

SENATE BILL No. 264

By Committee on Ways and Means

2-22

1 AN ACT concerning the attorney general; enacting the Kansas fights
2 addiction act; providing for the expenditure of moneys recovered in
3 opioid litigation; establishing a grant program to address the effects of
4 substance abuse and addiction; Kansas fights addiction grant review
5 board; Kansas fights addiction fund.
6

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

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

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

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

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

15 (c) "Defendant" means a defendant or putative defendant in any
16 opioid litigation.

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

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

23 (f) "Opioid litigation" means any civil lawsuit, demand or settlement,
24 including any settlement in lieu of litigation, alleging unlawful conduct in
25 the manufacturing, marketing, distribution, prescribing or other use of
26 opioid medications and asserting or resolving claims of the state or any
27 municipality.

28 (g) "Qualified applicant" means any state entity, municipality or not-
29 for-profit private entity that provides services for the purpose of
30 preventing, reducing, treating or otherwise abating or remediating
31 substance abuse or addiction and that has released its legal claims arising
32 from covered conduct against each defendant that is required by opioid
33 litigation to pay into the fund.

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

36 (i) "Sunflower foundation" means the sunflower foundation: health

1 care for Kansas, established pursuant to the settlement agreement entered
2 into by the attorney general in the action filed by blue cross and blue
3 shield of Kansas, inc., in the district court of Shawnee county, Kansas,
4 case No. 97CV608.

5 Sec. 3. (a) Notwithstanding any other provision of law to the contrary,
6 the attorney general shall remit to the state treasurer in accordance with
7 K.S.A. 75-4215, and amendments thereto, all moneys that are received by
8 the state pursuant to opioid litigation in which the attorney general is
9 involved that is dedicated by the terms of such litigation for the abatement
10 or remediation of substance abuse or addiction. Upon receipt of each such
11 remittance, the state treasurer shall deposit the entire amount into the state
12 treasury to the credit of the Kansas fights addiction fund.

13 (b) There is hereby established in the state treasury the Kansas fights
14 addiction fund, and such fund shall be administered by the attorney
15 general. Moneys in the Kansas fights addiction fund shall be expended
16 subject to any agreement authorized under section 4(d), and amendments
17 thereto, for grants approved by the Kansas fights addiction grant review
18 board created by section 4, and amendments thereto, to qualified
19 applicants for projects and activities that prevent, reduce, treat or mitigate
20 the effects of substance abuse and addiction. Any such expenditure for a
21 grant shall not be used to supplant any other source of funding. No moneys
22 shall be expended from the Kansas fights addiction fund for the payment
23 of litigation costs, expenses or attorney fees related to opioid litigation. All
24 expenditures from the Kansas fights addiction fund shall be made in
25 accordance with appropriation acts upon warrants of the director of
26 accounts and reports pursuant to vouchers approved by the attorney
27 general or the attorney 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 appointed by the attorney general, one of whom
36 shall be designated as chairperson of the board and at least one of whom
37 shall be appointed after consultation with addiction professionals;

38 (2) one member appointed by the governor;

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

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

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

43 (6) one member appointed by the minority leader of the house of

1 representatives;

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

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

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

6 (10) one member appointed by the association of community mental
7 health centers of Kansas after consultation with the Kansas association of
8 addiction professionals.

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

16 (c) In awarding grants, the board:

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

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

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

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

30 (5) shall consider the sustainability of programming after grant funds
31 are exhausted;

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

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

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

39 (d) (1) The attorney general shall provide administrative support for
40 the board and shall administer, monitor and assure compliance with
41 conditions on grants awarded.

42 (2) To carry out the duties and responsibilities under paragraph (1),
43 the attorney general may enter into an agreement with the sunflower

1 foundation to provide such administration, monitoring and assurance of
2 compliance. Such agreement may:

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

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

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

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

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

22 Sec. 5. The attorney general and each municipality shall be solely
23 responsible for paying all costs, expenses and attorney fees arising from
24 opioid litigation brought under their respective authorities, including any
25 attorney fees owed to private legal counsel, and may seek payment or
26 reimbursement of such costs, expenses and attorney fees from moneys not
27 subject to the requirements of section 2, and amendments thereto.

28 Sec. 6. (a) Except as provided by subsection (b), on and after January
29 1, 2021, no municipality shall file or maintain opioid litigation in any court
30 without the prior approval of the attorney general. Any municipality that
31 filed opioid litigation on or after January 1, 2021, through the effective
32 date of the Kansas fights addiction act shall withdraw from such opioid
33 litigation, unless such municipality receives approval from the attorney
34 general to maintain such opioid litigation.

35 (b) This section shall not apply to or affect any litigation filed in court
36 prior to January 1, 2021.

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

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

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

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

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

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