

North Carolina



Total Funds

\$750 million¹

Allocation

85% to counties and municipalities; 15% to the state²

Mechanism

Allocation agreements between the state and local governments ([Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation; Supplemental Agreement for Additional Funds from Additional Settlements of Opioid Litigation](#)), legislation ([N.C. S.L. 2022-74, § 9F.1](#))³

Key Takeaways

Local emphasis. North Carolina allocates 85% of its settlement funds to counties and municipalities, with the remaining 15% allocated to the state.⁴

Option A vs. Option B. Localities may spend their settlement funds on specific “[High-Impact Opioid Abatement Strategies](#)” (Option A), choose among a [broader list](#) of permissible uses after engaging in a collaborative strategic planning process (Option B), or both.⁵

100% public reporting. Local governments that receive settlement funds must publicly report all settlement allocations and expenditures, any reports and recommendations from collaborative strategic planning processes, and information on the impact of their settlement expenditures.⁶ This information will be posted on the [statewide opioid settlement dashboard](#).⁷ Additionally, although neither state law nor the Agreement include any public reporting requirements regarding the 15% state share, the state has committed to [sharing](#) how the General Assembly appropriates these funds.⁸

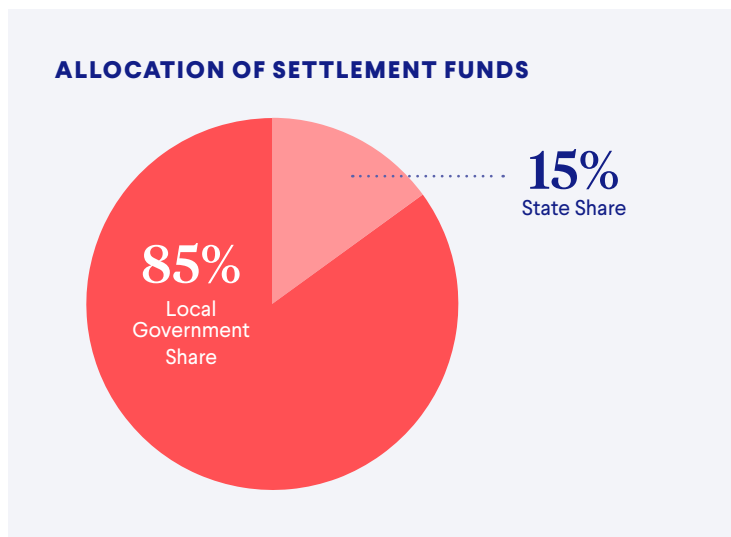
This resource is current as of 6/5/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.



Background

The [Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation \(Agreement\)](#) and [Supplemental Agreement for Additional Funds from Additional Settlements of Opioid Litigation \(Supplemental Agreement\)](#) govern the allocation and use of opioid settlement funds in North Carolina. The Agreement and Supplemental Agreement allocate 15% of settlement funds to the state and 85% of funds directly to local governments according to the percentages in [Exhibit G](#) of the Agreement.⁹ The state's 15% of settlement monies are held in the Opioid Abatement Reserve (Reserve) established by state law and may be used only as appropriated by the General Assembly.¹⁰ Except for litigation expenses, all settlement funds, regardless of allocation, must be used for opioid remediation activities, such as to expand prevention, harm reduction, treatment, and recovery services.¹¹

Decision-Making Process



15% STATE SHARE

Fifteen percent (15%) of North Carolina's settlement funds are allocated to the state and held in the Opioid Abatement Reserve (Reserve) established by state law.¹² Reserve monies may be used only to cover the state's litigation expenses and for opioid remediation, and the General Assembly must appropriate the monies prior to their allocation or use.¹³ State law also established the Opioid Abatement Fund (State Fund) in the North Carolina Department of Health and Human Services (DHHS).¹⁴ The State Fund includes Reserve monies directly appropriated by the General Assembly and all interest and investment earnings from State Fund monies.¹⁵ The General Assembly has previously appropriated monies from the State Fund to DHHS and other entities (e.g., the North Carolina Association of County Commissioners) through the state's annual budget process.¹⁶



Decision- Making Process

(Continued)

85% LOCAL GOVERNMENT SHARE

Eighty-five percent (85%) of North Carolina's settlement funds are allocated directly to local governments according to the percentages in [Exhibit G](#) of the Agreement.¹⁷ Local governments receiving settlement funds may choose between Option A and/or Option B.¹⁸ Localities that choose Option A must use their settlement funds for the "High-Impact Opioid Abatement Strategies" specified in [Exhibit A](#) of the Agreement such as to support naloxone distribution, syringe service programs, and evidence-based addiction treatment.¹⁹ Localities that select Option B may choose strategies from a broader list of permissible uses (i.e., [Exhibit B](#)) but must engage in a [collaborative, strategic planning process](#) prior to spending their settlement funds,²⁰ at least every four years thereafter,²¹ and whenever the locality seeks to implement a new strategy that is not a "High-Impact Opioid Abatement Strategy."²² The strategic planning process must result in a report and non-binding recommendations.²³ A local government may select a combination of Option A and Option B strategies, with the collaborative, strategic planning process required only for funds allocated to Option B strategies.²⁴

Local governments must keep their opioid settlement funds in a designated special revenue fund and are prohibited from commingling settlement funds with other local government monies, selling their rights to future settlement payments, or otherwise delegating responsibility for deciding how to use the funds.²⁵ A local government's governing body (i.e., county board of commissioners or city council) must authorize the spending of its opioid settlement funds in its budget or by adopting a separate resolution.²⁶ The budget and/or resolution must specify the amount, purpose, and duration of the funding, and must identify each funded strategy by citing the corresponding provision in the Agreement's [Exhibit A](#) or [Exhibit B](#).²⁷ Settlement monies may not be used to reimburse expenditures incurred prior to a local government's signing of the Agreement.²⁸ A municipality receiving funds may direct its share of settlement funds to the county or counties in which it is located.²⁹

LOCAL EXAMPLE

In January 2023, the Montgomery County Board of Commissioners approved spending \$350,000 in opioid settlement funds on increased naloxone distribution (\$220,000), recovery support services (\$100,000), and early intervention for youth (\$30,000).³⁰ FirstHealth of the Carolinas, which received the bulk of the funding, said they will use the funds "to hire a full-time certified peer support specialist in Montgomery County, ensure greater distribution of harm reduction kits and work to address early intervention and stigma through community education and outreach efforts."³¹



Tracking Funds and Accountability

- Local governments must submit annual financial reports to the Attorney General that detail their use of opioid settlement funds and include the information specified in [Exhibit E](#) of the Agreement.³²
- Each local government also must submit to the publicly accessible state opioid settlement dashboard (1) any budget or resolution authorizing the expenditure of settlement funds; (2) any reports and non-binding recommendations from collaborative strategic planning; (3) their annual financial report; and (4) an annual impact report as outlined in [Exhibit F](#).³³
- Although neither state law nor the Agreement include any explicit public reporting requirements applicable to the 15% state share, the state has committed to [sharing](#) how the General Assembly appropriates these funds.³⁴
- Local settlement funds are subject to an annual audit, and local governments must report any misspent funds to the Attorney General.³⁵ If a local government uses settlement funds for impermissible purposes, future payments to the local government will be reduced by an equal amount or the Attorney General can seek to recover and redistribute the misused funds.³⁶

Engaging in the Process

- Each county is required to hold at least one annual meeting in which all municipalities within the county are invited to receive input on how to use its opioid settlement funds and encourage collaboration between local governments. Attend these meetings, which must be open to the public.³⁷
- Participate in the collaborative strategic planning process in counties and municipalities selecting Option B; localities must engage stakeholders with lived experience as part of the process.³⁸ Advocate for robust community engagement and the meaningful inclusion of people with lived experience in decision-making about how to use settlement funds regardless of whether a locality chooses Option A or B.
- Attend hearings and provide public comment to county boards of commissioners and city councils as they develop budgets and/or consider resolutions to allocate opioid settlement funds.
- Watch for future funding opportunities from [the state](#) and local governments. The Agreement references the ability for local governments to contract with or make grants to nonprofits and other entities,³⁹ and the North Carolina Department of Health and Human Services (DHHS) has [previously solicited](#) grant proposals for settlement funds.



Engaging in the Process

(Continued)

- The North Carolina Department of Health and Human Services (opioidssettlement@dhhs.nc.gov) and North Carolina Association of County Commissioners (opioidssettlement@ncacc.org) offer technical assistance on the planning, implementation, and evaluation of settlement spending and abatement strategies. For legal questions about the opioid settlements, email opioidssettlement@ncdoj.gov.
- Check out Community Education Group's [Appalachia Opioid Remediation \(AOR\) Local Opioid Settlement Spending Database](#) and sign up for their AOR email alerts [here](#). CEG's AOR initiative provides opioid settlement spending updates from the 13 states of Appalachia.⁴⁰

Additional Resources

CORE-NC (COMMUNITY OPIOID RESOURCES ENGINE FOR NORTH CAROLINA)

[North Carolina Opioid Settlements](#)

[General Support Resources \(on Opioid Settlements\)](#)

[Data Dashboard – NC Payment Schedule](#)

[Reporting Overview](#)

MORE POWERFUL NC

[NC Memorandum of Agreement Resource Center](#)

NORTH CAROLINA DEPARTMENT OF JUSTICE

[Frequently Asked Questions on the Memorandum of Agreement On the Allocation and Use of Opioid Settlement Funds in North Carolina](#)

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Opioid and Substance Use Action Plan Data Dashboard](#)



References

Last updated June 5, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. North Carolina 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 "North Carolina" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. Settlement funds governed by the Supplemental Agreement for Additional Funds from Additional Settlements of Opioid Litigation (Supplemental Agreement) are allocated 15% to the state, 84.62% to local governments, and 0.38% to a Local Counsel Fee Fund. Supplemental Agreement § III(B)(2). See also Supplemental Agreement § IV (Local Counsel Fee Fund).
3. The [Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation](#) (Agreement) applies to settlements with Johnson & Johnson (Janssen), AmerisourceBergen, Cardinal Health, and McKesson and various bankruptcy resolutions, including the bankruptcy resolutions concerning Purdue and Mallinckrodt. See Agreement § Background Statement (defining "Bankruptcy Resolution" and "MOA"), § A (defining "National Settlement Agreement" and "Settling Defendants"), § H(5) ("Application of MOA to settlements and bankruptcy resolutions"). The [Supplemental Agreement for Additional Funds from Additional Settlements of Opioid Litigation](#) (Supplemental Agreement) applies to settlements with Walmart, Teva, Allergan, CVS, and Walgreens. Supplemental Agreement § II(B). The state law establishing the Opioid Abatement Reserve and Opioid Abatement Fund applies to all opioid-related settlement agreements. See N.C. S.L. 2022-74, §§ 9F.1(a) ("The Opioid Abatement Reserve (Reserve) is established in the General Fund to maintain (i) [McKinsey settlement] funds ... (ii) any other funds received by the State as a result of a settlement ... relating to claims regarding the manufacturing, marketing, distribution, dispensing, or sale of opioids, and (iii) funds received by the State as a beneficiary of a confirmation order by a bankruptcy court relating to claims regarding the manufacturing, marketing, distribution, dispensing, or sale of opioids"), 9F.1(a). 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.
4. Agreement § B(2); Supplemental Agreement § III(B)(2). The Supplemental Agreement technically allocates 15% to the state, 84.62% to local governments, and 0.38% to a Local Counsel Fee Fund. Supplemental Agreement § III(B)(2).
5. Agreement § E(5).
6. Agreement § F(6)(c). See also Supplemental Agreement § III(F)(1).
7. Agreement § F(6)(c). See also Supplemental Agreement § III(F)(1).
8. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)"
9. Agreement § B(2)-(3); Supplemental Agreement § III(B)(2)-(3). The Supplemental Agreement technically allocates 15% to the state, 84.62% to local governments, and 0.38% to a Local Counsel Fee Fund. Supplemental Agreement § III(B)(2). *But see* Supplemental Agreement § IV (providing that the full 85% will be allocated to local governments "[i]f one or more National Counsel fails to release its North Carolina client counties and/or municipalities from any contractual obligation to pay legal fees or costs relating to their representation of North Carolina counties and municipalities regarding opioid claims and litigation against the Settling Defendants and Additional Settling Defendants...").
10. N.C. S.L. 2021-180, § 9F.1(a), as amended by N.C. S.L. 2022-74, § 9F.1(a).
11. Agreement § B(5); Supplement Agreement § III(B)(5).
12. Agreement § B(2); Supplemental Agreement § III(B)(2); N.C. S.L. 2021-180, § 9F.1(a), as amended by N.C. S.L. 2022-74, § 9F.1(a).
13. N.C. S.L. 2021-180, § 9F.1(a), as amended by N.C. S.L. 2022-74, § 9F.1(a). See also Agreement § B(5); Supplemental Agreement § III(B)(5).
14. N.C. S.L. 2021-180, § 9F.1(a), as amended by N.C. S.L. 2022-74, § 9F.1(a).



References

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15. N.C. S.L. 2021-180, § 9F.1(a), as amended by N.C. S.L. 2022-74, § 9F.1(a1).
16. See, e.g., N.C. S.L. 2021-180, § 9F.1(b); N.C. S.L. 2022-74, § 9F.1(c).
17. Agreement § B(2)-(3); Supplemental Agreement § III(B)(2)-(3). The Supplemental Agreement technically allocates to local governments only 84.62% of funds from settlements with Walmart, Teva, Allergan, CVS, and Walgreens, with the remaining 0.38% allocated to a Local Counsel Fee Fund. Supplemental Agreement §§ II(B), III(A)(2)-(4), III(B)(2). *But see* Supplemental Agreement § IV (providing that the full 85% will be allocated to local governments “[i]f one or more National Counsel fails to release its North Carolina client counties and/or municipalities from any contractual obligation to pay legal fees or costs relating to their representation of North Carolina counties and municipalities regarding opioid claims and litigation against the Settling Defendants and Additional Settling Defendants...”).
18. Agreement § E(5). See also Supplemental Agreement § III(E)(1) (“Local Governments shall expend Additional Funds according to the requirements for Opioid Settlement Funds stated in [the Agreement’s] section E.”)
19. Agreement § E(5)(a)(i); Agreement Ex. A.
20. Agreement § E(5)(b)(i)-(ii).
21. Agreement § E(5)(b)(iii).
22. Agreement § E(5)(b)(iv).
23. Agreement § E(5)(b)(ii).
24. See Question 39 of “[Frequently Asked Questions on the Memorandum of Agreement on the Allocation and Use of Opioid Settlement Funds in North Carolina](#)” (Updated August 2022).
25. Agreement §§ D(1), (2) (“Although counties or municipalities may make contracts with or grants to a nonprofit, charity, or other entity, counties or municipalities may not assign to another entity their rights to receive payments from the national settlement or their responsibilities for funding decisions”). See also Agreement § D(3) (“The funds in the special revenue fund may be invested, consistent with the investment limitations for local governments, and may be placed in an interest-bearing bank account. Any interest earned on the special revenue fund must be used in a way that is consistent with this [Agreement].”); Supplemental Agreement § III(D).
26. Agreement § E(6)(a). See also Supplemental Agreement § III(E)(1) (“Local Governments shall expend Additional Funds according to the requirements for Opioid Settlement Funds stated in [the Agreement’s] section E.”)
27. Agreement § E(6)(b). See also Supplemental Agreement § III(E)(1).
28. Agreement § E(1). See also Supplemental Agreement § III(E)(1).
29. Agreement § B(4)(b); Supplemental Agreement § III(B)(4) (“Consistent with the manner in which [the Agreement] section B.4.b has been interpreted by the parties to the [Agreement] with respect to Opioid Settlement Funds, a municipality that directs Local Additional Abatement Funds to the county or counties in which it is located pursuant to [Agreement] section B.4 shall be relieved of any reporting or other obligations under the [Agreement] with respect to the redirected funds.”)
30. “[A Resolution by the County of Montgomery to Direct the Expenditure of Opioid Settlement Funds](#)” (January 17, 2023).
31. FirstHealth of the Carolina’s efforts are supported by both county opioid settlement dollars and a matching grant from Vital Strategies. See “[Vital Strategies Grant Allows FirstHealth to Expand Opioid Response Efforts in Montgomery County](#).”
32. Agreement § F(6)(a), (b) (“The annual financial report shall be provided to the North Carolina Attorney General by emailing the report to opioiddocs@ncdoj.gov, within 90 days of the last day of the state fiscal year covered by the report.”) See also Supplemental Agreement § III(F)(1) (applying the Agreement’s auditing, compliance, reporting, and accountability provisions to funds covered by the Supplemental Agreement).
33. Agreement § F(6)(c). See also Supplemental Agreement § III(F)(1). Budgets or resolutions authorizing expenditures must be submitted within 90 days of passage. Agreement § F(6)(c)(i). Report(s) and non-binding recommendations from collaborative strategic planning must be submitted within 90 days from when the report and recommendations are submitted to the local governing body for consideration. Agreement § F(6)(c)(ii). Annual financial reports and impact reports must be submitted within 90 days of the end of the fiscal year covered by the reports. Agreement § F(6)(c)(iii)-(iv).
34. See OpioidSettlementTracker.com’s “[States’ Initial Promises to Publicly Report Their Opioid Settlement Expenditures](#).”
35. Agreement § F(1). See also Supplemental Agreement § III(F)(1).

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References

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36. Agreement §§ E(2) (“If a Local Government spends any Opioid Settlement Funds on an expenditure inconsistent with the terms of this [Agreement], the Local Government shall have 60 days after discovery of the expenditure to cure the inconsistent expenditure through payment of such amount for opioid remediation activities through budget amendment or repayment”), E(3).
37. Agreement § E(4).
38. See [Agreement Ex. C, § A-9](#).
39. Agreement § D(2).
40. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.