

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

HR 1020

4
5 By: Representative J. Moore
6

7 **HOUSE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET
10 MINING BUSINESSES, TO AMEND THE ARKANSAS DATA CENTERS
11 ACT OF 2023, TO AMEND ARKANSAS LAW TO PROVIDE FOR THE
12 LICENSURE, PERMITTING, AND REGULATION OF DIGITAL
13 ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A
14 BLOCKCHAIN NETWORK, AND TO DECLARE AN EMERGENCY.
15

16
17 **Subtitle**

18 TO AUTHORIZE THE INTRODUCTION OF A
19 NONAPPROPRIATION BILL TO AMEND THE
20 ARKANSAS DATA CENTERS ACTS OF 2023, TO
21 REGULATE DIGITAL ASSET MINING BUSINESSES
22 AND BUSINESSES UTILIZING A BLOCKCHAIN
23 NETWORK, AND TO DECLARE AN EMERGENCY.
24

25
26 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL
27 ASSEMBLY OF THE STATE OF ARKANSAS:

28
29 THAT Senator Irvin is authorized to introduce a bill which as
30 introduced will read substantially as follows:
31

32 "Title

33 TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET MINING BUSINESSES; TO AMEND
34 THE ARKANSAS DATA CENTERS ACT OF 2023; TO AMEND ARKANSAS LAW TO PROVIDE FOR
35 THE LICENSURE, PERMITTING, AND REGULATION OF DIGITAL ASSET MINING BUSINESSES
36 AND BUSINESSES UTILIZING A BLOCKCHAIN NETWORK; TO DECLARE AN EMERGENCY; AND



1 FOR OTHER PURPOSES.

2

3 Subtitle

4 TO AMEND THE ARKANSAS DATA CENTERS ACTS OF 2023; TO PROVIDE FOR THE
 5 REGULATION OF DIGITAL ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A
 6 BLOCKCHAIN NETWORK; AND TO DECLARE AN EMERGENCY.

7

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

9

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

13 (b) Through the enactment of this subchapter, the General Assembly
 14 intends to+

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

17 ~~(2) Clarify the guidelines needed to protect data asset miners~~
 18 ~~from discriminatory industry-specific regulations and taxes.~~

19

20 SECTION 2. Arkansas Code § 14-1-604(a), concerning digital asset
 21 mining, is amended to read as follows:

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

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

25 (2) Any ordinance concerning operations and safety;

26 (3) Any rule or rate for utility service provided by or on
 27 behalf of a public entity; and

28 (4) State and federal ~~employment~~ laws, including without
 29 limitation employment laws.

30

31 SECTION 3. Arkansas Code § 14-1-605(a), concerning discrimination
 32 against digital asset mining businesses, is amended to read as follows:

33 (a) Except as provided by ~~subsection (d) of~~ this section, a local
 34 government shall not:

35 (1) ~~Enact or adopt an ordinance, policy, or action that limits~~
 36 ~~the sound decibels generated from home digital asset mining other than the~~

1 ~~limits set for sound pollution generally;~~

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

4 ~~(3)~~(2) Rezone an area in which a digital asset mining business
5 is located without complying with applicable state law and local zoning
6 ordinances; or

7 ~~(4)~~(3) Rezone an area with the intent or effect of
8 discriminating against a digital asset mining business.

9
10 SECTION 4. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
11 to add additional sections to read as follows:

12 14-1-606. Operation of digital asset mining business or business
13 utilizing blockchain network.

14 (a)(1) The sound emitted by a digital asset mining business or a
15 business utilizing a blockchain network shall not exceed sixty (60) decibels.

16 (2) A digital asset mining business or a business utilizing a
17 blockchain network shall utilize a soundproofing enclosure to ensure that the
18 sound emitted by the digital asset mining business or the business utilizing
19 a blockchain network does not exceed forty (40) decibels.

20 (b)(1) A digital asset mining business or a business utilizing a
21 blockchain network beginning operations on and after the effective date of
22 this act shall not utilize water to cool any equipment used as part of the
23 operations of the digital asset mining business or the business utilizing a
24 blockchain network.

25 (2)(A)(i) Subdivision (b)(1) of this section does not prohibit a
26 digital asset mining business or a business utilizing a blockchain network
27 operating before the effective date of this act from utilizing water to cool
28 any equipment used as part of the operations of the digital asset mining
29 business or the business utilizing a blockchain network for no longer than
30 twenty-four (24) months from the effective date of this act.

31 (B) For the purposes of subdivision (b)(2)(A) of this
32 section, a digital asset mining business or a business utilizing a blockchain
33 network that is connected to an electrical network and consuming electrical
34 energy no later than thirty (30) days after the effective date of this act
35 shall be considered as operating before the effective date of this act.

36

1 14-1-607. Ownership of or investment in digital asset mining business
2 located in this state by certain foreign nationals prohibited – Definition.

3 (a) It is the intent of the General Assembly that this act shall be
4 used to protect our state’s security from foreign individuals or countries
5 that may use large amounts of computing power on Arkansas soil to disrupt and
6 attack Arkansas interests through ransomware, computer hacking, or an attack
7 on Arkansas’s electrical grid.

8 (b)(1) As used in this section, "foreign national" means a citizen of
9 a prohibited foreign party who is subject to § 126.1 of the International
10 Traffic in Arms Regulations, 22 C.F.R. §§ 120.1 – 130.17, as it existed on
11 January 1, 2023.

12 (2) As used in this section, "foreign national" does not include
13 an individual who is a citizen of the United States.

14 (c) Notwithstanding any other law, a foreign national shall not own or
15 operate a digital asset mining business in this state.

16 (d) An ownership interest in or investment in a digital asset mining
17 business in violation of this section is subject to divestiture as provided
18 in this section.

19 (e) Upon request of a person or upon receipt of information that leads
20 the Attorney General to believe that a violation of this section may exist,
21 the Attorney General may issue subpoenas requiring the:

22 (1) Appearance of witnesses;

23 (2) Production of relevant records; and

24 (3) Giving of relevant testimony.

25 (f)(1) If as a result of the investigation under subsection (e) of
26 this section the Attorney General concludes that a violation of this section
27 has occurred, the Attorney General may order the foreign national to divest
28 himself, herself, or itself of all interest in the digital asset mining
29 business within one hundred twenty (120) days.

30 (2) If the foreign national under subdivision (f)(1) of this
31 section fails to divest himself, herself, or itself of all interest in the
32 digital asset mining business, the Attorney General may commence an action in
33 a circuit court within the jurisdiction of the location of the digital asset
34 mining business.

35 (3)(A) Except in the case of dismissal, the circuit court under
36 subdivision (f)(2) of this section may order that the digital asset mining

1 business be sold.

2 (B) The Attorney General may pursue other remedies in an
3 action brought under subdivision (f)(2) of this section, including without
4 limitation:

5 (i) A civil penalty not to exceed twenty-five
6 percent (25%) of the fair market value, on the date of the assessment of the
7 penalty, of the foreign national's interest in the digital asset mining
8 business for the failure to divest himself, herself, or itself of all
9 interest in the digital asset mining business within one hundred twenty (120)
10 days as required under subdivision (f)(1) of this section;

11 (ii) Court costs; and

12 (iii) Reasonable attorney's fees.

13 (C)(i) Proceeds of the sale under subdivision (f)(3)(A) of
14 this section shall first be disbursed to lien holders in the order of
15 priority.

16 (ii) The owners of the digital asset mining business
17 shall receive the remaining proceeds of the sale under subdivision (f)(3)(A)
18 of this section.

19
20 SECTION 5. Arkansas Code, Title 23, is amended to add an additional
21 chapter to read as follows:

22 23-119-101. Legislative intent – Findings - Purpose.

23 (a) This chapter establishes the standards and criteria for the
24 licensure, permitting, and regulation of digital asset mining businesses and
25 businesses utilizing a blockchain networks.

26 (b) The General Assembly finds:

27 (1) Digital asset mining businesses and blockchain networks
28 represent a new and emerging industry that presents significant challenges
29 for the citizens of Arkansas, including without limitation:

30 (A) Significant noise emissions;

31 (B) Massive consumption of power that places a strain on
32 electrical grids;

33 (C) The usage of vast amounts of water that could
34 potentially threaten resources for citizens and future economic development
35 opportunities; and

36 (D) Potential issues involving cyber-security.

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

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

10 (4) Based upon the challenges presented by digital asset mining
11 businesses and blockchain networks that have become evident, it is necessary
12 to regulate digital asset mining businesses and businesses utilizing a
13 blockchain network as provided in this chapter to provide a regulatory
14 framework for the safe operation of this new, emerging industry.

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

16 (1) Promote, preserve, and protect the public peace, health, and
17 safety through effective licensure, permitting, and regulation of digital
18 asset mining businesses and businesses utilizing a blockchain network;

19 (2) Provide for the powers and duties of the Department of
20 Energy and Environment relating to the licensure, permitting, and regulation
21 of digital asset mining businesses and businesses utilizing a blockchain
22 network; and

23 (3) Prescribe penalties and fines for violations of this
24 chapter.

25
26 23-119-102. Definitions.

27 As used in this chapter:

28 (1) "Blockchain network" means a group of computers operating and
29 processing together to execute a consensus mechanism to agree upon and verify
30 data in a digital record;

31 (2) "Digital asset" means cryptocurrency, virtual currency, and
32 natively electronic assets, including without limitation stable coins,
33 nonfungible tokens, and other digital-only assets, that confer economic,
34 proprietary, or access rights or powers;

35 (3) "Digital asset mining" means the use of electricity to power
36 a computer for the purpose of securing or validating a blockchain network;

1 and

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

6
7 23-119-103. License – Application – Fees.

8 (a)(1)(A) An individual or a legal entity shall not operate one (1) or
9 more digital asset mining businesses or businesses utilizing a blockchain
10 networks in Arkansas without first obtaining a license from the Department of
11 Energy and Environment under this chapter.

12 (B) The department may delegate its duties under this
13 chapter to a state entity within the department.

14 (2) When considering whether to issue a license under
15 subdivision (a)(1) of this section, the factors evaluated by the department
16 shall include without limitation the:

17 (A) Financial condition and responsibility of the
18 applicant;

19 (B) Financial and business experience of the applicant;

20 and

21 (C) Character and general fitness of the applicant.

22 (b) Each digital asset mining business or business utilizing a
23 blockchain network operated by an individual licensed under subsection (a) of
24 this section shall obtain a permit from the department under this section.

25 (c) The department shall establish the application for a:

26 (1) License to operate one (1) or more digital asset mining
27 businesses or businesses utilizing a blockchain network in Arkansas; and

28 (2) Permit for a digital asset mining business or business
29 utilizing a blockchain network to be operated by an individual or legal
30 entity licensed under subsection (a) of this section.

31 (d)(1) The department shall charge application fees and renewal fees
32 as established by rule.

33 (2) The application fee for a license to operate one (1) or more
34 digital asset mining businesses or businesses utilizing a blockchain network
35 in Arkansas shall not exceed five thousand dollars (\$5,000).

36 (3) The application fee for a permit for a digital asset mining

1 business or business utilizing a blockchain network shall not exceed five
2 thousand dollars (\$5,000).

3
4 23-119-104. Rules

5 The Department of Energy and Environment shall promulgate rules to
6 implement this chapter, including without limitation rules establishing
7 requirements for:

8 (1) Licensing;

9 (2) Permitting;

10 (3) Fees;

11 (4) Application for a license;

12 (5) Renewal of a license;

13 (6) The establishment and operation of a digital asset mining
14 business or business utiliziing a blockchain network, including without
15 limitation rules pertaining to the location of digital asset mining
16 businesses and businesses utilizing a blockchain network;

17 (7) Compliance with and enforcement of relevant laws and the
18 rules of the department; and

19 (8)(A) Penalties for failure to comply with the requirements and
20 terms of a license or permit, including without limitation:

21 (i) Penalties for the late payment or nonpayment of
22 fees due to the department; and

23 (ii) The suspension or revocation of a license or
24 permit issued under this chapter.

25 (B) Financial penalties for failure to comply with the
26 requirements and terms of a license shall not exceed five thousand dollars
27 (\$5,000) per violation.

28
29 SECTION 6. DO NOT CODIFY – TEMPORARY LANGUAGE. ADOPTION OF INITIAL
30 RULES.

31 (a)(1) The provisions of this section regarding the promulgation of
32 the initial rules required under § 23-119-104 are supplemental to the
33 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

34 (2) If the Department of Energy and Environment delegates its
35 duties to a state entity within the department that is not subject to the
36 Arkansas Administrative Procedure Act, § 25-15-201 et seq., the state entity

1 shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et
2 seq. and the supplemental provisions of this section when promulgating the
3 initial rules in lieu of following the administrative procedures provided for
4 that state entity.

5 (b)(1) Before promulgating the initial rules required under § 23-119-
6 104, the department shall:

7 (A)(i) Study the methods and means used to regulate
8 digital asset mining businesses and businesses utilizing a blockchain network
9 in other states, including without limitation the application processes,
10 application fees, and penalties utilized by other states and restrictions on
11 operations utilized by other states to preserve the public peace, health, and
12 safety.

13 (ii) The department may consult with other state
14 agencies whose input would be relevant to the study; and

15 (B) Submit a report to the following committees of the
16 General Assembly summarizing the methods and means used to regulate digital
17 asset mining businesses and businesses utilizing a blockchain network in
18 other states and identifying the department's recommendations on the best
19 manner to regulate digital asset mining businesses and businesses utilizing a
20 blockchain network in Arkansas:

21 (i) The House Committee on City, County, and Local
22 Affairs;

23 (ii) The Senate Committee on City, County, and Local
24 Affairs;

25 (iii) The House Committee on Public Health, Welfare,
26 and Labor;

27 (iv) The Senate Committee on Public Health, Welfare,
28 and Labor; and

29 (v) The Joint Committee on Advanced Communications
30 and Information Technology.

31 (2) The committees under subdivision (b)(1)(B)(i)-(v) of this
32 section shall meet jointly to review the report submitted by the department
33 under subdivision (b)(1)(B) of this section.

34 (3) The department shall not promulgate the initial rules
35 required under § 23-119-104 until the committees have met jointly under
36 subdivision (b)(2) of this section and reviewed the report.

1 (c)(1) After the committees under subdivision (b)(1)(B)(i)-(v) of this
2 section have met jointly to review the report submitted by the department
3 under subdivision (b)(1)(B) of this section, the department shall promulgate
4 the initial rules required under § 23-119-104 under the Arkansas
5 Administrative Procedure Act, § 25-15-201 et seq.

6 (2)(A) The department shall:

7 (i) Give at least one hundred twenty (120) days
8 notice of its intended action; and

9 (ii) Accept both oral and written public comments
10 during the one hundred twenty-day period.

11 (B) The one hundred twenty-day period shall begin on the
12 first day of the publication of the notice under § 25-15-204 et seq.

13 (C) In addition to the publication of the notice required
14 under § 25-15-204, the department shall file the notice with the quorum court
15 of each county.

16 (D) During the one hundred twenty-day period, the
17 department shall hold at least three (3) in-person public hearings to afford
18 interested persons a reasonable opportunity to submit data, views, or
19 arguments.

20 (E) If an in-person public hearing is requested in a
21 county by at least one hundred (100) persons residing within the county or by
22 the quorum court of the county, the department shall hold an in-person public
23 hearing within the county regarding the proposed rule during the one hundred
24 twenty-day period.

25 (d)(1) At the conclusion of the one hundred twenty-day period, the
26 department shall fully consider all written and oral submissions concerning
27 the proposed rule before finalizing the language of the proposed rule.

28 (2) After finalizing the language of the proposed rule but
29 before the proposed rule is considered for approval by the Legislative
30 Council or the Joint Budget Committee under § 10-3-309, the following
31 committees shall meet jointly to review the rule:

32 (A) The House Committee on City, County, and Local
33 Affairs;

34 (B) The Senate Committee on City, County, and Local
35 Affairs;

36 (C) The House Committee on Public Health, Welfare, and

1 Labor;

2 (D) The Senate Committee on Public Health, Welfare, and

3 Labor; and

4 (E) The Joint Committee on Advanced Communications and

5 Information Technology.

6 (3) The committees meeting jointly under subdivision (d)(2)(A)-
7 (E) of this section shall submit a report to the Legislative Council, the
8 Joint Budget Committee, or a subcommittee of those committees concerning the
9 committees' review of the proposed rule that includes without limitation the
10 opinion of the committees on whether the Legislative Council or Joint Budget
11 Committee should approve the proposed rule.

12 (4) The Legislative Council, the Joint Budget Committee, or a
13 subcommittee of those committees shall not consider the proposed rule for
14 approval before receiving the report of the committees under subdivision
15 (d)(3) of this section.

16 (e) The department shall not promulgate an emergency rule under § 25-
17 15-204 to adopt the initial rules required under § 23-119-104.

18 (f) A person may not petition the department under § 25-15-204(d) for
19 the issuance of the initial rules required under § 23-1119-104

20
21 SECTION 7. DO NOT CODIFY – TEMPORARY LANGUAGE. ISSUANCE OF INITIAL
22 LICENSES AND PERMITS.

23 (a) On and after the effective date of this section, an individual or
24 legal entity shall not establish or operate a new digital asset mining
25 business or business utilizing a blockchain network in Arkansas unless:

26 (1) The operator of the digital asset mining business or
27 business utilizing a blockchain network has been issued a license under § 23-
28 19-103; and

29 (2) The digital asset mining business or business utilizing a
30 blockchain network has been issued a permit under § 25-19-103.

31 (b)(1)(A) Subsection (a) of this section does not prohibit a digital
32 asset mining business or business utilizing a blockchain network operating
33 before the effective date of this section from continued operation.

34 (B) For purposes of subdivision (b)(1)(A) of this section,
35 a digital asset mining business or business utilizing a blockchain network
36 that is connected to an electrical network and consuming electrical energy no

1 later than thirty (30) days after the effective date of this section shall be
2 considered as operating before the effective date of this section.

3 (2) Within ninety (90) days of the effective date of the initial
4 rules promulgated under § 23-19-104, an individual or legal entity operating
5 one (1) or more digital mining asset businesses or businesses utilizing a
6 blockchain network in Arkansas shall apply for a:

7 (A) License to operate one (1) or more digital asset
8 mining businesses or businesses utilizing a blockchain network under § 23-
9 119-103; and

10 (B) Permit for each digital asset mining business and
11 business utilizing a blockchain network operated by the individual or legal
12 entity under § 23-119-103.

13
14 SECTION 8. DO NOT CODIFY. TEMPORARY LANGUAGE. IMPLEMENTATION OF ACT.

15 (a)(1)(A) If a digital asset mining business or a business utilizing a
16 blockchain network is operating before the effective date of this act, the
17 digital asset mining business or business utilizing a blockchain network
18 shall utilize a soundproofing enclosure to ensure that the sound emitted by
19 the digital asset mining business or the business utilizing a blockchain
20 network does not exceed forty (40) decibels under § 14-1-606(a)(2) within
21 twenty-four (24) months of the effective date of this act.

22 (B) For the purposes of subdivision (a)(1)(A) of this
23 section, a digital asset mining business or a business utilizing a blockchain
24 network that is connected to an electrical network and consuming electrical
25 energy no later than thirty (30) days after the effective date of this act
26 shall be considered as operating before the effective date of this act.

27 (2) A digital asset mining business or a business utilizing a
28 blockchain network beginning operations on or after the effective date of
29 this act shall not commence operations without utilizing a soundproofing
30 enclosure under § 14-1-606(a)(2).

31 (b) A digital asset mining business or a business utilizing a
32 blockchain network operating before the effective date of this act shall
33 utilize its best efforts to ensure that the sound emitted by the digital
34 asset mining business or the business utilizing a blockchain network does not
35 exceed forty (40) decibels before utilizing a soundproofing enclosure under
36 subdivision (a)(1)(A) of this section.

1
2 SECTION 9. DO NOT CODIFY. TEMPORARY LANGUAGE. EFFECT OF ACT ON
3 ORDINANCES. This act shall not be interpreted as superseding any ordinances
4 adopted by a local government regulating digital asset mining businesses or
5 businesses utilizing a blockchain network before the initial rules under §
6 23-119-104 are effective.

7
8 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that digital asset mining
10 businesses and businesses utilizing blockchain networks present significant
11 threats to the public peace, health, and safety, including without limitation
12 significant noise emissions, massive power consumption that imposes a strain
13 on resources, the use of vast amounts of water that threatens water
14 resources, and potential issues with cybersecurity; that the continuous noise
15 emitted by digital asset mining businesses and businesses utilizing a
16 blockchain network threaten the public peace, health, and safety as they risk
17 potential damage to the hearing and quality of life of the citizens of this
18 state; the large volumes of water used by digital asset mining businesses and
19 businesses utilizing a blockchain network threaten the public peace, health,
20 and safety as the large volumes of water used diminish the water supply and
21 potentially lessen the amount of water available to the agriculture industry
22 in this state, which is critical to the state's economic well-being; that in
23 light of these threats it is imperative that the General Assembly regulate
24 digital asset mining businesses and businesses utilizing blockchain networks
25 to protect the public peace, health, and safety; and that this act should
26 become effective at the earliest opportunity to begin the regulatory process
27 and protect the citizens of the state from any harmful actions related to
28 digital asset mining businesses and businesses utilizing blockchain networks.
29 Therefore, an emergency is declared to exist, and this act being immediately
30 necessary for the preservation of the public peace, health, and safety shall
31 become effective on:

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

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

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto."

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