

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1447
(Representatives Weisz, Lefor, Nelson, Stemen, Vigesaa)
(Senators Bekkedahl, Lee)

AN ACT to create and enact a new chapter to title 50 of the North Dakota Century Code, relating to creation of the opioid settlement fund, creation of the opioid settlement advisory committee, and use of opioid settlement funds; to amend and reenact subsection 1 of section 21-10-06 and section 23-01-42 of the North Dakota Century Code and section 5 of chapter 3 of the 2021 Session Laws, relating to funds under management of the state investment board, opioid antagonist prescription, distribution, possession, or use, and the funding of the opioid treatment and prevention program; to provide an appropriation; to provide for a transfer; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of section 21-10-02, the board shall invest the following funds:
 - a. State bonding fund.
 - b. Teachers' fund for retirement.
 - c. State fire and tornado fund.
 - d. Workforce safety and insurance fund.
 - e. Public employees retirement system.
 - f. Insurance regulatory trust fund.
 - g. State risk management fund.
 - h. Budget stabilization fund.
 - i. Water projects stabilization fund.
 - j. Health care trust fund.
 - k. Cultural endowment fund.
 - l. Petroleum tank release compensation fund.
 - m. Legacy fund.
 - n. Legacy earnings fund.
 - o. Opioid settlement fund.
 - p. A fund under contract with the board pursuant to subsection 3.

SECTION 2. AMENDMENT. Section 23-01-42 of the North Dakota Century Code is amended and reenacted as follows:

23-01-42. Opioid antagonist prescription, distribution, possession, or use - Immunity from liability.

1. As used in this section:
 - a. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
 - b. "Opioid antagonist" means a drug:
 - (1) That is approved by the United States food and drug administration for the treatment of a drug overdose and is recognized by the department of health and human services for the treatment of a drug overdose; and
 - (2) That when administered negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense an opioid antagonist, ~~if the health care professional provides training to:~~
 - a. ~~An individual at risk of experiencing an opioid-related overdose; or~~
 - b. ~~A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.~~
3. ~~An individual acting in good faith may receive or possess an opioid antagonist if that individual is:~~
 - a. ~~An individual at risk of experiencing an opioid-related overdose; or~~
 - b. ~~A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.~~
- 4.3. ~~An individual acting in good faith may self-administer an opioid antagonist or administer an opioid antagonist to another individual who the administering individual suspects is at risk of experiencing an opioid overdose.~~
- 5.4. ~~An individual may receive, possess, or administer an opioid antagonist under subsection 3 or 4, regardless of whether the individual is the individual for or to whom the opioid antagonist is prescribed, distributed, or dispensed.~~
- 6.5. ~~An individual who prescribes, distributes, dispenses, receives, possesses, or administers an opioid antagonist as authorized under this section is immune from civil and criminal liability for such action. A health care professional who prescribes, distributes, or dispenses an opioid antagonist as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional. Immunity from liability or discipline under this subsection does not apply if the individual's actions constitute recklessness, gross negligence, or intentional misconduct.~~

SECTION 3. A new chapter to title 50 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Committee" means the opioid settlement advisory committee.

2. "Department" means the department of health and human services.
3. "Fund" means the opioid settlement fund.
4. "Opioid litigation" means statewide opioid settlement agreements, judgments, or other recoveries in connection with a defendant's actual or alleged liability for contributing to the opioid crisis in this state which must be used for purposes of remediating or abating the opioid crisis in this state.

Opioid settlement fund.

There is created in the state treasury an opioid settlement fund. Moneys recovered by the state as a result of opioid litigation must be deposited in the fund. Moneys recovered by a political subdivision as a result of opioid litigation may be deposited in the fund. The state investment board shall invest moneys in the fund and income earned on the moneys in the fund must be credited to the fund. Moneys in the fund may be used in compliance with any court-ordered restrictions and as authorized by legislative appropriation and this chapter; however, legislative appropriations from the fund may not exceed eight million dollars in a biennium. The fund does not include funds not retained by the state pursuant to law or court order.

Opioid settlement advisory committee.

1. The committee is composed of:
 - a. One member of the North Dakota association of counties appointed by the chairman of the legislative management, who shall serve a term of two years.
 - b. One member of the North Dakota league of cities appointed by the chairman of the legislative management, who shall serve a term of two years.
 - c. One member of the North Dakota state association of city and county health officials appointed by the chairman of the legislative management, who shall serve a term of two years.
 - d. One member who represents the highway patrol appointed by the highway patrol superintendent, who shall serve a term of two years.
 - e. The executive director of the department's division of behavioral health.
 - f. The managing director of the office of recovery reinvented.
 - g. One member appointed by the governor who shall serve as a nonvoting member and as the presiding officer of the committee, who shall serve a term of two years.
2. The committee shall forward recommendations to the department on spending decisions of the legislatively appropriated funds for remediation or abatement of the opioid crisis in this state.
 - a. The committee shall develop a process for receiving spending recommendation input from political subdivisions and the public.
 - b. The committee shall develop a process for making recommendations to the department under this subsection.
 - c. The committee shall consider cultural practices and alternative best practice treatment methods when considering and making recommendations to the department under this subsection.

Department of health and human services - Report to budget section.

1. The department shall develop a process for receiving and evaluating spending recommendations of the committee.
2. Annually, each political subdivision that recovers and retains moneys as a result of opioid litigation shall submit to the department a report detailing the decisions of the governing body of the political subdivision regarding use of the moneys.
3. Annually, the department shall make a report to the budget section of the legislative management on the status of the fund and of spending decisions made by the department and the political subdivisions under this chapter.

Opioid remediation and abatement spending decisions - Implementation.

1. The department's spending decisions of the legislatively appropriated funds from the fund for remediating and abating the opioid crisis must include at least twenty percent for opioid use prevention and overdose prevention, including best practices relating to fentanyl drug overdose, and approved use for workforce development.
2. The department shall implement or assist with the implementation of spending decisions made under this chapter.

Political subdivisions - Public health units.

1. A political subdivision that recovers moneys as a result of opioid litigation may deposit the moneys in the fund or may retain the moneys and transfer the moneys to the public health unit that provides services to that political subdivision.
2. A political subdivision that recovers and retains moneys as a result of opioid litigation shall collaborate with a public health unit on the use of the moneys for local programs for remediating and abating the opioid crisis. The use of moneys under this subsection must be in compliance with any court-ordered restrictions. The political subdivision and public health unit shall work together to ensure all reporting requirements are met.
3. All political subdivisions shall provide an allocation plan to the behavioral health division prior to expenditure.

SECTION 4. AMENDMENT. Section 5 of chapter 3 of the 2021 Session Laws is amended and reenacted as follows:

SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID SETTLEMENT FUND - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ONE-TIME FUNDING - REPORT. The office of management and budget shall transfer up to \$2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the ~~department of human services opioid settlement fund~~ which is appropriated to the department of health and human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of health and human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of health and human services for this program. This funding is considered a one-time funding item.

SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - OPIOID REMEDIATION AND ABATEMENT. There is appropriated out of any moneys in the opioid settlement fund in the state treasury, not otherwise appropriated, the sum of \$8,000,000, or so much of the sum as

may be necessary, to the department of health and human services for the purpose of opioid remediation and abatement efforts under section 2 of this Act, for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 6. TRANSFER - OFFICE OF MANAGEMENT AND BUDGET - OPIOID SETTLEMENT FUND. The office of management and budget shall transfer to the opioid settlement fund all funds received by the state and any political subdivision of the state from opioid settlements and litigation during the period beginning March 1, 2021, and the effective date of this Act, and any additional funds received during the period beginning on the effective date of this Act, and ending June 30, 2025.

SECTION 7. APPLICATION. To initiate staggered terms of the members of the opioid advisory committee, the initial appointments for the positions representing the North Dakota association of counties representative and the North Dakota state association of city and county health officials representative must be for one year.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Dennis Johnson
Speaker of the House

Tammy Miller
President of the Senate

Bull J. Reich
Chief Clerk of the House

Sharon Morgan
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1447 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 85 Nays 8 Absent 1

Dennis Johnson
Speaker of the House

Bull J. Reich
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

Tammy Miller
President of the Senate

Sharon Morgan
Secretary of the Senate

Received by the Governor at 4:05 PM. on April 27, 2023.

Approved at 3:34 PM. on April 29, 2023.

Doug Burgum
Governor

Filed in this office this 1 day of May, 2023,

at 11:28 o'clock A M.

Michael Howe
Secretary of State