

North Dakota



Total Funds

\$45.5 million¹

Allocation

85% to the Opioid Settlement Fund, 15% to participating political subdivisions

Mechanism

Legislation ([2023 ND H.B. 1447](#))²

Key Takeaways

85% of monies in Opioid Settlement Fund (Fund). All monies from the state share are deposited into the Fund established by state law, and participating political subdivisions also may contribute their shares to the Fund.³

Public health units. A participating political subdivision that opts to retain its share of settlement monies must transfer the funds to the public health unit that provides services to the subdivision and collaborate with the public health unit on the use of settlement monies for local opioid abatement and remediation programs.⁴

No public reporting. North Dakota state law does not include any requirements for the state or political subdivisions to publicly report opioid settlement expenditures or enforcement provisions to address misspent funds.⁵ However, political subdivisions are required to report settlement expenditures to the state Department of Health and Human Services (DHHS), and DHHS must annually report state and local settlement expenditures to the budget section of the legislative management.⁶

Background

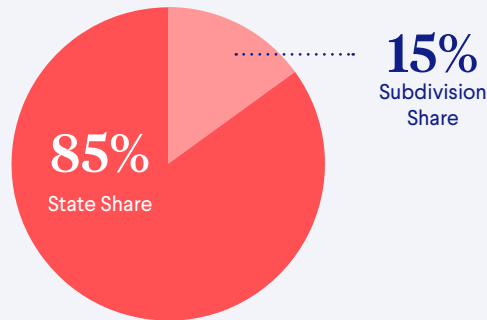
North Dakota state law establishes the Opioid Settlement Fund (Fund) and Opioid Settlement Advisory Committee (Advisory Committee).⁷ Eighty-five percent (85%) of the state's settlement monies are deposited into the Fund with the remaining 15% of monies allocated to participating political subdivisions.⁸ The state legislature appropriates Fund monies to the state Department of Health and Human Services (DHHS) for opioid remediation and abatement efforts, and DHHS must allocate at least 20% of these monies to opioid use and overdose prevention.⁹ DHHS also must establish a process for receiving and evaluating spending recommendations from the Advisory Committee.¹⁰ A political subdivision that receives settlement monies may either deposit the monies into the Fund or retain the monies.¹¹ If a political subdivision retains its share of settlement monies, the subdivision must transfer the monies to the public health unit that provides services to the subdivision and collaborate with the public health unit on the use of the monies for local opioid abatement and remediation programs.¹²

This resource is current as of 5/30/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.



Decision- Making Process

ALLOCATION OF SETTLEMENT FUNDS



85% STATE SHARE

State law establishes the Opioid Settlement Fund (Fund) and Opioid Settlement Advisory Committee (Advisory Committee).¹³ The Fund houses the 85% state share of opioid settlement monies,¹⁴ which the state legislature appropriates to the North Dakota Department of Health and Human Services (DHHS) for opioid abatement and remediation programs.¹⁵ DHHS must allocate at least 20% of appropriated Fund monies to opioid use prevention and overdose prevention.¹⁶ The Advisory Committee is tasked with making spending recommendations to DHHS and must develop a process to receive input from political subdivisions and the public.¹⁷ In making its spending recommendations, the Advisory Committee also must “consider cultural practices and alternative best practice treatment methods.”¹⁸ State law requires DHHS to develop a process for receiving and evaluating the Advisory Committee’s spending recommendations,¹⁹ and DHHS must implement or assist with the implementation of settlement spending decisions.²⁰

OPIOID SETTLEMENT ADVISORY COMMITTEE

The seven-member Opioid Settlement Advisory Committee (Advisory Committee), established by state law,²¹ includes three local government representatives, three state representatives, and a nonvoting presiding officer.²² The chairman of the legislative management appoints the three local government representatives, which include one member each from the North Dakota Association of Counties, North Dakota League of Cities, and North Dakota State Association of City and County Health Officials.²³ The state representatives include the executive director of the DHHS Division of Behavioral Health, the managing director of the Office of Recovery Reinvented, and a member appointed by the highway patrol superintendent to represent the highway patrol.²⁴ The governor appoints the Advisory Committee’s presiding officer, who serves as a nonvoting member.²⁵ The local government representatives, highway patrol representative, and presiding officer all serve two-year terms.²⁶

North Dakota



Decision- Making Process

(Continued)

15% SUBDIVISION SHARE

Fifteen percent (15%) of North Dakota's settlement monies are directly allocated to participating political subdivisions.²⁷ State law provides that participating political subdivisions *may* contribute their direct shares to the state-managed Opioid Settlement Fund.²⁸ If a participating political subdivision opts to retain its share of settlement monies, the subdivision must transfer the monies to the [public health unit](#) that provides services to the subdivision and collaborate with the public health unit on the use of the monies for local opioid abatement and remediation programs.²⁹ Political subdivisions also must provide the North Dakota Department of Health and Human Services' Behavioral Health Division an allocation plan prior to spending its share of settlement monies.³⁰

LOCAL PLANNING EXAMPLE

In December 2022, Grand Forks County Commissioners approved \$12,000 in funding for Grand Forks Public Health to support treatment and overdose response programs.³¹

Tracking Funds and Accountability

- North Dakota state law does not include any requirements for the state or political subdivisions to publicly report opioid settlement expenditures or enforcement provisions to address misspent funds.³²
- Political subdivisions are required to report settlement expenditures to the state Department of Health and Human Services (DHHS), and DHHS must annually report state and local settlement expenditures to the budget section of the legislative management.³³

North Dakota



Engaging in the Process

- North Dakota has fewer obvious channels to engage on settlement spending than many states. Consider how to engage with the Advisory Committee and other policymakers for more transparency on funding decisions and public reporting of state and local opioid settlement expenditures.
- The Advisory Committee is required to establish a process for receiving public input on its spending recommendations.³⁴ Watch for opportunities to submit public comments.
- The executive order establishing the initial iteration of the state's opioid settlement advisory committee required the committee to hold at least four public meetings annually and operate in accordance with the state's public meetings and records law.³⁵ The executive order also required DHHS to issue a public, written explanation if it substantially deviated from the committee's recommendations.³⁶ Advocate for these public participation, transparency, and reporting requirements to apply to the new Advisory Committee established by state law.

Additional Resources

[NORTH DAKOTA OPIOID SETTLEMENT ADVISORY COMMITTEE](#)

[NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES Opioids](#)

[NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES, BEHAVIORAL HEALTH DIVISION](#)

[Presentation to the House Appropriations Committee, March 2023](#)



References

Last updated May 30, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. North Dakota 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 Dakota" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. The North Dakota state law establishing the Opioid Settlement Fund and Opioid Settlement Advisory Committee are not limited to the Distributor and Janssen (J&J) settlements. See 2023 ND H.B. 1447, § 3 (defining "opioid litigation" as "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" and specifying that "[m]oneys recovered by the state as a result of opioid litigation must be deposited in the fund.") 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 VB.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 VB.1.* Keep an eye out for the ways states will amend their spending mechanisms, if at all, to comply with subsequent settlement terms.
3. 2023 ND H.B. 1447, § 3 re: "Opioid settlement fund." See also 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 1.
4. 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 1-2.
5. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures](#)." An executive order that established an earlier iteration of an opioid settlement advisory committee required the Department of Health and Human Services to issue a public written explanation of any substantial deviations it made from the advisory committee's opioid settlement expenditure recommendations. [ND Exec. Order No. 2023-02](#) §§ 8, 10. However, it is unclear if or how this requirement will apply to the legislatively established opioid settlement advisory committee.
6. 2023 ND H.B. 1447, § 3 re: "Department of health and human services - Report to budget section," § 2-3.
7. 2023 ND H.B. 1447, § 3. Although the North Dakota Governor previously established an opioid settlement advisory committee via [ND Exec. Order No. 2023-02](#), the advisory committee established by state law is likely to take precedence moving forward.
8. See "[Attention Cities and Counties](#)."
9. 2023 ND H.B. 1447, § 3 re: "Opioid remediation and abatement spending decisions – Implementation," § 1 ("opioid use prevention and overdose prevention, including best practices relating to fentanyl drug overdose, and approved use for workforce development.")
10. 2023 ND H.B. 1447, § 3 re: "Department of health and human services - Report to budget section," § 1
11. 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 1.
12. 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 1-2. See also 2023 ND H.B. 1447, § 3 re: "Opioid settlement fund." Political subdivisions must submit an allocation plan to the DHHS Behavioral Health Division prior to expending funds. 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 3.
13. 2023 ND H.B. 1447, § 3 re: "Opioid settlement fund" and "Opioid settlement advisory committee."
14. 2023 ND H.B. 1447, § 3 re: "Opioid settlement fund." Political subdivisions may also direct their share of settlement monies to the Fund. 2023 ND H.B. 1447, § 3 re: "Political subdivisions - Public health units," § 1.
15. 2023 ND H.B. 1447, § 3 re: "Opioid remediation and abatement spending decisions – Implementation," § 1. See also 2023 ND H.B. 1447, § 5. Legislative appropriations of Fund monies may not exceed \$8 million in any given biennium. 2023 ND H.B. 1447, § 3 re: "Opioid settlement fund."
16. 2023 ND H.B. 1447, § 3 re: "Opioid remediation and abatement spending decisions – Implementation," § 1.
17. 2023 ND H.B. 1447, § 3 re: "Opioid settlement advisory committee," § 2, 2(a).
18. 2023 ND H.B. 1447, § 3 re: "Opioid settlement advisory committee," § 2(c).



References

(Continued)

19. 2023 ND H.B. 1447, § 3 re: “Department of health and human services – Report to budget section,” § 1.
20. 2023 ND H.B. 1447, § 3 re: “Opioid remediation and abatement spending decisions – Implementation,” § 2.
21. [ND Exec. Order. No. 2023-02](#), which predates 2023 ND H.B. 1447, also established an opioid settlement advisory committee and described its duties, powers, and membership. These duties, powers, and membership are similar but not identical to those of the Advisory Committee established by state law. It is unclear if or how the advisory committee established via executive order will continue to operate following the state’s adoption of 2023 ND H.B. 1447. The official list of members of the advisory committee established by ND Exec. Order. No. 2023-02 may be found by navigating to the list of all state boards [here](#), then selecting “Opioid Settlement Advisory Committee.”
22. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 1.
23. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 1(a)-(c).
24. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 1(d)-(f).
25. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 1(g).
26. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 1(a)-(d), (g). State law does not establish Advisory Committee terms for the executive director of the DHHS Division of Behavioral Health and managing director of the Office of Recovery Reinvented.
27. See [“Attention Cities and Counties.”](#)
28. 2023 ND H.B. 1447, § 3 re: “Political subdivisions – Public health units,” § 1. See also 2023 ND H.B. 1447, § 3 re: “Opioid settlement fund.” North Dakota’s attorney general encouraged the pooling of settlement monies to maximize the efficient use of funds in a sparsely populated state. See [“Opioid Settlements – Allocation Agreement.”](#)
29. 2023 ND H.B. 1447, § 3 re: “Political subdivisions – Public health units,” § 1-2.
30. 2023 ND H.B. 1447, § 3 re: “Political subdivisions – Public health units,” § 3.
31. <https://www.grandforksherald.com/news/local/bridge-repairs-opioid-response-funds-top-grand-forks-county-commissions-agenda>
32. See OpioidSettlementTracker.com’s [“States’ Initial Promises to Publicly Report Their Opioid Settlement Expenditures.”](#) An executive order that established an earlier iteration of an opioid settlement advisory committee required the Department of Health and Human Services to issue a public written explanation of any substantial deviations it made from the advisory committee’s opioid settlement expenditure recommendations. [ND Exec. Order. No. 2023-02](#) §§ 8, 10. However, it is unclear if or how this requirement will apply to the legislatively established opioid settlement advisory committee.
33. 2023 ND H.B. 1447, § 3 re: “Department of health and human services – Report to budget section,” § 2-3.
34. 2023 ND H.B. 1447, § 3 re: “Opioid settlement advisory committee,” § 2(a).
35. ND Exec. Order. No. 2023-02 § 5 (“The Committee shall hold at least four (4) public meetings annually, to be publicized and located in a manner reasonably designed to facilitate attendance by residents throughout the State.”)
36. ND Exec. Order. No. 2023-02 § 10.