

1 SENATE BILL NO. 522

2 INTRODUCED BY D. ZOLNIKOV

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION OF REVENUE FROM THE
5 LODGING AND FACILITIES USE TAX TO PROVIDE GRANTS TO LODGING ESTABLISHMENTS THAT
6 PROVIDE VICTIMS OF DOMESTIC VIOLENCE OR HUMAN TRAFFICKING WITH SHORT-TERM LODGING;
7 CREATING AN EMERGENCY LODGING PROGRAM TO ASSIST VICTIMS OF DOMESTIC VIOLENCE OR
8 HUMAN TRAFFICKING THAT IS ADMINISTERED BY THE ~~DEPARTMENT OF PUBLIC HEALTH AND~~
9 ~~HUMAN SERVICES BOARD OF CRIME CONTROL~~; PROVIDING THAT A GRANT IS NOT SUBJECT TO
10 STATE ACCOMMODATION TAXES; CREATING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING
11 DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-65-121, 15-68-101,
12 AND 90-1-135, MCA; AND PROVIDING AN EFFECTIVE DATE, ~~AND AN APPLICABILITY DATE,~~ AND A
13 TERMINATION DATE."

14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16

17 NEW SECTION. Section 1. Emergency lodging program for victims of domestic violence or
18 human trafficking -- grants -- rulemaking -- definitions. (1) There is an emergency lodging program for

19 licensed establishments located in the state to assist designated ~~charitable~~ organizations in providing short-
20 term lodging in the state to individuals and families that are victims of domestic violence or human trafficking.

21 (2) (a) Subject to the provisions of this section, participating establishments may submit a grant
22 application to the ~~department board of crime control~~ for providing emergency lodging to an individual or family
23 who is in immediate need of shelter based on being a victim of domestic violence or human trafficking.

24 (b) In order to be eligible for the grant, the individual or family must be referred to the
25 establishment by a designated ~~charitable~~ organization.

26 (3) Grant funds for the program are provided from funding in the emergency lodging for victims of
27 domestic violence or human trafficking state special revenue account provided for in [section 2]. The grant:

28 (a) is equal to the lesser of the average daily rate or the state rate for each night lodging was

1 provided at no cost to the individual or the referring organization;

2 (b) is limited to a maximum of 5 nights' lodging for each individual or family for each calendar year;

3 (c) may be claimed only for lodging provided in the state; and

4 (d) is exempt from the lodging and facility use tax imposed by 15-65-111 or the sales tax and use
5 tax on accommodations imposed by 15-68-102.

6 (4) Participating establishments may offer lodging based on availability of rooms.

7 (5) The department board of crime control shall maintain a registry of designated ~~charitable~~
8 organizations and shall provide a list of approved organizations to establishments on request. The ~~department~~
9 board of crime control shall seek comment from appropriate statewide nonprofit organizations when developing
10 and updating the registry.

11 (6) The grants provided in this section are subject to available funding and are not guaranteed.
12 The grant does not apply to the costs of providing lodging to an individual who is displaced by a major disaster
13 declared by the president under 42 U.S.C. 5170 or 5191 and who receives financial assistance for temporary
14 housing under 42 U.S.C. 5174.

15 (7) The department board of crime control may adopt rules, prepare forms, and maintain records
16 that are necessary to implement and administer this section.

17 (8) As used in this section, the following definitions apply:

18 (a) (i) "Average daily rate" means the total amount of lodging receipts received by the
19 establishment during the night of the emergency stay without regard to local and state taxes received divided
20 by the number of rooms the establishment received compensation for during the night of the emergency stay.

21 (ii) The term does not include grant money received pursuant to this section.

22 (b) "Designated ~~charitable~~ organization" ~~has the meaning provided in 50-51-114~~ means a
23 charitable organization or government entity approved by the board of crime control to make referrals for
24 emergency lodging.

25 (c) "Establishment" means a person or entity that makes sales of accommodations as defined in
26 15-68-101.

27 (d) "State rate" means the rate the state pays for state employees in travel status that is adopted
28 by the department of administration.

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NEW SECTION. Section 2. Emergency lodging for victims of domestic violence or human trafficking account. (1) There is an emergency lodging for victims of domestic violence or human trafficking account in the state special revenue fund. The account is administered by the ~~department~~ board of crime control.

(2) The revenue allocated to the account as provided in 15-65-121(2)(f) must be deposited in the account and distributed as provided in [section 1].

(3) Money in the account is subject to legislative appropriation and must be used to provide grants to licensed establishments that provide short-term lodging in the state to individuals and families that are victims of domestic violence or human trafficking pursuant to [section 1].

Section 3. Section 15-65-121, MCA, is amended to read:

"15-65-121. (Temporary) Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (2)(a) through ~~(2)(i)~~ (2)(j) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds, or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the emergency lodging for victims of domestic violence or human trafficking account, to the Montana historical

Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Taxation

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Drafter: Jaret Coles, 406-444-4022

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1 interpretation state special revenue account, to the Montana historical society, to the university system, to the
2 state-tribal economic development commission, and to the department of fish, wildlife, and parks, as follows:

3 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
4 historical signs and historic sites;

5 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel
6 research program;

7 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks
8 that have both resident and nonresident use;

9 (d) 1.4% to the invasive species state special revenue account established in 80-7-1004;

10 (e) ~~60.3%~~60.2% to be used directly by the department of commerce;

11 (f) 0.1% to the emergency lodging for victims of domestic violence or human trafficking account
12 established in [section 2];

13 (f)(g) (i) except as provided in subsection ~~(2)(f)(ii)~~ (2)(g)(ii), 22.5% to be distributed by the department
14 to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the
15 total proceeds collected statewide; and

16 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county,
17 resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
18 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
19 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-
20 county, resort area, or resort area district;

21 (g)(h) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal
22 economic development commission established in 90-1-131 for activities in the Indian tourism region;

23 (h)(i) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
24 115; and

25 (i)(j) 2.7% or \$1 million, whichever is less, to the Montana heritage preservation and development
26 account provided for in 22-3-1004. The Montana heritage preservation and development commission shall
27 report on the use of funds received pursuant to this subsection ~~(2)(i)~~ (2)(j) to the legislative finance committee
28 on a semiannual basis, in accordance with 5-11-210.

1 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
2 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
3 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
4 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
5 resort area, or resort area district is located.

6 (4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual
7 marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism
8 corporation may be used by the department of commerce for tourism promotion and promotion of the state as a
9 location for the production of motion pictures and television commercials.

10 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
11 subsections (2)(a) through (2)(c), (2)(e), and ~~(2)(f)~~ (2)(g) are statutorily appropriated to the entities as provided
12 in 17-7-502.

13 (6) The tax proceeds received that are transferred to the invasive species state special revenue
14 account pursuant to subsection (2)(d), to the Montana historical interpretation state special revenue account
15 pursuant to subsection ~~(2)(h)~~ (2)(i), and to the Montana heritage preservation and development account
16 pursuant to subsection ~~(2)(i)~~ (2)(j) are subject to appropriation by the legislature. (Terminates June 30, 2027--
17 sec. 12, Ch. 563, L. 2021.)

18 **15-65-121. (Effective July 1, 2027) Distribution of tax proceeds.** (1) The proceeds of the tax
19 imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the
20 state special revenue fund to the credit of the department. The department may spend from that account in
21 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting
22 and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with
23 the provisions of 17-2-124 and as provided in subsections (2)(a) through ~~(2)(h)~~ (2)(i) of this section, the
24 department shall determine the expenditures by state agencies for in-state lodging for each reporting period
25 and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall
26 distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging
27 expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state
28 general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and

1 development account provided for in 22-3-1004.

2 (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to
3 the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with
4 federal funds, or deposited in the heritage preservation and development account must be transferred to an
5 account in the state special revenue fund to the credit of the department of commerce for tourism promotion
6 and promotion of the state as a location for the production of motion pictures and television commercials, to the
7 emergency lodging for victims of domestic violence or human trafficking account, to the Montana historical
8 interpretation state special revenue account, to the Montana historical society, to the university system, to the
9 state-tribal economic development commission, and to the department of fish, wildlife, and parks, as follows:

10 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
11 historical signs and historic sites;

12 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel
13 research program;

14 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks
15 that have both resident and nonresident use;

16 (d) 1.4% to the invasive species state special revenue account established in 80-7-1004;

17 (e) ~~63%~~62.9% to be used directly by the department of commerce;

18 (f) 0.1% to the emergency lodging for victims of domestic violence or human trafficking account
19 established in [section 2].

20 (f)(g) (i) except as provided in subsection ~~(2)(f)(ii)~~ (2)(g)(ii), 22.5% to be distributed by the department
21 to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the
22 total proceeds collected statewide; and

23 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county,
24 resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
25 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
26 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-
27 county, resort area, or resort area district;

28 (g)(h) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal

1 economic development commission established in 90-1-131 for activities in the Indian tourism region; and
2 (h)(i) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
3 115.

4 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
5 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
6 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
7 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
8 resort area, or resort area district is located.

9 (4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual
10 marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism
11 corporation may be used by the department of commerce for tourism promotion and promotion of the state as a
12 location for the production of motion pictures and television commercials.

13 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
14 subsections (2)(a) through (2)(c), (2)(e), and (2)(f) (2)(g) are statutorily appropriated to the entities as provided
15 in 17-7-502.

16 (6) The tax proceeds received that are transferred to the invasive species state special revenue
17 account pursuant to subsection (2)(d) and to the Montana historical interpretation state special revenue account
18 pursuant to subsection (2)(h) (2)(i) are subject to appropriation by the legislature."
19

20 **Section 4.** Section 15-68-101, MCA, is amended to read:

21 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
22 following definitions apply:

23 (1) (a) "Accommodations" means short-term rentals or individual sleeping rooms, suites, camping
24 spaces, or other units offered for overnight lodging periods of less than 30 days to the general public for
25 compensation.

26 (b) Accommodations include units located in property represented to the public as a hotel, motel,
27 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, bed
28 and breakfast facility, vacation home, home, apartment, timeshare, room, or rooms rented by or on behalf of the

1 owner or seller.

2 (c) The term does not include:

3 (i) a health care facility, as defined in 50-5-101;

4 (ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3;

5 (iii) a facility that is used primarily by persons under 18 years of age for camping purposes; or

6 (iv) rooms or spaces offered separately to the general public for nonlodging purposes, including
7 meeting, conference, or banquet spaces.

8 (2) (a) "Base rental charge" means the following:

9 (i) charges for time of use of the rental vehicle and mileage, if applicable;

10 (ii) charges accepted by the renter for insurance;

11 (iii) charges for additional drivers or underage drivers; and

12 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for
13 the rental vehicle.

14 (b) The term does not include:

15 (i) rental vehicle price discounts allowed and taken;

16 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
17 privilege of operating as a concessionaire at an airport terminal building;

18 (iii) motor fuel;

19 (iv) intercity rental vehicle drop charges; or

20 (v) taxes imposed by the federal government or by state or local governments.

21 (3) (a) "Campground" means a place used for public camping where persons may camp, secure
22 tents, or park individual recreational vehicles for camping and sleeping purposes.

23 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park
24 intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive
25 days or more.

26 (4) "Engaging in business" means carrying on or causing to be carried on any activity with the
27 purpose of receiving direct or indirect benefit.

28 (5) (a) "Motor vehicle" means:

- 1 (i) a light vehicle as defined in 61-1-101;
- 2 (ii) a motorcycle as defined in 61-1-101;
- 3 (iii) a motor-driven cycle as defined in 61-1-101;
- 4 (iv) a quadricycle as defined in 61-1-101;
- 5 (v) a motorboat or a sailboat as defined in 23-2-502; or
- 6 (vi) an off-highway vehicle as defined in 23-2-801 that:
- 7 (A) is rented for a period of not more than 30 days;
- 8 (B) is rented without a driver, pilot, or operator; and
- 9 (C) is designed to transport 15 or fewer passengers.
- 10 (b) Motor vehicle includes:
- 11 (i) a rental vehicle rented pursuant to a contract for insurance; and
- 12 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is
- 13 rented without a driver, and that is used in the transportation of personal property.
- 14 (c) The term does not include farm vehicles, machinery, or equipment.
- 15 (6) "Online hosting platform" means any person that provides an online application, software,
- 16 website, or system through which a seller may advertise, rent, or furnish accommodations or rental vehicles
- 17 and through which a purchaser may arrange for use of those accommodations or the use or lease of rental
- 18 vehicles. Online hosting platforms include any online travel company or third-party reservation intermediary that
- 19 facilitates the sale or use of accommodations or rental vehicles.
- 20 (7) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
- 21 company, limited liability partnership, online hosting platform, or any other legal entity.
- 22 (8) "Purchaser" means a person to whom a sale of accommodations or a rental vehicle is made or
- 23 to whom a service is furnished.
- 24 (9) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
- 25 the motor vehicle through an arrangement and for consideration.
- 26 (10) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,
- 27 or subrent.
- 28 (11) (a) "Sale" or "selling" means the rental or use of accommodations or rental vehicles for

1 consideration or the performance of a service for consideration.

2 (b) The term does not include providing accommodations to victims of domestic violence or human
3 trafficking for grant money received pursuant to [section 1].

4 (12) (a) "Sales price" applies to the measure subject to the tax under Title 15, chapter 65, and this
5 chapter and means the total amount paid by the purchaser in the form of consideration, including cash, credit,
6 property, and services, for which sales of accommodations, rental vehicles, or services are provided, sold,
7 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
8 following:

9 (i) the seller's cost of the property sold;

10 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to
11 the seller, all taxes imposed on the seller, and any other expense of the seller;

12 (iii) charges by the seller for any services necessary to complete the sale;

13 (iv) delivery charges; or

14 (v) installation charges.

15 (b) The amount received for charges listed in subsections (12)(a)(ii) through (12)(a)(v) are
16 excluded from the sales price if they are separately stated on the invoice, billing, or similar document given to
17 the purchaser and the charge is not subject to subsection (12)(d).

18 (c) The term does not include:

19 (i) charges for meals, transportation, entertainment, or any other similar charges; or

20 (ii) any taxes legally imposed directly on the consumer that are separately stated on the invoice,
21 bill of sale, or similar document given to the purchaser.

22 (d) Unless specifically excluded, sales price includes any separate charge or fee that a purchaser
23 must pay to facilitate the sale or rental of the accommodations or rental vehicle, including a fee or a service,
24 commission, or other charge by an online hosting platform.

25 (13) "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

26 (14) "Seller" means a person that makes sales of accommodations or rental vehicles, including an
27 online hosting platform.

28 (15) (a) "Service" means an activity that is engaged in for another person for consideration and that

1 is distinguished from the sale or lease of accommodations or rental vehicles. Service includes activities
2 performed by an online hosting platform.

3 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of
4 the contracting parties is irrelevant.

5 (16) "Short-term rental" means any individually or collectively owned single-family house or dwelling
6 unit or any unit or group of units in a condominium, cooperative, timeshare, or owner-occupied residential home
7 that is offered for a fee for 30 days or less.

8 (17) "Short-term rental marketplace" means a person that provides a platform through which a seller
9 or the authorized agent of the seller offers a short-term rental to an occupant.

10 (18) "Timeshare" means any facility for which multiple parties or individuals own a right to use the
11 facility for lodging purposes, and these parties or individuals do not hold claim to ownership of the physical
12 property."
13

14 **Section 5.** Section 90-1-135, MCA, is amended to read:

15 **"90-1-135. Special revenue accounts.** (1) There is a state special revenue account in the state
16 treasury for the receipt of state and private funds and a federal special revenue account in the state treasury for
17 the receipt of federal funds for expenditure by the state-tribal economic development commission established in
18 90-1-131.

19 (2) Money in the state special revenue account from proceeds distributed under 15-65-
20 121(2)(g)(2)(h) is to be used for activities for the Indian tourism region, defined in 15-65-101.

21 (3) Except as provided in subsection (2), money in the accounts established in subsection (1) must
22 be used to pay:

23 (a) the commission's administrative costs;

24 (b) the salary, benefits, and administrative expenses of the tribal business center coordinator and
25 the federal grants coordinator; and

26 (c) the costs of conducting or commissioning and periodically updating or otherwise modifying a
27 comprehensive assessment of economic development needs and priorities on each of the Indian reservations
28 in the state.

Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Taxation

- 2023

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1 (4) Money in the accounts that is not expended for the purposes identified in subsection (2) or (3)
2 may be used for other purposes that the commission considers prudent or necessary.

3 (5) Interest and income earned on the money in the accounts must be deposited in the accounts
4 for the commission's use."
5

6 NEW SECTION. Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified
7 as an integral part of Title ~~50 44~~, chapter ~~51 7~~, part 1, and the provisions of Title ~~50 44~~, chapter ~~51 7~~, part 1,
8 apply to [sections 1 and 2].
9

10 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2023.
11

12 NEW SECTION. Section 8. Applicability. [This act] applies to sales of accommodations or
13 campgrounds that occur on or after [the effective date of this act] and to the use of accommodations or
14 campgrounds on or after [the effective date of this act], even if the sale occurred before [the effective date of
15 this act].
16

17 NEW SECTION. Section 9. Termination. [Sections 1 through 5] terminate June 30, 2027.
18

- END -