

# CONSENSUS FORECASTING GROUP KRS 48.120 (1) ESTIMATES

(INTRODUCTORY REMARKS AND RECEIPTS UPDATES)

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## Statutes Revised for the CFG Schedule

Forecasting Dates changed in KRS 48.120 (1) and (2)

2

- HB360 (2023 Regular Session) made changes to KRS 48.120
  - ▣ Section 2 changed statutes for the planning and preliminary estimates
  - ▣ Section 39 changed the date for the official estimates
- The August 15<sup>th</sup> planning estimates (current year and the next four fiscal years) have been eliminated
- The October 15<sup>th</sup> preliminary estimates (current year and the next two fiscal years) have been moved up to September 30<sup>th</sup>
- A hard date for the official revenue estimates has been set for December 20<sup>th</sup> of each odd-numbered year

## FY 23 General Fund Actuals vs Estimates

(\$ Millions)

3

	FY23		FY23		FY23	
	Full Year		Official		Enacted	
	Actual	% Chg	Estimate	\$ Diff	Estimate	\$ Diff
Individual Income	5,843.9	-3.4	5,831.1	12.8	5,339.6	504.3
Sales & Use	5,576.3	10.1	5,683.1	-106.8	5,276.9	299.4
Corp. Inc. & LLET	1,221.6	3.0	1,279.0	-57.4	909.8	311.9
Property	774.4	7.0	759.4	15.0	674.9	99.5
Lottery	337.0	14.2	337.0	0.0	335.0	2.0
Cigarettes	299.3	-7.8	303.8	-4.5	318.6	-19.3
Coal Severance	96.6	36.7	88.9	7.7	76.6	20.0
Other	998.7	0.7	910.6	88.1	818.7	180.0
<b>General Fund</b>	<b>15,147.7</b>	<b>3.0</b>	<b>15,192.9</b>	<b>-45.2</b>	<b>13,750.0</b>	<b>1,397.7</b>

## FY 23 General Fund Actuals vs Official

(\$ Millions)

4

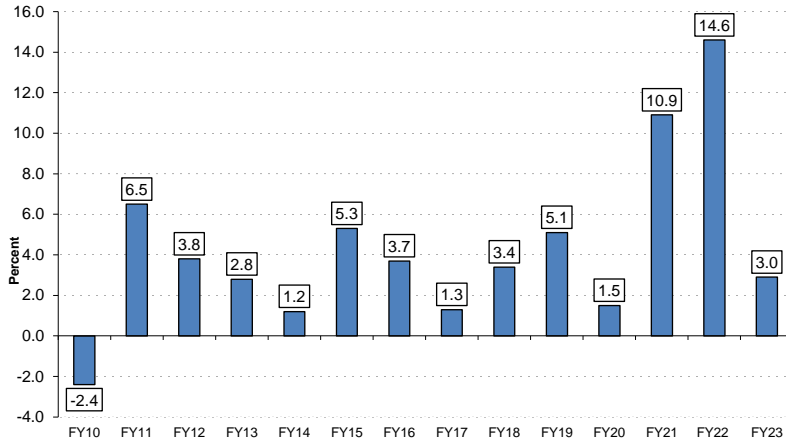
**Table 1**  
**General Fund Interim Outlook**  
**\$ millions**

	FY23				FY23	
	Q4		Full Year		Official	
	Actual	% Chg	Actual	% Chg	Estimate	\$ Diff
Individual Income	1,741.0	-17.8	5,843.9	-3.4	5,831.1	12.8
Sales & Use	1,467.1	8.6	5,576.3	10.1	5,683.1	-106.8
Corp. Inc. & LLET	521.9	2.9	1,221.6	3.0	1,279.0	-57.4
Property	78.2	4.9	774.4	7.0	759.4	15.0
Lottery	89.7	38.7	337.0	14.2	337.0	0.0
Cigarettes	76.0	-9.4	299.3	-7.8	303.8	-4.5
Coal Severance	22.6	5.6	96.6	36.7	88.9	7.7
Other	301.6	32.2	998.7	0.7	910.6	88.1
<b>General Fund</b>	<b>4,298.2</b>	<b>-3.4</b>	<b>15,147.7</b>	<b>3.0</b>	<b>15,192.9</b>	<b>-45.2</b>

## Annual GF Revenue Growth Rates Since FY10

(Percentage Growth)

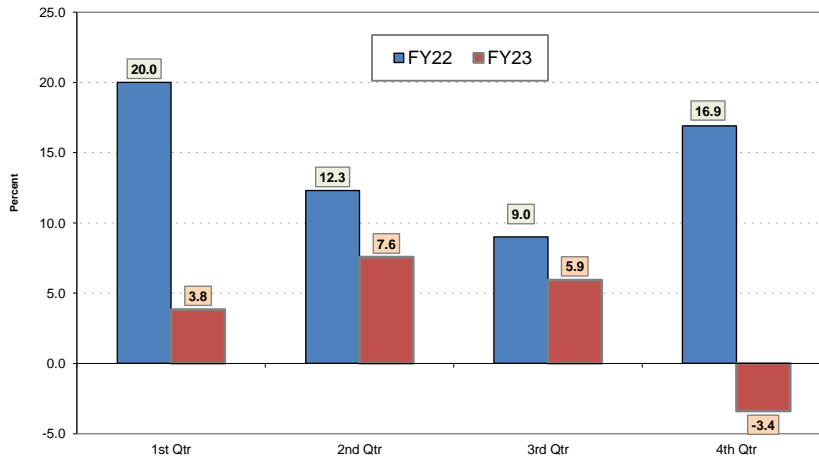
5



## General Fund Quarterly Growth Rates

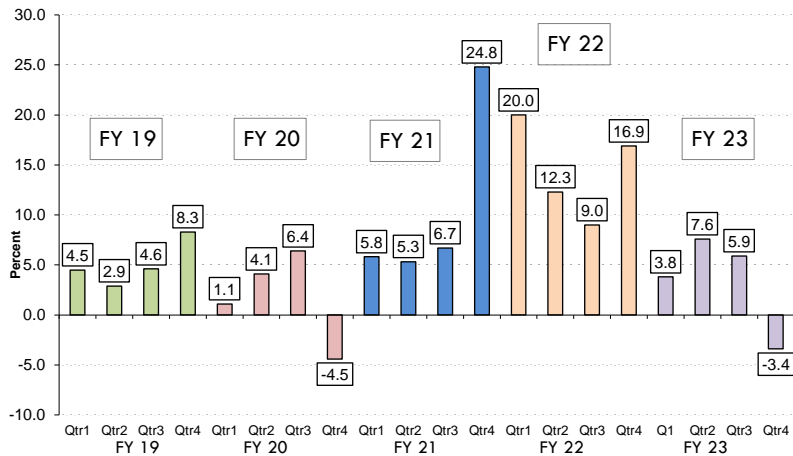
FY22 and FY23, Percent Change Y/Y

6



## Quarterly GF Revenue Growth Rates Since FY19 (Percentage Growth)

7



## General Fund Receipts in FY24 through August

8

- General Fund growth for July FY24 was 7.1%
  - ▣ Sales tax grew 5.3% with collections of \$522.4 million
  - ▣ Individual Income tax grew 4.4%; Withholding up 3.2%
  - ▣ Investment income was \$21.1 million
- General Fund growth in August was 7.7%
  - ▣ Sales tax grew 5.0%
  - ▣ Individual Income tax increased 1.4%
    - ▣ Withholding fell 8.7%
    - ▣ Pass-Through Entity Tax collected \$36.4 million
  - ▣ Major business taxes increased by \$27.4 million
- The largest two taxes (Individual Income and Sales) incorporated YTD receipts into the model by estimating September expected collections

# Legislative Impacts from 2023

9

<u>Section of Bill</u>	<u>Tax Type</u>	<u>FY23</u>	<u>FY24</u>	<u>FY25</u>	<u>FY26</u>
HB 1 -- Income Tax Rate Reduction	Individual Income	\$0	(\$312,400,000)	(\$624,800,000)	(\$624,800,000)
HB 360-14-Rental of event space	Sales Tax	(\$40,000)	(\$100,000)	(\$100,000)	(\$100,000)
HB 360-45-Very low prop tax rate	Property Tax	\$0	\$0	\$0	\$0
HB 360-7-Marketing Services	Sales Tax	(\$600,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)
HB 360-5-EV fee shift to Road Fd	Hybrid/EV Reg. Fee	\$0	(\$800,000)	(\$1,650,000)	(\$1,650,000)
HB 360-13-Water/Sewer Bldg Mat, et al.	Sales Tax	(\$5,700,000)	(\$13,600,000)	(\$11,200,000)	(\$10,400,000)
HB 5-SALT workaroud	Individual Income	(\$2,700,000)	(\$13,000,000)	(\$13,500,000)	(\$14,000,000)
HB 360-49-Recreational Vehicles	Sales and Use Tax	\$0	(\$6,700,000)	(\$14,800,000)	(\$14,800,000)
HB 360-26-TIF	Individual Income	\$0	\$0	\$0	\$0
Century Aluminum Court Case Dec 2022	Sales and Use Tax	\$0	(\$140,000,000)	(\$155,000,000)	(\$145,000,000)
<b>Total General Fund</b>		<b>(\$9,040,000)</b>	<b>(\$488,100,000)</b>	<b>(\$822,550,000)</b>	<b>(\$812,250,000)</b>
HB 360-49-Recreational Vehicles	Motor Vehicle Usage	\$0	\$3,400,000	\$8,100,000	\$8,100,000
HB 360-5-EV fee shift to Road Fd	Hybrid/EV Reg. Fee	\$0	\$800,000	\$1,650,000	\$1,650,000
<b>Total Road Fund</b>		<b>\$0</b>	<b>\$4,200,000</b>	<b>\$9,750,000</b>	<b>\$9,750,000</b>

# Individual Income Tax Changes

(Conditions for rate reductions to the individual income tax)

10

- The Individual Income Tax Rate for tax year 2024 will decline from 4.5% to 4.0% on January 1, 2024, based on 2023 legislation that was enacted after computing the FY22 rate reduction conditions in September 2022
- Rate Reduction Conditions for FY23
  - ▣ **Condition 1:** The balance in the Budget Reserve Trust Fund at the end of FY23 year shall be equal to or greater than ten percent (10%) of the General Fund moneys for that fiscal year
  - ▣ **Condition 2:** General Fund moneys at the end of a fiscal year shall be equal to or greater than General Fund appropriations for that fiscal year plus the IIT equivalent for that fiscal year
  - ▣ GF moneys >= GF Appropriations + 1% IIT equivalent
  - ▣ The rate reduction conditions were not met for FY23 (which means no rate reduction beginning on January 1, 2025)
- Further rate reductions are not automatic even when the conditions are met -- specific legislative action is required

# Individual Income Tax Changes

{Business Entity Tax (SALT work-around) was added in the 2023 Regular Session}

11

- The SALT workaround is designed primarily to give federal tax relief to entities such as certain LLCs, LLPs, and S-Corps
- Approximately thirty states have recently enacted similar legislation to create a “work-around” to the federal limitation of \$5,000 (\$10,000 for joint filers) on the itemized deduction for state and local taxes (SALT) paid
- Allows business entities to be taxed at the entity level rather than the prior practice of passing income through to members to be taxed at the individual level
- The state-level pass through entity (PTE) tax was enacted in HB 360 (Section 16) and reenacted in HB 5 (Section 9) to clarify and modify certain provisions, including but not limited to:
  - ▣ The creation of definitions to tighten the language
  - ▣ The establishment of a credit for taxes paid to another state
  - ▣ Making the credit refundable on individual returns
- Since the provisions were made retroactive to tax year 2022, a fiscal impact is created in both FY23 (amended returns), FY24, and beyond

# 2023 RS Sales and Use Taxes

(Changes included in HB 360, 2023 Regular Session)

12

- Clarified definitions for the services that were added in 2022
  - ▣ Primarily changes sought by the Department of Revenue
  - ▣ No fiscal impacts were assigned to this language
- New Exemptions
  - ▣ Purchases by a construction contractor. Building materials, fixture, or supplies for sewer or water projects for a governmental agency are exempt.
  - ▣ The term "motor vehicle" was amended to include recreational vehicles and a definition for "recreational vehicle". This change imposes Motor Vehicle Usage tax on these recreational vehicles instead of sales and use tax
    - Loss of revenue to the General Fund
    - Gain to the Road Fund
  - ▣ Sublease or subrent of space for meetings, etc., if the sales and use tax is paid by the primary lessee to the lessor

# 2023 RS Sales and Use Taxes

(Century Aluminum Case Effect for FY24-FY26)

13

- Century Aluminum v. Kentucky Department of Revenue (December 15, 2022) -- Kentucky Supreme Court
- Expansion of the supplies exemption to include repair, replacement, and spare parts used in the industrial or manufacturing processes outlined in KRS 139.470 (9) (b) (2) (b)
- Department unsuccessfully argued to the Kentucky Claims Commission ("KCC"-now the Board of Tax Appeals) that parts should be denied the supplies exemption
- The Department appealed and the Franklin Circuit Court reversed the KCC. The Court of Appeals upheld the circuit court's opinion and order
- On December 15, 2022, the Ky. Supreme Court issued its Opinion that **reversed** the Court of Appeals decision
- Fiscal impact of the judicial ruling:
  - FY24 – (\$140.0 million)
  - FY25 – (\$155.0 million)
  - FY26 – (\$145.0 million)
- The impacts are a result of significantly reduced payment of the sales tax at the time of purchase or use, and the refund liability dating back four years

# Fiscal Impact of Other Taxes

14

- Car Rental and Ride Sharing Tax
  - General Fund – Effective January 1, 2023
  - Imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent at 6%
    - Transportation network company (Uber/Lyft)
    - Taxicab services
    - Limousine services
  - FY23 collections were \$15.8 million for 5 months
- Electric Vehicle Power Excise Tax (1/1/2024) – Road Fund
- Electric Vehicle Ownership Fee (1/1/2024) – Road Fund
  - Imposed for the privilege of owning an electric vehicle
    - \$120 for electric vehicles
    - \$60 for motorcycles or hybrid vehicles
  - Paid at the time of initial and annual registration

## Legislative Impacts Included in Estimates

(Millions \$, Includes 2023 session and prior sessions)

15

	FY24	FY25	FY26
Individual Income Tax	(\$988,660,000)	(\$1,301,560,000)	(\$1,302,060,000)
Major Business Taxes	(\$48,000,000)	(\$48,000,000)	(\$48,000,000)
Sales Tax	(\$67,792,500)	(\$135,546,250)	(\$124,746,250)
Cigarette Taxes	\$0	\$0	\$0
Property Taxes	\$0	\$0	\$0
Other	\$38,788,100	\$38,438,100	\$39,088,100
<b>Total</b>	<b>(\$1,065,664,400)</b>	<b>(\$1,446,668,150)</b>	<b>(\$1,435,718,150)</b>

## Road Fund Impacts Included in Estimates

(Millions \$, Includes 2023 session and prior sessions)

16

	<u>FY24</u>	<u>FY25</u>	<u>FY26</u>	
<b>Usage</b>	\$ 3.4	\$ 8.1	\$ 8.1	RV Shift from GF
<b>License</b>	\$ 1.6	\$ 3.1	\$ 3.1	Electric Vehicle fee
<b>License</b>	\$ 0.3	\$ 0.7	\$ 0.7	Motor carrier certificates
<b>Other</b>	\$ 0.2	\$ 0.4	\$ 0.4	Charging Stations
	<b>\$ 5.5</b>	<b>\$ 12.3</b>	<b>\$ 12.3</b>	