

SENATE BILL NO. 522

INTRODUCED BY D. ZOLNIKOV

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

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

NEW SECTION. Section 1. Emergency lodging program for victims of domestic violence or human trafficking -- grants -- rulemaking -- definitions. (1) There is an emergency lodging program for licensed establishments located in the state to assist designated charitable organizations in providing short-term lodging in the state to individuals and families that are victims of domestic violence or human trafficking.

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

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

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

(a) is equal to the lesser of the average daily rate or the state rate for each night lodging was provided at no cost to the individual or the referring organization;

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

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

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

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

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

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

13 (7) The department may adopt rules, prepare forms, and maintain records that are necessary to
14 implement and administer this section.

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

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

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

20 (b) "Designated charitable organization" has the meaning provided in 50-51-114.

21 (c) "Establishment" means a person or entity that makes sales of accommodations as defined in
22 15-68-101.

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

25

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

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

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

6

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

8 **"15-65-121. (Temporary) Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-
9 65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special
10 revenue fund to the credit of the department. The department may spend from that account in accordance with
11 an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing
12 the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of
13 17-2-124 and as provided in subsections (2)(a) through ~~(2)(i)~~ (2)(j) of this section, the department shall
14 determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of
15 that amount from the tax proceeds received each reporting period. The department shall distribute the portion
16 of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit
17 30% of the amount deducted less the portion paid with federal funds in the state general fund.

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

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

28 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel

1 research program;

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

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

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

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

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

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

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

18 ~~(h)(i)~~ 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
19 115; and

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

24 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
25 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
26 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
27 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
28 resort area, or resort area district is located.

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

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

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

13 **15-65-121. (Effective July 1, 2027) Distribution of tax proceeds.** (1) The proceeds of the tax
14 imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the
15 state special revenue fund to the credit of the department. The department may spend from that account in
16 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting
17 and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with
18 the provisions of 17-2-124 and as provided in subsections (2)(a) through ~~(2)(h)~~ (2)(i) of this section, the
19 department shall determine the expenditures by state agencies for in-state lodging for each reporting period
20 and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall
21 distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging
22 expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state
23 general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and
24 development account provided for in 22-3-1004.

25 (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to
26 the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with
27 federal funds, or deposited in the heritage preservation and development account must be transferred to an
28 account in the state special revenue fund to the credit of the department of commerce for tourism promotion

1 and promotion of the state as a location for the production of motion pictures and television commercials, to the
 2 emergency lodging for victims of domestic violence or human trafficking account, to the Montana historical
 3 interpretation state special revenue account, to the Montana historical society, to the university system, to the
 4 state-tribal economic development commission, and to the department of fish, wildlife, and parks, as follows:

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

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

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

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

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

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

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

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

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

25 ~~(h)(i)~~ 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
 26 115.

27 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
 28 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or

1 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
 2 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
 3 resort area, or resort area district is located.

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

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

11 (6) The tax proceeds received that are transferred to the invasive species state special revenue
 12 account pursuant to subsection (2)(d) and to the Montana historical interpretation state special revenue account
 13 pursuant to subsection ~~(2)(h)~~ (2)(i) are subject to appropriation by the legislature."
 14

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

16 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
 17 following definitions apply:

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

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

25 (c) The term does not include:

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

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

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

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

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

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

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

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

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

9 (b) The term does not include:

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

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

13 (iii) motor fuel;

14 (iv) intercity rental vehicle drop charges; or

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

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

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

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

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

24 (i) a light vehicle as defined in 61-1-101;

25 (ii) a motorcycle as defined in 61-1-101;

26 (iii) a motor-driven cycle as defined in 61-1-101;

27 (iv) a quadricycle as defined in 61-1-101;

28 (v) a motorboat or a sailboat as defined in 23-2-502; or

- 1 (vi) an off-highway vehicle as defined in 23-2-801 that:
- 2 (A) is rented for a period of not more than 30 days;
- 3 (B) is rented without a driver, pilot, or operator; and
- 4 (C) is designed to transport 15 or fewer passengers.
- 5 (b) Motor vehicle includes:
- 6 (i) a rental vehicle rented pursuant to a contract for insurance; and
- 7 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is
- 8 rented without a driver, and that is used in the transportation of personal property.
- 9 (c) The term does not include farm vehicles, machinery, or equipment.
- 10 (6) "Online hosting platform" means any person that provides an online application, software,
- 11 website, or system through which a seller may advertise, rent, or furnish accommodations or rental vehicles
- 12 and through which a purchaser may arrange for use of those accommodations or the use or lease of rental
- 13 vehicles. Online hosting platforms include any online travel company or third-party reservation intermediary that
- 14 facilitates the sale or use of accommodations or rental vehicles.
- 15 (7) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
- 16 company, limited liability partnership, online hosting platform, or any other legal entity.
- 17 (8) "Purchaser" means a person to whom a sale of accommodations or a rental vehicle is made or
- 18 to whom a service is furnished.
- 19 (9) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
- 20 the motor vehicle through an arrangement and for consideration.
- 21 (10) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,
- 22 or subrent.
- 23 (11) (a) "Sale" or "selling" means the rental or use of accommodations or rental vehicles for
- 24 consideration or the performance of a service for consideration.
- 25 (b) The term does not include providing accommodations to victims of domestic violence or human
- 26 trafficking for grant money received pursuant to [section 1].
- 27 (12) (a) "Sales price" applies to the measure subject to the tax under Title 15, chapter 65, and this
- 28 chapter and means the total amount paid by the purchaser in the form of consideration, including cash, credit,

1 property, and services, for which sales of accommodations, rental vehicles, or services are provided, sold,
2 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
3 following:

- 4 (i) the seller's cost of the property sold;
- 5 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to
6 the seller, all taxes imposed on the seller, and any other expense of the seller;
- 7 (iii) charges by the seller for any services necessary to complete the sale;
- 8 (iv) delivery charges; or
- 9 (v) installation charges.

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

13 (c) The term does not include:

- 14 (i) charges for meals, transportation, entertainment, or any other similar charges; or
- 15 (ii) any taxes legally imposed directly on the consumer that are separately stated on the invoice,
16 bill of sale, or similar document given to the purchaser.

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

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

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

23 (15) (a) "Service" means an activity that is engaged in for another person for consideration and that
24 is distinguished from the sale or lease of accommodations or rental vehicles. Service includes activities
25 performed by an online hosting platform.

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

28 (16) "Short-term rental" means any individually or collectively owned single-family house or dwelling

1 unit or any unit or group of units in a condominium, cooperative, timeshare, or owner-occupied residential home
2 that is offered for a fee for 30 days or less.

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

5 (18) "Timeshare" means any facility for which multiple parties or individuals own a right to use the
6 facility for lodging purposes, and these parties or individuals do not hold claim to ownership of the physical
7 property."
8

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

10 **"90-1-135. Special revenue accounts.** (1) There is a state special revenue account in the state
11 treasury for the receipt of state and private funds and a federal special revenue account in the state treasury for
12 the receipt of federal funds for expenditure by the state-tribal economic development commission established in
13 90-1-131.

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

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

- 18 (a) the commission's administrative costs;
- 19 (b) the salary, benefits, and administrative expenses of the tribal business center coordinator and
20 the federal grants coordinator; and

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

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

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