

HOUSE No. 5238

Text of a further amendment, offered by Mr. Michlewitz of Boston, to the amendment recommended by the Governor (as approved by the House committee on Bills in the Third Reading) to the engrossed Bill establishing the opioid recovery and remediation trust fund (see House, No. 5129).

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

By striking out all after the enacting clause and inserting in place thereof the following:-

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after
2 section 35NNN, inserted by the section 1 of chapter 132 of the acts of 2019, the following
3 section:-

4 Section 35000. (a) There shall be an Opioid Recovery and Remediation Fund.
5 Expenditures from the fund shall be made by the executive office of health and human services,
6 without further appropriation and consistent with the terms of settlements made in connection
7 with claims arising from the manufacture, marketing, distribution or dispensing of opioids, as
8 applicable. The secretary of health and human services, in consultation with the Opioid Recovery
9 and Remediation Fund advisory council established in subsection (b), shall administer the fund.

10 The fund shall be expended to mitigate the impacts of the opioid epidemic in the
11 commonwealth, including, but not limited to, expanding access to opioid use disorder
12 prevention, intervention, treatment and recovery options. Amounts credited to the fund shall not
13 be subject to further appropriation and monies remaining in the fund at the end of a fiscal year

14 shall not revert to the General Fund, but shall instead be available for expenditure during the next
15 fiscal year. Any fiscal year-end balance in the fund shall be excluded from the calculation of the
16 consolidated net surplus pursuant to section 5C of chapter 29.

17 There shall be credited to the fund: (i) amounts recovered by the commonwealth and
18 credited thereto in connection with claims arising from the manufacture, marketing, distribution
19 or dispensing of opioids; (ii) transfers from other funds authorized by the general court and so
20 designated; (iii) funds from public or private sources, including, but not limited to, gifts, grants,
21 donations, rebates and settlements received by the commonwealth designated to the fund; and
22 (iv) any interest earned on such amounts.

23 (b) There shall be an Opioid Recovery and Remediation Fund advisory council regarding
24 the expenditures from the fund. The council shall consist of the following members or their
25 designees: the secretary of health and human services, who shall serve as a non-voting chair; 1
26 person to be appointed by the senate president; 1 person to be appointed by the speaker of the
27 house of representatives; 1 person to be appointed by the minority leader of the senate; 1 person
28 to be appointed by the minority leader of the house of representatives; 3 persons to be appointed
29 by the governor, including not less than 1 person qualified by experience with opioid use
30 disorder, either first-hand or as a family member of an individual with opioid use disorder; 3
31 persons to be appointed by the attorney general, including not less than 1 person qualified by
32 experience with opioid use disorder, either first-hand or as a family member of an individual
33 with opioid use disorder; and 10 people to be appointed by the Massachusetts Municipal
34 Association, Inc., who are officials employed by a city or town and who represent the diversity
35 of the commonwealth's cities and towns; provided, however, that not less than 2 officials
36 appointed under this clause shall be employed by a city or town that is a gateway municipality,

37 as defined in section 3A of chapter 23A; and provided, further, that no 2 officials appointed
38 under this clause shall be employed by a city or town that is in the same county.

39 In making appointments, the appointing authorities shall ensure that the council includes:
40 (i) members representing racially and socioeconomically diverse communities; (ii) members with
41 public health expertise concerning opioid use disorder; (iii) members with personal experience
42 with opioid use disorder; and (iv) members who will contribute to reducing disparities in health
43 outcomes for underserved communities experiencing opioid use disorder. The appointing
44 authorities shall also consider having racially diverse representation on the council.

45 The council shall hold no fewer than 4 meetings annually and the council shall make its
46 recommendations upon a majority vote. The council shall be subject to sections 18 to 25,
47 inclusive, of chapter 30A. Council members shall serve without compensation for terms of 2
48 years. Members shall be reimbursed for actual expenses necessarily incurred in the performance
49 of their duties. Any member shall be eligible for reappointment. In the event of a vacancy, the
50 original appointing authority shall appoint a new member to fulfill the remainder of the
51 unexpired term. Any member who is appointed may be removed by the appointing authority. The
52 secretary of health and human services shall provide administrative support to the council.

53 (c) Annually, not later than October 1, the secretary of health and human services shall
54 file a report on the activity, revenue and expenditures to and from the fund in the prior fiscal year
55 with the clerks of the senate and the house of representatives, the house and senate committees
56 on ways and means and the joint committee on mental health, substance use and recovery and
57 made available on the executive office of health and human services' public website. The report
58 shall include, but not be limited to: (i) the revenue credited to the fund; (ii) the amount of

59 expenditures attributable to the administrative costs of the executive office; (iii) an itemized list
60 of the funds expended from the fund; and (iv) data and an assessment of how well resources have
61 been directed to vulnerable and under-served communities.