



February 15, 2021

**To:** Senate Committee on Ways and Means

**From:** Murl Riedel, Fiscal Analyst

**Re:** SB 159 - Claims Against the State

The Joint Committee on Special Claims Against the State (Joint Committee) recommends payment of claims that would total \$130,906.08, including \$27,761.46 from the State General Fund, as outlined in SB 159. All claims, except fuel tax refunds, would be directed to be paid from existing resources and do not increase total State expenditures.

During the 2020 Interim, the Joint Committee met three times and, excluding motor vehicle fuel tax refunds, heard 84 claims, of which 72 claims, or 85.7 percent, were filed against the Kansas Department of Corrections (KDOC) or specific correctional facilities.

The bill includes 6 standard claims and 20 fuel tax refund claims recommended by the Joint Committee to the 2020 Legislature, which were not approved for payment through an act of appropriation due to the early departure of the Legislature, resulting from the COVID-19 pandemic. These claims were reconsidered by the Joint Committee during the 2020 Interim and again recommended for payment.

**Section 2, page 1.** The Joint Committee's recommendation totaled \$974.43 from KDOC. claims include:

- Lee File, of F&W Tractor, Inc., d/b/a Agri Center, in Hutchinson, Kansas, stated the company's truck was damaged in a KDOC-owned field by an inmate operating hay-raking equipment. The claimant did not submit a claim to its insurance company for damages. F&W Tractor, Inc., sought \$2,772 for repair of bumper, hood, fender, and electrical components. KDOC supported payment of the claim at a reduced amount. Due to difficulties with determining the level of pre-existing damage, the Joint Committee recommended partial payment for one-third the claim amount (\$924.08);
- Sammy Cox, an inmate at the Hutchinson Correctional Facility, sought \$30.35 for compensation of a Timex watch he claimed was lost while his property was under the custody of facility staff. KDOC did not contest the claim. The Joint Committee recommended the full payment of the claim amount (\$30.35); and
- Tamika Pledger, an inmate at the Topeka Correctional Facility, sought \$254.64 for compensation of a television, radio, and religious necklace she claimed was

damaged or lost while under the custody of the facility staff. The claimant stated that following an altercation with a cellmate, she was removed from the cell and her property was secured by the facility staff. After recovering the television and radio, and signing documents acknowledging receipt, the claimant later returned these items claiming they were damaged. KDOC contested responsibility for the television and radio, but did confirm mishandling the claimant's religious necklace when it was disposed of by facility staff without the claimant's consent. The Joint Committee recommended payment for half the estimated value of the religious necklace (\$20.00).

**Section 3, page 1.** The Joint Committee's recommendation totaled \$16,426.14 from the Kansas Department of Health and Environment (KDHE), Division of Public Health. Peter Shaheed operates a home care service in which "employee-caregivers provide homemaker, companion, and attendant care services to seniors in their homes." In November 2015, he received correspondence from KDHE instructing him to cease offering attendant care to seniors and obtain home health licensure. In April 2016, the Attorney General determined additional licensure is not required for attendant care services. Mr. Shaheed sought \$44,772 for legal fees and salary of a registered nurse to comply with the licensing in question. The Joint Committee recommended payment of half of the claim amount, excluding legal fees.

**Section 4, page 2.** The Joint Committee's recommendation totaled \$1,945.57 from the Osawatomie State Hospital. Ellin Schoenfeld stated her vehicle was damaged when a hospital employee backed into it with a state van. The claimant did not submit a claim to her insurance company, which instructed her that "it was the state's liability." Ms. Schoenfeld sought compensation for the cost of repairing the car. The Joint Committee recommended full payment of claim amount.

**Section 5, page 2.** The Joint Committee's recommendation totaled \$2,800.00 from the Larned State Hospital. Albert Wilcox, a resident at the Larned State Hospital, stated his hearing aids went missing when he was moved to a different room. Mr. Wilcox sought compensation for replacement of the hearing aids. The agency did not contest the claim. The Joint Committee recommended full payment of the claim amount.

**Section 6, page 2.** The Joint Committee's recommendation totaled \$1,538.50 from the University of Kansas. Fiona McGuire, a student at the University of Kansas, stated she fell while descending the steps of a campus building, which resulted in a fracture of her posterior malleolus and an ankle muscle tear. The claimant attributed the fall to the poor condition of the steps. Ms. McGuire seeks \$4,784 for medical treatment and travel from Lawrence, Kansas, to her physician in St. Louis, Missouri. While the agency did not admit negligence, it did suggest partial payment as compromise. The Joint Committee recommended partial payment for the cost of medical treatment and local travel.

**Section 7, page 2.** The Joint Committee's recommendation totaled \$10,887.57 from the Office of the Attorney General. The Barton County Board of County Commissioners sought partial reimbursement from the Sexually Violent Predator Expense Fund for costs incurred while prosecuting a sexually violent predator, as provided in KSA 59-29a04. Costs included legal fees, psychological evaluation, and expert witness fees totaling \$19,025. The agency issued a partial payment of \$8,137 in FY 2020, which expended the balance of the fund and directed the claimant to submit a claim against the state for reimbursement of the remaining expenses. The agency confirmed the validity of the expenses and supported payment of the claim. The Joint Committee recommended full payment of the claim amount.

**Section 8, page 2.** The Joint Committee's recommendation totaled \$1,080.00 from the Kansas State Legislature. Lettuce Feed You, a vendor operating the Statehouse cafe, sought payment for 216 meal vouchers redeemed by students serving in the Legislative Page program in FY 2020. A meal voucher valued at \$5.00 is provided to each page during the session. Vouchers are redeemed at the Statehouse cafe. The claimant indicated it was unable to request payment from Legislative Administrative Services (LAS) for these vouchers in FY 2020 due to a prolonged closure resulting from the COVID-19 pandemic, and funds were not encumbered in the appropriate fiscal year. LAS confirmed the validity of the vouchers and supports payment of the claim. The Joint Committee recommended full payment of the claim amount.

**Section 9, page 2.** The Joint Committee's recommendation totaled \$2,259.00 from the Kansas Bureau of Investigation (KBI). T-Mobile USA, Inc., sought payment for GPS (global positioning system) surveillance services and call log data provided at the direction of KBI to assist with a criminal investigation in FY 2017. The claimant stated invoices were submitted to the agency on three occasions, with no satisfaction. The agency stated payment was not issued due to errors in receiving invoices and the need for jurisdictional deconfliction. The agency confirmed services were provided and supported payment of the claim. The Joint Committee recommended full payment of the claim amount.

**Section 10, page 3.** The Joint Committee's recommendation totaled \$1,817.82 from the Adjutant General's Department. Louis Keefover sought compensation for the repair of damages sustained by his spouse's vehicle when it was struck on the grounds of the State Defense Building in Topeka by an individual operating a van transporting military personnel. The Adjutant General's Department provided written testimony confirming the van driver was an employee conducting official business. The agency recommended payment of the claim. The Joint Committee recommended full payment of the claim amount.

**Section 11, page 3.** The Joint Committee's recommendation totaled \$91,177.05 from the Department of Revenue's Motor Vehicle Fuel Tax Refund Fund. Refunds paid must be received within one year after the date of purchase. If the refund request is submitted after that date, a claim must be filed with the Joint Committee. Refunds are allowed for taxes paid on fuel used for off-highway uses, including school buses and farming.

**Section 12, page 5.** The bill would require signed releases prior to payment being issued.

**Section 13, page 5.** The bill would be in effect upon publication in the *Kansas Register*.