

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2023 REGULAR SESSION**

**MEASURE**

2023 BR NUMBER 1414

HOUSE BILL NUMBER 360 – GA

**TITLE**      AN ACT relating to revenue.

**SPONSOR**    Representative Jason Petrie

**FISCAL SUMMARY**

STATE FISCAL IMPACT:    YES    NO    UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY:    ACTUARIAL ANALYSIS  
 LOCAL MANDATE    CORRECTIONS IMPACT    HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: \_\_\_\_\_

FUND(S) IMPACTED:    GENERAL    ROAD    FEDERAL    RESTRICTED \_\_\_\_\_

<b>FISCAL ESTIMATES</b>	<b>2022-2023</b>	<b>2023-2024</b>	<b>ANNUAL IMPACT AT FULL IMPLEMENTATION</b>
<b>REVENUES</b>	General Fund (\$9.5 M)	General Fund (\$34.9 M) Road Fund \$6.1 M	General Fund (\$36.3 M) Road Fund \$16.1 M
<b>EXPENDITURES</b>			
<b>NET EFFECT</b>	General Fund (\$9.5 M)	General Fund (\$34.9 M) Road Fund \$6.1 M	General Fund (\$36.3 M) Road Fund \$16.1 M

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:** The proposal contains various revenue measures pertaining to property tax, car rental and ride sharing tax, sales and use tax, income tax, tourism development agreements, tax increment financing agreements, and motor vehicle usage tax.

**FISCAL EXPLANATION:** Below is a chart containing a brief description of the various changes made for each tax and the estimated fiscal impact by tax type.

<p><b>Property Tax</b></p> <ul style="list-style-type: none"> <li>• <b>Exemptions</b> – property currently taxed at a rate of one-tenth of one cent is exempted for both state and local property tax.</li> <li>• <b>Rate-setting Process</b> – for a board of education that does not set a rate that will produce more than 4% in additional revenue, the 45-day period to establish a final tax rate begins from the date of the department’s certification to the chief state school officer</li> </ul>	<p><b>Negative, Minimal, Outside this Biennium</b></p>
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<ul style="list-style-type: none"> <li>• <b>Valuation Method for Multi-unit Rental Housing</b> - a valuation method for the assessment of multi-unit rental housing that is subject to government restriction on use is provided</li> </ul>	
<p><b>Car Rental and Ride Sharing Tax</b></p> <ul style="list-style-type: none"> <li>• The receipts derived from human service transportation delivery are excluded from the tax.</li> <li>• The return due date and the filing frequency are established as the 20<sup>th</sup> day of each month.</li> <li>• The extra penalty assessed for failure to file a return is eliminated.</li> </ul>	<p><b>Negative Indeterminable, but Minimal</b></p>
<p><b>Sales and Use Tax</b></p> <ul style="list-style-type: none"> <li>• Various changes to definitions are made to help with the administration of the sales and use tax on services, including: <ul style="list-style-type: none"> <li>○ Cosmetic surgery services – does not include those medically necessary</li> <li>○ Executive employee recruitment services – defines the activities, not the pay of the person</li> <li>○ Extended warranty services – includes “prewritten computer software access services” within the definition and makes conforming changes to the definitions of storage and us</li> <li>○ Lobbying services – defines the services, no exemptions from the service</li> <li>○ Strikes the definition of “Marketing services” – exempts these services from sales tax in a later section</li> <li>○ Telemarketing services – includes text messages and various forms of social media within the definition</li> </ul> </li> <li>• <b>Marketing Services</b> - exclude marketing services from the taxable services</li> <li>• <b>Security system monitoring services</b> – confirm that security guards are not included</li> <li>• <b>Testing services</b> – clarified that these are laboratory testing services and excluded laboratory testing required by the state, local, or federal government</li> <li>• <b>Prewritten Computer Software Access Services</b> – Services sold to a retailer that develops prewritten computer software for print technology and uses and sells prewritten computer software access services for print technology</li> <li>• <b>Currency &amp; Bullion</b> – exempt these items from tax</li> <li>• <b>Water &amp; Sewer Projects</b> – Allow the governmental exemption to flow through to the contractor purchases for water and sewer projects</li> <li>• <b>Rental of Space</b> – Exempt the sublease or subrental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events if the tax is paid by the primary lessee to the lessor</li> <li>• <b>Agriculture Certification</b> – correct the statutory references related to the certification</li> <li>• <b>Statement of Sales Tax Separately</b> - retailers that provide taxable road and travel services will not be required to state the tax separately from the sales price if the retailer can establish and provide evidence that the sale tax has been added to the total amount of the sales price charged to the purchaser and has not been absorbed by the retailer</li> </ul>	<p><b>Negative</b>  <b>FY 2023 – (\$9.5 M)</b>  <b>FY 2024 – (\$20.2 M)</b></p>
<p><b>Income Taxes</b></p> <ul style="list-style-type: none"> <li>• <b>Pass-through Entity Taxation</b> - Beginning January 1, 2022, a pass-through entity may elect to pay the tax liability at the entity level on behalf of the individual partner, member, or shareholder. The individual partner, member, or shareholder may claim a nonrefundable credit of 95% of the tax paid by the pass-through entity on behalf of the individual partner, member, or shareholder.</li> <li>• <b>Internal Revenue Code Reference Date</b> – update the reference date to the Code in effect on December 31, 2022, for taxable years beginning on or after January 1, 2023</li> <li>• <b>Restaurant Revitalization Grants</b> – allow the same treatment of these grants as for federal purposes; i.e., not included in taxable income, retroactive to January 1, 2020, but before March 11, 2023</li> <li>• <b>Individual Income Tax Rate Reduction Conditions</b> – various changes are made in the rate reduction process, including: <ul style="list-style-type: none"> <li>○ Exclude from the definition of GF appropriations any continuing appropriations</li> </ul> </li> </ul>	<p><b>Negative</b>  <b>FY 2024 – (\$8.6 M)</b></p>

<ul style="list-style-type: none"> <li>○ For the IIT equivalent, require that the income tax rate be calculated by dividing the actual individual income tax receipts for the fiscal year under consideration by the sum of the income tax rate for the first 6 months and the rate for the second six months of the fiscal year and dividing the sum by 2</li> <li>○ Restates the rates from HB 1 to ensure there are no conflicts in codification</li> <li>○ Requires the Office of State Budget Director to perform the rate reduction calculation</li> <li>○ Clarifies that the fiscal year 2022-2023 fiscal year data will be used to determine if the conditions have been met and whether the individual income tax rate for the taxable year beginning January 1, 2025, will be reduced upon the subsequent action by the General Assembly</li> </ul>	
<p><b>Tourism Development Agreements</b> - the term of certain tourism development agreements for seasonal projects may be extended related to closures during the 2020 operating season</p>	<p><b>Negative Outside this Biennium</b></p>
<p><b>Tax Increment Financing Agreements</b> – for tax incentive agreements executed prior to January 1, 2023, allow an agency to request an extension of time on the agreement, not to exceed 5 years, to allow additional time to claim the agreed upon incentive expected to be earned but isn’t earned because of the reduction to the income tax rate</p>	<p><b>Negative Outside this Biennium</b></p>
<p><b>Motor Vehicle Usage Tax</b> – include within the definition of motor vehicle a recreational vehicle and include a definition of recreational vehicle. This change will prevent the imposition of sales tax on recreational vehicles which are registered outside this state, but will allow motor vehicle usage tax to be collected if the recreational vehicle is registered in this state</p>	<p><b>Negative to General Fund (\$6.1 M)</b>  <b>Positive to Road Fund</b>  <b>FY 2024 \$6.1 M</b>  <b>Full Year \$16.1 M</b></p>
<p><b>Distribution of Road Funds</b> – road fund receipts generated from the electric vehicle charging tax and the electric vehicle fee will be distributed to counties and cities through the normal distribution of the road fund moneys</p>	<p><b>No Impact</b></p>

**DATA SOURCE(S): LRC staff and industry data.**

**PREPARER: Jennifer Hays NOTE NUMBER: 95 REVIEW: JAB DATE: 3/11/2023**