



# Nebraska Opioid Settlement Remediation

*OVERVIEW: OPIOID LITIGATION SETTLEMENTS*

*\*This presentation is for educational purposes only and does not constitute legal advice by the presenter or the Nebraska Attorney General's Office.*

# Nebraska's “Opioid Prevention & Treatment Act” (2020)

*Neb. Rev. Stat. §§71-2485 to 71-2490*

- Purpose of the Act is to “provide for the use of dedicated revenue for opioid-disorder-related treatment and prevention.”
- Requires spending from the “Opioid Recovery Fund” to comport with the terms of each settlement agreement.
- Created the “Nebraska Opioid Recovery Fund” to which any settlement monies obtained by the Attorney General are credited. *All “state” dollars allocated under any opioid settlement agreement must go into this fund regardless of the terms of the settlement agreement.*

# Nebraska's "Opioid Recovery Fund"

- All funds received from any opioid defendants that are designated for the State will be deposited in the Opioid Recovery Fund.
- Any settlement monies that are designated for political subdivisions are not deposited in the Opioid Recovery Fund.
- DHHS must account for the expenditures from the Opioid Recovery Fund on an annual basis.

# Overview of Opioid Settlements:

*Manufacturers*

**teva**  **Allergan**

*Johnson & Johnson*

*Pharmacies*

**Walmart** 



*Walgreens*

*Distributors*

**MCKESSON**

 **AmerisourceBergen**<sup>®</sup>

**CardinalHealth**

*Marketer*

**McKinsey & Company**

# Overview of Opioid Settlements:

McKinsey & Company

Payment Period: 5 years  
(beginning in 2021)

Total Payments to Nebraska:  
\$2,590,561

Payments Received to date:  
\$2,368,885

Payments allocated:  
100% to NE Opioid Recovery Fund\*

*\*McKinsey's national settlement was with 47 states only and is only settlement that does not include direct payment to cities and counties.*

# Overview of Opioid Settlements:

*Johnson & Johnson*

Payment Period: 9 years (beginning in 2022)

Total Payments to Nebraska: \$19,961,174

Payments Received to date:  
\$3,557,198 (NE Opioid Recovery Fund Share)

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# Overview of Opioid Settlements:



Payment Period: 18 years (beginning in 2022)

Total Payments to Nebraska: \$81,680,641

Payments Received to date:  
\$7,081,936 (NE Opioid Recovery Fund Share)

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# Overview of Opioid Settlements:



Payment Period: 13 years (beginning in 2023)

Total Payments to Nebraska: **\$13,826,207**

Payments Received to date:  
\$0

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities



# Overview of Opioid Settlements:



Payment Period: 8 years (beginning in 2023)

Total Payments to Nebraska: **\$8,996,477**

Payments Received to date:  
\$0

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# Overview of Opioid Settlements:



Payment Period: 15 years (beginning in 2023)

Total Payments to Nebraska: **\$21,483,463**

Payments Received to date:  
\$0

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# Overview of Opioid Settlements:



Payment Period: 10 years (beginning in 2023)

Total Payments to Nebraska: **\$19,906,654**

Payments Received to date:  
\$0

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# Overview of Opioid Settlements:



Payment Period: 1 year (beginning in 2023)

Total Payments to Nebraska: **\$11,273,775**

Payments Received to date:  
\$0

Payments allocated:  
85% to NE Opioid Recovery Fund  
15% to 93 Counties and 16 Eligible Municipalities

# NEBRASKA OPIOID SETTLEMENTS

● **McKinsey & Company Settlement Announced for \$573 Million**  
February 2021 | Nebraska to Receive over \$2.5 Million

● **AmerisourceBergen, Cardinal, and McKesson (Opioid Distributors) and Johnson and Johnson (Opioid Manufacturer) Settlement Announced for \$26 Billion**  
February 2022 | Nebraska to Receive over \$100 Million

● **Teva Pharmaceutical Settlement Announced for \$4.25 Billion**  
July 2022 | Nebraska to Receive \$13.6 Million

● **Allergan Pharmaceutical Settlement Announced for \$2.37 Billion**  
July 2022 | Nebraska to Receive \$8.8 Million

● **Walmart Settlement Announced for \$3.1 Billion**  
November 2022 | Nebraska to Receive over \$11 Million

● **CVS and Walgreens Settlement Announced for over \$10 Billion**  
December 2022 | Nebraska to Receive over \$41 Million

# Settlement Incentive Structure

- Each settling company seeking “global peace”
- 9 out of 10 current settlements contain an incentive structure where states, counties, and eligible cities maximize their monetary benefit the more other states and political subdivisions “sign on” to the respective agreements.
- Nebraska achieved 100% “sign on” for Distributors and J&J.
- “Sign on” period for Walmart, Walgreens, CVS, Teva, and Allergan ends April 18<sup>th</sup>.

# Default Settlement Payment Structure

TOTAL National SETTLEMENT AMOUNT

x. State Allocable Share %

= Total State Share

Total State Share:

15% to Cities and Counties

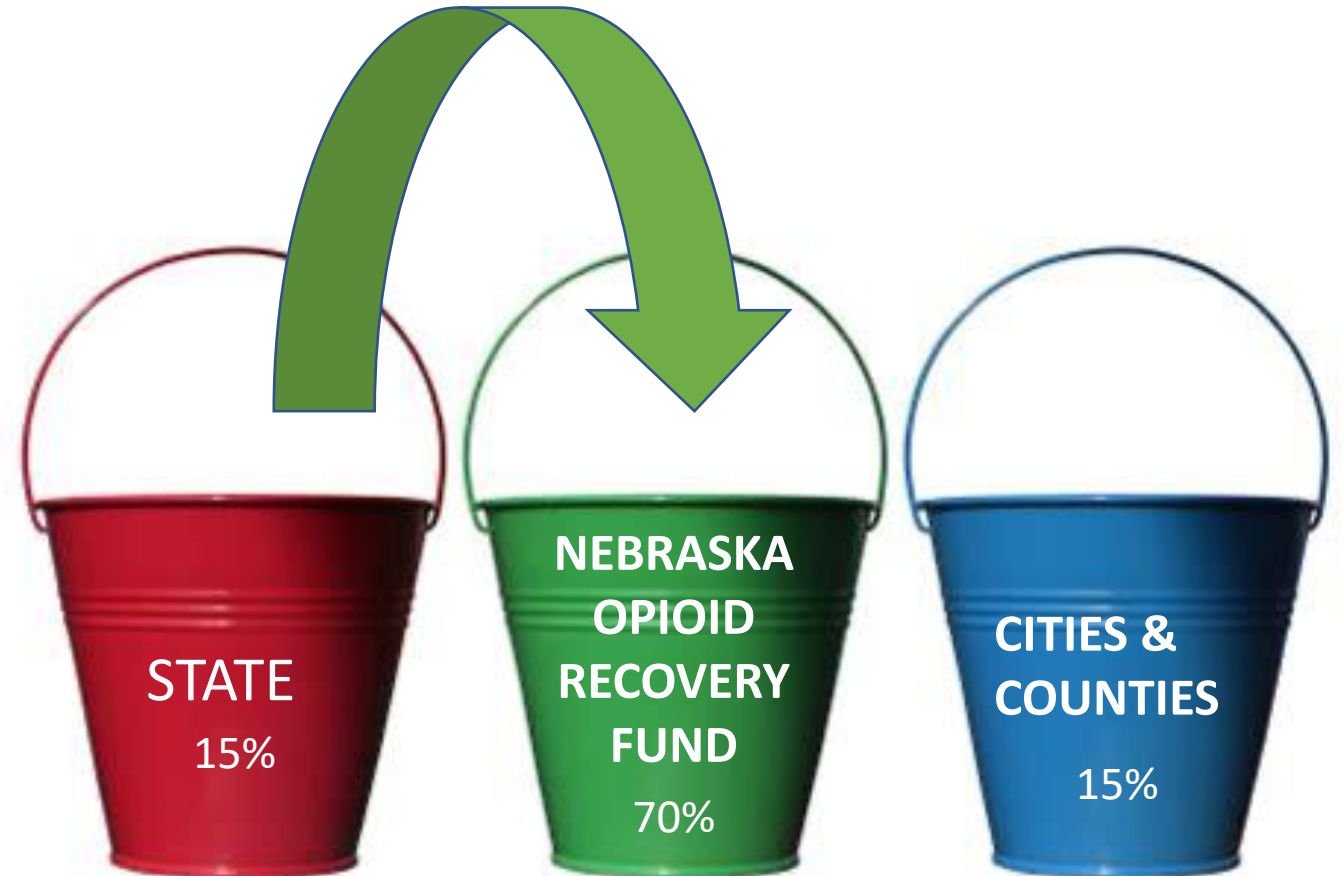
(Nebraska All 93 Counties + 16 Cities with Populations over 10,000)

15% to the State

70% to the State's "Abatement Fund"

Under the Opioid Prevention and Treatment Act all "state" funds flow into the Nebraska Opioid Recovery Fund. Therefore "state" share and all "additional restitution" money is deposited in the Opioid Recovery Fund.

*\*Attorney General does not receive any funds from Opioid Settlements.*



# Direct Shares for Municipalities & Counties

- All 93 Counties + 16 Nebraska Municipalities Are Eligible for a “Direct Share”. (See EXHIBIT “G” for the complete list).
- The Direct Share is portion of the 15% of Nebraska’s total allocable share based on population.
- The Direct Share received by any municipality or county must be used for abatement purposes as defined by the agreements.
- Direct Shares can be reallocated at the county or city’s discretion to the Opioid Recovery Fund or the respective Behavioral Health Region



# What Can Settlement Funds be Used For?

Exhibit “E” in Settlements contains a list of approved uses for settlement funds, *including, but not limited to:*

- Treatment of OUD and “any co-occurring SUD / MH conditions”
- Full continuum of care of recovery services
- Research
- Prevention education
- **Law enforcement and first responder training and related law enforcement expenditures**
- Restitution for unpaid treatment costs to providers or patients.
- Capital costs for opioid use disorder treatment facilities.

# Allocating Nebraska's Settlement Share

- One state entity, DHHS-DBH, accounts for approved use and receipt of State funds from national settlement administrator or bankruptcy court to be deposited in Nebraska's Opioid Recovery Fund held by the Treasurer. DHHS-DBH is appropriated authority to expend Opioid Recovery Fund monies by the [Legislature](#).
- Settlement allocation within the state will be utilized across existing regions (Nebraska is using its 6 Behavioral Health regions).
- DHHS-DBH can leverage existing SAMSHA grant administration to allocate and account for funds based on regional allocation model.
- Settlement envisions state / local task force to recommend opioid abatement priorities and expenditures if not in Statute.

# Allocating Nebraska's Settlement Share: Advisory Committee Structure

The settlements require an “Opioid Settlement Remediation Advisory Committee balanced between state and local members to provide input and recommendations regarding remediation spending from (the Nebraska Opioid Recovery Fund).”

The **Nebraska Opioid Settlement Remediation Advisory Committee**, is comprised of 1 representative of county government and 1 representative of municipal government from each of Nebraska's 6 behavioral health regions (12 local members) and a corresponding number of state members (12) in accordance with the terms of the agreements.

# Allocating Nebraska's Settlement Share: Advisory Committee Principles

- The Advisory Committee's sole purpose is to provide recommendations for use of opioid remediation (abatement) funds to DHHS – DBH.
- Recommendations must comport to the Opioid Prevention and Treatment Act and the terms of any Settlement Agreements.
- Recommendations should be evidence-based and objectively prioritized.
- Meetings of Advisory Committee are held according to the Open Meetings Act and recommendations are presented publicly for feedback.

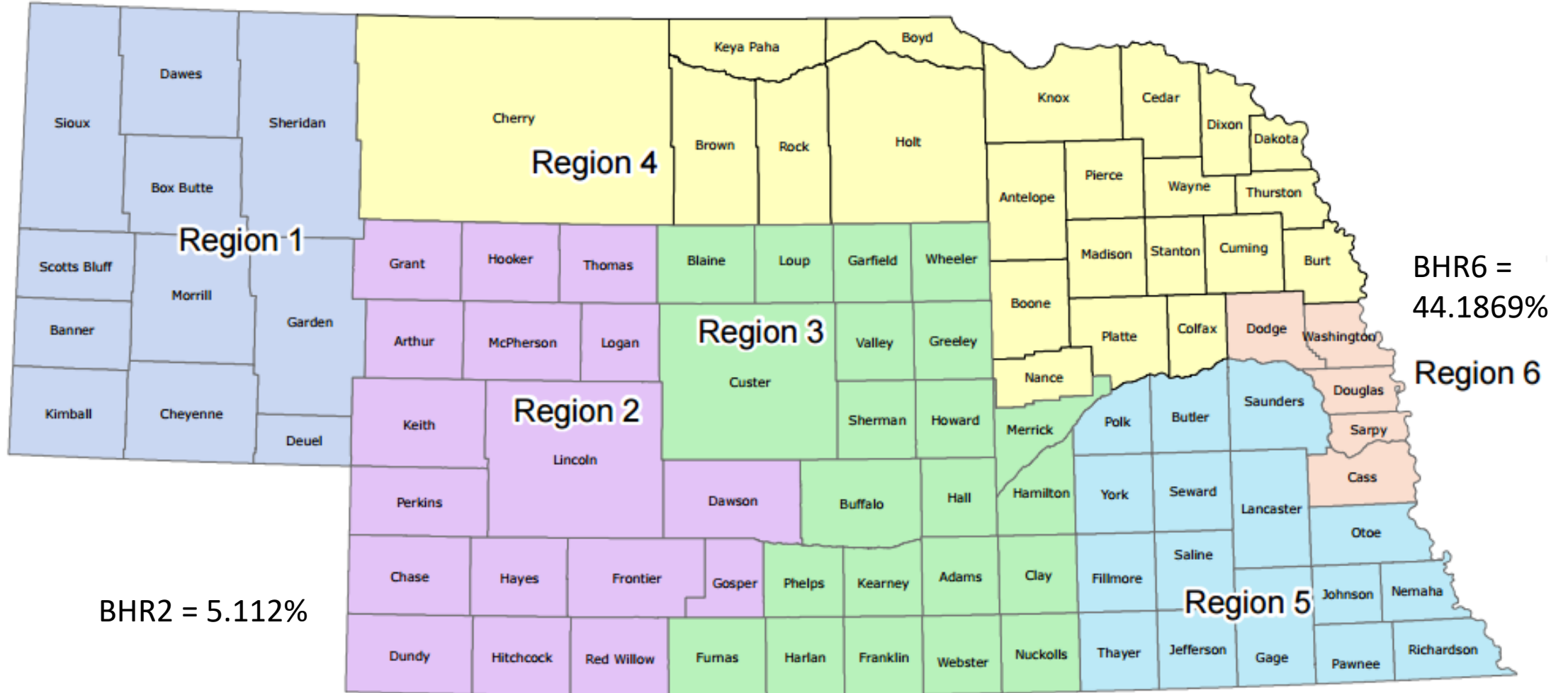
# Spending Allocation: Opioid Recovery Fund

1. *At least* half of all annual payments received into the Opioid Recovery Fund must be “allocated and tracked to the regional level” (see Distributors Agreement Section V.E.2 and Janssen Agreement Section VI.E.2).
2. Advisory Committee may allocate between 50% and 100% of the annual settlement payments received into the Opioid Recovery Fund to the regions (Behavioral Health Regions).
3. Allocation between each region is determined by the Advisory Committee. Both the total regional allocations to all regions and the allocations amongst regions may be changed annually by the Advisory Committee so long as at least 50% is allocated regionally each year.
4. INITIAL Regional Allocation Percentages are to be based on the allocation percentages to eligible subdivisions found in Exhibit “G” of both settlements. (See next slide)

# Regional Allocations Per Eligible Cities and Counties Listed in Exhibit G

BHR1 = 5.4767%

BHR4 = 8.5833%



BHR6 = 44.1869%

Region 6

BHR2 = 5.112%

BHR3 = 10.8982%

BHR5 = 25.7421%

# Additional Information

- See State Calendar and DHHS-DBH Website for Future Meetings and Minutes of the Opioid Remediation Advisory Committee.  
<https://dhhs.ne.gov/Pages/Opioid-Settlement-Workgroup.aspx>
- Contact National Opioid Settlement Administrator, BROWN GREER PLC, for information on county or city allocations and to sign-on Nebraska's contact is Jamie McHenry. (888) 441-2010 Ext 6108  
[jmchenry@browngreer.com](mailto:jmchenry@browngreer.com)
- See [www.nationalopioidsettlement.com](http://www.nationalopioidsettlement.com) for details on each settlement.