



## State Government

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#### Joint Committee on Special Claims Against the State

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# Kansas Legislator Briefing Book 2013

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### W-4 Joint Committee on Special Claims Against the State

Since near the turn of the twentieth century, legislative committees have furnished a venue for persons who thought they were injured in some manner by the activity of a state agency.

The statutory purpose of the present day Joint Committee on Special Claims Against the State is to hear claims for which there is no other recourse to receive payment. The Joint Committee is the place of last resort when there is no other way of appropriating money to pay a claim against the state.

The Joint Committee was the only venue available for these purposes until passage in the early 1970s of the Tort Claims Act which allowed state agencies to accept a limited amount of liability. A Tort Claims Fund established in the Attorney General's Office now offers recourse for other actions brought against the state. The state does assume certain responsibility for its actions under the tort claims statutes; however, there are certain areas under those statutes where the state has no liability.

The fact that state agencies are immune under statute does not mean that a citizen cannot be injured by some action of the state. Because state agencies are immune, a potential claimant may have no remedy other than coming to the Joint Committee. Thus, the claims which come to the Joint Committee involve an issue of equity and do not always involve the issue of negligence on the part of the state or a state employee.

### Committee Membership

The Joint Committee on Special Claims Against the State has 13 members, consisting of five members of the Senate and eight members of the House of Representatives. Two House members and two Senate members must be attorneys licensed to practice law in the State of Kansas. Additionally, at least one Representative must be a member of the House Committee on Appropriations and at least one Senator must be a member of the Senate Committee on Ways and Means. The

chairpersonship of the Joint Committee alternates between the House and Senate members at the start of each biennium. The members appointed from each chamber must include minority party representation. Any seven members of the Joint Committee constitutes a quorum. Action of the Joint Committee may be taken by an affirmative vote of a majority of the members present, if a quorum is present.

## Claims Process

The claimant starts the claims process by completing and submitting a claim form.

The claim form is available on the Internet through both the Legislature's website and the Legislative Research Department's website, or it may be requested in hard copy by contacting the Legislative Research Department.

None of the rules of evidence apply to the Joint Committee. It is an informal environment which contains no impediments to getting the issues to the forefront. Therefore, the Joint Committee is considered a court of equity.

The claim form includes a portion in which the claimant indicates whether he or she wishes to appear in person for the hearing. In-person hearings for claimants who currently are incarcerated are conducted *via* telephone conference.

Claimants who request to appear in person for their hearing are notified 15 days in advance of the hearing *via* certified mail as prescribed in KSA 46-914. Additionally, the claim form includes a portion that must be notarized prior to consideration of the claim.

The Joint Committee is specifically prohibited by KSA 46-913 from hearing claims involving canceled state warrants if the claim is filed more than five years after the warrant was originally issued.

The 2005 Legislature amended KSA 46-921, which authorizes the Division of Accounts and Reports to make payment for a canceled warrant, except the authorization expires four years from the date of cancellation of the warrant. Any such payment shall be in the amount denoted on the canceled warrant less 10 percent or \$30, whichever amount is less. All claims under this section are paid from the Canceled Warrants Payment Fund.

State agencies and employees are charged with providing the Joint Committee with information and assistance as the Committee deems necessary.

The Joint Committee is authorized by KSA 46-917 to adopt procedural guidelines as may be necessary for orderly procedure in the filing, investigation, hearing, and disposition of claims before it. The Joint Committee has adopted twelve guidelines to assist in the process. These guidelines are available on the Internet through both the Legislature's website and the Legislative Research Department's website, or can be requested in hard copy by contacting the Legislative Research Department.

The Joint Committee traditionally holds hearings during an Interim Session from June through December of the year. The Committee is mandated by statute to hear all claims filed by November 1st during that Interim Session.

The Committee can meet during the Legislative Session only if both the President of the Senate and the Speaker of the House of Representatives authorize the meetings, pursuant to KSA 46-918.

## Committee Recommendations

The Joint Committee makes recommendations regarding the resolution of the claims and is not bound by rules of evidence. The Committee is required by KSA 46-915 to notify the claimants of its recommendation regarding the claim within 20 days after the claims hearing.

The Joint Committee submits its recommendations for payment of claims it has heard in the form of a bill presented to the Legislature at the start of each session.

## Claims Payments

Payment for claims that are approved by the Legislature and signed into law by the Governor are paid by the Division of Accounts and Reports. Prior to such payment being made, claimants are required to sign a release.

When an inmate owes an outstanding unpaid amount of restitution ordered by a court, money received by the inmate from the state as a settlement of a claim against the state is withdrawn from the inmate's trust account as a set-off, per KSA 46-920.

For more information, please contact:

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