

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 590

By: Montgomery of the Senate

and

Hilbert of the House

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9 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 facility;
17 updating statutory language; providing for
18 codification; and providing an effective date.

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

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

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

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

1 It is the intent of the Legislature that:

2 1. The State of Oklahoma provide appropriate incentives to
3 attract investments and jobs in innovative technological industries
4 and sectors to this state;

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

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

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

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

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

1 a. store digital transactions, and

2 b. verify and secure transactions cryptographically;

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

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

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

16 a. can be digitally traded between users, or

17 b. can be converted or exchanged for legal tender; and

18 5. "Mine" means the process through which blockchain
19 transactions are verified and accepted by adding the transactions to
20 a blockchain ledger, which involves solving complex and mathematical
21 cryptographic problems associated with a block containing
22 transaction data.

23 B. The sale of machinery and equipment including but not
24 limited to servers and computers, racks, power distribution units,

1 cabling, switchgear, transformers, substations, software, network
2 equipment, and electricity used for commercial mining of digital
3 assets in a colocation facility shall be exempt from the tax imposed
4 by Section 1350 et seq. of Title 68 of the Oklahoma Statutes.

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

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

12 1. Investment in qualified depreciable property placed in
13 service during those years for use in a manufacturing operation, as
14 defined in Section 1352 of this title, which has received a
15 manufacturer exemption permit pursuant to the provisions of Section
16 1359.2 of this title, ~~or~~ a qualified aircraft maintenance or
17 manufacturing facility in this state as defined in Section 1357 of
18 this title ~~in this state~~, ~~or~~ a qualified web search portal as
19 defined in Section 1357 of this title, or, for tax year 2022 and
20 subsequent tax years, for use in a colocation facility as defined in
21 Section 3 of this act; or

22 2. A net increase in the number of full-time-equivalent
23 employees in a manufacturing operation, as defined in Section 1352
24 of this title, which has received a manufacturer exemption permit

1 pursuant to the provisions of Section 1359.2 of this title, ~~or~~ a
2 qualified aircraft maintenance or manufacturing facility defined in
3 Section 1357 of this title in this state, ~~or~~ in a qualified web
4 search portal as defined in Section 1357 of this title, or, for tax
5 year 2022 and subsequent tax years, in a colocation facility as
6 defined in Section 3 of this act including employees engaged in
7 support services.

8 B. Except as otherwise provided in subsection F of Section 3658
9 of this title and in subsections J and K of this section, for
10 taxable years beginning after December 31, 1998, there shall be
11 allowed a credit against the tax imposed by Section 2355 of this
12 title for:

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

20 2. A net increase in the number of full-time-equivalent
21 employees in this state engaged in the manufacture of any goods
22 identified by any Industry Number contained in Division D of Part I
23 of the Standard Industrial Classification (SIC) Manual, latest
24 revision, if the total cost of qualified depreciable property placed

1 in service by the business entity within the state equals or exceeds
2 Forty Million Dollars (\$40,000,000.00) within three (3) years from
3 the date of initial qualifying expenditure.

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

10 D. If a business entity fails to expend the amount required by
11 paragraph 1 or paragraph 2 of subsection B of this section within
12 the time required, the business entity may not claim the credit
13 authorized by subsection B of this section but shall be allowed to
14 claim a credit pursuant to subsection A of this section if the
15 requirements of subsection A of this section are met with respect to
16 the investment in qualified depreciable property or net increase in
17 the number of full-time-equivalent employees.

18 E. The credit provided for in subsection A of this section, if
19 based upon investment in qualified depreciable property, shall not
20 be allowed unless the investment in qualified depreciable property
21 is at least Fifty Thousand Dollars (\$50,000.00). The credit
22 provided for in subsection A or B of this section shall not be
23 allowed if the applicable investment is the direct cause of a
24 decrease in the number of full-time-equivalent employees. Qualified

1 property shall be limited to machinery, fixtures, equipment,
2 buildings, or substantial improvements thereto, placed in service in
3 this state during the taxable year. The taxable years for which the
4 credit may be allowed if based upon investment in qualified
5 depreciable property shall be measured from the year in which the
6 qualified property is placed in service. If the credit provided for
7 in subsection A or B of this section is calculated on the basis of
8 the cost of the qualified property, the credit shall be allowed in
9 each of the four (4) subsequent years. If the qualified property on
10 which a credit has previously been allowed is acquired from a
11 related party, the date ~~such~~ the property is placed in service by
12 the transferor shall be considered ~~to be~~ the date ~~such~~ the property
13 is placed in service by the transferee, for purposes of determining
14 the aggregate number of years for which credit may be allowed.

15 F. The credit provided for in subsection A or B of this
16 section, if based upon an increase in the number of full-time-
17 equivalent employees, shall be allowed in each of the four (4)
18 subsequent years only if the level of new employees is maintained in
19 the subsequent year. In calculating the credit by the number of new
20 employees, only those employees whose paid wages or salary were at
21 least Seven Thousand Dollars (\$7,000.00) during each year the credit
22 is claimed shall be included in the calculation. Provided, that the
23 first year a credit is claimed for a new employee, ~~such~~ the employee
24 may be included in the calculation notwithstanding paid wages of

1 less than Seven Thousand Dollars (\$7,000.00) if the employee was
2 hired in the last three quarters of the tax year, has wages or
3 salary which will result in annual paid wages in excess of Seven
4 Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit
5 stating that the employee's position will be retained in the
6 following tax year and will result in the payment of wages in excess
7 of Seven Thousand Dollars (\$7,000.00). The number of new employees
8 shall be determined by comparing the monthly average number of full-
9 time employees subject to Oklahoma income tax withholding for the
10 final quarter of the taxable year with the corresponding period of
11 the prior taxable year, as substantiated by such reports as may be
12 required by the Tax Commission.

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

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

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

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

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

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

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

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

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

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

16 3. If a C corporation that otherwise qualified for the credits
17 under subsection A of this section subsequently changes its
18 operating status to that of a pass-through entity which is being
19 treated as the same entity for federal tax purposes, the credits
20 will continue to be available as if the pass-through entity had
21 originally qualified for the credits subject to the limitations of
22 this section;

23 4. To the extent not used in paragraphs 1 and 2 of this
24 subsection, such credits from qualified depreciable property placed

1 in service on or after January 1, 2000, may be utilized in any
2 subsequent tax years after the initial twenty-year period; and

3 5. Provided, for tax years beginning on or after January 1,
4 2016, and ending on or before December 31, 2018, the amount of
5 credits available as an offset in a taxable year shall be limited to
6 the percentage calculated by the Tax Commission pursuant to the
7 provisions of subsection L of this section.

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

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1 30, 2012, may be used to file an amended tax return for any taxable
2 year prior to the taxable year beginning January 1, 2012.

3 K. Beginning January 1, 2017, except with respect to tax
4 credits allowed from investment or job creation occurring prior to
5 January 1, 2017, the credits authorized by this section shall not be
6 allowed for investment or job creation in electric power generation
7 by means of wind as described by the North American Industry
8 Classification System, No. 221119.

9 L. For tax years beginning on or after January 1, 2016, and
10 ending on or before December 31, 2018, the total amount of credits
11 authorized by this section used to offset tax shall be adjusted
12 annually to limit the annual amount of credits to Twenty-five
13 Million Dollars (\$25,000,000.00). The Tax Commission shall annually
14 calculate and publish a percentage by which the credits authorized
15 by this section shall be reduced so the total amount of credits used
16 to offset tax does not exceed Twenty-five Million Dollars
17 (\$25,000,000.00) per year. The formula to be used for the
18 percentage adjustment shall be Twenty-five Million Dollars
19 (\$25,000,000.00) divided by the credits used to offset tax in the
20 second preceding year.

21 M. Pursuant to subsection L of this section, in the event the
22 total tax credits authorized by this section exceed Twenty-five
23 Million Dollars (\$25,000,000.00) in any calendar year, the Tax
24 Commission shall permit any excess over Twenty-five Million Dollars

1 (\$25,000,000.00) but shall factor such excess into the percentage
2 adjustment formula for subsequent years.

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