

1 **SENATE FLOOR VERSION**

2 March 3, 2022

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 590

By: Montgomery of the Senate

and

Martinez of the House

6
7
8 [digital asset mining - Commercial Digital Asset
9 Mining Act of 2022 - codification - effective date]
10

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

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

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

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

20 It is the intent of the Legislature that:

21 1. The State of Oklahoma provide appropriate incentives to
22 attract investments and jobs in innovative technological industries
23 and sectors to this state;

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

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

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

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

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

21 a. store digital transactions, and

22 b. verify and secure transactions cryptographically;

23 2. "Colocation facility" means a facility or facilities,
24 totaling not less than fifty thousand (50,000) square feet, located

1 in this state and utilized in the commercial mining of digital
2 assets or in hosting persons engaged in the commercial mining of
3 digital assets through utilization of the facility's infrastructure,
4 including servers and network hardware powered by internet
5 bandwidth, electricity, and other services generally required for
6 mining operations;

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

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

- 12 a. can be digitally traded between users, or
- 13 b. can be converted or exchanged for legal tender; and

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

19 B. The sale of machinery and equipment including but not
20 limited to servers and computers, racks, power distribution units,
21 cabling, switchgear, transformers, substations, software, network
22 equipment, and electricity used for commercial mining of digital
23 assets in a colocation facility shall be exempt from the tax imposed
24 by Section 1350 et seq. of Title 68 of the Oklahoma Statutes.

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

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

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

18 2. A net increase in the number of full-time-equivalent
19 employees in a manufacturing operation, as defined in Section 1352
20 of this title, which has received a manufacturer exemption permit
21 pursuant to the provisions of Section 1359.2 of this title, ~~or~~ a
22 qualified aircraft maintenance or manufacturing facility defined in
23 Section 1357 of this title in this state, ~~or~~ in a qualified web
24 search portal as defined in Section 1357 of this title, or, for tax

1 year 2022 and subsequent tax years, in a colocation facility as
2 defined in Section 3 of this act including employees engaged in
3 support services.

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 4. To the extent not used in paragraphs 1 and 2 of this
21 subsection, such credits from qualified depreciable property placed
22 in service on or after January 1, 2000, may be utilized in any
23 subsequent tax years after the initial twenty-year period; and
24

1 5. Provided, for tax years beginning on or after January 1,
2 2016, and ending on or before December 31, 2018, the amount of
3 credits available as an offset in a taxable year shall be limited to
4 the percentage calculated by the Tax Commission pursuant to the
5 provisions of subsection L of this section.

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

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

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

19 M. Pursuant to subsection L of this section, in the event the
20 total tax credits authorized by this section exceed Twenty-five
21 Million Dollars (\$25,000,000.00) in any calendar year, the Tax
22 Commission shall permit any excess over Twenty-five Million Dollars
23 (\$25,000,000.00) but shall factor such excess into the percentage
24 adjustment formula for subsequent years.

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

2 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS

3 March 3, 2022 - DO PASS AS AMENDED
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