

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; and to provide an effective date.

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

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

6 **11-09.2-01. County lodging tax - Imposition - Amount - Disposition.**

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

19 **11-09.2-02. County lodging and restaurant tax - Imposition - Amount - Disposition.**

20 In addition to the tax under section 11-09.2-01, the board of county commissioners of any
21 county, by ordinance, may impose a county tax, at a rate not to exceed one percent, upon the
22 gross receipts of retailers on the leasing or renting of hotel, motel, bed and breakfast, or other
23 accommodations within the county for periods of fewer than thirty consecutive calendar days or
24 one month and upon the gross receipts of a restaurant from any sales of prepared food or

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

16 **11-09.2-03. County visitors' promotion fund - Visitors' committee - Establishment -**
17 **Purpose.**

18 The board of county commissioners of any county that imposes a county tax pursuant to
19 section 11-09.2-01 or 11-09.2-02 shall establish a county visitors' promotion fund and a visitors'
20 committee. The board of county commissioners shall appoint the members of a visitors'
21 committee. The visitors' committee shall serve as an advisory committee to the board of county
22 commissioners in administering the proceeds from the taxes available to the county under this
23 chapter. The moneys in the visitors' promotion fund must be used generally to promote,
24 encourage, and attract visitors to come to the county and use the travel and tourism facilities
25 within the county. The visitors' committee shall receive, plan, execute, and review the
26 expenditure of proceeds from the visitors' promotion fund and report its activities annually to the
27 board of county commissioners. The visitors' committee must be registered with the secretary of
28 state. The appointees shall serve without compensation, except for reimbursement for
29 necessary expenses. Committee members shall serve for a term of four years, except that two
30 of the members initially appointed must be appointed for an initial term of two years. Vacancies

1 must be filled in the same manner as the initial appointment. The committee shall elect a
2 chairperson and vice chairperson from among its members to serve for a term of two years.

3 **11-09.2-04. Budget - Contracts.**

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

9 **11-09.2-05. Payment of tax - Collection by tax commissioner - Administrative**
10 **expenses allowed - Rules.**

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

29 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
30 June 30, 2019.