

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 98**

As Agreed to April 11, 2025

**Brief\***

SB 98 would provide a sales tax exemption to certain firms making eligible investments in a qualified data center, as defined by the bill.

The exemption would be for:

- Purchases for the development, acquisition, construction, and operation of a qualified data center made by a qualified firm, including, but not limited to, costs of:
  - Land or site improvements;
  - Buildings;
  - Data center equipment, including acquisition and permitting;
  - Lease payments;
  - Site characterization and assessment; and
  - Engineering and design;
- Labor services pertaining to the installation and maintenance of data center equipment; and
- Purchases made by a contractor for the purposes of constructing or modifying a qualified data center for a qualified firm.

“Data center equipment” would be defined to include:

- Servers, routers and connections and computer equipment, monitoring and security equipment or systems;
- Equipment used in the operations of the data center;
- Equipment necessary to cool and maintain a controlled environment for operations;
- Systems designed to collect, conserve, and reuse water;

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- Computer server equipment chassis, networking equipment, switches, racks, and cabling, trays and conduit; and
- Conduit ducting and cabling directly related to connecting one or more distributed data center locations whether located inside or outside of a data center.

The cost of electricity would be excluded from the exemption.

The bill would define “qualified data center” as one or more buildings constructed, reconstructed, enlarged, remodeled, or leased in Kansas to house networked computer servers connected by a fiber transmission network for the purposes of centralizing data storage, management, and dissemination.

A “qualified firm” would be defined as a business registered in Kansas that is engaged in data processing, storage, and dissemination. Telecommunications, wireless, and video service providers would be explicitly excluded from the definition of a qualified firm.

### ***Duration***

The duration of the sales tax exemption would be valid for 20 years, regardless of the level of investment.

### ***Eligibility***

In order to be eligible for the exemption, a qualified firm would be required to:

- Receive prior approval by the Kansas Fusion Center Oversight Board, which would be authorized to deny a project deemed to pose a threat to critical state infrastructure;
- Submit an application as required by the Secretary of Commerce (Secretary) and enter into an agreement upon approval;
- Commit to:
  - Making an aggregate investment of at least \$250 million in a qualified data center within five calendar years of beginning operations;
  - Beginning construction of the project within 10 years of the agreement with the Secretary;
  - Adhering to practices that will conserve, reuse, and replace water; and
  - Purchasing electricity for 10 years from the public utility providing retail electric service; and
- Create and maintain at least 20 new jobs at such data center within 2 calendar years of beginning operations.

The Secretary would be required to certify to the Secretary of Revenue when the qualified firm has met the conditions to receive the sales tax exemption and provide notice if the exemption is modified, suspended, or terminated.

### ***Additional Conditions***

As a condition of receiving the exemption, the qualifying firm would be required to:

- Provide information required by the Secretary for:
  - Publication of the economic development incentive program database established in continuing law;
  - The Secretary's annual report required by continuing law; and
  - Periodic review of standing and eligibility as described below; and
- Cooperate with audits undertaken by the Department of Revenue or an applicable third party as requested by the Secretary.

### ***Periodic Review***

The Secretary would be permitted to conduct a review every five years of the activity of a qualified firm to ensure good standing with the State and compliance with the requirements of the bill and any relevant rules and regulations. The Secretary would be required to certify to the Secretary of Revenue that firms receiving the exemption continue to meet qualifications for eligibility.

Confidential financial information and trade secrets necessary to protect legitimate competitive business interests would not be subject to disclosure, except that providing them to the Legislative Division of Post Audit upon request would be required.

The bill would require books and records pertaining to determination of eligibility to be available for inspection during business hours by the Secretary, or a duly authorized agent, upon 60 days' prior written notice.

### ***Breach of Agreement***

If the Secretary determines a breach in the agreement has occurred, the Secretary would be required to provide written notice that the firm has 120 days to cure the breach. If the breach is not cured within 120 days, the Secretary could require the firm to repay all or a part of the amount of the sales tax exemption received and wholly or partially terminate the exemption.

### ***Rules and Regulations Authority***

The Secretary would be authorized to adopt rules and regulations for the implementation of the bill.

### ***Conference Committee Action***

The Conference Committee agreed to remove the contents of SB 98, pertaining to a distinctive license plate for the Route 66 Association of Kansas, insert the provisions of SB 51, as amended by the House, and to further amend the provisions of SB 51, as follows:

- Limit the length of the sales tax exemption to 20 years for any level of investment;
- Exclude electric generation equipment from the exemption;
- Include backup generators in the exemption;
- Include leasing arrangements within the definition of qualifies data center;
- Exclude telecommunications, wireless, and video service providers from the definition of qualified firm;
- Exclude modular data centers or preassembled components from the exemption;
- Prohibit utilities from authorizing electric rate discounts for data center facilities;
- Require qualified firms to commit to:
  - Practices that will conserve, reuse, and replace water; and
  - Purchasing electricity from the public utility providing retail electric service;
- Make a clarifying change so that the use of the word “investment” would only apply to investments in eligible data center costs; and
- Require any data center project to receive prior approval from the Kansas Fusion Center Oversight Board and allow the Board to deny the project if the data center would pose a threat to the state’s critical infrastructure.

## **Background**

The bill contains provisions of SB 51, for which the background is provided below.

### **SB 51**

The bill was introduced by the Senate Committee on Commerce at the request of a representative of NetChoice.

### **Senate Committee on Commerce**

In the Senate Committee hearing, **proponent** testimony was provided by representatives of NetChoice; Polsinelli PC; Diode Ventures, LLC; Geiger Ready-Mix, Inc.; Kansas Power Alliance; and KC Tech Council. The proponents generally stated the bill would incentivize data center investments in Kansas, which would result in substantial long-term economic impacts to the state, including attracting firms in economic sectors that rely on infrastructure provided by the presence of data centers.

Written-only proponent testimony was submitted by representatives of the De Soto Chamber of Commerce and De Soto Economic Development Council, Evergy, Greater Topeka Chamber, Kansas Department of Commerce, Kansas Economic Development Alliance, Kansas Electric Cooperatives, Inc., and Wyandotte Economic Development Council.

Written-only opponent testimony was provided by a representative of Americans for Prosperity Kansas.

No other testimony was provided.

### ***House Committee on Taxation***

In the House Committee hearing, **proponent** testimony was provided by representatives of NetChoice; Diode Ventures, LLC; Geiger Ready-Mix, Inc.; Kansas Economic Development Alliance; Kansas Power Alliance; KC Tech Council; and Sunflower Redevelopment. The proponents presented testimony substantially similar to proponent testimony presented in the Senate hearing.

Written-only proponent testimony was submitted by representatives of the De Soto Economic Development Council, Evergy, Kansas Chamber of Commerce, Kansas Department of Commerce, and Wyandotte Economic Development Council.

**Opponent** testimony was provided by a representative of Kansas Sierra Club, who stated the bill would likely provide economic benefits to Kansas but would result in strains on energy and water resources that could result in unforeseen costs to the State and to taxpayers.

Written-only neutral testimony was provided by a representative of Midwest Energy Efficiency Alliance.

No other testimony was provided.

The House Committee amended the bill to reduce the duration of the periods for which the sales tax exemption would be valid for each level of investment.

### ***House Committee of the Whole***

The House Committee of the Whole rereferred the bill to the House Committee on Taxation.

### ***House Committee on Taxation***

Upon rereferral, the House Committee on Taxation recommended the bill be passed as previously amended.

### **Fiscal Information**

According to the revised fiscal note prepared by the Division of the Budget on SB 51, as introduced, the Department of Revenue (Department) indicates enactment of the bill would have the potential to reduce state revenues to the State General Fund and State Highway Fund by unknown amounts beginning in FY 2026. Assuming projects costs would be similar to the Enterprise Zone exemption at 60.0 percent, the Department estimates a \$250.0 million project could result in foregone sales tax of \$9.8 million and that the unknown fiscal effect would be

extended in the future for the number of years for which the exemption is valid, as determined by the size of investment.

Any fiscal effect associated with enactment of SB 51 is not reflected in *The FY 2026 Governor's Budget Report*.

Economic development; taxation; sales tax exemptions; data centers

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