

# STATE OF NEW YORK

6395--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 17, 2021

Introduced by M. of A. WOERNER, McDONALD, JONES, ASHBY, TAGUE, McMAHON  
-- read once and referred to the Committee on Alcoholism and Drug  
Abuse -- committee discharged, bill amended, ordered reprinted as  
amended and recommitted to said committee

AN ACT to amend the state finance law, the mental hygiene law, and the  
executive law, in relation to establishing an opioid settlement fund

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The state finance law is amended by adding a new section  
2 99-nn to read as follows:

3 § 99-nn. Opioid settlement fund. 1. There is hereby established in the  
4 joint custody of the state comptroller and the commissioner of taxation  
5 and finance a special fund to be known as the "opioid settlement fund".

6 2. Money allocated to the opioid settlement fund shall be kept sepa-  
7 rate and shall not be commingled with any other funds in the custody of  
8 the state comptroller.

9 3. Money expended from such fund shall be used to supplement and not  
10 supplant or replace any other funds, including federal, state, or local  
11 funding, which would otherwise have been expended for substance use  
12 disorder prevention, treatment or recovery services or programs.  
13 Provided further, general operating funds or baseline funding shall not  
14 be reduced due to monies expended from the fund.

15 4. Such fund shall consist of money received by the state as a result  
16 of the settlement of litigation with entities that manufactured, sold,  
17 distributed or promoted opioids, made in connection with claims arising  
18 from the manufacturing, marketing, distributing, promoting or dispensing  
19 of opioids, as well as any funds received by the state as a result of a  
20 judgement, stipulation, decree, agreement to settle, assurance of  
21 discontinuance, or other legal instrument resolving any claim or cause  
22 of action against manufacturers, distributors, vendors of opioids and  
23 related entities arising out of activities alleged to have contributed

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD10289-04-1

1 to increases in opioid addiction, whether filed or unfiled, actual or  
2 potential, and whether arising under common law, equity, or any  
3 provision of law, and all other monies appropriated, credited, or trans-  
4 ferred thereto from any other fund or source pursuant to law. All monies  
5 shall remain in such fund unless and until directed by statute or appro-  
6 riation.

7 5. Monies from the opioid settlement fund shall be available following  
8 appropriation by the legislature and shall only be expended on programs  
9 to support services to combat substance use disorders and co-occurring  
10 mental illnesses in New York state. Funding decisions shall include an  
11 emphasis on supporting programs that are culturally and gender compe-  
12 tent, trauma-informed, evidence-based and, where appropriate, employ  
13 individuals with lived experience as part of the services provided.  
14 Services to be supported from the opioid settlement fund shall include,  
15 but not be limited to, programs:

16 (a) To prevent substance use disorder through an evidence-based youth-  
17 focused public health education and prevention campaign, including  
18 school-based prevention and health care services and programs to reduce  
19 the risk of substance use by school-aged children;

20 (b) To develop and implement statewide public education campaigns to  
21 reduce stigma against individuals with a substance use disorder, provide  
22 information about the risks of substance use, best practices for  
23 addressing substance use disorders, and information on how to locate  
24 services that reduce the adverse health consequences associated with  
25 substance use disorders or provide treatment for substance use disor-  
26 ders;

27 (c) To provide substance use disorder treatment and early recovery  
28 programs for youth and adults, with an emphasis on programs that provide  
29 a continuum of care that includes screening and assessment for substance  
30 use disorders and co-occurring disorders, active treatment, family  
31 involvement, case management, relapse management for substance use and  
32 other co-occurring behavioral health disorders, vocational services,  
33 literacy services, parenting classes, family therapy and counseling  
34 services, crisis services, medication-assisted treatments including  
35 medication assisted treatment provided in correctional facilities,  
36 psychiatric medication and psychotherapy;

37 (d) To provide harm reduction counseling and services to reduce the  
38 adverse health consequences associated with substance use disorders,  
39 including overdose prevention and prevention of communicable diseases  
40 related to substance use, provided by a substance use disorder service  
41 provider or qualified community-based organization;

42 (e) To provide housing services for people who are recovering from a  
43 substance use disorder. Such housing services shall be appropriate,  
44 based on the individual's current need and stage of recovery. Such hous-  
45 ing services may include but are not limited to supportive housing  
46 services;

47 (f) To support community-based programs that reduce the likelihood of  
48 criminal justice involvement for individuals who have or are at risk of  
49 having a substance use disorder;

50 (g) To provide programs for pregnant women and new parents who  
51 currently or formerly have a substance use disorder; and

52 (h) To provide vocational and educational training for individuals  
53 with or at risk for a substance use disorder.

54 § 2. The mental hygiene law is amended by adding a new section 25.18  
55 to read as follows:

56 § 25.18 Opioid settlement board.

1 (a) The opioid settlement board is established under the office of  
2 addiction services and supports to provide recommendations on how fund-  
3 ing received by the opioid settlement fund pursuant to section ninety-  
4 nine-nn of the state finance law shall be allocated by the legislature.  
5 Recommendations shall be evidenced-based and may take into consideration  
6 federal, state or local initiatives and activities that have shown to be  
7 effective in preventing and treating substance use disorders as well as  
8 maintaining recovery and assisting with the collateral effects of  
9 substance use disorders for individuals and their families or support  
10 system. Such initiatives and activities shall include but are not limit-  
11 ed to education, prevention, treatment, harm reduction, recovery and  
12 other services and programs for individuals and families experiencing  
13 and affected by substance use disorders.

14 (b) The opioid settlement board shall consist of:

15 (i) the commissioner of addiction services and supports, the commis-  
16 sioner of mental health, and the commissioner of health, or their desig-  
17 nees, serving as ex-officio members;

18 (ii) four appointments by the governor;

19 (iii) four appointments by the temporary president of the senate;

20 (iv) four appointments by the speaker of the assembly;

21 (v) two appointments by the minority leader of the senate; and

22 (vi) two appointments by the minority leader of the assembly.

23 (c) Each member shall be appointed to serve three-year terms and in  
24 the event of a vacancy, the vacancy shall be filled in the manner of the  
25 original appointment for the remainder of the term. The appointed  
26 members and commissioners shall receive no compensation for their  
27 services but shall be allowed their actual and necessary expenses  
28 incurred in the performance of their duties as board members.

29 (d) Every effort shall be made to ensure a balanced and diverse  
30 committee, representing the regions and racial and ethnic demographics  
31 of the state. Appointed members shall have an expertise in public and  
32 behavioral health, substance use disorder treatment, harm reduction,  
33 criminal justice, and drug policy. Further, the board shall include  
34 individuals with personal or professional experience with substance use  
35 and addiction issues and co-occurring mental illnesses.

36 (e) The chairperson of the board and the vice chairperson shall be  
37 elected from among the members of the board by the members of such  
38 board. The vice chairperson shall represent the board in the absence of  
39 the chairperson at all official board functions. A majority of the  
40 members of the board shall constitute a quorum.

41 (f) Members of the board shall not take any action to direct funding  
42 from the opioid settlement fund to any entity in which they or their  
43 family members have any interest, direct or indirect, or receive any  
44 commission or profit whatsoever, direct or indirect. Members of the  
45 board shall recuse themselves from any discussion or vote relating to  
46 such interest.

47 (g) The board shall meet quarterly, to ensure their recommendations  
48 are updated and consistent with the needs of the state.

49 (h) On or before November first of each year, beginning November  
50 first, two thousand twenty-one, the board shall provide their recommen-  
51 dations for how such funds shall be appropriated, consistent with the  
52 requirements of this section. Such recommendations shall be provided in  
53 a written report to the governor, the temporary president of the senate,  
54 the speaker of the assembly, the chair of the senate finance committee,  
55 the chair of the assembly ways and means committee, the chair of the

1 senate alcoholism and substance abuse committee and the chair of the  
2 assembly alcoholism and drug abuse committee.

3 (i) On or before November first of each year, beginning one year after  
4 the initial deposit of monies in the opioid settlement fund, the rele-  
5 vant commissioners shall provide a written report to the governor,  
6 temporary president of the senate, speaker of the assembly, chair of the  
7 senate finance committee, chair of the assembly ways and means commit-  
8 tee, chair of the senate alcoholism and substance abuse committee and  
9 chair of the assembly alcoholism and drug abuse committee. Such report  
10 shall also be made publicly available on the prospective offices'  
11 website. The report shall include how funds deposited in the opioid  
12 settlement fund had been utilized in the preceding calendar year,  
13 including but not limited to: (1) the amount of money dispersed from  
14 the fund and the award process used for such disbursement, if applica-  
15 ble; (2) the names of the recipients, the amounts awarded to such recip-  
16 ient and details about the purpose such funds were awarded for; (3) the  
17 main criteria utilized to determine the award, including how the program  
18 or service assists to reduce the effects of substance use disorders; (4)  
19 an analysis of the effectiveness of programs that received opioid  
20 settlement funding in their efforts to reduce the effects of the opioid  
21 epidemic; and (5) any other information the commissioner deems necessary  
22 for the legislature to determine appropriate future awards.

23 § 3. Section 19.07 of the mental hygiene law is amended by adding a  
24 new subdivision (n) to read as follows:

25 (n) The office shall monitor and ensure funds appropriated pursuant to  
26 section ninety-nine-nn of the state finance law are expended for  
27 services and programs in accordance with such section.

28 § 4. Paragraph (b) of subdivision 16 of section 63 of the executive  
29 law, as added by section 4 of part HH of chapter 55 of the laws of 2014,  
30 is amended to read as follows:

31 (b) Paragraph (a) of this subdivision shall not apply to any provision  
32 in the resolution of a claim or cause of action providing (1) moneys to  
33 be distributed to the federal government, to a local government, or to  
34 any holder of a bond or other debt instrument issued by the state, any  
35 public authority, or any public benefit corporation; (2) moneys to be  
36 distributed solely or exclusively as a payment of damages or restitution  
37 to individuals or entities that were specifically injured or harmed by  
38 the defendant's or settling party's conduct and that are identified in,  
39 or can be identified by the terms of, the relevant judgment, stipu-  
40 lation, decree, agreement to settle, assurance of discontinuance, or  
41 relevant instrument resolving the claim or cause of action; (3) moneys  
42 recovered or obtained by the attorney general where application of para-  
43 graph (a) of this subdivision is prohibited by federal law, rule, or  
44 regulation, or would result in the reduction or loss of federal funds or  
45 eligibility for federal benefits pursuant to federal law, rule, or regu-  
46 lation; (4) moneys recovered or obtained by or on behalf of a public  
47 authority, a public benefit corporation, the department of taxation and  
48 finance, the workers' compensation board, the New York state higher  
49 education services corporation, the tobacco settlement financing corpo-  
50 ration, a state or local retirement system, an employee health benefit  
51 program administered by the New York state department of civil service,  
52 the Title IV-D child support fund, the lottery prize fund, the abandoned  
53 property fund, or an endowment of the state university of New York or  
54 any unit thereof or any state agency, provided that all of the moneys  
55 received or recovered are immediately transferred to the relevant public  
56 authority, public benefit corporation, department, fund, program, or

1 endowment; (5) moneys to be refunded to an individual or entity as (i)  
2 an overpayment of a tax, fine, penalty, fee, insurance premium, loan  
3 payment, charge or surcharge; (ii) a return of seized assets; or (iii) a  
4 payment made in error; ~~and~~ (6) moneys to be used to prevent, abate,  
5 restore, mitigate or control any identifiable instance of prior or ongo-  
6 ing water, land or air pollution; and (7) moneys obtained and distrib-  
7 uted pursuant to the terms of a settlement agreement which resulted from  
8 litigation with entities that manufactured, sold, distributed or  
9 promoted opioids made in connection with claims arising from the manu-  
10 facturing, marketing, distributing, promoting or dispensing of opioids.

11 § 5. Paragraph (b) of subdivision 11 of section 4 of the state finance  
12 law, as added by section 1 of part HH of chapter 55 of the laws of 2014,  
13 is amended to read as follows:

14 (b) Paragraph (a) of this subdivision shall not apply to (1) moneys to  
15 be distributed to the federal government, to a local government, or to  
16 any holder of a bond or other debt instrument issued by the state, any  
17 public authority, or any public benefit corporation; (2) moneys to be  
18 distributed solely or exclusively as a payment of damages or restitution  
19 to individuals or entities that were specifically injured or harmed by  
20 the defendant's or settling party's conduct and that are identified in,  
21 or can be identified by the terms of, the relevant judgment, agreement  
22 to settle, assurance of discontinuance, or relevant instrument resolving  
23 the claim or cause of action; (3) moneys recovered or obtained by a  
24 state agency or a state official or employee acting in their official  
25 capacity where application of paragraph (a) of this subdivision is  
26 prohibited by federal law, rule, or regulation, or would result in the  
27 reduction or loss of federal funds or eligibility for federal benefits  
28 pursuant to federal law, rule, or regulation; (4) moneys recovered or  
29 obtained by or on behalf of a public authority, a public benefit corpo-  
30 ration, the department of taxation and finance, the workers' compen-  
31 sation board, the New York state higher education services corporation,  
32 the tobacco settlement financing corporation, a state or local retire-  
33 ment system, an employee health benefit program administered by the New  
34 York state department of civil service, the Title IV-D child support  
35 fund, the lottery prize fund, the abandoned property fund, or an endow-  
36 ment of the state university of New York or any unit thereof or any  
37 state agency, provided that all of the moneys received or recovered are  
38 immediately transferred to the relevant public authority, public benefit  
39 corporation, department, fund, program, or endowment; (5) moneys to be  
40 refunded to an individual or entity as (i) an overpayment of a tax,  
41 fine, penalty, fee, insurance premium, loan payment, charge or  
42 surcharge; (ii) a return of seized assets, or (iii) a payment made in  
43 error; ~~and~~ (6) moneys to be used to prevent, abate, restore, mitigate,  
44 or control any identifiable instance of prior or ongoing water, land or  
45 air pollution; and (7) moneys obtained and distributed pursuant to the  
46 terms of a settlement agreement which resulted from litigation with  
47 entities that manufactured, sold, distributed or promoted opioids made  
48 in connection with claims arising from the manufacturing, marketing,  
49 distributing, promoting or dispensing of opioids.

50 § 6. This act shall take effect immediately.