

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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March 19, 2013

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

**From:** Dylan Dear, Principal Fiscal Analyst

**Re:** HB 2195 - The Claims Bill

*During the 2013 Interim:*

Excluding Motor Vehicle Fuel Tax, the Joint Committee on Claims Against the State heard 100 claims, of which 90 claims or 90.0 percent of which were filed against the Department of Corrections or the correctional facilities.

**The House Appropriations Committee's recommendations in HB 2195 totals \$349,462, including \$144,718 from the State General Fund for FY 2014. The recommendation also includes \$268,610, including \$107,878 for FY 2014 and \$268,610, including \$107,878 for FY 2015.**

**The House Appropriations Committee amended the original recommendation to make the Presta Claims payable from Kansas Department of Revenue Operating Funds rather than the State General Fund.**

**Section 2 pages 1-2** Motor Fuel Claims totaling \$43,503.74. Refunds paid by the Department of Revenue must be received within one year after the date of purchase. If the refund request is submitted after that date, only option is to file claim with Joint Committee on Claims Against the State. Refunds are allowed for taxes paid on fuel used for off-highway uses, including school buses and farming.

**Section 3 pages 2-4** The Committee's recommendation includes \$507.90 from the Department of Corrections or the correctional facilities. Of this amount, the majority, \$325.30 was for the loss or invalid confiscation of two television sets. There are also four pair of shoes, a watch, a wedding ring and some magazines.

**Section 4(a) - (c) page 4** The Committee recommends the payment of \$482,195.94, paid over three consecutive fiscal years starting in FY 2014, to Terry Presta, former owner of Presta Oil, Inc due to incentive payments not reimbursed from the Kansas Retail Dealers Incentive Fund. Mr. Presta stated his company built ethanol distribution facilities in four cities to comply with the incentive. The company spend nearly \$1.5 million based on promised incentives. The amount claimed is the total amount of incentive payments he calculates he should have received.

Senate Ways and Means Committee

Date: 3-19-2013

Attachment #: 1

The facts as I understand them are as follows: HB 2145, an alternative energy bill, was approved by the Governor on May 11, 2007 and contained provisions for Petroleum Meter Inspections, Parallel Wind Generation, Retail Biofuels Incentives, and Above Ground Storage Tanks. The bill also created the Kansas Retail Dealer Incentive Fund (KRDIF) which provides, for any quarter in which a retail dealer sells renewable fuels from a fixed location, the retail dealer will be eligible for an incentive of \$0.065 per gallon of renewable fuels sold. In order to fund this incentive, a maximum of \$400,000 will be transferred quarterly from the SGF starting on January 1, 2009 to the Retail Dealer's Incentive fund and the balance will be capped at \$1.5 million.

Governor Sebelius in HB 23, the 2009 Recission bill, recommended that no transfers be made to the KRDIF for the Fiscal Year ending June 30, 2009 and any transfers made to date shall be reversed and returned to the State General Fund. The Legislature adopted this recommendation and it became law on March 5, 2009. By my understanding, under the law two transfers of \$400,000 should have occurred prior to this date and those transfers would have been reversed when the bill became law after the line item vetoes were sustained.

The Legislature went on to further delay any transfers to the KRDIF through FY 2014 in 2010 SB 572, 2011 HB 2014 and 2012 SB 294.

**Section 5 (a) - (c) page 4-5** The Committee recommends the payment of \$323,633.73 over three fiscal years starting with FY 2014 to the City of Hutchinson due to underpayment of TIF reimbursement. The City of Hutchinson discovered errors in its filings for TIF reimbursements for 2009, 2010, and 2011. The error was discovered after the person who had been preparing the requests left city employment. A number from the 2008 filing was brought forward incorrectly, and resulted in erroneous filings for three years. The underpayment by the State was \$107,877.91 each year.

The purpose of the TIF filing is to reimburse cities for reduced revenues from taxes in Redevelopment Districts caused by a reduction in the mill levy in the statewide school finance formula.

**Section 6 page 5** The Committee recommends the payment of \$36,840.43 from the State General Fund to reimburse Sedgwick County for legal expenses incurred relating to a sexually violent predator proceeding pursuant to KSA 59-29a04. Sedgwick County submitted claims totalling \$40,760.88 and the Attorney General paid the County \$4,280.45, the remaining balance in the Sexually Violent Predator Expense Fund.

KSA 59-29a04 provides that whenever a determination is made regarding whether a person may be a sexually violent predator, the county responsible for the costs shall be reimbursed by the office of the Attorney General from the Sexually Violent Predator Expense fund. If there are no moneys in the fund, the county may file a claim against the state.

Sedgwick County's total claim submitted on May 18, 2012, was for \$40,760.88 for expenses incurred from 2008 up to the date submitted as follows:

- \$ 10,034.00 2010 PR 881 In re James Rowray (jury trial)
- \$ 1,500.00 2001 PR 266 In re Edward Johnson (post commitment)
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- \$ 4,204.01 2001 PR 266 In re Edward Johnson (post commitment)
- \$ 11,503.32 2007 PR 816 In re Robert Ontiberos (jury trial)
- \$ 8,317.09 2007 PR 697 In re Lenny Lowry (jury trial)
- \$ 3,702.46 2008 PR 645 In re Michael Chubb (jury trial)

**Section 7 page 5** Requires signed releases prior to payment being made.

**Section 8 page 5** Act effective upon publication in the Register.

