Legislative Analysis

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STATE INVESTMENTS IN CRYPTOCURRENCY

House Bill 4087 as introduced
Sponsor: Rep. Bryan Posthumus
1st Committee: Communications and Technology
2nd Committee: Government Operations
Complete to 11-5-25

SUMMARY:

House Bill 4087 would amend the Management and Budget Act to invest money from the general fund or the Countercyclical Budget and Economic Stabilization Fund (also called the Budget Stabilization Fund, or BSF) in ***cryptocurrency***. Up to 10% of the available funds in each fund could be invested in cryptocurrency. The cryptocurrency would have to be held directly by the state treasurer through a ***secure custody solution***, a ***qualified custodian***, or an ***exchange-traded product*** issued by a registered investment company.

Cryptocurrency would mean digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds and that operates independently of a central bank.

Secure custody solution would mean a technological product or blended product and service that meets all of the following:

- It includes cryptographic ***private keys*** that secure cryptocurrency that meet the following:
  - They are exclusively known by and accessible to a governmental entity.
  - They are exclusively contained within an encrypted environment and accessible only via end-to-end encrypted channels.
  - They are never contained by, accessible by, or controllable through a smartphone.
- It ensures that any hardware that contains the cryptographic private keys and that secures cryptocurrency is maintained in at least two geographically diversified, specially designated secure data centers.
- It enforces a multi-party governance structure for authorizing transactions, it enforces user access controls, and it logs all user-initiated actions.
- Its provider has implemented a disaster recovery protocol that ensures customer access to assets if the provider becomes unavailable.
- It undergoes regular code audits and penetration testing from audit firms, and any identified vulnerabilities are promptly remedied.

Private key would mean a unique element of cryptographic data used for signing transactions on a blockchain that is known to the private key's owner.

Qualified custodian would mean either of the following:

- A federal or state-chartered bank, trust company, or special purpose depository institution.

- A company regulated by the state that keeps cryptocurrency in custody for an approved exchange-traded product.

Exchange-traded product would mean any financial instrument that is approved by the U.S. Securities and Exchange Commission or the U.S. Commodities Future Trading Commission that is traded on a United States regulated exchange and derives its value from an underlying pool of assets, including stocks, bonds, commodities, or indexes.

In addition, the state treasurer would have transfer any taxes paid or fees generated to the state in the form of cryptocurrency to the general fund. If the payment or fees were designated to a fund other than the general fund, the state treasurer would have to reimburse that fund from the general fund in the form of money in the applicable amount.

Finally, under rules issued by the state treasurer, the state treasurer could loan cryptocurrency to yield further return to the state if the cryptocurrency can be loaned without increasing the financial risk to the state.

MCL 18.1351 and 18.1351a

FISCAL IMPACT:

The bill would have no direct fiscal impact on the state but could result in either increases or losses in state funds in the short-term or long-term if the state treasurer chooses to invest in cryptocurrency. The bill is permissive and would not require the Treasury to invest in cryptocurrency. Any fiscal impact would depend on the market performance of the cryptocurrency the state would potentially choose to invest in, which is beyond the scope of this analysis. There would be no significant administrative cost to the Department of Treasury to implement these investments. The Treasury reports that funds in the general fund and the Countercyclical Budget and Economic Stabilization Fund are historically only invested in highly conservative and secure instruments.

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