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Final Fiscal Note

Drafting Number: LLS 23-0116 Date: July 17, 2023
Prime Sponsors: Rep. Kipp; Bockenfeld Bill Status: Signed into Law
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Bill Topic: ELECTRONIC SALES & USE TAX SIMPLIFICATION SYSTEM

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [X] Local Government
[ ] State Transfer [ ] Statutory Public Entity

The bill requires the Department of Revenue to make modifications to the electronic Sales and Use Tax System, initiate a promotional campaign for the system, and prohibits collection of certain fees for payments through the system. The bill decreases state revenue on an ongoing basis, increases one-time and ongoing state expenditures, and increases one-time initial workloads for local governments.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$5.4 million to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 23-0117

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

## Summary of Legislation

The bill requires the Department of Revenue (DOR) to undertake modifications to the electronic sales and use tax simplification system (SUTS). The modifications include various simplifications, improvements, data accessibility, and additional filing options and features to assist both retailers and local jurisdictions that use SUTS.

The bill also prohibits the DOR from imposing a convenience fee or other charge for payments through SUTS, except for credit cards, and from passing the charges on to local taxing jurisdictions. Lastly, the bill requires that the DOR create a campaign to promote SUTS and to solicit feedback from stakeholders to enhance SUTS.

## Background

**Sales and Use Tax System.** SUTS is a single web-based portal where businesses can register, look up sales and use tax information, file returns, and pay sales taxes to the state and participating local jurisdictions at once. In July 2022, the DOR reported that 56 home-rule municipalities had signed an agreement to participate in SUTS and that 53 were live in the system. The DOR further reported that nearly \$100 million had been remitted through SUTS as of May 2022, and that about 50,000 returns were filed per month from about 830 retailers.

**History of SUTS.** In 2017, the Sales and Use Tax Simplification Task Force recommended, and the General Assembly later passed, House Bill 18-1022 that required the DOR to issue a request for information regarding the potential to contract for an electronic sales and use tax system. The system would provide a uniform sales tax form, a single application process for sales tax licenses, a single point of remittance for sales and use tax, and other features. After a review, the task force recommended and the General Assembly later passed Senate Bill 19-006 that required the state to solicit bids and create the electronic SUTS systems and GIS database. In May 2020, the SUTS pilot was launched.

The state appropriated \$18.75 million for the development of SUTS from FY 2019-20 to FY 2020-21. In 2021, the DOR reported that the actual cost was less than half the original budget and that 56 percent of the appropriation, or about \$10.6 million, was returned to the General Fund. The DOR also reported that ongoing maintenance and support would be an estimated \$2.2 million each year starting in FY 2021-22.

**Senate Bill 22-006.** The bill allows the DOR to deduct processing costs, or convenience fees, from certain electronic tax payments to incentivize more use of electronic payments. Based on data from the Department of Revenue, these fees totaled about \$0.3 million each year.

## State Revenue

**Electronic payments processing/convenience fee.** The bill will reduce General Fund revenue by \$30,000 annually in FY 2023-24 and subsequent years, assuming 10 percent of convenience fees are collected through payments made via the SUTS system. To the extent actual fees collected through SUTS vary from the assumptions in this analysis, it will cause the impact to differ from this estimate. While changes enacted in Senate Bill 22-006 for convenience fees would have overlapped with the revenue impact in this analysis, the DOR has not implemented the allowance under the bill yet, and is still imposing these fees.

## State Expenditures

The bill increases state General Fund expenditures in DOR by \$5.4 million in FY 2023-24 and by \$1.3 million in FY 2024-25. Expenditures are shown in Table 2 and detailed below.

**GenTax computer programming, development, and testing.** The DOR will require an estimated 300 hours for GenTax computer programming, billed at \$232 per hour, resulting in a one-time cost of \$69,525 in FY 2023-24. Additionally, the bill requires additional one-time costs for development and testing of \$52,500.

**SUTS promotional costs.** The bill requires the DOR to initiate a promotional campaign to promote the SUTS system to raise awareness, participation, and compliance. Previously, the DOR spent about \$90,000 to promote the SUTS system through a mailing. This fiscal note assumes a broader campaign with an estimated cost of \$200,000.

**SUTS programming.** The bill specifies required functionality that DOR must add to the SUTS system. These system changes are discussed in more detail below.

Modifications for the SUTS system will require one-time SUTS programming costs of about \$5.1 million in FY 2023-24, with ongoing maintenance and support costs of \$1.3 million. Required modifications include a bulk testing option for addresses wherein taxpayers can more efficiently find tax information for many sales locations. The bulk testing option requires an initial estimated setup cost of \$150,000. The remaining annual cost, estimated at \$1.3 million, will depend on the volume of lookups each year. If demand for testing is lower or higher than assumed for the fiscal note, the cost in FY 2023-24 and ongoing could be higher or lower than estimated.

The required modifications include development of a spreadsheet filing system in SUTS. The current SUTS system is not compatible with this new functionality, which could require rebuilding the filing and remittance portion of the system. The cost of rebuilding this portion of the system could range from an estimated \$3.6 million to \$5.4 million. Final costs will depend on a bidding and procurement process, and the amount of time required to rework this portion of the system.

**Table 2**  
**Expenditures Under HB 23-017**

<b>Cost Components</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>
<b>Department of Revenue</b>		
GenTax Computer Programming	\$69,525	-
System Development and Testing	\$52,500	-
SUTS Promotional Costs	\$200,000	-
<b>DOR Subtotal</b>	<b>\$322,025</b>	<b>-</b>
<b>SUTS Programming</b>		
Populate local account numbers on returns	\$11,124	-
Develop a simplified user interface <sup>1</sup>	\$3,600,000	-
Provide retailers with a bulk testing option for addresses	\$1,425,000	\$1,275,000
Other additions		
(A) Deduction description column	\$44,033	\$12,283
(B) Filtering options and exportable reports for localities	\$13,905	-
(C) Local account numbers on the detail tab for retailers	\$9,270	-
(D) A tab for retailer's filing history and payments	\$9,270	-
Exclude convenience fee for state and local payments	\$11,124	-
<b>Subtotal SUTS Programming</b>	<b>\$5,123,726</b>	<b>\$1,287,283</b>
<b>Total</b>	<b>\$5,445,751</b>	<b>\$1,287,283</b>

<sup>1</sup>This provision could require rebuilding the filing and remittance portion of the system at an estimated cost between \$3.6 million and \$5.4 million. Actual costs would be determined through a procurement process.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2023-24. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$816,863 in FY 2023-24 and \$193,092 in FY 2024-25, which will decrease the amount of General Fund available for other purposes.

## Local Government

Home-rule municipalities that receive SUTS filings and payments may experience an initial workload increase to incorporate modified processes into their jurisdictional filing and collection systems and to test system changes under the bill for integration with local filing systems.

## Effective Date

The bill was signed into law by the Governor on June 5, 2023, and takes effect on August 7, 2023, assuming no referendum petition is filed.

## State Appropriations

For FY 2023-24, the bill requires and includes a General Fund appropriation of \$5,445,751 to the Department of Revenue.

## State and Local Government Contacts

Counties	Information Technology	Municipalities
Personnel	Regional Transportation District	Revenue
Special Districts		