



March 7, 2023

To: House Committee on Appropriations

From: Murl Riedel, Senior Fiscal Analyst

Re: SB 42 - Claims Against the State

The Joint Committee on Special Claims Against the State (Joint Committee) recommends payment of claims that would total \$22,982.54, including \$15,895.81 from the State General Fund, as outlined in SB 42. All claims, except fuel tax refunds, would be directed to be paid from existing resources and do not increase total state expenditures.

During the 2022 Interim, the Joint Committee met four times and, excluding Motor Vehicle Fuel Tax refunds, heard 80 claims, of which 59 claims, or 73.8 percent, were filed against the Kansas Department of Corrections (KDOC) or correctional facilities.

Section 2, pages 1-2. The Joint Committee's recommendation totals \$1,241.63 from KDOC. Claims include:

- Jeremy Johnson seeks \$540.00 in compensation for a television, shoes, thermal cooler, electronic devices, and personal eyeglasses that the inmate claims went missing when staff allowed another inmate into his cell. The agency states the claimant signed for receipt of the property without noting deficiencies. The claimant states he reported the missing items to staff before signing the property inventory and he provided purchase receipts for some items. The Joint Committee recommends partial payment for the claim (\$300);
- Matthew McDaniel seeks \$29.22 in compensation for a radio that the inmate purchased through the agency's canteen service that was delivered broken and unusable. The agency did not dispute the claim. The Joint Committee recommended full payment for the claim (\$29.22);
- Tarrance Noel seeks \$71.30 in compensation for a fan, thermal cooler, and lamp that the inmate claims were lost when he was transferred to restrictive housing and staff packed his property. The claimant provided documentation from facility staff confirming the items were missing. The agency stated the claimant was transferred due to an altercation and there was no showing these items were in the claimant's possession prior to transfer. The Joint Committee recommended partial payment for half the value of the claim (\$35.65);

- Sean McKenzie seeks \$22.95 in compensation for a necklace that the inmate claims was surrendered to staff and never returned when the claimant was transported out of the correctional facility for a medical procedure. The agency acknowledged the whereabouts of the necklace are unknown. The Joint Committee recommended full payment for the claim (\$22.95);
- John Stenberg seeks a total of \$23.78 in compensation for two claims. The Joint Committee recommended payment for the claims totaling \$21.18. Claims include:
 - \$8.66 for earbuds that the claimant states staff failed to pack when he was transferred to another correctional facility. The Joint Committee recommends partial payment for the depreciated value of the claimed item (\$6.06); and
 - \$15.12 for two shirts the claimant states never returned from laundry services. The agency states that inmates assist in operation of laundry services, which implies the loss was the result of theft and not staff negligence. The Joint Committee recommended full payment for the claim (\$15.12);
- Christopher Kern seeks \$59.43 in compensation for food items that the inmate claims were destroyed by staff while the claimant was at the Hutchinson hospital. The claimant states that upon his return, he was not allowed to inspect the property prior to signing for receipt. The Joint Committee recommends full payment for the claim (\$59.43);
- Luis Rojas-Marceleno seeks \$134.20 in compensation for an MP4 player, hot pot, batteries, and alarm clock that the inmate claims were misplaced by staff when he was transferred to another correctional facility. The claimant initially refused to sign for receipt of his property due to missing items and later signed for receipt with a notation of discrepancies. The Joint Committee recommends partial payment of the claimed amount, primarily for the missing MP4 player (\$108.20);
- Anthony McRoberts seeks \$250.00 in compensation for books and documents contained in two legal boxes that the inmate claims were commandeered by staff. The agency states that policy permits inmates to own one legal box for the storage of legal materials only and it may not be used to store personal property. The Joint Committee recommends partial payment for the claim, primarily for the value of a missing law book (\$50.00);
- Terry Bowen seeks \$707.95 in compensation for property that the inmate claims was misplaced by staff when the claimant was assigned to restrictive housing. The agency disputed the claim and provided an agreement, signed by the claimant, stating the claimant previously accepted immediate replacement of some items as full settlement of the claim. The Joint Committee recommends partial payment for the claim, primarily for missing art supplies (\$250.00);
- Ray Garcia, Jr., seeks \$629.58 in alleged unpaid restitution related to the theft of his property by another inmate in February 2020. The agency noted that the

other inmate pleaded guilty to the theft in a disciplinary proceeding and was ordered to pay restitution to claimant in the amount of \$185, which was less than the amount sought by the claimant at the time. The Joint Committee recommends partial payment of claimed amount, primarily for the value of a missing television (\$315.00); and

- Gary Ditges seeks \$695.55 in compensation for the replacement of 270 songs stored on an MP3 player that the inmate claims was damaged by staff during a search. Previous inspection records indicate the MP3 player was in working condition prior to the occurrence. The Joint Committee recommends partial payment, primarily for the cost of repairing the player (\$50.00).

Section 3, page 2. The Joint Committee's recommendation includes \$680.00 from the Larned State Hospital for one claim:

- Gary Marks seeks \$4,574.64 in compensation for personal property that he claims was destroyed by Larned State Hospital staff when the claimant left residency at the hospital to serve a sentence in KDOC in 2012. The claimed property includes stereo systems, electronic devices, numerous compact discs, and clothing. According to the agency, personal property of nonresidents cannot be stored at the hospital indefinitely. The items were destroyed 45 days after notification was mailed to the claimant at the Hutchinson Correctional Facility in September 2020. The agency acknowledged the claimant had limited options for removing the items. The Joint Committee recommended partial payment for the claim (\$680.00), which is the amount previously offered to the claimant by the agency as settlement.

Section 4, page 3. The Joint Committee's recommendation totals \$6,305.54 from the Adjutant General's Department. Claims include:

- Mathew Ayres seeks \$4,700.00 in compensation for damages sustained by his vehicle while on grounds of the Hutchinson Armory. The agency confirmed the damage was caused by a maintenance truck operated by an agency employee. Subsequent to submission of the claim, the claimant submitted the matter to his personal insurance company. The Joint Committee recommended partial payment for a deductible and car rental expenses not covered by the claimant's personal insurance (\$592.00); and
- Engelbert Sama Ade seeks \$5,713.54 in compensation for damages sustained by his vehicle due to a malfunctioning security gate at the Armed Forces Reserve Center in Topeka. The agency did not dispute the claim. The Joint Committee recommended full payment for the claim (\$5,713.54).

Section 5, page 3. The Joint Committee's recommendation includes \$1,607.15 from the Kansas Bureau of Investigation (KBI) for one claim:

- Jamy Hurren seeks \$1,607.15 in compensation for damages sustained to his rental property in Salina resulting from a fugitive standoff involving the KBI. The agency did not dispute the damages, but noted KBI was called to assist with operation, obtained a search warrant, and implemented procedures that

ultimately led to apprehension of an armed suspect that had evaded pursuit. The claimant subsequently provided a letter from his personal insurance company stating the claimed damages were not covered under his policy. The Joint Committee recommends full payment of the claimed amount (\$1,607.15).

Section 6, pages 3. The Joint Committee recommendation totals \$6,061.49 from the Department of Administration. Claims include:

- Kenneth McGovern seeks \$6,646.45 for car rental expenses and damages sustained by his vehicles on October 7, 2022, at the Curtis State Office Building (CSOB) parking garage due to a malfunctioning security gate. The agency did not dispute the damages, but suggested a reduced amount for car rental expenses. The Joint Committee recommended partial payment for the claim (\$4,072.04); and
- Michael Seastrom seeks \$1,989.45 in car rental expenses and damages sustained by his vehicle on October 7, 2022, at the CSOB parking garage due to a malfunctioning security gate. The agency did not dispute the damages and noted that the gate has since been repaired. The Joint Committee recommended full payment for the claim (\$1,989.45).

Section 7, pages 3-4. The Joint Committee recommendation includes \$7,086.73 from the Department of Revenue's Motor Vehicle Fuel Tax Refund Fund. Requests for refunds 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 8, page 4. The bill would require signed releases prior to payment being issued.

Section 9, page 4. The bill would be in effect upon publication in the *Kansas Register*.