



March 14, 2022

**To:** House Committee on Appropriations

**From:** Murl Riedel, Fiscal Analyst

**Re:** HB 2492 - Claims Against the State

The Joint Committee on Special Claims Against the State (Joint Committee) recommends payment of claims that would total \$2.0 million, including \$1.9 million from the State General Fund (SGF), as outlined in HB 2492. Of this, two claims would be paid from additional SGF appropriations, and the remaining would be paid from existing resources, which would result in an increase of \$1.9 million from State expenditures.

During the 2021 Interim, the Joint Committee met four times and, excluding Motor Vehicle Fuel Tax refunds, heard 79 claims, of which 69 claims, or 87.3 percent, were filed against the Kansas Department of Corrections (KDOC) or correctional facilities.

**Section 2, pages 1-2.** The Joint Committee's recommendation totals \$784.52 from KDOC. Claims include:

- Stanley Wooley, Jr., an inmate at the Lansing Correctional Facility, seeks \$33.64 for compensation of batteries, battery chargers, and an MP3 player charger that he claims were misplaced by staff during a mass movement of inmates from the old Lansing Correctional Facility to the new facility in April 2020. Due to the number of inmates and volume of property involved in the move, the agency acknowledges that standard property handling procedures were not implemented. The Joint Committee recommends full payment of \$33.64 for the claim amount;
- Allen Todd, an inmate at the Hutchinson Correctional Facility, seeks \$500.00 for compensation for a gold chain necklace with a crucifix medallion that was confiscated by staff and never returned. KDOC confirmed the necklace was seized due to exceeding the value allowed by policy for a religious necklace, which is \$20. However, the agency acknowledges that the whereabouts of the necklace are unknown and recommends payment of \$20. The Joint Committee recommends partial payment for the claim (\$50.00);
- Travis Becker, an inmate at the Hutchinson Correctional Facility, seeks \$515.00 of compensation for a stolen television, shoes, and hygiene products. The claimant was placed in protective custody on January 19, 2021, and asserts that staff left his property unsecured for a period of 4 hours, which resulted in the

theft. The Joint Committee recommends partial payment of the claim for the value of the television (\$265.00);

- Word Ackward, an inmate at the Hutchinson Correctional Facility, seeks \$76.01 of compensation for shoes he stated went missing after staff packed his property following his assignment to segregation housing. KDOC acknowledges the shoes were packed by staff, but inventory records indicate the shoes were not returned to the claimant. The Joint Committee recommends full payment of \$76.01 for the claim amount;
- Willie Simmons, an inmate at the El Dorado Correctional Facility, seeks \$21.42 of compensation for a canteen order he states was placed in his name without authorization and wrongfully delivered by staff to his cellmate. Canteen items generally include packaged food and personal hygiene products. The Joint Committee recommends full payment of \$21.42 for the claim amount;
- Roger Deere, an inmate at the El Dorado Correctional Facility, seeks \$296.93 of compensation for personal eyeglasses seized by staff. The claimant states the eyeglasses were subsequently determined by staff to be allowable, but never returned. The Joint Committee notes that a receipt from 2006 indicates the purchase value of the eyeglasses was \$189.93 and recommends partial payment for a depreciated value (\$138.45); and
- Clinton Ross, an inmate at the El Dorado Correctional Facility, seeks \$441.35 for property he stated went missing when he was moved to protective custody and staff left his cell unsecured for a period of 2 days. The missing property included a television, clothing, a religious necklace, and electronic devices. The Joint Committee recommends partial payment for approximately half the value of the claim (\$200).

**Section 3, page 2.** The Joint Committee's recommendation includes \$1,144.55 from the Adjutant General's Department. Scott Heston seeks \$1,144.55 of compensation for the repair of damages sustained by his vehicle while on the grounds of the Armed Forces Reserve Center in Topeka. The Adjutant General's Department confirmed the damage was caused by debris from a lawnmower operated by an agency employee. The Joint Committee recommends full payment of the claim amount.

**Section 4, page 2.** The Joint Committee's recommendation includes an appropriation totaling \$1.9 million SGF to the Office of the Secretary of State for payment of two claims. These claims arise from judgments against the Secretary of State for payment of the plaintiff's attorney fees in two federal lawsuits that successfully challenged the constitutionality of voter proof of citizenship provisions enacted by the 2011 Legislature. The claimed amounts reflect a court settlement negotiated by the Attorney General, which is a reduction from the \$4.2 million demanded. The Attorney General noted that when the lawsuits were initially filed in 2015, the Secretary of State at the time expressed a desire to handle legal representation himself. The Attorney General clarified that payment of judgments from the Kansas Tort Claims Fund can only be provided if the Office of Attorney General handles representation. The Secretary of State indicates that the agency does not have existing resources adequate for payment of these claims. The claims include:

- The ACLU Foundation, of New York, NY, seeks \$1.4 million for attorney’s fees and costs owed as a result of a federal court order related to the case of *Steven Wayne Fish, et al., v. Scott Schwab, Secretary of State for the State of Kansas*. The Joint Committee recommends an appropriation of \$1.4 million SGF to the Office of Secretary of State for payment of the claim.
- Dentons US LLP, of Kansas City, MO, seeks \$475,000 for attorney fees and costs owed as result of federal court order related to the case of *Parker Bednasek, et al., v. Scott Schwab, Secretary of State for the State of Kansas*. The Joint Committee recommends an appropriation of \$475,000 SGF to the Office of Secretary of State for payment of the claim.

**Section 5, page 2.** The Joint Committee recommendation includes \$47,788.56 from the Department of Revenue. OneNeck IT Solutions seeks the reimbursement of credits resulting from excess prepayment of sales taxes from January 2013 to November 2015. The claimant states notification of the matter was submitted to the Department of Revenue in January 2016. The agency confirmed the claimant’s pre-payments resulted in an overage on its sales tax account during the period in question; however, the agency disputes the date of notification and states that sales tax refunds cannot be provided if more than three years has passed since the last filing period pursuant to KSA 76-3609. The Joint Committee recommends full payment of the claim amount.

**Section 6, pages 2-3.** The Joint Committee recommendation includes \$29,457.39 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 7, pages 3-4.** The bill would require signed releases prior to payment being issued.

**Section 8, page 4.** The bill would be in effect upon publication in the Kansas Register.