

MINUTES

JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

December 20, 2010
Room 546-S—Statehouse

Members Present

Senator Thomas Owens (Tim), Chairperson
Representative Mitch Holmes, Vice-chairperson
Senator Terry Bruce
Senator Kelly Kultala
Senator Ty Masterson
Senator Dennis Pyle
Representative Bill Feuerborn
Representative Rocky Fund
Representative Bob Grant
Representative Steve Huebert
Representative Jeff King
Representative Joe Patton

Member Absent

Representative Broderick Henderson

Staff Present

Cindy Lash, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Daniel Yoza, Office of the Revisor of Statutes
Kathy Letch, Committee Secretary

Others Present

Libby Snider, Legal Counsel, Kansas Department of Corrections
Matt Casey, Gaches, Braden, and Associates
Edie Martin, Kansas Department of Revenue
Patricia Platt, Kansas Department of Revenue
Representative Don Schroeder
Beth Goertz, Saunge, Inc.
Mark Goertz, Saunge, Inc.
Judy Moler, Kansas Governmental Ethics Commission
Darrin Collette, Co-Claimant
Jennifer Collette, Co-Claimant

James Bartle, Kansas Department of Revenue
Tom Mullinazze, Kansas Board of Technical Professions
Forrest Erickson, Kansas Board of Technical Professions
Jean Boline, Kansas Board of Technical Professions
George Barbee, Kansas Board of Technical Professions
Dave Hoffman, Kansas Board of Technical Professions
Phil Meyer, Kansas Board of Technical Professions
M. L. Dyck, Kansas Board of Technical Professions
Fred Fishman, Claimant
Thanh Fishman
Rachel E. Rolf, University of Kansas
Randy Barker, Department of Social and Rehabilitation Services, Child Support
Enforcement
Eldon Ray, Claimant
Bob Morse, Son-in-law of Eldon Ray

Morning Session

The Chairperson called the meeting to order at 9:30 a.m.

Approval of Minutes

Representative Grant moved to approve the November 3, 2010, Committee minutes; Representative Feuerborn seconded the motion; the motion carried.

Approval of Motor Fuel Tax Refunds

Patricia Platt, Motor Fuel Tax Refunds, Kansas Department of Revenue (KDOR), presented the spreadsheet of claims for motor fuel tax refunds (corrected Attachment 1, per page 11 reconsideration). She recommended the claims be allowed.

Following discussion, Representative Grant moved; Representative Huebert seconded the motion; and the motion carried to allow the total of \$38,111.62 (see page 11 for reconsideration).

Proposed Policy Changes

Mike Heim, Office of the Revisor of Statutes, previously provided a memorandum to Committee members regarding the scope of authority of the Joint Committee on Special Claims Against the State (Attachment 2).

Daniel Yoza, Office of the Revisor of Statutes, presented proposed language for a bill draft that entailed four ways to affect the number of claims that the Committee would get (Attachment 3). Mr. Yoza said that the Committee could decide to put any combination of these changes into a bill. The four options were:

- Requiring a claim be for more than \$500 to come before the Committee. The Committee discussed this point, but generally opposed this proposal.
- Allowing a filing fee to be charged, not to exceed \$25, for filing a claim. The Committee opposed this proposal, in general, as the \$25 filing fee would create access issues; constitutional law arguments; and possibly invite law suits.
- Creating a subcommittee to make recommendations on smaller claims. The Committee liked this proposal with the addition of the subcommittee providing a recommended consent docket for the Committee.
- Requiring that no inmate could submit a claim to the Committee for less than \$500; they would be strictly handled internally; and, if disapproved, no further action would be allowed.

The Committee discussed why claims that a state agency recommends the Committee allow, must go through the hearing process. Libby Snider, Kansas Department of Corrections (KDOC), answered that Special Claims Against the State is at the legislative level, and the agency must respond to the Committee. The Chairperson asked Ms. Snider to bring a proposal to the next Committee meeting that would allow the agency to dismiss a claim from the hearing process, if the agency recommends payment and pays the claim. The suggestion was made that all KDOC claims recommended for payment by the agency be on a consent agenda; anything on the consent agenda, may be taken off the consent agenda for discussion, if desired; and this possibly could be done by Committee Rule instead of statute.

CLAIMS FROM INMATES AT EL DORADO CORRECTIONAL FACILITY

The Chairperson opened the telephone hearings filed by inmates at El Dorado Correctional Facility.

Claim No. 6297, Claimant, Luke Reed #38178
v. Respondent, Kansas Department of Corrections
due to loss of property in the amount of \$507.99

Claimant summarized his claim. He stated he sent mail to the Governor, the Attorney General's office, and the Secretary of Corrections. The mail was not received.

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Respondent stated KDOC records show that he was charged for postage on the days reflected in his claim. KDOC previously sent a memorandum that insurance and tracking on mail is charged by the USPS and inmates would have to pay for that service or use a different service. His claims were not substantiated, though the investigation did not include contacting the addressees, as the burden is on the claimant to prove his claim. The Respondent recommended the claim be denied.

Following discussion, the Joint Committee recommended that Claim No. 6297 be denied. (See section captioned "Committee Action and Recommendation.")

Claim No. 6304, Claimant, Clyde L. Sullivan #44512
v. Respondent, Lansing Correctional Facility
due to loss of property in the amount of \$25.32

Claimant summarized his claim by stating his property that was stored while he was in segregation was not returned to him.

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Respondent stated the Claimant did not submit a property claim when the property was not returned to him. His stored property was not sent to the facility to which he was transferred. There is some problem with the record keeping within the facility. He did not file a property claim in July 2009, but filed a grievance in December 2009; and the inmate did not file an appeal with the Secretary of Corrections. Respondent recommended that this claim be denied.

Following discussion, the Joint Committee recommended that Claim No. 6304 be denied. (See section captioned "Committee Action and Recommendation.")

Claim No. 6305, Claimant, Lexie Covington #79731
v. Respondent, Ellsworth Correctional Facility
due to personal injury in the amount of \$5,000

Claimant summarized his claim by stating that, while incarcerated at Ellsworth Correctional Facility, he was taken off a medically prescribed diet. He states he has had an irreversible idiopathic kidney disease for 15 years, and has had blood in his urine since being taken off the diet. He has put in many grievances about the restrictive food non-compliance. The lab work after the fact showed blood in his urine (his creatinine levels were 1.4-1.6), but he has still not seen a kidney specialist.

Respondent, Libby Snider, KDOC, stated the Claimant had not complied with the restricted diet, so he was removed from the diet. The physician ordered the diet be discontinued. Claimant went on a hunger strike; he became non-compliant; and would not take medications. He was started back on the restrictive diet, with which he did not stay compliant. She recommended the claim be denied.

Following discussion, the Joint Committee recommended that Claim No. 6305 be denied. (See section captioned "Committee Action and Recommendation.")

CARRIED OVER – HEARING

**Claim No. 6292, Claimant, Kristian D. Van Meteren
v. Respondent, Kansas Governmental Ethics Commission
due to reimbursement of legal defense expenses in the amount of \$12,647.18**

Cindy Lash, KLRD, informed the Committee that photocopies of the legal billings for which Mr. Van Meteren is asking for reimbursement have been included in their claims packets.

Claimant summarized his claim. The Claimant stated his mother ran for a state Senatorial seat in the 2008 campaign. As Campaign Advisor, he brought questionable expenditure information regarding the incumbent's campaign finance report to the Governmental Ethics Commission. After a few months, the Ethics Commission told him he would have to file an actual complaint against the incumbent for them to investigate the allegations, which he did. The disclaimer on the back of the complaint form speaks to confidentiality, but it appeared to pertain to the Commission staff. Mr. Van Meteren had doubts the Ethics Commission would move forward with any investigation without an additional layer of accountability, so he contacted the press. The press expressed interest in the story; attended an Ethics Commission meeting; and ran an article, thereby tipping off the Commission staff that Mr. Van Meteren had spoken to the press. Within a few days, the Commission launched a complaint against Mr. Van Meteren for violating the confidentiality provisions of the law; began speaking with many people about Mr. Van Meteren; told Mr. Van Meteren that they could pursue fines against him up to \$15,000 and possible jail time. The Ethics Commission Executive Director told a reporter that Mr. Van Meteren may have violated the law by speaking out, which told the press that he had filed a complaint with the Commission, which violated the same law they were charging him with violating.

The Ethics Commission dismissed without prejudice all complaints against the incumbent Senator, and proceeded with their charges against Mr. Van Meteren. By January 2009, they decided to fine Mr. Van Meteren \$7,500. The Commission referred their case to the District Attorney and the Attorney General's Office, both of whom refused to prosecute. The entire time, from October 2008, Mr. Van Meteren and his legal team protested the unconstitutionality of the confidentiality requirement. As soon as they fined him, he filed an appeal with the Shawnee County District Court; the Commission contacted the Attorney General to represent them in the appeal. The Attorney General came back to the Commission and told them that what they were doing was in fact unconstitutional and the case was dropped.

Mr. Van Meteren is asking for reimbursement of the cost of the legal fees he was required to spend defending his constitutional rights against the state government. He stated he was referred to the Stegel Law Firm for their strength in constitutional law.

**Respondent, Kansas Governmental Ethics Commission
represented by Judy Moler, Kansas Governmental Ethics Commission**

Judy Moler, Kansas Governmental Ethics Commission, stated that since 1974, the Commission has never had an issue with anyone breaching confidentiality. That is why he was fined \$7,500 on February 18, 2009; which he appealed with the Shawnee County District Court. The Commission went to Assistant Attorney General Leitch regarding the constitutionality of the law, who stated the law, if the confidentiality were required of the complainant, is unconstitutional. There has been no litigation on the unconstitutionality of this law. The Commission changed its rules and regulations.

The Commission withdrew the fine and the case was dismissed on May 13, 2009. They changed the rules and regulations of the Governmental Ethics Commission to apply the confidentiality rule to just the Commission and the staff.

A Committee member asked if the Ethics Commission must be silent on charges until probable cause is found and the hearing is conducted, and how long this would be.

Ms. Moler answered that she thinks the time frame is not more than 60 days, usually. The Commission works as quickly as it is able, but an investigation must be launched. First, the complaint is filed; parties are notified; the investigation is pursued by the Ethics Commission; and they take their findings to the Commission to see if there is a sufficiency to move forward with charges. If there is sufficiency the Probable Cause Committee meets and sets a hearing at the next meeting. They may file for a delay, if necessary.

Following discussion, the Joint Committee recommended that Claim No. 6292 be allowed for \$9,452.18 from the State General Fund (SGF). (See section captioned "Committee Action and Recommendation.")

HEARING

Claim No. 6300, Claimant, Darrin and Jennifer Collette
v. Respondents, Kansas Department of Revenue and the Attorney General's Office
due to undue hardship related to suspension of Kansas Driver's License
in the amount of \$64,924.00

Claimant, Darrin Collette, summarized his claim. He stated that losing his Kansas driver's license (KDL) caused him to file for bankruptcy and caused undue hardship on his family. The reason for losing his KDL was refusing a breath test. The police officers asked for the breath test two hours after stopping him. He said he is diabetic, so any breath test would not be accurate. At the hospital, his blood sugar was 260. He pled guilty to the DUI charge and attempting to flee. The amount of the claim is for the income loss for one year.

The Chairperson explained that the DUI charges were criminal charges; the suspension of his KDL is a civil matter. DUI and refusal to take breathalyzer test are two separate issues.

Respondent, Kansas Department of Revenue (KDOR)
represented by James Bartle, General Counsel, KDOR

Respondent stated in his written response his recommendation was that this claim be denied. There was a request for an administrative hearing before a hearing officer, who upheld the suspension of the KDL. The Claimant did not appeal to district court. The Claimant notified the Attorney General's office that he intended to sue the State of Kansas. There is no litigation pending; his lawyer advised that if he appealed the decision, it would have been upheld, and would have cost him an additional \$1,500.

The Claimant is seeking out-of-pocket expenses that are consequential damages from his violation of the law, but no infringement of his rights, which caused the suspension of his license.

Following discussion, the Joint Committee recommended that Claim No. 6300 be denied. (See section captioned "Committee Action and Recommendation.")

HEARING

Claim No. 6311, Claimant, Saunge, Inc.

represented by Beth Goertz

v. Respondent, Kansas Department of Revenue (KDOR)

due to overpayment of retailer's sales tax in the amount of \$8,776.41

Claimant summarized her claim by stating Saunge, Inc., her daughter's grocery store, overpaid retailer's sales tax in the amount of \$8,776.41 over the course of the three years prior to last year. She detailed the misunderstanding when completing the online form, compared with the previous paper form for filing/paying retailer's sales tax. Their belief was that the statute of limitations was still three years, instead of less. One year's overpayment has been refunded; a claim against the state is required to be refunded anything further back.

Respondent, Kansas Department of Revenue (KDOR)

represented by James Bartle, General Counsel, KDOR

Respondent stated there has been a partial refund of the overpaid taxes, going back one year; KDOR has refunded all they can lawfully refund to Saunge, Inc. Saunge, Inc. did overpay the sales tax. There were three monthly periods when the taxes were remitted correctly. It is unknown why the other periods were incorrect. There was no error in the system. Deductions have to be input, because in different jurisdictions, there are different tax rates charged. If statute of limitations was still three years, they would have paid \$7,000 more; if no statute of limitations, they would have paid another \$1,500. The total amount claimed in the Saunge, Inc. Claim, \$8,776.41, the total of all overpayments that have not been refunded.

Several years ago, there was a similar claim, Claim No. 6001, Benchmark Industries, where the Department did not have the jurisdiction, due to statute of limitations, to pay a refund of overpaid sales taxes. The Committee recommended partial refund of what was claimed, approximately 57 percent.

A Committee member asked Mr. Bartle to explain how a business owner is to learn how to use the online system to complete these tax forms correctly.

Gary Sentler, Designer of Sales Tax Software, Technology Officer, KDOR, stated the systems are created to be as intuitive as possible. The instructions are laid out line-by-line, and there is a tutorial on the first page. These taxes can still be filed by paper; for an exception, call (785) 296-8222 to order forms.

A Committee member asked if the state is underpaid, is the one-year statute-of-limitations applicable. Mr. Bartle answered the state has three years to collect, not one year.

Mr. Bartle stated KDOR must work within the statutes, and the statute-of-limitations that is in place at the time of applying for the refund is the statute KDOR must acknowledge. Knowing the taxes were overpaid for more than one year, KDOR is capable of refunding overpayment on the last year only. The taxpayer may appeal the process, and there may be negotiations for a settlement.

A Committee member asked if an overpayment would be applied as a credit toward future payments. Mr. Bartle stated that, according to the statute, it says a credit or a refund are allowed, but the limitation would still be one year.

A Committee member asked if the roles were reversed, would there be penalties and interest charged. Mr. Bartle answered there would be penalties and interest charged.

Following discussion, the Joint Committee recommended that Claim No. 6311 be allowed for \$7,064.10. (See section captioned "Committee Action and Recommendation.")

CLAIMS FROM INMATES AT LANSING CORRECTIONAL FACILITY

The Chairperson opened the telephone hearings filed by inmates at Lansing Correctional Facility.

Claim No. 6306, Claimant, Ernestor Martinez #51459

**v. Respondent, Lansing Correctional Facility
due to loss of property in the amount of \$7.76**

Claimant summarized his claim. He stated KDOC resolved the claim.

**Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC**

Following discussion, the Joint Committee recommended that Claim No. 6306 be denied. (See section captioned "Committee Action and Recommendation.")

Claim No. 6307, Claimant, Craig Pittman #71340

**v. Respondent, Lansing Correctional Facility
due to mistreatment and abuse of process in the amount of \$7,500.00**

Claimant was unavailable for the hearing, as he was in the infirmary.

Following discussion, the Joint Committee recommended that Claim No. 6306 be carried over. (See section captioned "Committee Action and Recommendation.")

Claim No. 6312, Claimant, Sherman L. Galloway #34138

**v. Respondent, Kansas Department of Corrections (KDOC)
due to personal injury and loss of property in the amount of \$721.00**

**Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC**

Respondent stated she recommended payment of this claim for \$108.00.

Following discussion, the Joint Committee recommended that Claim No. 6312 be allowed for \$108.00. (See section captioned "Committee Action and Recommendation.")

Claim No. 6302, Claimant, Carl Butler #45738
v. Respondent, Lansing Correctional Facility
due to loss of property in the amount of \$30.57

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Following discussion, the Joint Committee recommended that Claim No. 6302 be denied. (See section captioned "Committee Action and Recommendation.")

Claim No. 6303, Claimant, Carl Butler #45738
v. Respondent, Lansing Correctional Facility
due to loss of pay – due to discrimination in the amount of \$201.15

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Following discussion, the Joint Committee recommended that Claim No. 6303 be denied. (See section captioned "Committee Action and Recommendation.")

The Chairperson recessed the meeting at 12:00 p.m.

Afternoon Session

The meeting reconvened at 1:30 p.m.

CLAIMS FROM INMATES AT LARNED CORRECTIONAL MENTAL HEALTH FACILITY

The Chairperson opened the telephone hearings filed by inmates at Larned Correctional Mental Health Facility.

Claim No. 6299, Claimant, Jorge Jovel #85033
v. Respondent, Larned Correctional Mental Health Facility
due to loss of property in the amount of \$7.77

Following discussion, the Joint Committee recommended that Claim No. 6299 be allowed in the amount of \$7.77. (See section captioned "Committee Action and Recommendation.")

Claim No. 6315, Claimant, Lavette Parker, Sr. #52447
v. Respondent, Lansing Correctional Facility
due to property damage in the amount of \$140.00

Claimant summarized his claim. He stated, upon his return from segregation and receiving his property, his television was broken. It had worked prior to being stored.

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Respondent stated that Mr. Parker had a television in his possession upon being moved to segregation. It was returned to him; no damage was recorded upon that return. Mr. Parker claimed he was illiterate and could not read the inventory sheet or make notation, but a button was missing. He did not state whom he notified. He was in possession of the television for two weeks before filing an internal property claim. She recommended the claim be denied.

Mr. Parker said that the two week delay prior to filing the property claim was due to needing to get a notary.

Following discussion, the Joint Committee recommended that Claim No. 6315 be denied. (See section captioned "Committee Action and Recommendation.")

CLAIMS FROM INMATES AT
NORTON CORRECTIONAL FACILITY

Claim No. 6316, Claimant, Stanley Szczygiel #31809
v. Respondent, Kansas Department of Corrections
due to personal injury in the amount of \$1,524,796.00

Claimant did not appear for his hearing.

Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC

Respondent stated Mr. Szczygiel's appeal in court was denied; he has 30 days for the Supreme Court to petition for review.

Following discussion, the Joint Committee recommended that Claim No. 6316 be denied. (See section captioned "Committee Action and Recommendation.")

WITHDRAWN CLAIMS

Claim No. 6308, Claimant, University of Kansas Hospital Authority
v. Respondent, State of Kansas and Kansas Highway Patrol
due to payment for medical treatment of individual while in state custody in the
amount of \$10,327.46

Claimant requested withdrawal of claim.

Following discussion, the Joint Committee recommended that Claim No. 6308 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")

Claim No. 6309, Claimant, Kansas University Physicians, Inc.
v. Respondent, State of Kansas and Kansas Highway Patrol
due to payment for medical treatment of individual while in state custody in the
amount of \$541.97

Claimant requested withdrawal of claim.

Following discussion, the Joint Committee recommended that Claim No. 6309 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")

CARRIED OVER – HEARING

Claim No. 6234, Claimant, Roland D. French
v. Respondent, State of Kansas
due to illegal incarceration in the amount of \$80,000.00

Claimant did not appear for his hearing.

Following discussion, the Joint Committee recommended that Claim No. 6234 be denied. (See section captioned "Committee Action and Recommendation.")

RECONSIDERATION – HEARING

Reconsideration of Motor Fuel Tax Refunds

Following discussion, Representative Grant moved, Senator Masterson seconded the motion, and the motion carried to reconsider the Motor Fuel Tax Refunds.

Dylan Dear, KLRD, discussed with the Committee that on the spreadsheet presented earlier that the Committee had approved KDOR had failed to deduct \$15 or 10 percent from each claimed refund. The revised spreadsheet was distributed. The new total was \$34,190.95.

Following discussion, Representative Grant moved, Representative Huebert seconded the motion, and the motion carried to recommend that Motor Fuel Tax Refunds be allowed in the revised amount of \$34,190.95.

CLAIMS FROM INMATES AT HUTCHINSON CORRECTIONAL FACILITY

Claim No. 6301, Claimant, Robert Johnson #55533 **v. Respondent, Kansas Department of Corrections** **due to personal injury in the amount of \$125,000**

Claimant summarized his claim. He stated he was injured on KDOC bus from El Dorado Correctional Facility to Hutchinson Correctional Facility. He noted the bus driver was negligent by hitting a curb. The bus has a defective design, as there are no seat belts, or handles to which a shackled individual may hold. Claimant injured his head, neck, and back when the bus hit the curb and threw him across the bus.

Respondent, Kansas Department of Corrections (KDOC) **represented by Libby Snider, Legal Counsel, KDOC**

Respondent stated the claim is for future medical bills, including physical therapy, medication, operations, and hospital stays, as well as loss of work time, legal and attorney fees, and pain and suffering. An incident report was filed, which stated the claimant fell and was injured when the bus turned a corner, at no more than 10 mph. There was no mention of hitting a curb. He was seen by medical staff. The next day, Claimant asked to go to the medical unit, claiming he had fallen and hit his head on the toilet. Again, photos were taken. Claimant filed a grievance; he should have filed a personal injury claim. Respondent recommended the claim be denied.

Claimant stated he filed the grievance at the recommendation of staff. He stated there are video cameras on the buses.

Respondent said no video tape was reviewed or mentioned in the incident report. Denying without prejudice would allow him to file appropriately; however, filing a personal injury claim now may be moot, as it should have been filed within 15 days of the injury, and in no case more than a year.

The Chairperson directed the Respondent to provide Claimant with the appropriate personal injury form for the internal claim, so that the internal investigation is commenced.

Following discussion, the Joint Committee recommended that Claim No. 6301 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")

Claim No. 6313, Claimant, James Matthew Simmons #48347

v. Respondent, Kansas Department of Corrections (KDOC) and Lansing Correctional Facility (LCF)

due to infringement of personal rights in the amount of \$9,950.00

Claimant summarized his claim. He stated an officer at LCF would sign him up for law library passes, court passes, notary services, and Islamic prayer call-out passes, but then the officer would scratch his name off the list, thereby keeping him from being allowed to go to these places.

**Respondent, Kansas Department of Corrections (KDOC)
represented by Libby Snider, Legal Counsel, KDOC**

Respondent stated throughout the claim he referred to "the attached grievance," yet there were no grievances attached to the claim, so she could not investigate the claim without dates, or specific allegations, as he has over 20 grievances on file in the facility.

Following discussion, the Joint Committee recommended that Claim No. 6313 be denied. (See section captioned "Committee Action and Recommendation.")

HEARING

Claim No. 6298, Claimant, Todd Luke

v. Respondent, Kansas State Fair

due to damage to property in the amount of \$300.00

Cindy Lash, KLRD, summarized the claim. Mr. Luke's car was towed from the state fairgrounds for being parked in the wrong area. Mr. Luke states his car was not illegally parked.

**Respondent, Kansas State Fair
represented by Denny Stoecklein, General Manager**

Respondent, on the phone, was joined by Mike Ratliff, Mike's Auto Service, whom he has worked with for 26 years. Claimant's daughter's car had been towed. The Claimant called the Respondent the same day. She had parked in the blue lot, which was the correct lot, but parked in a reserved space; there is also general parking in the lot. She had not paid for a reserved space, so they needed to remove her car so the person that had paid a premium price for the reserved spot could have the parking spot. She told the Respondent that she had parked where the exhibitor for whom she worked had told her to park. Respondent offered to split the cost of the \$50 towing fee with the Claimant, as a public relations gesture. This was not acceptable to the Claimant. Respondent sent the Claimant a claim form. Mike's Auto discussed the alleged damage and said they could not have done said damage by towing the vehicle. Claimant did not follow up with the towing service. However, he did speak with the Fair Board President; seemed accepting of the half payment for the towing charge; but has not informed the Respondent of where to send the \$25. Respondent recommended the claim be denied.

Following discussion, the Joint Committee recommended that Claim No. 6298 be denied. (See section captioned "Committee Action and Recommendation.")

HEARING

Claim No. 6310, Claimant, Fred H. Fishman

v. Respondent, University of Kansas

due to refund of overpayment of tuition in the amount of \$12,302.40

Claimant summarized his claim. He stated the University of Kansas reclassified his son's residency status for his sophomore year to nonresident. He had not submitted the appropriate form for renewal of nonresident status for his sophomore year. The University told him they had emailed a message of the need for resubmission of the nonresidency request. Claimant is now unemployed and seeking work in Kansas. A paperwork error should not cost him more than \$12,000. He does not have access to the billing amounts in the fine print, as the student loans are paid directly without his involvement.

Claimant's son attended the University of Kansas as a Kansas-resident freshman in 2008-2009; as a non-resident of Kansas sophomore 2009-2010; and Kansas-resident junior 2010-2011. University personnel say they are not authorized to reverse the charges or reimburse the funds.

Respondent, University of Kansas

represented by Rachel Rolf, Assistant General Counsel

Respondent stated the Claimant's son received a special provision fee-waiver: stating even though domiciled less than 12 months in the state, he is charged Kansas residency tuition. It is a fee-waiver, not a change of residency status, due to the father's employment transfer. The fee-waiver allows a 12 month grace period, at the conclusion of which they can apply as a resident of the state. But the student must apply as a resident. The Claimant's son did not apply as a resident. The burden is on the student to prove residency. Retroactive refund of overpayment used to be done, but is not done now. They now enforce the 30-day appeal deadline. Examples of extenuating circumstances which would warrant waiving the deadline would be the student being overseas in active service in the armed forces or an administrator giving misleading information. Respondent recommended the claim be denied.

A Committee member stated the the burden is still on the student; the student is asking that the University belatedly change the classification. A Committee member asked if there is a specific notice of the 12-month period for this status at the time the waiver is initially presented. In the supporting documentation, the attachment labeled 1A shows that it is a fee-waiver, but does not show duration of said waiver. That information would have been shared through the residency office. The waiver is for one year. More information is sent to students currently. If a student is a domiciliary dependent, his residency is dependent upon his parents' residing in Kansas. The student's first paperwork when enrolling shows their residency status and that status does not change until the student applies for a change in status. The University sends many emails, but has changed its policy and sends more notices to parents of this change in tuition amounts.

Following discussion, the Joint Committee recommended that Claim No. 6310 be allowed for \$12,302.40 from University of Kansas. (See section captioned "Committee Action and Recommendation.")

HEARING ON RECONSIDERED CLAIM

Claim No. 5940, Claimant, Eldon L. Ray

v. Respondent, State Board of Technical Professions

due to punitive damages and out-of-pocket expenses in the amount of \$8,422.00

Claimant summarized his claim. He stated, after the construction of his church in Mayetta was completed, an article was published in the newspaper about church volunteers building a new church and the 85-year-old man who, with his mechanical drafting experience, drew the plans for the work. They got a permit from the city, who asked nothing about him going through an architect; and the truss-rafter design, by Perfection Truss Company of Topeka, was approved.

After the construction was finished, the State Board of Technical Professions sent him a letter asking for the detailed plans. He furnished them everything he had. They sent him a letter fining him \$500 for helping to build the church. He hired a lawyer. The letter from the Board said he had designed the truss rafters; they asked him to sign a piece of paper confirming this; he would not sign it. He never claimed to be an architect or engineer, just a draftsman. State inspectors came in to inspect the church building and gave it positive marks, above and beyond. His lawyer discovered a volunteer for a non-profit organization could not be sued.

He is claiming only \$3,122 to pay his lawyer; the rest of the original claim amount was recommended by a friend for pain and suffering.

Respondent, State Board of Technical Professions

represented by George Barbee, Head of the Legislative Committee for the State Board of Technical Professions

The Society of Architects notified the Board that no architect or engineer was used in the construction of the building. As Mayetta does not have building officials, and they evidently did not require an architect or engineer to present plans to get a building permit, the Complaint Committee on Board heard the matter. We prepared a settlement agreement that consisted of a \$500 fine, it suggested he cease-and-desist from doing this type of work, and he have a review by an architect and engineer of the building. The review was done; the fine was paid by the church, but because the House of Representatives in the Appropriations Bill on the last day of Session decided in a proviso that the Board should not pursue this further, the settlement agreement was not signed, and the money was returned to the church. There never was a hearing. The Board believes money from licensed individuals should not be used to reimburse unlicensed individuals for practicing without licensure. The Respondent recommended the claim be denied.

Respondent stated the Board, with the aid of the State Fire Marshal, has prepared a brochure for distribution to all building officials in the state, outlining the statutes they should be aware of when granting building permits requiring architects and engineers for building public building. There are exemptions to this law. The problem with doing any project like this without compensation makes the liability great. The Board had an architect and an engineer review the project; they did not do any destructive work to look internally into walls and so forth.

A Committee member asked what the Board's liability was prior to notifying the Claimant now. Respondent stated they have no liability, only the duty to protect the public health and welfare. The church seemed to be assuming the liability when having volunteers constructing

the building; and their insurance carrier, when agreeing to cover the church, would have checked out the building.

A Committee member asked what authority does the Board have over those not licensed to practice architecture or engineering. The Respondent stated it has the authority to fine those who are not licensed, as well as subpoena and prosecute those not licensed by the agency.

Following discussion, the Joint Committee recommended that Claim No. 5940 be allowed in the amount of \$3,122.00 to be paid by State Board of Technical Professions. (See section captioned "Committee Action and Recommendation.")

HEARING

Claim No. 6314, Claimant, Gary G. Anderson

**v. Respondent, Kansas Department of Social and Rehabilitation Services (SRS)
due to personal injury in the amount of \$1,500.00**

Claimant was not present for the hearing.

Cindy Lash, KLRD, summarized the claim. The claim form stated the claimant was arrested on a 28-year-old warrant for failure to pay child support. He stated his child support was paid in full in 2005.

Respondent, Kansas Department of Social and Rehabilitation Services (SRS) represented by Randy Barker, SRS

Respondent stated the bench warrant was 28-years-old, but it was for a contempt citation for failure to appear. It was not until he tried to buy a house, that he was located. Eventually, the Claimant did pay off the debt he owed, and, evidently, assumed the bench warrant was withdrawn upon satisfaction of payment of child support. However, the bench warrant was not for failure to pay, but failure to appear as ordered, so payment would not satisfy that warrant. Also, SRS cannot file satisfaction of a warrant; the court must call that warrant from the law enforcement agencies.

Following discussion, the Joint Committee recommended that Claim No. 6314 be denied. (See section captioned "Committee Action and Recommendation.")

Vice-chairperson Holmes stated that, in light of the Van Meteren claim, he would like the Committee to recommend to leadership of both chambers that the ethics laws be reexamined, specifically regarding the constitutionality of the laws and whether a family member on the Ethics Commission should recuse themselves upon a family member being investigated by the Commission. Chairperson Owens suggested that he and Representative Holmes make those recommendations in a letter to leadership. *Representative Grant moved the Chairperson and Vice-chairperson sign a letter to both chambers to make sure that there are not constitutional or other violations by the ethics laws; the motion was seconded; the motion carried.* Chairperson Owens requested that Research staff put together the aforementioned letter for Representative Holmes and Senator Owens to sign.

The Chairperson adjourned the meeting at 4:15 p.m.

Prepared by Kathy Letch
Edited by Dylan Dear

Approved by the Committee on:

March 11, 2011

(Date)

**JOINT COMMITTEE ON
SPECIAL CLAIMS AGAINST THE STATE**

DATE 12/20/10

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
Libby Snider	KDOC
Matt Case	GBA
Edie Martin	KDOR
Patricia Platt	KDOR
Don Sawyer	
Beth Moerty	Savage Inc.
Mark Hoyle	" "
Judy Molen	HGEC
Jennifer Collette	
James Bartle	Revenue
Tom Mulvaney	KSBTP
Forrest Erickson	" "
Jean Boline	" "
George Barbee	" "
DAVE HOFFMAN	KSBTP
Phil Meyer	KSBTP
ML Dyck	KSBTP
FRED FISHMAN & THANH FISHMAN	SELF
Rachel E. Rolf	University of Kansas
Randy Barlow	SRS/KSE

Motor Vehicle Fuel Tax Refunds, 2010

NAME	ADDRESS	CITY	ST	ZIP	AMOUNT
AGCO CORPORATION	PO BOX 4000	HESSTON	KS	67062	\$7,801.70
AMERICA JET	2010 ROGERS CT	SALINA	KS	67401	\$218.16
ARMSTRONG,HAROLD	8920 PARALLEL RD	FRANKFORT	KS	66427	\$81.00
BAILEY,LELAND E	4747 NW 86TH ST	TOPEKA	KS	66618	\$125.16
BARTON COUNTY HIGHWAY DEPT	PO BOX 518	GREAT BEND	KS	67530	\$360.58
BODEN, IGNATZ	958 HWY 128	MANKATO	KS	66956	\$530.93
BRETTON,DARRELL	2037 E 1300 RD	KENSINGTON	KS	66951	\$78.36
BULLER,ELIZABETH	328 RD 370	COUNCIL GROVE	KS	66846	\$182.52
CARTER,CALVIN	1072 ROAD 26	SEDAN	KS	67361	\$57.00
CITY OF CONCORDIA	701 WASHINGTON	CONCORDIA	KS	66901	\$3,030.79
CITY OF ELDORADO	PO BOX 792	ELDORADO	KS	67042	\$957.29
DECATUR COUNTY FEED YARD LLC	2361 HWY 83	OBERLIN	KS	67749	\$218.59
DREIER,ROBERT A	3328 W DUTCH AVE	HESSTON	KS	67062	\$42.60
ELLIOTT, BLAKE	787 PAINT RD	HOPE	KS	67451	\$613.22
FORD COUNTY FEED YARD INC	12466 US HWY 400	FORD	KS	67842	\$380.16
FRAZEE,DENNIS R	2325 US HWY 36	SABETHA	KS	66534	\$43.32
GERING,MARTIN F	1729 RAWLINS RD	ATCHISON	KS	66002	\$33.00
HAMBELTON, PAUL	14619 EDGERTON RD	GARDNER	KS	66030	\$45.72
J & G INC	10200 E ROAD 170	SCOTT CITY	KS	67871	\$122.76
JIRAK FARMS INC	1476 320TH	TAMPA	KS	67483	\$33.00
KINSLEY COUNTRY CLUB	510 E 7TH	KINSEY	KS	67547	\$21.24
MARLATT CONSTRUCTION CO INC	17588 274TH RD	ATCHISON	KS	66002	\$1,150.11
MEISINGER, RICHARD	1522 260TH	MARION	KS	66861	\$102.36
NORTON CO. ROAD & BRIDGE DEPT	15590 WASHINGTON RD	NORTON	KS	67654	\$11,264.76
PETERSON FARM&LIVESTOCK INC	10729 S SIMPSON RD	ASSARIA	KS	67416	\$138.10
PRESTON,FRED	PO BOX 353	HOWARD	KS	67349	\$45.00
RAU FARMS PARTNERSHIP OF LLC	13901 E 47TH S	DERBY	KS	67037	\$19.56
SOLOMON CORP	PO BOX 245	SOLOMON	KS	67480	\$243.00
TALKINGTON,PHYLLIS	423 A R ROAD	MATFIELD GREE	KS	66862	\$86.04
TROYER,NEAL	1577 40TH RD	YATES CENTER	KS	66783	\$128.76
TRUE,LYNN M	120 WEST 3RD ST	SMITH CENTER	KS	66967	\$335.88
TWB INC	922 CRAZY HORSE RD	HUTCHINSON	KS	67502	\$602.21
USD 231 GARDNER EDGERTON	PO BOX 97	GARDNER	KS	66030	\$3,935.11
USD 489 HAYS	323 WEST 12TH	HAYS	KS	67601	\$823.45
WILDCAT CONCRETE SERV INC	PO BOX 750075	TOPEKA	KS	66675	\$339.52

Total \$34,190.96

OVER

**Joint Committee on
 Special Claims Against the State
 December 20, 2010
 Attachment 1**

Selected Highlights, Motor Vehicle Refunds

Summary Statistics

Number of Claims = 35
Total Amount Claimed = \$34,190.96
Average Claim Amount = \$1,005.46
Median Claim Amount = \$183
Range = \$20 to \$11,264.76

Claims by Schol Districts (N = 2)

USD 231 GARDNER EDGERTON	\$3,935
USD 489 HAYS	\$823
Total	\$4,758

Claims by Local Units of Government (N = 4)

BARTON COUNTY HIGHWAY DEPT	\$361
CITY OF CONCORDIA	\$3,031
CITY OF ELDORADO	\$957
NORTON CO ROAD & BRIDGE DEPT	\$11,265
Total	\$15,614

Claims Greater than \$5,000 (N=2)

AGCO CORPORATION	\$7,802
NORTON CO. ROAD & BRIDGE DEPT	\$11,265
Total	\$19,067

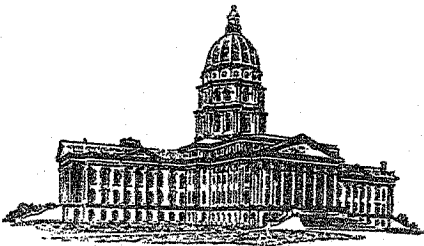
Repeat Filers - 2010 Claimants who also filed in 2009 and /or 2008

AMERICA JET (2008)
CITY OF ELDORADO (2008)
ELLIOTT, BLAKE (2009)
TRUE, LYNN M (2009)
USD 489 HAYS (2009)
WILDCAT CONCRETE SERV INC (2008, 2009)

Source Data: Kansas Department of Revenue

Kansas Legislative Research Data, 12/20/2010

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Joint Committee on Special Claims Against the State
Re: Scope of Authority of the Joint Committee on Special Claims Against
the State
Fr: Mike Heim, Revisor of Statutes Office

The scope or jurisdiction of the Joint Committee on Special Claims Against the State is set by several statutes, some of which are not all that clear.

Generally, a claim is brought by a person before the Joint Committee for consideration due to one the following circumstances:

- (1) when a lawsuit is determined to be too costly which is the reason so many claims are brought by inmates in the state's penal system;
- (2) when a person is unable to bring suit because the statute of limitations has expired;
- (3) when a person has lost in court for any of a variety of reasons, often because an immunity provision under the Kansas tort claims act shielded the state from liability (most recently, the Cormier claim) and the Joint Committee becomes the last resort for one final effort at getting payment;
- (4) in relatively few cases, when filing a claim with the Joint Committee is a condition precedent to filing a lawsuit; and,
- (5) when there is no other way for a person to collect on an expired state warrant or receive a tax refund after the time has elapsed for receiving such moneys.

The following is a listing of relevant statutes with some commentary dealing with various types of claims and the Joint Committee:

1. **KSA 46-903.** The statute, states in part, that "no money or funds shall be disbursed from the state treasury or any special fund of the state of Kansas in part or full satisfaction or payment of any claim or judgment based in whole or in part on an implied contract, unless the payment of such claim or judgment has been specifically authorized by act of the legislature."

The Kansas Supreme Court in *Wheat v. Finney*, 230 Kan. 217 (1981) held that claims based on the legal theory of implied contract must first be presented to the Joint Committee on Claims Against the State as a condition precedent prior to filing a lawsuit.

The court reached its conclusion reading KSA 46-903 together with KSA 46-907. The case dealt with assessments mandated by statutes enacted in 1978 (KSA 74-5612 and 74-5613) for the support of the Kansas Law Enforcement Training Center which were collected for a two-year period until 1980. A Kansas Supreme Court case in 1980 (*State ex rel. Stephan v. Thiessen*, 228 Kan 136 (1980)) declared such assessments unconstitutional because the statutes were contained in a bill that had more than one subject therefore was a violation of the one subject rule of Article 2, Section 16 of the *Kansas Constitution*. Plaintiff had argued two theories—implied contract to prevent unjust enrichment and the tort theory of wrongful conversion. The court held the tort theory was barred by certain immunity provisions in that law that existed prior to the enactment of the Kansas tort claims act and by immunity provisions that are now contained in the tort claims act.

Implied contracts are not always clearly apparent. An express contract is an actual agreement of the parties either orally or in writing where the terms are openly agreed upon or declared at the time the contract is made. An implied contract on the other hand is one not created by explicit agreement of the parties but inferred by law, as a matter of reason and justice from the actions of the parties that make it reasonable or even necessary to assume a contract existed by tacit understanding.

Implied contracts are sometimes divided into those implied in fact and those implied in law. The facts dictate or require that a contract be assumed on the one hand whereas the law, on the other hand, imposes obligations on the person in the second instance to prevent unjust enrichment.

An example of an implied in fact contract is an implied agreement that exists between a mechanic and a customer where the mechanic agree to put new brake pads on the customer's car but in the process discovers the car needs new rotors for safety reasons and replaces these as well. No written or oral agreement exists for the rotor replacement but the customer will be held responsible.

The Joint Committee heard several claims in November 2010, brought against the Kansas Highway Patrol by various medical providers as a result of the provisions of KSA 22-4612 (a) which apparently has created either an actual contract or an implied in law contract. Subsection (a), in part, states:

"...a county, a city, a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care provider or the medicaid rate..."

2. **KSA 46-907.** The statute provides, in part, that "all claims proposed to be paid from the state treasury or any special fund of the state of Kansas, which cannot be lawfully paid by the state or any agency thereof except by an appropriation of the legislature shall be submitted to the joint committee on special claims against the state before final action thereon is taken by either house of the legislature."

3. **KSA 46-913.** Subsection (c) provides that no claim based upon a canceled state warrant shall be considered by the joint committee if such

claim is filed more than five years after the date the warrant originally was issued.

4. **KSA 49-419.** This statute, states in part, that " it is the purpose of this act (KSA 46-912 et seq) to provide an orderly and expeditious procedure to aid the legislature in the consideration and evaluation of those claims against the state which cannot be lawfully paid by the state or any agency thereof except by appropriation act of the legislature. A recommendation by the joint committee on special claims against the state that an award be made to any claimant shall not be construed as a waiver of immunity from liability on the part of the state or any agency thereof nor shall such recommendation impose liability upon the state or any agency thereof in the amount recommended."

5. **KSA 46-920.** Subsection (a) provides that: "the secretary of corrections may reimburse any inmate of any correctional institution or other facility under the secretary's jurisdiction for any personal injury or personal property damage or loss occurring under circumstances which establish, in the secretary's opinion, that such loss or damage was caused by the negligence of the state or any agency, officer or employee thereof. No reimbursement payment shall be made on any claim for an amount of more than \$500. Nothing in this section shall prohibit the crediting of any payment made to an inmate of a correctional institution or other facility under the secretary's jurisdiction to such inmate's account within the institution or facility, as the case may be."

This statute does not mention the Joint Committee but the denial of an inmate's claim by the secretary frequently prompts a filing by the inmate of a claim with the Joint Committee.

6. **KSA 46-924.** The statute provides that "the acceptance by the claimant of any payment made pursuant to this act shall be final and conclusive and shall constitute a complete release of any claim against the state. Otherwise, the claimant shall proceed with a claim against the state as provided by K.S.A. 46-913, and amendments thereto. The joint committee shall have no authority to recommend an award for payment of a claim based on a canceled state warrant if such claim is filed more than five years after the date the warrant originally was issued."

The statute is part of an act (KSA 46-920 et seq) which gives state agencies the ability to pay out relatively small amounts of money (\$1,000 per claim for most state agencies, \$2,500 for the University of Kansas Medical Center and the Kansas Highway Patrol) to compensate persons for personal injury or property damage caused by the negligent acts of state officers or employees and to pay for amount not to exceed \$5,000 for services or purchases for such items not submitted or processed in the fiscal year in which the service was rendered or the purchase was made.

7. **KSA 65-7403.** Subsection (a) provides that "... the secretary is hereby authorized to enter into agreements with primary care safety net clinics, financial institutions, the Kansas development finance authority and other public or private entities, including agencies of the United States government to provide capital loan guarantees against risk of default for eligible primary care safety net clinics in Kansas in accordance with this act. Except as provided in K.S.A. 2010 Supp. 65-7406, and amendments thereto, for payment for a loan guarantee for which

the primary care safety net clinic loan guarantee fund is liable, no claim against the state under this act shall be paid by the state, the secretary of health and environment or any other state agency other than pursuant to an appropriation act of the legislature after such claim has been filed with and considered by the joint committee on special claims against the state. The secretary may enter into agreements with provider-based indigent care clinics for such clinics to act as primary care safety net clinics."

8. KSA 75-6403. Subsection (a) of this statute states that each government agency purchasing or contracting for goods or services from a vendor shall make prompt payment therefor, including payment of any interest penalties due, in accordance with this section.

Subsection (e) provides that in the event a state agency denies liability and alleges grounds to not make payment after a vendor has requested payment therefor in accordance with subsection (c), the state agency shall inform the vendor in writing of the reasons therefor and that the vendor has the right to file a claim on the dispute with the joint committee on special claims against the state.

SENATE BILL NO. _____

By Senator Owens

AN ACT concerning the joint committee on special claims against the state; amending K.S.A. 46-913, 46-914 and 46-920 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 46-913 is hereby amended to read as follows: 46-913. (a) Any person wishing to present a claim shall file the same with the chairperson of the joint committee in writing upon a form to be provided by the joint committee stating the following information:

(1) The name and address of the claimant; the name and address of the claimant's principal, if the claimant is acting in a representative capacity; and the name and address of the claimant's attorney, if the claimant is so represented;

(2) a concise statement of the basis of the claim (including the date, time, place and circumstances of the act or event complained of, if applicable);

(3) a statement itemizing the amount claimed which amount must exceed \$500; and

(4) any other pertinent information requested by the joint committee and a filing fee as established by the joint committee.

(b) The joint committee may establish a filing fee to be paid by any person filing a claim in an amount determined by the joint committee but not to exceed \$25. All fees collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments

thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) (c) Upon the filing of a claim, the joint committee shall inform the claimant in writing of any additional information it will require in order to take action upon the claim.

(c) (d) No claim based upon a canceled state warrant shall be considered by the joint committee if such claim is filed more than five years after the date the warrant originally was issued.

Sec. 2. K.S.A. 46-914 is hereby amended to read as follows:
46-914. (a) Each claim shall be considered by the joint committee as soon as practicable after it is filed. If the joint committee deems a hearing to be necessary or advisable on any claim or if the claimant requests the same, it shall provide for the holding of a hearing and shall give the claimant and the state agency involved, if any, at least ~~fifteen~~ 15 days notice by certified mail of the time and place thereof.

(b) The joint committee shall not be bound by the strict rules of evidence, except when specifically required by its rules but shall admit all testimony having reasonable probative value, and shall conduct all hearings in a fair and impartial manner, giving full opportunity for presentation of evidence and argument.

(c) All officers and employees of the state shall provide such information and assistance as may be deemed necessary by the

joint committee in the investigation and determination of claims filed under the provisions of this act.

(d) The joint committee may appoint one or more subcommittees to hear any claims deemed appropriate for such action. Each subcommittee shall make recommendations to the joint committee which shall take action on the subcommittee's recommendations.

Sec. 3. K.S.A. 46-920 is hereby amended to read as follows:
46-920. (a) The secretary of corrections may reimburse any inmate of any correctional institution or other facility under the secretary's jurisdiction for any personal injury or personal property damage or loss occurring under circumstances which establish, in the secretary's opinion, that such loss or damage was caused by the negligence of the state or any agency, officer or employee thereof. No reimbursement payment shall be made on any claim for an amount of more than \$500. Nothing in this section shall prohibit the crediting of any payment made to an inmate of a correctional institution or other facility under the secretary's jurisdiction to such inmate's account within the institution or facility, as the case may be.

(b) When an inmate owes an outstanding unpaid amount of restitution ordered by a court pursuant to K.S.A. 21-4603, 21-4603d or 21-4610, and amendments thereto, the secretary of corrections shall withdraw from the inmate's trust account as a set-off:

(1) Money received by the inmate from the state as a

settlement of a claim against the state through the joint committee on special claims against the state which is otherwise specifically approved for payment by appropriation act of the legislature, or which is approved through the department of corrections internal claims procedure under this section; or

(2) money received by the inmate from the state as the result of a settlement or a final judgment in a civil action in which the state of Kansas or an employee of the department of corrections was a named defendant and the state was found to be liable.

(c) When an inmate on post release, parole or conditional release supervision owes an outstanding unpaid amount of restitution ordered by a court pursuant to K.S.A. 21-4603, 21-4603d or 21-4610 and amendments thereto, the state shall setoff the unpaid restitution from:

(1) Money payable to the inmate from the state as a settlement of a claim against the state through the joint committee against the state which is specifically approved for payment by appropriation act of the legislature or which is approved through the department of corrections under this section; or

(2) money payable to the inmate from the state as a result of a settlement or final judgment in a civil action in which the state of Kansas or an employee of the department of corrections was a named defendant and the state was found to be liable.

(d) Vouchers certifying the amount to be setoff under

subsection (c) for the outstanding unpaid restitution and any balance remaining payable to the inmate shall be prepared and submitted to the director of accounts and reports of the department of administration.

(e) When more than one state court order of restitution is outstanding and unpaid, moneys shall be applied to and paid for the restitution orders in accordance with this section in the order in which the final judgment orders were entered.

(f) Moneys collected for payment towards outstanding unpaid restitution in accordance with this section shall be forwarded to the appropriate clerk of the district court for disbursement.

(g) No inmate may submit a claim to the joint committee on special claims against the state which may be submitted or has been submitted to the secretary of corrections for payment under this section.

Sec. 4. K.S.A. 46-913, 46-914 and 46-920 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.