

**Behavioral Sciences Regulatory Board**  
Kansas Fights Addiction Grant Review Board  
(Information Below Includes Partial Summary Obtained from the  
Kansas Legislative Research Department 2021 Summary of Legislation)

**Summary of Kansas Fights Addiction Act Information Included in HB 2079**

**HB 2079** creates the Kansas Fights Addiction Act, which addresses the use of funds received from opioid litigation and establishes limits on future opioid litigation by municipalities, amends law to transfer certain duties from the Secretary of State to the Attorney General, and amends law related to notices offering help to victims of human trafficking.

***Kansas Fights Addiction Act***

*New Funds for Abatement of Substance Abuse or Addiction*

The bill establishes in the State Treasury the Kansas Fights Addiction Fund (KFA Fund) and the Municipalities Fight Addiction Fund (MFA Fund), administered by the Attorney General. The bill requires the Attorney General to remit to the State Treasurer all moneys received by the State pursuant to opioid litigation in which the Attorney General is involved that is dedicated by the terms of such litigation for the abatement or remediation of substance abuse or addiction.

The bill requires 75 percent of these moneys to be credited to the KFA Fund and 25 percent to be credited to the MFA Fund and specifies how expenditures are to be made from each fund.

The bill also establishes in the State Treasury the Prescription Monitoring Program Fund (PMP Fund), administered by the President of the State Board of Pharmacy (President) or the President's designee.

**Kansas Fights Addiction Fund.** The bill requires moneys in the KFA Fund to be expended for grants approved by the Kansas Fights Addiction Grant Review Board (Board), as created by the bill, to qualified applicants for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction.

Such grants may not supplant any other source of funding and no moneys from the KFA Fund may be used for litigation costs, expenses, or attorney fees related to opioid litigation. [Note: See the section titled "Prescription Monitoring Program Fund" for provisions related to the transfer of moneys from the KFA Fund to the PMP Fund.]

**Municipalities Fight Addiction Fund.** The bill requires moneys in the MFA Fund to be expended subject to an agreement among the Attorney General, the Kansas Association of Counties (KAC), and the League of Kansas Municipalities (LKM), for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction, or to reimburse a municipality for expenses related to previous substance abuse mitigation or arising from covered conduct, which is defined to include any conduct covered by opioid litigation that resulted in payment of moneys into the KFA Fund. Moneys in the MFA Fund may also be used to reimburse municipalities for payment of litigation costs, expenses, or attorney fees related to opioid litigation, after the municipality has first sought payment from applicable outside settlement sources or settlement fee funds. The bill requires an agreement among the Attorney

General, KAC, and LKM to determine the method for disbursing moneys from the MFA Fund. The bill requires that moneys be disbursed to municipalities that have not filed opioid litigation and municipalities that have filed opioid litigation but have entered into an agreement with the Attorney General prior to January 1, 2022, to release the municipality's legal claims arising from covered conduct to the Attorney General and assign any future legal claims arising from covered conduct to the Attorney General.

**Prescription Monitoring Program Fund.** The bill creates law in the Prescription Monitoring Program Act to establish the PMP Fund and requires all expenditures made from the PMP Fund to be approved by the President or the President's designee and for the purpose of operating the Prescription Monitoring Program (K-TRACS).

Expenditures from the PMP Fund are to be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the President or the President's designee. The bill requires, on July 1 of each year or as soon as moneys are available, the Director of Accounts and Reports to transfer \$200,000 from the KFA Fund to the PMP Fund, except no transfer is made for any fiscal year if there are insufficient unencumbered moneys in the KFA Fund.

#### *Kansas Fights Addiction Grant Review Board*

The bill establishes the Board under the jurisdiction of the Attorney General.

**Membership.** The bill requires at least one member of the Board to reside in each of Kansas' congressional districts. The Board consists of 11 members with expertise in the prevention, reduction, treatment, or mitigation of the effects of substance abuse and addiction, as follows:

- Two members appointed by the Attorney General, one of whom is designated as chairperson and at least one of whom is appointed by the Behavioral Sciences Regulatory Board;
  - One member appointed by the Governor;
  - One member appointed by the President of the Senate;
  - One member appointed by the Speaker of the House of Representatives;
  - One member appointed by the Minority Leader of the Senate;
  - One member appointed by the Minority Leader of the House of Representatives;
  - One member appointed by LKM;
  - One member appointed by KAC;
  - One member appointed by the Kansas County and District Attorneys Association; and
  - One member appointed by the Association of Community Mental Health Centers of Kansas.
- Each member serves at the pleasure of the appointing authority.

**Duties and operation.** The bill requires the Board to receive and consider applications for grants of money from the KFA Fund and provides a list of five mandatory and three permissive factors to be considered or applied in awarding grants.

The affirmative vote of six members is required to approve a grant. The Board may adopt rules and procedures for its operation, conduct hearings, receive testimony, and gather information to assist in its powers, duties, and functions. Members do not receive compensation or expenses for serving on the Board, are required to file a statement of substantial interest, and are prohibited from participating in the consideration of any grant application for which such member has a conflict of interest.

The bill requires the Attorney General to provide administrative support for the Board and to administer, monitor, and assure compliance with grant conditions, and allows the Attorney General to enter into an agreement with the Sunflower Foundation to provide such support and administration. The bill establishes provisions regarding transfer of moneys, fees, and earnings on moneys that may be included in such agreement. The bill states the Attorney General may take any action necessary to ensure the greatest possible recovery from opioid litigation and to seek funds for the KFA Fund and the MFA Fund.

The bill requires, not later than March 1 of each year, the Board to submit to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Attorney General a report of the Board's activities during the prior calendar year, including:

- An accounting of moneys deposited into and expended from the KFA Fund;
- A summary of each approved grant, including certain specified details;
- An explanation of how the Board's actions during the year have complied with the bill's requirements; and
- Any other relevant information the Board deems appropriate.

#### *Responsibility for Costs*

The bill provides the Attorney General and each municipality is solely responsible for paying all costs, expenses, and attorney fees arising from opioid litigation brought under their respective authorities, including any attorney fees owed to private legal counsel, and may seek payment or reimbursement of such costs, expenses, and attorney fees from moneys not deposited in the KFA Fund.

#### *Limitation on Municipal Litigation*

The bill prohibits municipalities, on and after January 1, 2021, from filing or becoming a party to opioid litigation in any court without the prior approval of the Attorney General. The bill requires any municipality that filed opioid litigation on or after January 1, 2021, through the effective date of the Act to withdraw from such litigation, unless the municipality receives approval from the Attorney General to maintain such litigation. The bill specifies these provisions do not apply to or affect any municipality that filed or became a party to opioid litigation in court

prior to January 1, 2021.

*Definitions*

In addition to “covered conduct,” the bill defines other relevant terms, including “moneys that are received,” “opioid litigation,” and “qualified applicant.”