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MEMORANDUM

To: Chairman Masterson and members of the Senate Committee on Ways and Means

From: David Wiese, Assistant Revisor

Date: 3/22/2016

Subject: SB 475; Requiring performance and payment bonds for certain public construction contracts.

Senate Bill No. 475 adds to a new section of law to be part of and supplemental to the Kansas fairness in public construction contract act, K.S.A. 16-1901 through 16-1908. The bill requires that prior to entering into a contract with an owner for an amount of \$25,000 or more that involves a "public-private agreement," the contractor shall furnish to the owner the following bonds, which become binding upon the award of the contract by the owner to the contractor:

- (1) A performance bond, if one is not otherwise required under state law, in an amount equal to the full contract amount conditioned upon the faithful performance of the contract, made solely for the protection of the owner awarding the contract; and
- (2) A payment bond in an amount equal to the full contract amount solely for the protection of claimants supplying labor or materials to the contractor or subcontractor.

For each bond, a provision shall be included allowing the prevailing party in any action on the bond to recover reasonable attorney fees and expenses as determined by the court.

The bill also provides definitions of "public-private agreement," "private contribution" and "public benefit" for the purposes of this section.