

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 527

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CREATING THE OPIOID SETTLEMENT RESTRICTED FUND; CREATING THE
OPIOID CRISIS RECOVERY FUND; MAKING AN APPROPRIATION; 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:

"[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

.225458.1

underscoring material = new
[bracketed material] = delete

1 allocation agreement and pursuant to:

2 (1) the distributor settlement agreement; and

3 (2) opioid settlements.

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

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

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

15 E. On July 1, 2024, a distribution shall be made
16 from the opioid settlement restricted fund to the opioid crisis
17 recovery fund in an amount equal to five percent of the
18 year-end market value of the opioid settlement restricted fund
19 for the immediately preceding fiscal year.

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

.225458.1

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

7 H. For the purposes of this section:

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

14 (2) "local government" means every litigating
15 county and municipality, each county regardless of population
16 and each municipality with a population exceeding ten thousand
17 according to the latest federal decennial census, any special
18 district identified in the distributor settlement agreement and
19 any local government identified in the New Mexico opioid
20 allocation agreement within the geographic boundaries of New
21 Mexico;

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

.225458.1

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

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

12 SECTION 2. A new section of Chapter 6, Article 4 NMSA
13 1978 is enacted to read:

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

16 A. The "opioid crisis recovery fund" is created as
17 a nonreverting fund in the state treasury. Money in the fund
18 shall be invested by the state treasurer as provided by law,
19 and income from investment of the fund shall be credited to the
20 fund.

21 B. Money in the opioid crisis recovery fund may
22 only be expended upon appropriation by the legislature and
23 shall only be opioid remediation expenditures. Priority shall
24 be given to appropriations that support evidence-based
25 statewide and regional programs that seek to abate opioid use

.225458.1

1 disorders and any co-occurring substance use disorders or
2 mental health conditions.

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

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

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

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

17 (3) address the needs of individuals with
18 opioid use disorders and any co-occurring substance use
19 disorders or mental health conditions and who are involved in,
20 at risk of becoming involved in or in transition from the
21 criminal justice system;

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

.225458.1

1 syndrome;

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

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

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

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

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

15 E. In accordance with this section, a portion of
16 the money may be allocated toward research on opioid abatement
17 or evaluations of effectiveness and outcomes reporting for
18 substance use disorder abatement infrastructure, programs,
19 services, supports and resources for which money from the
20 opioid crisis recovery fund was disbursed, such as the impact
21 on access to harm reduction services or treatment for substance
22 use disorders or a reduction in drug-related mortality.

23 F. For the purposes of this section:

24 (1) "distributor settlement agreement" means
25 the settlement agreement between the state and participating

.225458.1

underscoring material = new
~~[bracketed material] = delete~~

1 political subdivisions and opioid distributors, including
2 McKesson corporation, Cardinal health and AmerisourceBergen
3 corporation, dated as of July 21, 2021 and any revision to the
4 agreement;

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

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

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

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

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

23 (a) address the misuse and abuse of
24 opioid products;

25 (b) treat or mitigate opioid use

.225458.1

1 disorder or related disorders; or

2 (c) mitigate other effects of the opioid
3 epidemic."

4 SECTION 3. APPROPRIATION.--Twenty million dollars
5 (\$20,000,000) is appropriated from the opioid settlement
6 restricted fund to the opioid crisis recovery fund for
7 expenditure in fiscal year 2023 and subsequent fiscal years to
8 fund opioid remediation expenditures. Any unexpended or
9 unencumbered balance remaining at the end of a fiscal year
10 shall not revert to the opioid settlement restricted fund.

11 SECTION 4. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.