



Data Center Sales Tax Exemption Program (SB98)

KANSAS DEPARTMENT OF COMMERCE

The Kansas Department of Commerce administers the Data Center Sales Tax Exemption Program designed to provide up to 20 years of sales tax exemption for qualifying entities.

1. Program Background & Purpose

Kansas Senate Bill 98 (SB98) establishes a 20-year state and local tax exemption designed to attract large-scale, permanent data center developments to the State of Kansas. The program incentivizes capital investment, high-wage job creation, and long-term utility partnerships while requiring comprehensive cybersecurity and critical-infrastructure risk review through the Kansas Intelligence Fusion Center (KIFC).

Qualified firms making a minimum investment of \$250 million and creating at least 20 new Kansas jobs within the statutory timelines may receive exemption from sales tax for:

- Construction and remodeling of a qualified data center
- Purchase or lease of data center equipment
- Eligible site costs directly tied to the data center
- Labor services for installation, repair, servicing, or maintenance of data center equipment.

2. Key Statutory Definitions

Qualified Data Center Firm – A business registered with the Kansas Secretary of State and is engaged in the development, operation, or leasing of a qualified data center.

Telecommunications, wireless, and video service providers are not eligible for the program

Qualified Data Center – One or more buildings that house a network of computer servers to centralize the storage, management, and dissemination of data and information.

Eligible Data Center Costs – Expenditures for the development, acquisition, construction and operation of a Qualified Data Center by a Qualified Firm, including:

- Land, buildings, site improvements
- Data Center Equipment, Data Center Equipment acquisitions, and software
- Engineering, design, and permitting

- Site characterization and assessments
- Lease payments
- “Eligible data center costs” do not include the cost of electricity.

Data Center Equipment – Equipment, hardware, or software purchased or leased for the processing, storage, retrieval or communication of data, regardless of whether the property is or is not affixed to or incorporated into real property, including:

- Servers, routers, and security systems
- Cooling systems, chillers, towers, and water systems
- Fiber, conduit, cabling
- Backup generators
- All software necessary for operations
- Water conservation and reuse systems

*See SB98 for a complete list of qualifying equipment.

3. Program Eligibility Requirements

To qualify for the SB98 Data Center Sales Tax Exemption Program, a company must demonstrate a commitment to substantial investment, responsible operations, and long-term presence in Kansas. These requirements ensure that participating projects meet the scale, security profile, and economic impact intended by the Kansas Legislature.

A firm is eligible when it satisfies the following core elements:

Capital Investment – Each applicant must:

- Invest at least \$250 million in eligible data center costs
- Complete this investment within five (5) years after the commencement of operations
- Ensure that all expenditures align with the statutory definition of “eligible costs,” which focuses on physical development, equipment, and site-specific operational needs

Job Creation – A qualified data center must also contribute to local employment by:

- Creating twenty (20) new full-time jobs
- Filling these positions with Kansas residents
- Completing hiring within two (2) years of commencing operations
- Locating these jobs at the project site

Electricity Purchase Commitment – A commitment to purchase electricity is a central eligibility requirement under SB98. Each applicant must enter into a ten-year (10) electricity purchase agreement with the utility certified to provide retail electric service at the project location.

Although the statute does not prescribe a minimum or maximum megawatt amount—or any required percentage of total electric load—the Department of Commerce interprets this provision as serving two essential purposes:

- Ensuring community benefit by generating local energy-related tax revenue associated with the long-term electricity consumption of a large-scale data center; and
- Preserving flexibility for the operator by allowing the agreement to cover any amount of commercial power available at the chosen site, recognizing that power availability varies widely across Kansas based on local grid conditions, generation assets, and planned infrastructure improvements.

Given these purposes, Commerce recommends that each applicant maximize community benefit by securing all available power at the project site at the time the agreement is executed. This approach strengthens the tax base, reinforces certainty in local infrastructure planning, and aligns with the long-term nature of data center investment.

****Qualified data centers are ineligible for discounted economic development electricity rates offered to other types of projects.**

Water Conservation and Sustainability Practices – Applicants must adopt a comprehensive water plan that reflects responsible stewardship and long-term operational sustainability. This plan must outline measures such as efficient fixtures, rainwater infiltration or harvesting, water recirculation systems, discharge reuse partnerships, and efforts to support watershed restoration. These requirements ensure that projects reflect the resource-intensive nature of data center operations while balancing local environmental considerations.

Fiber-Based Connectivity – All buildings, equipment, and internet points must be connected with a fiber based transmission network. This will allow for redundancy and resiliency for the data center services provided.

Fusion Center Review Requirement – Every applicant must undergo a comprehensive review by the Kansas Intelligence Fusion Center (KIFC), with final approval from the Fusion Center Oversight Board. This review evaluates the project’s equipment, software, ownership structure, and operational purpose to ensure that it poses no undue risk to Kansas’ critical infrastructure. Satisfactory completion of this review is a statutory prerequisite to receiving any benefit under statute.

4. Program Benefits

20-Year Sales Tax Exemption – The sales tax exemption is effective upon the issuance of a sales tax exemption certificate by the Kansas Department of Revenue. The sales tax exemption benefit period is twenty (20) years from the incentive application submission date.

Broad Eligibility for Distributed Campuses – The benefit under this program may apply to multiple connected buildings across a campus or distributed locations if they are

connected by fiber and part of the same qualified data center system.

Stability & Predictability – Unlike competitive grant programs or capped incentives, the SB98 exemption:

- Does not require annual re-authorization
- Is not dependent on budget availability
- Remains intact for the full term provided compliance is maintained
- Applicants are not precluded from participating in other state incentive programs

Confidentiality Protections – Sensitive project information submitted to Commerce or KIFC is protected from public disclosure through 2030 (unless required for transparency reporting), offering firms assurance that operational or security details will remain safeguarded.

5. Application, Security Review, and Incentive Agreement Process

The process for participating in the SB98 Data Center Sales Tax Exemption Program is designed to ensure both timely evaluation and careful oversight. Once an applicant submits the required materials, the Department of Commerce and the Kansas Intelligence Fusion Center (KIFC) undertake parallel reviews—one assessing statutory and economic-development criteria, and the other evaluating security and critical infrastructure considerations. Only after both reviews are complete may the Incentive Agreement be prepared and executed.

Incentive Application Submission – Participation begins when a firm submits a complete SB98 application to the Kansas Department of Commerce. The application provides Commerce with essential project information needed to determine eligibility and readiness for review. At this stage, applicants also prepare—but do not submit to Commerce—the materials required for the KIFC security review. Each incentive application must include:

- ☐ Completed SB98 Data Center Application
- ☐ Proof of registration and good standing with the Kansas Secretary of State
- ☐ Capital investment plan and timeline
- ☐ Job creation schedule and workforce plan
- ☐ Request the Sales Tax Exemption Form PR70-b from Kansas Department of Revenue
- ☐ Electricity purchase plan or executed agreement
- ☐ Affirmation to utilize a water conservation and reuse plan
- ☐ Submission of all equipment, software inventories, and corporate governance disclosures to KIFC
- ☐ Non-refundable \$1,000 application fee

****Applicants should simultaneously prepare the KIFC questionnaire and supporting documents, but these materials must be submitted directly to KIFC, not to Commerce.**

Confidential Questionnaire to the Kansas Intelligence Fusion Center (KIFC) –

Applicants submit the Fusion Center Questionnaire and all supporting materials directly to KIFC. These *may* include:

- ☐ Corporate ownership and governance structure
- ☐ Foreign affiliation disclosures
- ☐ Detailed equipment lists
- ☐ Software inventories
- ☐ IT load profiles and cooling system descriptions
- ☐ Backup power and resiliency specifications
- ☐ Transmission, substation, and energy demand needs
- ☐ Emergency management and continuity plans
- ☐ Operational purpose and long-term project profile

****Commerce does not receive, review, retain, or have access to any KIFC questionnaire or supporting documentation. All such materials are treated as Controlled Unclassified Information (CUI) and protected under federal and state information-handling requirements. They are not shared outside KIFC or the Fusion Center Oversight Board.**

Incentive Agreement – After the Fusion Center Oversight Board issues its approval and Commerce completes program eligibility review, Commerce will prepare an Incentive Agreement. This legally binding agreement establishes all obligations for the 20-year exemption period and outlines compliance expectations. The document includes commitments related to:

- Capital investment minimums and timing
- Job creation and maintenance requirements
- The 10-year electricity purchase agreement
- Adherence to water conservation and sustainability practices
- Construction and operations commencement deadlines
- Ongoing reporting obligations
- Transparency database requirements
- Cooperation with KDOR audits
- Certification that project capital is not sourced from federally sanctioned entities

* Applicants are not precluded from other state and local tax incentives

6. Project Approval

Once the Incentive Agreement is fully executed, Commerce will issue a Certification Letter that certifies the project to the Kansas Department of Revenue, enabling the issuance of the sales tax exemption certificate by Kansas Department of Revenue.

7. Program Administration, Enforcement, and Clawbacks

The Data Center Sales Tax Incentive program is administered with the dual goals of supporting major capital investment in Kansas and ensuring that participating firms fulfill the

commitments that justify a long-term sales tax exemption. Once an Incentive Agreement is executed, the Department of Commerce oversees compliance, coordinates with partner agencies, and maintains ongoing communication with the Qualified Firm.

Program Administration – The Kansas Department of Commerce serves as the lead administrator for the Data Center Sales Tax Exemption Incentive program. In this role, Commerce maintains direct contact with participating firms, monitors compliance with statutory and contractual obligations, and oversees data collection and reporting. Commerce’s responsibilities include:

- Conducting periodic reviews of project performance, including the mandatory five-year compliance review
- Tracking investment milestones, job creation, electricity purchase commitments, and water conservation requirements
- Providing guidance to firms on reporting expectations and transparency requirements
- Coordinating with the Kansas Department of Revenue (KDOR) on exemption certificate issuance and audit findings
- Working with utilities, local governments, and economic development partners to support the long-term success of each project

In addition, Commerce ensures that all required incentive information is reported to the Statewide Incentive Transparency Database in accordance with K.S.A. 74-50,226.

Although Commerce oversees the program, certain functions rely on partner agencies. The Kansas Intelligence Fusion Center (KIFC) manages all security reviews, KDOR administers sales tax compliance and audits, and local utilities inform infrastructure planning. This shared structure ensures that each project is evaluated through economic, operational, and security lenses.

Ongoing Compliance Requirements – Qualified Firms must maintain compliance with their Incentive Agreement and all statutory obligations throughout the duration of the 20-year exemption. Firms are expected to:

- Maintain the required level of capital investment
- Create and retain the minimum number of new full-time jobs
- Continue purchasing electricity consistent with the 10-year agreement
- Implement and maintain approved water conservation and reuse practices
- Allow reasonable access to Commerce and KDOR for audits or site visits
- Provide timely and accurate documentation as requested by Commerce
- Remain in good standing with the State of Kansas

Commerce evaluates compliance on an ongoing basis and formally reassesses the project every five (5) years, as required by SB98. Firms must provide all requested documentation to support these reviews.

Enforcement and Cure Process – SB98 provides the Department of Commerce with authority to address non-compliance. The program includes a structured enforcement framework designed to give firms an opportunity to correct deficiencies while protecting state interests.

If Commerce determines that a firm is not meeting obligations — for example, falling short on investment, job creation, utility purchase commitments, or water conservation requirements — Commerce will:

1. Issue written notice identifying the area of deficiency
2. Provide a 120-day cure period to correct the issue, as required by statute
3. Evaluate corrective actions following the cure period

If the deficiency is resolved within the cure window, the incentive remains in good standing. If not, Commerce may take additional action as described below.

Suspension, Termination, and Clawbacks – When deficiencies are not cured or when a firm is found to have materially violated the Incentive Agreement or statute, Commerce may impose corrective measures, including:

- Suspension of the sales tax exemption, halting the benefit until issues are resolved
- Modification of the exemption, which may include narrowing the scope of eligible purchases
- Termination of the incentive, ending participation in the SB98 program
- Clawback of previously exempted sales tax, requiring repayment of all or part of the tax savings received

Clawbacks are applied proportionally and based on the nature, duration, and significance of the violation. Termination or clawback may be warranted for violations including, but not limited to:

- Failure to meet the minimum investment requirement
- Failure to create or maintain required new jobs
- Noncompliance with electricity purchase obligations
- Noncompliance with water conservation commitments
- Refusal to cooperate with audits
- Initiating construction or operations outside the statutory timelines
- Providing materially false or misleading information

The primary purpose of enforcement actions is not punitive but to ensure that public resources are used responsibly and that the benefits of the SB98 program accrue to Kansas communities as intended.

For Additional Information

Please contact your Kansas Department of Commerce Representative or contact us at

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