

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 750

By: Montgomery

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5
6 AS INTRODUCED

7 An Act relating to digital asset mining; creating the
8 Commercial Digital Asset Mining Act of 2023;
9 providing short title; stating intent; defining
10 terms; providing sales tax exemption for the sale of
11 certain equipment and machinery; amending 68 O.S.
12 2021, Section 2357.4, which relates to income tax
13 credit for certain investments; providing credit for
14 investment in certain facilities; updating statutory
15 language; limiting credit used to offset tax for
16 certain entities; providing for codification; and
17 providing an effective date.

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

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

22 This act shall be known and may be cited as the "Commercial
23 Digital Asset Mining Act of 2023".

24 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:

It is the intent of the Legislature that:

1 1. This state provide appropriate incentives to attract
2 investments and jobs in innovative technological industries and
3 sectors to this state;

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

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

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

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

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

24 a. store digital transactions, and

1 b. verify and secure transactions cryptographically;

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

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

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

15 a. can be digitally traded between users, or

16 b. can be converted or exchanged for legal tender;

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

22 6. "Small colocation facility" means a facility or facilities,
23 totaling not less than five thousand (5,000) square feet but less
24 than fifty thousand (50,000) square feet, located in this state and

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

6 B. Beginning on the effective date of this act and ending on
7 December 31, 2038, the sale of machinery and equipment including but
8 not limited to servers and computers, racks, power distribution
9 units, cabling, switchgear, transformers, substations, software,
10 network equipment, and electricity used for commercial mining of
11 digital assets in a colocation facility shall be exempt from the tax
12 imposed by Section 1350 et seq. of Title 68 of the Oklahoma
13 Statutes.

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

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

21 1. Investment in qualified depreciable property placed in
22 service during those years for use in a manufacturing operation, as
23 defined in Section 1352 of this title, which has received a
24 manufacturer exemption permit pursuant to the provisions of Section

1 1359.2 of this title ~~or,~~ a qualified aircraft maintenance or
2 manufacturing facility in this state as defined in Section 1357 of
3 this title ~~in this state or,~~ a qualified web search portal as
4 defined in Section 1357 of this title, or, for tax year 2024 and
5 subsequent tax years, for use in a colocation facility and small
6 colocation facility as defined in Section 3 of this act; or

7 2. A net increase in the number of full-time-equivalent
8 employees in a manufacturing operation, as defined in Section 1352
9 of this title, which has received a manufacturer exemption permit
10 pursuant to the provisions of Section 1359.2 of this title ~~or,~~ a
11 qualified aircraft maintenance or manufacturing facility defined in
12 Section 1357 of this title in this state ~~or,~~ in a qualified web
13 search portal as defined in Section 1357 of this title, or, for tax
14 year 2024 and subsequent tax years, in a colocation facility and
15 small colocation facility as defined in Section 3 of this act
16 including employees engaged in support services.

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

22 1. Investment in qualified depreciable property with a total
23 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
24 within three (3) years from the date of initial qualifying

1 expenditure and placed in service in this state during those years
2 for use in the manufacture of products described by any Industry
3 Number contained in Division D of Part I of the Standard Industrial
4 Classification (SIC) Manual, latest revision; or

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

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

19 D. If a business entity fails to expend the amount required by
20 paragraph 1 or paragraph 2 of subsection B of this section within
21 the time required, the business entity may not claim the credit
22 authorized by subsection B of this section but shall be allowed to
23 claim a credit pursuant to subsection A of this section if the
24 requirements of subsection A of this section are met with respect to

1 the investment in qualified depreciable property or net increase in
2 the number of full-time-equivalent employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 5. Provided, for tax years beginning on or after January 1,
15 2016, and ending on or before December 31, 2018, the amount of
16 credits available as an offset in a taxable year shall be limited to
17 the percentage calculated by the Tax Commission pursuant to the
18 provisions of subsection L of this section.

19 J. No credit otherwise authorized by the provisions of this
20 section may be claimed for any event, transaction, investment,
21 expenditure, or other act occurring on or after July 1, 2010, for
22 which the credit would otherwise be allowable until the provisions
23 of this subsection shall cease to be operative on July 1, 2012.
24 Beginning July 1, 2012, the credit authorized by this section may be

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

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

19 L. For tax years beginning on or after January 1, 2016, and
20 ending on or before December 31, 2018, the total amount of credits
21 authorized by this section used to offset tax shall be adjusted
22 annually to limit the annual amount of credits to Twenty-five
23 Million Dollars (\$25,000,000.00). The Tax Commission shall annually
24 calculate and publish a percentage by which the credits authorized

1 by this section shall be reduced so the total amount of credits used
2 to offset tax does not exceed Twenty-five Million Dollars
3 (\$25,000,000.00) per year. The formula to be used for the
4 percentage adjustment shall be Twenty-five Million Dollars
5 (\$25,000,000.00) divided by the credits used to offset tax in the
6 second preceding year.

7 M. Pursuant to subsection L of this section, in the event the
8 total tax credits authorized by this section exceed Twenty-five
9 Million Dollars (\$25,000,000.00) in any calendar year, the Tax
10 Commission shall permit any excess over Twenty-five Million Dollars
11 (\$25,000,000.00) but shall factor such excess into the percentage
12 adjustment formula for subsequent years.

13 N. For tax year 2024 and subsequent tax years, the total amount
14 of credits authorized pursuant to this section used to offset tax
15 shall be limited annually not to exceed Five Million Dollars
16 (\$5,000,000.00) for a small colocation facility and Ten Million
17 Dollars (\$10,000,000.00) for a colocation facility. Any credits
18 authorized but not used in a tax year as provided by the limitations
19 in this subsection may be carried over as provided in subsection I
20 of this section.

21 SECTION 5. This act shall become effective November 1, 2023.

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