

Rule K-1 Applicability, General Provisions and Definitions
REVISED MARK-UP DRAFT

a) Applicability

- 1) This rule shall apply to any digital asset mining business, as defined by this rule.

b) General Provisions

- 1) A digital asset mining business in operation before the effective date of this rule shall be in full compliance with the noise provisions enacted in Ark. Code Ann. § 14-1-604(b)(3) no later than ninety (90) days after this rule is effective.
- 2) No digital asset mining business created after the effective date of this rule shall operate in Arkansas without first obtaining a permit in accordance with the provisions of this rule. An existing digital asset mining business shall not operate in Arkansas without first applying for a permit with the Oil and Gas Commission within ninety (90) days of the date this rule is promulgated. A digital asset mining business shall operate in accordance with Rules K-1, K-2, and K-3, and shall not operate if its digital asset mining permit application or transfer request is denied or its digital asset mining permit is revoked by the Commission.
- 3) A digital asset mining business may operate in Arkansas if the digital asset mining business:
- A) Is issued a permit from the Commission in accordance with Rules K-2 or K-3;
- B) Establishes that the business is not a prohibited foreign-party-controlled business as defined by and in accordance with Ark. Code Ann. § 14-1-606;
- C) Maintains compliance with all local government ordinances;
- D) Maintains compliance with any rule or rate for utility service provided by or on behalf of a public entity;
- E) Maintains compliance with all applicable state and federal laws, including but not limited to, Ark. Code Ann. § 14-1-601 *et seq.* and § 23-119-101 *et seq.*;
- F) Pays all applicable taxes and government fees in acceptable forms of currency; and
- G) Operates in a manner that will not cause any stress on the electric public utility's generation capabilities or transmission network.

c) Definitions

- 1) “Applicant” means an entity who makes an application to the Oil and Gas Commission to operate a digital asset mining business.
- 2) “Blockchain network” means a group of computers operating and processing together to execute a consensus mechanism to agree upon and verify data in a digital record for the purpose of generating digital assets.
- 3) “Digital asset” means cryptocurrency, virtual currency, and natively electronic assets, including without limitation stable coins, nonfungible tokens, and other digital-only assets, that confer economic, proprietary, or access rights or powers.
- 4) “Digital asset miner” is an individual who mines for digital assets and holds the digital asset mining business permit issued under this rule.
- 5) “Digital asset mining” means use of electricity to power a computer for the purpose of securing or validating a blockchain network.
- 6) “Digital asset mining business” means a group of computers working at a single site that consumes more than one megawatt (1 MW) of electrical energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network.
- 7) “Director” shall mean the Director of Production and Conservation of the Oil and Gas Commission.
- 8) “Home digital asset mining” means mining digital assets in areas zoned for residential use.
- 9) “Legislative body” means the quorum court of a county or the city council, board of directors, board of commissioners, or similar elected governing body of local government.
- 10) “Local government” means a county, a city of the first class, a city of the second class, or an incorporated town.
- 11) “Mining facility” means the building or other portable building structure where the digital asset mining computers are located.
- 12) “Node” means a computational device that contains a copy of blockchain-distributed ledger technology and includes a series.
- 13) “Ordinance” means an ordinance, resolution, or other appropriate legislative enactment of a legislative body.

- 14) “Person” means an individual or legal entity.
- 15) “Regulated entity” means a:
- A) Digital asset miner;
 - B) ~~any person associated with~~Person owning or operating a mining facility a digital asset miner or a mining facility digital asset mining business;
 - C) Mining facility; or
 - D) Digital asset mining business.
- 16) “Residence” means a permanent dwelling place, unit, or accessory structure.

Rule K-2 Digital Asset Mining Business Permitting Requirements

- a) No digital asset mining business created after the effective date of this rule shall operate in Arkansas without first obtaining a permit in accordance with the provisions of this rule.
- b) An existing digital asset mining business shall not operate in Arkansas without first applying for a permit with the Oil and Gas Commission within ninety (90) days of the date this rule is promulgated.
- c) A digital asset mining business shall operate in accordance with this rule and shall not operate if its digital asset mining permit application is denied, its digital asset mining permit is revoked by the Commission, or its digital asset mining permit is expired.
- d) Any Digital Asset Mining Permit issued by the Commission shall not exceed a term of 5 years from the date of issuance.
- e) The applicant shall file a completed initial permit application or renewal application, utilizing a form prescribed by the Director, which shall contain the following:
 - 1) A completed Organization Report on a form prescribed by the Director;
 - 2) Documentation establishing that the digital asset mining business is currently in good standing status with the Arkansas Secretary of State;
 - 3) A survey plat of the property boundaries on which the mining facility will be located that shows the location of the mining facility, and the location of all power and water lines and other utility services providing service to the mining facility;
 - 4) A current topographic map, aerial or satellite imagery, or other type of map that shows the location of the mining facility and the distance of all surrounding residences within a two (2) mile radius of the mining facility;
 - 5) A copy of an agreement with the entity supplying the electric power to the mining facility which certifies that the electric usage by the mining facility will not negatively impact the local electric grid or increase electric costs to the local customers;
 - 6) A copy of an agreement with the local water utility or private water well owner supplying water to the mining facility which certifies that the water usage by the mining facility will not negatively impact the local water supply and water rates of the local customers;

- 7) A notarized affidavit certifying that the digital asset mining business operating the mining facility is not a prohibited foreign-party-controlled business and is in compliance with Ark. Code Ann. § 14-1-606; and
- 8) A technical description, including schematics and engineering specifications of the system proposed to be utilized or the local government location approvals necessary to comply with noise-reduction techniques in accordance with Ark. Code Ann. § 14-1-604(b)(3), including without limitation schematics or specifications that demonstrate:
 - A) The digital asset mining business will use a liquid cooling or submerged cooling process for the mining facility;
 - B) The mining facility shall be fully enclosed around all sides, including above and below the equipment producing the noise, with material that is reasonably calculated by industry standards to reduce noise emissions to a level that is acceptable to a reasonable person under similar circumstances; or
 - C) Upon approval by the local government, the mining facility may use a passively cooled pre-manufactured container without additionally enclosing the container in a complete envelope if the mining facility is located or relates to an area:
 - i) That is at least two thousand (2,000) feet away from the nearest residential or commercial use structure; or
 - ii) That is zoned for industrial use or an otherwise approved use.
- f) Additionally, the digital asset mining business shall:
 - 1) Publish general public notice of the application ~~no more than ten (10) at least forty five (45)~~ days prior to filing the application with the Commission in a newspaper having a general circulation in the county, or in each county, if there shall be more than one, within a one (1) mile radius from the proposed mining facility is located. In addition, the public notice should be large font and surrounded by a printed border to highlight the published notice; and
 - 2) Provide notice by mailing, ~~at least forty five (45)~~ no more than ten (10) days prior to filing the application with the Commission, via certified mail, FedEx, UPS, or other method that provides proof of mailing and delivery to the following persons and entities:
 - A) Any local government having jurisdiction over the area where the mining facility is proposed to be located;
 - B) The Division of Environmental Quality;

- C) All surface owners of record within one (1) mile of the mining facility; and
 - D) Any other persons as determined by the Director of the Commission.
- 3) The notice given by the digital asset mining business shall contain the following:
- A) The name and address of the applicant.
 - B) A brief description of the nature and purpose of the application.
 - C) A description of the land on which the mining facility will be constructed.
 - D) A statement which explains that a copy of the application and exhibits may be obtained from the Commission or the digital asset mining business. When the Commission receives a request for a copy of the application from an interested party, the Commission may direct the digital asset mining business to deliver the application to the interested party. The cost of such notice and mailing of the application shall be paid for by the digital asset mining business.
 - E) A statement which explains that all comments or objections regarding the application must be in writing and submitted to the Commission prior to the expiration of the forty-five (45) day notice period specified in subparagraph f) 1) above g) 1) below.

g) Objections

- 1) Objections to the application must be received by the Director within forty-five (45) days after the publication date of the notice specified in subparagraph f) 1) above or the postmark date of the notice specified in subparagraph f) 2) above, whichever date is later. If an objection is received, the application shall be referred to the Commission for determination without imposition of a filing fee, and a hearing shall be conducted in accordance with General Rules A-2 and A-3 and all other applicable hearing procedures.
 - 2) If a timely objection is not received by the Director and the application is deemed administratively complete, the permit shall be issued unless the Director deems it necessary to refer the application to the Commission for determination for the purpose of protecting public health and safety, protecting the environment, or preventing damage to property. No filing fee shall be assessed by the Commission for any hearing set pursuant to this referral by the Director.
- h) If the applicant satisfies the requirements of all applicable statutes and this rule, a permit shall be issued, unless:

- 1) The applicant has falsified or otherwise misstated any material information on or relative to the permit application;
 - 2) The applicant is or was an owner, officer, director, partner, member, or manager of digital asset mining business, or other person with an interest in the entity exceeding five-percent (5%), that has failed to abate any outstanding violations of statutes or rules, or comply with orders of the Commission as specified in a final administrative decision of the Commission in accordance with the provisions of this rule;
 - 3) The applicant is a current permit holder that has failed to abate outstanding violations of any statutes or rules, or comply with orders of the Commission as specified in a final administrative decision of the Commission in accordance with the provisions of this rule; or
 - 4) If the Director determines that the applicant or permit holder, or an owner, officer, director, partner, member, or manager or other person with an interest exceeding five-percent (5%) in the digital asset mining business, has a history of violating any applicable statutes, Commission rules, permit condition or order of the Commission, the Arkansas Pollution Control and Ecology Commission, or any other state or federal regulatory agency, the permit shall be denied.
- i) If a permit is denied pursuant to subparagraph h) above, the applicant may request a hearing with the Commission on this determination, in accordance with General Rules A-2, A-3, and other applicable hearing procedures.
- j) Digital Asset Mining Permit Revocation Procedures
- 1) The Director may revoke a digital asset mining permit if:
 - A) The permit holder fails to meet permit conditions as specified in the digital asset mining permit;
 - B) The digital asset mining permit was issued in error;
 - C) The permit holder fails to meet any applicable statute or law; or
 - D) The permit holder falsified or otherwise misstated any material information in the application form.
 - 2) The Director shall notify the permit holder in writing of the revocation of the digital asset mining permit. Following the notice of revocation, the permit holder shall have thirty (30) days from the date of the digital asset mining permit revocation notice to appeal the Director's decision to revoke the digital asset mining permit. If the permit revocation is appealed, a hearing contesting the permit revocation shall be conducted in accordance with General Rules A-2, A-3, and other applicable

hearing procedures. Operation of the mining facility may not commence or continue during the appeal process. A revocation of a digital asset mining permit for which an appeal has not been timely filed shall become a final administrative decision of the Commission.

Rule K-3 Digital Asset Mining Business Permit Transfer Procedures

- a) Definitions
- 1) “Current permit holder” means the person required to hold the permit or to whom the permit was issued and who is the owner of the digital asset mining business and possesses the full rights and responsibilities for operating the business in accordance with applicable Arkansas law, rule, or order of the Commission.
 - 2) “New permit holder” means the person acquiring the digital asset mining business and who obtains the full rights and responsibilities for operating the business and possessing the permit in accordance with applicable Arkansas law, rule, or order of the Commission.
 - 3) “Transfer” means any voluntary or involuntary assignment, devise, release, transfer, takeover, buyout, merger, sale, conveyance, or other transfer of any kind.
- b) The provisions of this rule apply to all transfers of the interest of the permit holder, including but not limited to:
- 1) A change of ownership of the right to operate the digital asset mining business;
 - 2) A change of ownership or membership in the corporate entity that operates the digital asset mining business or a change in the designation of the owner or operator under an operating agreement or other similar agreement;
 - 3) An action of the owners of separate interests who designate a new owner to be permit holder; or
 - 4) A change required by the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the digital asset mining business.
- c) Notification of a transfer shall be given to the Director, or his or her designee, by the current permit holder on a form prescribed by the Director.
- d) The notification shall be signed by the current permit holder and the new permit holder, or by authorized representatives specified on the Commission Organization Report filed in accordance with Rule K-2 e) 1).
- e) Prior to the Director, or his or her designee, approving the transfer request, the new permit holder must:
- 1) Be authorized to do business within the State of Arkansas; and
 - 2) Comply with all applicable provisions of state law and Rule K-2.

- f) A transfer to a new permit holder shall be denied by the Director, or his or her designee, if:
- 1) The new permit holder has not fully satisfied all applicable statutory and rule requirements;
 - 2) The Commission has not approved the transfer in accordance with paragraph e) above;
 - 3) The new permit holder has falsified or otherwise misstated any material information on or relative to the transfer application; or
 - 4) No further permits or authorities may be issued in accordance with paragraph e) above.
- g) The new permit holder shall assume compliance with all existing permit obligations and be responsible with complying with all regulatory requirements associated with the permit.
- h) If the digital asset mining business or mining facility is in violation of any rules, statutes, or orders of the Commission at the time of the transfer request to the new permit holder, the transfer request shall be denied pending abatement of all violations by the current permit holder. However, if the new permit holder, after being notified of the violation(s), agrees in writing to the transfer approval including conditions to abate all violations, the transfer may be approved by the Director, or his or her designee, in accordance with this rule. Failure to abate the violations within the time-period specified by the Director, or his or her designee, may result in revocation of the transfer approval and other applicable enforcement actions in accordance with General Rule A-5.
- i) The current permit holder is not responsible for any regulatory violation caused by the actions of the new permit holder during the permit transfer process. However, if the transfer is denied by the Director, or his or her designee, the current permit holder will assume all responsibility for any violations caused by the new permit holder. Nothing in this subparagraph shall affect the contractual rights and obligations between the person or entity transferring the permit and the person or entity acquiring the permit.
- j) The transfer request shall not affect the rights of the Commission, or any obligation or duty of the current permit holder arising under any applicable Arkansas law, rule, or order of the Commission.
- k) The Director shall notify the current and new permit holder of the transfer approval or denial in writing. Following the approval or denial of the transfer approval request, the current or new permit holder shall have thirty (30) days from the date of the approval or denial to appeal the Director's decision in accordance with General Rules A-2, A-3, and other applicable hearing procedures. A transfer request approval or denial, for which a

timely appeal has not been filed, shall become a final administrative decision of the Commission.

l) Permit Transfer Revocation Procedures

- 1) The Director may revoke a digital asset mining business permit transfer approval if the permit holder fails to comply with conditions as specified in the permit transfer approval, the permit transfer approval was issued in error, or the permit holder falsified or otherwise misstated any material information in the application form.
- 2) The Director shall notify the permit holder of the digital asset mining business permit transfer revocation in writing. Following the revocation notice, the permit holder is required to cease operation of the mining facility. The permit holder shall have thirty (30) days from the date of the permit transfer revocation to appeal the Director's decision to revoke the transfer approval in accordance with General Rules A-2, A-3, and other applicable hearing procedures. Operation of the mining facility may not commence or continue during the appeal process. A revocation of a permit transfer approval for which an appeal has not been timely filed shall become a final administrative decision of the Commission.

Rule K-4 Digital Asset Mining Business Enforcement Procedures

- a) Any regulated entity operating a digital asset mining business is subject to the enforcement provisions of this rule and the Arkansas Data Centers Act of 2023, Ark. Code Ann. § 14-1-601 et seq. and the digital asset mining provisions of Ark. Code Ann. § 23-119-101 et seq.
- b) Notice of Non-Compliance
 - 1) A Notice of Non-Compliance may be issued when any regulated entity is not in compliance with any requirement of this rule, Ark. Code Ann. § 14-1-601 et seq., or § 23-119-101 et seq., and:
 - A) The non-compliance was not caused by the regulated entity's deliberate action;
 - B) Any action necessary to abate the non-compliance was commenced immediately, and was or will be completed within a specified date, as established by the Director, or his or her designee, not to exceed thirty (30) days from the date that the regulated entity was determined to be out of compliance; and
 - C) The non-compliance has not caused and cannot reasonably be expected to cause significant harm to public health and safety or damage to property.
 - 2) The Notice of Non-Compliance shall be documented in writing and delivered via first class mail to the regulated entity or to the regulated entity's representative as reported on the Commission Organization Report. The written notification shall indicate the nature and circumstances of the non-compliance, and the time within which and the means by which the non-compliance is to be abated.
 - 2) If abatement is not completed as specified in the written notification, the Director, or his or her designee, may issue a formal Notice of Violation in accordance with subparagraph (c) below.
 - 4) The provisions of this subparagraph shall not apply to the following types of incidents, which may require a Notice of Violation to be issued in accordance with subparagraph (c) below:
 - A) Conducting any regulated activity prior to issuance of the appropriate Commission permit;
 - B) Failure to bring an existing mining facility into compliance with Arkansas law or Rule K-2.

c) Notice of Violation(s)

- 1) A Notice of Violation may be issued by the Director, or his or her designee, when any regulated entity is in violation of any requirements of Ark. Code Ann. § 14-1-601 et seq., § 23-119-101 et seq., or rules, orders, or any permit conditions of the Commission. Unless otherwise determined by the Commission after notice and a hearing, a regulated entity shall not be compelled by the Commission to abate violations of the Arkansas law or rules, orders, or any permit conditions of the Commission in the absence of the issuance of an underlying Notice of Violation.
- 2) The Notice of Violation shall be in writing and contain:
 - A) A statement regarding the nature of the violation, including a citation to the specific section of Ark. Code Ann. § 14-1-601 et seq., or § 23-119-101 et seq. or rules, orders, or any permit conditions of the Commission alleged to have been violated;
 - B) The suggested action needed to abate the violation, including any appropriate remedial measures to prevent future violations;
 - C) The time within which the violation shall be abated; and
 - D) A notice of any civil penalties, as specified in subparagraph e) below, that the Director will request the Commission issue.
- 3) The Notice of Violation may include a cessation requirement, or a separate cessation order may be issued for the following types of violations:
 - A) Operating a digital asset mining business or mining facility without a Commission permit;
 - B) Improper disposal or discharge of cooling fluids;
 - C) Failure to comply with the violation abatement timeframe established in a Notice of Violation.
- 4) The Director, or his or her designee, shall send, via certified mail, the Notice of Violation to the regulated entity charged with the violation(s), or the regulated entity's representative as reported on the Commission Organization Report, or provide personal delivery of a copy of the notice to the regulated entity, or the regulated entity's representative.
- 5) The regulated entity charged with the violation(s) may request a Director's review of the Notice of Violation and provide the Director, in writing, any information in

mitigation of the violation(s) within thirty (30) calendar days of the mailing or personal delivery of the original Notice of Violation, unless a shorter time period is specified in the Notice of Violation for instances where there is a condition that creates an imminent danger to the health or safety of the public or threatens significant environmental harm or damage to property. Such written information may include a proposed alternative to the required action needed to abate the violation(s). Upon timely receipt of such documentation from the regulated entity, the Director shall conduct a review.

- 6) During the review, the Director may consider any of the following criteria in reaching a final Director's decision regarding the violation(s):
 - A) The regulated entity's history of previous violations, including violations at other locations and under other permits;
 - B) The seriousness of the violation, including any irreparable harm to public health and safety, the environment, or damage to property;
 - C) The degree of culpability of the regulated entity; and
 - D) The existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the regulated entity.
- 7) Upon completion of the review, the Director shall issue a final Director's decision to:
 - A) Affirm the violation;
 - B) Vacate the violation;
 - C) Amend or modify the type of violation and abatement requirements specified in the violation;
 - D) Establish probationary or permanent modification or conditions to any underlying permit related to the violation, which may include special monitoring or reporting requirements; or
 - E) Enter into a settlement agreement to extend the amount of time provided to complete remedial actions necessary to abate the violations or reduce the amount of the requested assessed civil penalty.
- 8) The final Director's decision shall be delivered to the regulated entity, or the Regulated entity's representative, as reported on Commission Organization Report, via first class mail. The final Director's decision may be appealed to the Commission by filing an application in accordance with General Rule A-2, A-3,

and other applicable hearing procedures. The Director must receive the application to appeal the final Director's decision within thirty (30) days of the mailing of the final Director's decision. The application shall state the reason for the appeal and the application shall be scheduled to be heard by the Commission in accordance with General Rule A-2, A-3, and other applicable hearing procedures.

- 9) A Notice of Violation for which a Director's review has not been requested shall become a final administrative decision of the Commission thirty (30) days following the mailing of the Notice of Violation.
 - 10) A final Director's decision not appealed to the Commission within thirty (30) days of the mailing of the final Director's decision shall become a final administrative decision of the Commission.
 - 11) All violations specified in a Notice of Violation which have become a final administrative decision in accordance with subparagraph c) 9), included in a final Director's decision which has become a final administrative decision of the Commission in accordance with subparagraph e) 10), or included in an order of the Commission, shall be fully abated within the time frame specified in the original Notice of Violation, final Director's decision, or order of the Commission. No further permits or authorization shall be issued to the regulated entity until all outstanding violations specified in a Notice of Violation which has become a final administrative decision in accordance with subparagraph c) 9), a final Director's decision which has become a final administrative decision of the Commission in accordance with subparagraph c) 10), or by order of the Commission have been fully abated.
- d) In addition to the issuance of a Notice of Violation, the Director and the Commission may initiate investigative or enforcement proceedings upon receipt of a complaint by:
- 1) Initiating a referral to the Attorney General for enforcement in accordance with Ark. Code Ann. § 14-1-606;
 - 2) Making reasonable investigations and inspections;
 - 3) Examining properties, leases, papers, books, and records;
 - 4) Holding hearings;
 - 5) Requiring the keeping of records and the making of reports;
 - 6) Taking such action as may be reasonably necessary to enforce state law and Commission rules, including compliance with Ark. Code Ann. §§ 14-1-601 *et seq.* and 23-119-101 *et seq.*

e) Civil Penalties

- 1) The Director shall determine whether to request the assessment of civil penalties based on failure to comply with the applicable abatement requirements for violations issued under subparagraphs (e) (2), (3), and (4) below. If a civil penalty is requested by the Director, the regulated entity may voluntarily agree to the assessment and pay the civil penalty as requested or modified by the Director, or the Director or his designee may file an application, in accordance with General Rule A-2, A-3, and other applicable hearing procedures, to request the issuance of the requested civil penalty by the Commission. The maximum amount of the Director's requested civil penalty shall be computed as provided in subparagraphs (e) (2), (3), and (4) below. However, the Commission is not bound by the Director's request, or the amounts provided below, and may impose civil penalties of up to five thousand dollars (\$5,000.00) per day per violation as permitted by statute.
- 2) Administrative violations are defined as failure to file required reports and forms and to provide required notices. The Director may request the assessment of up to two thousand five hundred (\$2,500.00) dollars per administrative violation, plus up to five hundred dollars (\$500.00) per day for each day the violation remains unabated after the specified compliance date. The per-administrative-violation civil penalty request shall be calculated as follows:
 - A) No previous violation of the same rule: one thousand dollars (\$1,000.00). One previous violation of the same rule: one thousand five hundred dollars (\$1,500.00). Two or more previous violations of the same rule: two thousand five hundred dollars (\$2,500.00).
 - B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding five (5) full calendar years before the issuance of the violation.
- 3) Operating violations are defined as failure to maintain compliance with Commission digital asset mining rules. These violations include, but are not limited to, regulated activities such as operating a mining facility without the proper permit or transfer of ownership and failure to maintain a mining facility in compliance with these rules. The Director may request the assessment of up to five thousand dollars (\$5,000.00) per operating violation plus up to two thousand five hundred dollars (\$2,500.00) per day for each day the violation remains unabated after the specified compliance date, with the exception that operating violations as specified in statute are limited to a maximum of five thousand dollars (\$5,000.00) per day per operating violation. The per-operating-violation civil penalty shall be calculated as follows:

- A) No previous violation of the same rule: two thousand five hundred dollars (\$2,500.00). One previous violation of the same rule: five thousand dollars (\$5,000.00).
 - B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding five (5) full calendar years before the issuance of the violation.
- f) All civil penalties assessed and paid to the Commission in accordance with this subpart shall be deposited in the Commission operating fund.

1 State of Arkansas
2 94th General Assembly
3 Fiscal Session, 2024
4

As Engrossed: S4/23/24

A Bill

SENATE BILL 78

5 By: Senators J. Bryant, *Irvin*
6 By: Representative McClure
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS DATA CENTERS ACT OF
10 2023; TO CREATE REQUIREMENTS FOR NOISE REDUCTION IN
11 THE OPERATION OF A DIGITAL ASSET MINING BUSINESS; TO
12 CLARIFY THE ABILITY OF AN ARKANSAS RESIDENT TO ENGAGE
13 IN HOME DIGITAL ASSET MINING; TO PROHIBIT FOREIGN-
14 PARTY-CONTROLLED OWNERSHIP OF A DIGITAL ASSET MINING
15 BUSINESS IN ARKANSAS; TO DECLARE AN EMERGENCY; AND
16 FOR OTHER PURPOSES.
17
18

Subtitle

19 TO AMEND THE ARKANSAS DATA CENTERS ACT OF
20 2023; TO PROHIBIT FOREIGN-PARTY-
21 CONTROLLED OWNERSHIP OF A DIGITAL ASSET
22 MINING BUSINESS; AND TO DECLARE AN
23 EMERGENCY.
24
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 14-1-603(10), concerning the definition of
30 "ordinance" under the Arkansas Data Centers Act of 2023, is amended to read
31 as follows:

32 (10) "Ordinance" means an ordinance, resolution, or other
33 appropriate legislative enactment of a legislative body ~~that~~

34 ~~(A) Prohibits an individual from operating a business from~~
35 ~~a residence; or~~

36 ~~(B) Requires an individual to obtain approval before~~



1 ~~operating a business from a residence;~~

2

3 SECTION 2. Arkansas Code § 14-1-604(a), concerning requirements that a
4 digital asset mining business shall comply with to operate in Arkansas, is
5 amended to read as follows:

6 (a) A digital asset mining business may operate in this state if the
7 digital asset mining business complies with:

8 ~~(1) State law concerning business guidelines and tax policies;~~

9 ~~(2)(1) Any ordinance concerning operations and safety ordinance;~~

10 ~~(3)(2) Any rule or rate for utility service provided by or on~~
11 ~~behalf of a public entity; and~~

12 ~~(4)(3) State and federal employment laws law.~~

13

14 SECTION 3. Arkansas Code § 14-1-604(b), concerning requirements that a
15 digital asset mining business shall comply with, is amended to add additional
16 subdivisions to read as follows:

17 (3) Apply noise-reduction techniques, including without
18 limitation:

19 (A) Using liquid cooling or submerged cooling;

20 (B)(i) Fully enclosing the envelope.

21 (ii)(a) As used in subdivision (b)(3)(B)(i) of this
22 section, "fully enclosing the envelope" means enfolding the envelope where
23 noise from the operation of a digital asset mining business is directly
24 produced around all sides, including above and below the equipment producing
25 the noise, with material that is reasonably calculated by industry standards
26 to reduce noise emissions to a level that is acceptable to a reasonable
27 person under similar circumstances.

28 (b) Except as provided in subdivision
29 (b)(3)(B)(ii)(c) of this section, "fully enclosing the envelope" does not
30 include utilizing a passively cooled premanufactured container without
31 additionally enclosing the system in a complete envelope.

32 (c) A digital asset mining business may use a
33 passively cooled premanufactured container without additionally enclosing the
34 system in a complete envelope if the digital asset mining business locates or
35 relocates under subdivision (b)(3)(C) of this section; or

36 (C) Upon approval by the local government, locating or

1 relocating to:

2 (i) A minimum of two thousand feet (2,000') from the
3 nearest residential or commercial use structure; or

4 (ii) An area zoned for industrial use or an
5 otherwise approved use.

6 (4)(A) A person who owns land within two thousand feet (2,000')
7 of the nearest property line of a digital asset mining business may commence
8 an action in a circuit court with proper jurisdiction over the digital asset
9 mining business to enforce the noise reduction techniques required under
10 subdivision (b)(3) of this section.

11 (B) A person who prevails in an action commenced under
12 subdivision (b)(4)(A) of this section may be awarded reasonable attorney's
13 fees and costs.

14

15 SECTION 4. Arkansas Code § 14-1-604, concerning requirements that a
16 digital asset mining business shall comply with, is amended to add an
17 additional subsection to read as follows:

18 (f) A local government shall not pass an ordinance that:

19 (1) Prohibits an individual from engaging in home digital asset
20 mining; or

21 (2) Requires an individual to obtain approval from a local
22 government before engaging in home digital asset mining.

23

24 SECTION 5. Arkansas Code § 14-1-605(a), concerning prohibiting a local
25 government from imposing ordinances or zoning regulations on a digital asset
26 mining business with the intent to discriminate against the digital asset
27 mining business, is amended to read as follows:

28 (a) Except as provided by subsection (d) of this section, a local
29 government shall not+

30 ~~(1) Enact or adopt an ordinance, policy, or action that limits~~
31 ~~the sound decibels generated from home digital asset mining other than the~~
32 ~~limits set for sound pollution generally;~~

33 ~~(2) Impose a different requirement for a digital asset mining~~
34 ~~business than is applicable to any requirement for a data center;~~

35 ~~(3) Rezone rezone an area in which a digital asset mining~~
36 ~~business is located without complying with applicable state law and local~~

1 zoning ordinances; ~~or~~

2 ~~(4) Rezone an area with the intent or effect of discriminating~~
3 ~~against a digital asset mining business.~~

4
5 SECTION 6. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
6 to add an additional section to read as follows:

7 14-1-606. Ownership of digital asset mining business by prohibited
8 foreign-party-controlled business prohibited – Definitions – Penalty –
9 Reporting.

10 (a) As used in this section:

11 (1) "Interest" means an ownership interest of greater than zero
12 percent (0%);

13 (2) "Prohibited foreign-party-controlled business" means a
14 digital asset mining business in which a prohibited foreign party owns an
15 interest; and

16 (3) "Prohibited foreign party" means:

17 (A) A citizen, resident, or agent of a country subject to
18 § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. § 120.1
19 et seq., as existing on January 1, 2024;

20 (B) A foreign government formed within a country subject
21 to § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. §
22 120.1 et seq., as existing on January 1, 2024;

23 (C) A party other than an individual or a government that
24 is created or organized under the laws of a foreign government within a
25 country subject to § 126.1 of the International Traffic in Arms Regulations,
26 22 C.F.R. § 120.1 et seq., as existing on January 1, 2024;

27 (D) Any party other than an individual or a government:

28 (i) That is created or organized under the laws of
29 any state; and

30 (ii) In which a significant interest or substantial
31 control is directly or indirectly held or is capable of being exercised by:

32 (a) An individual referred to in subdivision
33 (a)(3)(A) of this section;

34 (b) A foreign government referred to in
35 subdivision (a)(3)(B) of this section;

36 (c) A party referred to in subdivision

1 (a)(3)(C) of this section; or

2 (d) A combination of the individuals, parties,
3 or governments referred to in this subdivision (a)(3)(D)(ii);

4 (E) An Entity of Particular Concern designated by the
5 United States Department of State; or

6 (F) An agent, trustee, or other fiduciary of a person or
7 entity enumerated in subdivisions (a)(3)(A)-(E) of this section.

8 (b)(1) A prohibited foreign party shall not acquire or hold by grant,
9 purchase, devise, descent, or otherwise any interest in a digital asset
10 mining business in this state.

11 (2) A person shall not acquire or hold a digital asset mining
12 business as an agent, trustee, or other fiduciary for a prohibited foreign-
13 party-controlled business.

14 (c)(1) A prohibited foreign-party-controlled business in operation
15 before the effective date of this act shall have three hundred sixty-five
16 (365) calendar days from the effective date of this act for the prohibited
17 foreign party to divest all interest in the digital asset mining business.

18 (2) If a prohibited foreign party fails to divest all interest
19 in the digital asset mining business under subdivision (c)(1) of this
20 section, the Attorney General may commence an action in a circuit court with
21 proper jurisdiction under subsection (e) of this section.

22 (d) Upon request of a person or upon receipt of information that leads
23 the Attorney General to believe that a violation of this section may exist,
24 the Attorney General may conduct an investigation that includes without
25 limitation:

26 (1) Receiving sworn statements; and

27 (2) Issuing subpoenas to compel the:

28 (A) Testimony of witnesses subpoenaed before him or her;
29 and

30 (B) Production of records and other documents under § 25-
31 16-705.

32 (e)(1) If as a result of an investigation under subsection (d) of this
33 section the Attorney General concludes that a violation of this section has
34 occurred, the Attorney General may order a prohibited foreign party to divest
35 all interest in the digital asset mining business within three hundred sixty-
36 five (365) calendar days.

1 (2) If the prohibited foreign party fails to divest all interest
2 in the digital asset mining business within three hundred sixty five (365)
3 calendar days, the Attorney General may commence an action in a circuit court
4 with proper jurisdiction over the digital asset mining business.

5 (3)(A) If the circuit court finds that a violation of this
6 section has occurred, the circuit court shall issue an order for the digital
7 asset mining business to be sold through judicial foreclosure.

8 (B) The proceeds of the sale under subdivision (e)(3)(A)
9 of this section shall be disbursed to the lienholders, in order of priority,
10 except for liens that under the terms of the sale are to remain.

11 (C) If the assets of the digital asset mining business
12 include real property, the Attorney General shall promptly record a copy of
13 the following in the local land records:

14 (i) Upon commencement, notice of the pendency of the
15 action under subdivision (c)(2) or subdivision (e)(2) of this section; and

16 (ii) The order for the sale of the digital asset
17 mining business under subdivision (e)(3)(A) of this section.

18 (3) The Attorney General may pursue other remedies in an action
19 brought under subdivision (c)(2) or subdivision (e)(2) of this section,
20 including without limitation:

21 (A) A civil penalty not to exceed up to one million
22 dollars (\$1,000,000) or twenty-five percent (25%) of the fair market value,
23 on the date of the assessment of the civil penalty, of the prohibited foreign
24 party's interest in the digital asset mining business for the failure to
25 divest of all interest in the digital asset mining business within three
26 hundred sixty-five (365) calendar days as required under this section;

27 (B) Court costs;

28 (C) Prejudgment interest and postjudgment interest at the
29 maximum rates permitted by law; and

30 (D) Reasonable attorney's fees.

31 (4) In addition to the remedies under subdivision (e)(3) of this
32 section, the Attorney General may pursue treble damages against a digital
33 asset mining business if the digital asset mining business:

34 (A) Is held in violation of this section;

35 (B) Is ordered to pay a civil penalty under subdivision
36 (e)(3)(A) of this section; and

1 (C) Fails to pay a civil penalty under subdivision
2 (e)(3)(A) of this section within the scope of the order of the circuit court.

3 (5) The approval of a digital asset mining business by a local
4 government or the receipt by a digital asset mining business of a permit or
5 other authorization from the state to operate shall not be a defense to a
6 cause of action brought under subdivision (c)(2) or subdivision (e)(2) of
7 this section.

8 (f) Civil penalties and damages received by the Attorney General under
9 this section shall be distributed as follows:

10 (1) Fifty percent (50%) to the Oil and Gas Commission Fund, §
11 19-6-410; and

12 (2) Fifty percent (50%) to the Attorney General to be used in
13 the same manner as provided in § 25-16-718.

14 (g) A prohibited foreign-party-controlled business shall report the
15 composition of its ownership to the Attorney General.

16 (h) Title to real property is not invalid due to a violation of this
17 section by any former owner of the real property.

18
19 SECTION 7. Arkansas Code § 19-6-410 is amended to read as follows:
20 19-6-410. Oil and Gas Commission Fund.

21 The Oil and Gas Commission Fund shall consist of those special revenues
22 as specified in § 19-6-301(62) and (111), ~~and~~ § 14-1-606, there to be used
23 for:

24 (1) The maintenance, operation, and improvement required by the
25 Oil and Gas Commission in carrying out the functions, powers, and duties as
26 set out in § 15-72-101 et seq. and other applicable law;

27 (2) Payment of expenses of the Office of the State Geologist
28 under § 15-71-107(b)(2)(B); or

29 (3) Other duties imposed by law upon the commission.
30

31 SECTION 8. DO NOT CODIFY. Applicability.

32 A digital asset mining business in operation before the effective date
33 of this act shall be in full compliance with § 14-1-604(b)(3) no later than
34 ninety (90) days following the effective date of this act.

35
36 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that increased circulation of
 2 digital currency and adoption of digital transformation have led to an influx
 3 of digital asset mining businesses in Arkansas in recent years; that digital
 4 asset mining businesses have potential to generate excessive noise and that
 5 without adequate regulation, digital asset mining businesses can place a
 6 strain on, and reduce the quality of life of, residents and communities near
 7 them; and that growth of this business sector has been capitalized upon by
 8 foreign corporations and other foreign entities and aliens that pose
 9 potential threats to the welfare and safety of Arkansas and its residents.
 10 Therefore, an emergency is declared to exist, and this act being immediately
 11 necessary for the preservation of the public peace, health, and safety shall
 12 become effective on:

- 13 (1) The date of its approval by the Governor;
- 14 (2) If the bill is neither approved nor vetoed by the Governor, the
 15 expiration of the period of time during which the Governor may veto the bill;
 16 or
- 17 (3) If the bill is vetoed by the Governor and the veto is overridden,
 18 the date the last house overrides the veto.

/s/J. Bryant

APPROVED: 5/3/24

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1 State of Arkansas
2 94th General Assembly
3 Fiscal Session, 2024
4

As Engrossed: S4/24/24

A Bill

SENATE BILL 79

5 By: Senators Irvin, *J. Bryant*
6 By: Representative J. Moore
7

For An Act To Be Entitled

9 TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET MINING
10 BUSINESSES; TO AMEND THE ARKANSAS DATA CENTERS ACT OF
11 2023; TO AMEND ARKANSAS LAW TO PROVIDE FOR THE
12 *PERMITTING AND REGULATION OF DIGITAL ASSET MINING*
13 *BUSINESSES; TO DECLARE AN EMERGENCY; AND FOR OTHER*
14 *PURPOSES.*

Subtitle

15
16
17
18 *TO AMEND THE ARKANSAS DATA CENTERS ACT OF*
19 *2023; TO PROVIDE FOR THE REGULATION OF*
20 *DIGITAL ASSET MINING BUSINESSES; AND TO*
21 *DECLARE AN EMERGENCY.*
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 *SECTION 1. Arkansas Code § 14-1-602(b), concerning legislative intent*
27 *and findings for the Arkansas Data Centers Act of 2023, is amended to read as*
28 *follows:*

29 *(b) Through the enactment of this subchapter, the General Assembly*
30 *intends to:*

31 ~~*(1) Recognize*~~ *recognize* *that data centers create jobs, pay*
32 *taxes, and provide general economic value to local communities and this*
33 *state; and*

34 ~~*(2) Clarify the guidelines needed to protect data asset miners*~~
35 ~~*from discriminatory industry-specific regulations and taxes.*~~
36



1 SECTION 2. Arkansas Code § 14-1-605(a), concerning prohibiting a local
2 government from imposing ordinances or zoning regulations on a digital asset
3 mining business with the intent to discriminate against the digital asset
4 mining business, is amended to read as follows:

5 (a) Except as provided by subsection (d) of this section, a local
6 government shall not:

7 ~~(1) Enact or adopt an ordinance, policy, or action that limits~~
8 ~~the sound decibels generated from home digital asset mining other than the~~
9 ~~limits set for sound pollution generally;~~

10 ~~(2) Impose a different requirement for a digital asset mining~~
11 ~~business than is applicable to any requirement for a data center;~~

12 ~~(3) Rezone rezone an area in which a digital asset mining~~
13 ~~business is located without complying with applicable state law and local~~
14 ~~zoning ordinances; or~~

15 ~~(4) Rezone an area with the intent or effect of discriminating~~
16 ~~against a digital asset mining business.~~

17
18 SECTION 3. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
19 to add an additional section to read as follows:

20 14-1-606. Ownership of digital asset mining business by prohibited
21 foreign-party-controlled business prohibited – Definitions – Penalty –
22 Reporting.

23 (a) As used in this section:

24 (1) "Interest" means an ownership interest of greater than zero
25 percent (0%);

26 (2) "Prohibited foreign-party-controlled business" means a
27 digital asset mining business in which a prohibited foreign party owns an
28 interest; and

29 (3) "Prohibited foreign party" means:

30 (A) A citizen, resident, or agent of a country subject to
31 § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. § 120.1
32 et seq., as existing on January 1, 2024;

33 (B) A foreign government formed within a country subject
34 to § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. §
35 120.1 et seq., as existing on January 1, 2024;

36 (C) A party other than an individual or a government that

1 is created or organized under the laws of a foreign government within a
2 country subject to § 126.1 of the International Traffic in Arms Regulations,
3 22 C.F.R. § 120.1 et seq., as existing on January 1, 2024;

4 (D) Any party other than an individual or a government:

5 (i) That is created or organized under the laws of
6 any state; and

7 (ii) In which a significant interest or substantial
8 control is directly or indirectly held or is capable of being exercised by:

9 (a) An individual referred to in subdivision
10 (a)(3)(A) of this section;

11 (b) A foreign government referred to in
12 subdivision (a)(3)(B) of this section;

13 (c) A party referred to in subdivision
14 (a)(3)(C) of this section; or

15 (d) A combination of the individuals, parties,
16 or governments referred to in this subdivision (a)(3)(D)(ii);

17 (E) An Entity of Particular Concern designated by the
18 United States Department of State; or

19 (F) An agent, trustee, or other fiduciary of a person or
20 entity enumerated in subdivisions (a)(3)(A)-(E) of this section.

21 (b)(1) A prohibited foreign party shall not acquire or hold by grant,
22 purchase, devise, descent, or otherwise any interest in a digital asset
23 mining business in this state.

24 (2) A person shall not acquire or hold a digital asset mining
25 business as an agent, trustee, or other fiduciary for a prohibited foreign-
26 party-controlled business.

27 (c)(1) A prohibited foreign-party-controlled business in operation
28 before the effective date of this act shall have three hundred sixty-five
29 (365) calendar days from the effective date of this act for the prohibited
30 foreign party to divest all interest in the digital asset mining business.

31 (2) If a prohibited foreign party fails to divest all interest
32 in the digital asset mining business under subdivision (c)(1) of this
33 section, the Attorney General may commence an action in a circuit court with
34 proper jurisdiction under subsection (e) of this section.

35 (d) Upon request of a person or upon receipt of information that leads
36 the Attorney General to believe that a violation of this section may exist,

1 the Attorney General may conduct an investigation that includes without
2 limitation:

3 (1) Receiving sworn statements; and

4 (2) Issuing subpoenas to compel the:

5 (A) Testimony of witnesses subpoenaed before him or her;

6 and

7 (B) Production of records and other documents under § 25-

8 16-705.

9 (e)(1) If as a result of an investigation under subsection (d) of this
10 section the Attorney General concludes that a violation of this section has
11 occurred, the Attorney General may order a prohibited foreign party to divest
12 all interest in the digital asset mining business within three hundred sixty-
13 five (365) calendar days.

14 (2) If the prohibited foreign party fails to divest all interest
15 in the digital asset mining business within three hundred sixty five (365)
16 calendar days, the Attorney General may commence an action in a circuit court
17 with proper jurisdiction over the digital asset mining business.

18 (3)(A) If the circuit court finds that a violation of this
19 section has occurred, the circuit court shall issue an order for the digital
20 asset mining business to be sold through judicial foreclosure.

21 (B) The proceeds of the sale under subdivision (e)(3)(A)
22 of this section shall be disbursed to the lienholders, in order of priority,
23 except for liens that under the terms of the sale are to remain.

24 (C) If the assets of the digital asset mining business
25 include real property, the Attorney General shall promptly record a copy of
26 the following in the local land records:

27 (i) Upon commencement, notice of the pendency of the
28 action under subdivision (c)(2) or subdivision (e)(2) of this section; and

29 (ii) The order for the sale of the digital asset
30 mining business under subdivision (e)(3)(A) of this section.

31 (3) The Attorney General may pursue other remedies in an action
32 brought under subdivision (c)(2) or subdivision (e)(2) of this section,
33 including without limitation:

34 (A) A civil penalty not to exceed up to one million
35 dollars (\$1,000,000) or twenty-five percent (25%) of the fair market value,
36 on the date of the assessment of the civil penalty, of the prohibited foreign

1 party's interest in the digital asset mining business for the failure to
2 divest of all interest in the digital asset mining business within three
3 hundred sixty-five (365) calendar days as required under this section;

4 (B) Court costs;

5 (C) Prejudgment interest and postjudgment interest at the
6 maximum rates permitted by law; and

7 (D) Reasonable attorney's fees.

8 (4) In addition to the remedies under subdivision (e)(3) of this
9 section, the Attorney General may pursue treble damages against a digital
10 asset mining business if the digital asset mining business:

11 (A) Is held in violation of this section;

12 (B) Is ordered to pay a civil penalty under subdivision
13 (e)(3)(A) of this section; and

14 (C) Fails to pay a civil penalty under subdivision
15 (e)(3)(A) of this section within the scope of the order of the circuit court.

16 (5) The approval of a digital asset mining business by a local
17 government or the receipt by a digital asset mining business of a permit or
18 other authorization from the state to operate shall not be a defense to a
19 cause of action brought under subdivision (c)(2) or subdivision (e)(2) of
20 this section.

21 (f) Civil penalties and damages received by the Attorney General under
22 this section shall be distributed as follows:

23 (1) Fifty percent (50%) to the Oil and Gas Commission Fund, §
24 19-6-410; and

25 (2) Fifty percent (50%) to the Attorney General to be used in
26 the same manner as provided in § 25-16-718.

27 (g) A prohibited foreign-party-controlled business shall report the
28 composition of its ownership to the Attorney General.

29 (h) Title to real property is not invalid due to a violation of this
30 section by any former owner of the real property.

31
32 SECTION 4. Arkansas Code, Title 23, is amended to add an additional
33 chapter to read as follows:

34
35 CHAPTER 119 - DIGITAL ASSET MINING BUSINESSES
36

1 23-119-101. Legislative intent – Findings - Purpose.

2 (a) This chapter establishes the standards and criteria for the
3 permitting and regulation of digital asset mining businesses.

4 (b) The General Assembly finds:

5 (1) Digital asset mining businesses represent a new and emerging
6 industry that presents significant challenges for the citizens of Arkansas,
7 including without limitation:

8 (A) Significant noise emissions;

9 (B) Massive consumption of power;

10 (C) The usage of large quantities of water that could
11 potentially threaten resources for citizens and future economic development
12 opportunities; and

13 (D) Potential issues involving cybersecurity.

14 (2) While the State of Arkansas welcomes new businesses and
15 economic growth, the General Assembly likewise has a responsibility to ensure
16 that the operations of new industries do not negatively impact the public
17 peace, health, and safety or otherwise damage the well-being of the citizens
18 of the state;

19 (3) When an industry presents harm to the public peace, health,
20 and safety, it has been the practice of the General Assembly to provide for
21 regulation of that industry to ensure that the industry operates successfully
22 while not harming the citizens of the state and its natural resources; and

23 (4) Based upon the challenges presented by digital asset mining
24 businesses, it is necessary to regulate digital asset mining businesses as
25 provided in this chapter to provide a regulatory framework for the safe
26 operation of this new, emerging industry.

27 (c) The purpose of this chapter is to:

28 (1) Promote, preserve, and protect the public peace, health, and
29 safety through effective permitting and regulation of digital asset mining
30 businesses;

31 (2) Provide for the powers and duties of the Oil and Gas
32 Commission relating to the permitting and regulation of digital asset mining
33 businesses; and

34 (3) Prescribe penalties for violations of this chapter.

35
36 23-119-102. Definitions.

1 As used in this chapter:

2 (1) "Blockchain network" means a group of computers operating
3 and processing together to execute a consensus mechanism to agree upon and
4 verify data in a digital record for the purpose of generating digital assets;

5 (2) "Digital assets" means cryptocurrency, virtual currency, and
6 natively electronic assets, including without limitation stable coins,
7 nonfungible tokens, and other digital-only assets, that confer economic
8 rights or powers;

9 (3) "Digital asset mining business" means a group of computers
10 working at a single site that consumes more than one megawatt (1 MW) of
11 electrical energy on an average annual basis for the purpose of generating
12 digital assets by securing a blockchain network; and

13 (4) "Local government" means a county, a city of the first
14 class, a city of the second class, or an incorporated town.

15
16 23-119-103. Permit – Application.

17 (a) A digital asset mining business shall not operate in Arkansas
18 without a valid permit from the Oil and Gas Commission under this chapter.

19 (b) The commission shall establish the application for a permit for a
20 digital asset mining businesses to operate.

21 (c) The issuance of a digital asset mining business permit shall be
22 contingent upon compliance with all applicable state laws, including without
23 limitation the Arkansas Data Centers Act of 2023, § 14-1-601 et seq.

24
25 23-119-104. Rules.

26 The Oil and Gas Commission shall promulgate rules to implement this
27 chapter, including without limitation rules establishing requirements for:

28 (1) Permitting;

29 (2) Application for a permit;

30 (3) Renewal of a permit;

31 (4) The requirements and terms for a permit; and

32 (5) The establishment and operation of a digital asset mining
33 business.

34
35 23-119-105. Enforcement.

36 (a) The Oil and Gas Commission shall have jurisdiction of and

1 authority over all persons and property necessary to administer and enforce
2 effectively:

3 (1) This chapter; and

4 (2) The Arkansas Data Centers Act of 2023, § 14-1-601 et seq.

5 (b) Upon receipt of a complaint under subsection (d) of this section,
6 the commission may make inquiries it deems proper relating to its duties to
7 administer and enforce this chapter and the Arkansas Data Centers Act of
8 2023, § 14-1-601 et seq., including without limitation:

9 (1) Making reasonable investigations and inspections;

10 (2) Examining properties, leases, papers, books, and records;

11 (3) Holding hearings;

12 (4) Requiring the keeping of records and the making of reports;

13 and

14 (5) Taking such action as may be reasonably necessary to enforce
15 this chapter.

16 (c) Upon receipt of a complaint under subsection (d) of this section,
17 the commission may make, after hearing and notice, such reasonable orders as
18 necessary from time to time in the proper administration and enforcement of
19 this chapter and the Arkansas Data Centers Act of 2023, § 14-1-601 et seq.

20 (d)(1) An individual or legal entity may file a complaint with the
21 commission relating to the compliance of digital asset mining businesses with
22 state law, the requirements and terms of a permit, or the rules of the
23 commission.

24 (2) Upon receipt of a complaint, the commission may:

25 (A) Investigate the complaint; and

26 (B) Assess penalties in response to any identified
27 noncompliance.

28 (e) The commission shall promulgate rules establishing:

29 (1) The procedures for ensuring compliance with state law, the
30 requirements and terms of a permit, and rules of the commission; and

31 (2)(A) Penalties for failure to comply with state law, the
32 requirements and terms of a permit, or rules of the commission, including
33 without limitation:

34 (i) Financial penalties; and

35 (ii) The suspension or revocation of a permit issued
36 under this chapter.

1 (B) Financial penalties under this subdivision (e)(2)
2 shall not exceed five thousand dollars (\$5,000) per day of a violation.

3 (f) This chapter does not:

4 (1) Prohibit a local government from adopting one (1) or more
5 ordinances, resolutions, or other appropriate legislative enactments to
6 regulate digital asset mining businesses that:

7 (A) Address areas of regulation that are not otherwise
8 addressed by federal law, state law, or the rules of the commission; and

9 (B) Are not inconsistent with federal law, state law, or
10 the rules of the commission; and

11 (2) Prevent a local government from enforcing an ordinance,
12 resolution, or other appropriate legislative enactment regulating digital
13 asset mining businesses that is not inconsistent with federal law, state law,
14 or the rules of the commission.

15
16 SECTION 5. Arkansas Code § 19-6-140 is amended to read as follows:
17 19-6-410. Oil and Gas Commission Fund.

18 The Oil and Gas Commission Fund shall consist of those special revenues
19 as specified in § 19-6-301(62), ~~and~~ (111), and (275) and § 14-1-606, there to
20 be used for:

21 (1) The maintenance, operation, and improvement required by the
22 Oil and Gas Commission in carrying out the functions, powers, and duties as
23 set out in § 15-72-101 et seq. and § 23-119-101 et seq.;

24 (2) Payment of expenses of the Office of the State Geologist
25 under § 15-71-107(b)(2)(B); or

26 (3) Other duties imposed by law upon the commission.
27

28 SECTION 6. Arkansas Code § 19-6-301 is amended to add an additional
29 subdivision to read as follows:

30 (275) Digital asset mining business penalties under § 23-119-101
31 et seq.;
32

33 SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE. APPLICATION FOR
34 INITIAL PERMITS.

35 (a) Within ninety (90) days of the effective date of the initial rules
36 promulgated under § 23-119-104, an individual or legal entity operating one

1 (1) or more digital mining asset businesses in Arkansas shall apply for a
2 permit for each digital asset mining business operated by the individual or
3 legal entity in Arkansas.

4 (b) This act does not prohibit a digital asset mining business from
5 operating:

6 (1) Before the effective date of the initial rules promulgated
7 under § 23-119-104;

8 (2) During the ninety-day period to apply for a permit under
9 subsection (a) of this section; and

10 (3) While the Oil and Gas Commission is considering the digital
11 asset mining business's application for a permit.

12 (c) A digital asset mining business shall cease operations if:

13 (1) The digital asset mining business is operating on the
14 effective date of the initial rules promulgated under § 23-119-104 and fails
15 to apply for a permit in the ninety-day period to apply for a permit under
16 subsection (a) of this section; or

17 (2) The digital asset mining business's application for a permit
18 under subsection (a) of this section is denied.

19
20 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that digital asset mining
22 businesses present significant threats to the public peace, health, and
23 safety, including without limitation significant noise emissions, massive
24 power consumption, the use of large quantities of water that potentially
25 threatens water resources, and potential issues with cybersecurity; that the
26 continuous noise emitted by digital asset mining businesses threatens the
27 public peace, health, and safety as it risks potential damage to the hearing
28 and quality of life of the citizens of this state; that in light of these
29 threats it is imperative that the General Assembly regulate by permit digital
30 asset mining businesses to protect the public peace, health, and safety; and
31 that this act should become effective at the earliest opportunity to begin
32 the regulatory process and protect the citizens of the state from any harmful
33 actions related to digital asset mining businesses. Therefore, an emergency
34 is declared to exist, and this act being immediately necessary for the
35 preservation of the public peace, health, and safety shall become effective
36 on:

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(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Irvin

APPROVED: 5/3/24