

MEMORANDUM

To: Senate Committee on Commerce

From: The Office of Revisor of Statutes

Date: 1/30/2025

Re: S.B. 51, as Introduced

S.B. 51 would provide a sales tax exemption to qualified firms that commit to a minimum investment of at least \$250,000,000 and meet new Kansas jobs requirements and other conditions. The sales tax exemption would apply to the construction or remodeling of a qualified data center¹ in Kansas, the purchase of eligible data center costs² and certain labor costs.

Conditions³

A qualified firm⁴ is required to:

- Apply to the secretary of commerce and enter into an agreement detailing the following investment and construction commitments;
- begin construction⁵ of the project within 10 years of entering the agreement;
- invest at least \$250 million in a qualified data center⁶ by the fifth year of operations⁷;

¹ Pg. 2, line 31

² Pg. 2, lines 19-26 (paragraph (2) expressly states that the term does not include the cost of electricity)

³ Pg. 3, lines 1-26

⁴ Pg. 2, line 40 ("Qualified firm" means a business or an affiliate thereof that is registered with the secretary of state and is engaged in data processing, storage and dissemination.)

⁵ Pg. 1, line 12 ("Commencement of construction" means the date that construction, reconstruction, enlargement or remodeling of a qualified data center by a qualified firm commences, as determined in the agreement required by section 2, and amendments thereto.)

⁶ Pg. 2, line 31 ("Qualified data center" means one or more buildings that are constructed, reconstructed, enlarged or remodeled to house a group of networked computer servers in this state to centralize the storage, management and dissemination of data and information pertaining to a particular business, taxonomy or body of knowledge and such buildings are connected to each other by fiber and associated equipment required for operating a fiber transmission network between data center buildings and internet points for the purpose of providing redundancy and resiliency for the data center services provided in each building.)

⁷ Pg. 1, line 16 ("Commencement of operations" means the date that the qualified firm commences operations at a qualified data center, as determined in the agreement required by section 2, and amendments thereto.)

- create and maintain at least 20 new jobs⁸ at the qualified data center within two calendar years after the commencement of operations; and
- cooperate with audits and provide necessary information for economic development databases and reports. Books and records related to eligibility and compliance must be available for inspection.

Compliance

- Breaches of agreement terms must be cured within 120 days, or the firm may face repayment or suspension of the tax exemption.⁹
- The secretary may review the firm's activities every five years to ensure compliance and eligibility for the sales tax exemption.¹⁰

Duration

- The sales tax exemption is valid for 15 years for investments of at least \$250,000,000; 30 years for \$500,000,000; and 60 years for \$1,000,000,000 investments.¹¹

Implementation and Enforcement

- The secretary of commerce must certify to the secretary of revenue when a firm meets the conditions for a sales tax exemption and notify any modifications, suspensions or terminations.¹²
- If conditions are not met, sales tax exemptions can be revoked, suspended or modified.¹³
- The secretary of commerce or revenue may adopt rules and regulations for implementing the act.¹⁴

Exemption Language¹⁵

- A firm must meet the requirements of sections 1-3;
- Scope of exemption includes:

⁸ Pg. 2, line 27 ("New jobs" means newly created jobs with a qualified firm at a qualified data center or directly associated with a qualified data center filled by Kansas residents and the primary work locations of such jobs are in Kansas.)

⁹ Pg. 3, line 27

¹⁰ Pg. 4, line 5

¹¹ Pg. 5, line 9

¹² Pg. 4, line 41

¹³ Pg. 5, line 25

¹⁴ Pg. 5, line 4

¹⁵ Pg. 48, line 21 – pg. 49

- Property and services purchased for the construction or remodeling of a qualified data center;
 - sale and installation of machinery and data center equipment;
 - eligible data center costs; and
 - labor services for installation, repair, and maintenance of data center equipment.
- Use of exemption
 - Contractor must obtain an exemption certificate from the state.
 - Contractor must furnish the certificate number to suppliers for project-related purchases.
 - Suppliers must execute invoices with the certificate number.
- Contractor Responsibilities
 - Provide a sworn statement upon project completion.
 - Statement must confirm all purchases were entitled to exemption.
 - Maintain all invoices for five years for potential audit.
- Penalties
 - The use or disposal of items purchased with an exemption certificate for any unauthorized purpose would be subject to the penalties provided under K.S.A. 79-3615 (the current sales tax penalty statute).¹⁶
 - Penalties would apply to contractors, agents, employees or subcontractors, as applicable.¹⁷

S.B. 51 would become effective upon publication in the statute book.

¹⁶ Pg. 49, lines 1-8

¹⁷ *Id.* at lines 1-2