

P.L. 2023, CHAPTER 25, *approved March 17, 2023*
Senate, No. 783 (*Second Reprint*)

1 AN ACT concerning the dedication and distribution of funds
2 received from opioid settlements and supplementing Title 26 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. There is created in the Department of the Treasury a
9 dedicated, non-lapsing fund to be known as the “Opioid Recovery
10 and Remediation Fund.”

11 b. ¹**【The】** To the extent consistent with the terms of a national
12 opioid litigation resolution subject to this act, the¹ State Treasurer
13 shall deposit into the fund ¹**【any】** the State’s share of¹ moneys
14 ¹**【that are allocated to or otherwise received by the State】** received¹
15 as a result of ¹**【a settlement agreement entered into with, or**
16 **litigation undertaken against, opioid manufacturers and distributors**
17 **related to claims arising from the manufacture, marketing,**
18 **distribution or dispensing of opioids】** such resolution¹ . Any
19 interest and other income earned on moneys in the fund, and any
20 other moneys that may be appropriated or otherwise become
21 available for purposes of the fund, shall be credited to and deposited
22 in the fund. ¹For the purposes of this section, moneys paid to
23 counties or municipalities ²**【or allocated for attorneys’ fees, costs,**
24 **and related litigation expenses】**² shall not be considered to be part
25 of the State’s share of moneys received as a result of a national
26 opioid litigation resolution.¹ ²Any moneys received by any State
27 department pursuant to a national opioid litigation settlement
28 subject to this act shall be transferred into the fund.²

29 c. (1) Moneys in the fund ²are hereby appropriated, shall be
30 subject to the applicable requirements of the relevant national
31 opioid litigation resolution and any applicable agreement entered
32 into pursuant to section 3 of P.L. , c. (C.) (pending before
33 the Legislature as this bill), and² shall be dedicated and used only
34 for ²;

35 (a)² the purposes ¹**【of supplementing substance use disorder**
36 **prevention and treatment programs and services in the State,**

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted February 3, 2022.

²Assembly AHU committee amendments adopted February 9, 2023.

1 consistent with the terms of settlements made in connection with
2 claims arising from the manufacture, marketing, distribution or
3 dispensing of opioids, as applicable.

4 (2) The Legislature shall annually appropriate 】 described in
5 subsection e. of this section ²【, and shall be subject to the
6 applicable requirements of the relevant national opioid litigation
7 resolution and any applicable agreement entered into pursuant to
8 section 3 of P.L. , c. (C.) (pending before the Legislature
9 as this bill)】 ; and

10 (b) the payment of attorneys' fees, costs, and related litigation
11 expenses related to the national opioid litigation resolution² .

12 (2) The Department of Human Services shall be designated the
13 lead agency for the State for purposes of directing the disbursement
14 and allocation of the State's share of any moneys that are allocated
15 to or otherwise received by the State as a result of a national opioid
16 litigation resolution and for monitoring the use of moneys disbursed
17 to counties or municipalities under a national opioid litigation
18 resolution or under an agreement entered into pursuant to section 3
19 of P.L. , c. (C.) (pending before the Legislature as this bill)
20 ², to the extent required by such agreements,² and, in coordination
21 with the State Comptroller and the Attorney General, ensuring that
22 the use of such moneys complies with the purposes set forth in this
23 act and is consistent with the terms of the applicable national opioid
24 litigation resolution and any applicable agreement entered into
25 pursuant to section 3 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).

27 (a) The department shall have primary responsibility for
28 ensuring that the various reporting, compliance, and administrative
29 functions imposed upon the State pursuant to the terms and
30 conditions of any national opioid litigation resolution and any
31 applicable agreement entered into pursuant to section 3 of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 are performed, and shall serve as the single point of contact for the
34 State for settlement fund administrators and trustees to submit
35 requests for disbursement of ²settlement² funds.

36 (b) The department shall be authorized to make determinations
37 regarding disbursement and allocation of the State's share of such
38 proceeds in accordance with the requirements or terms of any
39 national opioid litigation resolution and any applicable agreement
40 entered into pursuant to section 3 of P.L. , c. (C.) (pending
41 before the Legislature as this bill), which may include designations
42 of regions for the allocation of the State's share of such proceeds, in
43 addition to taking such other actions as may be assigned or required
44 to be performed by the lead agency or single point of contact for the
45 State under the terms of any national opioid litigation resolution and
46 any applicable agreement entered into pursuant to section 3 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 (c) The department shall receive and review reports from each
2 county ²[and municipality]² regarding the expenditure of any
3 moneys received by the county ²[or municipality]² as a result of a
4 national opioid litigation resolution.

5 (d) (i) The department shall be authorized to adopt, amend, or
6 repeal regulations as necessary to carry out the intent and provisions
7 of P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9 (ii) Notwithstanding the provisions of the “Administrative
10 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the
11 contrary, the department may, immediately upon filing proper
12 notice with the ²[office] Office² of Administrative Law, adopt
13 rules and regulations as shall be necessary to enable it to carry out
14 the department’s duties, functions, and powers with respect to this
15 act. Rules and regulations adopted pursuant to this
16 subsubparagraph shall be effective immediately upon filing with the
17 Office of Administrative Law and shall be in effect for a period not
18 to exceed 18 months, and shall, thereafter, be amended, adopted, or
19 readopted by the department in accordance with the provisions of
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
21 1 et seq.).

22 (3) Notwithstanding any other law ²or regulation² to the
23 contrary, there is hereby appropriated: (a)¹ moneys from the fund
24 to the Department of Human Services, which shall allocate the
25 appropriated funds in ¹accordance with the provisions of
26 subsections d., e., and f. of this section; and (b) ²to the extent
27 applicable,² moneys paid to the State as a result of a national opioid
28 litigation resolution that have been allocated to a county or
29 municipality in accordance with the terms of the national opioid
30 litigation resolution or a related agreement entered into pursuant to
31 section 3 of P.L. , c. (C.) (pending before the Legislature as
32 this bill), and to the extent necessary to effectuate such resolution,
33 which shall be used in accordance with the provisions of
34 subsections d., e., and f. of this section.

35 ²(4) Moneys from the fund may be transferred to other State
36 departments as directed by the Commissioner of Human Services in
37 support of the purposes provided for in this act, subject to the
38 approval of the Director of Budget and Accounting.²

39 d. Notwithstanding section 2 of P.L.1999, c.129 (C.56:8-14.3),
40 section 15 of P.L.2003, c.76 (C.56:8-133), and the “New Jersey
41 False Claims Act,” P.L.2007, c.265 (C.2A:32C-1 et seq.), the
42 department shall direct the allocation and disbursement of moneys
43 in the Opioid Recovery and Remediation Fund established by this
44 section, and shall do so in¹ consultation with the Opioid Recovery
45 and Remediation ²[Fund]² Advisory Council, ¹[as]¹ established
46 pursuant to section 2 of this act. The department shall allocate

1 funds with an emphasis on supporting programs and strategies¹
2 that are **【culturally and gender competent, trauma-informed,】**¹
3 evidence-based or evidence-informed¹ and, **【where appropriate,**
4 employ individuals with lived experience as part of the services
5 provided. Services to be supported from the fund shall include, but
6 shall not be limited to, programs:

7 (a) To prevent substance use disorder through a youth-focused
8 public health education and prevention campaign, including school-
9 based prevention, early intervention, and health care services and
10 programs to reduce the risk of substance use by school-aged
11 children;

12 (b) To develop and implement Statewide public education
13 campaigns to reduce stigma against individuals who use drugs,
14 provide information about the risks of substance use, best practices
15 for addressing substance use disorders, and information on how to
16 locate services that reduce the adverse health consequences
17 associated with drug use or provide treatment for substance use
18 disorders;

19 (c) To minimize and eliminate the root causes of health
20 disparities that contribute to the use of drugs and inequities in the
21 treatment of substance use disorder among minority communities;

22 (d) To support the State's efforts to divert high-risk individuals
23 from arrest and incarceration through programs with strong case
24 management and harm reduction services that link participants to
25 community-based services, as well as referrals to promote health
26 and understanding for people who use drugs; and

27 (e) To establish systems and tools that expand the State's
28 capacity to collect data and evaluate policies, programs, and
29 strategies designed to address substance use disorder **】 in making**
30 such allocations, shall consider equitable access for underserved
31 communities Statewide.

32 e. Moneys, other than attorneys' fees, costs, and expenses
33 related to litigation, that are allocated to or otherwise received by
34 the State or any county or municipality as a result of a national
35 opioid litigation resolution, shall be dedicated and used, consistent
36 with the terms of an applicable national opioid litigation resolution
37 and any applicable agreement entered into pursuant to section 3 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 for the purpose of addressing opioid use disorder and any co-
40 occurring substance use disorder or mental health conditions
41 through evidence-based or evidence-informed practices or strategies
42 that may include, but shall not be limited to, the following:

43 (1) Supporting the treatment of opioid use disorders and any co-
44 occurring substance use disorder or mental health conditions
45 through evidence-based or evidence-informed programs or
46 strategies;

- 1 (2) Supporting individuals in recovery from opioid use disorder,
2 as well as any co-occurring substance use disorder or mental health
3 conditions, through evidence-based or evidence-informed programs
4 or strategies, including, but not limited to, providing support
5 services to the families of such individuals;
- 6 (3) Providing connections to care for people who have, or are at
7 risk of developing, an opioid use disorder or a co-occurring
8 substance use disorder or mental health condition, through
9 evidence-based or evidence-informed programs or strategies;
- 10 (4) Using evidence-based or evidence-informed programs or
11 strategies to address the needs of persons with an opioid use
12 disorder or a co-occurring substance use disorder or mental health
13 condition who are involved in, are at risk of becoming involved in,
14 or are transitioning out of, the criminal justice system;
- 15 (5) Using evidence-based or evidence-informed programs or
16 strategies to address the needs of pregnant or parenting persons with
17 opioid use disorder or a co-occurring substance use disorder or
18 mental health condition, and the needs of the families of such
19 individuals, including babies with neonatal abstinence syndrome;
- 20 (6) Supporting efforts to prevent over-prescribing and ensure
21 appropriate prescribing and dispensing of opioids through evidence-
22 based or evidence-informed programs or strategies;
- 23 (7) Using evidence-based or evidence-informed programs or
24 strategies to support efforts to discourage or prevent the misuse of
25 ², and the development of substance use disorders involving,²
26 opioids;
- 27 (8) Using evidence-based or evidence-informed programs or
28 strategies to support efforts to prevent or reduce overdose deaths or
29 other opioid-related harms;
- 30 (9) Educating law enforcement or other first responders
31 regarding appropriate practices and precautions when dealing with
32 fentanyl and other drugs;
- 33 (10) Providing wellness and support services for first
34 responders and others who experience secondary trauma associated
35 with opioid-related emergency events;
- 36 (11) Supporting efforts to provide leadership, planning,
37 coordination, facilitations, training, and technical assistance to
38 abate the opioid epidemic through activities, programs, and
39 strategies;
- 40 (12) Supporting training to abate the opioid epidemic through
41 activities, programs, or strategies;
- 42 (13) Supporting opioid abatement research;
- 43 (14) Supporting such other strategies as may be expressly
44 identified in any national opioid litigation resolution; and
- 45 (15) Administrative expenses, subject to limits imposed by any
46 national opioid litigation resolution or by any agreement entered

1 pursuant to section 3 of P.L. , c. (C.) (pending before the
 2 Legislature as this bill).

3 f. Moneys, other than attorneys' fees, costs, and expenses
 4 related to litigation, that are allocated to or otherwise received by
 5 the State or any of its counties or municipalities as a result of a
 6 national opioid litigation resolution shall be used to supplement,
 7 and shall not supplant, federal, State, county, or municipal funds, as
 8 the case may be, that otherwise would have been used to carry out
 9 the purposes delineated in this act, and no amount of such moneys
 10 shall be used to reimburse the State or any of its counties or
 11 municipalities for past expenditures, except as may otherwise be
 12 required to refund to the federal government a portion of the
 13 moneys.

14 g. For the purposes of P.L. , c. (C.) (pending before
 15 the Legislature as this bill), "national opioid litigation resolution"
 16 means a settlement agreement, entered into by the Attorney General
 17 of New Jersey on behalf of the State and by other state attorneys
 18 general on behalf of their respective states, which provides for the
 19 participation of states, counties, and municipalities to resolve
 20 claims by the state attorneys general and counties and
 21 municipalities against opioid manufacturers, opioid distributors, or
 22 pharmacies², or persons or entities affiliated with an opioid
 23 manufacturer, opioid distributor, or pharmacy,² related to the
 24 manufacture, marketing, distribution, or dispensing of opioids, or a
 25 bankruptcy plan² [that] which is governed by an agreement entered
 26 into pursuant to section 3 of P.L. , c. (C.) (pending before
 27 the Legislature as this bill) and which² has received final approval
 28 and that channels, releases, or otherwise finally disposes of such
 29 claims including those of the State and its counties and
 30 municipalities¹.

31
 32 2. a. There is established in ²[, but not of,]² the Department of
 33 Human Services ²[¹,]² the Opioid Recovery and Remediation
 34 ²[Fund]² Advisory Council. The council shall ²[provide the
 35 Department of Human Services with ¹general¹ recommendations on
 36 the allocation of funds appropriated to the department from the
 37 Opioid Recovery and Remediation Fund, as well as any policy
 38 modifications necessary to maximize the use of those funds ¹[on a]
 39 at the¹ State and local ¹[level] levels¹] be advisory in nature and
 40 its purpose shall be to review proposals, data, and analyses, and
 41 engage with stakeholders and community members, to develop and
 42 provide recommendations on the allocation and distribution of the
 43 State's share of proceeds from national opioid litigation resolutions.
 44 The council shall provide information, advice, and general
 45 recommendations consistent with its purpose to the Governor, the
 46 Commissioner of Human Services, and other executive branch

1 departments and agencies² . To effectuate this goal, the council
2 shall:

3 (1) ¹gather and evaluate State ²provide¹ gather and
4 evaluate² data ²to the department¹² regarding ¹the availability
5 of, gaps in, and barriers to¹ substance use disorder prevention and
6 treatment programs and ¹recovery¹ services ¹in order to determine
7 which populations are not reached by current interventions, as well
8 as which geographic areas of the State have programmatic gaps in
9 addressing substance use disorder¹ ; ²and²

10 (2) solicit feedback, in a manner and method established by the
11 council, from stakeholders, local providers, ²and² advocates ²,
12 individuals with lived experience with opioid use disorders,
13 including people who have or are in recovery from an opioid use
14 disorder and family members of people with an opioid use disorder,
15 the academic community, individuals with expertise in areas related
16 to substance use disorders, community groups, and members of the
17 public,² regarding the ¹service needs services needed¹ to prevent
18 and treat substance use ¹disorder disorders¹ across the State ²;

19 (3) review and evaluate recommendations submitted by the
20 public using the online portal that was established by the State on
21 August 31, 2022 to enable members of the public to provide
22 recommendations on the expenditure of proceeds from national
23 opioid litigation resolutions;

24 (4) evaluate approaches taken by New Jersey and other states in
25 administering proceeds from national opioid litigation resolutions;

26 (5) consult with experts and other knowledgeable individuals in
27 both the public and private sectors on any aspect of its duties as the
28 council deems necessary and appropriate; and

29 (6) take any other actions as the council deems appropriate to
30 inform its recommendations, with the purpose of promoting the
31 equitable and efficient distribution of settlement funds, including
32 the distribution of funds using evidence-based and evidence-
33 informed practices and strategies² .

34 b. The council shall ²consist of 13 members, as follows
35 comprise² :

36 (1) the Commissioner of Human Services, the Commissioner of
37 Health, ²the Commissioner of Children and Families,² and the
38 Attorney General, or their designees, who shall serve ¹as¹ ex-
39 officio ¹members¹ ;

40 (2) ²four at least 10² public members appointed by the
41 Governor ², of which ¹members¹ one shall possess expertise in
42 substance use disorder treatment, one shall possess expertise in
43 harm reduction, one shall possess expertise in criminal justice, and
44 one shall possess expertise in drug policy who reflect the diversity
45 of New Jersey and who shall include public health and policy

1 experts and two or more individuals who have lived experience with
2 opioid use disorders, including one or more individuals who have or
3 are in recovery from an opioid use disorder and one or more family
4 members of a person with an opioid use disorder² ; ²and²

5 (3) ²[three public members ¹[to be] ,¹ appointed by the
6 ¹Governor upon recommendation of the¹ President of the Senate, of
7 which ¹members¹ one shall possess expertise in substance use
8 disorder treatment, one shall possess expertise in behavioral health,
9 and one shall possess personal experience with substance use and
10 ¹[addiction]¹ issues ¹related to a substance use disorder¹ ; and

11 (4) three public members ^{1,1} appointed by the ¹Governor upon
12 recommendation of the¹ Speaker of the Assembly, of which
13 ¹members¹ one shall possess expertise in substance use disorder
14 treatment, one shall possess expertise in ¹[behavioral]¹ health ¹care
15 equity¹ , and one shall possess ¹[personal experience with
16 substance use and addiction issues] expertise in health policy¹
17 such additional ex officio and public members as the Governor
18 deems appropriate² .

19 c. ²[All appointments to the council shall be made no later
20 than the 60th day after the effective date of this act. Each
21 ¹[appointed] public¹ member shall serve a two-year term, with any
22 vacancies in the membership of the council being filled in the same
23 manner as ¹provided for¹ the original appointments. ¹The Governor
24 shall appoint a chairperson from among the public members of the
25 council to serve in such capacity at the pleasure of the Governor.¹
26 The public members of the council shall serve at the pleasure of the
27 Governor. The Commissioner of Human Services or the
28 commissioner's designee shall serve as the chairperson of the
29 council.²

30 d. The council shall organize as soon as practicable following
31 the appointment of its members ²and shall meet at such frequencies
32 as shall be required by the Governor as well as at the call of the
33 chairperson² . ¹[Upon its organization, the council shall select a
34 chairperson from among its members.]¹ ²[The members shall also
35 select a secretary who need not be a member of the council. The
36 council may hold meetings at ¹[the] such¹ times and places ¹as¹ it
37 may designate. A majority of the authorized membership shall
38 constitute a quorum. The council may conduct business without a
39 quorum, but shall only vote on a recommendation when a quorum is
40 present.]² The members of the council shall serve without
41 compensation, but shall be eligible for reimbursement for necessary
42 and reasonable expenses incurred in the performance of their
43 official duties within the limits of funds appropriated or otherwise
44 made available to the council for its purposes.

1 e. The council shall be entitled to receive assistance and
 2 services from any State, county, or municipal department, board,
 3 commission, or agency as may be made available to it for its
 4 purposes. The Department of Human Services shall provide such
 5 staff and administrative support to the council as it requires to carry
 6 out its responsibilities.

7 ¹f. ²(1)² To the extent permissible under the terms of a national
 8 opioid litigation resolution, the council shall not be required to, and
 9 may refrain from, making recommendations for expenditures that
 10 would primarily benefit counties or municipalities that were eligible
 11 to participate in the national opioid litigation resolution that yielded
 12 such funds but did not participate in the resolution, provided that
 13 nothing in this subsection shall be deemed to prevent the council
 14 from exercising its discretion to make such recommendations
 15 should it determine to do so.

16 ²(2) The council may, but shall not be required to, provide
 17 information and general recommendations to counties and
 18 municipalities concerning the expenditure of the share of proceeds
 19 from national opioid litigation resolutions allocated to those
 20 counties and municipalities, and may coordinate with any similarly
 21 situated county advisory council as the chairperson deems
 22 appropriate.²

23 g. The council shall ²[be considered a “public body” for the
 24 purpose of complying with the provisions of the “Senator Byron M.
 25 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-
 26 6 et seq.), and shall be subject to the provisions thereof. The “New
 27 Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-
 28 12 et seq.), shall apply to all members of the council] expire 180
 29 days after all proceeds from opioid litigation resolutions are
 30 expended and the Department of Human Services issues the final
 31 report required pursuant to subsection b of section 5 of P.L. _____,
 32 c. (C. _____) (pending before the Legislature as this bill)² .¹

33
 34 ¹3. The Attorney General, in consultation with the
 35 Commissioner of Human Services, shall be authorized to enter into
 36 agreements with counties and municipalities concerning the
 37 allocation and expenditure of moneys allocated to the State and its
 38 counties and municipalities in any national opioid litigation
 39 resolution.¹

40
 41 ¹4. A county ²[or municipality]² that directly receives moneys
 42 as a result of a national opioid litigation resolution shall establish an
 43 advisory council to provide input, advice, and recommendations on
 44 the disbursement ²[and allocation]² of such moneys ²and, if
 45 requested by a municipality within the county, on the disbursement
 46 of moneys from a national opioid litigation resolution received by

1 the municipality² . Each county ²[or municipal]² advisory council
2 shall, at a minimum, consist of a member possessing expertise in
3 substance use disorder treatment or prevention, a member
4 representing a provider of behavioral health or substance use
5 disorder treatment in the community, a member with personal
6 experience with substance use and substance use disorder issues,
7 the county prosecutor or the county prosecutor's designee, and an
8 individual authorized to appropriate funds on behalf of the
9 governing body of the ²[municipality or]² county ²[, as the case
10 may be,]² or such individual's designee. A county ²[or
11 municipal]² advisory council may include any additional members
12 as the county ²[or municipality]² deems necessary and
13 appropriate.¹
14

15 ¹[3.] 5.¹ ²a.² No later than 12 months after the effective date
16 of this act, and annually thereafter ²until all proceeds from national
17 opioid litigation resolutions have been expended² , the Department
18 of Human Services, in consultation with the Opioid Recovery and
19 Remediation ²[Fund]² Advisory Council, shall report to the
20 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
21 c.164 (C.52:14-19.1) ²,² on the details of the allocations made with
22 the funds appropriated from the Opioid Recovery and Remediation
23 Fund. The information shall include the allocation amount,
24 program description, involved community providers, goals of the
25 program, and outcome measures to be used to determine program
26 efficacy.

27 ²b. No later than 180 days after all proceeds from national
28 opioid litigation resolutions have been expended, the Department of
29 Human Services shall prepare and issue to the Governor, and to the
30 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
31 a final report concerning the State's expenditure of opioid litigation
32 resolution proceeds, including: the amounts allocated; descriptions
33 of the programs funded using the proceeds; community providers
34 involved in programs receiving allocations from the proceeds;
35 outcomes from programs receiving allocations from the proceeds;
36 overall outcomes resulting from the expenditure of the proceeds,
37 including changes in substance use disorder rates, overdose deaths,
38 participation in substance use disorder treatment and recovery
39 programs, successful treatment outcomes, outcomes involving dual
40 diagnoses involving substance use disorders in combination with
41 other behavioral health conditions, and expansions in substance use
42 disorder and other behavioral health care provider and treatment
43 capacity; and such other information and data as the department
44 deems necessary to fully evaluate the use of opioid litigation
45 resolution funds pursuant to this act.

1 c.² The department shall ²**[also]**² post ²**[this]** the² information
2 ²and reports required pursuant to this section² on its Internet
3 website.

4

5 ¹**[4.]** 6.¹ This act shall take effect immediately.

6

7

8

9

10 Establishes Opioid Recovery and Remediation Fund; establishes
11 requirements for proceeds from opioid settlements to support
12 substance use disorder prevention and treatment programs.