

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2450**

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

Sub. for HB 2450 would create a sales tax exemption for certain sales associated with qualified data centers.

Exempt Sales

The bill would provide exemptions for the following sales associated with qualified data centers:

- Sales of property or services purchased for the purpose of constructing, reconstructing, enlarging, or remodeling a qualified data center, including the use of project exemption certificates;
- Sales and installation of data center machinery and equipment;
- Sales of eligible data center costs, which would include costs of land, buildings, site improvements, modular data centers, computer data center equipment acquisition and permitting, lease payments, site characterization and assessment, and engineering and design used directly and exclusively for a qualified data center;
- Sales of electricity used by the qualified data center; and

*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 <http://www.kslegislature.org>

- Sales of labor services to install and maintain data center equipment.

Qualified Data Centers

The bill would provide for the exemption to be available to businesses subject to the Kansas income tax and engaged in data processing, storage, and dissemination that make an investment of at least \$600.0 million in the first five years following beginning construction of a qualified data center and create and maintain at least 20 new jobs in the data centers within two years of beginning operations.

“Qualified data center” would be defined to mean one or more buildings that are constructed, reconstructed, enlarged, or remodeled to house a group of networked computer servers in Kansas to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge.

Businesses making an investment of at least \$600.0 million would be entitled to the exemption for 30 years. Businesses making an investment of at least \$800.0 million would be entitled to the exemption for 40 years. Businesses making an investment of at least \$1.0 billion would be entitled to the exemption indefinitely.

Businesses seeking the exemption would be required to submit an application to, and enter into an agreement with, the Secretary of Commerce, committing to make the required investment and begin construction within 10 years of the agreement. The agreement would be required to include a provision providing for the Secretary of Commerce to require repayment of all or a part of the sales tax exemption in the event of a breach of the agreement that is uncured after 60 days. Businesses receiving the exemption would also be required to cooperate with any audit undertaken by the Secretary of Revenue and provide relevant information for

economic incentive transparency databases and annual reports.

Confidential information or trade secrets that are obtained by the Secretary of Commerce pursuant to an application and agreement under the provisions of the bill would be excluded from the Kansas Open Records Act until July 1, 2028, but would be available to the Legislative Division of Post Audit upon request.

The Secretary of Commerce would be required to conduct a review every five years of exempt businesses to ensure good standing and compliance with the provisions of the agreement. The Secretary of Commerce would also be required to certify to the Secretary of Revenue when businesses have met the conditions to receive the sales tax exemption.

The Secretaries of Commerce and Revenue would be authorized to implement rules and regulations to implement the provisions of the bill.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Bergkamp.

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing on March 14, 2023, **proponent** testimony was provided by representatives of Kansans for Lower Electric Rates, Kansas Industrial Consumers Group, and NetChoice. The proponents generally stated the bill would make Kansas more attractive to data centers, and data centers can lower the cost of electricity for all consumers by spreading the fixed costs of electricity across more consumption.

No other testimony was provided.

The House Committee made technical amendments to the bill and recommended a substitute bill be passed.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates enactment of the bill has the potential to reduce state revenues by indeterminate amounts.

The Kansas Department of Transportation, Kansas Association of Counties, and League of Kansas Municipalities also indicate enactment of the bill could reduce sales tax revenues.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Tax; sales tax; exemption; data center