

2022

Report to the Colorado General Assembly



Sales and Use Tax Simplification Task Force



Prepared by Legislative Council Staff
Research Publication No. 776
October 2022

Sales and Use Tax Simplification Task Force

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October 2022

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This report is also available online at:

<https://leg.colorado.gov/committees/sales-and-use-tax-simplification-task-force/2022-regular-session>

Task Force Charge and Membership

The Sales and Use Tax Simplification Task Force (task force) was originally created in 2017 pursuant to [House Bill 17-1216](#). In its original form, the task force was scheduled to be repealed in 2020. However, [House Bill 20-1022](#) extended the work of the task force for an additional five years through July 1, 2026.

The task force is charged with studying the necessary components of a simplified sales and use tax system for both the state and local governments, including whether there are feasible solutions for:

- making audits of retailers more uniform for all state and local taxing jurisdictions in the state;
- the utilization of a single sales and use tax return for state and local taxing jurisdictions as a part of the Sales and Use Tax Simplification (SUTS) system, created pursuant to [Senate Bill 19-006](#);
- streamlining the requirements for state and local sales tax licenses, use tax licenses, and business licenses used for purposes of collecting sales and use taxes;
- making uniform, and possibly increasing, the filing threshold amount for monthly sales tax filings between the state and local governments, including home rule municipalities;
- simplifying use taxes levied by the state and local governments, including home rule municipalities;
- streamlining, and possibly making uniform, the state and local sales tax exemptions for medical devices, including reviewing best practices among states in this area;
- simplifying the process by which state and local sales and use taxes are collected for the purchase of a motor vehicle;
- simplifying the issuance of local building permits and the levying of use tax on building materials and on mobile and small mobile construction equipment;
- simplifying the process to claim and administer the various state sales and use tax exemptions; and
- simplifying the sales tax collection and remittance requirements for nonprofit organizations.

The task force is also required to:

- seek regular updates from the Governor's Office of Information Technology and the Colorado Department of Revenue (DOR) regarding the SUTS system, including the geographic information system (GIS) database;
- monitor and encourage participation by businesses and home rule municipalities in the SUTS system;
- review the way in which special districts and specially assessed sales taxes add to the complexity of the state's sales and use tax structure, including, at minimum, the Regional Transportation District, the Scientific and Cultural Facilities District, any local improvement districts, any regional transportation authority, any multi-jurisdictional housing authority, and any health services

district, and any mass transportation system tax, public safety improvement tax, metropolitan district tax, local marketing district tax, and county lodging district tax;

- review and compare the state’s sales and use tax definitions with the standard sales tax definitions developed and adopted by local taxing jurisdictions pursuant to [Senate Joint Resolution 14-038](#), to determine if any simplification might be achieved between the two sets of definitions;
- examine the effects of the changes to the vendor fee implemented pursuant to [House Bill 19-1245](#);
- seek regular updates from the Legislative Oversight Committee Concerning Tax Policy created pursuant to [House Bill 21-1077](#) regarding any decisions that the committee may make related to any sales or use tax expenditures evaluated by the Office of the State Auditor pursuant to Section 39-21-305, C.R.S.;
- explore options for eliminating a DOR requirement for taxpayers to use branch ID reporting;
- determine whether the state should adopt a sales tax exemption for an isolated or occasional sale of a business in an asset sale;
- regularly review the business impact of the destination sourcing rules set forth in Section 39-26-104 (3), C.R.S., including the thresholds that trigger the requirement for destination sourcing; and
- analyze or review any other relevant topic related to the simplification of sales and use tax administration in the state.

The bill also requires the task force to submit a report to Legislative Council by November 1 of each year, which may or may not include recommendations for legislation.

There are 15 members on the task force:

- Representative Cathy Kipp, appointed by the Speaker of the House of Representatives;
- Representative Rod Bockenfeld, appointed by the Minority Leader of the House of Representatives;
- Senator Jeff Bridges, appointed by the President of the Senate;
- Senator Kevin Van Winkle, appointed by the Minority Leader of the Senate;
- Josh Pens, Director of Tax Policy Analysis, Colorado Department of Revenue;
- Meghan Dollar, Legislative Advocacy Manager, Colorado Municipal League;
- Tracy Kraft-Tharp, Jefferson County Commissioner, representing Colorado Counties, Inc.;
- Paul Archer, CEO/Owner, Automated Business Products, LLC, appointed by the Governor as a member of a statewide association of small businesses that is addressing the simplification of sales and use tax collection;
- Ryan Woods, Tax Consultant, Xcel Energy, appointed by the Governor as a member of the statewide chamber of commerce;
- Michelle Bush, Partner, Silverstein & Pomerantz LLP, appointed by the Governor as a state and local sales tax law practitioner;
- Judith Vorndran, Partner – State and Local Tax, TaxOps, appointed by the Governor as someone with state and local sales and use tax accounting experience;
- Leslie Edwards, Finance Director, Town of Frisco, appointed by the Colorado Municipal League, representing the small population category;

- Kenneth Keeley, Tax Manager, Commerce City, appointed by the Colorado Municipal League, representing the medium population category;
- Bryan Archer, Director of Finance, City of Arvada, appointed by the Colorado Municipal League, representing the large population category; and
- Don Korte, Director of Tax Compliance, City and County of Denver, appointed by the Colorado Municipal League, representing the largest population category.

Background

The task force is charged with studying sales and use tax simplification between the state and local governments, including home rule municipalities, given that Colorado’s system of state and local sales and use taxes is one of the most complicated in the country.

State tax. Colorado is one of 45 states to assess a state sales tax.¹ Among states with a sales tax, Colorado’s state sales tax is assessed at the lowest rate, 2.9 percent. The tax base includes all sales of tangible personal property except those that are specifically exempted, and exempts all sales of services except those that are specifically subject to the tax.² The state use tax is assessed when sales tax was due but was not collected. In these cases, the purchaser is required to remit use tax directly to the state. The state sales and use tax is administered by DOR.

County taxes. With voter approval, counties are authorized to assess a sales tax, use tax, or both.³ County sales taxes are imposed on the same collection of goods and services as the state sales tax, except that certain state sales tax exemptions are not by default extended to counties.⁴ In these cases, boards of county commissioners may adopt an ordinance or resolution to extend the exemption(s). Notable state sales tax exemptions that are not necessarily available at the county level include the exemptions for: machinery; electricity, gas, and heating oil; food for home consumption; sales by charities; and retail marijuana. Sales taxes assessed by 50 counties are administered by DOR, which collects tax revenue and remits the tax to the appropriate county. The provisions governing county taxes do not apply to the consolidated city-county governments of Denver and Broomfield, each of which has a home rule charter. Twelve counties do not assess a sales tax.

Municipal taxes. Provisions for municipal taxes vary greatly according to whether the municipality has adopted a home rule charter pursuant to Article XX of the Colorado Constitution. Municipalities that have not adopted a home rule charter are authorized in statute to assess sales or use taxes in a manner similar to the county taxes described above. Municipalities that have adopted a home rule charter have broad jurisdiction over their own sales taxes and generally are not bound by statutory sales tax requirements.

Statutory municipalities. With voter approval, municipalities that have not adopted a home rule charter (statutory municipalities) are authorized to assess a sales tax, use tax, or both.⁵ Sales taxes assessed by these municipalities are imposed on the same collection of goods and services as the state sales tax,

¹Alaska, Delaware, Montana, New Hampshire, and Oregon do not assess statewide sales taxes.

²Section 39-26-104, C.R.S.

³Section 29-2-103, C.R.S.

⁴Section 29-2-105 (1)(d), C.R.S.

⁵Section 29-2-102, C.R.S.

except that certain state sales tax exemptions are not by default extended to municipalities.⁶ In these cases, the city or town council may adopt an ordinance or resolution to extend the exemption(s). Municipal sales taxes are administered by DOR, which collects tax revenue and remits the tax to the appropriate municipality.

Home rule municipalities. Article XX, Section 6, of the Colorado Constitution empowers any municipality with a population of 2,000 people or more to adopt a home rule charter with voter approval. Home rule municipalities have broad latitude to govern themselves in matters of local concern.⁷ With voter approval, home rule municipalities may assess sales or use taxes on a locally determined collection of goods and services. Because municipal taxes need not be assessed on the same tax base as the state, home rule municipalities may variously tax transactions that are exempted at the state level or exempt transactions that are taxed at the state level. Additionally, home rule municipalities may tax specific goods or services at a different rate from others.

Home rule municipalities may choose whether to collect and administer their sales taxes locally. Municipalities that choose to collect their own sales taxes may develop their own systems for licensure, remittance, and auditing. Ninety-six home rule municipalities assess a sales tax. Sixty-nine home rule municipalities collect and administer their own sales taxes. DOR collects and administers sales taxes for home rule municipalities that choose not to administer their own sales taxes.

Special districts. With voter approval, certain special districts and other limited purpose governmental entities are permitted to assess sales taxes up to certain tax rate limits. Special districts authorized to assess sales taxes include:

- the Regional Transportation District in the Denver metropolitan area;
- the Scientific and Cultural Facilities District in the Denver metropolitan area;
- local improvement districts in Boulder, Broomfield, Douglas, Jefferson, and Mesa Counties;
- mass transportation systems in Eagle, Pitkin, and Summit Counties;
- regional transportation authorities in Eagle, El Paso, Garfield, Gunnison, Logan, Pitkin, and San Miguel Counties;
- a multi-jurisdictional housing authority in Summit County;
- a public safety improvement district in Montrose and Mesa Counties;
- metropolitan districts throughout the state;
- a health services district in parts of Douglas, Montezuma, Park, Otero, and Teller Counties; and
- local marketing districts in Alamosa, Eagle, Gunnison, Larimer, Moffat, and Routt Counties.

Statutory requirements for each special district sales tax are included in the portion of state law that authorizes creation of the particular type of special district. In general, all special district sales taxes are collected and administered at the state level. The tax base for special districts is generally consistent with the state tax base, and changes to the state base (e.g., via the creation or repeal of a sales tax exemption) are extended by default to special districts.

⁶Section 29-2-105 (1)(d), C.R.S.

⁷*City and County of Denver v. Qwest Corp.*, 18 P.3d 748 (Colo. 2001).

TABOR. Article X, Section 20, of the Colorado Constitution was added via ballot initiative in 1992. This section, known as the Taxpayer’s Bill of Rights or TABOR, prohibits the state government and all local governments from enacting or increasing taxes without voter approval. TABOR complicates simplification efforts because proposals to narrow the tax base, e.g., in local jurisdictions that have not enacted sales tax exemptions found at the state level, require voter approval to enact corresponding tax rate increases in order to offset revenue loss. Thus, jurisdictions that currently assess sales taxes on a broader collection of goods and services than those taxed by the state must either maintain their dissimilar tax base, narrow the base while increasing tax rates with voter approval, or narrow the base without voter approval and experience a decrease in revenue.

Out-of-state sales tax. The June 2018 U.S. Supreme Court decision in *South Dakota v. Wayfair* held that a state may require an out-of-state retailer to collect sales tax on purchases made by an in-state consumer, even if the out-of-state retailer does not maintain a physical presence in the taxing state. Until the *Wayfair* decision, taxpayers in Colorado were required to voluntarily pay taxes to the DOR on purchases from online, out-of-state retailers, rather than the tax being collected by the retailer and remitted to DOR.

Following the *Wayfair* decision, DOR moved toward requiring retailers without physical presence (out-of-state retailers) to collect state sales tax and the sales taxes levied by statutory municipalities. In addition, the department adopted emergency rules to assist in administering sales tax collections and, among other things, to specify that the state’s collection requirement would not be retroactive and would apply to retailers with sales exceeding \$100,000. These rules were codified into law with the adoption of [House Bill 19-1240](#) and went into effect on June 1, 2019.

Task Force Activities

The task force held four meetings during the 2022 interim. Briefings and presentations were made by the Office of Legislative Legal Services, the Colorado Department of Revenue, the Colorado Municipal League, the Colorado Automobile Dealers Association, the Coalition to Simplify Colorado Sales Tax, and members of the public on a range of topics, including:

- the Sales and Use Tax Simplification (SUTS) system;
- the retail delivery fee created in Senate Bill 21-260;
- use taxes, including use taxes on construction materials through the building permit process;
- a proposal to simplify the state's sales tax return;
- sales and use tax expenditure evaluations; and
- local lodging taxes.

The following sections discuss the task force's activities during the 2022 interim.

Sales and Use Tax Simplification System

The task force heard several updates from the Department of Revenue regarding the SUTS system. The task force also heard feedback from home rule cities and the business community about how the system is working and what can be improved.

History of the SUTS system. In 2017, the task force recommended, and the General Assembly later passed, [House Bill 18-1022](#). The bill required DOR to issue a request for information (RFI) to contract for an electronic SUTS system. The bill outlined that the system should provide:

- accurate address location information;
- a single application process for sales tax licenses;
- a uniform sales tax remittance form;
- a single point of remittance for sales and use tax; and
- a taxability or exemption matrix.

DOR issued the RFI on March 16, 2018, and received responses from four vendors. In June 2018, DOR established a 14-member team, which included four members of the task force, to review RFI responses.

SUTS solicitation - Senate Bill 19-006. In 2018, following the review of RFI responses, the task force recommended, and the General Assembly later passed, [Senate Bill 19-006](#), which:

- required the Governor's Office of Information Technology (OIT) to solicit an electronic SUTS system through the state's procurement process;
- specified that OIT and DOR must work with stakeholders to determine the scope of work for the SUTS system before soliciting bids for its creation; and
- required the creation of an electronic SUTS system and a GIS database.

Senate Bill 19-006 also outlined that, on and after the date the electronic SUTS system is online, DOR is required to accept returns and payments processed through the SUTS system for state sales and use tax. In addition, SB 19-006 specified that it is the General Assembly's intent that at least three home rule municipalities voluntarily use the SUTS system for accepting returns and processing payments of any local sales and use tax once the electronic SUTS system is online. The voluntary use of the SUTS system by home rule municipalities should increase every year so that no later than three years after the effective date of the bill, all home rule municipalities are voluntarily using the SUTS system.

SUTS appropriation history and ongoing operational funding. Senate Bill 19-006 included an appropriation for FY 2019-20 of:

- \$9,183,000 General Fund to OIT for the initial funding of the electronic SUTS system; and
- \$817,000 General Fund to OIT for the GIS database to maintain jurisdictional boundaries of sales tax districts and to calculate appropriate sales and use tax rates for individual addresses.

The General Assembly appropriated an additional \$8.75 million to OIT for FY 2020-21, for the electronic SUTS system and GIS database. According to the DOR's update to the Joint Technology Committee on September 14, 2020, the SUTS system and GIS database were completed at almost \$10.6 million under budget, with funding reverting back to the General Fund.

As part of the 2021 Long Bill, the General Assembly appropriated \$2.2 million General Fund and 4.6 FTE to DOR for FY 2021-22 and ongoing for the support and maintenance of the SUTS system.

System post-implementation requirements. In 2019, the General Assembly passed [House Bill 19-1240](#), which made several changes to the state's sales and use tax laws. Among those changes, the bill codified and expanded upon DOR emergency rules, promulgated following the U.S. Supreme Court's decision in the *South Dakota v. Wayfair* case. Among other changes, the bill adopted the destination-based sales tax sourcing rules used in the multistate Streamlined Sales and Use Tax Agreement. Under the bill, small businesses with less than \$100,000 in annual sales were exempt from destination-based sales tax sourcing. The bill repealed this small business exception until 90 days after the DOR notified the Revisor of Statutes that the GIS database was online and available for a retailer to use to determine the taxing jurisdiction(s) in which an address resides. DOR was directed to notify the Revisor of Statutes no later than 15 days after the GIS database was online. On April 1, 2021, DOR sent a notice to retailers that the system was online and that all retailers would need to comply with destination-based sourcing rules starting July 1, 2021. However, [Senate Bill 21-282](#) removed this contingency and extended the exemption for small retailers until February 1, 2022. [House Bill 22-1027](#), which was recommended by the task force and passed by the General Assembly, extended this exemption until October 1, 2022.

[House Bill 20-1023](#), which was also recommended by the task force and passed by the General Assembly, repealed the hold harmless provisions for vendors using the state's currently available state-certified electronic address databases 90 days after the implementation of the new GIS database. Once the GIS database was implemented, DOR was required to immediately notify vendors that it is available for use. The bill then established a hold harmless provision for vendors that use the state's GIS database to determine sales and use tax rates for addresses and taxing jurisdictions. The hold harmless provision also applies to vendors that use third-party databases, which are verified to use

the most current information from the state GIS database. The GIS database was declared to be online by DOR on April 1, 2021. DOR is responsible for ensuring that 95 percent of the information provided in the GIS database is accurate and up-to-date.

Current system usage. As of July 2022,:

- of the 69 home rule municipalities that self-collect sales and use taxes in the state, 56 have signed the SUTS system agreement;
- there were 11,489 businesses registered for the SUTS system; and
- more than \$108 million in sales tax revenue has been remitted through SUTS.

More information about the system usage can be found on the SUTS reporting dashboard here: <https://colorado.munirevs.com/show-page/?page=22>

Summary of feedback. During the 2022 interim, the task force heard presentations from individuals representing municipalities and the business community regarding how the SUTS system has been working and what may be improved about the system moving forward.

Feedback from municipalities. The task force heard from several municipal representatives who offered feedback concerning the operation of the SUTS system, including:

- the fact that using the system is a very manual process for municipal staff;
- the lack of account numbers on sales tax returns through the SUTS system;
- issues related to \$0 returns;
- the lag time between when taxpayers file and when the tax is remitted to the municipalities;
- the lack of communication between the SUTS and GenTax systems;
- the lack of notifications to municipalities regarding business changes; and
- the lack of deduction listings on returns.

Feedback from the business community. The task force also heard from several business representatives who described the benefits of the SUTS system, including significant time savings in remitting sales taxes to home rule municipalities. They also described several issues, including:

- the filling fees associated with using the SUTS system;
- issues related to \$0 returns;
- that not all home rule municipalities are signed on to the SUTS system;
- the inability to validate account numbers when setting up an account in the SUTS system; and
- that many tax software vendors are not linked into the SUTS system or taxability matrix, and thus the collection and remittance process is not as automated as it should be.

DOR response. DOR provided an update on August 10, 2022, regarding the department's plans to address the SUTS system feedback from municipalities and the business community, either through system improvements or education and outreach efforts. In response to the discussion, the task force is recommending Bill B, which directs additional resources for enhancements to the SUTS system.

Retail Delivery Fee

History. [Senate Bill 21-260](#) created a fee on retail deliveries by motor vehicles that transport tangible personal property subject to the state sales tax. The fee must be collected from the purchaser by the retailer. The maximum fee is \$0.27 per delivery for FY 2022-23, and is indexed to inflation. Fee revenue is collected by DOR and supports the following state funds and enterprises:

- Highway Users Tax Fund;
- Multimodal Options Fund;
- Bridge and Tunnel Enterprise;
- Community Access Enterprise;
- Clean Fleet Enterprise;
- Clean Transit Enterprise; and
- Air Pollution Mitigation Enterprise.

Task force discussions. At the task force's July 13 meeting, DOR presented an overview of the retail delivery fee, including its status and issues.

The retail delivery fee has a number of connections to sales tax, which was intended to make administration of the fee easier for retailers. Each sale or transaction is considered a single delivery, even if multiple shipments are required. The filing frequency is the same as for the state sales tax, and filed in one return. DOR considered including it on the sales tax return; but since sales taxes are filed by jurisdiction, using a separate return prevents retailers from having to break out fee revenue by location.

Retailers must list the fee separately on customers' receipts. Some have asked for additional time for compliance, and some are temporarily opting to pay the required fee rather than collecting it from customers. In addition, some retailers would like to see the collection requirement eliminated, which would require a statutory change. At this time, DOR is not prioritizing enforcement of the collection requirement as long as the total amount due is paid. DOR is also granting penalty and interest waivers for late payments as retailers move towards compliance.

Currently, the fee cannot be remitted through the SUTS System, but must be paid through DOR's website or in paper. For state-administered sales tax jurisdictions, the fee does not constitute part of the purchase price, and is thus exempt from the sales tax itself. Home rule communities must evaluate the impact on their tax bases independently.

The task force requested that a bill be drafted on the topic of simplifying the implementation of the retail delivery fee, but the bill was withdrawn during the drafting process.

Use Taxes

As part of its charge, the task force is required to consider whether there are feasible solutions for:

- simplifying use taxes levied by the state and local governments, including home rule municipalities; and
- simplifying the issuance of local building permits and the levying of use tax on building materials and on mobile and small mobile construction equipment.

Use tax. The Colorado Municipal League gave the task force an overview of use taxes for municipalities. Generally, use tax is a complement to sales tax and is owed in situations where sales tax was not paid. A common situation is when goods are delivered into a city from another jurisdiction. In Colorado, use tax differs for statutory and home rule municipalities. Statutory municipalities are subject to restrictions and guidelines outlined in state statute, and are limited to imposing use tax on certain motor vehicles and for building materials. Home rule municipalities have authority to impose and collect use tax in accordance with TABOR and constitutional limits. Municipalities generally collect building use tax through the building permit process.

Local building permits and use tax on building materials. During the 2022 interim, the task force heard presentations from local government representatives and private industry including:

- Ezequiel Vasquez, Revenue Manager, City of Arvada
- Jeff Edwards, Manager of Tax, City of Aurora
- Don Korte, Financial Director, City and County of Denver
- Jonathan Gesick, Certified Building Official, Procode, Inc.
- Laura Williams, Sales and Use Tax Analyst / West Division, Martin Marietta

The building permit process has a number of purposes for local governments in Colorado. Issued at the municipal and county levels, permits allow local governments to record plans, monitor code compliance and inspections, and to collect fees and tax on building materials and equipment. For counties and municipalities, use tax is an important revenue source to help fund local services related to construction growth. Pairing use tax with building permits is a strategy used by cities and counties to ensure tax revenue is realized where the building is located and materials are used, rather than where materials are purchased. According to a presentation by a representative from Martin Marietta, a building materials supplier, this system used by many Colorado cities and counties is unique nationally.

For many jurisdictions, building use tax is estimated and paid at the time of permit issuance, prior to purchases of materials. This process will often entail use of common construction cost valuation techniques or jurisdictionally-provided methodologies to calculate the estimated value of construction, then multiplying the result by an assumed share of building materials, for instance 50 percent. The estimated cost of building materials will be multiplied by the jurisdiction's use tax rate and then added to fees paid with the building permit. After a project is completed, jurisdictions can review actual purchases and reconcile overpayments or underpayments of use tax. Projects are also subject to jurisdictional audits.

After paying use tax to a city or county with a building permit, contractors or other purchasers who buy materials for a project may present the building permit to retailers and get an exemption at the point of sale from city or county sales tax. This is applicable both within the taxing jurisdiction or within another jurisdiction. For instance, if a contractor on a building in Aurora presented a building permit to a supplier in Denver showing that use tax was paid to Aurora, the retailer would not collect Denver sales tax on the purchase. However, the retailer would still need to collect state and special district sales taxes on any taxable purchases.

There is much variability in building permit applications, fees, and taxes among cities and counties in Colorado. Forms and project valuation procedures are not standardized, and it is often difficult for vendors and retailers to determine if use tax has been paid and to which jurisdictions. It can consume retailers' time and resources to determine whether use tax has been paid in these situations. For some cities that cross multiple counties, intergovernmental agreements will allow the city to collect county use tax along with city use tax. However, collecting county tax is not ubiquitous in these situations and can cause confusion for contractors, vendors, and retailers. Other challenges mentioned by presenters to the task force included failure of primary contractors to provide building permit copies to subcontractors, time and expense associated with refund requests, lack of publicly available permit information to vendors and retailers to verify tax payments, and time and expense associated with use tax reconciliation.

After committee discussion, information was requested from presenters concerning how other states permit building and impose building use taxes. Laura Williams returned to the task force August 10 to share some examples from other states Martin Marietta works in, namely Arizona, Mississippi, North Carolina, and Ohio, and states adjacent to Colorado. Based on the presentation to the task force, several states consider contractors the end-user of building materials, and require them to pay sales and use tax as materials are purchased. Some states have a similar structure, but in certain cases consider a contractor to be a reseller by exempting the contractor's purchases and instead imposing tax on building owners. Mississippi requires a purchase certificate for all construction projects and upfront payment of tax for large projects. Projects have a special "contractor's" tax rate of 3.5 percent, which is half the state sales tax rate and is imposed on the contract cost of the project.

Resolution A urges municipalities and counties that locally collect their taxes to cooperate on a uniform administration of sales and use tax on construction materials, to standardize information on building permits, and to speed up the issuance of certain documentation. It also requests that the Colorado Municipal League update the task force on these efforts.

Simplification of the State's Sales Tax Return

During the 2022 interim, DOR brought a proposal to the task force to potentially simplify the state's sales tax return. The current structure of the return form lists jurisdictions in the columns and tax calculations in the rows. The department discussed several challenges with the current structure of the form, including the fact that it increases complexity for tax filers and the need for additional columns as new special districts that are allowed to impose sales tax may not fit on a paper return form. The department's proposal is to instead switch the rows and columns on the form in an effort to simplify the return and move to a jurisdiction-based reporting structure.

The department outlined the following potential benefits associated with making these changes to the return form:

- simplifies the return, particularly for statewide businesses that file electronically;
- makes it easier to incorporate new local governments and accommodate changes to existing local tax collections;
- reduces risks posed by base disparity; and
- increases local control over the vendor fee.

However, the department outlined several potential challenges and trade-offs that may be associated with making the changes outlined above, including:

- the administrative costs associated with making the changes for both the department and businesses;
- decreased transparency in the return;
- lack of tax expenditure details; and
- the impacts to other programs that rely on data from the state sales tax return, such as the local share distribution of cigarette tax revenue, Regional Transportation District and Scientific and Cultural Facilities District spending requirements, intergovernmental revenue sharing agreements, and regional tourism tax increment distributions.

The task force requested that a bill be drafted on the topic of simplifying the state's sales tax return form, based on DOR's recommendations, but the bill was withdrawn during the drafting process.

Sales and Use Tax Expenditure Evaluations

During the 2022 interim, the task force heard a presentation from the Office of the State Auditor on sales and use tax expenditures that it has evaluated through June 2022. Staff also presented specific information related to the evaluation report for the Sales to Charitable Organizations Exemption based on the task force's charge to consider feasible solutions for simplifying the sales tax collection and remittance requirements for nonprofit organizations.

Local Lodging Taxes

The task force heard from a panel that discussed local lodging taxes in the state. First, the Office of Legislative Legal Services described the types of lodging taxes that exist. Notably, the state does not have a lodging tax, although the state sales tax is imposed on lodging. Because it is part of the tax base, sales tax on lodging also applies to local governments and special districts that have state-collected sales taxes. However, there are two types of lodging tax districts that are in state law: local marketing districts and county lodging tax districts. Local marketing districts are created by counties and municipalities by themselves or as a group. There are currently six local marketing districts with lodging tax rates ranging from 1.4 percent to 4.0 percent. Separately, any county in the state may impose a county lodging tax up to 2.0 percent. There are currently 29 counties with a lodging tax. Both types of tax are collected and administered by the Department of Revenue. Revenue generated by each type of tax has limitations on its use.

In Colorado, home-rule municipalities can impose lodging taxes under their own authority, setting both the tax base and rate, and locally administering and collecting the tax. Statutory municipalities cannot create their own lodging taxes, but some communities impose an occupation tax that is similar to a lodging tax, on lodging businesses within their jurisdictions. In the case of occupation taxes, they are locally collected and administered.

Following the Office of Legislative Legal Services, representatives from Colorado Counties Inc. (CCI), and the Colorado Municipal League (CML) presented on local lodging taxes. CCI noted the limitations of county lodging taxes that are restricted in amount, uses, collection, and base, limitations that home-rule municipalities do not have. CML noted that for home-rule municipalities, lodging tax revenue is much lower than sales and use tax revenue. Some typical uses of lodging taxes include visitors' bureaus, economic development, affordable housing, and trails and open space. CML noted that 41 of its members have a lodging tax, although the survey included some that are a part of a local marketing district. Some small communities have challenges collecting lodging taxes.

The discussion ended with Expedia Group and GovOS. Expedia noted that, as a travel facilitator and online marketplace, Colorado's local lodging taxes can be hard to manage and navigate. The patchwork of bases, rates, and jurisdictions drives up the burden of compliance. Some other states carve out travel facilitators from their marketplace facilitator laws and requirements to ease the burden of collecting lodging taxes. GovOS presented potential features that a conceptual lodging tax system could include and technological parameters.

In response to the issues discussed on this topic, the task force drafted, but did not ultimately recommend for introduction, a bill that would have required the Department of Revenue to create an electronic lodging tax system for filing and remitting local lodging taxes.

Summary of Public Comment

The task force heard from the following individuals at the task force's 2022 meetings:

- Marcia Colbert Burton, representing the Rocky Mountain Mechanical Contractors Association;
- Brian Grall, representing the Rocky Mountain Region Promotional Products Association;
- Jeff Hansen, representing the City of Golden;
- Rebecca Tanner, representing Colorado Structures, Inc.;
- Trevor Vaughn, representing the City of Aurora;
- Laura Williams, representing Martin Marietta;
- Kinna McDavid, representing herself;
- Michael Gifford, representing the Associated General Contractors of Colorado;
- Rachel Quintana, representing Ernst and Young;
- Pam Feeley, representing the Coalition to Simplify Colorado Sales Tax; and
- Gini Pingnot, representing Colorado Counties, Inc.

The task force also received written testimony from the following individuals and organizations as part of its work:

- John Dundon, representing the Colorado Society of Enrolled Agents; and
- the Expedia Group.

Summary of Recommendations

As a result of the task force's activities, the task force recommended one resolution and one bill to the Legislative Council for consideration in the 2023 session.

Resolution A — Uniform Sales & Use Tax on Construction Materials

Resolution A is a resolution that urges municipalities and counties that locally collect their taxes to cooperate on a uniform administration of sales and use tax on construction materials, to standardize information on building permits, and to speed up the issuance of certain documentation. It also requests that the Colorado Municipal League update the task force on these efforts by August 2023.

Bill B — Electronic Sales & Use Tax Simplification System

Bill B requires the Department of Revenue to undertake modifications to the electronic sales and use tax simplification system (SUTS) by January 1, 2025. The modifications include various simplifications, notifications, improvements, data accessibility, and additional filing options and features to assist both retailers and local jurisdictions that use SUTS. In addition, the bill permits the Department of Revenue to require retailers using SUTS to register with local taxing jurisdictions and prohibit them from filing returns unless they use a correct local number on the account.

In addition, the bill prohibits the department 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 the department to create a campaign to promote SUTS and to solicit feedback from stakeholders to enhance the system.

Resource Materials

Meeting summaries are prepared for each meeting of the task force and contain all handouts provided to the task force. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of task force meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/committees/sales-and-use-tax-simplification-task-force/2022-regular-session>

Meeting Dates and Topics Discussed

July 13, 2022

- ◆ Election of task force Chair and Vice-Chair
- ◆ Overview of the task force and 2022 sales tax legislation
- ◆ Task force member introductions
- ◆ Updates from the Colorado Department of Revenue, including on the SUTS system
- ◆ General discussion of Colorado use taxes
- ◆ Public comment

July 27, 2022

- ◆ Building permits discussion
- ◆ State sales tax return simplification proposal
- ◆ Overview of the Wayfair v. Lakewood complaint
- ◆ Municipal and business feedback on the SUTS system
- ◆ Sales and use tax expenditure evaluation reports from the Office of the State Auditor
- ◆ Public comment

August 10, 2022

- ◆ Updates from the Colorado Department of Revenue, including on the SUTS system
- ◆ How other states handle construction materials use tax
- ◆ Public comment
- ◆ Requests for draft legislation

September 27, 2022

- ◆ Local lodging tax
- ◆ Public comment
- ◆ Voting on final bill draft recommendations
- ◆ Discussion of task force final report