

2023 Kansas Statutes

75-6117. Tort claims fund for payment of claims and defense expenses. (a) There is hereby established in the state treasury the tort claims fund which shall be administered by the attorney general. All expenditures from such fund shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the attorney general or by a designee of the attorney general.

(b) (1) Moneys in the tort claims fund shall be used only for the purpose of paying: (A) Compromises, settlements and final judgments arising from claims against the state or an employee of the state under the Kansas tort claims act or under the civil rights laws of the United States or of the state of Kansas; (B) costs of defending the state or an employee of the state in any actions or proceedings on those claims; and (C) judgments arising from claims pursuant to K.S.A. 2023 Supp. 60-5004, and amendments thereto, including, but not limited to, premiums under the state health care benefits program.

(2) Payment of a judgment arising from a claim pursuant to K.S.A. 2023 Supp. 60-5004, and amendments thereto, shall be subject to review by the state finance council. The attorney general shall notify the state finance council of the need for such review and ensure that payment of the judgment occurs without unnecessary delay.

(3) Payment of a compromise or settlement shall be subject to approval by the state finance council as provided in K.S.A. 75-6106, and amendments thereto.

(4) Payment of a final judgment shall be made from the fund if there has been a determination of any appeal taken from the judgment or, if no appeal is taken, if the time for appeal has expired.

(5) No payment shall be made from the fund to satisfy a compromise, settlement or final judgment when there exists insurance coverage obtained therefor, except that payment shall be made from the fund to satisfy a compromise settlement or final judgment for claims against the state or an employee of the state in any actions or proceedings arising from rendering or failure to render professional services by: (A) A charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto; (B) a local health department as defined by K.S.A. 65-241, and amendments thereto, or an employee thereof; or (C) an indigent health care clinic as defined by K.S.A. 75-6115, and amendments thereto, or an employee thereof, even if there exists insurance coverage obtained therefor.

(c) Upon certification by the attorney general to the director of accounts and reports that the unencumbered balance in the tort claims fund is insufficient to pay an amount for which the fund is liable, the director of accounts and reports shall transfer an amount equal to the insufficiency from the state general fund to the tort claims fund.

(d) When payment is made from the tort claims fund on behalf of the university of Kansas hospital authority, the authority shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the authority.

(e) This section shall be part of and supplemental to the Kansas tort claims act.

(f) When payment is made from the tort claims fund on behalf of a state agency or employee for defense or indemnification in an action, proceeding or investigation involving an alleged violation of the Kansas open records act or the Kansas open meetings act, the agency requesting the defense or indemnification or employing the employee who requests the defense or indemnification shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the agency.

History: L. 1981, ch. 360, § 2; L. 1983, ch. 299, § 3; L. 1990, ch. 329, § 4; L. 1991, ch. 268, § 2; L. 1991, ch. 182, § 6; L. 1993, ch. 29, § 4; L. 1995, ch. 83, § 1; L. 1998, ch. 12, § 16; L. 2018, ch. 108, § 3; L. 2019, ch. 62, § 14; May 30.