



Joint House/Senate Subcommittee on Claims

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To: Rep. Mary Murphy
From: Jason F. Kuenle, Subcommittee Legal Counsel
Date: April 9, 2021
Re: Summary of 2021 claims amendment

The annual claims bill for 2021 was introduced in the Senate as S.F. 2269, and in the House as H.F. 2360. After the subcommittee meeting on April 7, 2021, identical author's amendments have been prepared for each body.

The 2021 claims bill appropriates a total of \$248,356.28. The subcommittee approved one claim under the Imprisonment and Exoneration Remedies Act (Minnesota Statutes sections 611.362 to 611.368).

- \$ 108,684.65 to **Nicholas Mark Peterson**. Mr. Peterson plead guilty and was convicted of possession of a firearm by an ineligible person. The Minnesota Supreme Court held in another case that the BB gun Mr. Peterson possessed was not a firearm for purposes of the statute that he was convicted under. The claimant's conviction was vacated. Mr. Peterson served 572 days in prison and 220 days on supervised release.

The remaining claims in the bill relate to personal injury claims against the Minnesota Department of Corrections.

- \$ 1,180.63 to reimburse the DOC for claims under \$7000 and other claims already paid by the department between March of 2019 and February of 2021 for injuries under the community work service or sentence-to-service programs. There were 3 of these claims.
- \$ 3940 to **Nicholas Edwards** for permanent injuries to his right index finger while performing assigned duties at MCF – Moose Lake. Mr. Edwards had a portion of the finger crushed by a grommet machine. He was rushed to the hospital, where the hospital staff determined that the proper treatment was a partial amputation. The amputation equals a 5% worker's compensation rating, or \$ 3940.
- \$ 85,743 to **Steven Kulkay** for permanent injuries to his left hand while performing assigned duties at MCF – Faribault and compensation for loss of wages. Mr. Kulkay's left middle, ring, and little finger were amputated and significant damage to his index finger was sustained when the fingers

were cut by a beam saw. The amputations and damage to his index finger equal a 26.56% worker's compensation rating, or \$28,581. Because of the lack of documentation regarding Mr. Kulkay's pre-injury work history, the subcommittee used a multiplier of the injury amount to compensate for the loss of wages resulting from the injury. The final recommendation was for a total of three times the injury rating or \$85,743. His \$8 claim fee is also reimbursed for a total of \$85,751.

- \$5600 to **Michael Schmidt** for permanent injuries to his back sustained while performing assigned duties at MCF – Rush City. Mr. Schmidt was mowing the facility football field when he stepped into a hole and felt two pops as he fell. Mr. Schmidt suffered a L3 compression fracture and a L2 anterior-inferior corner fracture. The fractures equal a 7% workers compensation rating, or \$5600.
- \$43,200 to **James Vandevender** for permanent brain injuries sustained while performing assigned duties at MCF – Rush City. Mr. Vandevender was assaulted by another offender with a wooden board. Claimant sustained a traumatic brain injury. Rating brain injuries under workers compensation requires a combination of medical evaluations and functional performance. Given the controlled nature of a correctional facility some of these functional performance questions, specifically those relating to levels of required supervision and employability, are currently difficult to observe. At a minimum, claimant has mild impairment of complex cerebral function demonstrated by psychometric testing and able to live independently but requiring supervision with executive function. Claimant also has mild emotional disturbance present at all times but can live independently and relate to others. Combined, these equal a 36% workers compensation rating, or \$43,200. Unlike the usual recommendation from the subcommittee, this is not a recommendation for full and final payment, but one for the minimum ascertainable disability amount. Any future recommendation for full and final payment will have this amount subtracted from it.

Under Minnesota Statutes 270A.03, Subd. 7, payments made in the annual claims bill are subject to revenue recapture (i.e. for debts to the state and other governmental entities, and for restitution).