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

MEASURE

2022 BR NUMBER 1481 HOUSE BILL NUMBER 387

TITLE AN ACT relating to sales and use tax.

SPONSOR Representative Chris Freeland

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
REVENUES				
EXPENDITURES				
NET EFFECT				

( ) indicates a decrease/negative

PURPOSE OF MEASURE: HB 387 amends KRS 139.516 to add a definition for "computing system node". This includes equipment purchased or leased for operational use in the state that consists of specialized computers, including all power-related equipment required to operate the computers used in the commercial mining of cryptocurrency. The provisions of HB 387 exempt computing system nodes from the sales and use tax imposed in KRS 139.200 and 139.310.

FISCAL EXPLANATION: This bill will have a negative fiscal impact on the General Fund (GF). While the impact is indeterminable, it has been accounted for in the GF estimate due to changes that were made to the estimates last year as a result of the passage of HB 230 and SB 255 during the 2021 Regular Session.

HB 230 and SB 255 provided incentives for entities engaged in the commercial mining of cryptocurrency in Kentucky. HB 230 exempts electricity used in the mining of cryptocurrency from the sales tax. Entities that want to avail themselves of this sales tax exemption are required to apply for the exemption. If a sales tax exemption certificate is granted, the exemption lasts until July 1, 2030. Approved applicants must report the annual and cumulative amount of sales tax exemption claimed each November 1, as long as the exemption applies. Under the provisions of HB 230, entities engaged in the commercial mining of cryptocurrency are also exempted from the 3 percent utility gross receipts license tax for schools until June 30, 2030.

SB 255 allows commercial cryptocurrency mining facilities in Kentucky to be eligible for the incentives previously allowed under the Incentive for Energy Independence Act. This new program is known as the Incentives for Energy-related Business Act (IEBA). To be eligible for IEBA incentives, a cryptocurrency mining facility must invest a minimum of $1.0 million.

During the 2021 regular session and the Consensus Forecasting Group meetings that followed, the fiscal impacts of HB 230 and SB 255 were incorporated into the GF revenue estimates for FY 22, FY 23 and FY 24. The fiscal impact of HB 230 was scored as -$1.0 million in each fiscal year. The fiscal impact of SB 255 was scored as -$9.5 million in each fiscal year. The primary negative fiscal impact of HB 230 was tied to the loss of sales tax receipts attributable to electricity purchases by cryptocurrency mining facilities, while the primary negative fiscal impact of SB 255 was tied to the loss of sales tax receipts related to the purchase of cryptocurrency mining equipment.

The combined fiscal impact estimate for HB 230 and SB 255 was -$10.5 million in FY 2022 and -$10.5 million in each fiscal year of the upcoming biennium. This estimate was based on the assumption that approximately $158.3 million would be invested in cryptocurrency mining facilities in Kentucky and the average electric costs for these facilities would be $16.7 million annually.

Based on current data on preliminary approvals of similar companies by the Cabinet for Economic Development, it appears the initial fiscal impact of -$1.0 million tied to electricity use of cryptocurrency mining operations is adequate to cover the potential fiscal impact of HB 230. Also, it appears that the amount invested and maximum incentive amount is substantially below the investment and incentive assumptions tied to the initial fiscal estimate associated with SB 255 (-$9.5 million). For this reason, and since the sales tax exemption provisions of HB 387 are similar—but not identical—to SB 255, the passage of HB 387 will not result in a larger negative impact on the GF compared to the negative fiscal impact contained in the current GF estimates.

DATA SOURCE(S): **LRC Staff**
PREPARER: **Katy Jenkins** **NOTE NUMBER**: **55** **REVIEW**: **JAB** **DATE**: **2/16/2022**