

OKLAHOMA STATE SENATE  
GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS  
COMMITTEE REPORT

May 13, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB590

By: Montgomery of the Senate and Martinez of the House


Title: Digital asset mining; establishing the Commercial Digital Asset Mining Act of 2022; providing for certain tax exemptions; providing certain credit. Effective date.

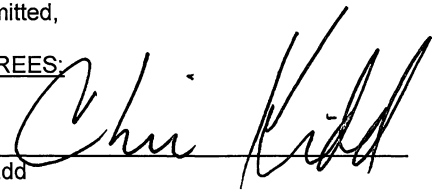
\_\_\_\_\_ together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3885) be adopted.

Respectfully submitted,

SENATE CONFEREES:

  
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Thompson

  
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Kidd

  
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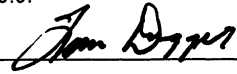
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Matthews

  
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David

  
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Montgomery

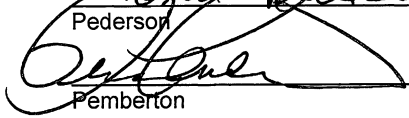
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Newhouse

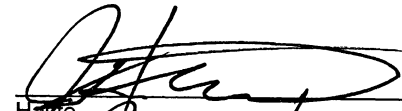


  
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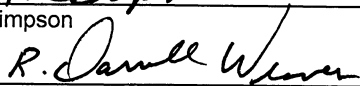
  
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Pederson

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Floyd

  
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Pemberton

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

  
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Howard  
  
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Rader  
  
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Rosino  
Simpson  
  
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Weaver

HOUSE CONFEREES:

General Conference Committee on Appropriations

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 590

6 By: Montgomery of the Senate

7 and

8 Martinez of the House

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  
24

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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