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Testimony in Favor of S.B. 307 – Limited Amendments to the Kansas Fights Addiction Act

**Presented to the Senate Committee on Ways and Means
By Christopher Teters, Assistant Attorney General**

March 20, 2022

Chairman Billinger and Committee Members,

Thank you for the opportunity to testify in support of Senate Bill 307’s limited amendments to the Kansas Fights Addiction Act. The inclusion of for-profit entities in the list of qualified grant applicants does not risk disturbing the existing settlement agreements and does not endanger the State’s ability to recover opioid settlement funds. The amendment expands the potential impact of the opioid settlement funds and eliminates certain unnecessary overhead spending in implementing scientifically proven abatement strategies.

Opioids Litigation Background

As is well understood by this committee, opioid and substance use addiction is ravaging Kansas communities. According to data from the Kansas Department of Health and Environment, overdose deaths hit a 15 year high in 2021, with opioids a leading driver of the increase.¹ With fentanyl poisonings on the rise and the growth of the “fourth wave” of the opioid epidemic², there are no signs of the crisis ebbing.

To hold the originators of the opioid crisis accountable, the Office of the Attorney General joined in some of the most complex litigation in U.S. history against the manufacturers, distributors, retailers, and marketers of opioid products. Our litigation has led to three consent judgments, one bankruptcy settlement, two pending bankruptcies and five announced, but pending consent judgments. In total, the Office of the Attorney General anticipates recovering over \$340 million dollars over 18 years from the businesses that started this crisis.

¹ “Kansas Overdose Data Dashboard: Statewide Deaths”, KAN. DEP’T OF HEALTH AND ENVIRON., *available at* <https://www.kdhe.ks.gov/1309/Overdose-Data-Dashboard> (accessed March 20, 2023).

² Researchers characterize the “fourth wave” as polysubstance use, where a person mixes stimulants, such as methamphetamine, and opioids. *See* Daniel Ciccarone, M.D., M.P.H., “The Rise of Illicit Fentanyls, Stimulants and the Fourth Wave of the Opioid Overdose Crisis,” 34(4) CURR. OPIN. PSYCHIATRY 344 (2021), *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8154745/pdf/nihms-1695670.pdf> (accessed March 20, 2023).

Unlike some large scale settlements in the past, such as the tobacco master settlement agreement, these opioids funds are restricted to opioid and substance use abatement by the terms of each court ordered settlement agreement. Abatement strategies are varied in approach and scope, but any proposed use of the opioid settlement funds requires careful consideration of the proposal's compliance with the settlement terms. Furthermore, the settlements impose monitoring and reporting requirements on the State to ensure the funds are utilized for their intended purposes.

The Kansas Fights Addiction Act

In anticipation of these settlement restrictions, the Kansas Legislature adopted the Kansas Fights Addiction Act ["the Act"]. The Act empowers the State and its subdivisions, through the Kansas Fights Addiction Grant Review Board ["the Board"] and through the Municipalities Fight Addiction Fund, to respond to the crisis in an agile, reasoned, and balanced manner. The Act represents a fine-tuned balance between a need for expertise-guided recovery strategies, a need for public accountability and transparency, and a need to operate within the court-ordered bounds of the settlement agreements.

Senate Bill 307 respects the carefully tailored balance and purposes of the Act, while simultaneously expanding the Board's ability to fight back more directly against the opioid crisis. Under the current terms of the Act, the Board cannot consider granting funds to a for-profit entity, even if the Board determines the entity is the best-positioned or best-capable entity to approach a particular abatement strategy.

The amendment empowers the Board to act with broader discretion, while avoiding the need for an appropriately situated organization to establish a costly not-for-profit intermediary. As the opioid recoveries are limited in both size and duration, avoiding such intermediary organization's waste can make the opioid settlement funds more efficient. At the same time, the Board can impose expense limits, reporting requirements, and other cost controls on any for-profit grantee as part of the grant terms to ensure that the for-profit entity maximizes the abatement effect of any grant, while minimizing wasteful spending.

Impacts to Date

The Kansas Fights Addiction Act represents one of the most significant tools in fighting addiction within the state. To date, the Municipalities Fight Addiction Fund has distributed over \$11 million to more than 200 participating cities and counties within the state. Approximately 95% of Kansans live within a participating city or county. Likewise, on March 6, 2023, the Board announced the first of two requests for proposals and has established a \$3 million grant to begin addressing immediate abatement needs. The Board plans to issue the first grant payments later this year.

Conclusion

As drafted, SB 307 represents a minor change within the Act that will provide expanded flexibility to the Board to fulfill its mission. The change does not impact the State's ability to

recover opioid settlement payments under existing or potential settlements. As such, the Office of the Attorney General supports the adoption of SB 307.

Thank You.

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