SENATE HUMAN SERVICES COMMITTEE
JUDY LEE, CHAIR
MARCH 13, 2023

TESTIMONY BY
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OFFICE OF ATTORNEY GENERAL
ENGROSSED HOUSE BILL NO. 1447

Madam Chair and members of the Senate Human Services Committee. I am Parrell Grossman, and it is my privilege to be the Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on behalf of the Attorney General to present Representative Weisz's proposed amendments to Engrossed House Bill 1447.

To date, the Consumer Protection Division has participated in 11 national opioids investigations and settlements including opioid manufacturers, distributors, pharmacies/retailers and consultants or marketers. There possibly will not be any further settlements.

The gross amount of anticipated opioid settlement payments over as long as 18 years (which is the Purdue Pharma case still in bankruptcy) and is between $62 million and $70 million plus. However, it is impossible to indicate any exact amount at this time. Administrative fees and other deductions are constantly made before the actual settlement distributions. In addition, the final settlement amounts depend upon participation by the political subdivisions. For past settlements, that participation level has been very high for North Dakota's political subdivisions. The settling parties want "global peace" in terms of releases by not only the State but any political subdivisions that have sued or could possibly sue the opioid entities. Therefore, the payment formula rewards states by awarding higher monetary distributions for higher level of political subdivision participations.

This far, the Attorney General has already received $9.2M in national settlement proceeds.

We certainly understand the legislative interest in the appropriation of opioid settlement funds and our primary interest with this legislation is to ensure that all monies in the fund are used in compliance with the court ordered restrictions imposed in each of the settlements. The funds must be used for opioid remediation and there is an exhibit in each of the settlement judgments approved by the court that identifies approved uses. In some of the settlements it is designated as "Exhibit E List of Opioid Remediation Uses" and I have attached it as an exhibit to this testimony. The approved uses include certain core strategies from approved uses for treatment, prevention, and other strategies. These are the only approved uses for these funds. The funds cannot be used for any other purposes such as infrastructure, law enforcement etc. Expenditure of any funds for uses that are not approved may result in contempt of court proceedings with sanctions available under the North Dakota Century Code and also could result in the loss or suspension of future settlement distributions to the State. The settlements and court judgments require future reporting on the State and political subdivisions' expenditures of funds.

The House, in its First Engrossment of 1447, in addition to appropriation of the State's allocation of settlement funds, has also included provisions for the appropriation of the settlement funds for the political subdivisions. The Attorney General, however, does not take a formal position on those provisions.

Ultimately, this a policy decision for the legislature. A number of smaller subdivisions have expressed to the Attorney General that they are uncertain what remediation services they can provide with such small sums and we have indicated that they may share their distributions with the State for a comprehensive use. Other larger political subdivisions might have more targeted services they intend to provide or populations intended to be served. The remediation efforts and expenditures should be fair to all areas of the state regardless of the political subdivision barriers. It may be that there is a greater need for services in some parts of the state than others. We are confident that the Opioids Advisory Committee and the Health & Human Services Department is in an excellent position to determine the most comprehensive, effective, and balanced remediation that will most benefit the State as a whole.

Although the 15% allocation to the political subdivisions was not unreasonable in light of those political subdivisions involved in the litigation per the national settlement default allocation, the Attorney General wants to be sure that the Committee understands there was no separate side agreement between any of the political subdivisions and the State regarding allocation of the settlement funds. There were some discussions that were never memorialized or agreed upon. Therefore, the settlement's default allocation kicked in because the January, 2022 deadline for participation by the political subdivisions was looming and full participation by the political subdivisions was critical in terms of getting the most monies allocated to both the state and political subdivisions. There were financial incentives for complete participation by a certain date in January. The larger litigating political subdivisions were informed either through their own attorneys or their litigation counsel of the distinct possibility that, despite any conversations with the Attorney General, or otherwise apparent, that the state legislature might later not agree to an allocation or payment to the political subdivisions. It now appears, as provided in Engrossed House Bill 1447, that the House would like to reallocate and distribute those payments to the State.

With the possibility that the Senate could agree with the House's reallocation of the political subdivision payments, the Attorney General has prepared some very necessary amendments,

If HB 1447 were to be enacted, it is important that it be enacted and effective by the end of March, for two reasons:

1) April 2: Any re-allocation of funds to the state, instead of to the subdivisions, from the ongoing payments in the Distributors and Janssen settlements, must be done 50 and 60 days before a payment dates, which are June 1 for Janssen and July 15 for Distributors. If the legislation is not enacted by April 2, it may be too late to re-allocate the upcoming payments for this year and those payments will be paid out directly to the subdivisions. This re-allocation deadline is pursuant to the terms of the settlements.

2) April 18: The release and bar of subdivision claims must be done by April 18, which is the subdivision participation and release deadline for the pending Teva, Allergan and pharmacy settlements, in order for the state to qualify for the maximum payment available under those settlements. Without an effective bar and authority to release claims by April 18, the state may lose out on a significant amount of money unless all the political subdivisions still decide to participate and release their claims, which they have less incentive to do with this pending legislation. Enacting this legislation by April 18 eliminates the need to have 64 political subdivisions sign on and participate in the settlement.

Now, I will explain the proposed amendments:

If this Committee decides to not support the House recommendations to capture the political subdivision allocations and payments, then the Committee obviously would choose to not adopt the amendments proposed by Representative Weisz. In addition, in that event, the Committee should remove Section 3 of the First Engrossment as it relates to political subdivision and would be unnecessary. Also, this Committee would want to remove any other references to political subdivisions in the First Engrossment.

The Attorney General respectfully requests that the Senate Human Services Committee consider Representative Weisz's proposed amendments and act accordingly as it best determines

Thank you for your time and consideration. I would be pleased to try and answer any questions.

EXHIBIT E

List of Opioid Remediation Uses

Schedule A
Core Strategies

States and Qualifying Block Grantees shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies ("*Core Strategies*").[14]

A. **NALOXONE OR OTHER FDA-APPROVED DRUG TO REVERSE OPIOID OVERDOSES**

1. Expand training for first responders, schools, community support groups and families; and

2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

B. **MEDICATION-ASSISTED TREATMENT ("*MAT*") DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT**

1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;

2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;

3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and

4. Provide treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

[14] As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs.

C. **PREGNANT & POSTPARTUM WOMEN**

1. Expand Screening, Brief Intervention, and Referral to Treatment ("*SBIRT*") services to non-Medicaid eligible or uninsured pregnant women;

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder ("*OUD*") and other Substance Use Disorder ("*SUD*")/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and

3. Provide comprehensive wrap-around services to individuals with OUD, including housing, transportation, job placement/training, and childcare.

D. **EXPANDING TREATMENT FOR NEONATAL ABSTINENCE SYNDROME ("*NAS*")**

1. Expand comprehensive evidence-based and recovery support for NAS babies;

2. Expand services for better continuum of care with infant-need dyad; and

3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

E. **EXPANSION OF WARM HAND-OFF PROGRAMS AND RECOVERY SERVICES**

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;

2. Expand warm hand-off services to transition to recovery services;

3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions;

4. Provide comprehensive wrap-around services to individuals in recovery, including housing, transportation, job placement/training, and childcare; and

5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. **TREATMENT FOR INCARCERATED POPULATION**

1. Provide evidence-based treatment and recovery support, including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and

2. Increase funding for jails to provide treatment to inmates with OUD.

G. **PREVENTION PROGRAMS**

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);

2. Funding for evidence-based prevention programs in schools;

3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);

4. Funding for community drug disposal programs; and

5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. **EXPANDING SYRINGE SERVICE PROGRAMS**

1. Provide comprehensive syringe services programs with more wrap-around services, including linkage to OUD treatment, access to sterile syringes and linkage to care and treatment of infectious diseases.

I. **EVIDENCE-BASED DATA COLLECTION AND RESEARCH ANALYZING THE EFFECTIVENESS OF THE ABATEMENT STRATEGIES WITHIN THE STATE**

Schedule B
Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder ("*OUD*") and any co-occurring Substance Use Disorder or Mental Health ("*SUD/MH*") conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:[15]

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment ("*MAT*") approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine ("*ASAM*") continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs ("*OTPs*") to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

[15] As used in this Schedule B, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.

9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.

10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 ("*DATA 2000*") to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.

13. Disseminate of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.

14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.

2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.

3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved mediation with other support services.

5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.

6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.

7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.

8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.

9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.

10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.

11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.

12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.

13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.

14. Create and/or support recovery high schools.

15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED (CONNECTIONS TO CARE)

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.

2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.

3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.

4. Purchase automated versions of SBIRT and support ongoing costs of the technology.

5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.

6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.

7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.

8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.

9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.

10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

11. Expand warm hand-off services to transition to recovery services.

12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.

13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.

16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:

    1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative ("*PAARI*");

    2. Active outreach strategies such as the Drug Abuse Response Team ("*DART*") model;

    3. "Naloxone Plus" strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;

    4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion ("*LEAD*") model;

    5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

    6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.

2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.

3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.

6. Support critical time interventions ("*CTI*"), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome ("*NAS*"), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.

3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.

4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.

6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.

8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.

10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.

3. Continuing Medical Education (CME) on appropriate prescribing of opioids.

4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs ("*PDMPs*"), including, but not limited to, improvements that:

1. Increase the number of prescribers using PDMPs;

2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.

6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.

7. Increasing electronic prescribing to prevent diversion or forgery.

8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.

2. Corrective advertising or affirmative public education campaigns based on evidence.

3. Public education relating to drug disposal.

4. Drug take-back disposal or destruction programs.

5. Funding community anti-drug coalitions that engage in drug prevention efforts.

6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration ("*SAMHSA*").

7. Engaging non-profits and faith-based communities as systems to support prevention.

8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.

9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.

10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.

11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.

12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.

2. Public health entities providing free naloxone to anyone in the community.

3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.

4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.

5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.

6. Public education relating to emergency responses to overdoses.

7. Public education relating to immunity and Good Samaritan laws.

8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.

9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.

10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.

12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.

13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.

2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment

intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.

3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

4. Provide resources to staff government oversight and management of opioid abatement programs.

K. <u>TRAINING</u>

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.

2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, pharmacies, PDMPs, etc.).

L. <u>RESEARCH</u>

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.

2. Research non-opioid treatment of chronic pain.

3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.

5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.

6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring ("*ADAM*") system.

8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.

9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

23.1014.02001
Title.

Prepared by the Legislative Council staff for
Representative Weisz
March 8, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1447

Page 2, line 12, after "4." insert ""Opioid claim" means a claim that is based on, arises out of, relates to, or concerns the covered conduct in an opioid litigation.

5."

Page 2, line 17, replace "collected" with "recovered"

Page 2, line 18, after "be" insert "allocated to the state and must be"

Page 4, after line 4, insert:

"**Authority of attorney general - Political subdivisions.**

1. The attorney general may release all existing opioid claims and bar future opioid claims held by the state or by the political subdivisions of the state.

2. The attorney general's release of opioid claims in an opioid litigation bars all past, present, or future claims on behalf of a political subdivision or other public entity seeking to recover against a released entity for the released opioid claims. An opioid claim barred by this section may not be brought, threatened, asserted, or pursued in any court and the opioid claim must be dismissed by the court in which the opioid claim is brought.

3. The attorney general shall request from each political subdivision that collected opioid settlement funds before or after the effective date of this Act, the return of all unobligated funds for deposit by the attorney general in the fund. If a political subdivision does not return the requested unobligated funds, the department shall offset from any funds designated under this chapter for opioid remediation and abatement efforts for that political subdivision an amount equal to the amount of unobligated funds not returned to the state."

Page 4, remove lines 21 through 30

Renumber accordingly

23.1014.02001

Sixty-eighth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1447

Introduced by

Representatives Weisz, Lefor, Nelson, Stemen, Vigesaa

Senators Bekkedahl, Lee

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

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

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

11 1. Subject to the provisions of section 21-10-02, the board shall invest the following
12 funds:

13 a. State bonding fund.
14 b. Teachers' fund for retirement.
15 c. State fire and tornado fund.
16 d. Workforce safety and insurance fund.
17 e. Public employees retirement system.
18 f. Insurance regulatory trust fund.
19 g. State risk management fund.
20 h. Budget stabilization fund.
21 i. Water projects stabilization fund.
22 j. Health care trust fund.
23 k. Cultural endowment fund.
24 l. Petroleum tank release compensation fund.

1 m. Legacy fund.
2 n. Legacy earnings fund.
3 o. Opioid settlement fund.
4 p. A fund under contract with the board pursuant to subsection 3.
5 **SECTION 2.** A new chapter to title 50 of the North Dakota Century Code is created and
6 enacted as follows:
7 **Definitions.**
8 As used in this chapter:
9 1. "Committee" means the opioid settlement advisory committee.
10 2. "Department" means the department of health and human services.
11 3. "Fund" means the opioid settlement fund.
12 4. "Opioid claim" means a claim that is based on, arises out of, relates to, or concerns
13 the covered conduct in an opioid litigation.
14 5. "Opioid litigation" means statewide opioid settlement agreements, judgments, or other
15 recoveries in connection with a defendant's actual or alleged liability for contributing to
16 the opioid crisis in this state which must be used for purposes of remediating or
17 abating the opioid crisis in this state.
18 **Opioid settlement fund.**
19 There is created in the state treasury an opioid settlement fund. Moneys ~~collected~~recovered
20 by the state and the state's political subdivisions as a result of opioid litigation must be allocated
21 to the state and must be deposited in the fund. The state investment board shall invest moneys
22 in the fund and income earned on the moneys in the fund must be credited to the fund. Moneys
23 in the fund may be used in compliance with any court-ordered restrictions and as authorized by
24 legislative appropriation and this chapter; however, legislative appropriations from the fund may
25 not exceed eight million dollars in a biennium. The fund does not include funds not retained by
26 the state pursuant to law or court order.
27 **Opioid settlement advisory committee.**
28 1. The committee is composed of:
29 a. One member of the North Dakota association of counties appointed by the
30 chairman of legislative management, who shall serve a term of two years.

1 b. One member of the North Dakota league of cities appointed by the chairman of
2 legislative management, who shall serve a term of two years.
3 c. One member of the North Dakota state association of city and county health
4 officials appointed by the chairman of legislative management, who shall serve a
5 term of two years.
6 d. One member who represents the highway patrol appointed by the highway patrol
7 superintendent, who shall serve a term of two years.
8 e. The executive director of the department's division of behavioral health.
9 f. The managing director of the office of recovery reinvented.
10 g One member appointed by the governor who shall serve as a nonvoting member
11 and as the presiding officer of the committee, who shall serve a term of two
12 years.
13 2. The committee shall forward recommendations to the department on spending
14 decisions of the legislatively appropriated funds for remediation or abatement of the
15 opioid crisis in this state.
16 a. The committee shall develop a process for receiving spending recommendation
17 input from political subdivisions and the public.
18 b. The committee shall develop a process for making recommendations to the
19 department under this subsection.
20 **Department of health and human services - Report to budget section.**
21 1. The department shall develop a process for receiving and evaluating spending
22 recommendations of the committee.
23 2. Annually, the department shall make a report to the budget section of the legislative
24 management on the status of the fund and of spending decisions made under this
25 chapter.
26 **Opioid remediation and abatement spending decisions - Implementation.**
27 1. The department's spending decisions of the legislatively appropriated funds from the
28 fund for remediating and abating the opioid crisis must follow the following formula:
29 a. Seventy percent of the legislatively appropriated funds must be designated for
30 services and supports for individuals with opioid substance use disorder.

1 b. Twenty percent of the legislatively appropriated funds must be designated for
2 opioid use prevention and overdose prevention.
3 c. Ten percent of the legislatively appropriated funds must be designated for other
4 opioid remediation and abatement efforts.
5 2. The department shall implement or assist with the implementation of spending
6 decisions made under this chapter.
7 **Authority of attorney general - Political subdivisions.**
8 1. The attorney general may release all existing opioid claims and bar future opioid
9 claims held by the state or by the political subdivisions of the state.
10 2. The attorney general's release of opioid claims in an opioid litigation bars all past,
11 present, or future claims on behalf of a political subdivision or other public entity
12 seeking to recover against a released entity for the released opioid claims. An opioid
13 claim barred by this section may not be brought, threatened, asserted, or pursued in
14 any court and the opioid claim must be dismissed by the court in which the opioid
15 claim is brought.
16 3. The attorney general shall request from each political subdivision that collected opioid
17 settlement funds before or after the effective date of this Act, the return of all
18 unobligated funds for deposit by the attorney general in the fund. If a political
19 subdivision does not return the requested unobligated funds, the department shall
20 offset from any funds designated under this chapter for opioid remediation and
21 abatement efforts for that political subdivision an amount equal to the amount of
22 unobligated funds not returned to the state.
23 **SECTION 3. AMENDMENT.** Section 5 of chapter 3 of the 2021 Session Laws is amended
24 and reenacted as follows:
25 **SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID**
26 **SETTLEMENT FUND - OPIOID ADDICTION PREVENTION AND TREATMENT**
27 **PROGRAM - APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN**
28 **SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget
29 shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds
30 deposited in the attorney general refund fund to the ~~department of human~~
31 ~~services~~opioid settlement fund which is appropriated to the department of health and

human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of health and human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of health and human services for this program. This funding is considered a one-time funding item.

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

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

SECTION 5. TRANSFER - OFFICE OF MANAGEMENT AND BUDGET - OPIOID SETTLEMENT FUND. The office of management and budget shall transfer to the opioid settlement fund all funds received by the state and any political subdivision of the state from opioid settlements and litigation during the period beginning March 1, 2021, and the effective date of this Act, and any additional funds received during the period beginning on the effective date of this Act, and ending June 30, 2025.

SECTION 6. APPLICATION. To initiate staggered terms of the members of the opioid advisory committee, the initial appointments for the positions representing the North Dakota

1 association of counties representative and the North Dakota state association of city and county
2 health officials representative must be for one year.
3 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.

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