

**Senator Jen Plumb** proposes the following substitute bill:

**LITIGATION PROCEED FUND AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: Raymond P. Ward

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

- ▶ establishes a process for the review of requests for funding through the Opioid Litigation Proceeds Restricted Account; and

- ▶ modifies the Opioid Litigation Proceeds Restricted Account.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



26 [51-9-801](#), as enacted by Laws of Utah 2020, Chapter 210

27 ENACTS:

28 [26B-5-102](#), Utah Code Annotated 1953

29 [67-5-39](#), Utah Code Annotated 1953

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

32 Section 1. Section **26B-5-102** is enacted to read:

33 **26B-5-102. Administration of opioid litigation proceeds -- Requirements for**  
34 **governmental entities receiving opioid funds -- Reporting.**

35 (1) As used in this section:

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

38 (b) "Opioid funds" means money received by the state or a political subdivision of the  
39 state as a result of any judgment, settlement, or compromise of claims pertaining to alleged  
40 violations of law related to the manufacture, marketing, distribution, or sale of opioids.

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

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

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

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

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

50 (4) The requirement described in Subsection (5) applies to:

51 (a) a recipient of opioid funds from the restricted account, in any year that opioid funds  
52 are received; and

53 (b) a political subdivision that received opioid funds.

54 (5) A person described in Subsection (4) shall provide an annual report to the office, in  
55 a form and by a date established by the office, that includes:

56 (a) an accounting of all opioid funds that were received by the person in the year;

57 (b) the number of individuals served through programs funded by the opioid funds,  
58 including the individuals' age, gender, and other demographic factors reported in a de-identified  
59 manner;

60 (c) the measures that were used to determine whether the program funded by the opioid  
61 funds achieved the intended outcomes; and

62 (d) if applicable, any information required to be submitted to the reporting entity under  
63 applicable law, contract, or other agreement.

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

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

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

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

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

76 (e) the performance indicators and progress toward improving outcomes and reducing  
77 mortality and other harms related to substance use disorders.

78 (7) The office shall provide the information that is received, compiled, and submitted  
79 under this section:

80 (a) to the Health and Human Services Interim Committee;

81 (b) to the Social Services Appropriation Subcommittee;

82 (c) if required under the terms of a settlement agreement under which opioid funds are  
83 received, to the administrator of the settlement agreement in accordance with the terms of the  
84 settlement agreement; and

85 (d) in a publicly accessible location on the department's website.

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

88 Section 2. Section 51-9-801 is amended to read:

89 **51-9-801. Opioid Litigation Proceeds Restricted Account.**

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

92 (2) The account consists of:

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

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

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

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

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

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

106 (4) Subject to appropriation by the Legislature, money in the account shall be used:

107 (a) to address the effects of alleged violations of law related to the manufacture,  
108 marketing, distribution, or sale of opioids; [~~or~~]

109 (b) if applicable, in accordance with the terms of a settlement agreement described in  
110 Subsection (3)(a) or (b) entered into by the state[~~];~~ and

111 (c) beginning fiscal year 2025, only on an appropriation item if the request for  
112 appropriation was reviewed in accordance with Subsection (5).

113 (5) (a) Funds may not be appropriated from the restricted account unless:

114 (i) the request is made through a request for appropriation by a legislative sponsor;

115 (ii) the request for appropriation is filed with the Office of the Legislative Fiscal  
116 Analyst by December 31 of the year immediately before the Legislature's annual general  
117 session;

118 (iii) at the time the request for appropriation is filed, the request includes the purpose

119 of the measure and all necessary information required by legislative rule; and

120 (iv) the request is reviewed by the advisory committee convened by the Office of the  
121 Attorney General in accordance with Section 67-5-39.

122 (b) The legislative sponsor of the request for appropriation under Subsection (5)(a)  
123 shall send a copy of the request for appropriation to the advisory committee as defined in  
124 Section 67-5-39.

125 Section 3. Section 67-5-39 is enacted to read:

126 **67-5-39. Review of requests for funding from the Opioid Litigation Proceeds**  
127 **Restricted Account -- Advisory committee designated -- Requests submitted to the office**  
128 **-- Review of submissions -- Reporting.**

129 (1) As used in this section:

130 (a) "Advisory committee" means a committee of subject matter experts designated by  
131 the executive committee of the Opioid Task Force convened by the Office of the Attorney  
132 General.

133 (b) "Opioid funds" means money received by the state or a political subdivision of the  
134 state as a result of any judgment, settlement, or compromise of claims pertaining to alleged  
135 violations of law related to the manufacture, marketing, distribution, or sale of opioids.

136 (c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account  
137 created in Section 51-9-801.

138 (2) The advisory committee shall consist of members who come from a variety of  
139 backgrounds and areas of expertise in the opioid crisis space.

140 (3) For each request that is sent to the advisory committee under Subsection  
141 51-9-801(5)(b), the advisory committee shall:

142 (a) review the request;

143 (b) (i) recommend that the project be funded through an appropriation from the  
144 restricted account; or

145 (ii) decline to recommend that the project be funded through an appropriation from the  
146 restricted account; and

147 (c) provide a brief explanation for the advisory committee's decision under Subsection  
148 (3)(b) to the office and the requesting person.

149 (4) On or before the beginning date of the annual general legislative session established

150 in Section [36-3-201](#), the advisory committee shall report the advisory committee's  
151 recommendations under Subsection (3) to the Social Services Appropriations Subcommittee.  
152 (5) This section does not prohibit the Legislature from appropriating funds for a  
153 request that the advisory committee has declined to recommend under Subsection (3)(b).