

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% 43%~~ for tourism media, ~~and~~ advertising ~~and~~ film programs, ~~made-in-Montana promotions~~
18 ~~and main street programs, wayfinding and signage, and support to trade offices;~~
- 19 (b) ~~25% 22.5%~~ for rural tourism, ~~and~~ under-visited area attraction projects, ~~and tribal tourism,~~
20 including infrastructure, tourism-related emergency services, marketing, and promotional activities;
- 21 (c) ~~20% 23%~~ for tourism grants, including agritourism grants ~~and Montana-based film grants;~~
- 22 (d) ~~6% subject to subsection (5), 6.5%~~ for revolving loan programs ~~and regional tourism~~
23 ~~assistance; and~~
- 24 (e) ~~7% 5%~~ to use in collaboration with the office of economic development established in 2-15-218
25 for new tourism attractions, other state business development programs, and support for the activities in
26 subsections (1)(a) through (1)(d) ~~and (1)(f) through (1)(h)~~ of this section;
- 27 ~~(f) 2% for made-in-Montana promotions and main street programs;~~
- 28 ~~(g) 1% for wayfinding and signage; and~~

1 ~~(h) — 1% to support trade offices.~~

2 (2) The department shall pay personal costs, operating costs, and any costs associated with a
3 program or project ~~within the associated budget parameters in subsection (1) provided for in subsections (1)(a)~~
4 ~~through (1)(e) at its discretion.~~

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

8 ~~(b) —~~ The department may redistribute the unspent unencumbered funds in subsection ~~(3)(a)~~ (1)(a)
9 to each applicable program at its discretion by December 31 of each year.

10 (4) The department may adopt rules to:

11 (a) determine criteria for a rural area, an under-visited area, and qualifications for funds for
12 attraction projects under subsection (1)(b); and

13 (b) implement the tourism grant program, the regional tourism assistance program, and the
14 revolving loan program under subsections (1)(c) and (1)(d) and charge a fee commensurate with the cost of the
15 program.

16 ~~(5) — For the purposes of this section, the following definitions apply:~~

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

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

21 ~~(5) —~~ If the tax proceeds designated for revolving loan programs and regional tourism assistance
22 pursuant to subsection (1)(d) exceed \$35 million, the tax proceeds that exceed \$35 million must be
23 redistributed for the purposes and in the proportions provided for in subsections (1)(a) through (1)(e).

24

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

26 **"15-65-121. (Temporary) Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-
27 65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special
28 revenue fund to the credit of the department. The department may spend from that account in accordance with

1 an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing
2 the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of
3 17-2-124 and as provided in subsections (2)(a) through (2)(i) of this section, the department shall determine the
4 expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from
5 the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was
6 paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount
7 deducted less the portion paid with federal funds in the state general fund.

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

- 16 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
17 historical signs and historic sites;
- 18 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel
19 research program;
- 20 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks
21 that have both resident and nonresident use;
- 22 (d) 1.4% to the invasive species state special revenue account established in 80-7-1004;
- 23 (e) 60.3% to be used directly by the department of commerce as provided in [section 1];
- 24 (f) (i) except as provided in subsection (2)(f)(ii), 22.5% to be distributed by the department to
25 regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total
26 proceeds collected statewide; and
- 27 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county,
28 resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional

1 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
2 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-
3 county, resort area, or resort area district;

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

6 (h) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
7 115; and

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

12 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
13 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
14 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
15 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
16 resort area, or resort area district is located.

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

21 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
22 subsections (2)(a) through (2)(c), (2)(e), and (2)(f) are statutorily appropriated to the entities as provided in 17-
23 7-502.

24 (6) The tax proceeds received that are transferred to the invasive species state special revenue
25 account pursuant to subsection (2)(d), to the Montana historical interpretation state special revenue account
26 pursuant to subsection (2)(h), and to the Montana heritage preservation and development account pursuant to
27 subsection (2)(i) are subject to appropriation by the legislature. (Terminates June 30, 2027--sec. 12, Ch. 563, L.
28 2021.)

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

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

- 21 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
22 historical signs and historic sites;
- 23 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel
24 research program;
- 25 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks
26 that have both resident and nonresident use;
- 27 (d) 1.4% to the invasive species state special revenue account established in 80-7-1004;
- 28 (e) 63% to be used directly by the department of commerce as provided in [section 1];

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

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

SB0540.002.001

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

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

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

11 (h) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-
12 115.

13 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
14 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
15 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
16 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
17 resort area, or resort area district is located.

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

22 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
23 subsections (2)(a) through (2)(c), (2)(e), and (2)(f) are statutorily appropriated to the entities as provided in 17-
24 7-502.

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

28

1 NEW SECTION. Section 3. Transfer of funds. No later than ~~June 30~~ October 1, 2023, the state
2 treasurer shall transfer all unencumbered funds in the state special revenue fund designated in 15-65-121(2)(E)
3 to the credit of the department of commerce to the revolving loan program under [section 1(1)(d)].
4

5 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
6 integral part of Title 90, chapter 1, part 1, and the provisions of Title 90, chapter 1, part 1, apply to [section 1].
7

8 NEW SECTION. Section 5. — Effective date. [This act] is effective on passage and approval.
9

- END -

AMENDED