



## Total Funds

\$100 million<sup>1</sup>

## Allocation

85% to the Nebraska Opioid Recovery Fund and 15% to political subdivisions

## Mechanism

Legislation ([Opioid Prevention and Treatment Act](#), i.e., Neb. Rev. Stat. Sections 71-2485 to 71-2490) and advisory committee rules ([Bylaws of the Nebraska Opioid Settlement Remediation Advisory Committee](#))<sup>2</sup>

## Key Takeaways

**85-15 allocation.** The bulk of Nebraska's opioid settlement monies sit in the Nebraska Opioid Recovery Fund,<sup>3</sup> which is overseen by the [Nebraska Opioid Settlement Remediation Advisory Committee](#).<sup>4</sup> The Committee advises the Department of Health and Human Services (DHHS) on the optimal use of funds,<sup>5</sup> and DHHS may spend the funds after the Attorney General verifies that the spending complies with state law and the settlement agreements.<sup>6</sup>

**Public reporting.** The Department of Health and Human Services must report on the uses and outcomes of settlement money spending to the legislature, the Governor, and the Attorney General.<sup>7</sup> However, neither the [Nebraska Opioid Prevention and Treatment Act](#) nor the [Bylaws of the Nebraska Opioid Settlement Remediation Advisory Committee](#) explicitly require public reporting of expenditures.<sup>8</sup>

## Background

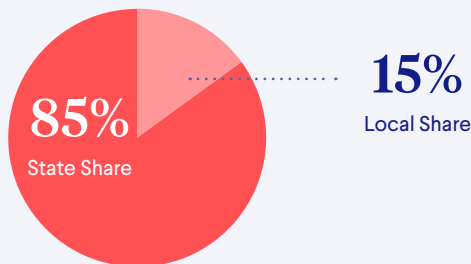
The Attorney General's [website](#) describes the allocation of opioid settlement funds in the state: 85% to the Nebraska Opioid Recovery Fund created by [state law](#) and 15% to political subdivisions.<sup>9,10</sup> Both the fund and subdivision shares must be spent in accordance with applicable settlement agreements, including on allowable uses specified in [Exhibit E](#) of the Distributor and Janssen Settlement Agreements, such as prevention, harm reduction, treatment, and recovery services.<sup>11</sup> The Nebraska Opioid Settlement Remediation Advisory Committee is also empowered to establish criteria for core strategies and approved uses of the state's share of settlement funds.<sup>12</sup>

*This resource is current as of 4/4/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.*



## Decision- Making Process

### ALLOCATION OF SETTLEMENT FUNDS



### 85% STATE SHARE

The state's share of settlement monies sits in the Nebraska Opioid Recovery Fund (Fund) and is overseen by the Nebraska Opioid Settlement Remediation Advisory Committee.<sup>13</sup> The Committee is responsible for advising Nebraska's Division of Behavioral Health, which sits within the Department of Health and Human Services, on the spending of state settlement funds.<sup>14</sup> Specifically, the Committee is empowered to establish grant eligibility criteria,<sup>15</sup> conduct needs assessments,<sup>16</sup> and establish processes for "receiving input,"<sup>17</sup> though the bylaws do not specify how that input is to be received or from whom. Importantly, the Committee may sub-allocate at least 50% and up to 100% of the state's share to Nebraska's six behavioral health regions, with the initial distributions determined by [Exhibit G](#) of the national settlements.<sup>18</sup> The Committee may retain a portion of Fund monies for the state's future use so long as regions continue to receive at least 50% of the Fund share.<sup>19</sup> Ultimately, the Committee's recommendations will be carried out by DHHS upon the Attorney General's verification that the recommendations comply with state law and applicable settlement agreements.<sup>20</sup>

### OPIOID SETTLEMENT REMEDIATION ADVISORY COMMITTEE

*The Committee must include an equal number of state and local representatives.<sup>21</sup> Local representatives will be selected by the [League of Nebraska Municipalities](#) and the [Nebraska Association of County Officials](#), with no more than two representatives from each behavioral health region. At least one state representative should be "a consumer of substance use disorder services." Other state representatives include people with "specialized knowledge" of substance use disorder services and mental health services, someone associated with a medical school in the state, and law enforcement.<sup>22</sup> The Committee's executive committee – "consisting of the chairperson, the vice-chairperson, and the secretary" – is empowered to appoint working groups and task forces of Committee members, and the Committee itself may establish subcommittees by majority vote.<sup>23</sup> Initial voting members of the Committee may be found [here](#).*



## Decision- Making Process

(Continued)

### 15% LOCAL SHARE

Local governments will receive their 15% share of settlement funds directly. These funds are excluded from the Nebraska Opioid Recovery Fund<sup>24</sup> and are not overseen by the Nebraska Opioid Settlement Remediation Advisory Committee. Localities will likely use their normal budgeting and decision-making processes to spend their share of settlement funds, which must be used in accordance with applicable settlement agreements (e.g., to expand harm reduction and treatment services).<sup>25</sup>

## Tracking Funds and Accountability

- Though the Department of Health and Human Services must report annually on the uses and outcomes of spending from Fund monies to the Legislature, the Governor, and the Attorney General,<sup>26</sup> Nebraska has not yet committed to publicly reporting its opioid settlement expenditures.<sup>27</sup>
- The Nebraska Opioid Settlement Remediation Advisory Committee's meetings must meet the requirements of the state's Open Meetings Act.<sup>28</sup>

## Engaging in the Process

- Check the Department of Health and Human Services' website for [grant and contracting opportunities](#) related to settlement funds, and subscribe for updates [here](#).
- Call for easier public access to Committee meetings to make your voice heard: meeting information must be posted on the Nebraska [public meetings calendar](#).<sup>29</sup> The calendar is hard to search, however.
- Past meeting agendas indicate that public comments are limited to five minutes per speaker, and that written comments may also be submitted to the Committee.<sup>30</sup> Consider submitting oral or written comments on the allocation and use of state settlement funds.



## Additional Resources

**NEBRASKA DEPT. OF HEALTH AND HUMAN SERVICES**

[Grants and Contract Opportunities](#)

[Division of Behavioral Health 2022 Update](#)

**NEBRASKA DEPT. OF ADMINISTRATIVE SERVICES**

[Current Bid Opportunities page](#)

**NEBRASKA ATTORNEY GENERAL'S OFFICE:**

[Nebraska Opioid Settlement Remediation Advisory Committee](#)

**OTHER**

[Nebraska Opioid Settlement Remediation Advisory Committee](#)



## References

Last updated April 4, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. Nebraska 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 "Nebraska" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. The Nebraska Opioid Recovery Fund will include all opioid-related litigation funds (except criminal penalties). Neb. Rev. Stat. Ann § 71-2490(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. Neb. Rev. Stat. Section 71-2490(1). <https://nebraskalegislature.gov/laws/statutes.php?statute=71-2490>
4. Bylaws Article II.
5. Bylaws Article II.
6. Bylaws Article II.
7. Neb. Rev. Stat. Section 71-2489 <https://nebraskalegislature.gov/laws/statutes.php?statute=71-2489>
8. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures](#)."
9. "Under the Nebraska Opioid Prevention and Treatment Act, the state's 15% share is also to be deposited into the Opioid Recovery Fund. The 15% share to eligible cities and counties is to be directly deposited by the national settlement administrator with each eligible city or county. Both the monies deposited into the Opioid Recovery Fund and directly with eligible cities and counties must be used in a manner approved under the settlement agreement for abatement of opioid use disorder and any co-occurring mental health or substance use disorders." AG's [Nebraska Opioid Settlement Remediation Advisory Committee page](#).
10. Neb. Rev. Stat. Section 71-2490(1). <https://nebraskalegislature.gov/laws/statutes.php?statute=71-2490>
11. The Opioid Treatment and Prevention Act requires that monies from the Fund are spent "in accordance with the terms of" any settlements brought by the Attorney General, per Neb. Rev. Stat. §71-2488. Thus, the national settlement agreements' [Exhibit E](#) governs the allowable use of funds.
12. Bylaws Article II(D).
13. Neb. Rev. Stat. Section 71-2490(1) and Bylaws Art. I. See also AG's 3/23/2022 press ("[Announcement of Meeting of the Nebraska Opioid Settlement Remediation Advisory Committee](#)").
14. Bylaws Art. II.
15. Bylaws Art. II(A).
16. Bylaws Art. II(G).
17. Bylaws Art. II(H).
18. <https://dhhs.ne.gov/Behavioral%20Health%20Documents/DBH%20Strategic%20Plan%20and%20Settlement%20Overview.pdf#page=7>
19. <https://dhhs.ne.gov/Behavioral%20Health%20Documents/DBH%20Strategic%20Plan%20and%20Settlement%20Overview.pdf#page=7>
20. Bylaws Art. II.
21. Bylaws Art. III. See also Sec. V.E.2.d.ii of the [Distributor](#) and [Janssen](#) settlement agreements.
22. Members serve initial terms of two years and then have the option to serve for two additional two-year terms. Bylaws Art. III.
23. Bylaws Art. VI.
24. Neb. Rev. Stat. Section 71-2490(3). <https://nebraskalegislature.gov/laws/statutes.php?statute=71-2490> "The fund shall exclude funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, political subdivisions, or governments. Such excluded funds shall be deposited in the State Settlement Trust Fund pursuant to section 59-1608.05."
25. "The committee has no authority over any direct payments made to eligible cities and counties from the national administrator." <https://ago.nebraska.gov/nebraska-opioid-settlement-remediation-advisory-committee>



## References

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26. Neb. Rev. Stat. Section 71-2489 <https://nebraskalegislature.gov/laws/statutes.php?statute=71-2489>
27. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)"
28. Bylaws Art. IV. See also [Nebraska Opioid Settlement Remediation Advisory Committee's "The Role of the Nebraska Opioid Remediation Advisory Committee."](#)
29. Bylaws Art. IV.
30. See, e.g., <https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/Opioid%20Settlement%20Meeting%20Agenda%20%28formatted%29%5B53%5D%5B20%5D.pdf>