

**Letters and Testimony  
for HF 3947 (Nelson)  
Labor Policy Bill**



Chair Michael Nelson  
585 State Office Building  
St. Paul, MN 55155

Dear Chair Nelson and Members of the House Labor and Industry Finance and Policy Committee,

The Association of periOperative Registered Nurses (AORN) is a national community uniting and empowering operating room nurses, healthcare organizations, and industry partners to support safe surgery for patients and staff. AORN has more than 200 chapters nation-wide, including four in the state of Minnesota. **We write to express our support of the House Labor Policy Omnibus Bill, HF3947, and the inclusion of surgical smoke evacuation legislation, HF4011 (Berg).**

Surgical smoke is the result of human tissue contact during surgery – it contains over 150 hazardous chemicals and carcinogenic and mutagenic cells, including toxic gasses, dead and live cellular material, blood fragments, and viruses. 9 out of 10 surgical procedures generate surgical smoke, and an estimated 500,000 healthcare workers are exposed each year. The average daily impact of surgical smoke to the surgical team is the equivalent of inhaling the smoke of 27-30 unfiltered cigarettes. Surgical smoke is harmful to both staff and patients, causing cancer cells to metastasize and being inhaled by babies in C-section procedures.

The good news is: surgical smoke can be safely and effectively eliminated with available technologies. A smoke evacuator device can capture the smoke at the source, and small amounts can also be safely evacuated using the operating room suction systems already installed in every operating room. HF4011 simply has hospitals adopt a policy requiring the evacuation of surgical smoke for planned surgical procedures likely to generate surgical smoke. The bill allows maximum flexibility for surgical teams and facilities to select and use the equipment of their choice. The costs are minimal, with no construction costs and minimal costs for filters and/or electro-surgical pencils.

**In Minnesota, the impact of surgical smoke on our healthcare providers is real and dire.** In an AORN 23-24 survey of our MN members, over half of operating room nurses experience frequent headaches, almost half report throat irritation, and a large number have frequent eye irritation, inflammatory respiratory changes, lightheadedness, and some even carcinoma. The same survey found that 95% of respondents indicated their facility does have smoke evacuation equipment, but only 18% always evacuate smoke.

We deeply appreciate Representative Berg's authorship of this bill, and Chair Nelson for its inclusion in the House Labor Policy Omnibus bill this year. At a time when healthcare workers are experiencing burnout and leaving the profession, Minnesota is set to take an important step: protect the health and safety of our OR staff, so that they can protect the health and safety of Minnesotans. We urge members of the House Labor and Industry Finance and Policy Committee to vote in favor of this critical, time-sensitive legislation.

Sincerely,

Jennifer Pennock  
Associate Director, Government Affairs  
Association of periOperative Registered Nurses (AORN)



March 25, 2024

Dear Members of the House Labor and Industry Finance and Policy Committee:

As the Labor and Industry Committee works to finalize a labor policy omnibus bill for 2024, the Minnesota Chamber of Commerce, a statewide business organization representing over 6,300 business and over half a million employees throughout Minnesota, appreciates the opportunity to share our perspective on a number of provisions within the DE Amendment to HF 3947 (Rep. Nelson).

The cost of doing business in the state increased significantly as a result of the 2023 legislative session. After a record-setting number of new labor mandates, workplace restrictions, and business taxes, employers are very concerned about any additional policy proposals that further impede their ability to succeed and grow in Minnesota. Now is not the time to add additional costs and liabilities on Minnesota's employers, and yet the DE Amendment to HF3947 contains more requirements, penalties, remedies, and employer obligations (Sections 1, 5, 6-10, 42, 45-47, 53, 54-67).

Small and mid-sized businesses cannot simply absorb state-imposed cost-of-doing-business increases year after year. In order for our members to manage the cost of these state mandates, we see higher costs for goods and services, lower rates of reinvestment into businesses, and negative impacts on other employee benefits. Minnesota's Tax Incidence report regularly notes that business costs get passed onto consumers.

In particular, Sections 2-4 (HF 4050, Rep. Kozlowski) seek to significantly alter the application of our existing minimum wage structure and increase the minimum wage for a majority of the state's business. For our state's smallest employers, not only would there no longer be a designated small business minimum wage but the minimum wage for these small businesses will spike without warning. While we do not support removing this small business provision, we request that any significant changes to wage or work requirements that particularly target small businesses be phased in as well as take effect after a robust public education and awareness campaign initiated by the state.

Minnesota has competitive wages already - and our state's minimum wage policy currently includes an annual inflator of 2.5% based on legislation passed a few years ago. Our position is that no policy should be based on automatic adjustments, so we do not support further doubling the percentage increase in the rate of inflation. The legislature should consider and debate the minimum wage base rate itself based on economic and market conditions – but at the very least, the committee should retain the current minimum wage annual adjustment cap of 2.5%.

While the Chamber is opposed to the provisions in Sections 2-4, we do agree that a thoughtful approach to the minimum wage based on economic data and market conditions can be timely. As



the labor policy omnibus bill is assembled and provisions relating to minimum wage are considered, we request that the recommendations suggested above be considered.

Finally, we appreciate the intent behind Sections 48 – 52 (HF 3516, Rep. Moller) regarding oral fluid testing as a preemployment alternative for drug, alcohol, and cannabis testing by employers. We are concerned that the language, as drafted, is unclear and may unintentionally limit the application of this testing method, negatively impacting employers, employees, and job applicants alike. We recommend simply adding “oral fluid test” into the definition of “drug and alcohol testing” in existing law while retaining the existing rights and protections for job applicants and employees.

The Minnesota Chamber believes that balanced employment-related policy benefits both employers and workers as well as taxpayers while enabling our economy to grow. It is for these reasons that the Chamber encourages members to oppose HF 3947, as amended by the DE Amendment.

Sincerely

**Lauryn Schothorst**

Director, Workplace Management and Workforce Development Policy



March 26, 2024

The Honorable Michael Nelson, Chair  
House Labor Committee  
585 State Office Building  
St. Paul, MN 55155

The Honorable Joe McDonald, Republican Lead  
House Labor Committee  
241 State Office Building  
St. Paul, MN 55155

**Re: Hospitality Minnesota, Minnesota Licensed Beverage Association, and Minnesota Municipal Beverage Association Concerns on HF 4787**

Dear Chair Nelson, Republican Lead McDonald, and Members of the Committee:

We appreciate the opportunity to weigh in on HF 4787 and raise some concerns for consideration as this bill may impact hospitality businesses across Minnesota. Hospitality Minnesota, Minnesota Licensed Beverage Association, and Minnesota Municipal Beverage Association are the leading hospitality trade associations that represent bars, restaurants and food service across the state of Minnesota.

The hospitality industry, particularly bars and restaurants, operates on extremely thin margins averaging 2 – 5% (unlike other small businesses which can average 10%). Over the past few years, many of our operators have been operating at a loss due to the pandemic and are struggling to recover. One consistently high operating cost for our operators is credit card processing. The United States has among the highest credit card swipe fees in the world. It's no secret the swipe fees have become exorbitant.

In fact, the credit card duopoly is squeezing restaurant operators – 9 in 10 of which are small businesses. Since swipe fees have more than doubled over the past decade, the cost of swipe fees was over \$160 billion when debit cards are included, driving up prices for the average family by more than \$1,000 per year, according to the Nilson report.

While we spend most of our time advocating at the state legislature, we are strongly engaged in the Credit Card Competition Act (CCCA) at the federal level. If we don't move forward with CCCA, we are going to continually disproportionately impact small operators by hitting them with high swipe fees. If serious progress was made to lower swipe fees, there is significant investment businesses can make back into their business and employees.

HF 4787 proposes to prohibit businesses from passing on credit card processing fees on tips to the employees who benefit from such tips. Credit card processing fees often cumulatively range between 2-3+% of a given transaction. Currently, Minnesota law allows restaurants and other businesses to pay their fair share by paying for the 2-3% fee on a given food/beverage tab and requiring the tipped employee to cover the 2-3+% processing fee on the amount of the tip.



As previously mentioned, there is a real cost to process transactions electronically. Asking a server to cover the credit card processing fees on the tips they receive is akin to paying processing fees to use your ATM card or process other electronic transactions. As a matter of fairness, it seems reasonable that the employee would share in his/her portion of the cost to be able to access the benefit of receiving a credit card tip. To note, employers are already paying 7.65% in FICA on sales tax and tips.

While some of our members currently choose to cover their employees' credit card processing fee costs as an added benefit to their employees, not all restaurants are financially able to absorb this cost. This should be considered as the cost to restaurants can be significant.

We encourage the committee to think through the ramifications across the entire ecosystem that this legislation will impact. Please don't hesitate to call on us if we can serve as a resource for input or provide any additional information.

Sincerely,

**Angie Whitcomb**  
President & CEO  
Hospitality Minnesota

**Tony Chesak**  
Executive Director  
Minnesota Licensed Beverage Association

**Paul Kaspszak**  
Executive Director  
Minnesota Municipal Beverage Association