

SENATE BILL No. 264

By Committee on Ways and Means

2-22

1 AN ACT concerning ~~the attorney general~~ **substance abuse; relating to the**
2 **mitigation thereof**; enacting the Kansas fights addiction act;
3 **prescribing powers, duties and functions of the attorney general**
4 **related thereto**; providing for the expenditure of moneys recovered in
5 opioid litigation; **transferring a portion of such moneys annually for**
6 **the operation of the prescription monitoring program**; establishing a
7 grant program to address the effects of substance abuse and addiction;
8 Kansas fights addiction grant review board; Kansas fights addiction
9 fund, **municipalities fight addiction fund and prescription monitoring**
10 **program fund**.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. Sections 1 through 7, and amendments thereto, shall be
14 known and may be cited as the Kansas fights addiction act.

15 Sec. 2. As used in sections 1 through 7, and amendments thereto:

16 (a) "Act" means the Kansas fights addiction act.

17 (b) "Covered conduct" means any conduct covered by opioid
18 litigation that resulted in payment of moneys into the Kansas fights
19 addiction fund.

20 (c) "Defendant" means a defendant or putative defendant in any
21 opioid litigation.

22 (d) "Moneys that are received" includes damages, penalties, attorney
23 fees, costs, disbursements, refunds, rebates or any other monetary payment
24 made or paid by any defendant by reason of any judgment, consent decree
25 or settlement, after payment of any costs or fees allocated by court order.

26 (e) "Municipality" means the same as defined in K.S.A. 75-6102, and
27 amendments thereto.

28 (f) "Opioid litigation" means any civil lawsuit, demand or settlement,
29 including any settlement in lieu of litigation, alleging unlawful conduct in
30 the manufacturing, marketing, distribution, prescribing or other use of
31 opioid medications and asserting or resolving claims of the state or any
32 municipality.

33 (g) "Qualified applicant" means any state entity, municipality or not-
34 for-profit private entity that provides services for the purpose of
35 preventing, reducing, treating or otherwise abating or remediating
36 substance abuse or addiction and that has released its legal claims arising

1 from covered conduct against each defendant that is required by opioid
2 litigation to pay into the fund.

3 (h) "State" means the state of Kansas, including any agency or
4 official thereof.

5 (i) "Sunflower foundation" means the sunflower foundation: health
6 care for Kansas, established pursuant to the settlement agreement entered
7 into by the attorney general in the action filed by blue cross and blue
8 shield of Kansas, inc., in the district court of Shawnee county, Kansas,
9 case No. 97CV608.

10 Sec. 3. (a) Notwithstanding any other provision of law to the contrary,
11 the attorney general shall remit to the state treasurer in accordance with
12 K.S.A. 75-4215, and amendments thereto, all moneys that are received by
13 the state pursuant to opioid litigation in which the attorney general is
14 involved that is dedicated by the terms of such litigation for the abatement
15 or remediation of substance abuse or addiction. Upon receipt of each such
16 remittance, the state treasurer shall deposit the entire amount into the state
17 treasury ~~to the credit of~~. ***The state treasurer shall credit 75% of each such***
18 ***deposit to the Kansas fights addiction fund and 25% of each such deposit***
19 ***to the municipalities fight addiction fund.***

20 (b) There is hereby established in the state treasury the Kansas fights
21 addiction fund, and such fund shall be administered by the attorney
22 general. ***Except as provided in subsection (c)***, moneys in the Kansas fights
23 addiction fund shall be expended subject to any agreement authorized
24 under section 4(d), and amendments thereto, for grants approved by the
25 Kansas fights addiction grant review board created by section 4, and
26 amendments thereto, to qualified applicants for projects and activities that
27 prevent, reduce, treat or mitigate the effects of substance abuse and
28 addiction. Any such expenditure for a grant shall not be used to supplant
29 any other source of funding. No moneys shall be expended from the
30 Kansas fights addiction fund for the payment of litigation costs, expenses
31 or attorney fees related to opioid litigation. ~~All expenditures from the~~
32 ~~Kansas fights addiction fund shall be made in accordance with~~
33 ~~appropriation acts upon warrants of the director of accounts and reports~~
34 ~~pursuant to vouchers approved by the attorney general or the attorney~~
35 ~~general's designee.~~

36 (c) ***On July 1 of each year, or as soon thereafter as moneys are***
37 ***available, the director of accounts and reports shall transfer \$200,000***
38 ***from the Kansas fights addiction fund to the prescription monitoring***
39 ***program fund established by section 8, and amendments thereto. For***
40 ***any fiscal year, if there are insufficient unencumbered moneys in the***
41 ***Kansas fights addiction fund to make such transfer, no transfer shall be***
42 ***made under this subsection for such fiscal year.***

43 (d) (1) ***There is hereby established in the state treasury the***

1 *municipalities fight addiction fund, and such fund shall be administered*
2 *by the attorney general to disburse funds to municipalities. Moneys in*
3 *the municipalities fight addiction fund shall be expended subject to an*
4 *agreement between the attorney general, the Kansas association of*
5 *counties and the league of Kansas municipalities for projects and*
6 *activities that prevent, reduce, treat or mitigate the effects of substance*
7 *abuse and addiction or to reimburse the municipality for previous*
8 *expenses related to substance abuse mitigation or arising from covered*
9 *conduct. Moneys may also be used to reimburse municipalities for the*
10 *payment of litigation costs, expenses or attorney fees related to opioid*
11 *litigation, except that a municipality shall first seek payment from*
12 *applicable outside settlement sources or settlement fee funds prior to*
13 *seeking payment from the municipalities fight addiction fund.*

14 *(2) An agreement between the attorney general, the Kansas*
15 *association of counties and the league of Kansas municipalities shall*
16 *determine the method for disbursing moneys from the fund, and such*
17 *moneys shall be disbursed to municipalities that have not filed opioid*
18 *litigation and municipalities that have filed opioid litigation and have*
19 *entered into an agreement with the attorney general prior to January 1,*
20 *2022, that releases the municipality's legal claims arising from covered*
21 *conduct to the attorney general and assigns any future legal claims*
22 *arising from covered conduct to the attorney general.*

23 *(e) All expenditures from the Kansas fights addiction fund and the*
24 *municipalities fight addiction fund shall be made in accordance with*
25 *appropriation acts upon warrants of the director of accounts and reports*
26 *pursuant to vouchers approved by the attorney general or the attorney*
27 *general's designee.*

28 Sec. 4. (a) There is hereby created under the jurisdiction of the
29 attorney general the Kansas fights addiction grant review board. At least
30 one member of such board shall reside in each of the state's congressional
31 districts. Each member shall serve at the pleasure of the appointing
32 authority. Such board shall be composed of 11 members who have
33 expertise in the prevention, reduction, treatment or mitigation of the effects
34 of substance abuse and addiction, as follows:

35 ~~(1) Two members~~ *One member* appointed by the attorney general;
36 ~~one of whom shall~~ *to* be designated as chairperson of the board ~~and at least~~
37 ~~one of whom shall be appointed after consultation with addiction~~
38 ~~professionals;~~

39 (2) one member appointed by the governor;

40 (3) one member appointed by the president of the senate;

41 (4) one member appointed by the speaker of the house of
42 representatives;

43 (5) one member appointed by the minority leader of the senate;

1 (6) one member appointed by the minority leader of the house of
2 representatives;

3 (7) one member appointed by the league of Kansas municipalities;

4 (8) one member appointed by the Kansas association of counties;

5 (9) one member appointed by the Kansas county and district
6 attorneys association; ~~and~~

7 (10) one member appointed by the association of community mental
8 health centers of Kansas ~~after consultation with the Kansas association of~~
9 ~~addiction professionals; and~~

10 ***(11) one member appointed by the behavioral sciences regulatory***
11 ***board.***

12 (b) The board shall receive and consider applications for grants of
13 money from the Kansas fights addiction fund. Not fewer than six members
14 of the board voting in the affirmative shall be necessary to approve each
15 grant, and each member shall have one vote. The board may adopt rules
16 and procedures for its operation, conduct hearings, receive testimony and
17 gather information to assist in its powers, duties and functions under this
18 act.

19 (c) In awarding grants, the board:

20 (1) Shall take care to support services throughout the state and shall
21 ensure not less than $\frac{1}{8}$ of the total amount of moneys granted each
22 calendar year shall be for services in each of the state's congressional
23 districts;

24 (2) shall take into account science and data-driven substance abuse
25 prevention reduction, treatment or mitigation strategies;

26 (3) shall consult with the Kansas prescription drug and opioid
27 advisory committee, the department of health and environment, the
28 insurance department and other appropriate public and private entities to
29 ensure coordination of drug abuse and addiction prevention and mitigation
30 efforts throughout the state;

31 (4) shall approve grants only in compliance with the requirements of
32 section 3, and amendments thereto;

33 (5) shall consider the sustainability of programming after grant funds
34 are exhausted;

35 (6) may establish conditions for the award of grants and require
36 assurance and subsequent review to ensure such conditions are satisfied;

37 (7) may give preference to qualified applicants that are not otherwise
38 seeking or receiving funds from opioid litigation; and

39 (8) may give preference to grants that expand availability of certified
40 drug abuse treatment programs authorized by K.S.A. 2020 Supp. 21-6824,
41 and amendments thereto.

42 (d) (1) The attorney general shall provide administrative support for
43 the board and shall administer, monitor and assure compliance with

1 conditions on grants awarded.

2 (2) To carry out the duties and responsibilities under paragraph (1),
3 the attorney general may enter into an agreement with the sunflower
4 foundation to provide such administration, monitoring and assurance of
5 compliance. Such agreement may:

6 (A) Provide for the attorney general to periodically transfer moneys
7 from the Kansas fights addiction fund to the sunflower foundation. The
8 sunflower administration shall administer any such moneys in a manner
9 consistent with this act and with grants approved by the board. If an
10 agreement authorized by this subsection is in effect, the attorney general
11 may transfer moneys from the Kansas fights addiction fund to the
12 sunflower foundation pursuant to such agreement;

13 (B) provide for a reasonable fee or other compensation for the
14 sunflower foundation for services related to this act;

15 (C) make provision for the use of any earnings on moneys transferred
16 to the sunflower foundation pursuant to this act and invested by the
17 sunflower foundation; and

18 (D) contain other provisions as may be reasonably necessary and
19 appropriate to carry out the provisions of this act.

20 (3) ***The attorney general may take any action necessary to ensure***
21 ***the greatest possible recovery from opioid litigation and to seek funds for***
22 ***the Kansas fights addiction fund and the municipalities fight addiction***
23 ***fund.***

24 (e) Members of the board shall not receive compensation or expenses
25 for serving on the board. Each member shall file a statement of substantial
26 interest as provided in K.S.A. 46-248 through 46-252, and amendments
27 thereto. No member shall participate in the consideration of any grant
28 application for which such member has a conflict of interest.

29 Sec. 5. The attorney general and each municipality shall be solely
30 responsible for paying all costs, expenses and attorney fees arising from
31 opioid litigation brought under their respective authorities, including any
32 attorney fees owed to private legal counsel, and may seek payment or
33 reimbursement of such costs, expenses and attorney fees from moneys not
34 ~~subject to the requirements of section 2, and amendments thereto~~
35 ***deposited in the Kansas fights addiction fund.***

36 Sec. 6. (a) Except as provided by subsection (b), on and after January
37 1, 2021, no municipality shall file or ~~maintain~~ ***become a party to*** opioid
38 litigation in any court without the prior approval of the attorney general.
39 Any municipality that filed ***or became a party to*** opioid litigation on or
40 after January 1, 2021, through the effective date of the Kansas fights
41 addiction act shall withdraw from such opioid litigation, unless such
42 municipality receives approval from the attorney general to maintain such
43 opioid litigation.

1 (b) This section shall not apply to or affect any *municipality that*
2 *filed or became a party to opioid* litigation—~~filed~~ in court prior to January
3 1, 2021.

4 Sec. 7. Not later than March 1 of each year, the Kansas fights
5 addiction grant review board shall submit to the speaker of the house of
6 representatives, the president of the senate, the governor and the attorney
7 general a report of the board's activities during the prior calendar year,
8 including:

9 (a) An accounting of moneys deposited into and expended from the
10 Kansas fights addiction fund;

11 (b) a summary of each approved grant, including the name and a
12 detailed description of the qualified applicant, the amount granted, the
13 justification for the grant with a detailed description of the grant's intended
14 use and any other relevant information the board deems appropriate;

15 (c) an explanation of how the board's actions during the year have
16 complied with the requirements of this act; and

17 (d) any other relevant information the board deems appropriate.

18 ***Sec. 8. (a) There is hereby established in the state treasury the***
19 ***prescription monitoring program fund. Such fund shall be administered***
20 ***by the president of the state board of pharmacy or the president's***
21 ***designee. All expenditures from the prescription monitoring program***
22 ***fund shall be for the purpose of operating the prescription monitoring***
23 ***program that is established in accordance with the prescription***
24 ***monitoring program act. All expenditures from the prescription***
25 ***monitoring program fund shall be made in accordance with***
26 ***appropriation acts upon warrants of the director of accounts and reports***
27 ***issued pursuant to vouchers approved by the president of the state board***
28 ***of pharmacy or the president's designee.***

29 ***(b) This section shall be a part of and supplemental to the***
30 ***prescription monitoring program act.***

31 ~~Sec. 8.~~ **9.** This act shall take effect and be in force from and after its
32 publication in the Kansas register.