عا AB 64 Name City and Zip Code Street Address or Route Number Representing Bill No. Subject -Assembly Hearing Slip Speaking for information only: Speaking in favor: Neither for nor against: Registering against: Registering in favor: Speaking against: Αß (Please print plainly)

Assembly Hearing Slip (Please print plainly) Date: 128 28 200 Bill No. 138 69 Subject 1980 1990 Name Name Street Address or Route Number City and Zip Code City and Zip Code City and Zip Code Representing

Please promptly return this slip to the messenger at the committee.

Speaking for information only:

Registering against:

Registering in favor:

Neither for nor against:

Please promptly return this slip to the

messenger at the committee.

Provided by: Assembly Sergeant at Arms 411 West, State Capitol

Provided by:
Assembly Sergeant at Arms
411 West, State Capitol
Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Or Subject —

Kathi Kilgore
Name

2801 Fish tathery R
Street Address or Route Number

Maakson 53711

City and Zip Code

WI RESTAURANT ASSO.

Representing

Speaking in favor:

Speaking against:

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please promptly return this slip to the messenger at the committee.

Provided by:
Assembly Sergeant at Arms
411 West, State Capitol
Madison, WI 53708

Name Street Address or Route Number Representing City and Zip Code Subject -Bill No. Date: Please promptly return this slip to the **Assembly Hearing Slip** 2/28/01 Speaking for information only: Neither for nor against: Speaking in favor: Neither for nor against: Registering against: Registering in favor: Speaking against: (Please print plainly) 2 Q

City and Zip Code

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413 64

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Please promptly return this slip to the messenger at the committee.

messenger at the committee.

Assembly Sergeant at Arms 411 West, State Capitol

Provided by:

Madison, WI 53708

Assembly Sergeant at Arms 411 West, State Capitol Madison, WI 53708 Provided by:

Assembly Hearing Slip CINARY Name Street Address or Route Number Representing City and Zip Code Bill No. Date: Subject -名のつい Assembly Hearing Slip Speaking for information only: Neither for nor against: Speaking in favor: Registering against: Registering in favor: Speaking against: (Please print plainly)

Please promptly return this slip to the messenger at the committee.

Assembly Sergeant at Arms 411 West, State Capitol Madison, WI 53708 Provided by:

Please promptly return this slip to the messenger at the committee. Provided by: Assembly Sergeant at Arms 411 West, State Capitol Madison, WI 53708	Registering against: Speaking for information only: Neither for nor against:	Speaking against:	Representing Speaking in favor:	Street Address or Route Number City and Zip Code	Subject Smith	Assembly Hearing Slip (Please print plainly) Date: 286 Bill No. 44

./ * **Ways & Means Committee Preliminary Report on Referred Legislation** March 5, 2001

Bill: **AB 64** Author: Sinicki

Date Referred: 02-01-2001 Public Hearing: 02-28-2001 Executive Session: 03-07-2001

Relating Clause: the sales tax and the use tax on tips and gratuities.

Comments from Department of Revenue-

This legislation could conflict with concepts of the "Streamlined Tax Project" should the state choose to participate in the final result.

Comments from the Author-

Author's reasoning for introducing legislation:

At request of a constituent who was forced to pay a large amount of sales tax on a gratuity charge listed on the bill for his daughter's wedding reception catering service.

Author's intent:

To have tips and gratuities that are listed on a bill be excluded from the sales tax.

Does the Auth	or want the legislation moved forward?
X Yes	No
If no, do we ha	ve this in writing?
) Yes _	No
Is the legislation	on in its final form?

Yes If major changes are required, the author shall prepare and introduce the necessary amendments.

The author has provided LRBs0048/1

Notes-

It should be noted that this bill passed the Ways & Means Committee unanimously and passed the Assembly on a voice vote.

Under current law, tips in these circumstances are taxed twice.

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Assembly Committee on Ways and Means

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1.	Rep. Mickey Lehman, chair	1			
2.	Rep. John Ainsworth, vice-chair	2			
3.	Rep. Suzanne Jeskewitz	3	-		
4.	Rep. Frank Lasee				
5.	Rep. Samantha Starzyk	4			
6.	Rep. Tom Sykora	5			
7.	Rep. Carol Owens				
8.	Rep. Luther Olsen	6			
9.	Rep. Wayne Wood	7			
10.	Rep. Bob Ziegelbauer	8			
11.	Rep. Johnie Morris-Tatum	9			
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Serving the Lodging Industry for Over 100 Years

February 26, 2001

MEMO TO: Wisconsin Assembly Ways and Means Committee

FROM: Trisha A. Pugal CAE, President, CEO

and Barb Linton, Legislative Consultant

RE: AB64 on Sales and Use Tax Exemption For

Tips/Gratuities

The Wisconsin Innkeepers Association, a non-profit trade association representing over 1,150 hotels, motels, resorts, inns, and bed & breakfasts throughout Wisconsin, respectfully requests your support of AB64.

Currently, companies, associations, and families planning meetings, conferences, conventions, and social functions at restaurants and lodging facilities in Wisconsin must pay sales tax not just on the cost of food and beverages but also on the tips or gratuities for the service provided.

As most other states do not tax the tips and gratuities, Wisconsin's facilities are put at a disadvantage when competing with facilities in other states for event business.

Please support AB64 and encourage the growth of meeting and event business in our state.

cc: WIA Executive Committee
WIA Legislative/Tourism Committee Chairman

1025 S. Moorland Rd.
Suite 200
Brookfield, WI 53005
262/782-2851
Par# 262/782-0550
win@execpe.com
http://www.lodging-wi.com



Koloen, Jan

From:

Collier, Dennis J

Sent:

Tuesday, February 27, 2001 9:35 AM

To:

Koloen, Jan

Subject:

AB 64 - Suggested Changes

Sensitivity:

Private

Here is a heads up on the drafting suggestions we will make in our technical memo on AB 64:

- 1. Proposed sec. 77.51 (4)(b)2m, as created by Section 1 of the bill, should exclude from gross receipts any fees or service or labor charges for the sales of meals, food, food products and beverages made in lieu of a tip and stated separately on the bill.
- 2. Sec. 77.51 (4)(a)2 and (c)2, Wis. Stats., should be amended to provide an exception for proposed sec. 77.51 (4) (b)2m. (There should be no reference to Subchapter V, as in the current draft.)
- 3. Proposed sec. 77.51 (15)(b)2m, as created by Section 3 of the bill, should exclude from sales price any fees or service or labor charges for the sales of meals, food, food products and beverages made in lieu of a tip and stated separately on the bill.
- 4. Sec. 77.51 (15)(a)2 and (c)1, Wis. Stats., should be amended to provide an exception for proposed sec. 77.51 (15)(b)2m. (There should be no reference to Subchapter V, as in the current draft.)
- 5. Section 5 of the bill should be deleted.
- 6. Sec. 77.982 (2), Wis. Stats., should be amended to refer to proposed sec. 77.51 (4)(b)2m.

The above suggestions assume that AB 64 will be the starting point for drafting an amendment. If the drafter wants to start from 1999 AB 572 as amended by LRBa1126/1, we would suggest the following changes in addition to those in the amendment:

- 1. 77.51 (4)(b)2m and (15)(b)2m, as created by the bill, read as follows [same as points 1 and 3 above]:
 - 77.51 (4)(b)2m. Any fee, service charge, labor charge or other addition to the price, for the sale of meals, food, food products or beverages, that represents or is in lieu of a tip or gratuity, if separately listed on the receipt given by the retailer to the purchaser.
 - 77.51 (15)(b)2m. Any fee, service charge, labor charge or other addition to the price, for the sale of meals, food, food products or beverages, that represents or is in lieu of a tip or gratuity, if separately listed on the receipt given by the retailer to the purchaser.
- 2. Delete Section 5 of AB 572 [same as point 5 above].
- 3. Amend sec. 77.982 (2), Wis. Stats., to include sec. 77.51 (4)(b)2m [same as point 6 above].

[The amendment to AB 572 already dealt with points 2 and 4 above.]

I hope this is helpful, and again, I am sorry you are having to deal with this so close to Wednesday's hearing. Please let me know if you have any questions or need additional information.



Christine Sinicki State Representative

February 27, 2001

TO:

CHAIRMAN LEHMAN & MEMBERS

ASSEMBLY COMMITTEE ON WAYS & MEANS

FROM:

REP. CHRISTINE SINICKI

RE:

AB 64 - Exemption from Sales Tax on Gratulties

This bill was first introduced last session (AB 572) at the request of a constituent who was seeking tax fairness. Mr. Jim Pasterczyk contacted my office after his daughter's wedding because he noticed that the catering bill included a substantial portion of the sales tax for the gratuity, which was included as part of the bill. He correctly noted that when leaving a gratuity for a server at a restaurant, the gratuity is not subject to sales tax; however, when that same gratuity is added to the charges (as is policy for large parties), it is treated differently.

The substitute amendment (LRB 0048) incorporates technical suggestions made by the Department of Revenue which help clarify exactly what we are intending to exempt from the gross receipts tax--gratuities from food and beverages only. The fiscal estimate, I am informed by Mr. Collier of the Department, should be less than the estimate given last session.

The bipartisanship of this legislation attests to the fact that this issue of tax fairness requires our attention and is truly a matter of good public policy. Dubbed "The Father of the Bride Bill" because of its origins, this bill received unanimous votes last session in the Ways and Means Committee, the Joint Committee on Finance and the full Assembly. We had the misfortune of simply running out of time, and were unable to have the bill referred to the Senate calendar on the final day of session. I am hopeful this will not be the case this session.



Date: February 28, 2001

To: Assembly Committee on Ways and Means

Representative Michael Lehman, Chairman

From: Kathleen Kilgore, Director of Government Relations

Wisconsin Restaurant Association

Re: Support of Assembly Bill 64

A tip is money a customer voluntarily gives a server for courteous and prompt service. A service charge, on the other hand, is a required payment. For example, if a menu states that a 15 percent gratuity will be added to all parties of eight or more, or a catering contract states that an 18 percent tip will be added, these are service charges. It doesn't matter if the charge is called a gratuity, service charge or tip, Wisconsin law defines these required payments as service charges and sales tax must be paid on them. Assembly Bill 64 would make these service charges tax exempt.

This bill does not have a direct economic benefit to restaurants. The real issue here is of customer satisfaction. Explaining to customers why an involuntary service charge is taxable and a voluntary tip is tax-exempt is not easy or enjoyable for a restaurateur. It is difficult for our members to explain why this is, except for "it's the law." Some customers understand, but others range from mildly perturbed to irate. It is this misunderstanding that leads to a dissatisfied customer, who, most cases, never returns to the restaurant again.

On behalf of the 7,000 members of the Wisconsin Restaurant Association, I ask for your support of Assembly Bill 64.



State of Misconsin

LEGISLATIVE REFERENCE BUREAU

LEGAL SECTION: REFERENCE SECTION: FAX:

(608) 266-3561 (608) 266-0341 (608) 266-5648 100 NORTH HAMILTON STREET P. O. BOX 2037 MADISON, WI 53701-2037

STEPHEN R. MILLER

February 27, 2001

MEMORANDUM

To:

Representative Sinicki

From:

Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject:

Technical Memorandum to 2001 AB-64 (LRB 01-0951/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 27, 2001

TO:

Joseph Kreye

Legislative Reference Bureau

FROM:

Yeang-Eng Braun 48 B Department of Revenue

SUBJECT:

Technical Memorandum on AB 64 - Exempt from State Sales and Use Taxes

Any Service Charge Related to the Sale of Tangible Personal Property

The apparent intent of this bill is to exclude from the sales tax base service charges made by a retailer in lieu of a tip or gratuity. In the Department's view, it may not achieve that result because of a conflict with existing statutory language, may in fact exempt charges other than those intended, and creates different treatment of service charges for different types of taxes.

Proposed sec. 77.51 (4)(b)2m, created by Section 1 of the bill, would exclude from gross receipts "any services that are a part of the sale of tangible personal property." This language would conflict with existing sec. 77.51 (4)(a)1, Wis. Stats., which provides that gross receipts may not be reduced for labor or service costs. If this existing language controls, tips and gratuities, which are charges for labor and service costs, would remain taxable when included in the bill by the retailer.

At the same time, it may allow retailers to reduce the amount of their gross receipts subject to tax by charging a separate fee for services that are not a labor or service cost. An example might be a charge for the set-up of a computer, whenever the seller does not incur any cost for the set-up in terms of payment to an employee or outside contractor. Further, services that are part of a sale of tangible personal property could be broadly interpreted so that any portion of gross receipts attributable to any service is excluded. At the extreme, the bill could limit gross receipts to the portion of the sales price attributable to raw materials used in the property, for example, a motor vehicle, while the portion attributable to services, such as designing, assembling and transporting the vehicle, would not be taxable.

The exclusion from gross receipts would apply for purposes of the state sales and use tax, but not for other taxes. Section 2 of the bill provides the services excluded from gross receipts under Section 1 of the bill would be included in gross receipts for taxes under Subchapter V of Chapter 77. These are the county, baseball park and football stadium sales and use taxes; in addition, these services would be included in gross receipts for the premier resort tax, since its statutory provisions, specifically sec. 77.9941 (4), refer to sec. 77.79 in Subchapter V.

These service charges also remain in gross receipts for the local food and beverage, local rental car, local room or state rental vehicle fee taxes because the appropriate provisions for those taxes were not amended to reference proposed sec. 77.51 (4)(b)2m, created by Section 1 of the bill.

Because of these differences in tax bases, a retailer would have to keep track of charges made for tips and gratuities, excluding them when determining state sales and use tax liability, but including them when determining other tax liability. This will impose considerable compliance costs on retailers. In addition, the Department would need to redesign reporting forms and computer programs to properly collect and allocate local sales, exposition district and premier resort area taxes.

Further, the bill conflicts with a key feature of the Streamlined Sales Tax Project, in which Wisconsin is cooperating with more than 30 other states. The feature is common tax bases for state and local taxes. The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax administration. Different treatment of transactions for state and local transactions-based taxes would create new complexity contrary to states' efforts to achieve simplification.

The Department has two other concerns with the bill. The first is that it creates a conflict in the definitions of gross receipts and sales price for the local food and beverage taxes and local car rental tax and the state rental vehicle fee. Section 2 of the bill includes service charges in gross receipts by amending sec. 77.51 (4)(c)2, Wis. Stats., and Section 4 of the bill includes them in the definition of sales prices. Existing provisions for the food and beverage, car rental and rental vehicle taxes refer to the amended section relating to gross receipts, but not to the amended section relating to sales price. Thus, the conflict results.

The second concern is that the bill requires the amount of a service charge to be stated separately, but only for the sales of services. It would not require, for example, a restaurant to state separately a 15% gratuity on the sale of a meal. In addition, there are no consequences for non-compliance with this requirement to report service charges separately.

The Department recommends the following changes be made to the bill in order to limit the excluded charges to tips and gratuities related to the sales of meals and beverages and to exclude such tips and gratuities from gross receipts for purposes of local sales and use, premier resort and exposition district taxes as well as the state sales tax.

- 1. Proposed sec. 77.51 (4)(b)2m, as created by Section 1 of the bill, should exclude from gross receipts any fees or service or labor charges for the sales of meals, food, food products and beverages made in lieu of a tip and stated separately on the bill.
- 2. Sec. 77.51 (4)(a)2 and (c)2, Wis. Stats., should be amended to provide an exception for proposed sec. 77.51 (4)(b)2m. (There should be no reference to Subchapter V, as in the current draft.)
- 3. Proposed sec. 77.51 (15)(b)2m, as created by Section 3 of the bill, should exclude from sales price any fees or service or labor charges for the sales of meals, food, food products and beverages made in lieu of a tip and stated separately on the bill.
- 4. Sec. 77.51 (15)(a)2 and (c)1, Wis. Stats., should be amended to provide an exception for proposed sec. 77.51 (15)(b)2m. (There should be no reference to Subchapter V, as in the current draft.)

- 5. Section 5 of the bill should be deleted.
- 6. Sec. 77.982 (2), Wis. Stats., should be amended to refer to proposed sec. 77.51 (4)(b)2m.

If you have questions regarding this technical memorandum, please contact Dennis Collier at 266-5773.

YEB:DC:ds I:\fsn01-02\dc\ab64.tec

FISCAL ESTIMATE FORM 2001 Session LRB# 01-0951/1 **INTRODUCTION# AB 64** □ ORIGINAL ☐ UPDATED ☐ CORRECTED ☐ SUPPLEMENTAL Admin. Rule # **Subject** Exclude Tips from the Sales and Use Tax **Fiscal Effect** State: No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a Increase Costs - May be Possible to Absorb sum sufficient appropriation Within Agency's Budget ☐ Yes ☒ No **Increase Existing Appropriation** ☐ Increase Existing Revenues **Decrease Existing Appropriation** Decrease Existing Revenues Decrease Costs Create New Appropriation Local: No Local Government Costs ☐ Increase Revenues 5. Types of Local Governmental Units Affected: ☐ Permissive ☐ Mandatory ☐ Permissive ☐ Mandatory ☐ Towns ☐ Villages ☐ Cities ☐ Decrease Costs ☐ Decrease Revenues ☐ Counties ☐ Others ☐ Permissive ☐ Mandatory ☐ Permissive ☐ Mandatory ☐ School Districts ☐ WTCS Districts **Fund Sources Affected** Affected Ch. 20 Appropriations ☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S 20.566 (1)(a) **Assumptions Used in Arriving at Fiscal Estimate:** This bill excludes services that are part of a sale of tangible personal property from gross receipts that are subject to the state sales and use tax. For purposes of this fiscal estimate, it is assumed that the revenue loss will be primarily related to tips and gratuities included on the bill by retailers of meals and beverages. and that the bill would take effect July 1, 2001. Taxable receipts of Wisconsin eating and drinking places in 1999, according to Wisconsin Department of Revenue statistics, were \$4,777 million. Assuming that these receipts grow at the same rate as consumption of food and beverages, as estimated by Standard and Poor's DRI, between 1999 and FY02, or 12.6%, taxable receipts in FY02 are estimated to be \$5,381 million (\$4,777 X 1.126). It is assumed that only receipts of full-service restaurants and caterers would be affected by this bill. According to the U.S. Bureau of the Census's 1997 Economic Census, these establishments accounted for 46.2% of total foodservice and drinking establishment receipts in 1997. It is further assumed that 10% of receipts would be affected by this bill and that the gratuity to be excluded would be 15% of receipts. Thus, the revenue loss from the 5% sales tax would be approximately \$1.85 million (\$5,381 million X 46.2% X 10% X 15% X 5%). There would be no local revenue loss because the bill provides that the exclusion from gross receipts is not provided for county, baseball park or football stadium district taxes or for the premier resort tax. In addition local exposition district taxes would not be affected. The Department would incur one-time expenses of \$56,100 for a special mailing to inform retailers of the change. Long-Range Fiscal Implications: Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No. Date Wisconsin Department of Revenue Yeang-Eng Braun 2/27/01 Yeary Bram

(608) 266-2700

Dennis Collier, (608) 266-5773

ISCAL ESTIMATE WORKSHEET	Detailed Estimate of Annua	Detailed Estimate of Annual Fiscal Effect		
☑ ORIGINAL ☐ UPDATED	LRB # 01-0951/1			
☐ CORRECTED ☐ SUPPLEMENTAL	INTRODUCTION # AD	INTRODUCTION # AB 64		
Subject				
Exclude Tips from the Sales and				
I. One-Time Costs or Revenue Impacts for State	e and/or Local Government (do not includ	le in annualized fiscal eff	ect):	
+\$56,100 GPR-Exp		Annualized Fiscal impa	act on State funds from:	
II. Annualized Costs:				
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(FTE Position Changes)		(FTE)	(- FTE)	
State Operations-Other Costs	,		-	
Local Assistance			-	
Aids to Individuals or Organizations			_	
TOTAL State Costs by Category		\$	\$ -	
B. State Costs by Source of Funds		Increased Costs	Decreased Costs	
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FED				
PRO/PRS		·		
SEG/SEG-S			-	
III. State Revenues - Complete this only when prevenues (e.g., tax increase	proposal will increase or decrease state se, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.	
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GPR Earned			-	
FED			-	
PRO/PRS			•	
SEG/SEG-S			-	
TOTAL State Revenues		\$	\$ - 1.85 million	
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NET CHANGE IN COSTS	\$			
NET CHANGE IN REVENUES	\$ -1.85 million			
Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telepho	ne No.	Date	
Wisconsin Department of Revenue	Yeang-Eng Braun	ng by Sear	m 2/27/01	
Dennis Collier, (608) 266-5773	(608) 266-2700	70-par	-12/101	