

## SB0155S01 compared with SB0155

~~{deleted text}~~ shows text that was in SB0155 but was deleted in SB0155S01.

inserted text shows text that was not in SB0155 but was inserted into SB0155S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{OPIOID LITIGATION SETTLEMENT RESTRICTED~~

~~ACCOUNT}~~ 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:

~~{~~ → creates the Opioid Litigation Proceeds Advisory Committee under the Office of Substance Use and Mental Health and describes the advisory committee's membership and duties;

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

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- ‡ 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; ~~and~~

~~changes the name of the "~~

- ‡ establishes a process for the review of requests for funding through the Opioid Litigation ~~Settlement~~ Proceeds Restricted Account ~~" to"; and~~
- ‡ modifies the ~~"~~ Opioid Litigation Proceeds Restricted Account. ~~"~~

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

ENACTS:

~~{ 26B-1-401, Utah Code Annotated 1953~~

‡ 26B-5-102, Utah Code Annotated 1953

~~{26B-5-103}~~ 67-5-39, Utah Code Annotated 1953

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

Section 1. Section ~~{26B-1-401}~~ 26B-5-102 is enacted to read:

~~{26B-1-401. Opioid Litigation Proceeds Advisory Committee -- Membership --~~

~~Duties -- Compensation.~~

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

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

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

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- ~~— (c) The committee shall, at a minimum, include representation from:~~
  - ~~— (i) the Office of the Attorney General;~~
  - ~~— (ii) the Department of Workforce Services;~~
  - ~~— (iii) an association that represents counties in the state; and~~
  - ~~— (iv) an association that represents municipalities in the state.~~
- ~~— (d) Representation on the committee shall be broad and balanced, including representation from different geographic areas in the state.~~
- ~~— (3) The advisory committee shall:~~
  - ~~— (a) advise the department on policies and procedures for the application, awarding, and disbursement of funds from the restricted account in accordance with the requirements in Section 26B-5-102;~~
  - ~~— (b) recommend goals, objectives, plans, and performance indicators relating to the expenditure of funds from the restricted account;~~
  - ~~— (c) assist the department in reviewing applications for and making recommendations regarding awards of money from the restricted account for programs authorized under Section 26B-5-102; and~~
  - ~~— (d) review submissions from governmental entities that are required to submit a report to the office under Section 26B-5-102 and, if necessary, recommend further review of the use of settlement funds.~~
- ~~— (4) The department shall:~~
  - ~~— (a) determine, by rule, the term and causes for removal of committee members;~~
  - ~~— (b) establish committee procedures and administration policies consistent with this section and department rule; and~~
  - ~~— (c) provide administrative support to the committee.~~
- ~~— (5) An advisory committee member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~
  - ~~— (a) Section 63A-3-106;~~
  - ~~— (b) Section 63A-3-107; and~~
  - ~~— (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~
  - ~~— (6) Expenses of the advisory committee, including the cost of advisory committee~~

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~~staff if approved by the executive director, may be paid with funds from the restricted account.~~

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

~~26B-5-102. Opioid Litigation Proceeds Grant Portal -- Creation -- Requirements -- Administration by the office -- Reporting:~~

~~(1) As used in this section:~~

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

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

~~(c) "Office" means the Office of Substance Use and Mental Health within the department.~~

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

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

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

~~(i) distributions to the office from the Opioid Litigation Proceeds Restricted Account under Subsection 51-9-801(4); and~~

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

~~(3) The grant portal shall:~~

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

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

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

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

~~(4) The office, in collaboration with the advisory committee, shall award grants~~

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for one or more of the following purposes:

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

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

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

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

~~— (e) evaluations of effectiveness and outcomes reporting for substance use disorder abatement infrastructure, programs, services, supports, and resources for which opioid funds were disbursed, including impact on access to harm reduction services or treatment for substance use disorders, or reduction in drug-related mortality; or~~

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

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

~~— (ii) spending recommendations, plans, and reports; and~~

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

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

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

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

~~— (ii) the request for funding;~~

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

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

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

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

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

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

~~—— (a) individuals are better able to avoid the development and progression of substance use disorders or drug related harms;~~

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

~~—— (c) substance use disorders or co-occurring mental health disorders are better managed, recovery is supported, or progression is slowed:~~

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

~~—— Section 3. Section 26B-5-103 is enacted to read:~~

~~—— ~~26B-5-103~~26B-5-102. Administration of opioid litigation proceeds --~~

**Requirements for governmental entities receiving opioid funds -- Reporting.**

(1) As used in this section ~~{ and Section 26B-1-401 }~~:

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

(b) "Opioid funds" means money received by the state or a ~~{ governmental entity as defined in Section 63G-2-103 }~~ political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

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

(2) Opioid funds may not be used to:

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

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

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

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

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

(b) a political subdivision that received opioid funds.

(~~4~~5) A ~~governmental entity that receives opioid funds~~ person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:

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

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

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

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

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

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

(~~5~~6) Beginning October 1, 2023, and on or before October 1 of each year thereafter, the office shall provide a written report that includes:

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

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

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

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

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

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

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

(~~6~~7) The office shall ~~{publish}~~provide the information that is received, compiled, and submitted under this section ~~{ on the Opioid Litigation Proceeds Grant Portal}.~~

~~\_\_\_\_\_~~ (7):

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

(b) to the Social Services Appropriation Subcommittee;

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

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

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

Section ~~{4}2~~. Section **51-9-801** is amended to read:

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

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



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(2) The account consists of:

- (a) any money deposited into the account in accordance with Subsection (3);
- (b) interest earned on money in the account; and
- (c) money appropriated to the account by the Legislature.

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

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

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

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

~~— (a) operate the Opioid Litigation Proceeds Grant Portal in accordance with Section 26B-5-102;~~

~~— (b) administer the reporting requirement created in Section 26B-5-103; and~~

~~— (c) provide administrative support for the Opioid Litigation Proceeds Advisory Committee created in Section 26B-1-401.~~

~~{ (4) (5) }~~ Subject to appropriation by the Legislature, money in the account shall be used:

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

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

(c) beginning fiscal year 2025, only on an appropriation item if the request for

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appropriation was reviewed in accordance with Subsection (5).

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

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

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

(iii) at the time the request for appropriation is filed, the request includes the purpose of the measure and all necessary information required by legislative rule; and

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

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

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

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

(1) As used in this section:

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

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

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

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

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

(a) review the request;

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

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

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

(4) On or before the beginning date of the annual general legislative session established in Section 36-3-201, the advisory committee shall report the advisory committee's recommendations under Subsection (3) to the Social Services Appropriations Subcommittee.

(5) This section does not prohibit the Legislature from appropriating funds for a request that the advisory committee has declined to recommend under Subsection (3)(b).