

February 4, 2026

The Honorable Larry Alley, Chairperson  
Senate Committee on Commerce  
300 SW 10th Avenue, Room 159-S  
Topeka, Kansas 66612

Dear Senator Alley:

**SUBJECT:** Fiscal Note for SB 335 by Senator Shallenberger

In accordance with KSA 75-3715a, the following fiscal note concerning SB 335 is respectfully submitted to your committee.

SB 335 would add language to the Kansas Fairness in Public Construction Contract Act that would require any contract for public construction entered into by a public entity and a contractor to include a mutual waiver of consequential damages. The bill would outline items of consequential damage that would be required in the mutual waiver and would allow the public entity and the contractor to identify additional items needed for the applicable construction project. The bill specifies that an owner's claims of liquidated damages, a contractor's claims for extended general conditions, or either party's claims of direct damages arising from delay would not be precluded from contractual requirements under the provisions of the bill.

The Kansas Department of Transportation (KDOT) notes that Kansas Fairness in Public Construction Contract Act does not apply to highway construction projects. However, enactment of the bill could result in increased costs associated with KDOT not being able to recover certain damages in its buildings program. KDOT indicates that if there is a delay in work for a project that is caused by the contractor and KDOT is required to rent a temporary facility, it would not be able to recover the rental costs from the contractor. KDOT notes that the possibility of such a situation is unlikely but would increase expenditures for the agency. However, a precise fiscal effect cannot be estimated.

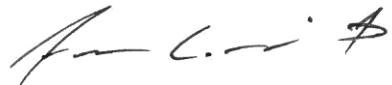
The Board of Regents states that the bill would have a minimal increase in expenditures for postsecondary institutions to moderate construction-related risk and to standardize contract terms that could be absorbed within existing resources.

The Department of Administration indicates enactment of the bill would require it to include the bill's provisions to any construction or lease contract along with other required forms, but that any fiscal effect could be absorbed within existing resources.

The Kansas Department for Aging and Disability Services indicates enactment of the bill would not have a fiscal effect on the agency. Any fiscal effect associated with SB 335 is not reflected in *The FY 2027 Governor's Budget Report*.

The League of Kansas Municipalities indicates enactment of the bill could increase expenditures for cities to include a waiver of consequential damages in public construction contracts, but a precise fiscal effect cannot be determined at this time. The Kansas Association of Counties indicates enactment of the bill could result in certain potential awards being waived due to the waiver of consequential damages. This could result in either increased or decreased expenditures for counties depending on with which party the claim for damages originates. As a result, a precise fiscal effect cannot be estimated.

Sincerely,



Adam C. Proffitt  
Director of the Budget

cc: Samir Arif, Department of Administration  
Brendan Yorkey, Department of Transportation  
Becky Pottebaum, Board of Regents  
Wendi Stark, League of Kansas Municipalities  
Jay Hall, Kansas Association of Counties  
Leigh Keck, Department for Aging & Disability Services