

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 527

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CREATING THE OPIOID SETTLEMENT RESTRICTED FUND; CREATING THE
OPIOID CRISIS RECOVERY FUND ~~H AFC~~ →; ~~MAKING AN~~
~~APPROPRIATION~~ ← H AFC ; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 6, Article 4 NMSA
1978 is enacted to read:

.225458.1AIC March 9, 2023 (5:14pm)

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"~~[NEW MATERIAL]~~ OPIOID SETTLEMENT RESTRICTED FUND

CREATED--ADMINISTRATION--INCOME TO THE FUND.--

A. The "opioid settlement restricted fund" is created as a nonreverting fund in the state treasury, separate and distinct from the general fund. The opioid settlement restricted fund consists of money, other than attorney fees and costs, paid to the state pursuant to the New Mexico opioid allocation agreement and pursuant to:

- (1) the distributor settlement agreement; and
- (2) opioid settlements.

B. The opioid settlement restricted fund also consists of appropriations and donations. Money in the fund shall be invested by the state investment officer in accordance with law. Income from investment of the fund shall be credited to the fund.

C. Opioid funds designated by the New Mexico opioid allocation agreement to be distributed to local governments shall not be deposited into the fund.

D. Appropriations from the opioid settlement restricted fund shall only be made to the opioid crisis recovery fund and shall not be made for any other purpose.

E. On July 1, 2024, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the year-end market value of the opioid settlement restricted fund

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for the immediately preceding fiscal year.

F. On July 1, 2025, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the average of the year-end market value of the opioid settlement restricted fund for the immediately preceding two calendar years.

G. On July 1, 2026, and on each July 1 thereafter, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the average of the year-end market values of the opioid settlement restricted fund for the immediately preceding three calendar years.

H. For the purposes of this section:

(1) "distributor settlement agreement" means the settlement agreement between the state and participating political subdivisions and opioid distributors, including McKesson corporation, Cardinal health and AmerisourceBergen corporation, dated as of July 21, 2021 and any revision to the agreement;

(2) "local government" means every litigating county and municipality, each county regardless of population and each municipality with a population exceeding ten thousand according to the latest federal decennial census, any special district identified in the distributor settlement agreement and

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any local government identified in the New Mexico opioid allocation agreement within the geographic boundaries of New Mexico;

(3) "New Mexico opioid allocation agreement" means the agreement entered into between the state and various local governments on March 7, 2022 that relates to the allocation of opioid funds in New Mexico;

(4) "opioid funds" means money obtained through judgments or settlements as arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids or the consultants, agents or associates of distributors, manufacturers or pharmacies; and

(5) "opioid settlements" means judgments or settlements arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids or the consultants, agents or associates of distributors, manufacturers or pharmacies."

SECTION 2. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:

"[NEW MATERIAL] OPIOID CRISIS RECOVERY FUND--USE OF FUND MONEY--INCOME TO THE FUND.--

A. The "opioid crisis recovery fund" is created as a nonreverting fund in the state treasury. Money in the fund shall be invested by the state treasurer as provided by law,

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and income from investment of the fund shall be credited to the fund.

B. Money in the opioid crisis recovery fund may only be expended upon appropriation by the legislature and shall only be opioid remediation expenditures. Priority shall be given to appropriations that support evidence-based statewide and regional programs that seek to abate opioid use disorders and any co-occurring substance use disorders or mental health conditions.

C. The opioid crisis recovery fund consists of distributions made to the fund from the opioid settlement restricted fund, appropriations and donations.

D. In accordance with this section, money in the opioid crisis recovery fund shall be allocated to statewide and regional programs, including programs that use evidence-based strategies to:

(1) treat opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(2) provide connections to care for individuals who have or are at risk of developing opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(3) address the needs of individuals with opioid use disorders and any co-occurring substance use

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disorders or mental health conditions and who are involved in, at risk of becoming involved in or in transition from the criminal justice system;

(4) address the needs of pregnant or parenting women with opioid use disorders and any co-occurring substance use disorders or mental health conditions and the needs of their families, including babies with neonatal abstinence syndrome;

(5) support efforts to prevent over-prescribing of opioids and ensure appropriate prescribing and dispensing of opioids;

(6) support efforts to discourage or prevent misuse of opioids;

(7) support efforts to prevent or reduce overdose deaths or other opioid-related harms;

(8) educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with users of fentanyl or other opioids; or

(9) provide wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

E. In accordance with this section, a portion of the money may be allocated toward research on opioid abatement or evaluations of effectiveness and outcomes reporting for substance use disorder abatement infrastructure, programs,

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services, supports and resources for which money from the opioid crisis recovery fund was disbursed, such as the impact on access to harm reduction services or treatment for substance use disorders or a reduction in drug-related mortality.

F. For the purposes of this section:

(1) "distributor settlement agreement" means the settlement agreement between the state and participating political subdivisions and opioid distributors, including McKesson corporation, Cardinal health and AmerisourceBergen corporation, dated as of July 21, 2021 and any revision to the agreement;

(2) "evidence-based" means an activity, practice, program, service, support or strategy that meets one of the following evidentiary criteria:

(a) systematic reviews or meta analyses have found the activity, practice, program, service, support or strategy to be effective;

(b) evidence from a scientifically rigorous experimental study, including a randomized controlled trial, demonstrates that the activity, practice, program, service, support or strategy is effective; or

(c) multiple observational studies from locations in the United States indicate that the activity, practice, program, service, support or strategy is effective; and

.225458.1AIC March 9, 2023 (5:14pm)

(3) "opioid remediation expenditure" means expenditures on care, treatment and other programs, including reimbursement for past programs or expenditures, consistent with the distributor settlement agreement and designed to:

- (a) address the misuse and abuse of opioid products;
- (b) treat or mitigate opioid use disorder or related disorders; or
- (c) mitigate other effects of the opioid epidemic."

H AFC → ~~SECTION 3. APPROPRIATION.--Twenty million dollars (\$20,000,000) is appropriated from the opioid settlement restricted fund to the opioid crisis recovery fund for expenditure in fiscal year 2023 and subsequent fiscal years to fund opioid remediation expenditures. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the opioid settlement restricted fund.~~ ← H AFC

SECTION H AFC → 4. ← H AFC H AFC → 3. ← H AFC EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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