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C/JA

P.L. 2023, CHAPTER 25, *approved March 17, 2023*
Senate, No. 783 (*Second Reprint*)

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 the purposes of this section, moneys paid to
23 counties or municipalities ²**【or allocated for attorneys’ fees, costs,**
24 and related litigation expenses】² shall not be considered to be part
25 of the State’s share of moneys received as a result of a national
26 opioid litigation resolution.¹ ²Any moneys received by any State
27 department pursuant to a national opioid litigation settlement
28 subject to this act shall be transferred into the fund.²

29 c. (1) Moneys in the fund ²are hereby appropriated, shall be
30 subject to the applicable requirements of the relevant national
31 opioid litigation resolution and any applicable agreement entered
32 into pursuant to section 3 of P.L. , c. (C.) (pending before
33 the Legislature as this bill), and² shall be dedicated and used only
34 for ²;

35 (a)² the purposes ¹**【of supplementing substance use disorder**
36 prevention and treatment programs and services in the State,

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 SHH committee amendments adopted February 3, 2022.

²Assembly AHU committee amendments adopted February 9, 2023.

1 consistent with the terms of settlements made in connection with
2 claims arising from the manufacture, marketing, distribution or
3 dispensing of opioids, as applicable.

4 (2) The Legislature shall annually appropriate 1 described in
5 subsection e. of this section 2, and shall be subject to the
6 applicable requirements of the relevant national opioid litigation
7 resolution and any applicable agreement entered into pursuant to
8 section 3 of P.L. , c. (C.) (pending before the Legislature
9 as this bill) 1 ; and

10 (b) the payment of attorneys' fees, costs, and related litigation
11 expenses related to the national opioid litigation resolution 2 .

12 (2) The Department of Human Services shall be designated the
13 lead agency for the State for purposes of directing the disbursement
14 and allocation of the State's share of any moneys that are allocated
15 to or otherwise received by the State as a result of a national opioid
16 litigation resolution and for monitoring the use of moneys disbursed
17 to counties or municipalities under a national opioid litigation
18 resolution or under an agreement entered into pursuant to section 3
19 of P.L. , c. (C.) (pending before the Legislature as this bill)
20 2, to the extent required by such agreements, 2 and, in coordination
21 with the State Comptroller and the Attorney General, ensuring that
22 the use of such moneys complies with the purposes set forth in this
23 act and is consistent with the terms of the applicable national opioid
24 litigation resolution and any applicable agreement entered into
25 pursuant to section 3 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).

27 (a) The department shall have primary responsibility for
28 ensuring that the various reporting, compliance, and administrative
29 functions imposed upon the State pursuant to the terms and
30 conditions of any national opioid litigation resolution and any
31 applicable agreement entered into pursuant to section 3 of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 are performed, and shall serve as the single point of contact for the
34 State for settlement fund administrators and trustees to submit
35 requests for disbursement of 2 settlement 2 funds.

36 (b) The department shall be authorized to make determinations
37 regarding disbursement and allocation of the State's share of such
38 proceeds in accordance with the requirements or terms of any
39 national opioid litigation resolution and any applicable agreement
40 entered into pursuant to section 3 of P.L. , c. (C.) (pending
41 before the Legislature as this bill), which may include designations
42 of regions for the allocation of the State's share of such proceeds, in
43 addition to taking such other actions as may be assigned or required
44 to be performed by the lead agency or single point of contact for the
45 State under the terms of any national opioid litigation resolution and
46 any applicable agreement entered into pursuant to section 3 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 (c) The department shall receive and review reports from each
2 county ²[and municipality]² regarding the expenditure of any
3 moneys received by the county ²[or municipality]² as a result of a
4 national opioid litigation resolution.

5 (d) (i) The department shall be authorized to adopt, amend, or
6 repeal regulations as necessary to carry out the intent and provisions
7 of P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9 (ii) Notwithstanding the provisions of the “Administrative
10 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the
11 contrary, the department may, immediately upon filing proper
12 notice with the ²[office] Office² of Administrative Law, adopt
13 rules and regulations as shall be necessary to enable it to carry out
14 the department’s duties, functions, and powers with respect to this
15 act. Rules and regulations adopted pursuant to this
16 subsubparagraph shall be effective immediately upon filing with the
17 Office of Administrative Law and shall be in effect for a period not
18 to exceed 18 months, and shall, thereafter, be amended, adopted, or
19 readopted by the department in accordance with the provisions of
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
21 1 et seq.).

22 (3) Notwithstanding any other law ²or regulation² to the
23 contrary, there is hereby appropriated: (a)¹ moneys from the fund
24 to the Department of Human Services, which shall allocate the
25 appropriated funds in ¹accordance with the provisions of
26 subsections d., e., and f. of this section; and (b) ²to the extent
27 applicable,² moneys paid to the State as a result of a national opioid
28 litigation resolution that have been allocated to a county or
29 municipality in accordance with the terms of the national opioid
30 litigation resolution or a related agreement entered into pursuant to
31 section 3 of P.L. , c. (C.) (pending before the Legislature as
32 this bill), and to the extent necessary to effectuate such resolution,
33 which shall be used in accordance with the provisions of
34 subsections d., e., and f. of this section.

35 ²(4) Moneys from the fund may be transferred to other State
36 departments as directed by the Commissioner of Human Services in
37 support of the purposes provided for in this act, subject to the
38 approval of the Director of Budget and Accounting.²

39 d. Notwithstanding section 2 of P.L.1999, c.129 (C.56:8-14.3),
40 section 15 of P.L.2003, c.76 (C.56:8-133), and the “New Jersey
41 False Claims Act,” P.L.2007, c.265 (C.2A:32C-1 et seq.), the
42 department shall direct the allocation and disbursement of moneys
43 in the Opioid Recovery and Remediation Fund established by this
44 section, and shall do so in¹ consultation with the Opioid Recovery
45 and Remediation ²[Fund]² Advisory Council, ¹[as]¹ established
46 pursuant to section 2 of this act. The department shall allocate

1 funds with an emphasis on supporting programs ¹and strategies¹
2 that are ¹**【culturally and gender competent, trauma-informed,】**¹
3 evidence-based ¹or evidence-informed¹ and, ¹**【where appropriate,**
4 employ individuals with lived experience as part of the services
5 provided. Services to be supported from the fund shall include, but
6 shall not be limited to, programs:

7 (a) To prevent substance use disorder through a youth-focused
8 public health education and prevention campaign, including school-
9 based prevention, early intervention, and health care services and
10 programs to reduce the risk of substance use by school-aged
11 children;

12 (b) To develop and implement Statewide public education
13 campaigns to reduce stigma against individuals who use drugs,
14 provide information about the risks of substance use, best practices
15 for addressing substance use disorders, and information on how to
16 locate services that reduce the adverse health consequences
17 associated with drug use or provide treatment for substance use
18 disorders;

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

22 (d) To support the State's efforts to divert high-risk individuals
23 from arrest and incarceration through programs with strong case
24 management and harm reduction services that link participants to
25 community-based services, as well as referrals to promote health
26 and understanding for people who use drugs; and

27 (e) To establish systems and tools that expand the State's
28 capacity to collect data and evaluate policies, programs, and
29 strategies designed to address substance use disorder **】 in making**
30 such allocations, shall consider equitable access for underserved
31 communities Statewide.

32 e. Moneys, other than attorneys' fees, costs, and expenses
33 related to litigation, that are allocated to or otherwise received by
34 the State or any county or municipality as a result of a national
35 opioid litigation resolution, shall be dedicated and used, consistent
36 with the terms of an applicable national opioid litigation resolution
37 and any applicable agreement entered into pursuant to section 3 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 for the purpose of addressing opioid use disorder and any co-
40 occurring substance use disorder or mental health conditions
41 through evidence-based or evidence-informed practices or strategies
42 that may include, but shall not be limited to, the following:

43 (1) Supporting the treatment of opioid use disorders and any co-
44 occurring substance use disorder or mental health conditions
45 through evidence-based or evidence-informed programs or
46 strategies;

- 1 (2) Supporting individuals in recovery from opioid use disorder,
2 as well as any co-occurring substance use disorder or mental health
3 conditions, through evidence-based or evidence-informed programs
4 or strategies, including, but not limited to, providing support
5 services to the families of such individuals;
- 6 (3) Providing connections to care for people who have, or are at
7 risk of developing, an opioid use disorder or a co-occurring
8 substance use disorder or mental health condition, through
9 evidence-based or evidence-informed programs or strategies;
- 10 (4) Using evidence-based or evidence-informed programs or
11 strategies to address the needs of persons with an opioid use
12 disorder or a co-occurring substance use disorder or mental health
13 condition who are involved in, are at risk of becoming involved in,
14 or are transitioning out of, the criminal justice system;
- 15 (5) Using evidence-based or evidence-informed programs or
16 strategies to address the needs of pregnant or parenting persons with
17 opioid use disorder or a co-occurring substance use disorder or
18 mental health condition, and the needs of the families of such
19 individuals, including babies with neonatal abstinence syndrome;
- 20 (6) Supporting efforts to prevent over-prescribing and ensure
21 appropriate prescribing and dispensing of opioids through evidence-
22 based or evidence-informed programs or strategies;
- 23 (7) Using evidence-based or evidence-informed programs or
24 strategies to support efforts to discourage or prevent the misuse of
25 ², and the development of substance use disorders involving,²
26 opioids;
- 27 (8) Using evidence-based or evidence-informed programs or
28 strategies to support efforts to prevent or reduce overdose deaths or
29 other opioid-related harms;
- 30 (9) Educating law enforcement or other first responders
31 regarding appropriate practices and precautions when dealing with
32 fentanyl and other drugs;
- 33 (10) Providing wellness and support services for first
34 responders and others who experience secondary trauma associated
35 with opioid-related emergency events;
- 36 (11) Supporting efforts to provide leadership, planning,
37 coordination, facilitations, training, and technical assistance to
38 abate the opioid epidemic through activities, programs, and
39 strategies;
- 40 (12) Supporting training to abate the opioid epidemic through
41 activities, programs, or strategies;
- 42 (13) Supporting opioid abatement research;
- 43 (14) Supporting such other strategies as may be expressly
44 identified in any national opioid litigation resolution; and
- 45 (15) Administrative expenses, subject to limits imposed by any
46 national opioid litigation resolution or by any agreement entered

1 pursuant to section 3 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 f. Moneys, other than attorneys' fees, costs, and expenses
4 related to litigation, that are allocated to or otherwise received by
5 the State or any of its counties or municipalities as a result of a
6 national opioid litigation resolution shall be used to supplement,
7 and shall not supplant, federal, State, county, or municipal funds, as
8 the case may be, that otherwise would have been used to carry out
9 the purposes delineated in this act, and no amount of such moneys
10 shall be used to reimburse the State or any of its counties or
11 municipalities for past expenditures, except as may otherwise be
12 required to refund to the federal government a portion of the
13 moneys.

14 g. For the purposes of P.L. , c. (C.) (pending before
15 the Legislature as this bill), "national opioid litigation resolution"
16 means a settlement agreement, entered into by the Attorney General
17 of New Jersey on behalf of the State and by other state attorneys
18 general on behalf of their respective states, which provides for the
19 participation of states, counties, and municipalities to resolve
20 claims by the state attorneys general and counties and
21 municipalities against opioid manufacturers, opioid distributors, or
22 pharmacies², or persons or entities affiliated with an opioid
23 manufacturer, opioid distributor, or pharmacy,² related to the
24 manufacture, marketing, distribution, or dispensing of opioids, or a
25 bankruptcy plan² [that] which is governed by an agreement entered
26 into pursuant to section 3 of P.L. , c. (C.) (pending before
27 the Legislature as this bill) and which² has received final approval
28 and that channels, releases, or otherwise finally disposes of such
29 claims including those of the State and its counties and
30 municipalities¹.

31

32 2. a. There is established in ²[, but not of,]² the Department of
33 Human Services ²[¹,]² the Opioid Recovery and Remediation
34 ²[Fund]² Advisory Council. The council shall ²[provide the
35 Department of Human Services with ¹general¹ recommendations on
36 the allocation of funds appropriated to the department from the
37 Opioid Recovery and Remediation Fund, as well as any policy
38 modifications necessary to maximize the use of those funds ¹[on a]
39 at the¹ State and local ¹[level] levels¹] be advisory in nature and
40 its purpose shall be to review proposals, data, and analyses, and
41 engage with stakeholders and community members, to develop and
42 provide recommendations on the allocation and distribution of the
43 State's share of proceeds from national opioid litigation resolutions.
44 The council shall provide information, advice, and general
45 recommendations consistent with its purpose to the Governor, the
46 Commissioner of Human Services, and other executive branch

1 departments and agencies² . To effectuate this goal, the council
2 shall:

3 (1) ¹gather and evaluate State ²provide¹ gather and
4 evaluate² data ²to the department¹² regarding ¹the availability
5 of, gaps in, and barriers to¹ substance use disorder prevention and
6 treatment programs and ¹recovery¹ services ¹in order to determine
7 which populations are not reached by current interventions, as well
8 as which geographic areas of the State have programmatic gaps in
9 addressing substance use disorder¹ ; ²and²

10 (2) solicit feedback, in a manner and method established by the
11 council, from stakeholders, local providers, ²and² advocates ²,
12 individuals with lived experience with opioid use disorders,
13 including people who have or are in recovery from an opioid use
14 disorder and family members of people with an opioid use disorder,
15 the academic community, individuals with expertise in areas related
16 to substance use disorders, community groups, and members of the
17 public,² regarding the ¹service needs services needed¹ to prevent
18 and treat substance use ¹disorder disorders¹ across the State ²;

19 (3) review and evaluate recommendations submitted by the
20 public using the online portal that was established by the State on
21 August 31, 2022 to enable members of the public to provide
22 recommendations on the expenditure of proceeds from national
23 opioid litigation resolutions;

24 (4) evaluate approaches taken by New Jersey and other states in
25 administering proceeds from national opioid litigation resolutions;

26 (5) consult with experts and other knowledgeable individuals in
27 both the public and private sectors on any aspect of its duties as the
28 council deems necessary and appropriate; and

29 (6) take any other actions as the council deems appropriate to
30 inform its recommendations, with the purpose of promoting the
31 equitable and efficient distribution of settlement funds, including
32 the distribution of funds using evidence-based and evidence-
33 informed practices and strategies² .

34 b. The council shall ²consist of 13 members, as follows²
35 comprise² :

36 (1) the Commissioner of Human Services, the Commissioner of
37 Health, ²the Commissioner of Children and Families,² and the
38 Attorney General, or their designees, who shall serve ¹as¹ ex-
39 officio ¹members¹ ;

40 (2) ²four at least 10² public members appointed by the
41 Governor ², of which ¹members¹ one shall possess expertise in
42 substance use disorder treatment, one shall possess expertise in
43 harm reduction, one shall possess expertise in criminal justice, and
44 one shall possess expertise in drug policy ¹ who reflect the diversity
45 of New Jersey and who shall include public health and policy

1 experts and two or more individuals who have lived experience with
2 opioid use disorders, including one or more individuals who have or
3 are in recovery from an opioid use disorder and one or more family
4 members of a person with an opioid use disorder² ; ²and²

5 (3) ²[three public members ¹[to be] ,¹ appointed by the
6 ¹Governor upon recommendation of the¹ President of the Senate, of
7 which ¹members¹ one shall possess expertise in substance use
8 disorder treatment, one shall possess expertise in behavioral health,
9 and one shall possess personal experience with substance use and
10 ¹[addiction]¹ issues ¹related to a substance use disorder¹ ; and

11 (4) three public members ^{1,1} appointed by the ¹Governor upon
12 recommendation of the¹ Speaker of the Assembly, of which
13 ¹members¹ one shall possess expertise in substance use disorder
14 treatment, one shall possess expertise in ¹[behavioral]¹ health ¹care
15 equity¹ , and one shall possess ¹[personal experience with
16 substance use and addiction issues] expertise in health policy¹
17 such additional ex officio and public members as the Governor
18 deems appropriate² .

19 c. ²[All appointments to the council shall be made no later
20 than the 60th day after the effective date of this act. Each
21 ¹[appointed] public¹ member shall serve a two-year term, with any
22 vacancies in the membership of the council being filled in the same
23 manner as ¹provided for¹ the original appointments. ¹The Governor
24 shall appoint a chairperson from among the public members of the
25 council to serve in such capacity at the pleasure of the Governor.¹
26 The public members of the council shall serve at the pleasure of the
27 Governor. The Commissioner of Human Services or the
28 commissioner's designee shall serve as the chairperson of the
29 council.²

30 d. The council shall organize as soon as practicable following
31 the appointment of its members ²and shall meet at such frequencies
32 as shall be required by the Governor as well as at the call of the
33 chairperson² . ¹[Upon its organization, the council shall select a
34 chairperson from among its members.]¹ ²[The members shall also
35 select a secretary who need not be a member of the council. The
36 council may hold meetings at ¹[the] such¹ times and places ¹as¹ it
37 may designate. A majority of the authorized membership shall
38 constitute a quorum. The council may conduct business without a
39 quorum, but shall only vote on a recommendation when a quorum is
40 present.]² The members of the council shall serve without
41 compensation, but shall be eligible for reimbursement for necessary
42 and reasonable expenses incurred in the performance of their
43 official duties within the limits of funds appropriated or otherwise
44 made available to the council for its purposes.

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

7 ¹f. ²(1)² To the extent permissible under the terms of a national
 8 opioid litigation resolution, the council shall not be required to, and
 9 may refrain from, making recommendations for expenditures that
 10 would primarily benefit counties or municipalities that were eligible
 11 to participate in the national opioid litigation resolution that yielded
 12 such funds but did not participate in the resolution, provided that
 13 nothing in this subsection shall be deemed to prevent the council
 14 from exercising its discretion to make such recommendations
 15 should it determine to do so.

16 ²(2) The council may, but shall not be required to, provide
 17 information and general recommendations to counties and
 18 municipalities concerning the expenditure of the share of proceeds
 19 from national opioid litigation resolutions allocated to those
 20 counties and municipalities, and may coordinate with any similarly
 21 situated county advisory council as the chairperson deems
 22 appropriate.²

23 g. The council shall ²[be considered a “public body” for the
 24 purpose of complying with the provisions of the “Senator Byron M.
 25 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-
 26 6 et seq.), and shall be subject to the provisions thereof. The “New
 27 Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-
 28 12 et seq.), shall apply to all members of the council] expire 180
 29 days after all proceeds from opioid litigation resolutions are
 30 expended and the Department of Human Services issues the final
 31 report required pursuant to subsection b of section 5 of P.L. _____,
 32 c. (C. _____) (pending before the Legislature as this bill)² .¹

33
 34 ¹3. The Attorney General, in consultation with the
 35 Commissioner of Human Services, shall be authorized to enter into
 36 agreements with counties and municipalities concerning the
 37 allocation and expenditure of moneys allocated to the State and its
 38 counties and municipalities in any national opioid litigation
 39 resolution.¹

40
 41 ¹4. A county ²[or municipality]² that directly receives moneys
 42 as a result of a national opioid litigation resolution shall establish an
 43 advisory council to provide input, advice, and recommendations on
 44 the disbursement ²[and allocation]² of such moneys ²and, if
 45 requested by a municipality within the county, on the disbursement
 46 of moneys from a national opioid litigation resolution received by

1 the municipality² . Each county ²[or municipal]² advisory council
2 shall, at a minimum, consist of a member possessing expertise in
3 substance use disorder treatment or prevention, a member
4 representing a provider of behavioral health or substance use
5 disorder treatment in the community, a member with personal
6 experience with substance use and substance use disorder issues,
7 the county prosecutor or the county prosecutor's designee, and an
8 individual authorized to appropriate funds on behalf of the
9 governing body of the ²[municipality or]² county ²[, as the case
10 may be,]² or such individual's designee. A county ²[or
11 municipal]² advisory council may include any additional members
12 as the county ²[or municipality]² deems necessary and
13 appropriate.¹
14

15 ¹[3.] ^{5.}¹ ²a.² No later than 12 months after the effective date
16 of this act, and annually thereafter ²until all proceeds from national
17 opioid litigation resolutions have been expended² , the Department
18 of Human Services, in consultation with the Opioid Recovery and
19 Remediation ²[Fund]² Advisory Council, shall report to the
20 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
21 c.164 (C.52:14-19.1) ²,² on the details of the allocations made with
22 the funds appropriated from the Opioid Recovery and Remediation
23 Fund. The information shall include the allocation amount,
24 program description, involved community providers, goals of the
25 program, and outcome measures to be used to determine program
26 efficacy.

27 ²b. No later than 180 days after all proceeds from national
28 opioid litigation resolutions have been expended, the Department of
29 Human Services shall prepare and issue to the Governor, and to the
30 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
31 a final report concerning the State's expenditure of opioid litigation
32 resolution proceeds, including: the amounts allocated; descriptions
33 of the programs funded using the proceeds; community providers
34 involved in programs receiving allocations from the proceeds;
35 outcomes from programs receiving allocations from the proceeds;
36 overall outcomes resulting from the expenditure of the proceeds,
37 including changes in substance use disorder rates, overdose deaths,
38 participation in substance use disorder treatment and recovery
39 programs, successful treatment outcomes, outcomes involving dual
40 diagnoses involving substance use disorders in combination with
41 other behavioral health conditions, and expansions in substance use
42 disorder and other behavioral health care provider and treatment
43 capacity; and such other information and data as the department
44 deems necessary to fully evaluate the use of opioid litigation
45 resolution funds pursuant to this act.

1 c.² The department shall ²**[also]**² post ²**[this]** the² information
2 ²and reports required pursuant to this section² on its Internet
3 website.

4

5 ¹**[4.]** 6.¹ This act shall take effect immediately.

6

7

8

9

10 Establishes Opioid Recovery and Remediation Fund; establishes
11 requirements for proceeds from opioid settlements to support
12 substance use disorder prevention and treatment programs.

SENATE, No. 783

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 18, 2022

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Co-Sponsored by:

Senator Singer

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 introduced.



(Sponsorship Updated As Of: 2/3/2022)

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. The State Treasurer shall deposit into the fund any moneys
12 that are allocated to or otherwise received by the State as a result of
13 a settlement agreement entered into with, or litigation undertaken
14 against, opioid manufacturers and distributors related to claims
15 arising from the manufacture, marketing, distribution, or dispensing
16 of opioids. Any interest and other income earned on moneys in the
17 fund, and any other moneys that may be appropriated or otherwise
18 become available for the purposes of the fund, shall be credited to
19 and deposited in the fund.

20 c. (1) Moneys in the fund shall be dedicated and used only for
21 the purposes of supplementing substance use disorder prevention
22 and treatment programs and services in the State, consistent with
23 the terms of settlements made in connection with claims arising
24 from the manufacture, marketing, distribution or dispensing of
25 opioids, as applicable.

26 (2) The Legislature shall annually appropriate moneys from the
27 fund to the Department of Human Services, which shall allocate the
28 appropriated funds in consultation with the Opioid Recovery and
29 Remediation Fund Advisory Council established pursuant to section
30 2 of this act. The department shall allocate funds with an emphasis
31 on supporting programs that are culturally and gender competent,
32 trauma-informed, and evidence-based, and, where appropriate,
33 employing individuals with lived experience as part of the services
34 provided. Services to be supported from the fund shall include, but
35 shall not be limited to, programs to:

36 (a) prevent substance use disorder through a youth-focused
37 public health education and prevention campaign, including school-
38 based prevention, early intervention, and health care services and
39 programs to reduce the risk of substance use by school-aged
40 children;

41 (b) develop and implement Statewide public education
42 campaigns to: reduce stigma against individuals who use drugs;
43 provide information about the risks of substance use; provide best
44 practices for addressing substance use disorders; and provide
45 information on how to locate services that reduce the adverse health
46 consequences associated with drug use or provide treatment for
47 substance use disorders;

1 (c) minimize and eliminate the root causes of health disparities
2 that contribute to the use of drugs and inequities in the treatment of
3 substance use disorder among minority communities;

4 (d) support the State's efforts to divert high-risk individuals
5 from arrest and incarceration through programs with strong case
6 management and harm reduction services that link participants to
7 community-based services, as well as referrals to promote health and
8 understanding for people who use drugs; and

9 (e) establish systems and tools that expand the State's capacity
10 to collect data and evaluate policies, programs, and strategies
11 designed to address substance use disorders.

12

13 2. a. There is established in, but not of, the Department of
14 Human Services, the Opioid Recovery and Remediation Fund
15 Advisory Council. The council shall provide the Department of
16 Human Services with recommendations on the allocation of funds
17 appropriated to the department from the Opioid Recovery and
18 Remediation Fund, as well as any policy modifications necessary to
19 maximize the use of those funds on a State and local level. To
20 effectuate this goal, the council shall:

21 (1) gather and evaluate State data regarding substance use
22 disorder prevention and treatment programs and services in order to
23 determine which populations are not reached by current
24 interventions, as well as which geographic areas of the State have
25 programmatic gaps in addressing substance use disorder; and

26 (2) solicit feedback, in a manner and method established by the
27 council, from stakeholders, local providers, and advocates regarding
28 the services needed to prevent and treat substance use disorder
29 across the State.

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

31 (1) the Commissioner of Human Services, the Commissioner of
32 Health, and the Attorney General, or their designees, who shall
33 serve ex-officio;

34 (2) four public members appointed by the Governor, of whom
35 one shall possess expertise in substance use disorder treatment, one
36 shall possess expertise in harm reduction, one shall possess
37 expertise in criminal justice, and one shall possess expertise in drug
38 policy;

39 (3) three public members to be appointed by the President of the
40 Senate, of whom one shall possess expertise in substance use
41 disorder treatment, one shall possess expertise in behavioral health,
42 and one shall possess personal experience with substance use and
43 addiction issues; and

44 (4) three public members appointed by the Speaker of the
45 Assembly, of whom one shall possess expertise in substance use
46 disorder treatment, one shall possess expertise in behavioral health,
47 and one shall possess personal experience with substance use and
48 addiction issues.

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1 c. All appointments to the council shall be made no later than
2 the 60th day after the effective date of this act. Each appointed
3 member shall serve a two-year term, with any vacancies in the
4 membership of the council being filled in the same manner as the
5 original appointments.

6 d. The council shall organize as soon as practicable following
7 the appointment of its members. Upon its organization, the council
8 shall select a chairperson from among its members. The members
9 shall also select a secretary who need not be a member of the council.
10 The council may hold meetings at the times and places it may
11 designate. A majority of the authorized membership shall
12 constitute a quorum. The council may conduct business without a
13 quorum, but shall only vote on a recommendation when a quorum is
14 present. The members of the council shall serve without
15 compensation, but shall be eligible for reimbursement for necessary
16 and reasonable expenses incurred in the performance of their
17 official duties within the limits of funds appropriated or otherwise
18 made available to the council for its purposes.

19 e. The council shall be entitled to receive assistance and
20 services from any State, county, or municipal department, board,
21 commission, or agency as may be made available to it for its
22 purposes. The Department of Human Services shall provide such staff
23 and administrative support to the council as it requires to carry out its
24 responsibilities.

25
26 3. No later than 12 months after the effective date of this act,
27 and annually thereafter, the Department of Human Services, in
28 consultation with the Opioid Recovery and Remediation Fund
29 Advisory Council, shall report to the Governor, and to the
30 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
31 on the details of the allocations made with the funds appropriated
32 from the Opioid Recovery and Remediation Fund. The information
33 shall include the allocation amount, program description, involved
34 community providers, goals of the program, and outcome measures
35 to be used to determine program efficacy. The department shall
36 also post this information on its Internet website.

37
38 4. This act shall take effect immediately.

39
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41 STATEMENT

42
43 This bill establishes the Opioid Recovery and Remediation Fund
44 and the Opioid Recovery and Remediation Fund Advisory Council,
45 thereby providing a framework for the use of funds received from
46 opioid settlements between the State and various parties.

47 Specifically, the bill establishes, in the Department of the
48 Treasury, a dedicated, non-lapsing fund to be known as the "Opioid

1 Recovery and Remediation Fund.” The State Treasurer is to deposit
2 into the fund any moneys that are allocated to or otherwise received
3 by the State as a result of a settlement agreement entered into with,
4 or litigation undertaken against, opioid manufacturers and
5 distributors related to claims arising from the manufacture,
6 marketing, distribution or dispensing of opioids. Any interest and
7 other income earned on moneys in the fund, and any other moneys
8 that may be appropriated or otherwise become available for the
9 purposes of the fund, are to be credited to and deposited in the fund.

10 The bill requires that the moneys in the fund are to be dedicated
11 and used only for the purposes of supplementing substance use
12 disorder prevention and treatment programs and services in the
13 State, consistent with the terms of settlements made in connection
14 with claims arising from the manufacture, marketing, distribution,
15 or dispensing of opioids, as applicable.

16 The Legislature is to annually appropriate moneys from the fund
17 to the Department of Human Services (DHS). The DHS must then
18 allocate the appropriated funds in consultation with the Opioid
19 Recovery and Remediation Fund Advisory Council established
20 under the bill, with an emphasis on supporting programs that are
21 culturally and gender competent, trauma-informed, and evidence-
22 based and, where appropriate, employing individuals with lived
23 experience as part of the services provided. Services to be
24 supported from the fund are to include, but are not be limited to,
25 programs to:

26 1) prevent substance use disorder through a youth-focused
27 public health education and prevention campaign, including school-
28 based prevention, early intervention, and health care services and
29 programs to reduce the risk of substance use by school-aged
30 children;

31 2) develop and implement Statewide public education
32 campaigns to reduce stigma against individuals who use drugs,
33 provide information about the risks of substance use, provide best
34 practices for addressing substance use disorders, and provide
35 information on how to locate services that reduce the adverse health
36 consequences associated with drug use or provide treatment for
37 substance use disorders;

38 3) minimize and eliminate the root causes of health disparities
39 that contribute to the use of drugs and inequities in the treatment of
40 substance use disorders among minority communities;

41 4) support the State’s efforts to divert high-risk individuals
42 from arrest and incarceration through programs with strong case
43 management and harm reduction services that link participants to
44 community-based services, as well as referrals to promote health and
45 understanding for people who use drugs; and

46 5) establish systems and tools that expand the State’s capacity
47 to collect data and evaluate policies, programs, and strategies
48 designed to address substance use disorders.

1 Furthermore, the bill establishes in, but not of, the DHS the
2 Opioid Recovery and Remediation Fund Advisory Council, to
3 provide the DHS with recommendations on the allocation of funds
4 appropriated to the DHS from the Opioid Recovery and
5 Remediation Fund, as well as any policy modifications necessary to
6 maximize the use of those funds on a State and local level. To
7 effectuate this goal, the bill directs the council to:

8 1) gather and evaluate State data regarding substance use
9 disorder prevention and treatment programs and services in order to
10 determine which populations are not reached by current
11 interventions, as well as which geographic areas of the State have
12 programmatic gaps in addressing substance use disorder; and

13 2) solicit feedback, in a manner and method established by the
14 council, from stakeholders, local providers, and advocates regarding
15 the services needed to prevent and treat substance use disorder
16 across the State.

17 The council will consist of 13 members, including the
18 Commissioner of Human Services, the Commissioner of Health,
19 and the Attorney General, or their designees, who will serve ex-
20 officio; and 10 public members, with four appointed by the
21 Governor and three each appointed by the Senate President and the
22 Speaker of the General Assembly. The public members will be
23 required to possess various expertise in substance use disorder
24 treatment, harm reduction, criminal justice, drug policy behavioral
25 health, and personal experience with substance use and addiction
26 issues.

27 All appointments to the council are to be made no later than the
28 60th day after the effective date of the bill. Each appointed member
29 is to serve a two-year term, with any vacancies in the membership
30 of the council being filled in the same manner as the original
31 appointments. The members of the council will serve without
32 compensation, but will be eligible for reimbursement for necessary
33 and reasonable expenses incurred in the performance of their
34 official duties, within the limits of funds made available to the
35 council for its purposes.

36 The council is entitled to receive assistance and services from
37 any State, county, or municipal department, board, commission, or
38 agency as may be made available to it for its purposes. Further, the
39 DHS is required to provide such staff and administrative support to the
40 council as it requires to carry out its responsibilities.

41 No later than 12 months after the effective date of this act, and
42 annually thereafter, the DHS, in consultation with the Opioid
43 Recovery and Remediation Fund Advisory Council, is to report to
44 the Governor and to the Legislature on the details of the allocations
45 made with the funds appropriated from the Opioid Recovery and
46 Remediation Fund. The information is to include the allocation
47 amount, program description, involved community providers, goals

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- 1 of the program, and outcome measures to be used to determine
- 2 program efficacy. The DHS is also required to post this
- 3 information on its Internet website.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 783

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2023

The Assembly Human Services Committee reports favorably and with committee amendments Senate Bill No. 783 (1R).

As amended by the committee, this bill establishes a framework concerning funds resulting from the resolution of lawsuits brought by the State against opioid manufacturers, opioid distributors, and pharmacies, including settlement agreements and bankruptcy plans that resolve any outstanding legal claims.

Specifically, the bill establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund.” The State Treasurer will be required to deposit into the fund the State’s share of moneys received as a result of the resolution of litigation concerning the opioid epidemic, provided that doing so is consistent with the terms of the resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, are to be credited to and deposited in the fund. Moneys paid to counties or municipalities will not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution.

Moneys in the fund may only be dedicated and used for certain enumerated purposes outlined in the bill, including: paying attorneys’ fees, costs, and related litigation expenses related to the national opioid litigation resolution; providing treatment to people with opioid use disorders, as well as any co-occurring substance use disorder or mental health conditions; providing recovery support to the person and the person’s family; engaging in opioid use prevention efforts; assisting with avoidance of and transition from the criminal justice system for people with opioid use disorders and co-occurring conditions; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement concerning safe drug handling; promoting wellness for first responders experiencing trauma from responding to opioid emergencies; supporting initiatives to abate the opioid

epidemic; administrative expenses; and supporting any strategies as may be required under an opioid litigation resolution.

The Department of Human Services (DHS) will be designated the lead agency for the State for the purpose of directing the disbursement, allocation, monitoring, and use of the State's share of opioid litigation resolution moneys. The DHS will have the authority to promulgate emergency rules and regulations as are necessary to implement the bill, which emergency rules and regulations will expire after 18 months and will be subject to formal adoption, with or without revision, using the ordinary process for promulgating administrative rules and regulations. The DHS will be required to disburse moneys from the fund in consultation with the Opioid Recovery and Remediation Advisory Council established under the bill, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds. Moneys in the fund may be transferred to other State departments, as directed by the Commissioner of Human Services, in support of the purposes authorized under the bill, subject to the approval of the Director of Budget and Accounting.

The bill specifies that moneys received from an opioid litigation resolution will supplement, and not supplant, funds that otherwise would have been used to carry out the purposes outlined in the bill, and no amount of those moneys may be used to reimburse the State or any of its counties or municipalities for past expenditures. The moneys may be used to refund the federal government its portion of the funds, if so required.

As amended, the bill establishes the Opioid Recovery and Remediation Advisory Council, which will be advisory in nature and will be responsible for reviewing proposals, data, and analyses and engaging with stakeholders and community members to develop and provide recommendations on the allocation and distribution of opioid litigation resolution proceeds. In carrying out this purpose, the council will gather and evaluate data concerning access to substance use disorder prevention and treatment programs and recovery services and solicit feedback from stakeholders, local providers, advocates, individuals with lived experience with opioid use disorders, the academic community, and other experts and members of the public regarding the services needed to prevent and treat substance use disorders across the State. The council will also be responsible for reviewing and evaluating recommendations submitted by the public using an online portal that was established on August 31, 2022 to allow for the submission of recommendations from the public

concerning uses of opioid litigation resolution funds, as well as evaluating approaches taken by New Jersey and other states in administering funds resulting opioid litigation resolutions.

The council will comprise: 1) the Commissioner of Human Services, the Commissioner of Health, the Commissioner of Children and Families, and the Attorney General, or their designees, who will serve ex-officio; at least 10 public members appointed by the Governor, who are to possess certain experience, knowledge, and expertise in matters related to substance use disorder issues; and 3) such additional ex officio and public members as the Governor deems appropriate.

The Commissioner of Human Services or the commissioner's designee will serve as chairperson of the council. The council will organize upon the appointment of its members and will meet at the times and places as are requested by the Governor and as are required by the chairperson. The members of the council will serve without compensation but may be reimbursed for necessary and reasonable expenses incurred in the performance of their official duties, subject to funding made available for this purpose. The DHS will provide staff and administrative support to the council. The public members of the council will serve at the pleasure of the Governor.

To the extent permissible under the terms of a national opioid litigation resolution, the council will not be required to, and may refrain from, making recommendations for expenditures that would primarily benefit counties or municipalities that were eligible to participate in opioid litigation but did not participate in the resolution of the litigation; however, the council will retain the discretion to recommend any expenditures it deems appropriate. The council may, but will not be required to, provide information and general recommendations to counties and municipalities concerning the expenditure of the share of proceeds from national opioid litigation resolutions allocated to those counties and municipalities, and may coordinate with any similarly situated county advisory council as the chairperson deems appropriate.

The council will expire 180 days after the all proceeds from opioid litigation resolutions are expended and the Department of Human Services issues its final report concerning the use of opioid litigation resolution funds.

The Attorney General, in consultation with the Commissioner of Human Services, will be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities resulting from the resolution of opioid litigation. A county that directly receives moneys as a result of a national opioid litigation resolution will be required to establish an advisory council to provide input, advice, and recommendations on the disbursement and allocation of the moneys, and may, at the request of a municipality that

received opioid litigation resolution funds, provide recommendations to the municipality concerning the disbursement of the funds. Each county advisory council will, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor's designee, and an individual authorized to appropriate funds on behalf of the governing body of the county or such individual's designee. A county advisory council may include any additional members as the county deems necessary and appropriate.

No later than 12 months after the effective date of the bill, and annually thereafter until all proceeds from national opioid litigation resolutions have been expended, the DHS, in consultation with the Opioid Recovery and Remediation Advisory Council, is to report to the Governor and to the Legislature on the details of the allocations made with the funds appropriated from the Opioid Recovery and Remediation Fund. The information will include the allocation amount, a description of the program being funded, a list of involved community providers, the goals of the program, and the outcome measures to be used to determine program efficacy.

No later than 180 days after all proceeds from national opioid litigation resolutions have been expended, the DHS will be required to and issue a final report to the Governor and the Legislature concerning the State's expenditure of opioid litigation resolution proceeds, including: the amounts allocated; descriptions of the programs funded using the proceeds; community providers participating in funded programs; program outcomes; overall outcomes resulting from the expenditure of the proceeds, including changes in substance use disorder rates, overdose deaths, participation in substance use disorder treatment and recovery programs, successful treatment outcomes, outcomes involving dual diagnoses involving substance use disorders in combination with other behavioral health conditions, and expansion of substance use disorder and other behavioral health care provider and treatment capacity; and such other information and data as the DHS deems necessary to fully evaluate the use of opioid litigation resolution funds.

The DHS will be required to post the information and reports required under the bill on its Internet website.

As reported by the committee with amendments, Senate Bill No. 783 (1R) is identical to Assembly Bill No. 1488 (1R), which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments specify that opioid litigation resolution funds may be used to pay attorneys' fees and other expenses resulting from opioid litigation resolutions.

The committee amendments remove certain references to municipalities receiving opioid litigation resolution funds, including provisions requiring such municipalities to establish advisory councils to provide recommendations concerning use of the funds, and instead provide that county advisory councils may provide recommendations to municipalities concerning the use of opioid litigation resolution funds, if so requested.

The committee amendments authorize the Department of Human Services (DHS) to transfer opioid litigation resolution funds to other State departments, with the approval of the Director of Budget and Accounting.

The committee amendments revise the authorized uses of opioid litigation resolution funds to specify that they may be used to support efforts to prevent the development of opioid use disorders.

The committee amendments revise the definition of "opioid litigation resolution" to specify that it includes litigation involving individuals affiliated with an opioid manufacturer, opioid distributor, or pharmacy.

The committee amendments change the name of the "Opioid Recovery and Remediation Fund Advisory Council" to remove the word "fund," such that it will be called the "Opioid Recovery and Remediation Advisory Council."

The committee amendments revise a provision stating that the advisory council will be established in, but not of, the DHS, to instead provide that it will be established in the DHS.

The committee amendments eliminate a requirement that the advisory council provide certain information to DHS, and instead provide that it is to gather and evaluate certain information. The committee amendments specify that the advisory council is limited to an advisory role and revise its responsibilities and duties as they pertain to making recommendations to the DHS.

The committee amendments revise the membership of the advisory council to include the Commissioner of Children and Families among the ex officio members, to require that the Governor appoint at least 10 public members and to revise the qualification requirements of those members, to allow the Governor to appoint additional ex officio and public members as the Governor deems appropriate, and to remove a requirement that certain public members be appointed based on recommendations from legislative leadership.

The committee amendments provide that Commissioner of Human Services or the commissioner's designee will serve as chair of the advisory council, in lieu of the Governor naming the chair.

The committee amendments remove time-based term limits for the public members of the advisory council and instead provide that the public members will serve at the pleasure of the Governor.

The committee amendments remove a provision authorizing the advisory council to establish its own meeting schedule and instead provide that it will meet as requested by the Governor or as required by the chair.

The committee amendments remove language specifying that the advisory council is a public body for the purposes of State law.

The committee amendments provide that the advisory council will expire 180 days after all opioid litigation resolution funds are expended and the DHS issues its final report concerning use of the funds.

The committee amendments add a requirement for the DHS to issue a final report after all opioid litigation resolution funds are expended.

The committee amendments revise the synopsis of the bill to reflect the amendments and make a technical change to correct a capitalization issue.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 783

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2022

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 783.

As amended by the committee, this bill establishes a framework concerning funds resulting from the resolution of lawsuits brought by the State against opioid manufacturers, opioid distributors, and pharmacies, including settlement agreements and bankruptcy plans that resolve any outstanding legal claims.

Specifically, the bill establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund.” The State Treasurer will be required to deposit into the fund the State’s share of moneys received as a result of the resolution of litigation concerning the opioid epidemic, provided that doing so is consistent with the terms of the resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, are to be credited to and deposited in the fund. Moneys paid to counties or municipalities or allocated for attorneys’ fees, costs, and related litigation expenses will not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution.

Moneys in the fund may only be dedicated and used for certain enumerated purposes outlined in the bill, including: providing treatment to people with opioid use disorders, as well as any co-occurring substance use disorder or mental health conditions; providing recovery support to the person and the person’s family; engaging in opioid use prevention efforts; assisting with avoidance of and transition from the criminal justice system for people with opioid use disorders and co-occurring conditions; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement concerning safe drug handling; promoting wellness for first responders experiencing trauma from responding to opioid emergencies; supporting initiatives to abate the opioid epidemic; administrative

expenses; and supporting any strategies as may be required under an opioid litigation resolution.

The Department of Human Services (DHS) will be designated the lead agency for the State for purposes of directing the disbursement, allocation, monitoring, and use of the State's share of opioid litigation resolution moneys. The DHS will have the authority to promulgate emergency rules and regulations as are necessary to implement the bill, which emergency rules and regulations will expire after 18 months and will be subject to formal adoption, with or without revision, using the ordinary process for promulgating administrative rules and regulations. The DHS will be required to disburse moneys from the fund in consultation with the Opioid Recovery and Remediation Fund Advisory Council established under the bill, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds.

As amended, the bill specifies that moneys received from an opioid litigation resolution will supplement, and not supplant, funds that otherwise would have been used to carry out the purposes outlined in the bill, and no amount of those moneys may be used to reimburse the State or any of its counties or municipalities for past expenditures. The moneys may be used to refund the federal government its portion of the funds, if so required.

As amended, the bill establishes the Opioid Recovery and Remediation Fund Advisory Council, which will be charged with providing the DHS with general recommendations on the allocation of opioid litigation resolution funds, as well as policy modifications necessary to maximize the use of those funds. In carrying out this purpose, the council will provide the DHS with data concerning access to substance use disorder prevention and treatment programs and recovery services and solicit feedback from stakeholders, local providers, and advocates regarding the services needed to prevent and treat substance use disorders across the State.

The council will consist of 13 members, including: the Commissioner of Human Services, the Commissioner of Health, and the Attorney General, or their designees, who will serve ex-officio, and 10 public members appointed by the Governor, with three of the public members being appointed based on the recommendation of the President of the Senate and three of the public members being appointed based on the recommendation of the Speaker of the General Assembly. The public members are to possess knowledge and expertise in matters related to substance use disorder treatment, harm

reduction, criminal justice, drug policy, behavioral health, health care equity, health policy, and personal experience with substance use and substance use disorders.

All appointments to the council are to be made no later than the 60th day after the effective date of the bill. The public members will serve for two-year terms. The Governor will appoint a chairperson from among the public members. The council will organize upon the appointment of its members and will meet at the times and places as it designates. The members of the council will serve without compensation but may be reimbursed for necessary and reasonable expenses incurred in the performance of their official duties, subject to the availability of funds for this purpose. The DHS will provide staff and administrative support to the council. The council will be considered a “public body” for the purpose of complying with the provisions of the “Senator Byron M. Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.). The “New Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-12 et seq.), will apply to all members of the council.

To the extent permissible under the terms of a national opioid litigation resolution, the council will not be required to, and may refrain from, making recommendations for expenditures that would primarily benefit counties or municipalities that were eligible to participate in opioid litigation but did not participate in the resolution of the litigation; however, the council will retain the discretion to recommend any expenditures it deems appropriate.

The Attorney General, in consultation with the Commissioner of Human Services, will be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities resulting from the resolution of opioid litigation. A county or municipality that directly receives moneys as a result of a national opioid litigation resolution will be required to establish an advisory council to provide input, advice, and recommendations on the disbursement and allocation of the moneys. Each county or municipal advisory council will, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor’s designee, and an individual authorized to appropriate funds on behalf of the governing body of the municipality or county, as the case may be, or such individual’s designee. A county or municipal advisory council may include any additional members as the county or municipality deems necessary and appropriate.

No later than 12 months after the effective date of the bill, and annually thereafter, the DHS, in consultation with the Opioid Recovery and Remediation Fund Advisory Council, is to report to the

Governor and to the Legislature on the details of the allocations made with the funds appropriated from the Opioid Recovery and Remediation Fund. The information will include the allocation amount, a description of the program being funded, a list of involved community providers, the goals of the program, and the outcome measures to be used to determine program efficacy. The DHS will be required to additionally post this information on its Internet website.

COMMITTEE AMENDMENTS:

The committee amendments add language clarifying that the disbursement and use of moneys from opioid litigation resolutions will be subject to the terms of the resolution and any agreements entered into with county and municipal governments concerning the use of litigation resolution funds received by the county or municipality. The amendments clarify that the bill applies to any resolution of litigation against opioid manufacturers, opioid distributors, and pharmacies related to the opioid epidemic, including legal settlements and bankruptcy plans that resolve the legal claims.

The committee amendments clarify that the requirements of the bill do not apply to funds paid to counties or municipalities, to funds allocated to attorney's fees, and to funds allocated for costs related to the opioid litigation.

The committee amendments revise the purposes for which opioid litigation resolution funds may be used to provide an enumerated list of specific purposes involving substance use disorder prevention, treatment, and recovery, as well as related services and programs. The amendments specify that opioid litigation resolution funds are to supplement, rather than supplant, existing funds that are used for those same purposes.

The committee amendments clarify that the Department of Human Services (DHS) is the designated lead agency for the purposes of directing the disbursement, allocation, and use of opioid litigation resolution funds, as well as for complying with any reporting, compliance, and administrative functions.

The committee amendments grant the DHS emergency rulemaking authority for the purposes of implementing the bill.

The committee amendments revise the duties of the Opioid Recovery and Remediation Fund Advisory Council to replace a requirement that the council gather and evaluate data concerning substance use disorder prevention and treatment programs to determine coverage gaps, to instead require the council to provide the DHS with data concerning the availability of, gaps in, and barriers to prevention and treatment programs, as well as recovery services.

The committee amendments revise the authority to appoint members to the advisory council to provide that, in lieu of the President of the Senate and the Speaker of the General Assembly making appointments to the council, the Governor will make those

appointments upon the recommendation of the President of the Senate and the Speaker of the General Assembly. The amendments also revise the qualification and experience requirements for several of the public members.

The committee amendments provide that the Governor will name the chair of the advisory council, rather than the advisory council selecting a chair from among the public members.

The committee amendments add language directing that the advisory council generally avoid recommending that counties and municipalities receive opioid litigation resolution funds if the county or municipality had the opportunity to participate in the resolution but did not. However, the amendments expressly provide that the council retains the discretion to make any recommendations it deems appropriate.

The committee amendments expressly provide that the advisory council is to be considered a public body for the purposes of State open public meetings laws, and that the members of the council are subject to the State conflicts of interest laws.

The committee amendments authorize the Attorney General to enter into agreements with counties and municipalities concerning the allocation and expenditure of opioid litigation resolution monies received by the State and its counties and municipalities.

The committee amendments require a county or municipality that receives opioid litigation resolution monies to establish an advisory council, and set forth requirements concerning the membership of county and municipal advisory councils.

The committee amendments make various technical changes involving grammar, outdated terminology, and syntax.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 783

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 783 (1R).

This bill establishes a framework concerning funds resulting from the resolution of lawsuits brought by the State against opioid manufacturers, opioid distributors, and pharmacies, including settlement agreements and bankruptcy plans that resolve any outstanding legal claims.

Specifically, the bill establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund.” The State Treasurer will be required to deposit into the fund the State’s share of moneys received as a result of the resolution of litigation concerning the opioid epidemic, provided that doing so is consistent with the terms of the resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, are to be credited to and deposited in the fund. Moneys paid to counties or municipalities or allocated for attorneys’ fees, costs, and related litigation expenses will not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution.

Moneys in the fund may only be dedicated and used for certain enumerated purposes outlined in the bill, including: providing treatment to people with opioid use disorders, as well as any co-occurring substance use disorder or mental health conditions; providing recovery support to the person and the person’s family; engaging in opioid use prevention efforts; assisting with avoidance of and transition from the criminal justice system for people with opioid use disorders and co-occurring conditions; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement concerning safe drug handling; promoting wellness for first responders experiencing trauma from responding to opioid emergencies; supporting initiatives to abate the opioid epidemic; administrative expenses; and supporting any strategies as may be required under an opioid litigation resolution.

The Department of Human Services (DHS) will be designated the lead agency for the State for purposes of directing the disbursement, allocation, monitoring, and use of the State's share of opioid litigation resolution moneys. The DHS will have the authority to promulgate emergency rules and regulations as are necessary to implement the bill, which emergency rules and regulations will expire after 18 months and will be subject to formal adoption, with or without revision, using the ordinary process for promulgating administrative rules and regulations. The DHS will be required to disburse moneys from the fund in consultation with the Opioid Recovery and Remediation Fund Advisory Council established under the bill, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY, No. 1488

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman **DANIEL R. BENSON**

District 14 (Mercer and Middlesex)

Assemblyman **ANTHONY S. VERRELLI**

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

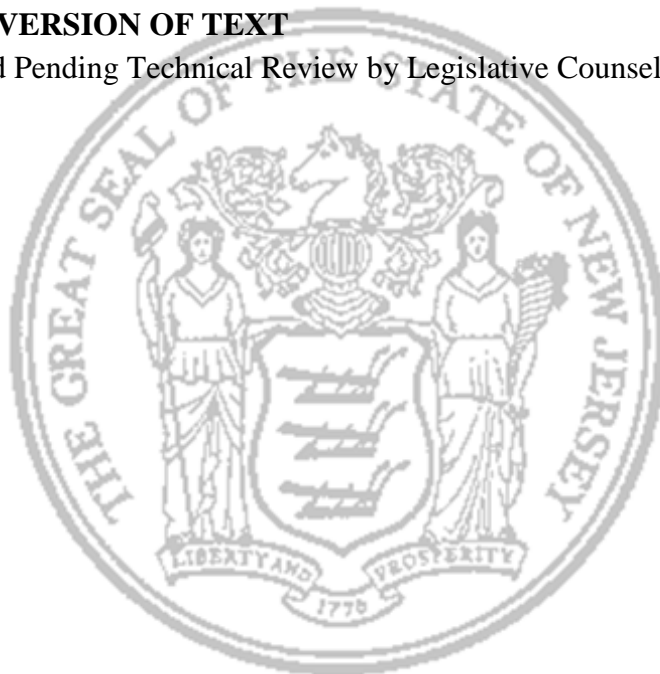
Assemblywomen **Murphy, Timberlake, Dunn, Jasey, Swain, Reynolds-Jackson**, Assemblyman **Tully** and Assemblywoman **Swift**

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

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/7/2022)

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. The State Treasurer shall deposit into the fund any moneys
12 that are allocated to or otherwise received by the State as a result of
13 a settlement agreement entered into with, or litigation undertaken
14 against, opioid manufacturers and distributors related to claims
15 arising from the manufacture, marketing, distribution or dispensing
16 of opioids. Any interest and other income earned on moneys in the
17 fund, and any other moneys that may be appropriated or otherwise
18 become available for purposes of the fund, shall be credited to and
19 deposited in the fund.

20 c. (1) Moneys in the fund shall be dedicated and used only for
21 the purposes of supplementing substance use disorder prevention
22 and treatment programs and services in the State, consistent with
23 the terms of settlements made in connection with claims arising
24 from the manufacture, marketing, distribution or dispensing of
25 opioids, as applicable.

26 (2) The Legislature shall annually appropriate moneys from the
27 fund to the Department of Human Services, which shall allocate the
28 appropriated funds in consultation with the Opioid Recovery and
29 Remediation Fund Advisory Council, as established pursuant to
30 section 2 of this act. The department shall allocate funds with an
31 emphasis on supporting programs that are culturally and gender
32 competent, trauma-informed, evidence-based and, where
33 appropriate, employ individuals with lived experience as part of the
34 services provided. Services to be supported from the fund shall
35 include, but shall not be limited to, programs:

36 (a) To prevent substance use disorder through a youth-focused
37 public health education and prevention campaign, including school-
38 based prevention, early intervention, and health care services and
39 programs to reduce the risk of substance use by school-aged
40 children;

41 (b) To develop and implement Statewide public education
42 campaigns to reduce stigma against individuals who use drugs,
43 provide information about the risks of substance use, best practices
44 for addressing substance use disorders, and information on how to
45 locate services that reduce the adverse health consequences
46 associated with drug use or provide treatment for substance use
47 disorders;

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

4 (d) To support the State's efforts to divert high-risk individuals
5 from arrest and incarceration through programs with strong case
6 management and harm reduction services that link participants to
7 community-based services, as well as referrals to promote health and
8 understanding for people who use drugs; and

9 (e) To establish systems and tools that expand the State's
10 capacity to collect data and evaluate policies, programs, and
11 strategies designed to address substance use disorder.

12

13 2. a. There is established in, but not of, the Department of
14 Human Services the Opioid Recovery and Remediation Fund
15 Advisory Council. The council shall provide the Department of
16 Human Services with recommendations on the allocation of funds
17 appropriated to the department from the Opioid Recovery and
18 Remediation Fund, as well as any policy modifications necessary to
19 maximize the use of those funds on a State and local level. To
20 effectuate this goal, the council shall:

21 (1) gather and evaluate State data regarding substance use
22 disorder prevention and treatment programs and services in order to
23 determine which populations are not reached by current
24 interventions, as well as which geographic areas of the State have
25 programmatic gaps in addressing substance use disorder; and

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

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

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

34 (2) four public members appointed by the Governor, of which
35 one shall possess expertise in substance use disorder treatment, one
36 shall possess expertise in harm reduction, one shall possess
37 expertise in criminal justice, and one shall possess expertise in drug
38 policy;

39 (3) three public members to be appointed by the President of the
40 Senate, of which one shall possess expertise in substance use
41 disorder treatment, one shall possess expertise in behavioral health,
42 and one shall possess personal experience with substance use and
43 addiction issues; and

44 (4) three public members appointed by the Speaker of the
45 Assembly, of which one shall possess expertise in substance use
46 disorder treatment, one shall possess expertise in behavioral health,
47 and one shall possess personal experience with substance use and
48 addiction issues.

1 c. All appointments to the council shall be made no later than
2 the 60th day after the effective date of this act. Each appointed
3 member shall serve a two-year term, with any vacancies in the
4 membership of the council being filled in the same manner as the
5 original appointments.

6 d. The council shall organize as soon as practicable following
7 the appointment of its members. Upon its organization, the council
8 shall select a chairperson from among its members. The members
9 shall also select a secretary who need not be a member of the council.
10 The council may hold meetings at the times and places it may
11 designate. A majority of the authorized membership shall
12 constitute a quorum. The council may conduct business without a
13 quorum, but shall only vote on a recommendation when a quorum is
14 present. The members of the council shall serve without
15 compensation, but shall be eligible for reimbursement for necessary
16 and reasonable expenses incurred in the performance of their
17 official duties within the limits of funds appropriated or otherwise
18 made available to the council for its purposes.

19 e. The council shall be entitled to receive assistance and
20 services from any State, county, or municipal department, board,
21 commission, or agency as may be made available to it for its
22 purposes. The Department of Human Services shall provide such staff
23 and administrative support to the council as it requires to carry out its
24 responsibilities.
25

26 3. No later than 12 months after the effective date of this act,
27 and annually thereafter, the Department of Human Services, in
28 consultation with the Opioid Recovery and Remediation Fund
29 Advisory Council, shall report to the Governor, and to the
30 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
31 on the details of the allocations made with the funds appropriated
32 from the Opioid Recovery and Remediation Fund. The information
33 shall include the allocation amount, program description, involved
34 community providers, goals of the program, and outcome measures
35 to be used to determine program efficacy. The department shall
36 also post this information on its Internet website.
37

38 4. This act shall take effect immediately.
39
40

41 STATEMENT
42

43 This bill establishes the Opioid Recovery and Remediation Fund
44 and the Opioid Recovery and Remediation Fund Advisory Council,
45 thereby providing a framework for the use of funds received from
46 opioid settlements between the State and various parties.

47 Specifically, the bill establishes, in the Department of the
48 Treasury, a dedicated, non-lapsing fund to be known as the "Opioid

1 Recovery and Remediation Fund.” The State Treasurer is to deposit
2 into the fund any moneys that are allocated to or otherwise received
3 by the State as a result of a settlement agreement entered into with,
4 or litigation undertaken against, opioid manufacturers and
5 distributors related to claims arising from the manufacture,
6 marketing, distribution or dispensing of opioids. Any interest and
7 other income earned on moneys in the fund, and any other moneys
8 that may be appropriated or otherwise become available for
9 purposes of the fund, are to be credited to and deposited in the fund.

10 The bill requires that the moneys in the fund are to be dedicated
11 and used only for the purposes of supplementing substance use
12 disorder prevention and treatment programs and services in the
13 State, consistent with the terms of settlements made in connection
14 with claims arising from the manufacture, marketing, distribution or
15 dispensing of opioids, as applicable.

16 The Legislature is to annually appropriate moneys from the fund
17 to the Department of Human Services. The department must then
18 allocate the appropriated funds in consultation with the Opioid
19 Recovery and Remediation Fund Advisory Council, as established
20 under the bill, with an emphasis on supporting programs that are
21 culturally and gender competent, trauma-informed, evidence-based
22 and, where appropriate, employ individuals with lived experience as
23 part of the services provided. Services to be supported from the
24 fund are to include, but are not be limited to, programs:

25 1) To prevent substance use disorder through a youth-focused
26 public health education and prevention campaign, including school-
27 based prevention, early intervention, and health care services and
28 programs to reduce the risk of substance use by school-aged
29 children;

30 2) To develop and implement statewide public education
31 campaigns to reduce stigma against individuals who use drugs,
32 provide information about the risks of substance use, best practices
33 for addressing substance use disorders, and information on how to
34 locate services that reduce the adverse health consequences
35 associated with drug use or provide treatment for substance use
36 disorders;

37 3) To minimize and eliminate the root causes of health
38 disparities that contribute to the use of drugs and inequities in the
39 treatment of substance use disorder among minority communities;

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

45 5) To establish systems and tools that expand the State’s
46 capacity to collect data and evaluate policies, programs, and
47 strategies designed to address substance use disorder.

1 Furthermore, the bill establishes in, but not of, the Department of
2 Human Services the Opioid Recovery and Remediation Fund
3 Advisory Council, to provide the Department of Human Services
4 with recommendations on the allocation of funds appropriated to
5 the department from the Opioid Recovery and Remediation Fund,
6 as well as any policy modifications necessary to maximize the use
7 of those funds on a State and local level. To effectuate this goal,
8 the bill directs the council to:

9 1) gather and evaluate State data regarding substance use
10 disorder prevention and treatment programs and services in order to
11 determine which populations are not reached by current
12 interventions, as well as which geographic areas of the State have
13 programmatic gaps in addressing substance use disorder; and

14 2) solicit feedback, in a manner and method established by the
15 council, from stakeholders, local providers, and advocates regarding
16 the service needs to prevent and treat substance use disorder across
17 the State.

18 The council shall consist of 13 members, as follows:

19 1) the Commissioner of Human Services, the Commissioner of
20 Health, and the Attorney General, or their designees, who shall
21 serve as ex-officio members;

22 2) four public members appointed by the Governor, of which
23 one is to possess expertise in substance use disorder treatment, one
24 is to possess expertise in harm reduction, one is to possess expertise
25 in criminal justice, and one is to possess expertise in drug policy;

26 3) three public members to be appointed by the President of the
27 Senate, of which one is to possess expertise in substance use
28 disorder treatment, one is to possess expertise in behavioral health,
29 and one is to possess personal experience with substance use and
30 addiction issues; and

31 4) three public members appointed by the Speaker of the
32 Assembly, of which one is to possess expertise in substance use
33 disorder treatment, one is to possess expertise in behavioral health,
34 and one is to possess personal experience with substance use and
35 addiction issues.

36 All appointments to the council are to be made no later than the
37 60th day after the effective date of this act. Each appointed member
38 is to serve a two-year term, with any vacancies in the membership
39 of the council being filled in the same manner as the original
40 appointments.

41 The bill directs the council to organize as soon as practicable
42 following the appointment of its members. Upon its organization,
43 the council is to select a chairperson from among its members. The
44 members are to also select a secretary who need not be a member of
45 the council. The council may hold meetings at the times and places
46 it may designate. A majority of the authorized membership is to
47 constitute a quorum. The council may conduct business without a
48 quorum, but only vote on a recommendation when a quorum is

1 present. The members of the council are to serve without
2 compensation, but are eligible for reimbursement for necessary and
3 reasonable expenses incurred in the performance of their official
4 duties within the limits of funds appropriated or otherwise made
5 available to the council for its purposes.

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

12 No later than 12 months after the effective date of this act, and
13 annually thereafter, the Department of Human Services, in
14 consultation with the Opioid Recovery and Remediation Fund
15 Advisory Council, is to report to the Governor and to the
16 Legislature on the details of the allocations made with the funds
17 appropriated from the Opioid Recovery and Remediation Fund.
18 The information is to include the allocation amount, program
19 description, involved community providers, goals of the program,
20 and outcome measures to be used to determine program efficacy.
21 The department is also required to post this information on its
22 Internet website.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1488

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2022

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No. 1488.

As amended by the committee, this bill establishes a framework concerning funds resulting from the resolution of lawsuits brought by the State against opioid manufacturers, opioid distributors, and pharmacies, including settlement agreements and bankruptcy plans that resolve any outstanding legal claims.

Specifically, the bill establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund.” The State Treasurer will be required to deposit into the fund the State’s share of moneys received as a result of the resolution of litigation concerning the opioid epidemic, provided that doing so is consistent with the terms of the resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, are to be credited to and deposited in the fund. Moneys paid to counties or municipalities or allocated for attorneys’ fees, costs, and related litigation expenses will not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution.

Moneys in the fund may only be dedicated and used for certain enumerated purposes outlined in the bill, including: providing treatment to people with opioid use disorders, as well as any co-occurring substance use disorder or mental health conditions; providing recovery support to the person and the person’s family; engaging in opioid use prevention efforts; assisting with avoidance of and transition from the criminal justice system for people with opioid use disorders and co-occurring conditions; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement concerning safe drug handling; promoting wellness for first responders experiencing trauma from responding to opioid emergencies; supporting initiatives to abate the opioid epidemic; administrative expenses; and supporting any strategies as may be required under an opioid litigation resolution.

The Department of Human Services (DHS) will be designated the lead agency for the State for purposes of directing the disbursement, allocation, monitoring, and use of the State's share of opioid litigation resolution moneys. The DHS will have the authority to promulgate emergency rules and regulations as are necessary to implement the bill, which emergency rules and regulations will expire after 18 months and will be subject to formal adoption, with or without revision, using the ordinary process for promulgating administrative rules and regulations. The DHS will be required to disburse moneys from the fund in consultation with the Opioid Recovery and Remediation Fund Advisory Council established under the bill, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds.

As amended, the bill specifies that moneys received from an opioid litigation resolution will supplement, and not supplant, funds that otherwise would have been used to carry out the purposes outlined in the bill, and no amount of those moneys may be used to reimburse the State or any of its counties or municipalities for past expenditures. The moneys may be used to refund the federal government its portion of the funds, if so required.

As amended, the bill establishes the Opioid Recovery and Remediation Fund Advisory Council, which will be charged with providing the DHS with general recommendations on the allocation of opioid litigation resolution funds, as well as policy modifications necessary to maximize the use of those funds. In carrying out this purpose, the council will provide the DHS with data concerning access to substance use disorder prevention and treatment programs and recovery services and solicit feedback from stakeholders, local providers, and advocates regarding the services needed to prevent and treat substance use disorders across the State.

The council will consist of 13 members, including: the Commissioner of Human Services, the Commissioner of Health, and the Attorney General, or their designees, who will serve *ex-officio*, and 10 public members appointed by the Governor, with three of the public members being appointed based on the recommendation of the President of the Senate and three of the public members being appointed based on the recommendation of the Speaker of the General Assembly. The public members are to possess knowledge and expertise in matters related to substance use disorder treatment, harm reduction, criminal justice, drug policy, behavioral health, health care

equity, health policy, and personal experience with substance use and substance use disorders.

All appointments to the council are to be made no later than the 60th day after the effective date of the bill. The public members will serve for two-year terms. The Governor will appoint a chairperson from among the public members. The council will organize upon the appointment of its members and will meet at the times and places as it designates. The members of the council will serve without compensation but may be reimbursed for necessary and reasonable expenses incurred in the performance of their official duties, subject to the availability of funds for this purpose. The DHS will provide staff and administrative support to the council. The council will be considered a “public body” for the purpose of complying with the provisions of the “Senator Byron M. Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.). The “New Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-12 et seq.), will apply to all members of the council.

To the extent permissible under the terms of a national opioid litigation resolution, the council will not be required to, and may refrain from, making recommendations for expenditures that would primarily benefit counties or municipalities that were eligible to participate in opioid litigation but did not participate in the resolution of the litigation; however, the council will retain the discretion to recommend any expenditures it deems appropriate.

The Attorney General, in consultation with the Commissioner of Human Services, will be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities resulting from the resolution of opioid litigation. A county or municipality that directly receives moneys as a result of a national opioid litigation resolution will be required to establish an advisory council to provide input, advice, and recommendations on the disbursement and allocation of the moneys. Each county or municipal advisory council will, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor’s designee, and an individual authorized to appropriate funds on behalf of the governing body of the municipality or county, as the case may be, or such individual’s designee. A county or municipal advisory council may include any additional members as the county or municipality deems necessary and appropriate.

No later than 12 months after the effective date of the bill, and annually thereafter, the DHS, in consultation with the Opioid Recovery and Remediation Fund Advisory Council, is to report to the Governor and to the Legislature on the details of the allocations made

with the funds appropriated from the Opioid Recovery and Remediation Fund. The information will include the allocation amount, a description of the program being funded, a list of involved community providers, the goals of the program, and the outcome measures to be used to determine program efficacy. The DHS will be required to additionally post this information on its Internet website.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed

As amended and reported by the committee, Assembly Bill No. 1488 is identical to Senate Bill No. 783 (1R).

COMMITTEE AMENDMENTS:

The committee amendments add language clarifying that the disbursement and use of moneys from opioid litigation resolutions will be subject to the terms of the resolution and any agreements entered into with county and municipal governments concerning the use of litigation resolution funds received by the county or municipality. The amendments clarify that the bill applies to any resolution of litigation against opioid manufacturers, opioid distributors, and pharmacies related to the opioid epidemic, including legal settlements and bankruptcy plans that resolve the legal claims.

The committee amendments clarify that the requirements of the bill do not apply to funds paid to counties or municipalities, to funds allocated to attorney's fees, and to funds allocated for costs related to the opioid litigation.

The committee amendments revise the purposes for which opioid litigation resolution funds may be used to provide an enumerated list of specific purposes involving substance use disorder prevention, treatment, and recovery, as well as related services and programs. The amendments specify that opioid litigation resolution funds are to supplement, rather than supplant, existing funds that are used for those same purposes.

The committee amendments clarify that the Department of Human Services (DHS) is the designated lead agency for the purposes of directing the disbursement, allocation, and use of opioid litigation resolution funds, as well as for complying with any reporting, compliance, and administrative functions.

The committee amendments grant the DHS emergency rulemaking authority for the purposes of implementing the bill.

The committee amendments revise the duties of the Opioid Recovery and Remediation Fund Advisory Council to replace a requirement that the council gather and evaluate data concerning substance use disorder prevention and treatment programs to determine coverage gaps, to instead require the council to provide the DHS with data concerning the availability of, gaps in, and barriers to prevention and treatment programs, as well as recovery services.

The committee amendments revise the authority to appoint members to the advisory council to provide that, in lieu of the President of the Senate and the Speaker of the General Assembly making appointments to the council, the Governor will make those appointments upon the recommendation of the President of the Senate and the Speaker of the General Assembly. The amendments also revise the qualification and experience requirements for several of the public members.

The committee amendments provide that the Governor will name the chair of the advisory council, rather than the advisory council selecting a chair from among the public members.

The committee amendments add language directing that the advisory council generally avoid recommending that counties and municipalities receive opioid litigation resolution funds if the county or municipality had the opportunity to participate in the resolution but did not. However, the amendments expressly provide that the council retains the discretion to make any recommendations it deems appropriate.

The committee amendments expressly provide that the advisory council is to be considered a public body for the purposes of State open public meetings laws, and that the members of the council are subject to the State conflicts of interest laws.

The committee amendments authorize the Attorney General to enter into agreements with counties and municipalities concerning the allocation and expenditure of opioid litigation resolution monies received by the State and its counties and municipalities.

The committee amendments require a county or municipality that receives opioid litigation resolution monies to establish an advisory council, and set forth requirements concerning the membership of county and municipal advisory councils.

The committee amendments make various technical changes involving grammar, outdated terminology, and syntax.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1488

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 2023

The Assembly Human Services Committee reports favorably Assembly Bill No. 1488 (1R) with committee amendments.

As amended by the committee, this bill establishes a framework concerning funds resulting from the resolution of lawsuits brought by the State against opioid manufacturers, opioid distributors, and pharmacies, including settlement agreements and bankruptcy plans that resolve any outstanding legal claims.

Specifically, the bill establishes a dedicated, non-lapsing fund, to be known as the “Opioid Recovery and Remediation Fund.” The State Treasurer will be required to deposit into the fund the State’s share of moneys received as a result of the resolution of litigation concerning the opioid epidemic, provided that doing so is consistent with the terms of the resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, are to be credited to and deposited in the fund. Moneys paid to counties or municipalities will not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution.

Moneys in the fund may only be dedicated and used for certain enumerated purposes outlined in the bill, including: paying attorneys’ fees, costs, and related litigation expenses related to the national opioid litigation resolution; providing treatment to people with opioid use disorders, as well as any co-occurring substance use disorder or mental health conditions; providing recovery support to the person and the person’s family; engaging in opioid use prevention efforts; assisting with avoidance of and transition from the criminal justice system for people with opioid use disorders and co-occurring conditions; providing services specific to pregnant people and parents who have an opioid use disorder; promoting appropriate prescribing practices for opioids; working to prevent and reduce opioid overdose deaths; training law enforcement concerning safe drug handling; promoting wellness for first responders experiencing trauma from responding to opioid emergencies; supporting initiatives to abate the opioid

epidemic; administrative expenses; and supporting any strategies as may be required under an opioid litigation resolution.

The Department of Human Services (DHS) will be designated the lead agency for the State for the purpose of directing the disbursement, allocation, monitoring, and use of the State's share of opioid litigation resolution moneys. The DHS will have the authority to promulgate emergency rules and regulations as are necessary to implement the bill, which emergency rules and regulations will expire after 18 months and will be subject to formal adoption, with or without revision, using the ordinary process for promulgating administrative rules and regulations. The DHS will be required to disburse moneys from the fund in consultation with the Opioid Recovery and Remediation Advisory Council established under the bill, with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and with consideration given to providing equitable access for underserved communities. The disbursement and use of the funds will be subject to any terms and conditions in the opioid litigation resolution that resulted in the State receiving the funds, as well as any applicable agreements entered into with counties and municipalities concerning the use of opioid litigation resolution funds. Moneys in the fund may be transferred to other State departments, as directed by the Commissioner of Human Services, in support of the purposes authorized under the bill, subject to the approval of the Director of Budget and Accounting.

The bill specifies that moneys received from an opioid litigation resolution will supplement, and not supplant, funds that otherwise would have been used to carry out the purposes outlined in the bill, and no amount of those moneys may be used to reimburse the State or any of its counties or municipalities for past expenditures. The moneys may be used to refund the federal government its portion of the funds, if so required.

As amended, the bill establishes the Opioid Recovery and Remediation Advisory Council, which will be advisory in nature and will be responsible for reviewing proposals, data, and analyses and engaging with stakeholders and community members to develop and provide recommendations on the allocation and distribution of opioid litigation resolution proceeds. In carrying out this purpose, the council will gather and evaluate data concerning access to substance use disorder prevention and treatment programs and recovery services and solicit feedback from stakeholders, local providers, advocates, individuals with lived experience with opioid use disorders, the academic community, and other experts and members of the public regarding the services needed to prevent and treat substance use disorders across the State. The council will also be responsible for reviewing and evaluating recommendations submitted by the public using an online portal that was established on August 31, 2022 to allow for the submission of recommendations from the public

concerning uses of opioid litigation resolution funds, as well as evaluating approaches taken by New Jersey and other states in administering funds resulting opioid litigation resolutions.

The council will comprise: 1) the Commissioner of Human Services, the Commissioner of Health, the Commissioner of Children and Families, and the Attorney General, or their designees, who will serve ex-officio; at least 10 public members appointed by the Governor, who are to possess certain experience, knowledge, and expertise in matters related to substance use disorder issues; and 3) such additional ex officio and public members as the Governor deems appropriate.

The Commissioner of Human Services or the commissioner's designee will serve as chairperson of the council. The council will organize upon the appointment of its members and will meet at the times and places as are requested by the Governor and as are required by the chairperson. The members of the council will serve without compensation but may be reimbursed for necessary and reasonable expenses incurred in the performance of their official duties, subject to funding made available for this purpose. The DHS will provide staff and administrative support to the council. The public members of the council will serve at the pleasure of the Governor.

To the extent permissible under the terms of a national opioid litigation resolution, the council will not be required to, and may refrain from, making recommendations for expenditures that would primarily benefit counties or municipalities that were eligible to participate in opioid litigation but did not participate in the resolution of the litigation; however, the council will retain the discretion to recommend any expenditures it deems appropriate. The council may, but will not be required to, provide information and general recommendations to counties and municipalities concerning the expenditure of the share of proceeds from national opioid litigation resolutions allocated to those counties and municipalities, and may coordinate with any similarly situated county advisory council as the chairperson deems appropriate.

The council will expire 180 days after the all proceeds from opioid litigation resolutions are expended and the Department of Human Services issues its final report concerning the use of opioid litigation resolution funds.

The Attorney General, in consultation with the Commissioner of Human Services, will be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities resulting from the resolution of opioid litigation. A county that directly receives moneys as a result of a national opioid litigation resolution will be required to establish an advisory council to provide input, advice, and recommendations on the disbursement and allocation of the moneys, and may, at the request of a municipality that

received opioid litigation resolution funds, provide recommendations to the municipality concerning the disbursement of the funds. Each county advisory council will, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor's designee, and an individual authorized to appropriate funds on behalf of the governing body of the county or such individual's designee. A county advisory council may include any additional members as the county deems necessary and appropriate.

No later than 12 months after the effective date of the bill, and annually thereafter until all proceeds from national opioid litigation resolutions have been expended, the DHS, in consultation with the Opioid Recovery and Remediation Advisory Council, is to report to the Governor and to the Legislature on the details of the allocations made with the funds appropriated from the Opioid Recovery and Remediation Fund. The information will include the allocation amount, a description of the program being funded, a list of involved community providers, the goals of the program, and the outcome measures to be used to determine program efficacy.

No later than 180 days after all proceeds from national opioid litigation resolutions have been expended, the DHS will be required to and issue a final report to the Governor and the Legislature concerning the State's expenditure of opioid litigation resolution proceeds, including: the amounts allocated; descriptions of the programs funded using the proceeds; community providers participating in funded programs; program outcomes; overall outcomes resulting from the expenditure of the proceeds, including changes in substance use disorder rates, overdose deaths, participation in substance use disorder treatment and recovery programs, successful treatment outcomes, outcomes involving dual diagnoses involving substance use disorders in combination with other behavioral health conditions, and expansion of substance use disorder and other behavioral health care provider and treatment capacity; and such other information and data as the DHS deems necessary to fully evaluate the use of opioid litigation resolution funds.

The DHS will be required to post the information and reports required under the bill on its Internet website.

This bill was prefiled for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As reported by the committee with amendments, Assembly Bill No. 1488 (1R) is identical to Senate Bill No. 783 (1R), which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments specify that opioid litigation resolution funds may be used to pay attorneys' fees and other expenses resulting from opioid litigation resolutions.

The committee amendments remove certain references to municipalities receiving opioid litigation resolution funds, including provisions requiring such municipalities to establish advisory councils to provide recommendations concerning use of the funds, and instead provide that county advisory councils may provide recommendations to municipalities concerning the use of opioid litigation resolution funds, if so requested.

The committee amendments authorize the Department of Human Services (DHS) to transfer opioid litigation resolution funds to other State departments, with the approval of the Director of Budget and Accounting.

The committee amendments revise the authorized uses of opioid litigation resolution funds to specify that they may be used to support efforts to prevent the development of opioid use disorders.

The committee amendments revise the definition of "opioid litigation resolution" to specify that it includes litigation involving individuals affiliated with an opioid manufacturer, opioid distributor, or pharmacy.

The committee amendments change the name of the "Opioid Recovery and Remediation Fund Advisory Council" to remove the word "fund," such that it will be called the "Opioid Recovery and Remediation Advisory Council."

The committee amendments revise a provision stating that the advisory council will be established in, but not of, the DHS, to instead provide that it will be established in the DHS.

The committee amendments eliminate a requirement that the advisory council provide certain information to DHS, and instead provide that it is to gather and evaluate certain information. The committee amendments specify that the advisory council is limited to an advisory role and revise its responsibilities and duties as they pertain to making recommendations to the DHS.

The committee amendments revise the membership of the advisory council to include the Commissioner of Children and Families among the ex officio members, to require that the Governor appoint at least 10 public members and to revise the qualification requirements of those members, to allow the Governor to appoint additional ex officio and public members as the Governor deems appropriate, and to remove a requirement that certain public members be appointed based on recommendations from legislative leadership.

The committee amendments provide that Commissioner of Human Services or the commissioner's designee will serve as chair of the advisory council, in lieu of the Governor naming the chair.

The committee amendments remove time-based term limits for the public members of the advisory council and instead provide that the public members will serve at the pleasure of the Governor.

The committee amendments remove a provision authorizing the advisory council to establish its own meeting schedule and instead provide that it will meet as requested by the Governor or as required by the chair.

The committee amendments remove language specifying that the advisory council is a public body for the purposes of State law.

The committee amendments provide that the advisory council will expire 180 days after all opioid litigation resolution funds are expended and the DHS issues its final report concerning use of the funds.

The committee amendments add a requirement for the DHS to issue a final report after all opioid litigation resolution funds are expended.

The committee amendments revise the synopsis of the bill to reflect the amendments and make technical change to correct capitalization and punctuation issues.

Governor Murphy Signs Legislation Establishing Opioid Recovery Remediation Fund for Allocation of Settlement Funds to Address Crisis

03/16/2023

Legislation Also Codifies Opioid Recovery and Remediation Advisory Council Previously Established by Executive Order No. 305 to Advise on Best Use of

TRENTON – Governor Phil Murphy today signed a bill (S-783) to codify the Opioid Recovery and Remediation Advisory Council into law and establish an Opioid Recovery Remediation Fund – building on steps taken via Executive Order [No. 305](#) last year to help New Jersey determine how best to utilize opioid settlement funds which has tragically taken over 14,000 lives in New Jersey over the past five years alone.

New Jersey and various counties and municipalities throughout the state have signed onto nationwide settlement agreements with several opioid manufacturers regarding their involvement in the ongoing opioid epidemic. Over the next two decades, more than \$600 million in funds from settlements in 2021 will be divided among state and local governments in New Jersey.

“This legislation will further enable our ongoing efforts to address the impact of the opioid crisis on our state,” **said Governor Murphy**. “With thorough input and those with lived experiences regarding the use of these settlement funds, we have the opportunity to make a real difference in the lives of countless New Jersey communities that have been affected by this crisis.”

The legislation establishes a non-lapsing fund within the Department of Treasury where the State’s share of settlement funds will be deposited and eventually disbursed by the State, with recommendations from the Opioid Recovery and Remediation Advisory Council. The Department of Human Services will be the lead agency for the disbursement of the funding.

The purpose of the Advisory Council [established](#) in the prior executive order and codified by today’s legislation is to make recommendations for the Administration regarding the prioritization and effective use of the State’s share of the settlement funds in ways that align with the terms of the settlements. This builds on the \$1 billion the Murphy Administration has already invested to reduce harm and save lives through innovation and evidence-based initiatives across state agencies.

The settlement funding must go towards goals such as treating opioid use disorder, addressing the needs of justice-involved individuals, offering harm reduction services, supporting relevant research and training, and other similar ways of combating the opioid epidemic.

[Appointments](#) to the council were made in December 2022. The council is chaired by the Commissioner of the Department of Human Services and includes the Attorney General, the Commissioner of Health, Commissioner of the Department of Children and Families, public health and policy experts, and individuals affected by the opioid epidemic.

“I thank the Governor and the legislative sponsors for codifying the work of the Council to help ensure that settlement funds are used effectively for years to come,” **Servicing Commissioner Sarah Adelman**. “The Council has already begun its important work and through this new law, will remain focused on funding strategies to address the epidemic and support people and communities harmed by this crisis.”

“The opioid epidemic has shattered communities and taken too many lives prematurely,” **said Attorney General Matthew J. Platkin**. “Although no amount of pain caused by this crisis, these historic settlements will bring various lifesaving programs focusing on drug prevention, harm reduction, and recovery to New Jersey. We have every tool to hold drug companies accountable for their actions and prevent another community from suffering. I thank Governor Murphy for his leadership, the council’s critical work to ensure these funds help improve and save the lives of our residents.”

To enable implementation of this legislation, the Governor concurrently signed Executive Order No. 323 today, which rescinds the prior executive order (No. 305) in all aspects of the previously-established council – including its members – will carry over under the new law.

Sponsors of the bill include Senator Troy Singleton and Assemblyman Daniel Benson, as well as Senator James Beach and Assemblyman Anthony Verrelli.

“Too many families in New Jersey have already felt the devastating impact of the opioid crisis, and we must continue to find new ways to combat this epidemic,” **Speaker Craig J. Coughlin**. “We are doing the right thing by investing the money we receive from opioid settlements into substance use disorder prevention programs. The Opioid Recovery and Remediation Fund will help break the cycle of addiction and save the lives of countless New Jerseyans.”

“The number of suspected fatal overdoses from opioids statewide rose over 40% during the last decade,” **said Senator Singleton**. “This law will ensure that settlement funds are being used to help those most impacted by the opioid crisis, and that money is dedicated specifically for addiction services and prevention programs.”

“It is imperative that the money we receive from companies held responsible for the opioid epidemic is used to help the people of New Jersey suffering from addiction and dependency. This law will fund crucial opioid addiction and treatment, as well as mental health, programs while also ensuring the funds are allocated properly and with transparency,” **said Assemblymen Dan Benson and Anthony Verrelli**. “By establishing the commission to monitor the ‘Opioid Recovery and Redemption’ process, we will more effectively take full advantage of the money received. It is paramount we stay committed to combatting the opioid crisis and we ensure prevention programs are the resources they need to help those who are suffering.”

For a copy of the legislation, click [here](#).

For a copy of Executive Order No. 323, click [here](#).

EXECUTIVE ORDER NO. 323

WHEREAS, the opioid epidemic has caused profound harm to countless New Jersey residents; and

WHEREAS, the number of suspected overdose-related deaths in New Jersey has nearly doubled from 1,587 in 2015 to 3,006 in 2018, and stayed around 3,000 for several years since that time, until decreasing to 2,892 in 2022; and

WHEREAS, New Jersey is dedicated to ending the opioid epidemic through a collaborative, inter-departmental, and data-driven strategy; with goals including increasing access to evidence-based prevention and treatment programs at the community level, supporting individuals on their path to and maintenance of recovery, reducing harm to people who use drugs and their loved ones, supporting data-driven work and strengthening system-wide infrastructure, and utilizing law enforcement to stem the supply of illicit drugs and oversee innovative programs that aim to divert individuals from the criminal justice system to public health services; and

WHEREAS, the State's approach to battling the opioid crisis must be informed by individuals and communities who have experienced it firsthand, including those who have struggled with substance use disorder and opioid use disorder, or seen their family members be impacted, and those who work in the fields of addiction treatment, prevention, and recovery; and

WHEREAS, in July 2021, I signed six bills dedicated to ending the opioid epidemic in New Jersey, including bills that expanded harm reduction efforts and established local drug overdose fatality review teams; and

WHEREAS, Johnson & Johnson and McKesson, Cardinal, and AmerisourceBergen have entered into nationwide settlement agreements relating to their role in the opioid crisis and, as part of the settlement agreements, will pay the State of New Jersey and eligible counties and municipalities a combined \$641 million over the next 18

years, which will be divided among the State and its eligible counties and municipalities; and

WHEREAS, the State has reached and may in the future reach additional national opioid litigation resolutions with other companies and individuals relating to their role in the opioid crisis; and

WHEREAS, on June 30, 2022, the Office of the Attorney General announced that the State and its counties and municipalities are expected to receive approximately \$30 million over time as a result of the bankruptcy of Mallinckrodt PLC, in connection with their opioid-related claims against the company; and

WHEREAS, on August 22, 2022, the Office of the Attorney General announced an additional nationwide settlement with Endo International PLC and its lenders, which is expected to provide some portion of a \$450 million national opioid litigation resolution to New Jersey and its counties and municipalities; and

WHEREAS, on January 11, 2023, the Attorney General announced that the State had joined national opioid litigation resolutions with pharmacy chains CVS, Walgreens, and Walmart, and drug makers Teva Pharmaceuticals and Allergan; and if those agreements become effective, subject to sufficient subdivision sign-on, New Jersey and eligible county and municipal governments stand to receive up to a combined total of approximately \$508.1 million; and

WHEREAS, funds obtained by the State in opioid settlement agreements have been and will be used to further the goals of preventing opioid misuse and overdose deaths; providing assistance, treatment, and recovery support to individuals and communities affected by the opioid crisis; developing wraparound supports and connections to care for individuals with substance and opioid use disorders; and expanding harm reduction efforts; and

WHEREAS, certain national opioid litigation resolutions require the State to designate a lead agency for purposes relating to implementation of these resolutions, such as coordination, reporting, and public disclosure of expenditures and communication with the settlement administrator; and

WHEREAS, the State launched an online portal to enable members of the public to provide recommendations on the expenditure of opioid litigation settlement funds for a 60-day comment period and may reopen the portal for public comment from time to time going forward; and

WHEREAS, on August 31, 2022, I issued Executive Order No. 305, designating the Department of Human Services ("DHS") as the lead agency for the State for purposes of directing the disbursement and allocation of the State's proceeds from national opioid litigation resolutions; monitoring the use of moneys disbursed to counties or municipalities under national opioid litigation resolutions; and performing the various reporting, compliance, and administrative functions and other obligations imposed upon the State pursuant to the terms and conditions of national opioid litigation resolutions; and

WHEREAS, Executive Order No. 305 (2022) also established in DHS the Opioid Recovery and Remediation Advisory Council (the "Advisory Council"), a wholly advisory body chaired by the Commissioner of DHS, or the Commissioner's Designee, and including the Attorney General, the Commissioner of the Department of Health, and the Commissioner of the Department of Children and Families, as well as at least ten public members; and

WHEREAS, pursuant to Executive Order No. 305 (2022), the purpose of the Advisory Council is to review proposals, data, and analysis and engage with stakeholders and community members to develop and provide recommendations on the allocation and distribution of the State's share of proceeds from national opioid litigation resolutions; and

WHEREAS, Executive Order No. 305 (2022) directed the Advisory Council to take various steps to effectuate its purpose; and

WHEREAS, on December 22, 2022, I announced the appointments of 10 public members of the Advisory Council, which has begun convening; and

WHEREAS, today, March 17, 2023, I signed Senate Bill No. 783 (Second Reprint) into law as P.L.2023, c.25, which was passed by both houses of the Legislature on February 27, 2023; and

WHEREAS, Senate Bill No. 783 (Second Reprint) creates the Opioid Recovery and Remediation Fund, into which the State Treasurer shall deposit the State's share of moneys received as a result of national opioid litigation resolutions and appropriates such funds for use; and

WHEREAS, Senate Bill No. 783 (Second Reprint) designates DHS as the lead agency for the State for purposes of directing the disbursement and allocation of the State's share of moneys allocated to or otherwise received by the State as a result of national opioid litigation resolutions; and for monitoring the use of the money disbursed to counties or municipalities under a national opioid litigation resolution or under an agreement authorized by section 3 of Senate Bill No. 783 (Second Reprint); and, in coordination with the State Comptroller and the Attorney General, ensuring that the use of such moneys complies with the purposes set forth in Senate Bill No. 783 (Second Reprint) and is consistent with the terms of the applicable national opioid litigation resolution and other applicable agreements; and

WHEREAS, Senate Bill No. 783 (Second Reprint) provides DHS with primary responsibility for ensuring that the various reporting, compliance, and administrative functions imposed upon the State are performed, and designates DHS as the single point of contact for the State for settlement fund administrators and trustees to submit requests for disbursement of settlement funds; and

WHEREAS, Senate Bill No. 783 (Second Reprint) authorizes DHS to make determinations regarding disbursement and allocation of the State's share of such proceeds in accordance with the requirements or terms of applicable agreements; and

WHEREAS, Senate Bill No. 783 (Second Reprint) also establishes in DHS an Opioid Recovery and Remediation Advisory Council, an advisory body with substantially similar functions, purposes, duties, and composition as the Opioid Recovery and Remediation Advisory Council established by Executive Order No. 305 (2022); and

WHEREAS, Senate Bill No. 783 (Second Reprint) also requires counties that are directly receiving moneys as a result of national opioid litigation resolutions to establish local advisory councils to provide input, advice, and recommendations on the disbursement of such moneys, recognizing that New Jersey has entered into a separate Memorandum of Agreement with participating counties and municipalities that requires each county to establish a county advisory council to provide input, advice, and recommendations on the disbursement of the county's share of the recovery and of the shares of its participating municipalities; and

WHEREAS, Senate Bill No. 783 (Second Reprint) imposes annual reporting requirements on DHS in connection with the expenditure of proceeds from national opioid litigation resolutions, and provides that the Advisory Council created by Senate Bill No. 783 (Second Reprint) shall disband following the issuance of a final report by DHS after all proceeds from national opioid litigation resolutions have been expended; and

WHEREAS, Senate Bill No. 783 (Second Reprint), enacted as P.L.2023, c.25, effectively codifies Executive Order No. 305 (2022) by providing statutory authority for all measures taken by Executive Order No. 305 (2022), including the designation of DHS as the lead agency for matters related to the disbursement and allocations of the State's proceeds from national opioid litigation resolutions and the

establishment of a substantively identical Opioid Recovery and Remediation Advisory Council; and

WHEREAS, the State continues to find stakeholder collaboration through an advisory council to be critical to effective distribution of proceeds from national opioid litigation resolutions at the State level, as well as at the county and municipal levels; and

WHEREAS, the State remains steadfast in its commitment to ending the opioid epidemic, supporting those affected by it and fighting it, and accomplishing these goals by distributing opioid litigation settlement funds efficiently and equitably; and

WHEREAS, Senate Bill No. 783 (Second Reprint) has rendered Executive Order No. 305 (2022) redundant;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Opioid Recovery and Remediation Advisory Council created by Executive Order No. 305 (2022) shall be replaced by and reconstituted as, and shall continue in operation as, the Opioid Recovery and Remediation Advisory Council created by Senate Bill No. 783 (Second Reprint), enacted into law as P.L.2023, c.25.

2. All public members of, and any work undertaken by, the Opioid Recovery and Remediation Advisory Council created by Executive Order No. 305 (2022), shall carry over to the Opioid Recovery and Remediation Advisory Council created by Senate Bill No. 783 (Second Reprint).

3. Executive Order No. 305 (2022) is hereby rescinded.

4. For purposes of this Order, "national opioid litigation resolution" means: (1) a settlement agreement, entered into by the Attorney General of New Jersey on behalf of the State and by other state attorneys general on behalf of their respective states, which provides for the participation of states, counties, and

municipalities to resolve claims by the state attorneys general and counties and municipalities against opioid manufacturers, opioid distributors, or pharmacies, or persons or entities affiliated with an opioid manufacturer, opioid distributor, or pharmacy, related to the manufacture, marketing, distribution, or dispensing of opioids; or (2) a bankruptcy plan which is governed by an agreement entered into pursuant to section 3 of P.L.2023, c.25, which has received final approval, and that channels, releases, or otherwise finally disposes of such claims, including those of the State and its counties and municipalities.

5. This Order shall take effect immediately.

GIVEN, under my hand and seal this
17th day of March,
Two Thousand and Twenty-three,
and of the Independence of the
United States, the Two Hundred
and Forty-Seventh.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor