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Economic Affairs Interim Committee
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**FINAL REPORT TO THE 67TH MONTANA LEGISLATURE**

# FROM DINOSAURS TO MUSIC FESTS, MAKING USE OF LODGING TAX REVENUES

## A STUDY UNDER SENATE JOINT RESOLUTION 24

# Economic Affairs Interim Committee Members

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Economic Affairs Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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**This report is a summary of the work of the Economic Affairs Interim Committee,** specific to the Economic Affairs Interim Committee's 2019-2020 Senate Joint Resolution 24 study of how the lodging facility use tax is used, as outlined in the Economic Affairs Interim Committee's 2019-2020 work plan and SJR 24 (2019). This report highlights key information presented to the committee. To review additional information, including audio minutes and exhibits, visit the Committee Topics page under the Economic Affairs Interim Committee website: www.leg.mt.gov/eaic.

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# FROM DINOSAURS TO MUSIC FESTS: MAKING USE OF LODGING TAX REVENUES

## INTRODUCTION

Life was relatively rosy when the Economic Affairs Interim Committee began studying Senate Joint Resolution No. 24 in mid-2019. Revenues were on the rise from the lodging facility use tax, the subject of the SJ 24 study. Then the novel corona virus hit. Expectations stalled just as serious re-evaluations were beginning. This report will describe the situation before the virus hit. The goal is provide analysis and committee suggestions for a time when travel and the tourism world return to normal in Montana.

In looking at what is working well and what might need to be changed, the Economic Affairs Interim Committee heard from various stakeholders as well as from the Department of Commerce, which manages marketing of Montana and film promotion, Commerce's two targeted assignments for the lodging facility use tax, as described in 15-65-121, MCA.

This report will cover:

- A review of the origins of the SJ 24 study and how distributions differed in the past between the Lodging Facility Use Tax and the Accommodations Tax
- A general primer on how the tax is collected, by whom, and to whom
- Descriptions of specific LFUT distributions
- Suggestions from the industry about prospective needs
- Recommendations from the committee and the perspective of the corona virus impacts on revenues.

**The Bed Tax**
**(depending on who is asked) =**

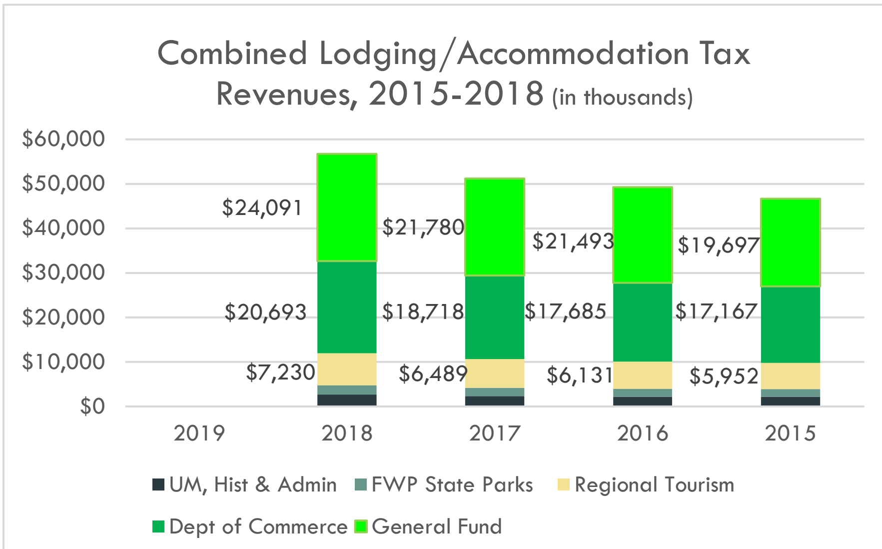
- **Lodging facility use tax**
**+**
- **Accommodations tax**

**The SJ24 study focused on the lodging facility use tax.**

## ORIGINS OF THE SJ 24 STUDY

The SJ 24 study resolution sponsor, Sen. Dee Brown, testified before the 2019 Legislature that she hoped the study would look at the distribution of the lodging facility use tax in general and in terms of what was working really well and what might need to be changed. That is the goal of the study, but because of confusion between the lodging facility use tax and the accommodations tax, there will be some discussion of the difference and similarities between the two taxes.

The study resolution came in the same session as Senate Bill No. 338, which increased the separate accommodations tax from 3% to 4%. The first handouts to the Economic Affairs Interim Committee sought to distinguish between the two taxes, which until Jan. 1, 2020, had been the 4% lodging facility use tax and the 3% accommodations tax. Many people refer to both as the "bed tax," although for those responsible for distributing their revenues, the distinction is important. The lodging facility use tax goes to myriad recipients. The accommodations tax prior to Jan. 1, 2020, went solely to the general fund. But in addition to increasing the accommodations tax to 4%, SB 338 also changed distributions of that tax after 2025 to reflect some of the same end-users (but not all) that had been receiving the lodging facility use tax. To make this study easier, the bulk of this report focuses on the lodging facility use tax, the subject of the resolution, although testimony during hearings on SJ 24 melded revenues from both taxes. See chart below.




The handout provided to the House Taxation Committee during the SJ 24 hearing April 24, 2019, showed a total of $56.8 million in revenues for the bed tax in 2018. This amount represented both the 4% lodging facility use tax and the 3% accommodations tax in effect that year. The SJ 24 study included some explanations about the difference between the two taxes but kept the emphasis on the lodging facility use tax. See distribution flow charts provided by the Department of Commerce for the lodging facility use tax and accommodation tax prior to Jan. 1, 2020, and on/after Jan. 1, 2020.

The key change in the accommodations sales tax after Jan. 1, 2020, was its distribution to the Montana Heritage Center and local museums, with 75% going to the general fund, 20% to the Montana Heritage Center, and 5% in historic preservation grants, which are managed by the Department of Commerce. In 2025, an increased percentage of the tax imposed under 15-68-102, MCA, is to go to the Department of Commerce, as provided in 15-68-820, MCA. While legislative action in 2021 and 2023 could change this approach, the EAIC may want to weigh in as part of the SJ 24 study as to what approaches make sense.

## MECHANICS OF TAX COLLECTION, DISTRIBUTION

The hospitality industry collects both the lodging facility use tax and the accommodations tax, but receives a portion only of the accommodation tax proceeds. The collected money is submitted to the Department of Revenue, which then distributes the money according to statutory descriptions. The percentages listed in statute come after initial disbursements, as shown in the table.

## Public-Private Partnerships: Can They Be Improved?

One of the features of the Lodging Facility Use Tax, which was critical to its initial passage, is its flow of funds to both state distributors (the Department of Commerce as well as Fish, Wildlife, and Parks, the Montana Heritage Center, et al) and local distributors (the regional tourism corporations and the visitors and convention bureaus), who coordinate through the Tourism Advisory Council. The origins of the lodging facility use tax, in fact, stemmed from a hospitality industry request that the 1987 Legislature look at a use tax as one way to promote tourism and the motion picture industry in Montana.

Efforts since then to divert the annual millions of dollars in revenues generated from the Lodging Facility Use Tax from the tourism and hospitality industry have met with strong opposition from that industry. Even changes of focus sometimes have met opposition. When the Legislature heard a bill to assign less than 1% of the money generated by the Lodging Facility Use Tax for promotion of Indian country tourism, hotel managers in Helena and Billings testified against diversion. SB 309 was signed into law, with the State Tribal Economic Development Commission assigned to handle funding. STED is assigned to the Department of Commerce, which handles the majority of the other tourism money.

### Recommendations for Change?

In the initial process of determining what the Economic Affairs Interim Committee is interested in pursuing on a study, staff asks what options committee members might want to explore. For the SJ 24 study, possible options were suggested at the November 2019 EAIC meeting. These options--with additional suggestions in some cases--included:

- Combining the lodging facility use tax and the accommodations tax into one tax at some future point, with additional options possible:
  - Revised distribution amounts for both;
  - Ability of tax collection entities to retain a percentage of both taxes;
- Adopting statutory policies to prevent grants under either 15-65-108 or 15-68-820, MCA, from being made to for-profit entities;
- Requiring a blind review of projects and use of specific criteria to avoid subjective grantmaking;
- Requiring reports to the Legislature, in case future administrators do not maintain the transparency database that currently lists grants made by the Department of Commerce;
- Providing additional guidelines on distribution of grants to assure equity or to decrease the potential for favoritism in making grants to particular areas or events;
- Requiring periodic review to see if the tax rate ought to be decreased or increased based on objective criteria;
- Creating a contingency fund for emergencies affecting the tourism industry;
- Providing exemptions for people who are required to stay at hotels as they travel for medical procedures or for their caregivers.