

1 **OPIOID LITIGATION SETTLEMENT RESTRICTED**

2 **ACCOUNT AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jen Plumb**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts requirements for the use of funds received from opioid litigation
11 proceeds.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ creates the Opioid Litigation Proceeds Advisory Committee under the Office of
15 Substance Use and Mental Health and describes the advisory committee's
16 membership and duties;

17 ▶ creates the Opioid Litigation Proceeds Grant Portal within the Office of Substance
18 Use and Mental Health and describes the components and administration of the
19 grant portal;

20 ▶ designates the Office of Substance Use and Mental Health as the reporting entity for
21 any settlement or other agreement that requires reporting on the use of opioid funds
22 and describes the reporting requirements for governmental entities that receive
23 opioid funds; and

24 ▶ changes the name of the "Opioid Litigation Settlement Restricted Account" to the
25 "Opioid Litigation Proceeds Restricted Account."

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **51-9-801**, as enacted by Laws of Utah 2020, Chapter 210

33 ENACTS:

34 **26B-1-401**, Utah Code Annotated 1953

35 **26B-5-102**, Utah Code Annotated 1953

36 **26B-5-103**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **26B-1-401** is enacted to read:

40 **26B-1-401. Opioid Litigation Proceeds Advisory Committee -- Membership --**
41 **Duties -- Compensation.**

42 (1) The definitions in Section 26B-5-102 apply to this section.

43 (2) (a) There is created within the department the Opioid Litigation Proceeds Advisory
44 Committee.

45 (b) The committee shall be comprised of individuals who are knowledgeable about a
46 variety of experiences with substance use disorder prevention, treatment, recovery, or harm
47 reduction, including family members, individuals with personal lived experience, or care
48 providers.

49 (c) The committee shall, at a minimum, include representation from:

50 (i) the Office of the Attorney General;

51 (ii) the Department of Workforce Services;

52 (iii) an association that represents counties in the state; and

53 (iv) an association that represents municipalities in the state.

54 (d) Representation on the committee shall be broad and balanced, including
55 representation from different geographic areas in the state.

56 (3) The advisory committee shall:

57 (a) advise the department on policies and procedures for the application, awarding, and
58 disbursement of funds from the restricted account in accordance with the requirements in

59 Section 26B-5-102;

60 (b) recommend goals, objectives, plans, and performance indicators relating to the
61 expenditure of funds from the restricted account;

62 (c) assist the department in reviewing applications for and making recommendations
63 regarding awards of money from the restricted account for programs authorized under Section
64 26B-5-102; and

65 (d) review submissions from governmental entities that are required to submit a report
66 to the office under Section 26B-5-102 and, if necessary, recommend further review of the use
67 of settlement funds.

68 (4) The department shall:

69 (a) determine, by rule, the term and causes for removal of committee members;

70 (b) establish committee procedures and administration policies consistent with this
71 section and department rule; and

72 (c) provide administrative support to the committee.

73 (5) An advisory committee member may not receive compensation or benefits for the
74 member's service, but may receive per diem and travel expenses in accordance with:

75 (a) Section 63A-3-106;

76 (b) Section 63A-3-107; and

77 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
78 63A-3-107.

79 (6) Expenses of the advisory committee, including the cost of advisory committee staff
80 if approved by the executive director, may be paid with funds from the restricted account.

81 Section 2. Section **26B-5-102** is enacted to read:

82 **26B-5-102. Opioid Litigation Proceeds Grant Portal -- Creation -- Requirements**

83 **-- Administration by the office -- Reporting.**

84 (1) As used in this section:

85 (a) "Advisory committee" means the Opioid Litigation Proceeds Advisory Committee
86 created in Section 26B-1-401.

87 (b) "Grant portal" means the Opioid Litigation Proceeds Grant Portal created in this
88 section.

89 (c) "Office" means the Office of Substance Use and Mental Health within the

90 department.

91 (2) (a) There is created within the office the Opioid Litigation Proceeds Grant Portal.

92 (b) The grant portal shall be administered by the office in consultation with the
93 advisory committee and in accordance with this section.

94 (c) The grant portal shall be funded through:

95 (i) distributions to the office from the Opioid Litigation Proceeds Restricted Account
96 under Subsection [51-9-801\(4\)](#); and

97 (ii) additional appropriations to the grant program by the Legislature.

98 (3) The grant portal shall:

99 (a) display information for the public regarding the use of opioid funds as defined in
100 Section [26B-5-103](#), including submissions and reports described in Section [26B-5-103](#);

101 (b) establish available funding for an award of grants and criteria approved by the
102 office in collaboration with the advisory committee;

103 (c) provide detailed information about the programs that are funded through the grant
104 portal, including performance measures that are reported to the office by recipients of funds
105 under the grant portal; and

106 (d) allow an individual to apply for funding through the grant portal in a form
107 established by the office.

108 (4) The office, in collaboration with the advisory committee, shall award grants for one
109 or more of the following purposes:

110 (a) statewide or community substance use disorder needs assessments to identify
111 structural gaps and needs to inform expenditures from opioid funds;

112 (b) infrastructure and resources, including personnel, buildings, or equipment, required
113 for evidence-based substance use disorder prevention, treatment, recovery, or harm reduction
114 programs, services, and supports;

115 (c) programs, services, supports, and resources for evidence-based substance use
116 disorder prevention treatment, recovery, or harm reduction;

117 (d) substance use disorder prevention, treatment, recovery, or harm reduction pilot
118 programs or demonstration studies that are not evidence-based but are approved by the office
119 as an appropriate use of opioid funds for a limited period of time specified by the office;

120 (e) evaluations of effectiveness and outcomes reporting for substance use disorder

121 abatement infrastructure, programs, services, supports, and resources for which opioid funds
122 were disbursed, including impact on access to harm reduction services or treatment for
123 substance use disorders, or reduction in drug-related mortality; or

124 (f) one or more data interfaces to aggregate, track, and report:

125 (i) data on substance use disorder, overdoses, and drug-related harms;

126 (ii) spending recommendations, plans, and reports; and

127 (iii) outcomes of programs, services, supports, and resources for which opioid funds
128 were disbursed.

129 (5) (a) The office may use funds distributed to the office from the Opioid Litigation
130 Proceeds Restricted Account under Subsection 51-9-801(4), except that expenses associated
131 with managing, investing, and disbursing opioid funds may not exceed five percent of the
132 opioid funds received by the office in that fiscal year.

133 (b) The office may receive funding through the grant portal if:

134 (i) the office submits the same information and meets the same criteria that is required
135 for other applicants through the grant portal;

136 (ii) the request for funding;

137 (A) reimburse expenditures that were incurred before the opioid funds were received
138 by the governmental entity;

139 (B) supplant or take the place of any funds that would otherwise have been expended
140 for that purpose; and

141 (C) is for an amount sufficient to operate the program or service for a period of no
142 more than two years;

143 (iii) the office releases a request for proposals for the program for which the office is
144 requesting funding; and

145 (iv) in addition to any applicable requirements in Title 63G, Chapter 6a, Utah
146 Procurement Code, the advisory committee finds that the office is better able to deliver the
147 proposed program or service than any other applicant or respondent to the request for proposals
148 published under this Subsection (5)(b).

149 (6) Awards through the grant portal shall prioritize applications for which the proposed
150 activity, practice, program, service, support, or strategy is supported by evidence that:

151 (a) individuals are better able to avoid the development and progression of substance

152 use disorders or drug related harms;

153 (b) the adverse consequences of substance use among individuals who use substances
154 are reduced; or

155 (c) substance use disorders or co-occurring mental health disorders are better managed,
156 recovery is supported, or progression is slowed.

157 (7) The office may make rules in accordance with Title 63G, Chapter 3, Utah
158 Administrative Rulemaking Act, to implement this section.

159 Section 3. Section **26B-5-103** is enacted to read:

160 **26B-5-103. Administration of opioid litigation proceeds -- Requirements for**
161 **governmental entities receiving opioid funds -- Reporting.**

162 (1) As used in this section and Section [26B-1-401](#):

163 (a) "Office" means the Office of Substance Use and Mental Health within the
164 department.

165 (b) "Opioid funds" means money received by a governmental entity as defined in
166 Section [63G-2-103](#) as a result of any judgment, settlement, or compromise of claims pertaining
167 to alleged violations of law related to the manufacture, marketing, distribution, or sale of
168 opioids.

169 (c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account
170 created in Section [51-9-801](#).

171 (2) Opioid funds may not be used to:

172 (a) reimburse expenditures that were incurred before the opioid funds were received by
173 the governmental entity; or

174 (b) supplant or take the place of any funds that would otherwise have been expended
175 for that purpose.

176 (3) The office shall serve as the reporting entity to receive, compile, and submit any
177 reports related to opioid funds that are required by law, contract, or other agreement.

178 (4) A governmental entity that receives opioid funds shall provide an annual report to
179 the office, in a form and by a date established by the office, that includes:

180 (a) an accounting of all opioid funds that the governmental entity received in the year;

181 (b) the number of individuals served through programs funded by the opioid fund,
182 including the individuals' age, gender, and other demographic factors reported in a de-identified

183 manner;

184 (c) an analysis of whether the infrastructure, program, service, support, or resource
185 reduced mortality or improved prevention, treatment, harm reduction, or recovery outcomes;

186 (d) a plan, if any, to ensure the sustainability of the infrastructure, program, service,
187 support, or resource; and

188 (e) if applicable, any information required to be submitted to the reporting entity under
189 applicable law, contract, or other agreement.

190 (5) Beginning October 1, 2023, and on or before October 1 of each year thereafter, the
191 office shall provide a written report that includes:

192 (a) the opening and closing balance of the restricted account for the previous fiscal
193 year;

194 (b) the name of and amount received by each recipient of funds from the restricted
195 account;

196 (c) a description of the intended use of each award, including the specific program,
197 service, or resource funded, population served, and measures that the recipient used or will use
198 to assess the impact of the award;

199 (d) the primary criteria used to determine each recipient and the respective award
200 amount;

201 (e) the name of each applicant for an award of money from the restricted account in the
202 previous fiscal year;

203 (f) a description of any finding or concern as to whether all opioid funds disbursed
204 from the restricted account violated the prohibitions in Subsection (2) and, if applicable,
205 comply with the requirements of a settlement agreement; and

206 (g) the performance indicators and progress toward improving outcomes and reducing
207 mortality and other harms related to substance use disorders.

208 (6) The office shall publish the information that is received, compiled, and submitted
209 under this section on the Opioid Litigation Proceeds Grant Portal.

210 (7) The office may make rules in accordance with Title 63G, Chapter 3, Utah
211 Administrative Rulemaking Act, to implement this section.

212 Section 4. Section **51-9-801** is amended to read:

213 **51-9-801. Opioid Litigation Proceeds Restricted Account.**

214 (1) There is created within the General Fund a restricted account known as the Opioid
215 Litigation [~~Settlement~~] Proceeds Restricted Account.

216 (2) The account consists of:

217 (a) any money deposited into the account in accordance with Subsection (3);

218 (b) interest earned on money in the account; and

219 (c) money appropriated to the account by the Legislature.

220 (3) Notwithstanding Sections [13-2-8](#) and [76-10-3114](#), after reimbursement to the
221 attorney general and the Department of Commerce for expenses related to the matters
222 described in Subsection (3)(a) or (b), the following shall be deposited into the account:

223 (a) all money received by the attorney general or the Department of Commerce as a
224 result of any judgment, settlement, or compromise of claims pertaining to alleged violations of
225 law related to the manufacture, marketing, distribution, or sale of opioids from a case
226 designated as an opioid case by the attorney general in a legal services contract; and

227 (b) all money received by the attorney general or the Department of Commerce as a
228 result of any multistate judgment, settlement, or compromise of claims pertaining to alleged
229 violations of law related to the manufacture, marketing, distribution, or sale of opioids.

230 (4) For each fiscal year, beginning with fiscal year 2024, and subject to appropriation
231 by the Legislature, the Division of Finance shall distribute from the Opioid Litigation Proceeds
232 Restricted Account 70% of the amount available in the restricted account at the start of the
233 fiscal year to the Office of Substance Use and Mental Health within the Department of Health
234 and Human Services to:

235 (a) operate the Opioid Litigation Proceeds Grant Portal in accordance with Section
236 [26B-5-102](#);

237 (b) administer the reporting requirement created in Section [26B-5-103](#); and

238 (c) provide administrative support for the Opioid Litigation Proceeds Advisory
239 Committee created in Section [26B-1-401](#).

240 [~~4~~] (5) Subject to appropriation by the Legislature, money in the account shall be
241 used:

242 (a) to address the effects of alleged violations of law related to the manufacture,
243 marketing, distribution, or sale of opioids; or

244 (b) if applicable, in accordance with the terms of a settlement agreement described in

245 Subsection (3)(a) or (b) entered into by the state.