

1 SENATE BILL NO. 540

2 INTRODUCED BY D. ZOLNIKOV

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO STATE-FUNDED TOURISM
5 PROMOTION THROUGH THE DEPARTMENT OF COMMERCE; REQUIRING THE DEPARTMENT OF
6 COMMERCE TO USE THE LODGING FACILITY USE TAX REVENUE FOR SPECIFIC PURPOSES;
7 TRANSFERRING FUNDS FROM THE DEPARTMENT OF COMMERCE LODGING FACILITY USE TAX
8 ALLOCATION TO FUND THE REVOLVING LOAN PROGRAM ACCOUNT; PROVIDING FOR A FEE;
9 PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTION 15-65-
10 121, MCA; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

11

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

13

14 NEW SECTION. **Section 1. Lodging facility use tax allocation -- allowable uses -- unspent fund**

15 **redistribution -- rulemaking -- fees.** (1) On an annual basis, the tax proceeds that are transferred to the
16 department's state special revenue account pursuant to 15-65-121 must be used as follows:

- 17 (a) 38% for tourism media and advertising and film programs;
- 18 (b) 25% for rural tourism and under-visited area attraction projects, including infrastructure,
19 tourism-related emergency services, marketing, and promotional activities;
- 20 (c) 20% for tourism grants, including agritourism grants;
- 21 (d) 6% for revolving loan programs;
- 22 (e) 7% to use in collaboration with the office of economic development established in 2-15-218 for
23 new tourism attractions, other state business development programs, and support for the activities in
24 subsections (1)(a) through (1)(d) and (1)(f) through (1)(h) of this section;
- 25 (f) 2% for made-in-Montana promotions and main street programs;
- 26 (g) 1% for wayfinding and signage; and
- 27 (h) 1% to support trade offices.
- 28 (2) The department shall pay any costs associated with a program or project within the associated

1 budget parameters in subsection (1).

2 (3) (a) By June 30 of each year, any unspent funds in subsections (1)(a), (1)(e), (1)(f), or (1)(h)
3 may be redistributed for advertising, promotional activities, or tourism grants under subsections (1)(a), (1)(b), or
4 (1)(c).

5 (b) The department may redistribute the unspent funds in subsection (3)(a) to each applicable
6 program at its discretion.

7 (4) The department may adopt rules to:

8 (a) determine criteria for an under-visited area and qualifications for funds for attraction projects
9 under subsection (1)(b); and

10 (b) implement the tourism grant and revolving loan program under subsections (1)(c) and (1)(d)
11 and charge a fee commensurate with the cost of the program.

12 (5) For the purposes of this section, the following definitions apply:

13 (a) "Rural tourism" means a type of tourism activity in which the visitor's experience takes place in
14 nonurban areas with low population density and landscape and land use dominated by agriculture and forestry.

15 (b) "Under-visited area" means an area that attains below-average hotel occupancy relative to the
16 state for a period determined by rule.

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18 **Section 2.** Section 15-65-121, MCA, is amended to read:

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

1 (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to
2 the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with
3 federal funds, or deposited in the heritage preservation and development account must be transferred to an
4 account in the state special revenue fund to the credit of the department of commerce for ~~tourism promotion~~
5 ~~and promotion of the state as a location for the production of motion pictures and television commercials~~ the
6 purposes designated under [section 1], to the Montana historical interpretation state special revenue account,
7 to the Montana historical society, to the university system, to the state-tribal economic development
8 commission, and to the department of fish, wildlife, and parks, as follows:

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

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

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

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

16 (e) 60.3% to be used directly by the department of commerce as provided in [section 1];

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

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

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

27 (h) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
28 115; and

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

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

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

14 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
15 subsections (2)(a) through (2)(c), (2)(e), and (2)(f) are statutorily appropriated to the entities as provided in 17-
16 7-502.

17 (6) The tax proceeds received that are transferred to the invasive species state special revenue
18 account pursuant to subsection (2)(d), to the Montana historical interpretation state special revenue account
19 pursuant to subsection (2)(h), and to the Montana heritage preservation and development account pursuant to
20 subsection (2)(i) are subject to appropriation by the legislature. (Terminates June 30, 2027--sec. 12, Ch. 563, L.
21 2021.)

22 **15-65-121. (Effective July 1, 2027) Distribution of tax proceeds.** (1) The proceeds of the tax
23 imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the
24 state special revenue fund to the credit of the department. The department may spend from that account in
25 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting
26 and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with
27 the provisions of 17-2-124 and as provided in subsections (2)(a) through (2)(h) of this section, the department
28 shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4%

1 of that amount from the tax proceeds received each reporting period. The department shall distribute the
2 portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and
3 deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The
4 amount of \$400,000 each year must be deposited in the Montana heritage preservation and development
5 account provided for in 22-3-1004.

6 (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to
7 the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with
8 federal funds, or deposited in the heritage preservation and development account must be transferred to an
9 account in the state special revenue fund to the credit of the department of commerce for ~~tourism promotion~~
10 ~~and promotion of the state as a location for the production of motion pictures and television commercials~~ the
11 purposes designated under [section 1], to the Montana historical interpretation state special revenue account,
12 to the Montana historical society, to the university system, to the state-tribal economic development
13 commission, and to the department of fish, wildlife, and parks, as follows:

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

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

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

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

21 (e) 63% to be used directly by the department of commerce as provided in [section 1];

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

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

1 county, resort area, or resort area district;

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

4 (h) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
5 115.

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

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

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

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

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22 **NEW SECTION. Section 3. Transfer of funds.** No later than June 30, 2023, the state treasurer shall
23 transfer all unencumbered funds in the state special revenue fund designated in 15-65-121(2)(e) to the credit of
24 the department of commerce to the revolving loan program under [section 1(1)(d)].

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26 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
27 integral part of Title 90, chapter 1, part 1, and the provisions of Title 90, chapter 1, part 1, apply to [section 1].

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1 ~~NEW SECTION. Section 5. — Effective date. [This act] is effective on passage and approval.~~

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- END -

AMEND