

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/10/2019**

Revised  
 Amendment to: SB 2192

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2192 enables a county to impose a county-wide lodging tax, and/or a restaurant and lodging tax.

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

Section 1 of SB 2192 enables counties to impose a lodging tax of up to two percent of the gross receipts of retailers within the county in the business of renting hotel/motel rooms. Section 1 also enables counties to impose a restaurant and lodging of up to one percent of the gross receipts of retailers renting hotel/motel rooms or selling prepared foods in restaurants within the county. This new county tax cannot be put in place to be collected by any establishment that is located in a city that imposes a city lodging and/or a city restaurant and lodging tax. If any city within the county imposes these taxes, the county tax will not apply.

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.*

While many cities in North Dakota impose a city lodging tax, there are a number of hotels/motels located outside of these cities. Based on FY 2018 statistics, there were \$16.5 million in taxable sales reported by hotels and motels that do not have a city lodging tax in effect. If all of these hotels were located within counties that chose to impose a county lodging tax of two percent, there would have been approximately \$330,000 in county revenue generated for that year. (City restaurant/lodging tax is less frequently imposed than the city lodging-only tax).

The actual fiscal impact of SB 2192, if enacted, is not known and is dependent upon if any county chooses to impose one or both of these new local taxes.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 01/15/2019

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**2019 SENATE FINANCE AND TAXATION COMMITTEE**

**SB 2192**

# 2019 SENATE STANDING COMMITTEE MINUTES

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

SB 2192  
1/16/2019  
Job #30857

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact chapter 11-09.2 of the North Dakota Century Code, relating to county lodging and restaurant tax; and to provide an effective date.

## Minutes:

Attachments: 1-11
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**Chairman Cook:** Called the hearing to order on SB 2192.

**Senator Bekkedahl, District 1, Williston:** Introduced the bill. See attachment #1. This bill essentially grants authority that already exists for cities to set up a convention and visitors tax environment for lodging and restaurant taxes. One is a 2% tax and one is a 1% tax. They are typically set up my resolution by the governing boards. In the case of this one, it is coming to you because we have facilities that are just outside some of the communities that want to participate in the convention of visitor bureau activities within the cities and be part of that group, however, they are in the counties. There needs to be an enabling legislation to allow them to do that. That is what this would do. It is supposed to specifically mirror the current language we have now for city lodging and facility taxes. The important part about this tax is that it is only supposed to be used as an expenditure line item to bring people to your community for using your facilities. There is language for committees to be set up to do that in the cities. I think you will see in this bill, the companion bill to this after my testimony and the hearing today, that they are requesting some changes in the membership of the committee to actual practices out there. I appreciate you looking at the bill today. I have with me, representatives of the industry; specifically, Amy Krueger, our local CVB director from the state of Williston. I also understand that there will be amendments from the tax dept. presented to clarify language and intent. The industry representatives here also have some clean up language to the bill. I apologize for that but I would request that the committee entertain those amendments and bring them on to the bill if you see so fit. **(2:50)** stood for questions.

**Chairman Cook:** I am shocked to see \$16.5 million in taxable sales by hotels outside of cities. Where are they all at.

**Senator Bekkedahl:** One large one is a Ramada center that is just north of the city of Williston. I do not know about other communities. I would guess maybe Watford City has

some of these and maybe some of the other oil communities. Dickinson, I do not know specifically but they are here and they can talk to that. It does happen and typically they are just outside city limits.

**Senator Dotzenrod:** Does the revenue generated go into the same fund that is currently in place for the city, or does it create two separate abilities to budget and fund? How do you envision this working?

**Senator Bekkedahl:** Originally, as the bill was going through the drafting, the intent was that the counties would set up a visitor's committee, like the cities have and then that committee would engage on the county level for those services. I think you will see from some of the amendments, is that they would like to have the ability through joint powers or just accessing the city committees that already exist and to put them all in one location and implementation.

**Mason Sisk, North Dakota Travel Alliance Partnership:** Testified in favor of the bill. See attachment #2.

**Amy Krueger, Executive Director of the Williston Convention and Visitor Bureau:** Testified in favor of SB 2192. See attachment #3. Amy also handed out written testimonies from two of the hotel properties located outside of Williston. See attachments 4 and 5.

**Terri Thiel, Executive Direction of the Dickinson Convention and Visitors Bureau:** Testified in favor of the bill. See attachment #6. Currently, Dickinson does not have lodging properties outside of the municipality, however that is something that could happen in the future. We support our other members in this industry. Marketing is expensive and many of those different hotels are wanting to join in and have the same benefit. We are looking at an expanding business within our state and I think this would be an advantage to those properties as well.

**Suzie Kenner, Executive Director of the Devils Lake Convention and Visitors Bureau:** Testified in favor of the bill. See attachment #7. We have 14 properties that sit along the shores of the lake. They would all like to be a part of collecting the tax for the county that would come into a promotional fund. I think the thoughts would be to contract out to be one place to help promote. We travel around the Midwest to sport shows. We market in publications and advertising is not cheap. This would put everyone on the same playing field. When we are out promoting our destination, we can promote everybody evenly. On a side note, Ramsey county commission did meet last night at 5:30 and I received a phone call from them to let you know that they were going to offer a letter of support to the committee in hopes that you put that out. I also put out a report from Kyle Blanchfield of the Woodland Resort. He couldn't be here today but he asked me to read it to you. See attachment #8.

**(16:20) Senator Patten:** You mentioned there are even one room cabins. This would apply to someone who even had just one unit?

**Suzie Kenner:** Yes, I believe that it would be worded the same that it would be under 30 days.

**Sara Otte Coleman, Director, Tourism Division at ND Department of Commerce:** Testified in favor of SB 2192. See attachment #9. I would like to remind the committee of the impact of the visitor expenditures on our state's economy. Between 3-5 billion dollars are spent by visitors to our state. A majority of those are none residents. This would be another way to streamline the offerings and the marketing we can do to attract more revenue. The industry supports 2800 tourism businesses and generated about \$2.8 million in taxes for the state. The other point I have is that the number one reason people come to our state is for the outdoors. The counties are situated to service those outdoor travelers. That is not to say they all stay in the county. They enjoy our outdoors and stay both in our cities and our counties. This would help to level the playing field and provide a more consistent environment. The professionalism is amazing in our bureaus. They are trained professionals who put together very detailed and comprehensive plans and report to boards of directors for expenditures and show a strong return on investment. The cleanup language makes a lot of sense. We are two small of a state to be dividing stuff up so it makes a lot of sense to put those funds together and have them administered in a professional manner. **(19:00)** Stood for questions.

**Chairman Cook:** Do you have any idea how many private residents there are that are made available for rent.

**Sara Otte Coleman:** We did get some numbers from Airbnb. I think it was in the Tribune on Sunday. I know they have increased about 400%. They vary from community to community. Most are in Fargo, second are in Bismarck. I could certainly provide you with that report.

**Chairman Cook:** They should be collecting our lodging tax also correct.

**Sara Otte Coleman:** Yes. We have been meeting with the tax dept. on that. The state does have a contract with Airbnb to collect those taxes. That was one of the pieces we were working on in the interim. We were trying to figure out how to do this in an efficient way. After further investigation, our understanding was that the existing environment does require those private residents to submit taxes. The difficulty is in regulating. Now I would defer any other questions to the tax dept.

**Doug Bolken, Tourism Director for McKenzie County:** Testified in favor of SB 2192. See attachment #10. McKenzie county also has a lot of accommodations that lie within the county but outside of Watford City limits. We list them in our promotions. We direct people to them if we are full in our hotels in our city. This would allow us to market out there. We do market to the attractions within the county. Our number one attraction is the national park. We do not communicate to the accommodations. This promotional investment is important to our county and it will allow us to continue to promote to visitors and future residents. It will allow us to highlight the attractions and quality of life amenities that the county has to offer.

**Senator Patten:** How many hotel units are located outside of the city minutes?

**Doug Bolken:** I would say about 150. We have them south of highway 85. We have a few to the west of highway 85 as well.

**Senator Patten:** The extended stay units; do those typically qualify for the under 30 days?

**Doug Bolken:** If they stay under 30 days and within the city currently, they would have to pay that tax.

**Senator Patten:** So it can vary by unit?

**Doug Bolken:** Yes. That is always the challenge on collecting that tax; whether they are under or over 30 days.

**Chairman Cook:** Further testimony in favor of 2192? Testimony opposed?

**Charles Dendy, Tax Department Legal Council:** Distributed proposed amendment. See attachment #11. They amendments are lengthy but simple. The bill uses the term “bed and breakfast”. That is not a phrase that we use with the city lodging tax, or in the sales and use tax. So we would not like to use that phrase here. It would avoid confusion. Bed and breakfast is already covered under the existing law. The second change relates to tourist court. That is a term that has been used in the sales tax law in the past. This bill uses other accommodations that we like better. Our second change is to take the sales tax existing laws and instead of tourist court, use other accommodations.

**Senator Meyer:** We are going back to the Airbnb and we are removing bed and breakfast because it wasn’t specified in sales and tax law. I read an article in the Harold stating that our city is looking to tax these Airbnb rentals and I thought, “If we remove that, would that restrict those political subdivisions from collecting that tax?” Such as if we struck out that bed and breakfast. I know you said other accommodations but I don’t know if that is something that needs to be more clearly defined.

**Charles Dendy:** The intention is that other accommodations would cover that. These amendments are just to make the language consistent, and they don’t make any subsiding change.

**Chairman Cook:** Can you speak to the tax dept. agreement with Airbnb over collection of rental property

**Charles Dendy:** I would defer to Miles for those questions.

**Miles Vosberg, Tax Commissioner Office:** Testified as neutral for SB 2192. I can’t go into detail about the collections, but Airbnb was willing to enter into an agreement with us to collect the sales tax of both the city and state and the applicable lodging taxes for all of the facilities that have contracts and work through the Airbnb platform to rent rooms. That went into effect this spring. Airbnb is known for being willing to collect tax. They have agreements with a lot of states to collect the tax. For us, any tax that the tax dept. is administering, Airbnb is taking care of it. There are a few cities that collect their own lodging tax. We have provided them with some contact information and they are working individually with those cities to come up with agreements.

**Chairman Cook:** So there are cities that collect their own lodging tax?

**Miles Vosberg:** Yes, there are a few cities such as Grand Forks, Minot, and Fargo that have their own lodging tax that they are imposing under their home rule. This allows them to do that rather than under the chapter 40576.3 that allows any city whether they have a home rule or not, to impose a lodging tax up to 2%. The cities that impose their tax under that chapter, are required to have the Tax Commissioner administer for them.

**Chairman Cook:** They are limited to 2%?

**Miles Vosberg:** Correct.

**Chairman Cook:** Is it safe to say that a city that elects to do their own, is to get away from their limit of 2%?

**Miles Vosberg:** I think that is one of the reasons why Minot does their own. But yes that can go above the 2% limit if they do it on their own.

**Chairman Cook:** How many other companies are there like Airbnb?

**Miles Vosberg:** There are at least a couple other very large ones. They are not so willing to work with us to collect tax. It kind of goes back to issues because those entities aren't actually here. So, if we are aware of the facilities or the homes that are renting, then we would contact them and talk to them about registering for sales and lodging taxes if it is within a city that we administer the lodging tax because the tax is due and it is a matter of who is responsible for collecting it. That home owner is responsible unless we have an agreement.

**Chairman Cook:** Have the cities every imposed on someone that refuses to collect or avoids it?

**Miles Vosberg:** If we are aware of them doing business, we have the ability to do estimated assessments for what our best guess of the tax is. Then they are able to respond and protest to that.

**Senator Unruh:** Other than Airbnb, the state doesn't have any other agreements with other platforms?

**Miles Vosberg:** That is correct. Just Airbnb.

**Chairman Cook:** Any other testimony on SB 2192? We will close the hearing on SB 2192.

# 2019 SENATE STANDING COMMITTEE MINUTES

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

SB 2192  
1/29/2019  
Job # 31698

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard

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

A BILL for an Act to create and enact chapter 11-09.2 of the North Dakota Century Code, relating to county lodging and restaurant tax; to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to references to tourist court accommodations; and to provide an effective date.

### Minutes:

Attachments: 2

**Chairman Cook:** Called the committee to order on SB 2192. We have Christmas Tree amendments to the bill that everyone should have. See attachment #1. Also distributed another version of the amendments. See attachment #2.

**Senator Brad Bekkedahl, District 1, Williston:** I am going to try to walk the committee through the changes in the colorful version. I am going to start on page 1. The green language above there, references the tax commissioner's office that wanted it placed into here. If you look on line 12 of that page you will see the red lining out of the words "bed and breakfast". I am told that is out because the provisions already exist in the tax code language for bed and breakfast. The same thing is on page 2 and line 1. Every language is the same until line 13, you see the strike out of "visitor's committee" and below that on line 22, 23, and 24, it talks about the visitor's committee and the board of county commissioners appointing the member of the visitor's committee. If a county has a city jurisdiction unit in place which was called a local dilation marketing organization, they want to allow the counties to utilize that same marketing organization and not have to set their own visitor's committee up. It continues on with the changes everywhere in code that you see here. If you look on line 31 on page 3, continuing on the line 1-5, it removes the language that sets up the how visitor's committee must be set up. I will continue on line 7-10. The Senator read from page 3 lines 7-12. When I read this, I realized that if there is no local destination marketing organization, and they want to pursue this development in their statute, they need to address that. They took out the language on how to form that committee. I will put it on your committee to discuss that and make the best decision. I have looked at reinserting the language on how to make a committee or you could look at line 10 on page 3, after the "organization" word in green, you could insert the words "or if no local destination marketing organization exists, may contract with any person firm association." I am told that the counties would talk to the chambers of

commerce or other entities to fulfil those tasks. If you go to page 4, you see the language in grey with “tourist court” taken out and the word “other” inserted. That is because tourist court is obsolete language it does not exist in the industry anymore. The same thing is on page 5 and 6 in two places. That must be the sections that the tax department wanted corrections made. I know I went through this very fast.

**Chairman Cook:** 30,000 feet and there is not tourism tax in Stark county right now. They want to impose one. They want the money to be able to go to the existing local destination marketing organization which is what the city of Dickinson has.

**Senator Dotzenrod:** On the top of page 3, it looks like we are crossing out this “committee members shall serve a term of 4 years”. On the bottom of page 2 it also says they must be registered with the secretary of state. If we take all this out, when they talk about local destination marketing organizations, if you don’t have one, we are removing all this guidance about how one would be put in place. Is that covered somewhere else?

**Senator Bekkedahl:** I called several of the people that I knew in this industry and both of them told me that they couldn’t find a place where that would happen. I told them we deal with the what ifs in the bill language. That is when they said they would have the counties to go to the chamber of commerce or some existing organization to help facilitate the duties of the local destination marketing organization. They could do that by contract on that language 10 if we inserted the language we talked about.

**Senator Dotzenrod:** On page 2 line 22, it says they “shall establish a county visitor’s promotion fund.” This is new language. I think this 109.203 is being created. You get the fund, but what about if you don’t have a committee because we have crossed over committee on line 19. I am confused on if a county wants to get into this and wants to have that ability to have this group of people in their county to manage this fund.

**Chairman Cook:** Who makes the decision to spend the money?

**Senator Bekkedahl:** You are exactly right. On the bottom of page 2 and the top of page 3, that language that is stricken out, was language put in because it exactly mirrored the city statutes that you see in 2193 which is the companion bill. In 2193, the sponsors wanted to remove the statutory language that said how and who had to be on the visitor’s committee. They will still have one. I was told they want it that way because no one is really following it anyway. They are removing that language for cities. That is why it was taken out of this bill as well so they don’t conflict.

**Senator Dotzenrod:** It looks like they are taking our “registered with the secretary of state”. The cities visitor’s bureau has been required to register with the secretary of state. This bill would remove this requirement as well.

**Senator Bekkedahl:** I would agree with that. I don’t know why that has been done at their request. You might want to ask Mason here. You had the right analysis of the 30,000 foot, Mr. Chairman.

**Sherri Grossman, CEO Bismarck Mandan Convention Visitor's Bureau:** As far as the county for Bismarck and Mandan, that won't do much for us. Ours are all in the city limits. We have a contract with the cities. I would assume the counties would do a same thing and have a contract with the cities. Our money goes through the tax dept. to our cities, and then the money comes to us. We have bylaws that we follow. The city administrator in Bismarck and Mandan both serve on our board. As we see it, no one is following the visitor's committee. They are not registered with the secretary of state. They never have been. We are though.

**Chairman Cook:** You keep mention CVB and then a destination marketing organization. How many of them are you and what is the difference?

**Sherri Grossman:** People are just realizing what CVB means, so we are not using destination marketing organization but that really is what it is. It is the entity that markets your organization to visitors. They are one in the same. Our committee currently has 2 members. We never really did have 5. Places that do not have a CVB, use the chambers for those places. I am not aware of any place that does not have some entity they use.

**Chairman Cook:** Who do you answer to?

**Sherri Grossman:** I have a board of directors but as a whole, we submit our budget to the city commission of Bismarck and Mandan. It is a pass through for us.

**Senator Bekkedahl:** The language in statute requires the city and whatever private county to set up a visitor's committee. That is a step in the process that we had in Williston. We never used the visitor's committee. These 5 members never met or gave us any input. We delegated just as she has explained the responsibilities of that visitor's committee, directly to the CVB in which we go to their board. I now understand why they are taking language about the visitor's committee out because no one does it that way. It is an entity that may exist on paper but doesn't do anything. The activity goes directly form the cities or whoever the governing board is, directly to the CVB.

**Mason Sisk, Travel Alliance Partnership:** As far as the language of being registered with the secretary of state, that is not in city code. That was something that was added. When we looked at it, we got rid of it. The constituent that was helping put this together, wanted some accountability. The secretary of state language isn't actually in the city code.

**Senator Dotzenrod:** When I heard entering into contract, I thought that that explains why they want the secretary of state in it. If you have a contract with liability exposure, you want to make sure you are dealing with a group that has some standing. We are actually taking that out because we are abandoning the notion that this group needs to be there.

**Chairman Cook:** How much money do you handle every year?

**Sherri Grossman:** Our budget has been less in the last few years with the lodging tax being down. Our budget is about \$1.4 million. That is Bismarck and Mandan lodging tax as well as membership. We also have gaming sites. Bismarck's lodging tax, this last year, was about \$799 dollars and Mandan's was just shy of \$50,000.

**Chairman Cook:** Do you ever get audited?

**Sherri Grossman:** The state auditors would audit us. We do an audit every year. We have an auditing firm that comes in.

**Senator Dotzenrod:** When we see local destination marketing organizations in this bill, should we understand that means CVB for most of our cities?

**Sherri Grossman:** Yes.

**Senator Dotzenrod:** And the CVB is registered with the secretary of state?

**Sherri Grossman:** Yes.

**Senator Unruh:** Moved to adopt the amendments.

**Senator Kannianen:** Seconded.

**Chairman Cook:** Any Discussion?

**A Voice Vote Was Taken.**

**Motion Carried.**

**Senator Dotzenrod:** For the 30,000-foot view, the idea is that this would allow counties to do the work. It covers situations where the activity exceeds outside the city limits. Is there a limited amount of place in the state where this is true? It sounds that for Bismarck Mandan, this wouldn't apply but for places like Dickinson it does.

**Chairman Cook:** It is because they have hotels outside the city limits. IT is just enabling legislation to impose the lodging tax.

**Senator Meyer:** Moved a Do Pass on SB 2192 as Amended.

**Senator Patten:** Seconded.

**Chairman Cook:** Any Discussion?

**A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Dotzenrod will carry the bill.**

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2192

Page 1, line 2, after the semicolon insert "to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to references to tourist court accommodations;"

Page 1, line 9, remove "bed and breakfast."

Page 1, line 22, remove "bed and breakfast."

Page 2, line 16, remove "**Visitors' committee** -"

Page 2, line 19, remove "and a visitors"

Page 2, remove line 20

Page 2, line 21, remove the first "committee"

Page 2, line 21, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 25, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 27, remove "The visitors' committee must be registered with the secretary of"

Page 2, remove lines 28 through 30

Page 3, remove lines 1 and 2

Page 3, line 4, replace "visitors' committee" with "local destination marketing organization"

Page 3, line 5, replace the first "committee" with "organization"

Page 3, line 5, replace the second "committee" with "organization"

Page 3, line 6, replace "visitors' committee" with "local destination marketing organization"

Page 3, after line 28, insert:

**"SECTION 2. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or ~~tourist court~~ other accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and

2503

other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

- 22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
- 23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or

communication, excluding internet access service, the furnishing of hotel, motel, or ~~tourist court~~other accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

**SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- e. The leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations.

**SECTION 4. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- 22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days."

Renumber accordingly



Date: 1-29-19  
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2192

Senate Finance and Taxation Committee

Subcommittee

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

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

Motion Made By Meyer Seconded By Patten

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Dotzenrod

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

**REPORT OF STANDING COMMITTEE**

**SB 2192: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2192 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to references to tourist court accommodations;"

Page 1, line 9, remove "bed and breakfast."

Page 1, line 22, remove "bed and breakfast."

Page 2, line 16, remove "**Visitors' committee** -"

Page 2, line 19, remove "and a visitors"

Page 2, remove line 20

Page 2, line 21, remove the first "committee"

Page 2, line 21, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 25, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 27, remove "The visitors' committee must be registered with the secretary of"

Page 2, remove lines 28 through 30

Page 3, remove lines 1 and 2

Page 3, line 4, replace "visitors' committee" with "local destination marketing organization"

Page 3, line 5, replace the first "committee" with "organization"

Page 3, line 5, replace the second "committee" with "organization"

Page 3, line 6, replace "visitors' committee" with "local destination marketing organization"

Page 3, after line 28, insert:

**"SECTION 2. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or ~~tourist court~~ tourist accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and other periodicals. By the term "processing" is meant any

tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or communication, excluding internet access service, the furnishing of hotel, motel, or ~~tourist court~~ other accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are

furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

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- e. The leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations.

**SECTION 4. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- 22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days."

Renumber accordingly

**2019 HOUSE FINANCE AND TAXATION**

**SB 2192**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2192  
3/4/2019  
33106

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

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

Relating to county lodging and restaurant tax; relating to references to tourist court accommodations; and to provide an effective date.

### Minutes:

Attachments 1-8

**Chairman Headland:** Opened hearing on SB 2192.

**Senator Wardner:** Introduced bill. This has to do with county lodging tax and tourism. There are people here who are going to explain the bill.

**Chairman Headland:** We'll take testimony in support.

**Mason Sisk, Travel Alliance Partnership:** Distributed written testimony, see attachment 1. Ended testimony at 3:13.

**Chairman Headland:** How many cities are currently looking for this legislation?

**Mason Sisk:** Williston has a hotel at the airport that is outside of city limits. The hotel wants to be included in the visitor area marketing so they are also on board for this legislation.

**Representative Ertelt:** The first subsection, 11-09.02-01 is the 2% and there's an additional 1% in 11-09.2-02. Can you explain that one?

**Mason Sisk:** It's just mirroring what's already in city code. There is 2% on the lodging and the extra 1% is on the restaurant tax for alcoholic beverages being served and that sort of thing.

**Representative B. Koppelman:** What if there's a scenario where the county imposes a tax and a city chooses to impose one later, would that trump the county tax?

**Mason Sisk:** In order to implement the county lodging tax they may have to enter into some type of joint powers agreement on the county level. I'm not exactly sure how that scenario would play out.

**Chairman Headland:** Why doesn't the county just go to home rule?

**Mason Sisk:** I can't answer that.

**Amy Krueger, Executive Director for the Williston Convention and Visitors Bureau:** Distributed written testimony, see attachment 2. Ended testimony at 9:24. Also distributed written testimony from Ramada Williston Airport XWA, see attachment 3. Currently in tax code the county once they are home rule they cannot enact it.

**Chairman Headland:** I would need clarification on that.

**Amy Krueger:** That's what we were told from the tax department.

**Chairman Headland:** We'll get to the bottom of it. It would seem to me that home rule would be a lot easier way to go rather than having a new tax available across the state.

**Representative B. Koppelman:** It could be that their home rule charter doesn't allow that. In your testimony does the Williston Convention and Visitors Bureau not promote any sort of business or attraction that is outside of the city limits?

**Amy Krueger:** We promote attractions outside the city limits. This was a tax enacted by our hotels years ago. If you're in the city limit paying taxes you're not going to want me to promote somebody who isn't paying taxes outside of the city.

**Representative B. Koppelman:** In the letter from the Ramada it sounds like there is an exclusionary membership if they're not in the area that pays tax then they don't get included. If that's true, then any sort of attractions or locations outside the city limits don't pay any tax into that either. If you view it to be in the benefit of those that are within city limits then you'll spend those tax dollars on promoting it but if you don't feel it's in their best interest, then you won't do it. I don't think you can have it both ways.

**Amy Krueger:** It's standard from hotel to hotel or properties to properties. Whether attractions are inside or outside city limits they don't pay a lodging tax. We are promoting all those attractions throughout the state. Whether you're paying lodging taxes in city limits or not paying lodging tax in the county really has to do with the properties and making sure everyone is on that same playing field.

**Terri Thiel, Executive Director of the Dickinson Convention and Visitors Bureau:** Distributed written testimony, see attachment 4. Ended testimony at 14:49.

**Chairman Headland:** How long have you been the executive director of the CVB?

**Terri Thiel:** 21 years.

**Chairman Headland:** We've visited this issue before. Do you recall what we addressed before?

**Terri Thiel:** It could have been the blue logo bill but I don't remember the taxation like this.

**Chairman Headland:** Is Stark County home rule charter?

**Terri Thiel:** Yes, the city of Dickinson is but I'm not sure if the county is or not.

**Chairman Headland:** We're going to find out if they can already do this through home rule. If they can I don't know if there would be a need to pass this bill.

**Terri Thiel:** Distributed written testimony from Doug Bolken, McKenzie County Tourism, see attachment 5. Ended testimony at 17:59.

**Representative B. Koppelman:** Is there anything that would allow the Visitors Bureaus to come up with a membership fee to allow a bar, a restaurant, or a hotel outside of city limits who's not paying tax to be a member?

**Terri Thiel:** There are already some Visitors Bureaus that have memberships.

**Tanner Cherney, Visitor Services Manager for the Devils Lake Convention and Visitors Bureau:** Distributed written testimony from Suzie Kenner, Executive Director of the Devils Lake Convention and Visitors Bureau, see attachment 6. Ended testimony at 21:25. Also distributed and read testimony from Kyle Blanchfield, Woodland Resort, see attachment 7. Ended testimony at 23:09.

**Sara Otte Coleman, Director of Tourism Division at the North Dakota Department of Commerce:** Distributed written testimony, see attachment 8. Ended testimony at 27:29.

**Chairman Headland:** What you mentioned about Bismarck and how they were doing it, the bill was to allow the other cities across the state to do it.

**Sara Otte Coleman:** That was back in the 80s when they started that. Back in 2003 there was a bill to enact a 1% statewide lodging tax which was in addition to the local lodging tax. That went to supplement the state tourism office budget. Counties also indicated that there are 10 counties that operate on home rule.

**Chairman Headland:** I understand a county that is home rule has maybe been reluctant to pass this and dedicate it towards promotion versus using it for their own general funds. We'll see what the counties have to say about this.

**Representative Hatlestad:** At one time we may have talked about that hotels could only tax the first couple days and extended stays were not allowed to tax.

**Sara Otte Coleman:** Yes, we had discussions that they don't pay the taxes if they go beyond the 30 days.

**Donnell Preskey, North Dakota Association of Counties:** As indicated there are 10 counties that have a home rule charter. It really varies on their needs in passing that home rule charter and what those funds are dedicated to.

**Chairman Headland:** Every time a county or home rule charter asks for something else do they always have to go to a vote?

**Donnell Preskey:** This is out of my scope of expertise. I can try and get someone in here to answer those questions.

**Chairman Headland:** Is there anything else? Is there opposition? Questions for the tax department.

**Myles Vosberg, Office of State Tax Commissioner:** Regarding the issue of voting for a new tax or imposing a tax under home rule, that would depend on how the home rule charter is written. Some cities allow the city commission to impose a tax without a vote while others require a vote of the people. There was a question about what happens if a county imposes a tax under this proposed legislation then a city later imposes a tax, the county would have to drop its tax. The language on page 2 lines 12-16 it talks about a county can't impose a lodging tax or a restaurant tax within the boundaries of a city if the city imposed a tax or subsequently enacts and imposes a city lodging and restaurant tax. If the county is there first but the city comes in later the county has to repeal or stop collecting their tax.

**Chairman Headland:** If this bill were to pass the money is all directed to the same fund.

**Myles Vosberg:** On page 1 line 18 the proceeds go into the County Visitor's Promotion fund. There was a question about whether counties could impose the taxes under home rule and currently a county could impose either or both a lodging tax or a restaurant lodging tax.

**Chairman Headland:** Can they have a dual tax then? If they already have it dedicated towards promotion can they add an additional lodging and restaurant tax?

**Myles Vosberg:** The existing taxes that have been imposed by counties up to this point are sales and use taxes. They can also impose a 2% lodging tax which they can use however they want. They can impose a 1% restaurant lodging tax which applies both to lodging and prepared food.

**Chairman Headland:** But they can't impose one and dedicate towards promotion then also have a lodging and restaurant tax that would go to their general fund.

**Myles Vosberg:** Right now home rule powers allow them to impose the lodging tax or the restaurant tax. This bill would add another layer. They cannot impose two lodging taxes or two restaurant taxes.

**Representative B. Koppelman:** You could have West Fargo with their group, Fargo with their group promoting, and you're taxing the stuff on the out skirts of town so are they both going to apply for the money from some other board. How's this going to be done? This is assuming you have one main community without a lot of competition for those dollars from another community.

**Myles Vosberg:** On page 2 starting on line 19 it indicates the tax collected goes into the County Visitor's Promotion fund and the local destination marketing organization shall serve as an advisory committee to the Board of County Commissioners to administer the proceeds. The money is required to be used general to promote, encourage, and attract visitors. On the bottom of page two it also talks about the Board of County Commissioners annually shall review the local destination marketing organization budget. There is some oversight by the county.

**Representative B. Koppelman:** In that section everything is written in singular. If you have two competing for funds that doesn't sort that out.

**Myles Vosberg:** I'm not sure I can answer your question now.

**Sara Otte Coleman:** There are instances where there are multiple so that could possibly be an amendment where we could plural that. That would be the role of the visitor committee. They would determine who would be the recipient of that.

**Chairman Headland:** Is there further testimony in support? Is there opposition? Seeing none we will close the hearing on SB 2192.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2192  
3/11/2019  
33496

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

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

Relating to county lodging and restaurant tax; relating to references to tourist court accommodations; and to provide an effective date.

### Minutes:

No attachments

**Chairman Headland:** Is anyone working on amendments? We're open for discussion. This is the expansion of the hotel tax out into the counties. This impacts Williston but I'm not sure if it impacts other areas as well.

**Representative Ertelt:** Home rule can impose lodging tax. If they want to really do it then they can propose home rule in that county.

**Representative Toman:** I think the people in favor of this were the people not paying the lodging tax in the first place. I'm going to resist a do pass. **MADE A MOTION FOR A DO NOT PASS.**

**Representative Ertelt: SECONDED**

**Representative Hatlestad:** I think this was a marketing situation. Those outside the city wanted to be included in the marketing package so they were willing to endorse this bill.

**Representative B. Koppelman:** It would end up being a county-wide tax to support the largest city in the county. I don't think that's the right way to go when they have other tools at their disposal to expand their membership if they're going to promote outside the city. They said they are more than willing to promote the attractions outside the city, just not the other businesses outside the city.

**Representative Hatlestad:** The business would pay the association fee rather than the consumer that used the room so that would cost that outside business money. By allowing this to happen you, as a consumer, would pay the tab for the advertising.

**Representative B. Koppelman:** I'm not sure that's better. It seems like a pretty narrow request. I'm still opposed.

**ROLL CALL VOTE: 5 YES 8 NO 1 ABSENT**

**MOTION FAILED**

**Chairman Headland:** Does anybody want to work on this? They already have home rule that they can use. It's going to help the major cities. I'm not sure there's anything new we could put in to change it.

**Representative B. Koppelman:** I'd be willing to look at it.

**Chairman Headland:** Representative Hatlestad, do you know if Williams County is home rule?

**Representative Ertelt:** Yes, they are since 2006.

**Representative Fisher:** Have we heard from Ramsey County?

**Representative Ertelt:** No, Ramsey is not.

**Representative B. Koppelman:** In both cases a non-home rule city or county can impose the tax but could they do so without a vote of the people? How do we feel about giving a county and the city the ability to do a form of a sales tax without having the voters weigh in?

**Chairman Headland:** In theory, if we want a vote of the people on opposing this tax even if we didn't want to force them into home rule we could probably put that in the bill.

**Representative B. Koppelman:** We could get the county to weigh in on whether it's a good idea and not just the members of the city or the outskirts of the city.

**Chairman Headland:** I'm going to talk with counsel and have that discussion to get their thoughts. We'll break for now.

# 2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2192  
3/11/2019  
33527

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker
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## Explanation or reason for introduction of bill/resolution:

Relating to county lodging and restaurant tax; relating to references to tourist court accommodations; and to provide an effective date.

## Minutes:

No attachments
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**Chairman Headland:** Travis, can you figure out how a vote of the people would fit into this bill? I haven't been able to speak with counsel. I'm trying to figure out a way to get this passed. Anyone have any ideas?

**Representative Trottier:** A vote of the people would make it more palatable.

**Chairman Headland:** Dee, could you help us through this? We're thinking of adding a vote of the people and where that might fit.

**Dee Wald, General Counsel for the Office of the State Tax Commissioner:** Right now it's on page one line 10.

**Chairman Headland:** We'd want to change that not by ordinance but by a vote of the people.

**Dee Wald:** And you could add how many, like 60% of the voters.

**Chairman Headland:** Committee, how would we like to proceed with a vote?

**Representative Trottier:** The travelers pay for this. Does everyone have a problem with the counties or the cities imposing the tax on their own?

**Chairman Headland:** What are the wishes of the committee?

**Vice Chairman Grueneich:** MADE A MOTION FOR A DO PASS

**Representative Steiner:** SECONDED

House Finance and Taxation Committee  
SB 2192  
March 11, 2019  
Page 2

**Chairman Headland:** Discussion?

**ROLL CALL VOTE: 9 YES 4 NO 1 ABSENT**

**MOTION CARRIED**

**Representative Trottier will carry this bill.**

Date: 3-11-19 am  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2192

House Finance and Taxation Committee

Subcommittee

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

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

Motion Made By Rep. Toman Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland		X	Representative Eidson		X
Vice Chairman Grueneich		X	Representative Mitskog	A	
Representative Blum		X			
Representative Dockter		X			
Representative Ertelt	X				
Representative Fisher	X				
Representative Hatlestad		X			
Representative Kading	X				
Representative Koppelman	X				
Representative Steiner		X			
Representative Toman	X				
Representative Trottier		X			

Total (Yes) 5 No 8

Absent 1

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

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

Motion Failed.

Date: 3-11-19 pm  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2192**

House Finance and Taxation Committee

Subcommittee

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

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

Motion Made By Rep. Grueneich Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich	X		Representative Mitskog	X	
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt		X			
Representative Fisher		X			
Representative Hatlestad	X				
Representative Kading		X			
Representative Koppelman	A				
Representative Steiner	X				
Representative Toman		X			
Representative Trottier	X				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Trottier

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

**REPORT OF STANDING COMMITTEE**

**SB 2192, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman)**  
recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2192 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2192**

Senate Finance and Tax Committee  
Honorable Senator Dwight Cook, Chairman  
Senate bill 2192  
Testimony by Senator Brad Bekkedahl

January 15, 2019

Chairman Cook and Committee,

Senate bill 2192 has been introduced at the request of the state convention and visitor industry. The bill grants authority to levy lodging and restaurant taxes to accommodation facilities located in county jurisdiction, mirroring the same authority that already exists for cities. It allows counties to levy a lodging tax not to exceed two percent on accommodation facilities and a lodging and restaurant tax not to exceed one percent, both of which must be placed in a county visitor's promotion fund to be used to promote, encourage, and attract visitors to the county. It prohibits imposing the tax on the gross receipts of retailers located within the boundaries of a city within the county that has already imposed a city lodging and restaurant tax, or subsequently imposes such a tax. It also requires the board of county commissioners to establish a county visitor's promotion fund and a visitor's committee, that shall serve as an advisory committee to the board in administering the proceeds from the taxes.

I am honored to have with me today, our City of Williston CVB Director, Amy Krueger, and other representatives of the visitors industry to further explain the bill as presented before this committee. I wish to thank you Chairman Cook and your committee for consideration of Senate bill 2192. I will stand now for any questions you may have and then relinquish the podium to others present today.

# North Dakota

1/16 SB 2192 #2 pg. 1

## Travel Alliance Partnership

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

### MEMBERS

America's Best Value  
Inn & Suites  
Basin Electric  
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Bismarck Airport  
Bismarck-Mandan CVB  
Bottineau Area Chamber of  
Commerce  
Deepwater Bay B&B  
Destination Marketing  
Association of North Dakota  
Devils Lake CVB  
Dickinson CVB  
Downtown Community  
Partnership  
Eastbay Campground  
 Fargo-Moorhead CVB  
Fort Abraham  
Lincoln Foundation  
Gateway to Science  
Greater Grand Forks CVB  
Inn & Suites Minot  
International Peace Garden  
Jamestown Tourism  
Leistikow Park Campground  
Lewis & Clark Fort  
Mandan Foundation  
Lone Butte Ranch/Log Cabin  
Vacations  
McKenzie County Tourism  
Minot Convention & Visitors  
Bureau  
Municipal Airport Authority  
of the City of Fargo  
National Hospitality Services  
Newman Outdoor Advertising  
Norsk Hostfest Association  
North Dakota Association of  
Rural Electric Cooperatives  
North Dakota State Fair  
North Dakota Tourism Division  
(ex-officio)  
Odney  
Painted Woods Recreation  
Ramada Plaza & Suites  
Rocky Mountain International  
Roosevelt Park Zoo  
State Historical Society of  
North Dakota Foundation  
Theodore Roosevelt Medora  
Foundation  
Theodore Roosevelt Suites - Dickinson  
Valley City CVB/Sheyenne RV  
Scenic Byway  
Vern's Rental  
Williston CVB

Testimony of Mason Sisk  
Travel Alliance Partnership  
SB 2192 and SB 2193

Chairman Cook and members of the Senate Finance and Taxation Committee:

My name is Mason Sisk and I represent the Travel Alliance Partnership (TAP). TAP is a coalition of travel industry stakeholders, including CVBs, state attractions, businesses and other interested stakeholders, in this viable and growing sector of North Dakota's economy. On behalf of the tourism industry and its partners, I am here in support of SB 2192 and SB 2193.

Under current law, lodging establishments that are not within city limits are not subject to lodging tax. This creates a fairness issue among businesses in communities across the state, particularly in communities with hotels and other accommodations that lay just outside city limits.

SB 2192 gives counties the option to impose a lodging tax of no more than 2 percent and a restaurant tax of no more than 1 percent on hotels, motels or other accommodations. Any establishment already subject to 2 percent city lodging tax cannot be subject to the county lodging tax proposed in this bill. The intent of this bill is not to impose a double tax on lodging establishments but to even the playing field among accommodations within a county. The taxes paid under this bill would go to the county promotion fund for marketing the area. The collection of a county lodging tax would also give entities outside city limits the benefit of being included in the area's visitor promotion. Visitor marketing is expensive and is beneficial to all hospitality establishments.

SB 2193 is a bill regarding the structure of visitors' committees. Current Century Code includes guidelines on the organizational structure of

visitors' committees; however, visitors' committees today have their own guidelines regarding the number of committee members and length of terms. The bill would also replace the outdated term tourist court with other accommodations. This language needs to be the same in both sections of Century Code, which is why these bills are companion bills.

The Tax Department has drafted amendments to the bills to fix verbiage that might cause consistency issues. With the change in language from tourist court to other accommodations in this bill, for consistency purposes, this change should also be made in sales and use tax law. SB 2192 also includes "bed and breakfast" in the list of accommodations, but the Tax Department recommends removing that verbiage because bed and breakfasts are not specified in sales and use tax law. We support the Tax Department's recommended amendments to ensure the bill's clarity and consistency.

After further discussion and review, we recognize we will need to work with the bill sponsors to develop additional amendments to create consistency between the two bills, if the chair would so allow. For example, we would like to eliminate the language requiring the committees to register with the Secretary of State and the language outlining the organizational structure of visitors' committees from SB 2192. In both bills, we also recommend that cities and counties may designate the existing local destination marketing organization (DMO), such as a convention and visitors bureau, as the visitors' committee. In many communities, the local DMO serves as the visitors' committee already, so we feel establishing a new visitors' committee would be inefficient and unnecessary.

Thank you for the opportunity to address you today and for your favorable consideration of SB 2192 and SB 2193 with the recommended amendments. We have several representatives from TAP from across the state that will provide further testimony and answer any questions you may have.

January 16, 2019

SB 2192

Senate Finance and Taxation

Chairman Cook and members of the Senate Finance and Taxation Committee:

I am Amy Krueger, Executive Director of the Williston Convention and Visitor Bureau.

This proposed enabling legislation for counties would allow them to chose on implementing the same lodging tax and hospitality tax that cities are currently allowed to enact.

The last seven years Williston and Williams county has seen a substantial amount of growth. Due to either new developments or transition of buildings through changing times, there are currently three hotel properties with more than 500 rooms combined that sit right outside city limits. With future developments around the new airport and continued growth in our area, I see this number of properties continuing to grow. These rooms service the Williston Area, yet they do not collect the same tax that those properties inside city limits collect.

Williston Convention and Visitor Bureau follow the industry standards and like many of my colleagues across the Midwest, we only list those properties inside city limits. By enabling everyone to be on the same playing field we would be able to expand our listings to include all the properties servicing the area. This would allow us to better showcase all the different options that are available to our visitors.

Whether these properties are built near an airport just outside of town, on the banks of one of our beautiful bodies of water, or inside city limits of one of our fine cities; they are all hotel properties servicing and offering different experiences to our guest of North Dakota. Therefore, I feel they should all be held to the same standards and be offered the same visitor services in return. This bill would enable the option to do this.

Visitor promotion is vital to every community and the state. The economic impact that visitors bring to our communities is essential and benefits everyone. Please allow these current partnerships to be able to thrive todays market.

I would ask you to support SB 2192.

Sincerely,



Amy Krueger, Executive Director

# RAMADA®

BY WYNDHAM

WILLISTON AIRPORT XWA

16 January 2019

**SB 2192**

Senate Finance and Taxation

Chairman Cook and members of the Senate Finance and Taxation Committee:

I am Jerry Jacobson, General Manager for the **Ramada Williston Airport XWA** hotel located north of the Williston city limits; yet, within the extra territorial jurisdiction (ETJ) control of the City of Williston. The existing **Williston Convention and Visitor Bureau** structure does not fairly showcase all the different hotel options that are available to visitors coming to the Williston area.

Since the 2014 opening of this 240-room hotel, which is the second largest in Williams County, this hotel has been unable to compete fairly on the marketing playing-field with those hotels within the Williston city limits.

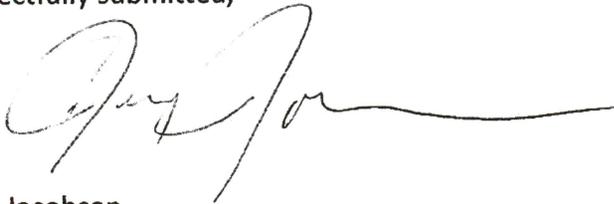
The **Williston Convention and Visitor Bureau** member hotels have benefited from years of tax receipts used to promote their hotels and for other Williston tourism events. Additionally, the **Ramada Williston Airport XWA** hotel has been denied access to participate in room reservations associated with group room blocks for conventions, sports teams, and other events sponsored by the tax subsidized CVB.

The exclusionary membership in the Williston CVB has resulted in **Ramada Williston Airport XWA** incurring enormous marketing costs in order to: 1) ensure the public knows this hotel exists in the Williston market; 2) compete against other Williston hotels who directly benefit from the Williston CVB's public funding.

By allowing all Williston and Williams County hotels eligibility for membership in the **Williston Convention and Visitor Bureau**, every hotel could more fairly share in the economic impact that visitors bring to our communities, it would level the marketing playing field, and provide equilateral representation of the services and different experiences each hotel offers to area visitors.

I would ask you to support SB 2192.

Respectfully submitted,



Jerry Jacobson  
General Manager  
Ramada Williston Airport XWA

505 Rooms

X 365 days

= 184,325 Room Nights Available

X 50.9% occupancy -

92,899.8 = Room Nights occupied

X 79.86 ADR

7,418,978.028

X 2% Lodging Tax \$148,379.56

potential income -

— this is a rough estimate  
not factoring in any 30 day

stays -

I would predict anywhere from

50,000 to 100,000<sup>00</sup>

— income of of these estimates. —



1/16 SB 2192  
# 6 pg. 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](http://www.visitdickinson.com)

January 16, 2019

To: Senate Finance and Taxation Committee  
Testimony of: Terri Thiel, Dickinson Convention & Visitors Bureau  
Re: Senate Bill 2192

Dear Chairman Cook and Members of the Senate Finance and Taxation Committee:

My name is Terri Thiel, I am the Executive Director of the Dickinson Convention & Visitors Bureau.

Senate Bill 2192 is intended to create the collection of a 2% occupancy tax, and the collection of a 1% occupancy/food/beverage within a county, should a county so choose to implement these taxes.

There currently is a 2% City Occupancy (room or bed tax) and 1% Hospitality Tax (room, food, beverage tax) in the ND Century Code, sections 40-57.3-01, 40-57.3-01.1, and 40-57.3-02 for municipalities who chose to implement such taxes. This bill, SB 2192, would allow counties to implement the similar tax for **visitor promotion**. Hotels, restaurants and bars located outside of city limits would collect the tax, remit to a county, and the county would then distribute the funds to a designated visitors committee.

The visitors committee would receive, plan, execute and review the proceeds from the promotion fund and report its activities annually to the county commissioners. The visitors committee would be registered with the Secretary of State to ensure that organizational guidelines are followed.

While not all counties have lodging properties and/or restaurant, bars outside of a municipality, one example, Williams County, does have hotel properties just outside of the Williston city limits. They would like to collect the 2% lodging taxes so that they could be included in the Williston Convention & Visitors Bureau marketing plans and promotions.

Many visitor committees actively promote attractions outside of their municipal limits, however, because visitor committee funding comes from local city hotel/motel

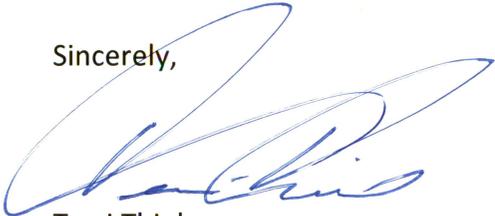
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the WESTERN EDGE

accommodations, and/or restaurants and bars, those same entities that are in a county, are not currently included.

Promotional investment is important to cities, counties and the state. Marketing is expensive, this is an opportunity for those businesses outside of a municipality to be included in a visitor committee's list of hospitality businesses.

**Visitor promotion benefits every destination, please support SB 2192.**

Sincerely,



Terri Thiel  
Executive Director



1/16 SB 2192  
# 7 pg. 1

January 16, 2019

Senate Finance & Taxation

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

I am Suzie Kenner, the Executive Director of the Devils Lake Convention and Visitors Bureau and am also currently the President of the Destination Marketing Association of North Dakota.

I am here today to ask for a **DO PASS** on **SB2192**. As you know, this bill would allow counties the ability to collect a lodging and hospitality tax. Ramsey County is unique in North Dakota, as we are actually a resort community. We have several hotel properties within city limits, but we also have many properties that sit along the shores of the largest natural lake in North Dakota.

Currently our promotional efforts are funded by in-city tax collections from a 2% lodging tax and a 1% restaurant tax. As a destination that is nationally known for our walleye and perch fishing and plentiful waterfowl hunting, we travel the Midwest to promote our destination at sport shows and use the marketing dollars for television shows, commercials, advertorials and such. The ability for Ramsey County to collect these taxes would also help the Lake Region to put fair promotional efforts on our outside properties. It is vital that you leave in the tax collected for use of a **promotional fund** only and not to be used for the county's general fund. Marketing and advertising has become very expensive, and the ability to use these funds to include in the marketing promotions is vital to our communities. Not only will it keep Devils Lake on the radar to potential visitors, it will keep the State of North Dakota on their radar, and boost the efforts of North Dakota Tourism.

Respectfully,

A handwritten signature in black ink that reads "Suzie Kenner".

Suzie Kenner  
Executive Director

1/16 SB 2192 # 8 pg. 1



To: Senate Finance and Taxation Chairman Senator Cook and Committee members

From Kyle Blanchfield, Owner of Woodland Resort

Date: 1/16/2019

Subject: SB 2192

My name is Kyle Blanchfield. I am the owner of Woodland Resort, a lakeside resort on Devils Lake, ND.

**I support SB 2192.**

For more than 30 years we have been working with our area Chamber and Tourism departments to promote the Devils Lake area as an amazing place to visit and enjoy. Our tourism-promotional budget is funded by lodging and prepared food tax that is generated inside the city limits of Devils Lake. Our business is located outside the city in Ramsey County. It's time for businesses like ours to help support tourism promotions that benefit so many of us.

I appreciate the wording that enforces these tax dollars to be used only for promoting the area the funds are raised in. Please do not revoke this section of the bill and allow the counties to absorb these dollars into the general county budgets. This bill is a tool to grow North Dakota and area economies.

State Tourism budgets have been forced to make painful cuts. Please let us help ourselves by providing additional tourism promotional dollars locally by expanding lodging and prepared food taxes outside of traditional taxing city limits. It's fair, it's needed, and it is overdue.

To summarize, SB 2192 will enhance local tourism promotion and allow business like ours to be part of growing our robust tourism industry in the Devils Lake area.

**Please vote DO PASS for SB2192.**

Thank you.

Kyle Blanchfield

Owner, Woodland Resort

Devils Lake, ND

**DEPARTMENT OF COMMERCE TESTIMONY ON SB 2192 AND SB 2193  
JANUARY 16, 2019, 9:00 A.M.  
SENATE FINANCE AND TAXATION  
LEWIS AND CLARK ROOM  
CHAIRMAN SENATOR DWIGHT COOK**

**SARA OTTE COLEMAN – DIRECTOR, TOURISM DIVISION AT ND DEPARTMENT OF COMMERCE**

Good morning Chairman Cook and members of the committee, I am Sara Otte Coleman Director of the Tourism Division at the North Dakota Department of Commerce.

Tourism provides strong revenue for our state and helps diversify our state's economy.

- \$5.4 billion contributed by Tourism to the state's economy in 2016
- More than 2,300 providers and experiences listed on NDTourism.com
- 2,800 tourism businesses registered with the Secretary of State
- \$2.8 million in taxes generated from tourism related activities in 2017
- Majority of visitors are non-residents

Visitors impact all areas of North Dakota not just cities. North Dakota's outdoors are the most popular reason visitors choose to visit North Dakota. HB 2192 provides counties, the opportunity to impose the same lodging and restaurant taxes available to our cities. The decision would be made at the county level and could provide benefits to many areas across North Dakota including Williston and Watford City, where new hotels are outside city limits, and our lake communities where CVBs are challenged to represent **all** the area offerings. Including properties located outside city boundaries would help:

- Provide a level playing field in communities that cross county lines
- Provide opportunity to raise needed dollars for promotion
- Provide sustainable funding mechanism to improve and expand offerings

SB 2193, is a clean-up bill that will update and improve the definition of accommodations to better reflect today's options and help cities administer the visitor paid taxes through their professional Destination Marketing Organization (DMO) staff or a defined visitor committee if they do not have a DMO.

Thank you for your consideration. I am happy to answer any questions.

Sara Otte Coleman  
Director, Tourism Division  
North Dakota Department of Commerce



1/16 SB 2192 #10 pg. 1

January 16, 2019

To: Senate Finance and Taxation Committee  
Testimony of: Doug Bolken, McKenzie County Tourism  
Re: Senate Bill 2192

Dear Chairman Cook and Members of the Senate Finance and Taxation Committee:

My name is Doug Bolken; I am the Tourism Director for McKenzie County Tourism.

Senate Bill 2192 will create a section in the century code for those counties who choose to collect a 2% occupancy tax and the ability to collect a 1% occupancy, food & beverage tax within the county. This is similar to what municipalities can do today under section 40-37 in the ND Century Code.

Like the municipality tax, counties would be allowed to collect funds to go towards visitor promotions. Simply, hotels, restaurants and bars located outside of city limits would collect the tax and remit them to the county. The county would provide the funds to the visitor committee to help promote attractions and accommodations outside of the city limits.

Today, McKenzie County Tourism already supports attractions outside of the city limits but will rarely promote lodging, restaurants and bars outside of Watford City. Income generated by SB 2192 would allow McKenzie County Tourism to actively promote these locations as there will be funding to do so.

McKenzie County has a number of accommodations that lie within the county but outside Watford City city limits.

This promotional investment is important to McKenzie County. It will allow us to continue to promote to visitors and future residents. It will allow us to highlight the attractions and the quality of life amenities that the county has to offer. Promoting that McKenzie County is just not a great place to visit but a great place to live.

Thank you for your support SB 2192.

Sincerely,

Doug Bolken  
Tourism Director

PROPOSED AMENDMENTS TO SENATE BILL NO. 2192

Page 1, line 2, after the semi-colon insert "and to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to the definition of hotel, motel, or tourist accommodation"

Page 1, line 9, remove "bed and breakfast,"

Page 1, line 22, remove "bed and breakfast,"

Page 3, after line 28, insert:

**"SECTION 2. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" of "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or ~~tourist court~~ other accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retails. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in the subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

X16  
SB2192  
#11

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or communication, excluding internet access service, the furnishing of hotel, motel, or ~~tourist court~~ other accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

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

- e. The leasing or renting of a hotel or motel room or ~~tourist court~~ other accommodations.

**SECTION 4. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~ other accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days."

Renumber accordingly

Sixty-sixth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2192**

Introduced by

Senators Bekkedahl, Meyer, Wardner

Representatives Lefor, Schreiber-Beck, Zubke

1 A BILL for an Act to create and enact chapter 11-09.2 of the North Dakota Century Code,  
2 relating to county lodging and restaurant tax; to amend and reenact subsections 21, 22, and 23  
3 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22  
4 of section 57-39.2-04 of the North Dakota Century Code, relating to references to tourist court  
5 accommodations; and to provide an effective date.

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

7 **SECTION 1.** Chapter 11-09.2 of the North Dakota Century Code is created and enacted as  
8 follows:

9 **11-09.2-01. County lodging tax - Imposition - Amount - Disposition.**

10 The board of county commissioners of any county, by ordinance, may impose a county tax,  
11 not to exceed two percent, upon the gross receipts of retailers on the leasing or renting of hotel,  
12 motel, ~~bed and breakfast~~, or other accommodations within the county for periods of fewer than  
13 thirty consecutive calendar days or one month. The tax imposed by this section must be in  
14 addition to the state sales tax on rental accommodations provided in chapter 57-39.2. A county  
15 may not impose a county lodging tax under this section on the gross receipts of retailers located  
16 within the boundaries of a city within that county if the city has imposed a city lodging tax, or  
17 subsequently enacts and imposes a city lodging tax, under section 40-57.3-01. A county that  
18 imposes the tax in this section shall deposit all proceeds in the county visitors' promotion fund.  
19 Moneys deposited in the county visitors' promotion fund must be spent only as provided in this  
20 chapter. This chapter applies to all counties and does not limit the authority of a home rule  
21 county to levy any taxes authorized by other provisions of law.

22 **11-09.2-02. County lodging and restaurant tax - Imposition - Amount - Disposition.**

23 In addition to the tax under section 11-09.2-01, the board of county commissioners of any  
24 county, by ordinance, may impose a county tax, at a rate not to exceed one percent, upon the

1 gross receipts of retailers on the leasing or renting of hotel, motel, ~~bed and breakfast~~, or other  
2 accommodations within the county for periods of fewer than thirty consecutive calendar days or  
3 one month and upon the gross receipts of a restaurant from any sales of prepared food or  
4 beverages, not including alcoholic beverages for consumption off the premises where  
5 purchased, which are subject to state sales taxes. For purposes of this section, "restaurant"  
6 means any place where food is prepared and intended for individual portion service for  
7 consumption on or off the premises and "prepared" includes heating prepackaged food.  
8 Accommodations, food, and beverages may all, each, or in any combination be subject to the  
9 tax under this section, if all items in any category which are taxable under state law are taxable,  
10 except as otherwise provided in this section. The tax imposed under this section is in addition to  
11 state sales taxes on rental accommodations and restaurant sales, and county lodging taxes  
12 under section 11-09.2-01. A county may not impose a county lodging and restaurant tax under  
13 this section on the gross receipts of retailers located within the boundaries of a city within that  
14 county if the city has imposed a city lodging and restaurant tax, or subsequently enacts and  
15 imposes a city lodging and restaurant tax, under section 40-57.3-01.1, on the gross receipts  
16 from the same transaction. A county that imposes the tax under this section shall deposit all  
17 proceeds in the county visitors' promotion fund. Moneys deposited in the county visitors'  
18 promotion fund may be spent only as provided in this chapter.

19 **11-09.2-03. County visitors' promotion fund - ~~Visitors' committee~~ - Establishment -**  
20 **Purpose.**

21 The board of county commissioners of any county that imposes a county tax pursuant to  
22 section 11-09.2-01 or 11-09.2-02 shall establish a county visitors' promotion fund ~~and a visitors'~~  
23 ~~committee. The board of county commissioners shall appoint the members of a visitors'~~  
24 ~~committee. The ~~visitors' committee~~ local destination marketing organization shall serve as an~~  
25 advisory committee to the board of county commissioners in administering the proceeds from  
26 the taxes available to the county under this chapter. The moneys in the visitors' promotion fund  
27 must be used generally to promote, encourage, and attract visitors to come to the county and  
28 use the travel and tourism facilities within the county. The ~~visitors' committee~~ local destination  
29 marketing organization shall receive, plan, execute, and review the expenditure of proceeds  
30 from the visitors' promotion fund and report its activities annually to the board of county  
31 commissioners. ~~The visitors' committee must be registered with the secretary of state. The~~

1 ~~appointees shall serve without compensation, except for reimbursement for necessary~~  
2 ~~expenses. Committee members shall serve for a term of four years, except that two of the~~  
3 ~~members initially appointed must be appointed for an initial term of two years. Vacancies must~~  
4 ~~be filled in the same manner as the initial appointment. The committee shall elect a chairperson~~  
5 ~~and vice chairperson from among its members to serve for a term of two years.~~

6 **11-09.2-04. Budget - Contracts.**

7 The board of county commissioners annually shall review the ~~visitors' committee~~local  
8 destination marketing organization budget as proposed by the ~~committee~~organization, if any,  
9 under which the ~~committee~~organization operates. The board of county commissioners, in  
10 consultation with the ~~visitors' committee~~local destination marketing organization, may contract  
11 with any person, firm, association, corporation, or limited liability company to carry out the  
12 purposes of the county visitors' promotion fund created under section 11-09.2-03.

13 **11-09.2-05. Payment of tax - Collection by tax commissioner - Administrative**  
14 **expenses allowed - Rules.**

15 The taxes imposed under this chapter are due and payable at the same time the taxpayer is  
16 required to file a return under chapter 57-39.2 and must be collected and administered by the  
17 tax commissioner in the manner provided in chapter 57-39.2. The taxpayer shall add the taxes  
18 imposed under this chapter to the sales, lease, or rental price and shall collect the tax from the  
19 consumer. A retailer may not advertise or hold out or state to the public, or to any consumer,  
20 directly or indirectly, that the taxes or any part of the taxes imposed under this chapter are  
21 assumed, absorbed, or refunded by the taxpayer. The amount the tax commissioner remits  
22 monthly to each county as taxes collected for that county's visitors' promotion fund must be  
23 reduced by three percent as an administrative fee necessary to defray the cost of collecting the  
24 taxes and the expenses incident to collection. The administrative fee must be deposited in the  
25 general fund in the state treasury. The tax commissioner shall adopt rules necessary for the  
26 administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and  
27 57-39.2-18.1 specifically apply to the filing of returns and administration of the taxes imposed  
28 under this chapter. The taxes imposed under this chapter are not taxes subject to chapter 57-  
29 39.4. The tax commissioner may offset future distributions of a tax imposed and collected under  
30 this chapter if a previous overpayment of the tax was distributed to the county. The tax

1 commissioner, after consulting the appropriate county official, may determine the offset amount  
2 and time period for recovery of the overpayment of the tax distribution.

3 **SECTION 2. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North  
4 Dakota Century Code are amended and reenacted as follows:

5 21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other  
6 than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale,  
7 including the leasing or renting, to a consumer or to any person for any purpose, other  
8 than for processing or for resale, of tangible personal property; the sale of steam, gas,  
9 and communication service, excluding internet access service, to retail consumers or  
10 users; the sale of vulcanizing, recapping, and retreading services for tires; the  
11 ordering, selecting, or aiding a customer to select any goods, wares, or merchandise  
12 from any price list or catalog, which the customer might order, or be ordered for such  
13 customer to be shipped directly to such customer; the sale or furnishing of hotel,  
14 motel, or ~~tourist court~~ other accommodations, tickets, or admissions to any place of  
15 amusement, athletic event, or place of entertainment; and the sales of magazines and  
16 other periodicals. By the term "processing" is meant any tangible personal property,  
17 including containers which it is intended, by means of fabrication, compounding,  
18 manufacturing, producing, or germination shall become an integral or an ingredient or  
19 component part of other tangible personal property intended to be sold ultimately at  
20 retail. The sale of an item of tangible personal property for the purpose of  
21 incorporating it in or attaching it to real property must be considered as a sale of  
22 tangible personal property for a purpose other than for processing; the delivery of  
23 possession within the state of North Dakota of tangible personal property by a  
24 wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota  
25 retail sales tax permit or to a person who by contract incorporates such tangible  
26 personal property into, or attaches it to, real property situated in another state may not  
27 be considered a taxable sale if such delivery of possession would not be treated as a  
28 taxable sale in that state. As used in this subsection, the word "consumer" includes  
29 any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar  
30 institution that furnishes services to any patient or occupant. The sale of an item of  
31 tangible personal property to a person under a finance leasing agreement over the

1 term of which the property will be substantially consumed must be considered a retail  
2 sale if the purchaser elects to treat it as such by paying or causing the transferor to  
3 pay the sales tax thereon to the commissioner on or before the last day on which  
4 payments may be made without penalty as provided in section 57-39.2-12.

5 22. "Retailer" or "seller" includes every person engaged in the business of leasing or  
6 renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged  
7 in the business of selling tangible goods, wares, or merchandise at retail, or furnishing  
8 of steam, gas, and communication services, excluding internet access service, or  
9 tickets or admissions to places of amusement, entertainment, and athletic events, or  
10 magazines or other periodicals; and includes any person as herein defined who by  
11 contract or otherwise agrees to furnish for a consideration a totally or partially finished  
12 product consisting in whole or in part of tangible personal property subject to the sales  
13 tax herein provided, and all items of tangible personal property entering into the  
14 performance of such contract as a component part of the product agreed to be  
15 furnished under said contract shall be subject to the sales tax herein provided and the  
16 sales tax thereon shall be collected by the contractor from the person for whom the  
17 contract has been performed in addition to the contract price agreed upon, and shall  
18 be remitted to the state in the manner provided in this chapter; and shall include the  
19 state or any municipality furnishing steam, gas, or communication service to members  
20 of the public in its proprietary capacity. For the purpose of this chapter, retailer shall  
21 also include every clerk, auctioneer, agent, or factor selling tangible personal property  
22 owned by any other retailer. A retailer also includes every person who engages in  
23 regular or systematic solicitation of a consumer market in this state by the distribution  
24 of catalogs, periodicals, advertising fliers, or other advertising, or by means of print,  
25 radio or television media, by mail, telegraphy, telephone, computer database, cable,  
26 optic, microwave, or other communication system.

27 23. "Sale" means any transfer of title or possession, exchange or barter, conditional or  
28 otherwise, in any manner or by any means whatever, for a consideration, and includes  
29 the furnishing or service of steam, gas, or communication, excluding internet access  
30 service, the furnishing of hotel, motel, or ~~tourist court~~ other accommodations, the  
31 furnishing of tickets or admissions to any place of amusement, athletic event, or place

1 of entertainment, and sales of magazines and other periodicals. Provided, the words  
2 "magazines and other periodicals" as used in this subsection do not include  
3 newspapers nor magazines or periodicals that are furnished free by a nonprofit  
4 corporation or organization to its members or because of payment by its members of  
5 membership fees or dues.

6 **SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 57-39.2-02.1 of the  
7 North Dakota Century Code is amended and reenacted as follows:

8 e. The leasing or renting of a hotel or motel room or ~~tourist court~~other  
9 accommodations.

10 **SECTION 4. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota  
11 Century Code is amended and reenacted as follows:

12 22. Gross receipts from the leasing or renting of manufactured homes, modular living  
13 units, or sectional homes, whether or not placed on a permanent foundation, for  
14 residential housing for periods of thirty or more consecutive days and the gross  
15 receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~other  
16 accommodations occupied by the same person or persons for residential housing for  
17 periods of thirty or more consecutive days.

18 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
19 June 30, 2019.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2192

Page 1, line 2, after the semicolon insert "to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to references to tourist court accommodations;"

Page 1, line 9, remove "bed and breakfast."

Page 1, line 22, remove "bed and breakfast."

Page 2, line 16, remove "Visitors' committee -"

Page 2, line 19, remove "and a visitors"

Page 2, remove line 20

Page 2, line 21, remove the first "committee"

Page 2, line 21, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 25, replace "visitors' committee" with "local destination marketing organization"

Page 2, line 27, remove "The visitors' committee must be registered with the secretary of"

Page 2, remove lines 28 through 30

Page 3, remove lines 1 and 2

Page 3, line 4, replace "visitors' committee" with "local destination marketing organization"

Page 3, line 5, replace the first "committee" with "organization"

Page 3, line 5, replace the second "committee" with "organization"

Page 3, line 6, replace "visitors' committee" with "local destination marketing organization"

Page 3, after line 28, insert:

**"SECTION 2. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or ~~tourist court~~ other accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and

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# 2 pg. 2

other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or

✓  
29 SB 2192  
# 2 pg. 3

communication, excluding internet access service, the furnishing of hotel, motel, or ~~tourist court~~other accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

**SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- e. The leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations.

**SECTION 4. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- 22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days."

Renumber accordingly

# North Dakota

## Travel Alliance Partnership

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

### MEMBERS

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Association of North Dakota  
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Dickinson CVB  
Downtown Community  
Partnership  
Eastbay Campground  
Fargo-Moorhead CVB  
Fort Abraham  
Lincoln Foundation  
to Science  
Grand Forks CVB  
Hampton Inn & Suites Minot  
Airport  
International Peace Garden  
Jamestown Tourism  
Leistikow Park Campground  
Lewis & Clark Fort  
Mandan Foundation  
Lone Butte Ranch/Log Cabin  
Vacations  
McKenzie County Tourism  
Minot Convention & Visitors  
Bureau  
Municipal Airport Authority  
of the City of Fargo  
National Hospitality Services  
Newman Outdoor Advertising  
Norsk Hostfest Association  
North Dakota Association of  
Rural Electric Cooperatives  
North Dakota State Fair  
North Dakota Tourism Division  
(ex-officio)  
Odney  
Painted Woods Recreation  
Ramada Plaza & Suites  
Rocky Mountain International  
Roosevelt Park Zoo  
Historical Society of  
North Dakota Foundation  
The Core Roosevelt Medora  
Foundation  
TownePlace Suites – Dickinson  
Valley City CVB/Sheyenne RV  
Scenic Byway  
Vern's Rental  
Williston CVB

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### Testimony of Mason Sisk Travel Alliance Partnership SB 2192 and SB 2193

Chairman Headland and members of the House Finance and Taxation  
Committee:

My name is Mason Sisk and I represent the Travel Alliance  
Partnership (TAP). TAP is a coalition of travel industry stakeholders,  
including CVBs, state attractions, businesses and other interested  
stakeholders, in this viable and growing sector of North Dakota's economy.  
On behalf of the tourism industry and its partners, I am here in support of SB  
2192 and SB 2193.

Under current law, lodging establishments that are not within city  
limits are not subject to lodging tax. This creates a fairness issue among  
businesses in communities across the state, particularly in communities with  
hotels and other accommodations that lay just outside city limits.

SB 2192 gives counties the option to impose a lodging tax of no more  
than 2 percent and a restaurant tax of no more than 1 percent on hotels, motels  
or other accommodations. Any establishment already subject to 2 percent city  
lodging tax cannot be subject to the county lodging tax proposed in this bill.  
The intent of this bill is not to impose a double tax on lodging establishments  
but to even the playing field among accommodations within a county. The  
taxes paid under this bill would go to the county promotion fund for  
marketing the area. The collection of a county lodging tax would also give  
entities outside city limits the benefit of being included in the area's visitor  
promotion. Visitor marketing is expensive and is beneficial to all hospitality  
establishments.

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Rather than establish a separate county visitors' committee, the bill grants the local destination marketing organization, such as the convention and visitors bureau, the ability to administer the funds collected under this chapter for the purposes of marketing the area.

SB 2193 is a bill regarding the structure of visitors' committees. Current Century Code includes guidelines on the organizational structure of visitors' committees; however, visitors' committees today have their own guidelines regarding the number of committee members and length of terms. The bill would also replace the outdated term tourist court with other accommodations. This language needs to be the same in both sections of Century Code, which is why these bills are companion bills.

Amendments were adopted at the request of the Tax Department to change tourist court to other accommodations in other chapters of Century Code for consistency purposes.

Thank you for the opportunity to address you today and for your favorable consideration of SB 2192 and SB 2193. We have several representatives from TAP from across the state that will provide further testimony and answer any questions you may have.

#2  
SB 2192  
3-4-19

March 4, 2019

SB 2192 and SB 2193

House Finance and Taxation

Chairman Headland and members of the House Finance and Taxation Committee:

I am Amy Krueger, Executive Director of the Williston Convention and Visitor Bureau. I am here in support of these bills and asking you to consider a DO PASS on SB 2192 and 2193.

SB 2192 is proposed enabling legislation for counties which would allow them to chose on implementing the same lodging tax and hospitality tax that cities currently can enact.

The last seven years Williston and Williams county has seen a substantial amount of growth. Due to either new developments or transition of buildings through changing times, there are currently three hotel properties with more than 600 rooms combined that sit right outside city limits. With future developments around the new airport and continued growth in our area, I see this number of properties continuing to grow. These rooms service the Williston Area, yet they do not collect the same tax that those properties inside city limits collect.

Williston Convention and Visitor Bureau follow the industry standards and like many of my colleagues across the Midwest, through our promotional efforts we only list those properties inside city limits. By enabling everyone to be on the same playing field we would be able to expand our listings to include all the properties servicing the area. This would allow us to better showcase all the different options that are available to our visitors.

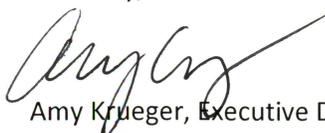
Whether these properties are built near an airport just outside of town, on the banks of one of our beautiful bodies of water, or inside city limits of one of our fine cities; they are all hotel properties servicing and offering different experiences to our guest of North Dakota. Therefore, I feel they should all be held to the same standards and be offered the same visitor services in return. This bill would enable the option to do this.

Visitor promotion is vital to every community and the state. The economic impact that visitors bring to our communities is essential and benefits everyone. Please allow these current partnerships to be able to thrive in today's market.

SB 2193 has proposed clean up language that would bring the existing bill to reflect what is happening within the industry and have the same language as SB 2192, as they should mirror each other.

I would ask you to support SB 2192 and SB 2193.

Sincerely,

  
Amy Krueger, Executive Director

#3  
SB 2192  
3-4-19

**RAMADA**  
BY WYNDHAM  
WILLISTON AIRPORT XWA

01 March 2019

**SB 2192**

**North Dakota Legislative Committee on Finance and Taxation**

Members of the Finance and Taxation Committee:

I am Jerry Jacobson, General Manager for the **Ramada Williston Airport XWA** hotel located north of the Williston city limits; yet, within the extra territorial jurisdiction (ETJ) control of the City of Williston. The existing **Williston Convention and Visitor Bureau** structure does not fairly showcase all the different hotel options that are available to visitors coming to the Williston area.

Since the 2014 opening of this 240-room hotel, which is the second largest in Williams County, this hotel has been unable to compete fairly on the marketing playing-field with those hotels within the Williston city limits.

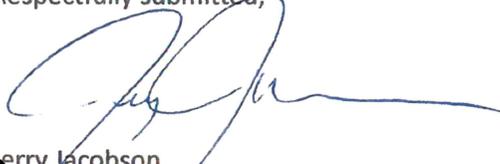
The **Williston Convention and Visitor Bureau** member hotels have benefited from years of tax receipts used to promote their hotels and for other Williston tourism events. Additionally, the **Ramada Williston Airport XWA** hotel has been denied access to participate in room reservations associated with group room blocks for conventions, sports teams, and other events sponsored by the subsidized Williston CVB.

The exclusionary membership in the Williston CVB has resulted in **Ramada Williston Airport XWA** incurring enormous marketing costs in order to: 1) ensure the public knows this hotel exists in the Williston market; 2) compete against other Williston hotels who directly benefit from the Williston CVB's public funding and do not have to compensate with marketing costs at the expense of their business.

By allowing all Williston and Williams County hotels eligibility for membership in the **Williston Convention and Visitor Bureau**, every hotel could more fairly share in the economic impact that visitors bring to our communities, it would level the marketing playing field, and provide equilateral representation of the services and different experiences each hotel offers to area visitors.

I would ask you to support SB 2192.

Respectfully submitted,



Jerry Jacobson  
General Manager

5813 Jefferson Lane  
Williston, ND 58801  
T 701-609-5555  
F 701-609-5170

  
**RAMADA**



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

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SB 2192  
3-4-19  
p. 1

March 4, 2019

To: House Finance and Taxation Committee  
Testimony of: Terri Thiel, Dickinson Convention & Visitors Bureau  
Re: Senate Bill 2192

Dear Chairman Headland, and Members of the House Finance and Taxation Committee:

My name is Terri Thiel, I am the Executive Director of the Dickinson Convention & Visitors Bureau.

Senate Bill 2192 is intended to create the collection of a 2% occupancy tax, and the collection of a 1% occupancy/food/beverage tax within a county, should a county so choose to implement these taxes.

There is a 2% City Occupancy (room or bed tax) and 1% Hospitality Tax (room, food, beverage tax) in the ND Century Code, sections 40-57.3-01, 40-57.3-01.1, and 40-57.3-02 for municipalities who chose to implement such taxes. This bill, SB 2192, would allow counties to implement the similar tax for visitor promotion. Hotels/Motels, restaurants, and bars located outside of city limits would collect the tax, remit to a county, and the county would then distribute the funds to the local destination marketing organization.

The local destination marketing organization would receive, plan, execute and review the expenditure of proceeds from the visitors' promotion fund and report its activities annually to the county commissioners.

While not all counties have lodging properties and/or restaurant, bars outside of a municipality, one example, Williams County, does have hotel properties just outside of the Williston city limits. They would like to collect the 2% lodging taxes so that they could be included in the Williston Convention & Visitors Bureau marketing plans and promotions.

Many local destination marketing organizations actively promote attractions outside of their municipal limits, however, because funding comes from local city hotel/motel

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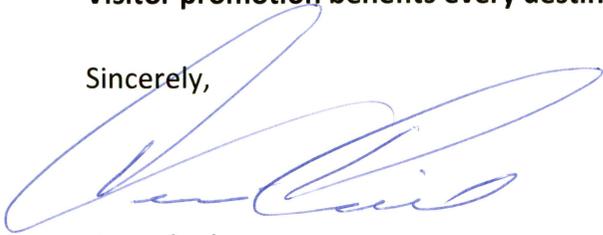
#4  
SB 2192  
3-4-19  
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accommodations, and/or restaurants and bars, those same entities that are in a county, are not currently included.

Promotional investment is important to cities, counties and the state. Marketing is expensive, this is an opportunity for those businesses outside of a municipality to be included in a local destination marketing organization's list of hospitality businesses.

**Visitor promotion benefits every destination, please support SB 2192.**

Sincerely,



Terri Thiel  
Executive Director



#5  
SB 2192  
3-4-19

March 4, 2019

To: House Finance and Taxation Committee  
Testimony of: Doug Bolken, McKenzie County Tourism  
Re: SB 2192 and SB 2193

Dear Chairman Headland and Members of the House Finance and Taxation Committee:

My name is Doug Bolken; I am the Tourism Director for McKenzie County Tourism. Unfortunately I cannot be present this morning as I have been home ill all week, however, I do support these bills and would like to ask the committee to do the same and consider passing SB 2192 and SB2193

Senate Bill 2192 will create a section in the century code for those counties who choose to collect a 2% occupancy tax and the ability to collect a 1% occupancy, food & beverage tax within the county. This is similar to what municipalities can do today under section 40-37 in the ND Century Code.

Today, McKenzie County Tourism already supports attractions outside of the city limits but will rarely promote lodging, restaurants and bars outside of Watford City. Income generated by SB 2192 would allow McKenzie County Tourism to actively promote these locations as there will be funding to do so.

McKenzie County has a number of accommodations that lie within the county but outside Watford City city limits.

This promotional investment is important to McKenzie County. It will allow us to continue to promote to visitors and future residents. It will allow us to highlight the attractions and the quality of life amenities that the county has to offer. Promoting that McKenzie County is just not a great place to visit but a great place to live.

SB 2193 is to clean up the language that would bring the exiting bill in line with industry standards and have the same language as SB 2192.

Thank you for your support of SB 2192 and 2193.

Sincerely,

Doug Bolken  
Tourism Director

March 1, 2019

House Finance & Taxation

Chairman Headland and Members of the House Finance and Taxation Committee:

I am Suzie Kenner, the Executive Director of the Devils Lake Convention and Visitors Bureau and am also currently the President of the Destination Marketing Association of North Dakota.

I am providing support today to ask for a **DO PASS** on **SB2192**. As you know, this bill would allow counties the ability to collect a lodging and hospitality tax. Ramsey County is unique in North Dakota, as we are actually a resort community. We have several hotel properties within city limits, but we also have many properties that sit along the shores of the largest natural lake in North Dakota.

Currently our promotional efforts are funded by in-city tax collections from a 2% lodging tax and a 1% restaurant tax. As a destination that is nationally known for our walleye and perch fishing and plentiful waterfowl hunting, we travel the Midwest to promote our destination at sport shows and use the marketing dollars for television shows, commercials, advertorials and such. The ability for Ramsey County to collect these taxes would also help the Lake Region to put fair promotional efforts on our outside properties. It is vital that you leave in the tax collected for use of a **promotional fund** only and not to be used for the county's general fund. Marketing and advertising has become very expensive, and the ability to use these funds to include in the marketing promotions is vital to our communities. Not only will it keep Devils Lake on the radar to potential visitors, it will keep the State of North Dakota on their radar, and boost the efforts of North Dakota Tourism.

I am sorry I cannot be with you today. I am on the prepping to hit the road to market our community at a sports show. I have provided my information to Tanner Cherney from our office and asked that he represent our county on our behalf. I would be happy to answer any questions you may have (701-662-4903 or [suzie@devilslakend.com](mailto:suzie@devilslakend.com)).

Respectfully,

*Suzie Kenner*

Suzie Kenner  
Executive Director

#7  
SB 2192  
3-4-19



To: House Finance and Taxation Chairman Rep. Headland and Committee members

From Kyle Blanchfield, Owner of Woodland Resort

Date: 3/3/2019

Subject: SB 2192

My name is Kyle Blanchfield. I am the owner of Woodland Resort, a lakeside resort on Devils Lake, ND.

**I support SB 2192.**

For more than 30 years we have been working with our area Chamber and Tourism departments to promote the Devils Lake area as an amazing place to visit and enjoy. Our tourism-promotional budget is funded by lodging and prepared food tax that is generated inside the city limits of Devils Lake. Our business is located outside the city in Ramsey County. It's time for businesses like ours to help support tourism promotions that benefit so many of us.

I appreciate the wording that enforces these tax dollars to be used only for promoting the area the funds are raised in. Please do not revoke this section of the bill and allow the counties to absorb these dollars into the general county budgets. This bill is a tool to grow North Dakota and area economies.

State Tourism budgets have been forced to make painful cuts. Please let us help ourselves by providing additional tourism promotional dollars locally by expanding lodging and prepared food taxes outside of traditional taxing city limits. It's fair, it's needed, and it is overdue.

To summarize, SB 2192 will enhance local tourism promotion and allow business like ours to be part of growing our robust tourism industry in the Devils Lake area.

**Please vote DO PASS for SB2192.**

Thank you.

Kyle Blanchfield

Owner, Woodland Resort

Devils Lake, ND

**DEPARTMENT OF COMMERCE TESTIMONY ON SB 2192 AND SB 2193**

**MARCH 4, 2019, 9:00 A.M.**

**HOUSE FINANCE AND TAXATION**

**FT. TOTTEN ROOM**

**CHAIRMAN REPRESENTATIVE CRAIG HEADLAND**

**SARA OTTE COLEMAN – DIRECTOR, TOURISM DIVISION AT ND DEPARTMENT OF COMMERCE**

Good morning Chairman Headland and members of the committee, I am Sara Otte Coleman Director of the Tourism Division at the North Dakota Department of Commerce.

Tourism provides strong revenue for our state and helps diversify our state's economy.

- \$5.4 billion contributed by Tourism to the state's economy in 2016
- More than 2,300 providers and experiences listed on NDtourism.com
- 2,800 tourism businesses registered with the Secretary of State
- \$2.8 million in taxes generated from tourism related activities in 2017
- Majority of visitors are non-residents

Visitors impact all areas of North Dakota not just cities. North Dakota's outdoors are the most popular reason visitors choose to visit North Dakota. HB 2192 provides counties, the opportunity to impose the same lodging and restaurant taxes available to our cities. The decision would be made at the county level and could provide benefits to many areas across North Dakota including Williston and Watford City, where new hotels are outside city limits, and our lake communities, like Devils Lake, where CVBs are challenged to represent **all** the area offerings. Including properties located outside city boundaries would help:

- Provide a level playing field in communities that cross county lines
- Provide opportunity to raise needed dollars for promotion
- Provide a sustainable funding mechanism to improve and expand offerings

SB 2193, is a clean-up bill that will update and improve the definition of accommodations to better reflect today's options and help cities administer the visitor paid taxes through their professional Destination Marketing Organization (DMO) staff or a defined visitor committee if they do not have a DMO or CVB.

Thank you for your consideration. I am happy to answer any questions.

Sara Otte Coleman  
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