone fairly from an industry perspective.

Representative Scot Kelsh: Do you have any history as to why the exemption was ever enacted in the first place?

Representative Dosch: No, I do not. It's been around for the last 15 years, ever since I've been in the industry. I'm assuming it was probably enacted from people that may have resided in hotels as far as permanent residence. The exact reason why I can't answer.

Representative Scot Kelsh: Can you tell will this affect the legislators? Will it affect the rates or increase the tab on which legislators is responsible for during the legislative session?

Representative Dosch: It is my understanding that there's going to be an amendment coming forth that will get that corrected so that the monthly lodging will be lodging plus tax. Just as it is now in the interim if you go to the meetings you are reimbursed your lodging plus tax. The amendment would take care of that too.

Representative Scot Kelsh: Do the stays in the hotel have to be contiguous, everyday for 30 days straight or if the person is gone for a weekend does the clock get reset and start over again?

Representative Dosch: According to the way it is written, it has to be 30 continuous days. So the hotel has to charge for the 30 days, you can leave of course but if we just charge Monday thru Friday then you are not eligible for the tax exemption.

Representative Steven L. Zaiser: Presently then this creates a problem for the desk personnel or the personnel when they take in the patron. It is truly up to their discretion. Basically the learning curve could be very different. For somebody that's been there for 20 years to somebody that's on their third day of the job. That creates a difficulty and potentially a problem for the state, or am I wrong?

Representative Dosch: Normally we try to train our people to recognize that. But where we have the difficulty is determining if someone rents a hotel room for 30 days is that same person in that hotel room for 30 days or have they been working here for two weeks, they leave a week and the company puts someone else in that room and then that individual comes back. It really becomes a situation of where the state is losing out on sales tax revenue. That's really one of the problems when you have exemptions. Companies do find a way around things. We don't have that much of an issue with that in Bismarck but from my understanding hotels in the western part of the state is different. It doesn't take long for companies to figure out that they rent these rooms for 30 days so they don't have to pay tax on it. When that occurs they not only don't have to pay the tax but it hurts the city in which that hotel operates. Previously, take Dickinson for example, you have tourists coming in and renting hotel rooms and they are paying tax and part of that tax goes to the city and the state and that's how our convention visitors bureau is funded as well. They receive a portion of the lodging tax that helps them do their job and promotes their community and such. So when you have hotel rooms that are taken out of the market and no taxes are collected it really has an impact on these communities. That's the purpose of what we're trying to correct here.

Representative Shirley Meyer: If an oil company comes in and rents a room for the 30 days then no tax is paid regardless of who's in the room, is that how it's being done now?

Representative Dosch: That is my understanding. Again, part of the problem is that they're renting these rooms for 30 days to avoid the tax. Now is that same person in the room for 30 days or aren't they? That's the grey area that is hard to determine. You're taking it on the honesty of the company.

Representative Shirley Meyer: Current law doesn't say it has to be the same person, correct? I'm assuming in reading this it means the person or entity paying the bill for the 30 days or it's not looked at like that?

Representative Dosch: that's part of the grey area and that's where people can get into trouble. For an example, the airline industry comes in and they will come in and rent four rooms everyday for everyday of the month for their people but they have been charged tax because it's a different individual and a different crew. That's our understanding of state law right now is that in order to be exempt you have to be the same individual renting that room for 30 or more consecutive days.

Representative Dave Weiler: What's the tax rate on a hotel room, is it 7 or 8%?

Representative Dosch: That does depend on the community because, for example, Bismarck has 9% tax. Bismarck has a bed and booze tax and part of that money goes to our Convention and Visitors Bureau and some of the money goes to the Civic Center to help liquidate that. So it does depend on the community.

Representative Dave Weiler: I'm having a little trouble understanding the rationale when you say some oil companies are renting a room for 30 consecutive days to avoid paying the tax. The tax per night would be roughly \$7 and if they rent a room for 24 nights they end up paying the tax for 24 nights. But if they rent it for 30 to avoid paying the tax they are paying about \$500 more to avoid paying \$50 or \$60. I don't understand the rationale behind avoiding to pay the tax by renting a room for 30 days versus 24 or 28 days.

Representative Dosch: They'll do that calculation. Most of the time because the rooms are in such demand in the western part of the state they want these rooms and they'll keep these rooms. If they have someone coming in and they are only going to be in for three weeks then that's better for them to pay for just the three weeks plus the tax. If they are in for 27 or 28 days maybe its to their advantage for them to just pay the remaining days and save the tax on it. They'll do those calculations. Where the biggest problem comes in is where their situation when they come in a book a hotel for the entire nine months or an entire year.

Bill Shalhoob, ND Tourism Alliance Partnership Chairman: Please refer to testimony #1.

Representative Scot Kelsh: Shouldn't the words "plus applicable taxes" be added to section 2 on HB 1141 line 19? Would this tax go into effect immediately?

Bill Shalhoob: I'm going to defer to the Tax Department and Legislative Council for that. We don't want it to be an unintended consequence but we will do what we have to in order to correct it. I think something needs to be done but I think it should be done in HB 1245.

Robert Butterfield, General Manager of Fireside Inn Devils Lake: Please refer to testimony #2. Last year we had on average 183 rooms per month rented or longer. The same company paid the bill so if somebody's name changed we had to decide if we had

them pay tax or not. It gets to be confusing. I'm keeping track of it more this year. 180 rooms in one month is a lot of tax for the city. Being on the Tourism and Chamber Board I know how it affects the city. I am in favor of this because of the revenue lost and the mix up that companies are going to have because of taxes. We want to do our part but we don't want to pay for 180 rooms that the company should have been paying for. It is confusing for the staff when dealing with the taxes. Last year we had no rooms available and in Devils Lake we have 560 rooms. I represent 85 of those rooms so it is a big effect on the industry.

Representative Steven L. Zaiser: Wouldn't a law that made the tax issue black and white make it much simpler for you to avoid making those mistakes?

Robert Butterfield: I don't know a lot about bills. We are in favor of amending the clause and it would ease the participation of the hotel owners or the hospitality owners in the tax part which is costing extra hours.

Suzie Baisch, Executive Director of Devils Lake Tourism: Written testimony attached. No verbal testimony.

Terri Thiel, Executive Director of the Dickinson Convention and Visitors Bureau: Please refer to testimony #2.

Representative Dave Weiler: I don't know how involved you were with the drafting of this legislation but was there any consideration given to just exempting the state's sales tax of 5% and continuing to collect the 1 or 2% for the city? Obviously the problem with this law that's currently in statute is that the cities are the ones that are losing the money. We understand that, however, the state doesn't have a budget shortfall and we don't need to raise taxes and spend more money and that's all we're going to do with it is to spend more money. So was there any consideration given to that?

Terri Thiel: I was not involved in that part of it.

Representative Shirley Meyer: If you're an oil company and you go to Dickinson and want to rent that room for 60 days, you just write that check out for 60 days and no tax. But if you're an individual staying there and it's past the 30 days and you stayed there the whole time then the tax is rebated to you? Or do you know how that process works?

Terri Thiel: currently, as I understand it, if that individual were to stay longer even if they were not associated with an oil company they would also be exempt from the 2% once it's been 30 days or longer.

Representative Shirley Meyer: But is that charged and then given back to them? I'm assuming they pay up front so is that same rebate given back to an oil company or they are just never charged that to start with?

Terri Thiel: I'm going to have to defer to one of our hotels on that.

Melissa Johnson, General Manager of Comfort Inn in Dickinson and Board member of the Convention and Visitors Bureau: Please refer to testimony #5.

Representative Shirley Meyer: Can you address the question I had asked earlier?

Melissa Johnson: I'm happy to answer that. We rebate the tax back to an individual after they have been there 30 days. It's hard for us to know if they are going to stay the entire 30 days which makes it hard to go back and collect the tax so I collect it up from and rebate it after 30 days.

Jerry H Johnston, Lobbyist for ND League of Cities: Support. These taxes were established to provide funds for cities to promote tourism within their communities. Because of the change in the way these rooms are being rented out it has a negative impact on the ability to raise these funds. We would support these changes in HB 1245.

Representative Bette Grande: What was the legislative intent when we exempt the 30 days?

Jerry Johnston: I'm not exactly sure. They were trying to give an exception for those people who were living in a hotel. That is becoming more and more common practice. So there is an impact on these funds.

Sheri Grossman, Director of Sales for the Bismarck-Mandan Convention and Visitors Bureau and President of Destination Marketing Association of ND: Please refer to testimony #6.

Representative Dave Weiler: Do you have any numbers that show the percentage of hotel rooms that are taken up by people staying 30 or more days in a given year?

Sheri Grossman: I believe that the Tax Department has a fiscal note that has that information. I think that's lumped together, the government and the long-term stays.

Representative Scot Kelsh: Can you tell me how much decision making ability local hotel managers have as to how many rooms are rented to long-term stays of 30 days or over versus night by night?

Sheri Grossman: They have total control over what they do on that. We're trying to bring in conventions but we have to try and watch the size of groups that we bring in to the communities where the rooms are filled.

Representative Scot Kelsh: Some of the legislators were told at the beginning of the session that corporate has told their hotels that they are not allowed to rent to legislators this year so I'm just wondering who makes that decision and how much of that is made somewhere else?

Sheri Grossman: I suppose that could be true depending on who owns the property. The local ones will do that. I was involved in trying to get those rooms for you so I realize how difficult that was.

Amy Krueger, Executive Director of the Williston Convention and Visitors Bureau: Support. Please refer to testimony #7.

Wendy Howe, Minot Convention and Visitors Bureau: Support. Please refer to testimony #8.

Vice Chairman Craig Headland: No further testimony in support. No testimony in opposition. No neutral testimony.

Representative Lonny B. Winrich: I have a question for the Tax Department. Can you clarify this question of when the tax is applicable and when it isn't? Is it the crucial determination of whether the same person occupied the room or the period of time it was rented?

Blaine Braunberger, Tax Department: It depends on the exemption to the same person of who is renting the room. A company renting a room should not be taxed if they are renting the room for 30 days or more.

Representative Lonny B. Winrich: So if a person rents the room for 30 days and stays there for a week and goes away for three days and comes back and stays there another two weeks or something like that and no one else occupies the room then it is still eligible for the exemption?

Blaine Braunberger: That would be correct.

Representative Dave Weiler: I had mentioned earlier the possibility of just exempting a portion of the sales tax. How much of a problem would that cause for the tax department?

Blaine Braunberger: It probably wouldn't be too difficult for the State Tax Commissioner to collect the tax. It would probably more of an issue for the hotels at the point of sale.

Representative Dave Weiler: It's my understanding that the reason for this bill is to increase the revenue for the Convention and Visitors Bureaus in these parts of the state. I understand that it is a little bit of a problem for these hotels but I don't think this would increase the problem for the front desk staff. Is it possible to just exempt the state sales tax?

Blaine Braunberger: From a state perspective the state and city tax are reported on the ST form which is one return. The city occupancy lodging or the city restaurant taxes are reported on a separate return.

Chairman Wesley R. Belter: No further questions. Closed hearing on HB 1245.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1245
January 25, 2011
#13404

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A bill relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more; and to provide an effective date.

Minutes:

See attached amendments.

Representative Dave Weiler: Distributed amendments to committee members. Please see attached amendments. When we first heard this bill I was very opposed to exempting the state income tax because I didn't feel the need to have the state collect more taxes in this way. I didn't have a problem with the city beginning to collect the 2% tax or whatever there was on there. Through discussions with some other people I had the amendment drawn up and that is the amendment in front of you. However, I also feel that for the front desk staff to have to go back and make a determination of whether the same person stayed in the hotel room or two different people or four different people stayed in a hotel room on a stay of longer than 30 days. In my opinion if a company or an individual is paying for a hotel room for 30 or more consecutive days it doesn't matter to me who stays in the room. So what I would like to do is have the amendment state just that. I don't want any of these taxes applied to stays of longer than 30 days. See amendment for further clarification. The Convention and Visitors Bureaus, the members of these organizations are the hotel owners whose hotels are full every night. Their members are restaurant owners and their restaurants are full every night. They are made up of other businesses in these communities that are thriving. Maybe they can just raise their dues if they want to raise more money. That would be my reason for not increasing the tax on people that stay in these hotels or the organizations who purchases them for 30 consecutive or more days.

Representative Patrick Hatlestad: I am going to disagree. I think if I stay in a hotel for 15 days and pay the tax and you stay there for 45 days you should pay the tax. I don't see why they would be treated any differently than I am. It is costing Convention and Visitors Bureaus big bucks. I think our local Bureau figured about \$100,000 a year. Everything is full here.

Vice Chairman Craig Headland: I believe that the current statute is meant to provide an exemption for people who are using this 30 day stay as their housing as their home and we don't tax people on their homes. I think it's a direct change in policy and I'm not sure I agree with that.

Representative Wayne Trottier: When we first had this introduced I called home and talked to a motel owner in Northwood, it's a new one, and he is against all taxes. Currently they have been going through restructuring and building in Northwood and he said it's been full a lot. Most of the time the people who come and stay for 30 days come and get a bid. It might be different out west than here but he said that the project they are working on they put the hotel expense into the budget and they are reimbursed for it anyway. In his case he would not give any tax relief at all.

Representative Lonny B. Winrich: On page 1 starting on line 12, current law was enacted specifically to provide funds to the Convention and Visitors Bureaus. This is taking away a significant source of revenue. If we're going to do that we ought to provide another avenue for cities to support these kinds of promotion activities that are provided for in state law.

Representative Dave Weiler: I'm a little confused by that. You said that this law to exempt the tax was done to increase revenues to the Convention and Visitors Bureaus, is that correct?

Representative Lonny B. Winrich: No. Representative Winrich read the law. This chapter of law essentially sets up the Convention and Visitors Bureaus and provides a funding mechanism. That funding mechanism is not working very well because of the long stays in the western hotels so this is an attempt to remedy that.

Representative Dave Weiler: When you spoke previously you said when this law was originally set up to increase revenues for the Convention and Visitors Bureaus.

Representative Lonny B. Winrich: That's as I read it in current law here.

Representative Dave Weiler: I think you cleared it up for me.

Representative Patrick Hatlestad: Correct me if I'm wrong but the tax removed after 30 days is just the Convention and Visitor Bureaus tax? To me it doesn't read that way.

Representative Dave Weiler: Representative Owens disagreed with me on that when I spoke on this previously as well and he thought along the same lines as Representative Hatlestad. He looked into it and he said I was right, it removes all tax; 5% state tax and 2% or whatever city sales tax. It removes it all.

Representative Roscoe Streyle: I did check with a couple hotels in Minot and they do refund the 7%. I would support the full amendment. I agree we don't need any more state money but I can see the need especially in the area where I live and Representative Hatlestad. There is a lot of 30-40% hotels that are full for 60-80-120 days. I wouldn't support having the state collect more money.

Chairman Wesley R. Belter: I am going to support the bill in its original form. I think we have a situation where because of the oil boom the legislation that was laid out is now being abused and I don't think that was our legislative intent here. Yes, we don't need more income but I believe in tax simplification and if we break this up and allow the

Convention and Visitors Bureaus to collect theirs and not collect the state then it creates additional responsibilities and bookkeeping problems that are involved in the hotel/motel business and I don't think we want to go there.

Representative Dave Weiler: Given your feelings on this I do not choose to offer these amendments any longer. You want the bill in its original form then I won't move the amendments.

Representative Lonny B. Winrich: Motion made for a DO PASS.

Representative Patrick Hatlestad: Seconded.

Representative Glen Froseth: I am not going to support the Do Pass amendment. I think in western North Dakota most of the 30 day stays are people that can't find any other housing and that's why they are staying in a motel. I'm sure they would be glad to stay in an apartment but they can't find an apartment. It's going to add \$100-125 a month extra to the cost of their stay, probably even more than that. They are probably paying the regular room rates that are about \$90 per day so it will add a couple hundred dollars a month to stay really to no fault of their own, it's only because they can't find any place else to stay that doesn't charge them tax.

Chairman Wesley R. Belter: I guess my question would be aren't most of these rentals bought up by companies? They are local town folks who have left their home and decided to go to a motel. They are the oil companies who have signed long-term leases on these.

Representative Glen Froseth: That's true. It's probably mostly employees of companies that bring employees up here to work in the oil field related jobs. If they could find a different place to live they would probably rather live in an apartment.

Representative Dwight Wrangham: I fully understand the conversation we're having on page 1. I'm a little bit concerned on page 2. If we strike this language on lines 28, 29, and 30 will then apartments be charged the tax? As I understand it that's the tax relief. Read the bill.

Chairman Wesley R. Belter: This is dealing with hotel, motel, and tourism I believe so I would assume it would keep it separated.

Representative Dave Weiler: It states that in line 28 the gross receipts from the leasing or the renting of a hotel, motel, or tourist accommodations. It's right there that it doesn't include apartments.

**A roll call vote was taken on a DO PASS: YES 5 NO 7 ABSENT 2
MOTION FAILED.**

Representative Dave Weiler: Motion for DO NOT PASS.

Representative Glen Froseth: Seconded.

A roll call vote was taken on a DO NOT PASS: 6 YES 6 NO 2 ABSENT

Chairman Wesley R. Belter: A tie. I guess we will vote on this another day.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1245
February 2, 2011
#13885

☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more; and to provide an effective date.

Minutes:

Representative Shirley Meyer: We were told over and over that it has to be the same person in that 30 day time frame and it just doesn't state that anywhere in code. On the bottom of page 1 it states within city limits but it doesn't state anywhere that it has to be one person so I don't see why an oil company, for example, can't come in and lease a room for 30 days.

Representative Mark S. Owens: For the lodging tax and the city tax it does not have to be the same person. For the sales tax to be exempt after 30 days it does have to be the same individual.

Representative Shirley Meyer: Where does it state that in code, I want to see the line that is on?

Reference made to page 2 line 29.

Representative Dave Weiler: As I recall I tried to amend this bill and the amendment failed. What's before us is the bill as originally brought in. If we pass this bill the way it is and not amended then the sales tax will be added back on and the 2% lodging tax will be added on.

Chairman Wesley R. Belter: When you rent regardless of how many days you stay you'll pay the tax.

Representative Dave Weiler: That's what I understand it to be. Because under current law if you are there for 30 days or longer then the total tax is taken off your bill. This bill does not allow the tax to be taken off. If this bill passes in current form then it's going to be a tax increase to those that are staying in hotels if they stay 30 days or longer.

Chairman Wesley R. Belter: That is correct.

Representative Lonny B. Winrich: I thought it only put the local tax back on; it doesn't put the state tax back on. It only applies to local taxes.

Chairman Wesley R. Belter: It does both.

Representative Roscoe Streyle: The amendment was going to do that. I don't know if we ever voted on the actual amendment.

Representative Patrick Hatlestad: Can we offer an amendment without it being written up?

Chairman Wesley R. Belter: Yes.

Representative Patrick Hatlestad: What I would like to see is you pay the tax for the first 30 days then anything over 30 days is nontaxable.

Representative Lonny B. Winrich: That's what it is now.

Representative Patrick Hatlestad: What I'm saying is the first 30 days will be taxed and anything after 30 days is tax free. Can I offer that as an amendment?

Chairman Wesley R. Belter: You can offer that as an amendment.

Representative Patrick Hatlestad: I will offer that as an amendment.

Representative Steven L. Zaiser: Seconded.

Chairman Wesley R. Belter: My question would be then we just as well kill the bill because that's what they were trying to fix.

Representative Patrick Hatlestad: What I understand they were trying to do was get some of the money for the Convention and Visitors Bureau and so forth for 30 days plus. They didn't want to lose the tax money period. I'm suggesting the first 30 days they get the tax regardless and then after that if they stay longer it would be tax free.

Representative Mark S. Owens: Also the second part of that was they were trying to clear up the confusion of the people who work in the hotel industry if they stayed 30 days or if they charge them tax.

Representative Glen Froseth: The meaning of a person takes on many forms in bills. This bill we say an individual is a person but in other bills a person may be an entity, business, corporation, not just an individual. How could you determine the term individual in this bill?

Representative Roscoe Streyle: The hotel in Minot got assessed additional tax because they couldn't definitively say while it wasn't one person. They got assessed higher taxes, \$15,000 roughly because they could definitively say it was the same person.

Chairman Wesley R. Belter: The whole purpose of the bill was that the Convention and Visitors Bureaus are losing all this revenue. So with your amendment they are going to get one month of revenue. The problem is these companies that have come in like Williston, have rented a place for a year.

Representative Shirley Meyer: Currently they aren't getting anything. If we gave them a month at least they would be getting a month.

Representative Bette Grande: Would the Tax Department be able to clarify the term "individual?"

Representative Dave Weiler: If we're going to consider this amendment I would ask that I get a chance to call some of the people from the Convention and Visitors Bureau. I don't know if this is a good thing for them or not. I would ask that we hold it until I could check into this.

Chairman Wesley R. Belter: Do you want to vote on your amendment or do you want to withdraw your amendment?

Vice Chairman Craig Headland: If you look at the fiscal note they are getting \$140,000 if you completely tax them year round. If you give them a month they are going to get \$12,000 roughly. I don't know if that's the intent of this bill or not. It would certainly help them but I don't think it's much money for what they are looking for.

Chairman Wesley R. Belter: We will leave this one then.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1245
February 7, 2011
#14152

☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more: and to provide an effective date.

Minutes:

See attached amendments #1.

Representative Patrick Hatlestad: Distributed and explained amendments. Please refer to attached amendments #1.

Representative Bette Grande: Just so I'm clear whether I stay there one day or 100 days I will pay the tax but after 30 days I don't have to pay any state tax?

Representative Patrick Hatlestad: Sales tax.

Representative Dave Weiler: Just for clarification when you stay there 30 days or longer do they wipe both taxes out; the sales and the city?

Various Representatives: Yes.

Representative Dave Weiler: There were some differing opinions on that in an earlier discussion. This amendment will continue to wipe out the state sales tax. On page 2 line 30 remove the over strike for periods of 30 days or more, what is that?

Representative Patrick Hatlestad: That will allow the removal of the state sales tax after 30 days. (Inaudible)

Chairman Wesley R. Belter: We've solved the income problem for the Visitor's Bureaus but we've left the hotels with the management problem of putting the tax on and off, is that correct?

Representative Shirley Meyer: I had a chance to visit with some of the motels in Dickinson and they said it isn't a big deal. They said they know if you're there for 30 days. They said it's nothing they really even think about, they just do it. They said they know which rooms have the same person in it for 30 days and they don't seem to think it's a problem nor do they seem to question applying the tax.

Representative Mark S. Owens: And yet the people who testified complained of that very thing. I just wanted to clarify if I could. If we pass this amendment city lodging and city lodging restaurant tax and sales tax for corporate entities is forever as long as they don't have the same person in the room for 30 days or longer and if they keep moving them out every two weeks or so then they pay all the tax forever. If an individual rents a room for more than 30 days then after 30 days they pay only city lodging, city lodging and restaurant the sales tax disappears, do I understand that correctly?

Representative Patrick Hatlestad: As far as I understand that would be the way it would function.

Representative Bette Grande: That's exactly how I understood it but I didn't think we had the option of turning the word "person" into an entity because of the Supreme Court ruling of the paper we got. I think this is the best we can do with what we have to work with.

Representative Glen Froseth: I am not going to support this bill if it's amended or not. I still think this will add \$70-75 per month to the rent of those people who cannot find another place to stay and they are at the mercy of renting a motel room for 30 days or longer. It will cost them an extra \$70-75 per month for that room and they are probably getting that room for around \$1,500 per month. I know that most of the people are oil field workers and they are making good money but some are young guys with families that they have to support and doing a lot of travelling. I think we are charging them extra money that they shouldn't have to pay.

Representative Shirley Meyer: The only thing that comes into play here and is causing some confusion is when we have oil companies that are renting the rooms for six months to a year at a time. The only think that is confusing is when the tax is applied. After 30 days they are removing the tax. **I would move the amendment.**

Representative Patrick Hatlestad: Seconded.

Voice vote was taken: MOTION CARRIED.

Representative Lonny B. Winrich: Made a motion for DO PASS AS AMENDED.

Representative Shirley Meyer: Seconded.

Chairman Wesley R. Belter: What is the fiscal note on this one? It will change for the Convention and Visitors Bureaus but it won't change for the state so we don't need to send it to appropriations.

Representative Wayne Trottier: We would get the 5% for the one month, would we not? Oh, they give that back.

Representative Bette Grande: It says that it's a plus of \$1.6 million to the general fund.

Chairman Wesley R. Belter: That's because the tax would have gone into effect.

Representative Bette Grande: We would just take that off?

Chairman Wesley R. Belter: Now the tax does not go in to effect with the bill as it is now.

Representative Dwight Wrangham: I have had some communication and it seems that there is a lot of confusion with this tax and a lot of problems with the owners of the motels. It was confusing before and with this amendment I think it's going to be a lot more confusing. I'm going to oppose a do pass.

Vice Chairman Craig Headland: I want to echo that concern. I was going to state that very concern myself. I'm going to oppose it because of that reason.

**A roll call vote was taken: YES 10 NO 4 ABSENT 0
MOTION CARRIED—DO PASS AS AMENDED.**

Representative Patrick Hatlestad will carry HB 1245.

FISCAL NOTE
Requested by Legislative Council
04/11/2011

Amendment to: Engrossed
HB 1245

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed HB 1245 with Senate Amendments changes the state and local sales tax exemption for the rental of hotel rooms from 30 to 90 or more consecutive days.

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

Engrossed HB 1245 with Senate Amendments changes from 30 to 90 days the exemption from state sales tax, city lodging tax, and city restaurant and lodging tax purposes for long-term rental of hotel rooms.

If enacted, this change to the long-term hotel room rental exemption to 90 or more days will increase state and local revenues, by an amount that cannot be determined.

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

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	04/11/2011

FISCAL NOTE
Requested by Legislative Council
03/24/2011

Amendment to: Engrossed
HB 1245

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$948,000)	(\$82,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed HB 1245 with Senate Amendments changes the state and local sales tax exemption for the rental of hotel rooms from 30 to 90 or more consecutive days. The bill also creates a sales tax exemption for sales made by nonprofit thrift stores.

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

Sections 1, 2, and 3 of Engrossed HB 1245 with Senate Amendments changes from 30 to 90 days the exemption from state sales tax, city lodging tax, and city restaurant and lodging tax purposes for long-term rental of hotel rooms. The bill also removes the requirement that the same person must stay in the room to qualify for the exemption.

If enacted, this change to the long-term hotel room rental exemption to 90 or more days will increase state and local revenues, by an amount that cannot be determined. The expansion of the exemption to allow for different people within the 90 consecutive days may result in a decrease in state general fund and state aid distribution fund revenues, by an amount that also cannot be determined.

Section 4 of the bill creates a sales tax exemption for nonprofit thrift stores. If enacted, this exemption is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$1.030 million during the 2011-13 biennium as shown above.

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

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/25/2011

FISCAL NOTE
Requested by Legislative Council
02/10/2011

Amendment to: HB 1245

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				\$1,400,000				

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

Engrossed HB 1245 removes the local sales tax exemption for the rental of hotel rooms for 30 or more consecutive days.

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

Engrossed HB 1245 removes the 30-day exemption for city lodging tax, and city restaurant and lodging tax purposes. The state sales tax exemption for 30-day room rentals remains in place, but the bill removes the requirement that the same person must stay in the room to qualify for the exemption.

The removal of this exemption for local tax purposes is expected to increase city and county revenue an estimated \$1.4 million for the 2011-13 biennium. The expansion of the state exemption to allow for different people within the 30 consecutive days may result in a decrease in state general fund and state aid distribution fund revenues, but the amount cannot be determined.

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

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/11/2011

FISCAL NOTE

Requested by Legislative Council
01/11/2011

Bill/Resolution No.: HB 1245

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$1,610,000	\$140,000		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				\$1,400,000				

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

HB 1245 removes the sales tax exemption for the rental of hotel rooms for 30 or more consecutive days.

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

Sections 1, 2 and 3 of HB 1245 remove the 30-day exemption for city lodging tax, city restaurant and lodging tax, and state and local sales tax purposes, respectively.

The removal of this exemption is expected to increase state general fund and state aid distribution fund revenues by an estimated \$1.750 million during the 2011-13 biennium.

Cities and counties that impose local sales taxes, city lodging taxes, and city restaurant and lodging taxes would experience increases in these revenues if the bill is enacted. This analysis assumes these local taxes - when combined - average 4%, resulting in estimated increased local tax revenues of \$1.4 million for the 2011-13 biennium.

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

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/17/2011

Date: 1-25-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Winrich Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland		✓	Shirley Meyer	AB	
Glen Froseth		✓	Lonny B. Winrich	✓	
Bette Grande		✓	Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle		✓			
Wayne Trottier		✓			
Dave Weiler		✓			
Dwight Wrangham		✓			

Total (Yes) 5 No 7

Absent 2

Floor Assignment —

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

MOTION FAILS

Date: 1-25-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Weiler Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter		<input checked="" type="checkbox"/>	Scot Kelsh		<input checked="" type="checkbox"/>
Vice Chair. Craig Headland	<input checked="" type="checkbox"/>		Shirley Meyer	AB	AB
Glen Froseth	<input checked="" type="checkbox"/>		Lonny B. Winrich		<input checked="" type="checkbox"/>
Bette Grande	<input checked="" type="checkbox"/>		Steven L. Zaiser		<input checked="" type="checkbox"/>
Patrick Hatlestad		<input checked="" type="checkbox"/>			
Mark S. Owens	AB				
Roscoe Streyle	<input checked="" type="checkbox"/>				
Wayne Trottier		<input checked="" type="checkbox"/>			
Dave Weiler	<input checked="" type="checkbox"/>				
Dwight Wrangham	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 6

Absent 2

Floor Assignment _____

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

Vote another day.

✓R
2/7/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1245

Page 2, line 28, remove the overstrike over "~~and the gross receipts from the leasing or renting of a hotel or motel room or~~"

Page 2, line 29, remove the overstrike over "~~tourist court accommodations~~"

Page 2, line 30, remove the overstrike over "~~for periods of thirty or more consecutive days~~"

Renumber accordingly

Date: 2-7-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Meyer Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

A4E

MOTION CARRIED

Date: 2-7-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Winrich Seconded By Rep. Meyers

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland		✓	Shirley Meyer	✓	
Glen Froseth		✓	Lonny B. Winrich	✓	
Bette Grande		✓	Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham		✓			

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

HB 1245: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1245 was placed on the Sixth order on the calendar.

Page 2, line 28, remove the overstrike over "~~and the gross receipts from the leasing or renting of a hotel or motel room or~~"

Page 2, line 29, remove the overstrike over "~~tourist court accommodations~~"

Page 2, line 30, remove the overstrike over "~~for periods of thirty or more consecutive days~~"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1245

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1245
3/14/2011
Job Number 15353.

☐ Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on HB 1245.

Representative Dosch – I was asked to submit this bill on behalf of communities in the central and western part of North Dakota who have been impacted by the oil activity. Basically, real simply what the bill does is removes the local sales tax exemption from individuals that stay in a hotel or lodging facility for 30 or more consecutive days. Under current law if you stay or rent a hotel room for 30 consecutive days you are exempt from paying any tax, either state or local tax. What this does, it removes the exemption for the local taxes which means then that they would at least have to pay the 3%, it varies a little bit by community, but everyone would be subject to that tax even if you stayed 30 or more consecutive days.

Senator Burckhard – Some of the geeks on this committee would see this as a tax increase. Do you see it that way?

Representative Dosch – No I don't. It's more along the lines of a fairness issue.

Bill Shalhoob, North Dakota Tourism Alliance Partnership – (See attached testimony A in favor of HB 1245)

Terri Thiel, Dickinson Convention & Visitors Bureau – (See attached testimony B in favor of HB 1245, and handed out testimony C on behalf of Williston Convention & Visitors Bureau)

Senator Hogue – Would the state have just as strong of an argument in your mind as the cities do? The cities aren't going to get their 5%, do they have an argument as well?

Terri Thiel, Dickinson Convention & Visitors Bureau – The cities would. They would be collecting the local tax and so they would also be benefitting from this.

Senator Hogue – What about the state's share of this lost revenue from 30 day exemption? Should the state be concerned as well?

Terri Thiel, Dickinson Convention & Visitors Bureau – It think that's probably something within the committees that's been discussed. I think there was some legislation with that however now we are in support of this. I think when we get in to the different committees within the legislature obviously that's different discussions for those. At this time this is what we would be supporting.

Sandy Dobmeier, Destination Marketing Association of North Dakota – (See attached testimony D in favor of HB 1245)

Wendy Howe, Minot Convention & Visitors Bureau – (See attached testimony E in favor of HB 1245, and handed out testimony F on behalf of Bismarck-Mandan Convention & Visitors Bureau)

Senator Dotzenrod – No one who has appeared here has provided an argument why this bill and the provisions of this bill are significantly and worthwhile superior and better than the provisions in the other bill which is really what we are talking about since both bills have gotten support in this committee. It would be nice to have someone say, that other bill you had here was a good bill but it was lacking and this is better for the following reasons.

Wendy Howe, Minot Convention & Visitors Bureau – The difference in SB 2180, it was passed out of your committee as it was presented, HB 1245 was very similar, the difference is in the House Finance and Tax Committee there was the removal of the 5% state tax exemption. The long term stay traveler would still receive that exemption and there was much discussion about that in that committee. That is the difference between the two.

Senator Dotzenrod – Do I understand then that those of you that are supporting this bill feel that's a better thing?

Wendy Howe, Minot Convention & Visitors Bureau – I believe I can speak on behalf of my peers in saying I do believe the clean up language that you had in the Senate bill for the visitors committee is preferred. I think it is not a reason to hold up the bill as Mr. Shalhoob said earlier, if for some reason the House bill was passed and it didn't address the visitors committee that could be addressed in the next session. I do believe my peers across the state and I supported the clean up language.

Senator Dotzenrod – Does this bill and the difference in the Senate bill, if a local city has a city sales tax that is applied to purchases and retail sales in the city that same tax would also apply to the hotel rooms in that this bill currently that tax comes to an end after 30 days, the city sales tax. This bill doesn't seek to extend that.

Wendy Howe, Minot Convention & Visitors Bureau – Yes how I understood the House bill is that it removed the state sales tax portion. I don't believe it removed the city sales tax portion. It only removed the state sales tax.

Chairman Cook – The House amended SB 2180 to look exactly like this one is today and then gave it a Do Not Pass.

Senator Hogue – I had always made the assumption that the overall city revenues from the tax had increased because the rates were going up per room and the number of rooms had gone up. If they have been going up how much has your revenue been going up in the last 3 years expressed as a percentage?

Wendy Howe, Minot Convention & Visitors Bureau – That is correct. Our revenues in Minot, our lodging tax has increased. I don't have those figures in front of me but I would say probably in the 20% range in the last 3-5 years. The lodging tax is made up of occupancy as well as average daily rate. Average daily rate can fluctuate on a daily basis so there is no guarantee that because occupancy is high, that the rate is high. They do often go hand in hand because it is a supply and demand usually type equation but with the addition of those funds the Convention and Visitors Bureau has had to put those right into marketing and I can tell you that from the Minot CVB perspective we have had so many calls not only from around the state, but Canadians as well thinking that there is no reason for them to come to Minot, or no reason to come to North Dakota because there are no rooms available and I can tell you we are not 100% full so our job has really been putting those monies into marketing to say plan in advance, you can still come, we have rooms available.

Senator Hogue – Is that 20% increase per year, or is that over the past 3 years?

Wendy Howe, Minot Convention & Visitors Bureau – That's over the past 3 years.

Senator Burckhard – Do you see this as a tax increase or a fairness issue?

Wendy Howe, Minot Convention & Visitors Bureau – I would see this as a fairness issue. It is not a tax increase in my mind. We already have business travelers from across the state that come to other corners of the state and they stay for a couple of nights or weeks and they pay the tax. These folks that are coming in from outside of our communities outside the state that are here for 35-40 days, 6 months, they aren't paying the tax. That is where I see it as a fairness issue.

Chairman Cook asked for testimony opposed to HB 1245. No one came forward.

Chairman Cook asked for neutral testimony for HB 1245. No one came forward.

Chairman Cook closed the hearing on HB 1245.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee

Lewis and Clark Room, State Capitol

HB 1245

3/15/2011

Job Number 15464

☐ Conference Committee

A. Bittner

Explanation or reason for introduction of bill/resolution:

Relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more

Minutes:

Committee Work

Chairman Cook opened discussion on HB 1245.

Senator Dotzenrod – There is only 2 differences that I recognize. The one that we sent over imposes 5% extra that isn't there right now on hotel rooms over 30 days. The second one is that it rearranges the members of their committee. One thing that I noted when we had this hearing is that no one came in and opposed it. It doesn't appear that there is much interest in preserving any of those parts of the Senate bill. The main constituency that wanted this thing done in some way was here and they were very happy with this bill so I guess I would have a hard time going out to fight for anything that was in SB 2180 based on what we heard at the hearing.

Discussion followed regarding if this is a fairness issue and the difference between a hotel and an apartment.

Chairman Cook closed discussion on HB 1245.

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1245
3/22/2011
Job Number 15798

☐ Conference Committee

D. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays of thirty days or more

Minutes:

Committee Work

Chairman Cook opened discussion on HB 1245.

Senator Hogue – The way the law and the practice is now, they collect the tax for the first 30 days and if they go over 30 days then they give it back to the guest. It just seems to me that we ought to collect it for a certain period.

Senator Hogue explained the proposed amendments.

Senator Hogue – I'll move the amendments 11.0365.02005.

Seconded by **Senator Triplett**.

Chairman Cook – Ask the clerk to take the roll on the amendments. (5-2-0)

Senator Hogue – I have another amendment. This is a simple amendment that relates to sales tax. The full Senate passed legislation that would exempt legislation that would exempt thrift stores from sales tax and this is just another opportunity for the House to consider that. I will move this amendment.

Seconded by **Senator Triplett**.

Chairman Cook – Ask the clerk to take the roll. (6-1-0)

Senator Hogue – I'll move HB 1245 as amended for a Do Pass and rerefer to Appropriations.

Seconded by **Senator Dotzenrod**.

Chairman Cook – Ask the clerk to take the roll. (5-2-0)

Carried by **Senator Hogue**.

JB
3-23-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1245

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales by thrift stores owned and operated by nonprofit corporations;"

Page 1, line 3, remove "of thirty days or more"

Page 1, line 11, remove the overstrike over "~~for periods of~~"

Page 1, line 11, after "thirty" insert "up to ninety"

Page 1, line 11, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 1, remove the overstrike over "~~for periods of~~"

Page 2, line 1, after "thirty" insert "up to ninety"

Page 2, line 1, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 27, overstrike "thirty or"

Page 2, line 27, after "more" insert "than ninety"

Page 2, line 30, overstrike "thirty or"

Page 2, line 30, after "more" insert "than ninety"

Page 2, after line 30, insert:

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

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

Renumber accordingly

Date: 3-22-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0365-02005

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

Motion Made By Senator Hogue Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 3-22-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Hogue Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

Verbal Vote

Date: 3-22-11
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1245

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Hogue Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman		X	Jim Dotzenrod	X	
Joe Miller – Vice Chairman		X	Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Hogue

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

REPORT OF STANDING COMMITTEE

HB 1245, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1245 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales by thrift stores owned and operated by nonprofit corporations;"

Page 1, line 3, remove "of thirty days or more"

Page 1, line 11, remove the overstrike over "~~for periods of~~"

Page 1, line 11, after "~~thirty~~" insert "up to ninety"

Page 1, line 11, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 1, remove the overstrike over "~~for periods of~~"

Page 2, line 1, after "~~thirty~~" insert "up to ninety"

Page 2, line 1, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 27, overstrike "thirty or"

Page 2, line 27, after "more" insert "than ninety"

Page 2, line 30, overstrike "thirty or"

Page 2, line 30, after "more" insert "than ninety"

Page 2, after line 30, insert:

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

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

Renumber accordingly

2011 SENATE APPROPRIATIONS

HB 1245

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1245
03-28-2011
Job # 16045

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating city lodging tax and state sales tax application to hotel, motel, and tourist court stays of 30 day or more; and to provide an effective date.

Minutes:

See attached testimony # 1 - 7

Chairman Holmberg called the committee back to order on Monday, March 28, 2011 at 10:00 am in reference to HB 1245. Tammy R. Dolan, OMB and Becky J. Keller, Legislative Council was also present.

Representative Dosch: District 32, South Bismarck. I come before you today to introduce HB 1245. I find myself in a little bit of an awkward situation primarily because the bill that you see the engrossed bill before you is quite a bit different in many respects than how the bill was originally introduced and what our intention was originally was. So, it is not doing what we originally had intended it to do. I did introduce the bill on behalf of the Hospitality Industry. Unfortunately, the House amended it a little bit, the Senate amended it a little bit, everyone is trying to make it a little bit better and in terms of trying to administer it from a hotel or lodging end of it, it really would be extremely difficult on how the bill now stands. In addition another section was added on to the bill, Section 4, which was a bill that we ran through the House and it was defeated in the House. As things do, they kind of appeared on this bill now to which totally changed the fiscal note. The original fiscal note was a positive million dollar impact and now it's changed to a negative \$948 million dollars because of this section being added on which further muddies the water. Although I am the prime sponsor, of the bill, I really can't support it as it is in its format. There is another bill on the House side that the Senate did pass out that I think we can work with to try and accomplish perhaps what we wanted to accomplish. There are others that will follow me from the industry with more specifics as far as the problem with the bill and perhaps why maybe going forward this is not the vehicle we want to use.

Chairman Holmberg: We take little interest or acknowledgment of what the House does on a bill just as you take little interest in what we do on a bill. But what was the vote on 2137 over there the one that has appeared here, 37-55, failed.

Senator Wanzek: It would be difficult to administer. Is that because maybe someone might stay there for 89 days then not stay for a few days and then start another 90 days? I mean it's convoluted in your mind?

Representative Dosch: That's part of it. A bigger part of it is splitting the rates, you stay in a hotel and you pay 9% tax roughly. Each community is a little bit different, but about 6% of that is state tax, and 2.5-3%, the rest is local taxes. The way it kind of evolved is now they would let the state tax go away, but they keep the local tax on and so from the hotels standpoint now you're trying to keep track of your 9% taxable sales, your 6% taxable sales, your 3% taxable sales, your tax exempt sales and that is where it just really gets to be a mess. It should be either all or nothing in my opinion.

Senator Hogue: I have to respectfully disagree because that is exactly what we did in the Senate amendments because of this bi-verification between the state and the local tax. Both bill in the Senate and the House started off just taking care of the cities. And they wanted to make sure that the cities could collect their city lodging taxes on folks who stayed in excess of 30 days. In Finance and Tax we said what about the state of North Dakota. I don't have the Senate amendments in front of me, but, now the Senate amended this so we can take care of the state. The state gets to collect its 5%, and the cities collect their 2 or 3% on the first 90 days. The first thing we found out in Finance and Tax is that the current rule everybody is saying that there is a 30 day exemption for stays in excess of 30 days. However, we don't in North Dakota nobody gets to keep that tax. If they stay for 31 days the hotels collect it, and then they give it back. So the first order of business from our policy committee is we thought that the threshold regardless of where you set, the state and the city should get to keep that. We picked 90 days under, admittedly an arbitrary number but you have to start somewhere. The idea is that everybody is going to keep that for the first 90 days. Current law is if you go 31 days, that person staying in that hotel gets that money back after they have been there 31 days. So that is the first thing we straightened out. Now, the other thing is that the Convention and Visitors Bureau folks want to continue to collect that tax forever. Again that is where Finance and Tax thought that is not appropriate because at some point that room is the equivalent of a rental unit or apartment. We shouldn't collect it forever. So the 90 days just represented a compromise between not collecting it at all, and collecting it indefinitely. The other thing that it is, where I disagree with Representative Dosch, we collect it for the state and the city. The House version as it came over to the Senate just said okay it's going to be for just for the local cities that impose their 2 or 3 % tax. As far as the fiscal note, it should still have a positive fiscal note because we're collecting that 5% on 90 days for all hotels across the state. I think the positive fiscal note just for the 2 or 3 % for the cities was around \$1.4 M dollars and so Section 4 of the bill, which relates to the exemption for thrift stores was around \$940,000 and the positive fiscal impact from the state collecting its' 5% for 90 days should be positive or in excess of that \$949,000. So those are the amendments. I know the folks from hospitality would rather have this tax imposed indefinitely. But Finance and Tax thought that at some point this hotel room becomes an apartment and we shouldn't keep taxing it for an indefinite period of time.

Chairman Holmberg: Is there someone from the Tax Department here, because we need to take a look at the fiscal note and your comments and the comments of Representative Dosch.

Senator Warner: Is there a licensure issue here and health inspections issues? I know that apartments aren't inspected by the Health Department, I think hotels are. Are hotels and motels licensed? Is there a distinction made or some other legal status that makes the distinction between an apartment rather than just length of residence? **Senator Hogue:** I know hotels and motels are inspected and I know that pools for example are inspected by the

Department of Health. As far as their rooms, I couldn't speak to that. I can tell you like for example in Minot, there is several new hotels going up. One didn't get their landscaping but they got their interior finished and if you look at their parking lot you can see that it has a lot of Halliburton pick-up trucks in it, so I guess the assumption is that those folks are taking up residence there. If your question is should we continue to impose a tax indefinitely because the hotels and motels have extra duties; I guess I would respond that they do regardless of the length of the stay of their occupants.

Senator Warner: On occasions I used to stay at the Comfort Inn in town here, and I know the railroad pretty much has one whole floor. They just rotate people in and out. The contract or the person that actually pays the rent, the railroad has a long term commitment to that place. But individually, people come and go all the time. It is not the same person. But the person who pays the check has rented it for a long period of time. Is there a distinction to be made there?

Senator Hogue: There is. There is language in the House bill that referenced person or persons and that is a question I would defer to Representative Dosch. He's in the business and I don't know specifically how they handle that situation when you've got the employer that is paying it but there shuffling different employees in and out of that particular room.

Myles Vosberg: Tax Commission. I don't think we all understand this bill in the same manner. Section 1 and Section 2 of the bill the language was changed so not only it change it from 30 days to 90 days, but the language now says for periods of up to 90 consecutive days. So the way we understand this, is that for the lodging taxes the 90 days would always be subject to tax, so day 1 through 90, would be taxable, day 91 and beyond would be exempt. However, in the state sales tax portion which is Section 3 of the bill, the only language that was changed was really to change it from 30 to 90 days. So we view that to be an all or nothing situation. If an individual stays in a room for 91 days, the whole transaction is going to be exempt from tax. So we do see some difference there and I think that's what Rep. Dosch was talking about in the record keeping. The first 90 days would be subject to tax for the local lodging tax but the first 90 days could be exempt from the sales tax. There are not in sync there. Our fiscal note reflects that there will still be an increase in revenue from the state sales tax perspective because there is less people that stay in a room for 90 consecutive days than 30 days so that is going to increase the revenue. Of course we still have the remaining component from the exemption for the thrift store.

Chairman Holmberg: What is the date of the most current fiscal note? **Myles Vosberg:** March 24 is what I have here. **Chairman Holmberg:** And it says \$948,000 less general fund revenues and then other funds a reduction of \$82,000. **Myles Vosberg:** The \$82,000 would be the portion that goes to the state aid distribution fund from the sales tax revenue. And so the way we look at this bill, is the first 90 days would always be exempt for the lodging tax but when it comes to the state sales tax, and the city sales tax, that could apply, then it's dependent on whether they stay for more than 90 days. The other change that was made in here, is if you look on page 3, line 3, language is struck out regarding occupied by the same person or persons for residential. So that means, an oil company, an airline, railroads that normally rent blocks of rooms for a long period of time, more of those will be exempt now because it doesn't have to be the same person in the room as long as its rented by the same company.

Senator Krebsbach: One of the previous speakers mentioned the fact that if they stayed 31 days, that is was refunded. Who handles that refund? Is it the hotel, is it the tax department or who? **Myles Vosberg:** It's the motel. So if an individual stays in the room for 31, they charge tax on the first 30 days and then when they hit 31, they are either credited back or give them a refund. That is the way it would apply now for state sales taxes on the 90 days.

Senator Wardner: On Section 3, it is my understanding I thought the bill simply stated that the individuals in the room, no matter whether its person or persons, pay the tax to the locals and the state for the first 90 days. **Myles Vosberg:** That would be true of the lodging tax but not the state sales tax. In Section 3, if you look at the language there on the last couple of lines of page 2 and the first lines of page 3, this is what is exempt. It is the gross receipts from the leasing and renting and so on, for residential housing for periods of more than 90 days. If you stay there for more than 90 days, that entire period is exempt. **Senator Wardner:** That means it's similar to the way it is now. It would be that they would get their money back then for the gross receipts or the sales tax, or whatever. **Myles Vosberg:** That is correct. For the state and local sales tax, but if you look at the way the language is written in the first two sections, it talks about this is an imposition section so they can impose tax on up to 90 days. It is written differently, they can impose tax up to 90 days. Once you go beyond 90 days it is going to be exempt. Wherein the sales tax it is an all or nothing. If you stay there for a period of 90 days or more, it's all going to be exempt. **Senator Wardner:** I see, and so, continuing on, then the lodging tax that is not exempt, is that correct? **Myles Vosberg:** Correct, the lodging tax will always apply on the first 90 days the way it is currently written. **Senator Wardner:** Alright, thank you.

Chairman Holmberg: We're not going to take action on this bill today. We need some time to mull.

Dana Bohn: Tourism Alliance Partnership Executive Director. Testified in favor of HB 1245 and provided written Testimony attached # 1. If you stay 90 days, the local is going to keep that lodging tax, the state is now exempt so you have to credit back the 90. He was hoping that you would keep it all for 90, the state and the local. Does that make sense?

Senator Wardner: What we have to differentiate is the state sales tax, the local sales tax, and the CVB tax. When you talk about state and local in our minds we're thinking of the CVB tax. When you speak please differentiate between the three or we get confused.

Dana Bohn: If you take a look at the summary, House Bill 1245 was introduced because we were seeing a significant number of extended stays in the west due to oil activity and in cities like Devils Lake that have on-going construction. This creates a problem because rooms at which generate revenue for CVB's are occupied, by long term occupants and they are tax exempt. Visitors that traditionally support the local businesses are displaced, and then on top of it there is marketing challenging because everyone thinks their rooms are full. They are not always full, but they are having to market more and in different ways to address that perception. So what the House did, if you look at the summary of 1245, they reinstated the state sales tax exemption for the 30 day room rentals. So that means the local taxes that the CVB- lodging taxes, wouldn't be collected but the state portion would not be after 30 days. Does that make sense, when I explain it that way? The state, city are connected. The state,

county, and city would be connected, sales tax are connected. And then the lodging tax is separate. The Senate amended 1245 to allow the collection of all the taxes for the first 90 days. Then on the 91st day, the state portion of the tax is credited back and no collections are made on the 91st day beyond the local and the state portion; the local meaning the lodging tax.

Chairman Holmberg: But the state keeps the first 90 days? **Dana Bohn:** The state keeps the first 90 days, unless you stay until 91, and then it is credited back. **Chairman Holmberg:** The entire... **Dana Bohn:** Just the state sales tax. Yes. Also the House amended the requirement that the same person must stay to qualify for the exemption. So right now, the same person needs to stay into the room, and they've opened up, it could be anyone. So even though the railroad is doing that, they should not, correct? Right now they shouldn't be able to do that. So we really don't care for the Senate amendments because although they appear to help the tourism industry because you're increasing the number of days that the local tax can be collected by 60 days so it goes from 30-90, but those House amendments changed their current law so that it could be more than one person in the room. That means that the number of days you can collect the local shares is capped, but the number of guests and the length you could stay becomes indefinite. So that means the length of time that a company could rent a room and put different guests in the room could extend for significant periods of time which would prevent any further collection of the local lodging tax, and defeat the purpose of the original bill. Therefore again, I said, we're opposed to those amendments. FYI Senate bill 2180, which is Senator Wardners bill, was also introduced about the same time. The only difference between those two bills is that in 2180, we took out the visitor committee language because that has become outdated. That is still in the bill. But the Senator did nothing to it, but the House changed it to be the same so that it removes those 30 day exemption for city lodging tax, and then they also made it so that more than one person could stay in that room. We prefer 2180 as it is now, however, the House gave that bill a 12-2 do not pass recommendation and its' been sitting on the calendar waiting to see what you guys do over here. (But to give you a little back ground information, when a guest checks into a hotel they are charged whatever sales tax is applicable to that state. In most cities there is a 5% sales tax, 2% marketing or CVB tax, and a 1% city tax. On top of that is the 1% tax known as the bed and booze tax. There is an exemption from that tax in current law for guests who stay for more than 30 days. Hotel practice is to charge tax for the 30 days, and then credit the bill for the tax amount when the state threshold is met. So that is taken care of by the hotel). Testimony taken from her written statement. For those reasons we are opposed to these Senate amendments to the bill. I attached some testimony from the various communities that were supporting 1245 prior to the Senate amendments and then as it is now in the House.

Senator Christmann: Besides everything else philosophical, lets' just say the bill was going to pass. **Dana Bohn:** As is right now? **Senator Christmann:** Yes, would you want to at least make section 3 be like sections 1 and 2 where that gets charged for 90 days and then ends then. That would be an improvement. **Dana Bohn:** That would be an improvement because then at least you would be doing the same thing. In talking to the tax department that is not how it actually, how they interpret it. **Senator Christmann:** If that your intention, you would like to see us at least do that. **Dana Bohn:** Yes, that is correct.

V. Chairman Grindberg: Further testimony?

Sheri Grossman: President of Destination Marketing Association of North Dakota (DMAND). Written testimony #2. DMAND supports HB 1245 in its original form but is opposed to the amendments added by the Senate Tax and Finance Committee. DMAND currently prefers SB 2180 as it removes the 30 day lodging exemption for city lodging tax, and city restaurant and lodging tax purposes.

Senator Christmann: Is there a rule of thumb what kind of range the daily rates are discounted down for monthly and multi-monthly visitors?

Sheri Grossman: It largely depends on the community. Here in Bismarck, if someone is here for a long term stay, they definitely get a discounted rate. What that will depend on the property, but I know those at the Comfort there is a significant less rate for the railroad, the airlines, but I don't have the numbers.

Keith Magnusson: Represent the North Dakota League of Cities. We generally have supported the concept of HB 1245 but along the way, when it got into the Senate Finance and Tax, it picked up some baggage that is familiar baggage to you. In Section 4 was originally Senate Bill 2137, and this committee gave it a 10-3 Do Not Pass; but it did pass on the Senate floor 26-20. House Finance and Tax, gave it a Do Not Pass and it failed on the House floor. I think we are confused about the first three sections. But I did learn that Section 3 would detrimentally affect cities as it's written on sales tax collection. We would ask that Section 4, be taken out of this bill because this would affect cities. It sounds good when the state's flush with money why not give some sales tax breaks. But the cities aren't flush with money, and this would affect the cities sales tax and the only way we have to make that up is with property taxes. Some city sales taxes are already dedicated to certain things and paying back bonds and stuff like that. If you look at the fiscal note, it says Section 4 places the sales tax exemption for non-profit thrift stores. If enacted this exemption is expected to reduce state general fund in state aid distribution fund revenues which do goes to cities and counties by an estimated \$1.03 Million during the next biennium. This says nothing about what the cities, home rule cities have sale tax will lose in sales tax collections too. So the impact to cities is much greater than what you see in the fiscal note. I urge you not to pass Section 4.

Jeb Oehlke: Represent the North Dakota Chamber of Commerce. We stand in opposition to Section 4 of HB 1245 as amended by the Senate Finance and Tax committee. Written testimony #3.

Chairman Holmberg: Any questions?

Mike Rud: North Dakota Retailers Association. I stand with what Mr. Magnusson and Mr. Oehlke said about removing Section 4 from this bill. We don't favor it either. If you're going to do it for one, do it for all. Keep it on a fair playing field.

V. Chair Grindberg: Further testimony in opposition or neutral position.

Additional written testimony was submitted as follows:

#4. Wendy Howe, Executive Director – Minot Convention & Visitors Bureau in support of HB 1245.

#5. Sandy Dobmeier, Vice President of Destination Marketing Association of ND (DMAND) also representing the Greater Grand Forks convention & Visitors Bureau in support of HB 1245.

#6. Amy Krueger, Executive Director, Williston Convention & visitors Bureau in support of HB 1245.

#7. Terri Thiel, Executive Director, Dickinson Convention & Visitors Bureau in support of HB 1245.

V. Chair Grindberg closed the hearing on HB 1245.

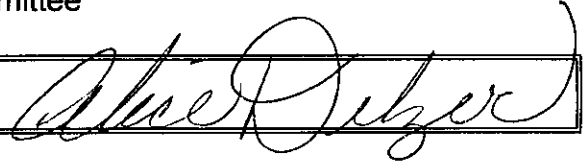
2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1245
04-06-2011
Job # 16397

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE FOR A DO PASS AS AMENDED RE: SALES AND USE TAX – THRIFT STORES; CITY LODGING TAX & STATE SALES TAX – HOTELS.

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order in reference to HB 1245. Tammy R. Dolan, OMB and Roxanne Woeste, Legislative Council were also present. You recall the long history of 1245. We had sponsors that no longer liked the bill, we have sponsors that amended the bill to things the other sponsors don't like anymore, it's an interesting potpourri of ideas. What does the committee want to do with 1245?

Senator Wardner: I have amendment # .02006. When we heard the bill, there was one thing the Tax Department and Senate Finance and Tax didn't realize they had done. What it does and what they intended when someone stays in a motel room over 90 days that the 5% sales tax would be collected and remitted to the State of ND. The local tax of 2% or 1 1/2 or whatever it is would be collected and go to the locals, and the lodging tax, which is 2% would be collected and go to the locals. That is what's it was suppose to do. It didn't do that. It allowed the sales tax to the locals and lodging tax to the locals to stay with the locals. But if someone stayed 91 days, then the way the bill was written the sales tax that was collected by the state had to go back to the hotel properties and they had get it refunded to the customer. As a result, the hotels didn't like that and this amendment cleans it up, it just says for 90 days, if you stay there over 90 days, 91 and more then the first 90 days you will pay the sales tax to the state, the sales tax to the locals and a local lodging tax and it is collected and they get to keep it. After that you do not pay.

Chairman Holmberg: If you look carefully at the amendments it says in lieu of the amendments that were attached so that the thrift shop issue, which this committee has turned down and the House has turned down, will not be in this. This is lieu of those amendments.

Senator Wardner moved the amendment # .02006. seconded by Senator Erbele

Senator Warner: Who is the person in the transaction? Is it the company or the corporation which contracts for the room, is that considered the person, or is it the individual who may be

staying in for 5 days, a second individual, who is also an employee of the company coming in for 10 day?

Senator Wardner: The companies come in and lock up these room, and the company becomes the person and the individuals can change, and that's why the Convention and Visitor's Bureau (CVB)'s had heartburn.

There was further discussion if the motels were ok with it and had the proper software to deal with this issue.

Bill Shalhoob, Motel and Hotel Association told the committee that prior to this bill it was the individual, but now it can be the company, that's make it much easier on the motel that they don't have to police the rooms to see who is staying in them and the motels are equipped with the proper software to deal with the tax collections and returns. Maybe some small motels still do their bookkeeping by hand, but not very many. **Senator Fischer:** Are there any costs with changing this? **Bill Shalhoob:** It should be 0 cost to the hotel. **Senator Krebsbach:** I understand after 90 days the state tax is dropped, does that mean the local tax still goes on? **Bill Shalhoob:** All taxes will be dropped at the end of 90 days. After 90 days it is treated as an apartment. **Senator Robinson:** Do we not still have the situation where these companies are going to book for year around. We do get the tax for 90 days but after that for the rest of the year they're tax exempt, is that right? **Bill Shalhoob:** That would be correct. This is really Williston, Minot, Dickinson problem in terms of lost revenue so that yes, if they book the room for two years then it's not going to be paid for two years or as long as they've had it or they have it. **Senator Robinson:** this is an improvement, I can't speak for western ND, how big a hit is that if this boom goes on and we have a significant number of companies that book these rooms for 2 and 3 years.

Senator Wardner: There was another bill that I sponsored that would have taken care of all these things but it was killed in the House, so that's done. This is the only thing they have and it's a compromise. Everybody seems to be kind of lukewarm on this one. I don't have my CVB person calling and emailing me about it. The main thing to clean up the language so if it passes it works.

Chairman Holmberg: Would you call the roll on amendment # 11.0365.02006.

A roll call vote was taken on the amendment: Yea: 11; Nay: 2; Absent: 0. Motion carried.

Senator Wardner moved a do pass as amended Senator Erbele seconded.

Senator Christmann: It seems like Rep. Dosch lost interest on working on this. It was his bill so that makes me kind of want to just vote against it. Do we have a swag of what the fiscal note would be the way we have it written now.

Chairman Holmberg: Trying to find the current one - the thrift stores is \$1.03M.

Bill Shalhoob: The fiscal note on this for a biennium was 1.6 for the general fund, \$140,000 for the other funds on the side so I would suggest it's 1/8 of those numbers since it's 3 months out of the biennium and then goes away the general fund would be increased by about

\$200,000 and roughly \$18,000 into other funds. These are pluses, not minuses. **Senator Christmann:** And you guys like this. **Bill Shalhoob:** From the tourism people and the Williston people what they really wanted was the local tax to go on forever. You're talking about \$20,000, \$140,000 a biennium and they wanted the access to the full \$140,000 plus in the future. Might be a good idea take this to a conference committee and see where we end up with.

Chair Bowman: If we kill the bill it stays the way it is currently right now. We collect it for the full year?

Senator Wardner : If we kill the bill they don't collect at all if they stay there over 30 days.

Bill Shalhoob: If you kill the bill there are no collections ever because right now they get it from day one, essentially. It's treated just like an apartment.

Senator Krebsbach: One quick question, the amendments you drafted here and put on are they what the House originally had when it came over?

Senator Wardner: No, these were put on by the Senate Finance and Tax, especially the thrift store part. But the other part I can't answer that for sure. I think the Senate put them on.

Bill Shalhoob: That is correct. The bill came over, when the bill came over to the Senate it exempted the state and city portion from day one, but allowed the CVB's for the marketing fund and the capital funded, those portion to be collected from day one and stay on so the state now is going to collect for 90 days and the CVB's will cease after 90 days, so there has been two changes to the bill.

Senator Robinson: I know this is primarily for western ND but it would be my intentions to support the bill because it is better than what we have. I would hope we can make some improvements in the conference committee and I appreciate the work that Senator Wardner put in. Maybe we can resurrect the Wardner bill and have a conference committee hoghouse.

Chairman Holmberg: I don't know what the House will do. This bill wasn't a super hit in the House, it passed with 51 votes. Would you call the roll on a DO PASS AS AMENDED?

A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1245: YEA: 11; NAY: 2; ABSENT: 0. Senator Wardner will carry the bill. The hearing was closed on HB 1245.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1245

In lieu of the amendments adopted by the Senate as printed on pages 837 and 838 of the Senate Journal, Engrossed House Bill No. 1245 is amended as follows:

Page 1, line 2, replace "22" with "1"

Page 1, line 2, replace "57-39.2-04" with "57-39.2-02.1"

Page 1, line 3, remove "of thirty days or more"

Page 1, line 11, remove the overstrike over "~~for periods of~~"

Page 1, line 11, after "~~thirty~~" insert "ninety or fewer"

Page 1, line 11, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 1, remove the overstrike over "~~for periods of~~"

Page 2, line 1, after "~~thirty~~" insert "ninety or fewer"

Page 2, line 1, remove the overstrike over "~~consecutive calendar days~~"

Page 2, replace lines 23 through 30 with:

"SECTION 3. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and including bundled transactions consisting entirely of tangible personal property.
 - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
 - d. Magazines and other periodicals.

- e. The leasing or renting of a hotel or motel room or tourist court accommodations for periods of ninety or fewer consecutive calendar days.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
- g. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
 - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
 - (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
 - (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
 - (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 - (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
 - (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".
- h. A mandatory computer software maintenance contract for prewritten computer software.

- i. An optional computer software maintenance contract for prewritten computer software that provides only software upgrades or updates or an optional computer software maintenance contract for prewritten computer software that is a bundled transaction and provides software upgrades or updates and support services."

Renumber accordingly

Date: 4-6-11Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1245Senate APPROPRIATIONS Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 11.0365.02006Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Wardner Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner		✓
Senator Bowman	✓		Senator O'Connell	✓	✓
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 11 No 2Absent 0

Floor Assignment _____

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

Date: 4-6-11Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1245Senate APPROPRIATIONS Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Wardner Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner		✓
Senator Bowman	✓		Senator O'Connell		✓
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 11 No 2Absent 0Floor Assignment Wardner RF & FT

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

Wardner

REPORT OF STANDING COMMITTEE

HB 1245, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1245, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 837 and 838 of the Senate Journal, Engrossed House Bill No. 1245 is amended as follows:

Page 1, line 2, replace "22" with "1"

Page 1, line 2, replace "57-39.2-04" with "57-39.2-02.1"

Page 1, line 3, remove "of thirty days or more"

Page 1, line 11, remove the overstrike over "~~for periods of~~"

Page 1, line 11, after "~~thirty~~" insert "ninety or fewer"

Page 1, line 11, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 1, remove the overstrike over "~~for periods of~~"

Page 2, line 1, after "~~thirty~~" insert "ninety or fewer"

Page 2, line 1, remove the overstrike over "~~consecutive calendar days~~"

Page 2, replace lines 23 through 30 with:

"SECTION 3. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and including bundled transactions consisting entirely of tangible personal property.
 - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
 - d. Magazines and other periodicals.
 - e. The leasing or renting of a hotel or motel room or tourist court accommodations for periods of ninety or fewer consecutive calendar days.

- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
- g. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
 - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
 - (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
 - (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
 - (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 - (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
 - (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".
- h. A mandatory computer software maintenance contract for prewritten computer software.
- i. An optional computer software maintenance contract for prewritten computer software that provides only software upgrades or updates or an optional computer software maintenance contract for prewritten computer software that is a bundled transaction and provides software upgrades or updates and support services."

Renumber accordingly

2011 TESTIMONY

HB 1245

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1245

Page 2, line 28, remove the overstrike over "~~and the gross receipts from the leasing or renting of a hotel or motel room or~~"

Page 2, line 29, remove the overstrike over "~~tourist court accommodations~~"

Page 2, line 30, remove the overstrike over "~~for periods of thirty or more consecutive days~~"

Renumber accordingly

North Dakota

Tourism Alliance Partnership

1-18-11
Testimony
p. 1

P.O. Box 2599
Bismarck, ND 58502
(701) 355-4458
FAX (701) 223-4645

2010/2011 MEMBERS

Basin Electric
Power Cooperative

Bismarck-Mandan CVB

Buffalo City Tourism

Days Inn - Grand Dakota Lodge

Destination Marketing
Association of North Dakota

Devils Lake CVB

Dickinson CVB

Fargo-Moorhead CVB

Fort Abraham
Lincoln Foundation

Grand Forks CVB

International Peace Garden

Lewis & Clark Fort
Mandan Foundation

Municipal Airport Authority
of the City of Fargo

ND Tourism Division (ex-officio)

Newman Outdoor Advertising

Norsk Hostfest Association

Odney Communications Group

Select Inn of Bismarck

Spirit Lake Casino and Resort

State Historical Society of
North Dakota Foundation

Theodore Roosevelt
Medora Foundation

Three Affiliated Tribes
Tourism Dept.

Fort Totten
Mountain
Band of Chippewa Indians

Williston CVB

Woodland Resort, Inc.

Testimony of Bill Shalhoob Tourism Alliance Partnership Chairman HB 1245

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I am here representing the North Dakota Tourism Alliance Partnership (TAP). TAP is a coalition of tourism-related industries including Convention and Visitors Bureaus (CVBs), state attractions, businesses and other stakeholders in the viable and growing tourism sector of North Dakota's economy. We are asking for your support for HB 1245 and urge a do pass on the bill. For your information, there is a companion bill that was introduced in the Senate, SB 2180, that does virtually the same thing and will have to be reconciled as one or both move forward.

Currently when guests check into a hotel room, they are charged whatever sales taxes are applicable on that stay. In most cities, there is 5% state tax, a 2% marketing or CVB tax, a 1% city tax and a 1% tax commonly referred to as a "bed and booze tax" used for infrastructure development and marketing. Total tax can vary by locality based on home rule additions to the various categories. There is an exemption in current state law for guests who stay 30 consecutive days or more. Current hotel practice is to charge tax for the first 30 days and credit the bill for the tax amount when the stay threshold is met. In rules set up by the tax department to address abuse, it has been determined the room must be occupied by the same guest during the entire stay to get the tax break. A company, even if paying the entire bill, cannot rent the room for 30 days and move people in and out based on schedule or need. It is up to the hotel to monitor the guest occupancy. I think the theory behind creating this exemption was we do not charge sales taxes on apartments as they are a living unit and a hotel room that is occupied continuously for 30 days or more is more like an apartment transaction than a transient hotel sale.

Today we find ourselves in the unusual position of asking for a sales tax exemption to be rescinded. We do so for two reasons. First, due to the oil activity in western North Dakota, our CVBs in particular and all other benefitting political subdivisions, including the state as they receive the biggest percentage, are losing what we believe are significant revenues because of the many occupants who are and will continue to be involved in the current oil play. We have all heard stories of the difficulty in getting rooms in the oil producing areas of the state. Second, hotels find it difficult or impossible to assure compliance with the same guest per stay requirement rightfully in rule from the tax department. On audit, always well after the sale, the deduction has been disallowed and, since it is very difficult to impossible to go back to the guest or company to collect the tax, the hotel usually ends up paying it on behalf of the room occupant.

One unintended consequence may be for tax to start to be charged on rooms legislators occupy during the session. HB 1141 addresses reimbursement for this expense and was heard last week. In that bill or to be safe in HB 1245, subsection 2 of section 54-03-20 of the ND Century Code should be amended to add the words "plus applicable taxes" after the word "reimbursement." I have attached a copy of HB 1141 for your review.

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today in support of HB 1245. I would be happy to answer any questions.

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1141

Introduced by

Representative Carlson

1 A BILL for an Act to amend and reenact subdivision a of subsection 2 of section 54-03-20 of the
2 North Dakota Century Code, relating to housing reimbursement for members of the legislative
3 assembly; to provide for retroactive application; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 54-03-20 of the North
6 Dakota Century Code is amended and reenacted as follows:

7 2. a. Each member of the legislative assembly is entitled to receive reimbursement for
8 lodging, which may not exceed per calendar month the amount established under
9 this subdivision by the director of the office of management and budget for
10 lodging in state and which may not exceed the rate provided in section 44-08-04
11 for each calendar day during the period of any organizational, special, or regular
12 session. On August first of each even-numbered year, the director of the office of
13 management and budget shall set the maximum monthly reimbursement for the
14 subsequent two-year period at an amount equal to thirty times ~~fifty-five~~sixty-five
15 percent of the daily lodging reimbursement in effect on that date as provided
16 under subdivision d of subsection 2 of section 44-08-04.

17 **SECTION 2. RETROACTIVE APPLICATION.** This Act is retroactive in application to
18 January 1, 2011. Upon the effective date of this Act, the director of the office of management
19 and budget shall recalculate the maximum monthly lodging reimbursement for members of the
20 sixty-second legislative assembly based upon section 1 of this Act to be effective beginning
21 January 1, 2011.

22 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

1-18-11
Testimony # 2

Testimony of Robert Butterfield
General Manager, Fireside Inn
HB 1245

Dear Chairman and members of the Committee,

Please accept this letter as my testimony in favor of amending the ND Century Code 40-57.3.01 City lodging tax Imposition-Amount-Disposition, to eliminate the words "for periods of less than thirty consecutive calendar days or one month", along with other requested changes.

I am the General Manager of the Fireside Inn, in Devils Lake, ND, a board member of Devils Lake Tourism, and an executive board member of the Devils Lake Chamber.

As a manager of a large motel I see the effects of less money due to the current lodging tax, especially with over 500 full time construction workers in our area during the 7 month season. This impact affects everyone.

Thank you for considering this.

Sincerely,

Robert Butterfield
General Manager
Fireside Inn
215 Hwy 2 E
Devils Lake, ND 58301
701-662-6760
gmfireside@gondtc.com

1-18-11

Testimony #3

devils lake

January 18, 2011

Dear Chairman and members of the Committee,

Please accept this letter as my testimony in favor of amending the North Dakota Century Code 40-57.3.01. City lodging tax – Imposition – Amount – Disposition. to eliminate the words “for periods of less than thirty consecutive calendar days or one month,” along with the other verbage requested to be removed.

I am the Executive Director of the Devils Lake Convention and Visitors Bureau and we are going through similar issues as the western side of the state. As you know, Devils Lake keeps rising and has provided our region a multitude of problems; one of those problems being access to our roadways. For the third time since 1997, we are raising our roads to meet a higher elevation from our lake. This construction will continue through 2013. In the summer of 2010, we had no less than 535 full-time employees come to our region because of work in road construction. In the years of 2011 and 2012, we will see even more full-time employees moving into our city.

The City of Devils Lake is currently going through a housing shortage. The rising of the lake water has also pushed families from their lakeside homes or farms, forcing them to move into town. There are new jobs developing in our area, also bringing new employees and business people to town. As a family or a single person, it is hard to find an apartment to rent in Devils Lake. At any given time, all of the apartments in our area can be full, and this past summer, were full. This forces the road construction workers to live temporarily in our motel rooms. We have 560 motel rooms to rent in Devils Lake, and 63 of those rooms are currently full with long-term renters, and 74 more of them are not taking reservations because of a hold out for long-term rentals from road construction workers. By eliminating the 30-day lodging exception, it will keep the revenue coming into our city and will help towards the promotions that will keep people coming back for hunting and fishing in our region. As many of you know, media buying has become expensive. It is important to keep this money flowing into the tourism departments to stay steady with their marketing efforts and keep our “Legendary” destination in front of our potential travelers who will spend money in our restaurants, motels, gas stations and stores. It is even more important for Devils Lake to continue advertising that our city “is open” and not shut down due to our road construction issues.

Again, I ask for your support of eliminating the 30-day lodging exemption. There are many businesses besides the motel operators that depend on an income, and the revenue from the lodging tax will support these entities.

Thank you for your time and consideration.

Sincerely,

Suzie Baisch
Executive Director

Testimony # 4
p. 1



72 EAST MUSEUM DRIVE
DICKINSON, NORTH DAKOTA 58601
701.483.4988 | 800.279.7391
F: 701.483.9261
E: INFO@VISITDICKINSON.COM

www.visitdickinson.com

Testimony of Terri Thiel, Executive Director, Dickinson Convention & Visitors Bureau

House Bill: 1245
January 18, 2011

Chairman Belter and members of the House Finance & Taxation Committee, my name is Terri Thiel and I am the Executive Director of the Dickinson Convention & Visitors Bureau. The Dickinson Convention & Visitors Bureau is in support of House Bill 1245, relating to the 2% city lodging tax and stays of thirty days or more.

Our non-profit organization receives the 2% lodging tax that is enacted by the ND Century Code, Section 40-57.3-01 and 10% of the 1% Lodging and Restaurant tax, Section 40-57.3-01.1 for annual operating functions that include three areas: personnel, general operating expenses and marketing. Two of the three are primarily fixed costs, personnel and general operating expenses. The marketing is determined by the remainder of the annual budget.

As our communities grow with the energy development, so should the marketing organization of our communities for several reasons. One, economic cycles are just that. Cycles. Full lodging rooms come and go, marketing must continue to reinforce the image of our communities when the down side occurs, bringing back visitor to our communities to experience all the things to see and do. Two, energy workers are also visitors. This is an opportunity to expand our marketing to them and their families. Many of these workers/visitors are from TX, LA, CA, OK, CO and other states. We have firsthand experience of families that have followed the primary energy worker entering into our office wishing to explore Dickinson and southwest North Dakota. Three, if energy is growing western ND, and growing it by all types of new businesses, our organization needs to continue to grow, keeping pace and exploring new ideas, to produce a variety of marketing tools for the future.

As the energy developments increase, many of the workers are housed in a variety of lodging facilities, apartments, residential homes, hotel/motels, campgrounds, campers on mobile home lots and man camps. The long term rental of hotel/motel rooms beyond 30 day stays prevent the collection of the 2% lodging tax - provided the same individual occupies the same rental room for the entire stay. This is a loss of income for a Convention & Visitors Bureau.

The marketing that our office does for the community of Dickinson also includes all of southwest North Dakota for many of our projects. We build our branding, our product, and our visitor experiences on the entire area surrounding us.

Please support House-Bill-1245.

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Thiel".

Terri Thiel
Executive Director

Explore
the WESTERN EDGE

Testimony #5



BY CHOICE HOTELS

Testimony of Melissa Johnson, General Manager, Comfort Inn, Dickinson, ND

House Bill: 1245

January 18, 2011

Chairman Belter and members of the House Finance & Taxation Committee, my name is Melissa Johnson, and I am the manager of the Comfort Inn and a current Board member of the Dickinson Convention & Visitors Bureau. As manager of the Comfort Inn and a CVB Board member, I am in support of House Bill 1245.

The Comfort Inn in Dickinson has enjoyed a positive year with customers that represent a variety of industries, vacation travelers, hunters, tour and sporting groups, and business travel. Throughout the year, our customers vary with the season, special events and business climate.

With the increased energy development, we have seen a larger number of long term stay workers at our hotel. Many of the workers contract rooms beyond thirty days. While this is secured revenue for the Comfort Inn, it also is a loss of income for our Convention & Visitors Bureau.

The partnership of marketing between the hotels in Dickinson and the Convention & Visitors Bureau, assures that my property will benefit in the long term of the highs and lows of a business cycle. It would be a benefit to my hotel if the Convention & Visitors Bureau would be able to collect the additional revenue from the longer than 30 day stays. The additional funding would allow their marketing plans continue to increase as our community grows.

Please support HB 1245.

Sincerely,

Melissa Johnson
Manager

Testimony
6

DESTINATION MARKETING ASSOCIATION of *North Dakota*

Testimony of Sheri Grossman
President, Destination Marketing Association of North Dakota
House Bill 1245
January 18, 2011

Chairman Belter and Members of the House Finance and Tax Committee:

My name is Sheri Grossman and I am the Director of Sales for the Bismarck-Mandan Convention & Visitors Bureau and President of Destination Marketing Association of North Dakota (DMAND). DMAND is a cooperative association of independent Convention and Visitor Bureaus, as well as additional communities who share a broad-based community support and whose primary objective is the promotion of North Dakota.

Convention and Visitors Bureaus throughout the state, both large and small, are funded by lodging tax. Although some have other small funding sources such as membership dues, they primarily rely on lodging tax to fulfill their mission: to stimulate economic growth in the community by increasing visitor volume and visitor expenditures.

I ask for your support of House Bill 1245, which removes the 30-day stay lodging tax exemption. Convention and Visitors Bureaus need this lodging tax revenue to attract conventions, events, and tourists to our destinations.

Although this is currently a bigger issue in the western part of the state, at various times during the year, it affects cities throughout North Dakota. Convention and Visitors Bureaus work diligently to bring business to their destinations not just in the current year, but several years into the future. They need these funds to actively pursue convention and event groups for times when the hotel occupancy rate might not be as high as it is now.

At times, cities have to turn away visitors because a large portion of their hotel rooms are filled with occupants staying in excess of 30 days. They lose the tax revenue and in effect, have less money to use to market to bring visitors at a time in the future when the occupancy rate might be less.

Visitors have a significant impact on the economy in North Dakota and removing the 30-day tax exemption will help Convention and Visitors Bureaus as they work to bring future visitors to North Dakota. It is imperative to attract this business to fill our hotels, restaurants, gas stations, and stores.

Thank you for your time and consideration.

Testimony
7

Williston CVB

(convention & visitors)
bureau

212 AIRPORT ROAD • WILLISTON, NORTH DAKOTA 58801 • (701) 774-9041 • (800) 615-9041

Testimony of Amy Krueger, Executive Director, Williston Convention & Visitors Bureau

House Bill: 1245

January 18, 2011

Chairman Belter and members of the House Finance & Taxation Committee, my name is Amy Krueger and I am the Executive Director of the Williston Convention & Visitors Bureau. The Williston Convention & Visitors Bureau is in support of House Bill 1245, relating to the 2% city lodging tax and stays of thirty days or more.

Our non-profit organization receives the 2% lodging tax that is enacted by the ND Century Code, Section 40-57.3-01 for annual operating functions that include three areas: personnel, general operating expenses and marketing. We have been working on a limited staff, but with expanded budget we would be able to expand our overall marketing approach.

There is no question that our community has grown with the energy development; however with that growth there have been some growing pains that have impacted the growth of the marketing organization of our community. With the increased demands of the energy developments, the housing for the workers is varied from apartments, residential homes, hotel/motels, campgrounds, campers on mobile home lots and man camps. Providing the same individual is occupying the same room, the long term rental of hotel/motel rooms beyond a 30 day stay prevents the collection of the 2% lodging tax. This creates a loss of revenue for the Convention and Visitors Bureau.

The loss of revenue has impacted the growth of the marketing organization for the community, which is one component of making a more diverse economy. As these workers/business travelers come through our community they are also visitors and exploring our community. We need to be able to reach out to these travelers as well as keep up with the growth and needs of our future traveling potentials.

Please support House Bill 1245.

Sincerely,



Amy Krueger
Executive Director



Testimony of Wendy Howe - President
Minot Convention and Visitors Bureau
House Bill 1245
January 18, 2011

Chairman and members of the Finance and Taxation Committee:

I am here to speak to you today on behalf of the Minot Convention and Visitors Bureau to request your support for House Bill 1245. HB 1245 looks to amend the section of the ND Century Code that relates to the collection city lodging tax and state sales tax applying to stays of 30 days or longer. Currently the way the code is written, individuals occupying a room for longer than 30 days are exempt from paying tax.

As many things have changed in our state with the recent economic growth, too has changed the number of long term stay visitors that are occupying our hotels, motels, and campgrounds. As many of you are aware the main source of funding for CVB's comes directly from hotel/motel lodging tax. These funds are used to market our attractions, events, and communities to visitors. You are also aware that these visitors have a tremendous economic impact on our communities and the state as they shop, dine, purchase gas, take in many of our attractions and events, as well as experience the vast outdoor beauty of North Dakota.

Attracting visitors to our communities has become more challenging in the last few years with higher occupancies and much of that occupancy long term stays. Locating lodging for business and leisure travelers, sports tournaments, events, meetings, and conventions has become harder. And although we welcome this long term business to our community, it is impacting the revenues to the Bureau's and therefore the funds we have to market our communities. In addition we have heard from some hoteliers that find it difficult to monitor and guarantee compliance with the same guest per stay requirement. If later a deduction is found to be disallowed, it is near impossible to go back to the guest or company to collect the tax and the hotel will usually have to pay the tax on behalf of the occupant.

Again I would like ask for your support of House Bill 1245. These revenues are not only important to the Convention and Visitors Bureaus, but also to the communities and to State.

Thank you for your time and consideration.

North Dakota

Tourism Alliance Partnership

P.O. Box 2599
Bismarck, ND 58502
(701) 355-4458
FAX (701) 223-4645

2010/2011 MEMBERS

Basin Electric
Power Cooperative

Bismarck-Mandan CVB

Buffalo City Tourism

Days Inn - Grand Dakota Lodge

Destination Marketing
Association of North Dakota

Devils Lake CVB

Dickinson CVB

Fargo-Moorhead CVB

Fort Abraham
Linn Foundation

Grand Forks CVB

International Peace Garden

Lewis & Clark Fort
Mandan Foundation

Minot CVB

Municipal Airport Authority
of the City of Fargo

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Select Inn of Bismarck

Spirit Lake Casino and Resort

State Historical Society of
North Dakota Foundation

Theodore Roosevelt
Medora Foundation

Three Affiliated Tribes
Tourism Dept.

Trail Mountain
Band of Chippewa Indians

Williston CVB

Woodland Resort, Inc.

Testimony of Bill Shalhoob Tourism Alliance Partnership Chairman HB 1245

Chairman Cook and members of the Senate Finance and Taxation Committee, my name is Bill Shalhoob and I am here representing the North Dakota Tourism Alliance Partnership (TAP). TAP is a coalition of tourism industry stakeholders including Convention and Visitors Bureaus (CVBs), state attractions, businesses and other organizations in the viable and growing tourism sector of North Dakota's economy. We are asking for your support for HB 1245 and urge a do pass on the bill. For your information, a companion bill was passed by the Senate. SB 2180 was heard in the house last week. That bill came out of committee amended to be exactly like HB 1245 with a 12-2 do not pass recommendation.

When guests check into a hotel room, they are charged whatever sales taxes are applicable on that stay. In most cities, there is a 5 percent sales tax, a 2 percent marketing or CVB tax, a 1 percent city tax and a 1 percent tax commonly referred to as a "bed and booze tax" used for infrastructure development and marketing. Total tax can vary by locality based on home rule additions to the various categories. There is an exemption from this tax in current state law for guests who stay 30 consecutive days or more.

Current hotel practice is to charge tax for the first 30 days and credit the bill for the tax amount when the stay threshold is met. In rules set up by the tax department to address abuse, it was determined the room must be occupied by the same guest during the entire stay to get the tax break. A company, even if paying the entire bill, cannot rent the room for 30 days and move people in and out based on schedule or need; however, it is up to the hotel to monitor the guest occupancy. I believe the theory behind creating this exemption was that we do not charge sales tax on apartments, as

they are a living unit, and a hotel room occupied continuously for 30 days or more is more like an apartment transaction than a transient hotel sale.

There were two differences in these bills as they came to the second chamber. The first is that this bill continues to exempt the state and city tax portion from collection and all our CVBs' to collect the marketing and infrastructure portion of the tax. The second is HB 1245 did not make the changes in the Visitors Committee make up that SB 2180 did. TAP fully supports HB 1245 as it appears before you today.

Lodging tax revenues have increased recently due to increased occupancy and rates. However, losses are still reflected by area CVBs because of revenue projections from the lodging tax that should be collected for a given occupancy and daily average rate compared to what is actually being collected.

Although lodging tax revenues have risen, this doesn't change the fact that additional marketing revenue opportunities for the CVBs and smaller Community Tourism Councils are not being collected. Communities are experiencing growth in hotel numbers, and it is imperative these new facilities are marketed to ensure rooms remain filled. These marketing dollars are being lost due to this exemption. As marketing costs continue to increase, these additional dollars would provide for those costs along with dollars for community marketing projects that may not have been possible earlier. Inevitably, the oil activity will slow in and around many communities, and it is important to ensure marketing efforts have been made to secure stable and steady hotel activity and visitation in the future. In addition, CVB's must get in front of additional inventory in their communities in order to help generate the traffic necessary to fill more rooms. As examples, Williston has already had a 24% increase in inventory with another 41% under construction or in the planning storage. Dickinson will see an increase of 31% in the number of rooms in the near future. Even Bismarck has an increase of 21% in room inventory under construction or under contract. Cities must increase advertising during shoulder periods to overcome the perception that rooms are never available due to the oil activity

Although some questions have been raised as to whether or not legislators would have to pay additional taxes on rooms occupied during the legislative session, this is not an issue. According to Myles Vosberg, Director of Tax Administration, legislators would not need to pay this tax even if HB 1245 was adopted as NDCC Section 44-08-04, which is referenced in 54-03-20, states the room reimbursement rate already includes all applicable taxes on the room.

Eliminating the lodging tax exemption ultimately comes down to sustainability, displaced business and fairness. Although occupancy rates are increasing at this time, can CVB budgets be sustained if occupancy rates begin to decrease and this tax break is still in effect? Additionally, rooms that would traditionally generate revenue for CVBs are being occupied by long-term occupants that are tax exempt, and visitors that would traditionally support local businesses are displaced. Finally, this tax is charged to companies that stay two to three days per month but not to companies that stay 30 days or more. Most often tax is collected from North Dakota businesses that spread their businesses across the state, but not from out-of-state companies who are more likely to stay in a community for 30 days or more. It would appear more beneficial to the state's communities to capitalize on increased revenue from out-of-state businesses and charge all occupants the city lodging tax.

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today in support of HB 1245. I would be happy to answer any questions.



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Testimony of Terri Thiel, Executive Director, Dickinson Convention & Visitors Bureau

House Bill: 1245

March 14, 2011

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Terri Thiel and I am the Executive Director of the Dickinson Convention & Visitors Bureau. The Dickinson Convention & Visitors Bureau is in support of Senate Bill 2180, relating to the 2% city lodging tax and stays of thirty days or more.

The annual operating functions of a CVB include three areas: personnel, general operating expenses and marketing. Two of the three are primarily fixed costs, personnel and general operating expenses. The marketing is determined by the remainder of the annual budget. In smaller communities that collect the 2% lodging tax, for the most part the dollars are used for marketing only, primarily because those small communities may not have paid staff or office space.

There are 33 ND communities that currently collect a 2% lodging tax. Each of these communities, large or small, used the lodging revenue to promote and market to outside visitors. Some have Convention & Visitors Bureaus, some have Chambers and some have volunteer local tourism groups within their towns that receive the benefits of the lodging tax.

The additional revenue would flow to community organizations such as Bowman for example, who also uses lodging revenue to support their local volunteer tourism group, not just larger organizations that represent a community. The remove of the 30 day stay language could allow the Bowman Tourism Committee to look at additional ways to market their community because of additional revenue.

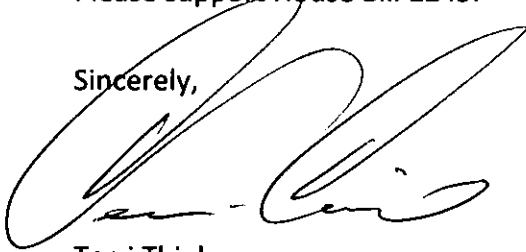
As our communities grow with the energy development, so should the marketing organization of our communities for several reasons. One, economic cycles are up and down. Full lodging

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the WESTERN EDGE

rooms come and go, and marketing must continue to reinforce the image of our communities when the down side occurs, bringing back visitor to our communities to experience all the things to see and do. Two, energy workers are also visitors. We have firsthand experience of families that have followed the primary energy worker entering into our office wishing to explore Dickinson and southwest North Dakota. Three, if energy is growing western ND, and growing it by all types of new businesses, our organization needs to continue to grow, keeping pace and exploring new ideas, to produce a variety of marketing tools for the future.

Please support House Bill 1245.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terri Thiel', written in a cursive style.

Terri Thiel
Executive Director

Williston CVB

(convention & visitors bureau)

Written Testimony of Amy Krueger, Executive Director, Williston Convention & Visitors Bureau

House Bill: 1245

March 14, 2011

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Amy Krueger and I am the Executive Director of the Williston Convention & Visitors Bureau. The Williston Convention & Visitors Bureau is in support of House Bill 1245, relating to the 2% city lodging tax and stays of thirty days or more.

The 2% lodging tax collected is a significant makeup of our non-profits overall annual operating budget. With the energy development and growth, Williston has experienced a significant increase in lodging tax. This is mainly due to increased occupancy and nightly room rates. Though this increase is great and has allowed us to participate in marketing opportunities that we previously were limited from, this scenario could change at any moment. A large part of Williston's hotel inventory is being leased and occupied by energy industry companies and employees, leaving very little inventory to accommodate other travelers. This group of other travelers is very important in diversifying and sustaining our market. With the housing needs facing Williston, we are seeing more inventories come onto the market; however they are being leased to "long term guest". In the past year we have added approximately 158 rooms to our market. I am estimating that over half of these rooms are occupied by one guest staying 30 days or more, making them exempt from the lodging tax. Though we still have added inventory to market and sustain.

We have been working on a limited staff, but with an expanded budget we would be able to expand our overall marketing approach. The look of the Williston Convention and Visitor's Bureau has changed drastically in the past few years. We are now in our own Visitor's Center, which provides better access to our guest. We no longer receive staffing assistance from the City of Williston, and we have drastically increased the number of people requesting information and our services. One example of this is, 3 years ago we had budgeted and planned for distributing 5 to 7,000 brochures for a year. Today we are distributing about 20,000 brochures per year. We have also had to drastically change our marketing approach due to some of the press received from the developments in the energy industry. We are working diligently to accommodate all travelers, but having to send very strong messages to plan ahead. This has taken increased marketing efforts, of which marketing buys have also increased.

Williston, like many of the other smaller communities in our state, has experienced some drastic turns in the economy. The elimination of the 30 day exemption would help to sustain our marketing efforts of our community. Sustainability of occupancy in all of the properties is a key component to a sustainable and diverse economy for the future of our community and the entire state.

I support House Bill 1245.

Amy Krueger
Executive Director

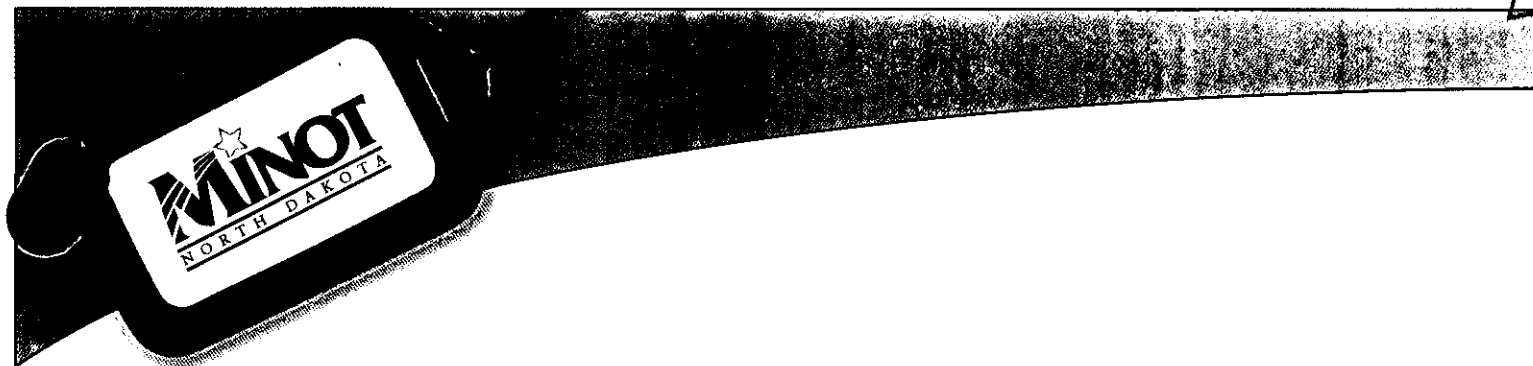
Testimony of Sandy Dobmeier, Vice President
Destination Marketing Association of North Dakota
(DMAND)

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Sandy Dobmeier, Vice President of Destination Marketing Association of North Dakota (DMAND). DMAND is an organization consisting of destination marketing organizations in North Dakota all helping to promote our state. I am also representing the Greater Grand Forks Convention & Visitors Bureau.

Our organization is in full support of HB1245 as it was passed by the House. We would like to ask for your support as well. The housing shortage in western North Dakota has caused oil workers to take up permanent residence in the area's hotels. After residing in their hotel rooms for 30 days, the individuals then qualify for the city lodging tax exemption and are not required to pay these taxes, money which normally goes into the communities' visitors' promotion funds. This exemption is beginning to affect the area hotels, which at times still have to pay the city lodging taxes. It also is impacting communities' convention & visitors bureaus, which are beginning to experience a decrease in available funding. This is presently more of an issue for the western part of the state. However, it certainly did cause a loss of funds in the eastern part of the state during the Flood of '97 and it undoubtedly could have an impact again in the future.

Therefore, we are in support of the removal of the city lodging tax exemption for those staying in a hotel, motel or tourist court more than 30 days. The removal of the exemption will provide a consistent source of revenue for North Dakota Convention & Visitors Bureaus.

We appreciate the time and effort you are all making to improve legislation to help us increase promotion North Dakota. Thank you.



Testimony of Wendy Howe – Executive Director
Minot Convention and Visitors Bureau
March 2, 2011

Chairman and members of the Senate Tax and Finance Committee:

I am here to speak to you today on the behalf of the Minot Convention and Visitors Bureau to request your support for House Bill 1245. HB1245 looks to amend the section of the ND Century Code that relates to the collection of city lodging tax and state sales tax applying to stays of 30 days or longer. Currently the way the code is written, individuals occupying a room for longer than 30 days are exempt from paying the tax.

As many things have changed on our state with the recent economic growth, too has changed the number of long term stay visitors that are occupying our hotels, motels, and campgrounds. As many of you are aware the main source of funding for CVB's comes directly from hotel/motel tax. These funds are used to market and promote attractions, events, and our communities to visitors. You are also aware that these visitors have a tremendous economic impact on our communities and the state as the shop, dine, purchase gas, take in many of attractions, and events, as well as experience the vast outdoor beauty of North Dakota.

Attracting visitors to our communities has become more challenging in the last few years with higher occupancies and much of that occupancy long term stays. Locating lodging for business and leisure travelers, sports tournaments, events, meetings, and conventions has become harder. And although we welcome this long term business to our community, it is impacting the revenues to the Bureaus and therefore the funds we have to market our communities. In the end I believe it comes down to sustainability and fairness. Occupancy rates are higher at this time but can our budgets sustain if those rates change and the exemption is still in effect and many of the rooms being occupied by long term stays. Additionally business travelers staying less than 30 days are being charged the tax, so many of our in state and local businesses are paying the tax, but not the out of state traveler, thus the fairness issue.

Again I would like to ask for your support of House Bill 1245. These revenues are not only important to the Convention and Visitors Bureaus, but also to the communities and the State.

Thank you for your time and consideration.



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Testimony of Sheri Grossman
President, Destination Marketing Association of North Dakota
House Bill 1245
March 14, 2011

Chairman Cook and Members of the Senate Finance and Tax Committee:

My name is Sheri Grossman and I am the Director of Sales for the Bismarck-Mandan Convention & Visitors Bureau and President of Destination Marketing Association of North Dakota (DMAND). DMAND is a cooperative association of independent Convention and Visitor Bureaus, as well as additional communities who share a broad-based community support and whose primary objective is the promotion of North Dakota.

Convention and Visitors Bureaus throughout the state, both large and small, are funded by lodging tax. Although some have other small funding sources such as membership dues, they primarily rely on lodging tax to fulfill their mission: to stimulate economic growth in the community by increasing visitor volume and visitor expenditures.

I ask for your support of House Bill 1245, which removes the 30-day stay lodging tax exemption. Convention and Visitors Bureaus need this lodging tax revenue to attract conventions, events, and tourists to our destinations.

Although this is currently a bigger issue in the western part of the state, at various times during the year, it affects cities throughout North Dakota. Convention and Visitors Bureaus work diligently to bring business to their destinations not just in the current year, but several years into the future. They need these funds to actively pursue convention and event groups for times when the hotel occupancy rate might not be as high as it is now.

At times, cities have to turn away visitors because a large portion of their hotel rooms are filled with occupants staying in excess of 30 days. They lose the tax revenue and in effect, have less money to use to market to bring visitors at a time in the future when the occupancy rate might be less.

Although the lodging tax collected in some cities has increased due to larger inventory of rooms or higher rates, advertising and marketing costs are increasing too. The budget for the North Dakota Tourism Division has not increased and is underfunded in comparison to our surrounding states (our biggest competitors for attracting visitors), leaving the CVBs or local entities with the responsibility of using additional funds to attract visitors to their destinations.

Removing the 30-day lodging tax exemption would not be an additional tax burden for many North Dakotans. The majority of rooms booked for 30-days or more are occupied by out-of-state guests, not North Dakotans. It is also an issue of fairness. People from out-of-state who stay in hotels are exempt from this tax because they stay more than 30 consecutive days. However, many North Dakotans stay in hotels several days each month on business and pay lodging tax.

Visitors have a significant impact on the economy in North Dakota and removing the 30-day tax exemption will help Convention and Visitors Bureaus as they work to bring future visitors to North Dakota. It is imperative to attract this business to fill our hotels, restaurants, gas stations, and stores.

Thank you for your time and consideration.

North Dakota

Tourism Alliance Partnership

P.O. Box 2599
Bismarck, ND 58502
(701) 355-4458
AX (701) 223-4645

2010/2011 MEMBERS

Basin Electric
Power Cooperative

Bismarck-Mandan CVB

Buffalo City Tourism

Days Inn - Grand Dakota Lodge

Destination Marketing
Association of North Dakota

Devils Lake CVB

Dickinson CVB

Fargo-Moorhead CVB

Fort Abraham
Lodge Foundation

Grand Forks CVB

International Peace Garden

Lewis & Clark Fort
Mandan Foundation

Minot CVB

Municipal Airport Authority
of the City of Fargo

ND Tourism Division (ex-officio)

Newman Outdoor Advertising

Norsk Hostfest Association

Odyssey Communications Group

Select Inn of Bismarck

Spirit Lake Casino and Resort

State Historical Society of
North Dakota Foundation

Theodore Roosevelt
Medora Foundation

Thompson Affiliated Tribes
Tourism Dept.

Timber Mountain
Band of Chippewa Indians

Williston CVB

Woodland Resort, Inc.

Testimony of Dana Bohn

Tourism Alliance Partnership Executive Director

HB 1245

Chairman Holmberg and members of the Senate Appropriations Committee, my name is Dana Bohn and I am here on behalf of the North Dakota Tourism Alliance Partnership (TAP). TAP is a coalition of tourism industry stakeholders including Convention and Visitors Bureaus (CVBs), state attractions, businesses and other organizations in the viable and growing tourism sector of North Dakota's economy.

As introduced, HB 1245 removed the local and state sales tax exemption for the rental of hotel rooms for 30 or more days. This bill was introduced because we are seeing a significant number of extended stays in the west due to oil activity and in cities like Devils Lake due to the ongoing road construction. This creates a problem because rooms that would traditionally generate revenue for CVBs are being occupied by long-term occupants that are tax exempt, and visitors that would traditionally support local businesses are displaced.

The House amended HB 1245 and reinstated the state sales tax exemption for 30-day room rentals. This means only local taxes would be collected, not the state portion. In addition, the House removed the requirement that the same person must stay in the room to qualify for the exemption.

The Senate Amendments to HB 1245 allows for the collection of all taxes for the first 90 days. On the 91st day, the state portion of the tax is credited back. No collections are made on the 91st day and beyond for the local or state portion.

Although the Senate Amendments would appear to help the tourism industry because you are increasing the number of days that the local tax could be collected by 60 days (from 30 to 90), they don't because the House Amendments change current law to allow more than one person to stay in the room(s). This means the number of days you can collect the local share is capped, but the number of guest becomes indefinite. The length of time a company could rent a room and put different guests in that room could extend for a significant period of time, which would prevent any further collection of the local tax and defeat the purpose of the

original bill. Therefore, we are opposed to the Senate Amendments to engrossed HB 1245.

For your information, a companion bill, SB 2180, was passed by the Senate. The House also amended out the state sales tax exemption for 30-day room rentals in SB 2180 and removed the requirement that the same person must stay in the room to qualify for the exemption. SB 2180 came out of House Finance and Tax amended to be exactly like HB 1245 came to the Senate. The House gave SB 2180 a 12-2 do not pass recommendation and it is on the House calendar.

TAP currently prefers SB 2180, but has no guarantee of passage in the House so, should the Senate decide to adopt HB 1245, we will work with the conference committee to address our concerns.

Background Information

When guests check into a hotel room, they are charged whatever sales taxes are applicable on that stay. In most cities, there is a 5 percent sales tax, a 2 percent marketing or CVB tax, a 1 percent city tax and a 1 percent tax commonly referred to as a "bed and booze tax" used for infrastructure development and marketing. Total tax can vary by locality based on home rule additions to the various categories. There is an exemption from this tax in current state law for guests who stay 30 consecutive days or more.

Current hotel practice is to charge tax for the first 30 days and credit the bill for the tax amount when the stay threshold is met. In rules set up by the tax department to address abuse, it was determined the room must be occupied by the same guest during the entire stay to get the tax break. A company, even if paying the entire bill, cannot rent the room for 30 days and move people in and out based on schedule or need; however, it is up to the hotel to monitor the guest occupancy. I believe the theory behind creating this exemption was that we do not charge sales tax on apartments, as they are a living unit, and a hotel room occupied continuously for 30 days or more is more like an apartment transaction than a transient hotel sale. The House amendments to both bills would change this.

Lodging tax revenues have increased recently due to increased occupancy and rates. However, losses are still reflected by area CVBs because of revenue projections from the lodging tax that should be collected for a given occupancy and daily average rate compared to what is actually being collected.

Although lodging tax revenues have risen, this doesn't change the fact that additional marketing revenue opportunities for the CVBs and smaller Community Tourism

Councils are not being collected. Communities are experiencing growth in hotel numbers, and it is imperative these new facilities are marketed to ensure rooms remain filled. These marketing dollars are being lost due to this exemption. As marketing costs continue to increase, these additional dollars would provide for those costs, along with dollars for community marketing projects that may not have been possible earlier. Inevitably, the oil activity will slow in and around many communities, and it is important to ensure marketing efforts have been made to secure stable and steady hotel activity and visitation in the future. In addition, CVBs must get in front of additional inventory in their communities in order to help generate the traffic necessary to fill more rooms. As examples, Williston has already had a 24% increase in inventory with another 41% under construction or in the planning stage. Dickinson will see an increase of 31% in the number of rooms in the near future. Even Bismarck has an increase of 21% in room inventory under construction or under contract. Cities must increase advertising during shoulder periods to overcome the perception that rooms are never available due to the oil activity

Although some questions have been raised as to whether or not legislators would have to pay additional taxes on rooms occupied during the legislative session, this is not an issue. According to Myles Vosberg, Director of Tax Administration, legislators would not need to pay this tax even if HB 1245 was adopted as NDCC Section 44-08-04, which is referenced in 54-03-20, states the room reimbursement rate already includes all applicable taxes on the room.

Eliminating the lodging tax exemption ultimately comes down to sustainability, displaced business and fairness. Although occupancy rates are increasing at this time, can CVB budgets be sustained if occupancy rates begin to decrease and this tax break is still in effect? Additionally, rooms that would traditionally generate revenue for CVBs are being occupied by long-term occupants that are tax exempt, and visitors that would traditionally support local businesses are displaced. Finally, this tax is charged to companies that stay two to three days per month but not to companies that stay 30 days or more. Most often tax is collected from North Dakota businesses that spread their businesses across the state, but not from out-of-state companies who are more likely to stay in a community for 30 days or more. It would appear more beneficial to the state's communities to capitalize on increased revenue from out-of-state businesses and charge all occupants the city lodging tax.

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today in opposition to the Senate Amendments to HB 1245. I would be happy to answer any questions.

SB 2180

Original Bill

1. Removes the local and state sales tax exemption for the rental of hotel rooms for 30 or more days.
2. Removes the visitor committee language related to the number of appointed committee members and term of service.

No Senate Amendments

House Amendments

Removes the local sales tax exemption for the rental of hotel rooms for 30 or more consecutive days.

SB 2180 with House Amendments

Removes the 30-day exemption for city lodging tax, and city restaurant and lodging tax purposes.

The state sales tax exemption for 30-day room rentals remains in place, but the bill removes the requirement that the same person must stay in the room to qualify for the exemption.

The removal of this exemption for local tax purposes is expected to increase city and county revenue an estimated \$1.4 million for the 2011-13 biennium. The expansion of the state exemption to allow for different people within the 30 consecutive days may result in a decrease in state general fund and state aid distribution fund revenues, but the amount cannot be determined.

Status

SB 2180 is on the House Calendar

HB 1245

Original Bill

1. Removes the local and state sales tax exemption for the rental of hotel rooms for 30 or more days.

House Amendments

Removes the local sales tax exemption for the rental of hotel rooms for 30 or more consecutive days.

Engrossed HB 1245 with House Amendments

Removes the 30-day exemption for city lodging tax, and city restaurant and lodging tax purposes.

The state sales tax exemption for 30-day room rentals remains in place, but the bill removes the requirement that the same person must stay in the room to qualify for the exemption.

The removal of this exemption for local tax purposes is expected to increase city and county revenue an estimated \$1.4 million for the 2011-13 biennium. The expansion of the state exemption to allow for different people within the 30 consecutive days may result in a decrease in state general fund and state aid distribution fund revenues, but the amount cannot be determined.

Senate Amendments

Allows for the collection of all taxes for the first 90 days. On the 91st day, the state portion of the tax is credited back. No collections are made on the 91st day and beyond.

Adds a sales tax exemption for nonprofit thrift stores.

Status

HB 1245 is before Senate Appropriations Monday, March 28.



Testimony of Sheri Grossman

President, Destination Marketing Association of North Dakota

House Bill 1245

March 28, 2011

Chairman Holmberg and Members of the Senate Appropriations Committee:

My name is Sheri Grossman and I am President of Destination Marketing Association of North Dakota (DMAND). DMAND is a cooperative association of independent Convention and Visitor Bureaus, as well as additional communities who share a broad-based community support and whose primary objective is the promotion of North Dakota.

Convention & Visitors Bureaus throughout the state are funded by lodging tax. CVBs work to bring business to their destinations not just in the current year, but several years into the future. They need this tax revenue to actively pursue tourists, conventions, and events for times when the hotel occupancy rate might not be as high as it is now.

At times, cities have to turn away visitors because a large portion of their hotel rooms are filled with occupants staying in excess of 30 days. They lose the tax revenue and in effect, have less money to use to market to bring visitors at a time in the future when the occupancy rate might be less. Although the lodging tax collected in some cities has increased due to larger inventory of rooms or higher rates, advertising and marketing costs are increasing too.

Removing the 30-day lodging tax exemption would not be an additional tax burden for many North Dakotans. The majority of rooms booked for 30-days or more are occupied by out-of-state guests, not North Dakotans. It is also an issue of fairness. People from out-of-state who stay in hotels are exempt from this tax because they stay more than 30 consecutive days. However, many North Dakotans stay in hotels several days each month on business and pay lodging tax.

DMAND supports HB 1245 in its original form, but is opposed to the amendments added by the Senate Tax and Finance Committee. The original intent of the bill was to increase the lodging tax for all cities on stays of more than 30-days, but specifically was to benefit those in western North Dakota who have the largest amount of long term stays occupying their hotel inventory. The amendments to this bill wouldn't provide a great deal of increased revenue. Many of the long term stays are purchased by companies and would be longer than the 90 day time period—some of them are purchased indefinitely. In addition, returning the state portion of the tax on the 91st day would also likely create an extra burden for the hotels. Some hotels already had concerns with compliance with the 30-day tax exemption—adding a more complicated reporting requirement was not our intent.

A companion bill, SB 2810, was passed by the Senate. DMAND currently prefers SB 2180, as it removes the 30-day lodging exemption for city lodging tax, and city restaurant and lodging tax purposes. Although, the state tax exemption would remain in place, removing the 30-day tax exemption for city lodging tax would give additional funding to the local tourism entities.

Visitors have a significant impact on the economy in North Dakota and removing the 30-day tax exemption will help Convention and Visitors Bureaus as they work to bring future visitors to North Dakota communities. It is imperative to attract this business to fill our hotels, restaurants, gas stations, and stores.

Thank you for your time and consideration.



Testimony of Jeb Oehlke
North Dakota Chamber of Commerce
HB 1245
March 28, 2011

Mr. Chairman and committee members, my name is Jeb Oehlke. I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, economic development organizations, convention and visitors' bureaus and public sector organizations. For the purposes of this hearing we are also representing five local chambers with total membership of over 5,000 businesses. As a group we stand in opposition to Section 4 of HB 1245 and urge the committee to remove the section from the bill.

It is quite common for non-profit organizations to open businesses that were traditionally left to the private sector. The obvious reason for doing so is to make money. This is the same reason an individual, family, or group of partners start a business. If their goal is to make money, to compete in the business world, why should the state give non-profit groups another advantage over their private sector competitors whose prices will be 5% to 7% higher because they must charge sales tax. Non-profit groups already have numerous advantages in raising capital and lowering overhead. They also have a significant advantage in the way they treat return on investment requirements. We do not feel creating unequal classes of retailers is wise tax policy.

Thank you for the opportunity to appear before you today in opposition to HB 1245. I am happy to answer any questions.



Testimony of Wendy Howe – Executive Director
Minot Convention and Visitors Bureau
March 2, 2011

Chairman and members of the Senate Tax and Finance Committee:

I am here to speak to you today on the behalf of the Minot Convention and Visitors Bureau to request your support for House Bill 1245. HB1245 looks to amend the section of the ND Century Code that relates to the collection of city lodging tax and state sales tax applying to stays of 30 days or longer. Currently the way the code is written, individuals occupying a room for longer than 30 days are exempt from paying the tax.

As many things have changed on our state with the recent economic growth, too has changed the number of long term stay visitors that are occupying our hotels, motels, and campgrounds. As many of you are aware the main source of funding for CVB's comes directly from hotel/motel tax. These funds are used to market and promote attractions, events, and our communities to visitors. You are also aware that these visitors have a tremendous economic impact on our communities and the state as the shop, dine, purchase gas, take in many of attractions, and events, as well as experience the vast outdoor beauty of North Dakota.

Attracting visitors to our communities has become more challenging in the last few years with higher occupancies and much of that occupancy long term stays. Locating lodging for business and leisure travelers, sports tournaments, events, meetings, and conventions has become harder. And although we welcome this long term business to our community, it is impacting the revenues to the Bureaus and therefore the funds we have to market our communities. In the end I believe it comes down to sustainability and fairness. Occupancy rates are higher at this time but can our budgets sustain if those rates change and the exemption is still in effect and many of the rooms being occupied by long term stays. Additionally business travelers staying less than 30 days are being charged the tax, so many of our in state and local businesses are paying the tax, but not the out of state traveler, thus the fairness issue.

Again I would like to ask for your support of House Bill 1245. These revenues are not only important to the Convention and Visitors Bureaus, but also to the communities and the State.

Thank you for your time and consideration.

Testimony of Sandy Dobmeier, Vice President
Destination Marketing Association of North Dakota
(DMAND)

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Sandy Dobmeier, Vice President of Destination Marketing Association of North Dakota (DMAND). DMAND is an organization consisting of destination marketing organizations in North Dakota all helping to promote our state. I am also representing the Greater Grand Forks Convention & Visitors Bureau.

Our organization is in full support of HB1245 as it was passed by the House. We would like to ask for your support as well. The housing shortage in western North Dakota has caused oil workers to take up permanent residence in the area's hotels. After residing in their hotel rooms for 30 days, the individuals then qualify for the city lodging tax exemption and are not required to pay these taxes, money which normally goes into the communities' visitors' promotion funds. This exemption is beginning to affect the area hotels, which at times still have to pay the city lodging taxes. It also is impacting communities' convention & visitors bureaus, which are beginning to experience a decrease in available funding. This is presently more of an issue for the western part of the state. However, it certainly did cause a loss of funds in the eastern part of the state during the Flood of '97 and it undoubtedly could have an impact again in the future.

Therefore, we are in support of the removal of the city lodging tax exemption for those staying in a hotel, motel or tourist court more than 30 days. The removal of the exemption will provide a consistent source of revenue for North Dakota Convention & Visitors Bureaus.

We appreciate the time and effort you are all making to improve legislation to help us increase promotion North Dakota. Thank you.

Williston CVB

(convention & visitors)
bureau

Written Testimony of Amy Krueger, Executive Director, Williston Convention & Visitors Bureau

House Bill: 1245

March 14, 2011

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Amy Krueger and I am the Executive Director of the Williston Convention & Visitors Bureau. The Williston Convention & Visitors Bureau is in support of House Bill 1245, relating to the 2% city lodging tax and stays of thirty days or more.

The 2% lodging tax collected is a significant makeup of our non-profits overall annual operating budget. With the energy development and growth, Williston has experienced a significant increase in lodging tax. This is mainly due to increased occupancy and nightly room rates. Though this increase is great and has allowed us to participate in marketing opportunities that we previously were limited from, this scenario could change at any moment. A large part of Williston's hotel inventory is being leased and occupied by energy industry companies and employees, leaving very little inventory to accommodate other travelers. This group of other travelers is very important in diversifying and sustaining our market. With the housing needs facing Williston, we are seeing more inventories come onto the market; however they are being leased to "long term guest". In the past year we have added approximately 158 rooms to our market. I am estimating that over half of these rooms are occupied by one guest staying 30 days or more, making them exempt from the lodging tax. Though we still have added inventory to market and sustain.

We have been working on a limited staff, but with an expanded budget we would be able to expand our overall marketing approach. The look of the Williston Convention and Visitor's Bureau has changed drastically in the past few years. We are now in our own Visitor's Center, which provides better access to our guest. We no longer receive staffing assistance from the City of Williston, and we have drastically increased the number of people requesting information and our services. One example of this is, 3 years ago we had budgeted and planned for distributing 5 to 7,000 brochures for a year. Today we are distributing about 20,000 brochures per year. We have also had to drastically change our marketing approach due to some of the press received from the developments in the energy industry. We are working diligently to accommodate all travelers, but having to send very strong messages to plan ahead. This has taken increased marketing efforts, of which marketing buys have also increased.

Williston, like many of the other smaller communities in our state, has experienced some drastic turns in the economy. The elimination of the 30 day exemption would help to sustain our marketing efforts of our community. Sustainability of occupancy in all of the properties is a key component to a sustainable and diverse economy for the future of our community and the entire state.

Please support House Bill 1245.

Amy Krueger
Executive Director

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Testimony of Terri Thiel, Executive Director, Dickinson Convention & Visitors Bureau

House Bill: 1245

March 14, 2011

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Terri Thiel and I am the Executive Director of the Dickinson Convention & Visitors Bureau. The Dickinson Convention & Visitors Bureau is in support of Senate Bill 2180, relating to the 2% city lodging tax and stays of thirty days or more.

The annual operating functions of a CVB include three areas: personnel, general operating expenses and marketing. Two of the three are primarily fixed costs, personnel and general operating expenses. The marketing is determined by the remainder of the annual budget. In smaller communities that collect the 2% lodging tax, for the most part the dollars are used for marketing only, primarily because those small communities may not have paid staff or office space.

There are 33 ND communities that currently collect a 2% lodging tax. Each of these communities, large or small, used the lodging revenue to promote and market to outside visitors. Some have Convention & Visitors Bureaus, some have Chambers and some have volunteer local tourism groups within their towns that receive the benefits of the lodging tax.

The additional revenue would flow to community organizations such as Bowman for example, who also uses lodging revenue to support their local volunteer tourism group, not just larger organizations that represent a community. The remove of the 30 day stay language could allow the Bowman Tourism Committee to look at additional ways to market their community because of additional revenue.

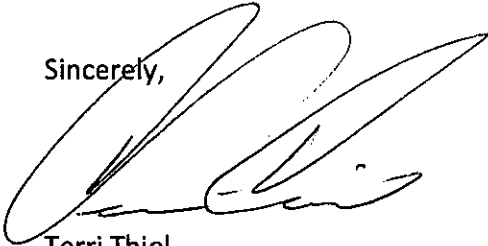
As our communities grow with the energy development, so should the marketing organization of our communities for several reasons. One, economic cycles are up and down. Full lodging

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rooms come and go, and marketing must continue to reinforce the image of our communities when the down side occurs, bringing back visitor to our communities to experience all the things to see and do. Two, energy workers are also visitors. We have firsthand experience of families that have followed the primary energy worker entering into our office wishing to explore Dickinson and southwest North Dakota. Three, if energy is growing western ND, and growing it by all types of new businesses, our organization needs to continue to grow, keeping pace and exploring new ideas, to produce a variety of marketing tools for the future.

Please support House Bill 1245.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terri Thiel', written over a horizontal line.

Terri Thiel
Executive Director