

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2022 REGULAR SESSION**

**MEASURE**

2022 BR NUMBER 1593

HOUSE BILL NUMBER 385

**TITLE** AN ACT relating to restaurant revitalization grants.

**SPONSOR** Representative Patrick Flannery

**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 \_\_\_\_\_

FISCAL ESTIMATES	2021-2022	2022-2023	2023-2024	ANNUAL IMPACT AT FULL IMPLEMENTATION
<b>REVENUES</b>	(Indeterminable)	(Indeterminable)	(Indeterminable)	
<b>EXPENDITURES</b>				
<b>NET EFFECT</b>	(Indeterminable)	(Indeterminable)	(Indeterminable)	

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:** This legislation allows a deduction for expenses paid using nontaxable grants received from the Restaurant Revitalization Fund (RRF), against the taxes imposed by KRS Chapter 141. The American Rescue Plan Act established the RRF to provide restaurants and bars with funding equal to their pandemic-related revenue loss, up to \$10 million per business, but no more than \$5 million per location. Similar to the Paycheck Protection Program loans passed under the Coronavirus Aid Relief and Economic Surety (CARES) Act, fund recipients are not liable for repayment as long as the funds are used for eligible expenses. RRF grants stipulate that they will be returned to Treasury should they not be utilized or be used on nonqualified expenses. All funds must be expended by March 11, 2023.

Public Law Number 117-2, section 9673 addresses the tax treatment of the RRF grants and this legislation would ensure that Kentucky's tax treatment of these grants, and deductions associated with them mirror federal law. The covered period began February 15, 2020, and extends until March 11, 2023. This legislation would have a retroactive effect as it would have tax ramifications for taxable years beginning on or after January 1, 2020, but before January 1, 2024.

**FISCAL EXPLANATION:** Developing a fiscal impact estimate of HB 385 is difficult. Qualifying businesses were awarded grants based on their pandemic-related revenue loss.

Recipients that are unable to use all of the funds received on eligible expenses by the end of the covered period, March 11, 2023, must return any unused funds to Treasury. While the amount received by Kentucky businesses in RRF grants is known, it is not known the year(s) in which the grant will be used to cover expenses. Thus a fiscal impact per fiscal year cannot be accurately estimated.

Another unknown is the fiscal impact of amended tax returns that may be filed for prior tax years. Since this legislation is retroactive, there is the potential for a negative fiscal impact, although estimated to be minimal, to the General Fund from amended returns that may be filed requesting refunds.

According to the Small Business Administration (SBA), 808 Kentucky businesses received RRF grants totaling \$171 million, which would be a total fiscal impact to the General Fund of (\$8,500,000). While this is an estimate of maximum fiscal impact, the actual fiscal impact per fiscal year will be dependent on if all grants received are used on qualified expenses and if a portion of the grant is returned to Treasury. Also, it is impossible to estimate the year in which these grants will be utilized on qualified expenses and taken as a deduction on the tax return.

**DATA SOURCE(S): LRC Staff, Small Business Administration**

**PREPARER: Sarah Watts NOTE NUMBER: 56 REVIEW: JAB DATE: 2/14/2022**