

[First Reprint]

SENATE, No. 3867

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 3, 2021

Sponsored by:

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Murphy, Timberlake, Dunn, Jasey, Assemblyman Johnson,
Assemblywomen Swain, Reynolds-Jackson and Assemblyman Tully**

SYNOPSIS

Establishes Opioid Recovery and Remediation Fund and Opioid Recovery and Remediation Fund Advisory Council; provides for funds received from opioid settlements to support substance use disorder prevention and treatment programs.

CURRENT VERSION OF TEXT

As amended on January 10, 2022 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning the dedication and distribution of funds
 2 received from opioid settlements and supplementing Title 26 of
 3 the Revised Statutes.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. a. There is created in the Department of the Treasury a
 9 dedicated, non-lapsing fund to be known as the “Opioid Recovery
 10 and Remediation Fund.”

11 b. ¹**【The】** To the extent consistent with the terms of a national
 12 opioid litigation resolution subject to this act, the¹ State Treasurer
 13 shall deposit into the fund ¹**【any】** the State’s share of¹ moneys
 14 ¹**【that are allocated to or otherwise received by the State】** received¹
 15 as a result of ¹**【a settlement agreement entered into with, or**
 16 **litigation undertaken against, opioid manufacturers and distributors**
 17 **related to claims arising from the manufacture, marketing,**
 18 **distribution or dispensing of opioids】** such resolution¹ . Any
 19 interest and other income earned on moneys in the fund, and any
 20 other moneys that may be appropriated or otherwise become
 21 available for purposes of the fund, shall be credited to and deposited
 22 in the fund. ¹For purposes of this section, moneys paid to counties
 23 or municipalities or allocated for attorneys’ fees, costs, and related
 24 litigation expenses shall not be considered to be part of the State’s
 25 share of moneys received as a result of a national opioid litigation
 26 resolution.¹

27 c. (1) Moneys in the fund shall be dedicated and used only for
 28 the purposes ¹**【of supplementing substance use disorder prevention**
 29 **and treatment programs and services in the State, consistent with**
 30 **the terms of settlements made in connection with claims arising**
 31 **from the manufacture, marketing, distribution or dispensing of**
 32 **opioids, as applicable.**

33 (2) The Legislature shall annually appropriate ¹**【** described in
 34 subsection e. of this section, and subject to applicable requirements
 35 of the relevant national opioid litigation resolution or agreement
 36 entered pursuant to section 3 of P.L. , c. (C.) (pending
 37 before the Legislature as this bill).

38 (2) The Department of Human Services shall be designated the
 39 lead agency for the State for purposes of directing the disbursement
 40 and allocation of the State’s share of any moneys that are allocated
 41 to or otherwise received by the State as a result of a national opioid
 42 litigation resolution and for monitoring the use of moneys disbursed
 43 to counties or municipalities under a national opioid litigation

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's
 recommendations January 10, 2022.

1 resolution or agreement entered pursuant to section 3 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 and, in coordination with the State Comptroller and the Attorney
4 General, ensuring that the use of such moneys complies with the
5 purposes set forth in this act and is consistent with the terms of the
6 applicable national opioid litigation resolution or agreement entered
7 pursuant to section 3 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 (a) The department shall have primary responsibility for
10 ensuring that the various reporting, compliance, and administrative
11 functions imposed upon the State pursuant to the terms and
12 conditions of any national opioid litigation resolution or agreement
13 entered pursuant to section 3 of P.L. , c. (C.) (pending
14 before the Legislature as this bill) are performed, and shall serve as
15 the single point of contact for the State for submission to any
16 settlement fund administrator or trustee requests for disbursement
17 of funds.

18 (b) The department shall be authorized to make determinations
19 regarding disbursement and allocation of the State's share of such
20 proceeds in accordance with the requirements or terms of such
21 resolutions or agreements entered pursuant to section 3 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 which may include designations of regions for the allocation of the
24 State's share of such proceeds, in addition to taking such other
25 actions as may be assigned or required to be performed by the lead
26 agency or single point of contact for the State under the terms of
27 any national opioid litigation resolution or agreement entered
28 pursuant to section 3 of P.L. , c. (C.) (pending before the
29 Legislature as this bill).

30 (c) The department shall receive and review reports from all
31 counties and municipalities regarding their expenditure of any
32 moneys received by the county or municipality as a result of a
33 national opioid litigation resolution.

34 (d) The department is authorized to adopt, amend, or repeal
35 regulations as necessary to carry out the intent and provisions of
36 P.L. , c. (C.) (pending before the Legislature as this bill)
37 and, notwithstanding the provisions of the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
39 contrary, the department may adopt rules and regulations necessary
40 or proper to enable it to carry out the department's duties, functions,
41 and powers with respect to this act immediately upon filing proper
42 notice with the office of Administrative Law.

43 (3) Notwithstanding any other law to the contrary, there is
44 hereby appropriated: (a)¹ moneys from the fund to the Department
45 of Human Services, which shall allocate the appropriated funds in
46 ¹accordance with the provisions of subsections d., e., and f. of this
47 section; and (b) moneys paid to the State as a result of a national
48 opioid litigation resolution that have been allocated to such counties

1 or municipalities in accordance with the terms of the national opioid
2 litigation resolution or agreement entered pursuant to section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 and to the extent necessary to effectuate such resolution, which
5 shall be used in accordance with the provisions of subsections e.
6 and f. of this section.

7 d. Notwithstanding section 2 of P.L.1999, c.129 (C.56:8-14.3),
8 section 15 of P.L.2003, c.76 (C.56:8-133), and the “New Jersey
9 False Claims Act,” P.L.2007, c.265 (C.2A:32C-1 et seq.), the
10 department shall direct the allocation and disbursement of moneys
11 in the Opioid Recovery and Remediation Fund established by this
12 section, and shall do so in¹ consultation with the Opioid Recovery
13 and Remediation Fund Advisory Council, as established pursuant to
14 section 2 of this act. The department shall allocate funds with an
15 emphasis on supporting programs ¹and strategies¹ that are
16 ¹【culturally and gender competent, trauma-informed,】¹ evidence-
17 based ¹or evidence-informed¹ and, ¹【where appropriate, employ
18 individuals with lived experience as part of the services provided.
19 Services to be supported from the fund shall include, but shall not
20 be limited to, programs:

21 (a) To prevent substance use disorder through a youth-focused
22 public health education and prevention campaign, including school-
23 based prevention, early intervention, and health care services and
24 programs to reduce the risk of substance use by school-aged
25 children;

26 (b) To develop and implement Statewide public education
27 campaigns to reduce stigma against individuals who use drugs,
28 provide information about the risks of substance use, best practices
29 for addressing substance use disorders, and information on how to
30 locate services that reduce the adverse health consequences
31 associated with drug use or provide treatment for substance use
32 disorders;

33 (c) To minimize and eliminate the root causes of health
34 disparities that contribute to the use of drugs and inequities in the
35 treatment of substance use disorder among minority communities;

36 (d) To support the State’s efforts to divert high-risk individuals
37 from arrest and incarceration through programs with strong case
38 management and harm reduction services that link participants to
39 community-based services, as well as referrals to promote health
40 and understanding for people who use drugs; and

41 (e) To establish systems and tools that expand the State’s
42 capacity to collect data and evaluate policies, programs, and
43 strategies designed to address substance use disorder】 in making
44 such allocations shall consider equitable access for underserved
45 communities Statewide.

46 e. Moneys, other than attorneys’ fees, costs, and expenses
47 related to litigation, that are allocated to or otherwise received by

1 the State or any county or municipality as a result of a national
2 opioid litigation resolution shall be dedicated and used, consistent
3 with the terms of an applicable national opioid litigation resolution
4 or agreement entered pursuant to section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), for the purpose of
6 addressing opioid use disorder and any co-occurring substance use
7 disorder or mental health conditions through evidence-based or
8 evidence-informed practices or strategies that may include, but are
9 not limited to, the following:

10 (1) Supporting treatment of opioid use disorder and any co-
11 occurring substance use disorder or mental health conditions
12 through evidence-based or evidence-informed programs or
13 strategies;

14 (2) Supporting individuals in recovery from opioid use disorder
15 and any co-occurring substance use disorder or mental health
16 conditions through evidence-based or evidence-informed programs
17 or strategies, including but not limited to providing support services
18 to the families of such individuals;

19 (3) Providing connections to care for people who have, or are at
20 risk of developing, opioid use disorder and any co-occurring
21 substance use disorder or mental health conditions through
22 evidence-based or evidence-informed programs or strategies;

23 (4) Addressing the needs of persons with opioid use disorder
24 and any co-occurring conditions who are involved in, are at risk of
25 becoming involved in, or are transitioning out of the criminal
26 justice system through evidence-based or evidence-informed
27 programs or strategies;

28 (5) Addressing the needs of pregnant or parenting persons with
29 opioid use disorder and any co-occurring substance use disorder or
30 mental health conditions, and the needs of their families, including
31 babies with neonatal abstinence syndrome, through evidence-based
32 or evidence-informed programs or strategies;

33 (6) Supporting efforts to prevent over-prescribing and ensure
34 appropriate prescribing and dispensing of opioids through evidence-
35 based or evidence-informed programs or strategies;

36 (7) Supporting efforts to discourage or prevent misuse of
37 opioids through evidence-based or evidence-informed programs or
38 strategies;

39 (8) Supporting efforts to prevent or reduce overdose deaths or
40 other opioid-related harms through evidence-based or evidence-
41 informed programs or strategies;

42 (9) Educating law enforcement or other first responders
43 regarding appropriate practices and precautions when dealing with
44 fentanyl or other drugs;

45 (10) Providing wellness and support services for first responders
46 and others who experience secondary trauma associated with
47 opioid-related emergency events;

1 (11) Supporting efforts to provide leadership, planning,
2 coordination, facilitations, training, and technical assistance to
3 abate the opioid epidemic through activities, programs, or
4 strategies;

5 (12) Supporting training to abate the opioid epidemic through
6 activities, programs, or strategies;

7 (13) Supporting opioid abatement research;

8 (14) Supporting such other strategies as may be expressly
9 identified in any national opioid litigation resolution; and

10 (15) Administrative expenses, subject to limits imposed by any
11 national opioid litigation resolution or by any agreement entered
12 pursuant to section 3 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 f. Moneys, other than attorneys' fees, costs, and expenses
15 related to litigation, that are allocated to or otherwise received by
16 the State or any of its counties or municipalities as a result of a
17 national opioid litigation resolution shall be used to supplement and
18 shall not supplant federal, State, county, or municipal funds, as the
19 case may be, that otherwise would have been used to carry out the
20 purposes delineated in this act, and no amount of such moneys shall
21 be used to reimburse the State or any of its counties or
22 municipalities for past expenditures, except as may otherwise be
23 required to refund to the federal government a portion of the
24 moneys.

25 g. For purposes of P.L. , c. (C.) (pending before the
26 Legislature as this bill), "national opioid litigation resolution"
27 means a settlement agreement, entered into by the Attorney General
28 of New Jersey on behalf of the State and by other state attorneys
29 general on behalf of their respective states, which provides for the
30 participation of states, counties, and municipalities to resolve
31 claims by the state attorneys general and counties and
32 municipalities against opioid manufacturers, distributors, or
33 pharmacies related to the manufacture, marketing, distribution, or
34 dispensing of opioids, or a bankruptcy plan that has received final
35 approval and that channels, releases, or otherwise finally disposes
36 of such claims including those of the State and its counties and
37 municipalities¹ .

38
39 2. a. There is established in, but not of, the Department of
40 Human Services the Opioid Recovery and Remediation Fund
41 Advisory Council. The council shall provide the Department of
42 Human Services with ¹general¹ recommendations on the allocation
43 of funds appropriated to the department from the Opioid Recovery
44 and Remediation Fund, as well as any policy modifications
45 necessary to maximize the use of those funds on a State and local
46 level. To effectuate this goal, the council shall:

47 (1) ¹gather and evaluate State¹ provide¹ data ¹to the
48 department¹ regarding ¹availability of, gaps in, and barriers to¹

1 substance use disorder prevention and treatment programs and
2 'recovery' services ¹in order to determine which populations are
3 not reached by current interventions, as well as which geographic
4 areas of the State have programmatic gaps in addressing substance
5 use disorder¹ ; and

6 (2) solicit feedback, in a manner and method established by the
7 council, from stakeholders, local providers, and advocates regarding
8 the service needs to prevent and treat substance use disorder across
9 the State.

10 b. The council shall consist of 13 members, as follows:

11 (1) the Commissioner of Human Services, the Commissioner of
12 Health, and the Attorney General, or their designees, who shall
13 serve as ex-officio members;

14 (2) four public members appointed by the Governor, of which
15 one shall possess expertise in substance use disorder treatment, one
16 shall possess expertise in harm reduction, one shall possess
17 expertise in criminal justice, and one shall possess expertise in drug
18 policy;

19 (3) three public members to be appointed by the ¹Governor upon
20 recommendation of the¹ President of the Senate, of which one shall
21 possess expertise in substance use disorder treatment, one shall
22 possess expertise in behavioral health, and one shall possess
23 personal experience with substance use and addiction issues; and

24 (4) three public members appointed by the ¹Governor upon
25 recommendation of the¹ Speaker of the Assembly, of which one
26 shall possess expertise in substance use disorder treatment, one
27 shall possess expertise in ¹behavioral¹ health ¹care equity¹ , and
28 one shall possess ¹personal experience with substance use and
29 addiction issues¹ expertise in health policy¹ .

30 c. All appointments to the council shall be made no later than
31 the 60th day after the effective date of this act. Each appointed
32 member shall serve a two-year term, with any vacancies in the
33 membership of the council being filled in the same manner as the
34 original appointments. ¹The Governor shall appoint a chairperson
35 from among the public members of the council to serve in such
36 capacity at the pleasure of the Governor.¹

37 d. The council shall organize as soon as practicable following
38 the appointment of its members. Upon its organization, the council
39 shall select a chairperson from among its members. The members
40 shall also select a secretary who need not be a member of the
41 council. The council may hold meetings at the times and places it
42 may designate. A majority of the authorized membership shall
43 constitute a quorum. The council may conduct business without a
44 quorum, but shall only vote on a recommendation when a quorum is
45 present. The members of the council shall serve without
46 compensation, but shall be eligible for reimbursement for necessary
47 and reasonable expenses incurred in the performance of their

1 official duties within the limits of funds appropriated or otherwise
2 made available to the council for its purposes.

3 e. The council shall be entitled to receive assistance and
4 services from any State, county, or municipal department, board,
5 commission, or agency as may be made available to it for its
6 purposes. The Department of Human Services shall provide such
7 staff and administrative support to the council as it requires to carry
8 out its responsibilities.

9 ¹f. To the extent permissible under the terms of a national opioid
10 litigation resolution, the council shall not be required to and may
11 refrain from making recommendations for expenditures that would
12 primarily benefit counties or municipalities that were eligible to
13 participate in the national opioid litigation resolution that yielded
14 such funds but did not participate in the resolution, provided that
15 nothing in this subsection shall be deemed to prevent the council
16 from exercising its discretion to make such recommendations
17 should it desire to do so.

18 g. The council shall be considered a “public body” for the
19 purpose of complying with the provisions of the “Senator Byron M.
20 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-
21 6 et seq.), and shall be subject to the provisions thereof. The “New
22 Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-
23 12 et seq.) shall apply to all members of the council.¹

24
25 ¹3. The Attorney General, in consultation with the
26 Commissioner of Human Services, is authorized to enter into an
27 agreement with counties and municipalities concerning the
28 allocation and expenditure of moneys allocated to the State and its
29 counties and municipalities in any national opioid litigation
30 resolution.¹

31
32 ¹4. A county or municipality that directly receives moneys as a
33 result of a national opioid litigation resolution shall establish an
34 advisory council to provide input, advice, and recommendations on
35 the disbursement and allocation of such moneys. Each respective
36 advisory council shall consist of, but shall not be limited to, a
37 member possessing expertise in substance use disorder treatment or
38 prevention, a member representing a provider of behavioral health
39 or substance use disorder treatment in the community, a member
40 with personal experience with substance use and addiction issues,
41 the county prosecutor or the county prosecutor’s designee, and an
42 individual authorized to appropriate funds on behalf of the
43 governing body of the municipality or county, as the case may be,
44 or such individual’s designee.¹

45
46 ¹5. If any section, subsection, clause, or provision of this act
47 shall be adjudged unconstitutional or to be ineffective in whole or

1 in part, to the extent that it is not adjudged unconstitutional or is not
2 ineffective, it shall be valid and effective and no other section,
3 subsection, clause, or provision of this act shall on account thereof
4 be deemed invalid or ineffective, and the applicability or invalidity
5 of any section, subsection, clause, or provision of this act in any one
6 or more instances or under any one or more circumstances shall not
7 be taken to affect or prejudice in any way its applicability or
8 validity in any other instance or under any other circumstances.¹

9
10 ¹**[3.]** 6.¹ No later than 12 months after the effective date of
11 this act, and annually thereafter, the Department of Human
12 Services, in consultation with the Opioid Recovery and
13 Remediation Fund Advisory Council, shall report to the Governor,
14 and to the Legislature pursuant to section 2 of P.L.1991, c.164
15 (C.52:14-19.1) on the details of the allocations made with the funds
16 appropriated from the Opioid Recovery and Remediation Fund.
17 The information shall include the allocation amount, program
18 description, involved community providers, goals of the program,
19 and outcome measures to be used to determine program efficacy.
20 The department shall also post this information on its Internet
21 website.

22
23 ¹**[4.]** 7.¹ This act shall take effect immediately.