

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1447

Introduced by

Representatives Weisz, Lefor, Nelson, Stemen, Vigesaa

Senators Bekkedahl, Lee

1 A BILL for an Act to create and enact a new chapter to title 50 of the North Dakota Century  
2 Code, relating to creation of the opioid settlement fund, creation of the opioid settlement  
3 advisory committee, and use of opioid settlement funds; to amend and reenact subsection 1 of  
4 section 21-10-06 and section 23-01-42 of the North Dakota Century Code and section 5 of  
5 chapter 3 of the 2021 Session Laws, relating to funds under management of the state  
6 investment board, opioid antagonist prescription, distribution, possession, or use, and the  
7 funding of the opioid treatment and prevention program; to provide an appropriation; to provide  
8 for a transfer; to provide for application; and to declare an emergency.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century  
11 Code is amended and reenacted as follows:

- 12 1. Subject to the provisions of section 21-10-02, the board shall invest the following  
13 funds:
- 14 a. State bonding fund.
  - 15 b. Teachers' fund for retirement.
  - 16 c. State fire and tornado fund.
  - 17 d. Workforce safety and insurance fund.
  - 18 e. Public employees retirement system.
  - 19 f. Insurance regulatory trust fund.
  - 20 g. State risk management fund.
  - 21 h. Budget stabilization fund.
  - 22 i. Water projects stabilization fund.
  - 23 j. Health care trust fund.
  - 24 k. Cultural endowment fund.

- 1           l.    Petroleum tank release compensation fund.
- 2           m.   Legacy fund.
- 3           n.   Legacy earnings fund.
- 4           o.   Opioid settlement fund.
- 5           p.   A fund under contract with the board pursuant to subsection 3.

6           **SECTION 2. AMENDMENT.** Section 23-01-42 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **23-01-42. Opioid antagonist prescription, distribution, possession, or use - Immunity**  
9 **from liability.**

10          1.   As used in this section:

11           a.   "Health care professional" means a licensed or certified health care professional  
12               who is working within the scope of practice for that profession. The term may  
13               include a physician, physician assistant, advanced practice registered nurse, and  
14               pharmacist acting in the professional's scope of practice.

15           b.   "Opioid antagonist" means a drug:

16               (1)   That is approved by the United States food and drug administration for the  
17               treatment of a drug overdose and is recognized by the department of health  
18               and human services for the treatment of a drug overdose; and

19               (2)   That when administered negates or neutralizes, in whole or in part, the  
20               pharmacological effects of an opioid in the body.

21          2.   A health care professional acting in good faith may directly or by standing order  
22               prescribe, distribute, or dispense an opioid antagonist, ~~if the health care professional~~  
23               ~~provides training to:~~

24               ~~a.   An individual at risk of experiencing an opioid-related overdose; or~~

25               ~~b.   A family member, friend, or other individual in a position to assist an individual at~~  
26               ~~risk of experiencing an opioid-related overdose.~~

27               ~~3.   An individual acting in good faith may receive or possess an opioid antagonist if that~~  
28               ~~individual is:~~

29               ~~a.   An individual at risk of experiencing an opioid-related overdose; or~~

30               ~~b.   A family member, friend, or other individual in a position to assist an individual at~~  
31               ~~risk of experiencing an opioid-related overdose.~~

1 ~~4.3.~~ An individual acting in good faith may ~~self-administer an opioid antagonist or~~  
2 administer an opioid antagonist to another individual who the administering individual  
3 suspects is at risk of experiencing an opioid overdose.

4 ~~5.4.~~ An individual may receive, possess, or administer an opioid antagonist under  
5 subsection 3 ~~or 4~~, regardless of whether the individual is the individual for or to whom  
6 the opioid antagonist is prescribed, distributed, or dispensed.

7 ~~6.5.~~ An individual who prescribes, distributes, dispenses, receives, possesses, or  
8 administers an opioid antagonist as authorized under this section is immune from civil  
9 and criminal liability for such action. A health care professional who prescribes,  
10 distributes, or dispenses an opioid antagonist as authorized under this section is not  
11 subject to professional discipline for such action. This section does not expand the  
12 scope of practice of a health care professional. Immunity from liability or discipline  
13 under this subsection does not apply if the individual's actions constitute recklessness,  
14 gross negligence, or intentional misconduct.

15 **SECTION 3.** A new chapter to title 50 of the North Dakota Century Code is created and  
16 enacted as follows:

17 **Definitions.**

18 As used in this chapter:

- 19 1. "Committee" means the opioid settlement advisory committee.
- 20 2. "Department" means the department of health and human services.
- 21 3. "Fund" means the opioid settlement fund.
- 22 4. "Opioid litigation" means statewide opioid settlement agreements, judgments, or other  
23 recoveries in connection with a defendant's actual or alleged liability for contributing to  
24 the opioid crisis in this state which must be used for purposes of remediating or  
25 abating the opioid crisis in this state.

26 **Opioid settlement fund.**

27 There is created in the state treasury an opioid settlement fund. Moneys ~~collected~~recovered  
28 by the state ~~and the state's political subdivisions~~ as a result of opioid litigation must be  
29 deposited in the fund. Moneys recovered by a political subdivision as a result of opioid litigation  
30 may be deposited in the fund. The state investment board shall invest moneys in the fund and  
31 income earned on the moneys in the fund must be credited to the fund. Moneys in the fund may

1 be used in compliance with any court-ordered restrictions and as authorized by legislative  
2 appropriation and this chapter; however, legislative appropriations from the fund may not  
3 exceed eight million dollars in a biennium. The fund does not include funds not retained by the  
4 state pursuant to law or court order.

5 **Opioid settlement advisory committee.**

6 1. The committee is composed of:

7 a. One member of the North Dakota association of counties appointed by the  
8 chairman of legislative management, who shall serve a term of two years.

9 b. One member of the North Dakota league of cities appointed by the chairman of  
10 legislative management, who shall serve a term of two years.

11 c. One member of the North Dakota state association of city and county health  
12 officials appointed by the chairman of legislative management, who shall serve a  
13 term of two years.

14 d. One member who represents the highway patrol appointed by the highway patrol  
15 superintendent, who shall serve a term of two years.

16 e. The executive director of the department's division of behavioral health.

17 f. The managing director of the office of recovery reinvented.

18 g. One member appointed by the governor who shall serve as a nonvoting member  
19 and as the presiding officer of the committee, who shall serve a term of two  
20 years.

21 2. The committee shall forward recommendations to the department on spending  
22 decisions of the legislatively appropriated funds for remediation or abatement of the  
23 opioid crisis in this state.

24 a. The committee shall develop a process for receiving spending recommendation  
25 input from political subdivisions and the public.

26 b. The committee shall develop a process for making recommendations to the  
27 department under this subsection.

28 The committee shall consider cultural practices and alternative best practice  
29 treatment methods when considering and making recommendations to the  
30 department under this subsection.

1 **Department of health and human services - Report to budget section.**

2 1. The department shall develop a process for receiving and evaluating spending  
3 recommendations of the committee.

4 2. Annually, each political subdivision that recovers and retains moneys as a result of  
5 opioid litigation shall submit to the department a report detailing the decisions of the  
6 governing body of the political subdivision regarding use of the moneys.

7 3. Annually, the department shall make a report to the budget section of the legislative  
8 management on the status of the fund and of spending decisions made by the  
9 department and the political subdivisions under this chapter.

10 **Opioid remediation and abatement spending decisions - Implementation.**

11 1. The department's spending decisions of the legislatively appropriated funds from the  
12 fund for remediating and abating the opioid crisis must follow the following-  
13 formula:include at least twenty percent for opioid use prevention and overdose  
14 prevention, including best practices relating to fentanyl drug overdose, and approved  
15 use for workforce development.

16 ~~a. Seventy percent of the legislatively appropriated funds must be designated for~~  
17 ~~services and supports for individuals with opioid substance use disorder.~~

18 ~~b. Twenty percent of the legislatively appropriated funds must be designated for~~  
19 ~~opioid use prevention and overdose prevention.~~

20 ~~c. Ten percent of the legislatively appropriated funds must be designated for other~~  
21 ~~opioid remediation and abatement efforts.~~

22 2. The department shall implement or assist with the implementation of spending  
23 decisions made under this chapter.

24 **Political subdivisions - Public health units.**

25 1. A political subdivision that recovers moneys as a result of opioid litigation may deposit  
26 the moneys in the fund or may retain the moneys and transfer the moneys to the  
27 public health unit that provides services to that political subdivision.

28 2. A political subdivision that recovers and retains moneys as a result of opioid litigation  
29 shall collaborate with a public health unit on the use of the moneys for local programs  
30 for remediating and abating the opioid crisis. The use of moneys under this subsection

1           must be in compliance with any court-ordered restrictions. The political subdivision  
2           and public health unit shall work together to ensure all reporting requirements are met.  
3           3. All political subdivisions shall provide an allocation plan to the behavioral health  
4           division prior to expenditure.

5           **SECTION 4. AMENDMENT.** Section 5 of chapter 3 of the 2021 Session Laws is amended  
6 and reenacted as follows:

7                           **SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID**  
8                           **SETTLEMENT FUND - OPIOID ADDICTION PREVENTION AND TREATMENT**  
9                           **PROGRAM - APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN**  
10                          **SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget  
11 shall transfer up to \$2,000,000 from opioid-related lawsuit settlement proceeds  
12 deposited in the attorney general refund fund to the department of human-  
13 services opioid settlement fund which is appropriated to the department of health and  
14 human services for the purpose of defraying the expenses of an opioid addiction  
15 prevention and treatment program during the biennium beginning July 1, 2021, and  
16 ending June 30, 2023. The department of health and human services shall consult  
17 with the attorney general on the use of funding for the program. The attorney general  
18 shall notify the legislative council and office of management and budget of any lawsuit  
19 settlement proceeds that become available for transfer to the department of health and  
20 human services for this program. This funding is considered a one-time funding item.

21           ~~**SECTION 3. AUTHORITY OF ATTORNEY GENERAL - OPIOID LITIGATION - POLITICAL**~~  
22           ~~**SUBDIVISIONS - OFFSET OF UNRETURNED FUNDS.**~~ The attorney general may release all  
23 existing opioid claims and bar future opioid claims by the political subdivisions of this state. The  
24 attorney general shall request from each political subdivision that collected opioid settlement  
25 funds before the effective date of this Act, the return of all unobligated funds for deposit by the  
26 attorney general in the opioid settlement fund. If a political subdivision does not return the  
27 unobligated funds, the department of health and human services shall offset from any funds  
28 designated under section 2 of this Act for opioid remediation and abatement efforts for that  
29 political subdivision an amount equal to the amount of unobligated funds that were are not  
30 returned to the state.

1       **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**  
2 **OPIOID REMEDIATION AND ABATEMENT.** There is appropriated out of any moneys in the  
3 opioid settlement fund in the state treasury, not otherwise appropriated, the sum of \$8,000,000,  
4 or so much of the sum as may be necessary, to the department of health and human services  
5 for the purpose of opioid remediation and abatement efforts under section 2 of this Act, for the  
6 biennium beginning July 1, 2023, and ending June 30, 2025.

7       **SECTION 6. TRANSFER - OFFICE OF MANAGEMENT AND BUDGET - OPIOID**  
8 **SETTLEMENT FUND.** The office of management and budget shall transfer to the opioid  
9 settlement fund all funds received by the state and any political subdivision of the state from  
10 opioid settlements and litigation during the period beginning March 1, 2021, and the effective  
11 date of this Act, and any additional funds received during the period beginning on the effective  
12 date of this Act, and ending June 30, 2025.

13       **SECTION 7. APPLICATION.** To initiate staggered terms of the members of the opioid  
14 advisory committee, the initial appointments for the positions representing the North Dakota  
15 association of counties representative and the North Dakota state association of city and county  
16 health officials representative must be for one year.

17       **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.