

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 590

By: Montgomery of the Senate

and

Martinez of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to digital asset mining; creating the
11 Commercial Digital Asset Mining Act of 2022; stating
12 intent; defining terms; providing sales tax exemption
13 for the sale of certain equipment and machinery;
14 amending 68 O.S. 2021, Section 2357.4, which relates
15 to income tax credit for certain investments;
16 providing credit for investment in certain
17 facilities; updating statutory language; limiting
18 credit used to offset tax for certain entities;
19 providing for codification; and providing an
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1359.3 of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Commercial
Digital Asset Mining Act of 2022".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1359.4 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 It is the intent of the Legislature that:

5 1. This state provide appropriate incentives to attract
6 investments and jobs in innovative technological industries and
7 sectors to this state;

8 2. Blockchain technology is innovative technology that may be
9 utilized in multiple industries to secure data and reduce fraud;

10 3. Access to cost-effective energy is critical in the use of
11 blockchain technology, particularly in the commercial mining of
12 digital assets which requires large amounts of energy; and

13 4. The original intent of the Legislature that the Oklahoma Tax
14 Code recognize the continuing development of new and advanced
15 manufacturing and industrial processing technologies has led to new
16 manufacturing processes. Blockchain technology used in the
17 commercial mining of digital assets is a manufacturing process that
18 should be taxed in a manner similar to historical forms of
19 manufacturing or industrial processing in order to encourage the
20 location and expansion of such operations in this state rather than
21 in competing states.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1359.5 of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

1 A. 1. "Blockchain technology" means shared or distributed data
2 structures or digital ledgers governed by consensus protocols and
3 maintained by peer-to-peer networks that:

- 4 a. store digital transactions, and
- 5 b. verify and secure transactions cryptographically;

6 2. "Colocation facility" means a facility or facilities,
7 totaling not less than fifty thousand (50,000) square feet, located
8 in this state and utilized in the commercial mining of digital
9 assets or in hosting persons engaged in the commercial mining of
10 digital assets through utilization of the facility's infrastructure
11 including servers and network hardware powered by Internet
12 bandwidth, electricity, and other services generally required for
13 mining operations;

14 3. "Commercial mining of digital assets" means the process
15 through which blockchain technology is used to mine digital assets
16 at a colocation facility;

17 4. "Digital assets" means a type of virtual currency that
18 utilizes blockchain technology and that:

- 19 a. can be digitally traded between users, or
- 20 b. can be converted or exchanged for legal tender;

21 5. "Mine" means the process through which blockchain
22 transactions are verified and accepted by adding the transactions to
23 a blockchain ledger, which involves solving complex and mathematical
24

1 cryptographic problems associated with a block containing
2 transaction data; and

3 6. "Small colocation facility" means a facility or facilities,
4 totaling not less than five thousand (5,000) square feet but less
5 than fifty thousand (50,000) square feet, located in this state and
6 utilized in the commercial mining of digital assets or in hosting
7 persons engaged in the commercial mining of digital assets through
8 utilization of the facility's infrastructure including servers and
9 network hardware powered by Internet bandwidth, electricity, and
10 other services generally required for mining operations.

11 B. Beginning on the effective date of this act and ending on
12 December 31, 2037, the sale of machinery and equipment including but
13 not limited to servers and computers, racks, power distribution
14 units, cabling, switchgear, transformers, substations, software,
15 network equipment, and electricity used for commercial mining of
16 digital assets in a colocation facility shall be exempt from the tax
17 imposed by Section 1350 et seq. of Title 68 of the Oklahoma
18 Statutes.

19 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2357.4, is
20 amended to read as follows:

21 Section 2357.4. A. Except as otherwise provided in subsection
22 F of Section 3658 of this title and in subsections J and K of this
23 section, for taxable years beginning after December 31, 1987, there
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1 shall be allowed a credit against the tax imposed by Section 2355 of
2 this title for:

3 1. Investment in qualified depreciable property placed in
4 service during those years for use in a manufacturing operation, as
5 defined in Section 1352 of this title, which has received a
6 manufacturer exemption permit pursuant to the provisions of Section
7 1359.2 of this title ~~or,~~ a qualified aircraft maintenance or
8 manufacturing facility in this state as defined in Section 1357 of
9 this title ~~in this state or,~~ a qualified web search portal as
10 defined in Section 1357 of this title, or, for tax year 2022 and
11 subsequent tax years, for use in a colocation facility and small
12 colocation facility as defined in Section 3 of this act; or

13 2. A net increase in the number of full-time-equivalent
14 employees in a manufacturing operation, as defined in Section 1352
15 of this title, which has received a manufacturer exemption permit
16 pursuant to the provisions of Section 1359.2 of this title ~~or,~~ a
17 qualified aircraft maintenance or manufacturing facility defined in
18 Section 1357 of this title ~~in this state or,~~ in a qualified web
19 search portal as defined in Section 1357 of this title, or, for tax
20 year 2022 and subsequent tax years, in a colocation facility and
21 small colocation facility as defined in Section 3 of this act
22 including employees engaged in support services.

23 B. Except as otherwise provided in subsection F of Section 3658
24 of this title and in subsections J and K of this section, for

1 taxable years beginning after December 31, 1998, there shall be
2 allowed a credit against the tax imposed by Section 2355 of this
3 title for:

4 1. Investment in qualified depreciable property with a total
5 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
6 within three (3) years from the date of initial qualifying
7 expenditure and placed in service in this state during those years
8 for use in the manufacture of products described by any Industry
9 Number contained in Division D of Part I of the Standard Industrial
10 Classification (SIC) Manual, latest revision; or

11 2. A net increase in the number of full-time-equivalent
12 employees in this state engaged in the manufacture of any goods
13 identified by any Industry Number contained in Division D of Part I
14 of the Standard Industrial Classification (SIC) Manual, latest
15 revision, if the total cost of qualified depreciable property placed
16 in service by the business entity within the state equals or exceeds
17 Forty Million Dollars (\$40,000,000.00) within three (3) years from
18 the date of initial qualifying expenditure.

19 C. The business entity may claim the credit authorized by
20 subsection B of this section for expenditures incurred or for a net
21 increase in the number of full-time-equivalent employees after the
22 business entity provides proof satisfactory to the Oklahoma Tax
23 Commission that the conditions imposed pursuant to paragraph 1 or
24 paragraph 2 of subsection B of this section have been satisfied.

1 D. If a business entity fails to expend the amount required by
2 paragraph 1 or paragraph 2 of subsection B of this section within
3 the time required, the business entity may not claim the credit
4 authorized by subsection B of this section but shall be allowed to
5 claim a credit pursuant to subsection A of this section if the
6 requirements of subsection A of this section are met with respect to
7 the investment in qualified depreciable property or net increase in
8 the number of full-time-equivalent employees.

9 E. The credit provided for in subsection A of this section, if
10 based upon investment in qualified depreciable property, shall not
11 be allowed unless the investment in qualified depreciable property
12 is at least Fifty Thousand Dollars (\$50,000.00). The credit
13 provided for in subsection A or B of this section shall not be
14 allowed if the applicable investment is the direct cause of a
15 decrease in the number of full-time-equivalent employees. Qualified
16 property shall be limited to machinery, fixtures, equipment,
17 buildings, or substantial improvements thereto, placed in service in
18 this state during the taxable year. The taxable years for which the
19 credit may be allowed if based upon investment in qualified
20 depreciable property shall be measured from the year in which the
21 qualified property is placed in service. If the credit provided for
22 in subsection A or B of this section is calculated on the basis of
23 the cost of the qualified property, the credit shall be allowed in
24 each of the four (4) subsequent years. If the qualified property on

1 which a credit has previously been allowed is acquired from a
2 related party, the date ~~such~~ the property is placed in service by
3 the transferor shall be considered ~~to be~~ the date ~~such~~ the property
4 is placed in service by the transferee, for purposes of determining
5 the aggregate number of years for which credit may be allowed.

6 F. The credit provided for in subsection A or B of this
7 section, if based upon an increase in the number of full-time-
8 equivalent employees, shall be allowed in each of the four (4)
9 subsequent years only if the level of new employees is maintained in
10 the subsequent year. In calculating the credit by the number of new
11 employees, only those employees whose paid wages or salary were at
12 least Seven Thousand Dollars (\$7,000.00) during each year the credit
13 is claimed shall be included in the calculation. Provided, that the
14 first year a credit is claimed for a new employee, ~~such~~ the employee
15 may be included in the calculation notwithstanding paid wages of
16 less than Seven Thousand Dollars (\$7,000.00) if the employee was
17 hired in the last three quarters of the tax year, has wages or
18 salary which will result in annual paid wages in excess of Seven
19 Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit
20 stating that the employee's position will be retained in the
21 following tax year and will result in the payment of wages in excess
22 of Seven Thousand Dollars (\$7,000.00). The number of new employees
23 shall be determined by comparing the monthly average number of full-
24 time employees subject to Oklahoma income tax withholding for the

1 final quarter of the taxable year with the corresponding period of
2 the prior taxable year, as substantiated by such reports as may be
3 required by the Tax Commission.

4 G. The credit allowed by subsection A of this section shall be
5 the greater amount of either:

6 1. One percent (1%) of the cost of the qualified property in
7 the year the property is placed in service; or

8 2. Five Hundred Dollars (\$500.00) for each new employee. No
9 credit shall be allowed in any taxable year for a net increase in
10 the number of full-time-equivalent employees if ~~such~~ the increase is
11 a result of an investment in qualified depreciable property for
12 which an income tax credit has been allowed as authorized by this
13 section.

14 H. The credit allowed by subsection B of this section shall be
15 the greater amount of either:

16 1. Two percent (2%) of the cost of the qualified property in
17 the year the property is placed in service; or

18 2. One Thousand Dollars (\$1,000.00) for each new employee.

19 No credit shall be allowed in any taxable year for a net
20 increase in the number of full-time-equivalent employees if such
21 increase is a result of an investment in qualified depreciable
22 property for which an income tax credit has been allowed as
23 authorized by this section.

24

1 I. Except as provided by subsection G of Section 3658 of this
2 title, any credits allowed but not used in any taxable year may be
3 carried over in order as follows:

4 1. To each of the four (4) years following the year of
5 qualification;

6 2. To the extent not used in those years in order to each of
7 the fifteen (15) years following the initial five-year period;

8 3. If a C corporation that otherwise qualified for the credits
9 under subsection A of this section subsequently changes its
10 operating status to that of a pass-through entity which is being
11 treated as the same entity for federal tax purposes, the credits
12 will continue to be available as if the pass-through entity had
13 originally qualified for the credits subject to the limitations of
14 this section;

15 4. To the extent not used in paragraphs 1 and 2 of this
16 subsection, such credits from qualified depreciable property placed
17 in service on or after January 1, 2000, may be utilized in any
18 subsequent tax years after the initial twenty-year period; and

19 5. Provided, for tax years beginning on or after January 1,
20 2016, and ending on or before December 31, 2018, the amount of
21 credits available as an offset in a taxable year shall be limited to
22 the percentage calculated by the Tax Commission pursuant to the
23 provisions of subsection L of this section.

1 J. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure, or other act occurring on or after July 1, 2010, for
4 which the credit would otherwise be allowable until the provisions
5 of this subsection shall cease to be operative on July 1, 2012.
6 Beginning July 1, 2012, the credit authorized by this section may be
7 claimed for any event, transaction, investment, expenditure, or
8 other act occurring on or after July 1, 2010, according to the
9 provisions of this section; provided, credits accrued during the
10 period from July 1, 2010, through June 30, 2012, shall be limited to
11 a period of two (2) taxable years. The credit shall be limited in
12 each taxable year to fifty percent (50%) of the total amount of the
13 accrued credit. Any tax credits which accrue during the period of
14 July 1, 2010, through June 30, 2012, may not be claimed for any
15 period prior to the taxable year beginning January 1, 2012. No
16 credits which accrue during the period of July 1, 2010, through June
17 30, 2012, may be used to file an amended tax return for any taxable
18 year prior to the taxable year beginning January 1, 2012.

19 K. Beginning January 1, 2017, except with respect to tax
20 credits allowed from investment or job creation occurring prior to
21 January 1, 2017, the credits authorized by this section shall not be
22 allowed for investment or job creation in electric power generation
23 by means of wind as described by the North American Industry
24 Classification System, No. 221119.

1 L. For tax years beginning on or after January 1, 2016, and
2 ending on or before December 31, 2018, the total amount of credits
3 authorized by this section used to offset tax shall be adjusted
4 annually to limit the annual amount of credits to Twenty-five
5 Million Dollars (\$25,000,000.00). The Tax Commission shall annually
6 calculate and publish a percentage by which the credits authorized
7 by this section shall be reduced so the total amount of credits used
8 to offset tax does not exceed Twenty-five Million Dollars
9 (\$25,000,000.00) per year. The formula to be used for the
10 percentage adjustment shall be Twenty-five Million Dollars
11 (\$25,000,000.00) divided by the credits used to offset tax in the
12 second preceding year.

13 M. Pursuant to subsection L of this section, in the event the
14 total tax credits authorized by this section exceed Twenty-five
15 Million Dollars (\$25,000,000.00) in any calendar year, the Tax
16 Commission shall permit any excess over Twenty-five Million Dollars
17 (\$25,000,000.00) but shall factor such excess into the percentage
18 adjustment formula for subsequent years.

19 N. For tax year 2022 and subsequent tax years, the total amount
20 of credits authorized pursuant to this section used to offset tax
21 shall be limited annually not to exceed Five Million Dollars
22 (\$5,000,000.00) for a small colocation facility and Ten Million
23 Dollars (\$10,000,000.00) for a colocation facility. Any credits
24 authorized but not used in a tax year as provided by the limitations

1 in this subsection may be carried over as provided in subsection I
2 of this section.

3 SECTION 5. This act shall become effective November 1, 2022.

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