

Indiana



Total Funds

\$507 million¹

Allocation

50% to participating local governments, 50% to the state

Mechanism

Legislation
([Ind. Code Ann. § 4-6-15-1 to 4-6-15-5, 2023 House Bill 1001](#))²

Key Takeaways

50/50 allocation. State law divides Indiana’s settlements evenly: half to the state and half to participating localities.³ This was not always the case. The state’s original allocation law adopted the national settlement agreements’ default “15%-15%-70%” allocation that gave localities just 15% of funds. However, an [amendment to the law](#) apportioned half of the original 70% “statewide” share to cities, counties, and towns to [incentivize local government participation](#). Several non-participating localities did in fact opt back into the state’s scheme following the amendments.⁴

100% public reporting of “uses.” All entities receiving settlement funds must annually report their use of funds to the Office of the Secretary of Family and Social Services (FSSA),⁵ and the FSSA must publish these reports online.⁶

Background

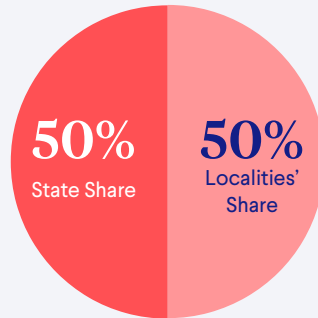
Indiana state law allocates 50% of settlement funds to the state and 50% of funds to participating local governments.⁷ State law also establishes the State Opioid Settlement Fund and Local Opioid Settlement Fund to house the state and participating localities’ respective shares,⁸ and both funds are further divided into two sub-accounts to hold the state’s and participating localities’ “unrestricted”⁹ amounts separately from their shares designated for opioid remediation purposes.¹⁰ Seventy percent (70%) of each half must be used by the state and localities on overdose crisis-related treatment and prevention programs that are “defined or required by the settlement documents or court order.”¹¹ Indiana’s [list of opioid remediation uses](#) is identical to the national settlement agreements’ [Exhibit E](#) and includes prevention, harm reduction, treatment, and recovery services.¹²

This resource is current as of 5/18/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.



Decision- Making Process

ALLOCATION OF SETTLEMENT FUNDS



50% STATE SHARE

The state's half of settlement monies are first received by the State Opioid Settlement Fund,¹³ which is administered by the budget agency and contains the State Unrestricted Opioid Settlement and State Abatement Opioid Settlement Accounts.¹⁴ Thirty-five percent (35%) of funds are distributed to the State Abatement Opioid Settlement Account and continuously appropriated to the Office of the Secretary of the [Family and Social Services Administration \(FSSA\)](#) for treatment, education, and prevention programs described in the [Approved Uses](#) list.¹⁵ Before these monies are distributed, the FSSA must submit a distribution plan to the legislature's budget committee for review.¹⁶

The FSSA's most recent [distribution plan](#), which the State Budget Committee approved,¹⁷ describes a [matching program](#) for local governments and "any entit[ies] that ha[ve] been granted funds from a qualified local unit of government" to support evidence-based opioid abatement strategies like treatment, prevention, harm reduction, and recovery services. Local funds that applicants allot to the project will be matched by the state out of its 35% share, for up to \$25 million in total.¹⁸

The remaining 15% is set aside "for the benefit of the state."¹⁹ After deduction of the state's attorneys' fees,²⁰ these funds are deposited into the State Unrestricted Opioid Settlement Account and may be expended only after the general assembly appropriates them for use by the state to administer the State Opioid Settlement Fund and to oversee and administer its treatment, education, recovery, and prevention programming.²¹



Decision- Making Process

(Continued)

50% LOCALITIES' SHARE

Participating localities' 50% share of settlement funds is held in the Local Opioid Settlement Fund,²² which is administered by the Attorney General's office and contains the Local Unrestricted Opioid Settlement and Local Abatement Opioid Settlement Accounts.²³ Thirty-five percent (35%) of funds are distributed to the Local Abatement Opioid Settlement Account and must be spent on the treatment, prevention, and care "best practices" described in the [Approved Uses](#) list.²⁴ Localities entitled to less than \$5,000 in annual distributions will have their amounts reabsorbed by their counties.²⁵ The remaining 15% is held by the Local Unrestricted Opioid Settlement Account,²⁶ and these monies may be spent on reimbursement uses and the Local Opioid Settlement Fund's administrative expenses.²⁷

Funds in both the Local Unrestricted Opioid Settlement Account and Local Abatement Opioid Settlement Account are continuously appropriated to the state Attorney General's office for distribution to participating cities, counties, and towns by formula.²⁸ Attorneys' fees are deducted prior to distribution of funds to localities that opted back into Indiana's allocation scheme.²⁹ Any locality receiving a direct distribution from either sub-account may transfer all or part of its monies to another locality to pursue joint community uses of funds.³⁰ A locality also may sell its right to future distributions so long as the proceeds from the sale(s) are used for allowed purposes.³¹ Otherwise, localities will likely use their normal budgeting and decision-making processes to expend their share of settlement funds.

LOCAL SPENDING EXAMPLE

The Valparaiso City Council approved the use of opioid settlement funds to support Porter County PACT's hiring of a community recovery care coordinator.³²

Tracking Funds and Accountability

All entities receiving settlement funds must annually report their use of funds to the Office of the Secretary of Family and Social Services (FSSA),³³ and the FSSA must publish these reports online.³⁴

Indiana



Engaging in the Process

- Watch closely for funding announcements on the [FSSA website](#).³⁵ You can subscribe to receive funding updates by email [here](#).
- Indiana has fewer obvious channels to engage on settlement spending than many states. Push for that to change! Use the fact that Indiana is consulting these [five guiding principles](#) to guide its spending, which include the development of a fair and transparent process for funding decisions.
- Sign up for email updates about the opioid settlements from the Attorney General's office [here](#).
- Sign up for email or text updates from the state's NextLevel Recovery initiative (administered by the Governor's Office for Drug Prevention, Treatment, and Enforcement) [here](#).³⁶
- You can also send questions about the state's opioid abatement-restricted 35% share directly to the Governor's Office of Drug Prevention, Treatment and Enforcement at drugpte@gov.in.gov.

Additional Resources

INDIANA OFFICE OF THE ATTORNEY GENERAL
[*Opioid Settlement & Litigation*](#)

NEXTLEVEL RECOVERY INDIANA
[*Opioid Settlement*](#)

[*Data Dashboard*](#)

[*Indiana Commission to Combat Substance Use Disorder*](#)

INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION
[*Funding Information*](#)



References

Last updated May 18, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. Indiana is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Walmart, Allergan, and Teva. See KHN's "[The Right to Know: Where Does Your State Stand on Public Reporting of Opioid Settlement Cash?](#)" interactive transparency map (located mid-article; click "Indiana" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. Indiana's allocation law is limited to the Distributor and Janssen Settlements. See Ind. Code Ann. § 5-6-15-4(a) (allocations apply "[e]xcept as provided by any bankruptcy court order or bankruptcy settlement ... to funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021."). However, the state laws establishing the State and Local Opioid Settlement Funds encompass "all funds received ... under: (A) multi-state and Indiana specific opioid litigation settlements described in [Indiana's allocation law]; and (B) any other form of opioid litigation agreement...." See Ind. Code Ann. §§ 4-12-16.2-3(1), 4-12-16.3-3(1). Note that many states' mechanisms for opioid settlement spending were designed to comply with the requirements of the [Distributor](#) and [Janssen](#) settlement agreements, which require (among other provisions) that a minimum of 85% of settlement funds be spent on opioid remediation expenditures. *Section V.B.1.* Subsequent settlements require varying thresholds of opioid remediation spend; the [CVS](#) and [Walgreens](#) agreements, for instance, require a minimum of 95.5% and 95% opioid remediation spending, respectively. *Section V.B.1.* Keep an eye out for the ways states will amend their spending mechanisms, if at all, to comply with subsequent settlement terms.
3. Ind. Code Ann. §§ 4-6-15-4(a), (d). Another amendment, [2023 House Bill 1001](#), established the State and Local Opioid Settlement Funds to hold the state's and participating localities' respective shares but did not alter the substantive allocation of settlement funds.
4. See, e.g., local resolutions from the [City of Fishers](#), [Town of Zionsville](#), [City of Newcastle](#), and [Monroe County](#).
5. Ind. Code Ann. § 4-6-15-4(e).
6. Ind. Code Ann. §§ 4-6-15-4(f), 5-14-6-4(b)(1).
7. Ind. Code Ann. §§ 4-6-15-4(a), (d). See also [NextLevel Recovery Indiana: Opioid Settlement](#) ("[House Enrolled Act 1193](#), passed by the Indiana General Assembly and signed by Governor Eric J. Holcomb in March 2022, creates a 50/50 state and local split").
8. Ind. Code Ann. §§ 4-12-16.2-2 (establishing state opioid settlement fund), 4-12-16.2-3 (designating contents of state opioid settlement fund), 4-12-16.3-2 (establishing local opioid settlement fund), 4-12-16.3-3 (designating contents of local opioid settlement fund). 2023 Indiana House Bill 1001 amended Indiana's statutory scheme to establish the State and Local Opioid Settlement Funds, among other things. Ind. Code Ann. § 4-12-16.2 and Ind. Code Ann. § 4-12-16.3 are not to be mistaken for the preexisting and similarly named Ind. Code Ann. § 4-12-16-2 and Ind. Code Ann. § 4-12-16-3.
9. Monies in the "state unrestricted opioid settlement account" are not truly unrestricted. These monies "must be used by the state for oversight and administration of programs for treatment, education, recovery, and prevention of opioid use disorder and any co-occurring substance use disorders or mental health issues." Ind. Code Ann. § 4-12-16.2-5(1). Monies in this account also must be used first if additional monies are needed to satisfy minimum remediation spending requirements. Ind. Code Ann. § 4-6-15-4(g).
10. Ind. Code Ann. §§ 4-12-16.2-5(1) (state unrestricted opioid settlement account), 4-12-16.2-5(2) (state abatement opioid settlement account), 4-12-16.3-5(1) (local unrestricted opioid settlement account), 4-12-16.3-5(2) (local abatement opioid settlement account). Indiana's allocation law further provides that monies will be distributed to each of these four accounts at least twice annually. Ind. Code Ann. § 4-6-15-4(a).
11. Ind. Code Ann. § 4-6-15-4(a)(3)-(4). The state's allocation law, as revised, explicitly identifies the state's and localities' abatement sub-accounts as shares that will be used to satisfy the national settlement agreements' 70% "future Opioid Remediation" minimum threshold of spend. Ind. Code Ann. § 4-6-15-4(g).
12. See also [Amendment to Agreement for Professional Services Relating to Opioids Settlements with McKesson, Cardinal Health, AmerisourceBergen, and Johnson & Johnson's Settlement Participation Form Sec. 3.5](#).
13. Ind. Code Ann. § 4-12-16.2-3.



References

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14. Ind. Code Ann. §§ 4-12-16.2-4, 4-12-16.2-5. See also Ind. Code Ann. § 4-12-16.2-8 (“Money in the fund at the end of a state fiscal year does not revert to the state general fund.”)
15. Ind. Code Ann. §§ 4-6-15-4(a)(3), 4-12-16.2-5(2). The State Abatement Opioid Settlement Account also contains the balance of any opioid settlements remaining prior to the passage of P.L.72-2022. Ind. Code Ann. § 4-12-16.2-5(2).
16. Ind. Code Ann. § 4-12-16.2-5(2). The state’s mechanisms for opioid settlement funds do not reference the [Indiana Commission to Combat Substance Use Disorder](#) mentioned by the FSSA’s distribution plan. The Commission was created by [state law](#), and while its statutory duties do not officially extend to the settlements, it meets quarterly to “collaborate and discuss actions and ideas to defeat the drug epidemic.” For more information, refer to the Commission’s [website](#), which contains members and upcoming meeting dates.
17. “The State Budget Committee approved Indiana’s plan for the 35% appropriated for abatement to the Indiana Family and Social Services Administration in December 2022. Funding announcements can be found [here](#).” [NextLevel Recovery Indiana: Opioid Settlement](#).
18. [Request for Funding Announcement - State of Indiana Settlement Match Grant](#)
19. Ind. Code Ann. § 4-6-15-4(a)(1).
20. Ind. Code Ann. § 4-6-15-4(b).
21. Ind. Code Ann. §§ 4-12-16.2-5(1), 4-12-16.2-6.
22. Ind. Code Ann. § 4-12-16.3-3.
23. Ind. Code Ann. §§ 4-12-16.3-4, 4-12-16.3-5. See also Ind. Code Ann. § 4-12-16.3-8 (“Money in the fund at the end of a state fiscal year does not revert to the state general fund.”)
24. Ind. Code Ann. § 4-6-15-4(a)(4).
25. At least for annual distributions beginning June 30, 2023. Prior to July 1, 2023, only those localities with less than \$1,000 in annual distributions have their amounts distributed to their counties. Ind. Code Ann. § 4-6-15-4(a)(4)(A)-(B).
26. Ind. Code Ann. §§ 4-6-15-4(a)(2), 4-12-16.3-5(1).
27. Ind. Code Ann. §§ 4-6-15-4(a)(2), 4-12-16.3-6.
28. Ind. Code Ann. §§ 4-6-15-4(a)(2), (a)(4), (c), 4-12-16.3-5. See also Ind. Code Ann. § 4-6-15-4(d) (“Funds received from the settlement may not be distributed to a city, county, or town that has opted out of the settlement under section 2(b) of this chapter. The settlement funds that are not distributed to the cities, counties, or towns that have opted out of the settlement must be distributed in the manner set forth under subsection (a)(2) and (a)(4) to the cities, counties, or towns that have opted into the settlement.”)
29. Ind. Code Ann. § 4-6-15-5. See also Key Takeaways (“50/50 allocation”).
30. Ind. Code Ann. § 4-6-15-4(h).
31. Ind. Code Ann. § 4-6-15-4(i) (“Upon a majority vote of the legislative body, a city, county, or town receiving a distribution under subsection (a)(2) or (a)(4) may sell for cash or other consideration the right to receive the distribution. However, the proceeds from the sale of a distribution received under subsection (a)(2) must be used for the purposes allowed for a distribution under subsection (a)(2), and the proceeds from the sale of a distribution received under subsection (a)(4) must be used for the purposes allowed for a distribution under subsection (a)(4). A city, county, or town may pledge, grant a lien on, or grant a security interest in a distribution to effectuate a sale under this subsection. The legislative body’s approval of the sale is conclusive as to the adequacy of the consideration for the sale.”)
32. [“Valparaiso spending opioid settlement money on recovery care coordinator”](#)
33. Ind. Code Ann. § 4-6-15-4(e) (“All entities receiving settlement funds shall monitor the use of those funds and provide an annual report to the office of the secretary of family and social services not later than a date determined by the office of the secretary of family and social services.”) The 2023 amendment to this state law removed language that required intrastate reporting only for shares specifically set aside “for treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues” (i.e., the two 35% shares restricted to abatement uses).
34. Ind. Code Ann. §§ 4-16-15-4(f), 5-14-6-4(b)(1).
35. A [matching grant](#) opportunity, which closed in February 2023, defined eligible applicants to include both local governments and “any entit[ies] that ha[d] been granted funds from a qualified local unit of government.”
36. See footer of the page for “Sign Up for Email/Text Updates.”