

HOUSE BILL NO. 408

INTRODUCED BY S. LAVIN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE AIR SERVICE DEVELOPMENT GRANT  
5 PROGRAM FOR ESTABLISHING OR EXPANDING COMMERCIAL AIR SERVICE; ASSIGNING  
6 ADMINISTRATION OF THE PROGRAM TO THE DEPARTMENT OF TRANSPORTATION; INCREASING THE  
7 SALES AND USE TAX ON RENTAL VEHICLES TO FUND THE PROGRAM; PROVIDING A STATUTORY  
8 APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION; PROHIBITING THE ACCOUNT USED TO  
9 FUND THE GRANT PROGRAM FROM EXCEEDING A CERTAIN AMOUNT; PROVIDING FOR ELIGIBILITY  
10 FOR THE GRANT PROGRAM; PROVIDING MATCHING GRANT AWARD GUIDELINES; REQUIRING THE  
11 DEPARTMENT OF TRANSPORTATION TO ADOPT RULES GOVERNING THE PROCESS FOR GRANT  
12 APPLICATIONS AND AWARDS; REQUIRING GRANT FUNDS TO BE EXPENDED WITHIN A CERTAIN  
13 AMOUNT OF TIME; AMENDING SECTIONS 7-14-112, 15-68-102, 15-68-820, AND 17-7-502, MCA; AND  
14 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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18 NEW SECTION. **Section 1. Air service development grant program -- purpose.** There is an air  
19 service development grant program established within the department to assist communities in providing  
20 incentives to commercial airlines to expand their services or to establish new services in those communities.

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22 NEW SECTION. **Section 2. Air service development grant program account -- fund balance limit.**

23 (1) There is an account in the state special revenue fund for the purpose of providing grants under the air service  
24 development grant program created in [section 1].

25 (2) Money must be deposited in the account pursuant to 15-68-820(2)(b).

26 (3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the  
27 purposes of awarding grants under [sections 1 through 5].

28 (4) The fund balance in the account may not exceed \$2 million. Any amount in excess of \$2 million must  
29 be transferred to the general fund.

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1            **NEW SECTION. Section 3. Air service development grant program -- eligibility -- use of grant**  
2 **funding -- definitions.** (1) Except as provided in [section 5(5)], a community that is served by commercial air  
3 service or essential air service is eligible to apply for a grant under the provisions of [sections 1 through 5].

4            (2) (a) Except as provided in subsection (2)(b), grant funds may be used for:

5            (i) minimum revenue guarantees designed to ensure that a new or expanded route is profitable to a  
6 commercial air carrier;

7            (ii) marketing by a community to advertise expanded or new commercial air service or marketing existing  
8 essential air service;

9            (iii) subsidizing the cost of ground handling and subsidizing fuel costs; and

10           (iv) providing matching funds for the purpose of receiving federal grant awards.

11           (b) A community with essential air service may not use grant funds for any purpose that would jeopardize  
12 the community's eligibility in the essential air service program.

13           (3) For the purposes of [sections 1 through 5], the following definitions apply:

14           (a) "Community" means an airport authority or a governing body as those terms are defined in 67-1-101.

15           (b) "Essential air service" means small community air service provided to eligible communities under 49  
16 U.S.C. 41731 through 41748.

17

18           **NEW SECTION. Section 4. Matching grant award guidelines.** (1) The department may award up to  
19 \$500,000 to an eligible community.

20           (2) A community that is awarded a grant shall provide matching funds in the amounts specified in  
21 subsection (3).

22           (3) (a) For a grant award of \$100,000 or less, the required match must be 10% of the grant award.

23           (b) For a grant award greater than \$100,000 but not more than \$200,000, the required match must be  
24 \$10,000 plus 20% of amounts that are greater than \$100,000.

25           (c) For a grant award greater than \$200,000 but not more than \$300,000, the required match must be  
26 \$30,000 plus 30% of amounts that are greater than \$200,000.

27           (d) For a grant award greater than \$300,000 but not more than \$400,000, the required match must be  
28 \$60,000 plus 40% of amounts that are greater than \$300,000.

29           (e) For a grant award greater than \$400,000, the required match must be \$100,000 plus 50% of amounts  
30 that are greater than \$400,000.

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2           **NEW SECTION. Section 5. Grant application process -- rulemaking -- factors to consider when**  
3 **awarding grants -- priorities.** (1) The department shall adopt rules to implement the grant program. The rules  
4 must:

5           (a) provide for a uniform grant application process;  
6           (b) establish ways in which communities will be notified of the grant program;  
7           (c) provide criteria for grant awards and factors the department will consider in awarding grants; and  
8           (d) provide for any other processes or procedures the department considers necessary to implement  
9 and operate the grant program.

10           (2) The rules adopted pursuant to subsection (1)(c) must, at a minimum, require consideration of the  
11 following when determining grant awards and amounts:

12           (a) whether air fares in a community are higher than the average air fare for all communities in the United  
13 States;

14           (b) whether improved service in a community will result in material benefits to a broad section of the  
15 traveling public, including businesses, educational institutions, and other enterprises with limited access to the  
16 national air transportation system; and

17           (c) whether the community has provided a specific plan and timetable for using the grant funds in a timely  
18 manner.

19           (3) Priority for grant awards must be given to proposals that combine grant funds with other local and  
20 federal programs as determined by the department.

21           (4) Unless the department determines that a time extension is warranted, a community shall expend all  
22 of the grant funds it is awarded within 3 years of the date of the award. Any amount remaining at the end of the  
23 3-year period must be returned to the department for deposit in the account established in [section 2].

24           (5) A community that has received grant funding under [sections 1 through 5] is not eligible to apply for  
25 additional grant awards until it has expended the grant funds or has otherwise concluded the project for which  
26 the existing grant was awarded.

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28           **Section 6.** Section 7-14-112, MCA, is amended to read:

29           **"7-14-112. Senior citizen and persons with disabilities transportation services account -- use.** (1)  
30 There is a senior citizen and persons with disabilities transportation services account in the state special revenue

1 fund. Money must be deposited in the account pursuant to 15-68-820(2)(a).

2 (2) The account must be used to provide operating funds or matching funds for operating grants pursuant  
3 to 49 U.S.C. 5311 to counties, incorporated cities and towns, tribal governments, urban transportation districts,  
4 or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with  
5 disabilities.

6 (3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to  
7 award grants to counties, incorporated cities and towns, tribal governments, urban transportation districts, and  
8 nonprofit organizations for transportation services using guidelines established in the state management plan for  
9 the purposes described in 49 U.S.C. 5310 and 5311.

10 (b) Priority for awarding grants must be determined according to the following factors:

11 (i) the most recent census or federal estimate of persons 60 years of age or older and persons with  
12 disabilities in the area served by a county, incorporated city or town, tribal government, urban transportation  
13 district, or nonprofit organization;

14 (ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older  
15 and to persons with disabilities in the transportation service area; and

16 (iii) the coordination of services as required in subsection (4).

17 (4) In awarding grants, the department of transportation shall give preference to proposals that:

18 (a) include participation in a local transportation advisory committee;

19 (b) address and document the transportation needs within the community, county, and service area or  
20 region;

21 (c) identify all other transportation providers in the community, county, and service area or region;

22 (d) explain how services are going to be coordinated with the other transportation providers in the service  
23 area or region by creating a locally developed transportation coordination plan;

24 (e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and  
25 disabled persons within the community, county, and service area or region who are dependent upon public transit;

26 (f) include documentation of coordination with other local transportation programs within the community,  
27 county, and service area or region, including:

28 (i) utilization of existing resources and equipment to maximize the delivery of service; and

29 (ii) the projected increase in ridership and expansion of service;

30 (g) invite school districts to participate or be included in the transportation coordination efforts within the

1 community, county, and service area or region; and

2 (h) at a minimum, comply with the provisions in subsections (4)(b) through (4)(f)."

3

4 **Section 7.** Section 15-68-102, MCA, is amended to read:

5 **"15-68-102. Imposition and rate of sales tax and use tax -- exceptions.** (1) A sales tax of the  
6 following percentages is imposed on sales of the following property or services:

7 (a) 3% on accommodations and campgrounds;

8 (b) ~~4%~~ 5% on the base rental charge for rental vehicles.

9 (2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the  
10 department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be  
11 applied to the sales price.

12 (3) (a) For the privilege of using property or services within this state, there is imposed on the person  
13 using the following property or services a use tax equal to the following percentages of the value of the property  
14 or services:

15 (i) 3% on accommodations and campgrounds;

16 (ii) ~~4%~~ 5% on the base rental charge for rental vehicles.

17 (b) The use tax is imposed on property or services that were:

18 (i) acquired outside this state as the result of a transaction that would have been subject to the sales tax  
19 had it occurred within this state;

20 (ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a  
21 transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an  
22 Indian reservation within this state;

23 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by  
24 subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's  
25 subsequent use of the property, is subject to the sales tax or use tax; or

26 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that  
27 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

28 (4) For purposes of this section, the value of property must be determined as of the time of acquisition,  
29 introduction into this state, or conversion to use, whichever is latest.

30 (5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax

1 imposed in subsections (1) and (3).

2 (6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and  
3 (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed  
4 charge for accommodations or campgrounds."

5

6 **Section 8.** Section 15-68-820, MCA, is amended to read:

7 **"15-68-820. Sales tax and use tax proceeds.** (1) Except as provided in subsection (2), all money  
8 collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department  
9 into the general fund.

10 (2) ~~(a) Twenty-five~~ Twenty percent of the revenue collected on the base rental charge for rental vehicles  
11 under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the ~~state special revenue fund to the credit~~  
12 ~~of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.~~

13 (b) Twenty percent of the revenue collected on the base rental charge for rental vehicles under  
14 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the air service development grant program account  
15 provided for in [section 2]."

16

17 **Section 9.** Section 17-7-502, MCA, is amended to read:

18 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
19 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
20 need for a biennial legislative appropriation or budget amendment.

21 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
22 of the following provisions:

23 (a) The law containing the statutory authority must be listed in subsection (3).

24 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
25 appropriation is made as provided in this section.

26 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
27 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;  
28 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;  
29 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;  
30 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;

1 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;  
2 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301;  
3 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;  
4 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; [section 2];  
5 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;  
6 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;  
7 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

8 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
9 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
10 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
11 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
12 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
13 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
14 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
15 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and  
16 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
17 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
18 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion  
19 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004  
20 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,  
21 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;  
22 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;  
23 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.  
24 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.  
25 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,  
26 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of  
27 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of  
28 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
29 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates  
30 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December

1 31, 2023.)"

2

3 NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 5] are intended to be  
4 codified as an integral part of Title 67, chapter 2, part 1, and the provisions of Title 67, chapter 2, part 1, apply  
5 to [sections 1 through 5].

6

7 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2017.

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9 NEW SECTION. **Section 12. Termination.** [This act] terminates June 30, 2023.

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- END -