

UPDATED
SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 51

As Amended by House Committee on Taxation

Brief*

SB 51, as amended, would provide a sales tax exemption to certain firms making 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 or modular data centers;
 - 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.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

The cost of electricity would be excluded from the exemption.

The bill would define “qualified data center” as one or more buildings constructed or modified 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.

Duration

The duration of the sales tax exemption would vary depending on the size of investment in a qualified data center. Beginning from the commencement of operations, the exemption would be valid for:

- 40 years for investments of at least \$1 billion;
- 20 years for investments of at least \$500 million; and
- 10 years for investments of at least \$250 million.

Eligibility

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

- 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;

- Commit to begin construction of the project within 10 years of the agreement with the Secretary; 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 to 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.

Background

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, the 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 the bill, 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 the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Economic development; taxation; sales tax exemptions; data centers