

LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

MODEL OPIOID LITIGATION PROCEEDS ACT

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SECTION I. TITLE.

This Act may be cited as the “Model Opioid Litigation Proceeds Act,” “Model Act,” or “the Act.”

SECTION II. LEGISLATIVE FINDINGS AND PURPOSE.

(a) Legislative findings.—The [legislature]¹ finds that:

- (1) During the 12-month period from November 2024 to November 2025, the most recent period for which there is data, the Centers for Disease Control and Prevention estimates that there were more than 68,000 fatal drug overdoses, nearly 44,000 of which involved opioids;²
- (2) There were [n] fatal [and (n) non-fatal] overdoses in [state] involving opioids during the 12-month period from [month/year] to [month/year];³
- (3) In [year(s)], the [attorney general] of [state] joined in litigation against [manufacturers and distributors of prescription opioids, pharmacies that dispensed prescription opioids, and related parties] for their alleged role(s) in contributing to the high rate of opioid-related drug overdoses and other drug-related harms across the country;
- (4) As a result of that litigation, [state] has received substantial payments from the defendants as part of the national opioid litigation settlement and anticipates receiving additional payments;⁴
- (5) Each of the settlement agreements entered into between [state] and the various defendants involved in the national opioid litigation requires that a minimum percentage of the funds received by [state] be used for opioid remediation or abatement;⁵

¹ This Act contains certain bracketed words and phrases (e.g., “[legislature]”). Brackets indicate instances where state lawmakers may need to insert state-specific terminology or facts.

² *Provisional Drug Overdose Death Counts*, CTRS. FOR DISEASE CONTROL & PREVENTION (last accessed May 12, 2026), [Products - Vital Statistics Rapid Release - Provisional Drug Overdose Data](#).

³ States should insert state-specific information for this finding and should include information on non-fatal overdoses if that information is available.

⁴ See settlement information on the National Opioid Settlement website, <https://nationalopioidsettlement.com/>.

⁵ NAT’L OPIOID SETTLEMENT (accessed Dec. 3, 2025), <https://nationalopioidsettlement.com/>. Pursuant to the terms of the settlement agreements entered into with McKesson, Cardinal Health, AmerisourceBergen, Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson, Teva, and Allergan, 85 percent of funds received

- (6) A 2025 report from Avalere Health estimates that the total financial impact of opioid use disorder in 2024 was approximately \$4 trillion including costs associated with additional healthcare services for those impacted by opioid use disorder, premature mortality, criminal justice activities, and lost productivity;⁶
- (7) In [year], opioid misuse and the overdose crisis cost [state] an estimated [dollar amount];⁷
- (8) Investing in primary prevention, evidence-based treatment, recovery services, and overdose rescue and response can reduce both the economic and public health costs in [state], but these services require dedicated funding and other resources;⁸
- (9) Using opioid litigation proceeds to establish, sustain, and expand opioid use disorder abatement infrastructure, programs, services, supports, and resources for primary prevention, evidence-based treatment, recovery services, and overdose rescue and response will relieve some of the economic burden on [state]; and
- (10) Sustained, long-term funding for primary prevention, evidence-based treatment, recovery services, and overdose rescue and response will help reduce fatal and non-fatal overdoses, and provide opportunities for more individuals to access evidence-based treatment that leads to long-term recovery.

(b) Purpose.—The purpose of this Act is to:

- (1) Establish a dedicated fund, separate and distinct from the general treasury fund, into which all proceeds received as a result of litigation, including from any bankruptcy proceedings, against [manufacturers and distributors of prescription opioids, pharmacies that dispensed prescription opioids, and related parties] are deposited and from which disbursements are made for the purpose of opioid use disorder

by the plaintiffs must be used for opioid abatement purposes. The settlements entered into with the Kroger Company, Walgreens, Alvogen, Inc., Amneal Pharmaceuticals, Apotex Corp., Hikma Pharmaceuticals USA, Inc., Indivior, Inc., Mylan, Sun Pharmaceutical Industries, Inc., and Zydus Pharmaceuticals (USA), Inc. require that at least 95 percent of funds received be used for opioid remediation.

⁶ *The Cost of Addiction: Opioid Use Disorder in the United States*, AVALERE HEALTH 12-14 (May 2025), https://advisory.avalerehealth.com/wp-content/uploads/2025/07/20250725_OUD_WhitePaper_.pdf.

⁷ States should include state-specific information for this paragraph if that information is available. Information from 2017 can be found here: <https://www.cdc.gov/mmwr/volumes/70/wr/mm7015a1.htm>.

⁸ See Exec. Order No. 14,379, 91 F.R. 5081 (Jan. 29, 2026), <https://www.federalregister.gov/documents/2026/02/03/2026-02249/addressing-addiction-through-the-great-american-recovery-initiative> and Exec. Order No. 14,321, 90 F.R. 35817 (July 24, 2025), <https://www.federalregister.gov/documents/2025/07/29/2025-14391/ending-crime-and-disorder-on-americas-streets>.

- abatement and remediation;
- (2) Ensure that all monies deposited into the fund:
 - (A) Remain separate from the general fund;
 - (B) Do not lapse, do not revert to the general fund, and are not otherwise subject to fiscal year limitations; and
 - (C) Are used only as permitted by this Act;
 - (3) Establish a council of stakeholders to ensure public involvement, accountability, and transparency in allocating, disbursing, and accounting for the monies in the fund;
 - (4) Require that any distributions from the fund supplement and not supplant or replace any existing or future local, state, or federal government or any private funding for such infrastructure, programs, services, supports, and resources; and
 - (5) Require that the council and recipients of distributions from the fund measure and report outcomes associated with distributions from the fund pursuant to the requirements of this Act.
- (c) **Applicability.**—It is the intent of the [legislature] through this Act that the requirements and protections set forth herein as applied to the disbursement and allocation of proceeds from any settlement of claims against [manufacturers or distributors of prescription opioids, pharmacies that dispensed prescription opioids, and related parties] apply only to:
- (1) The state and those political subdivisions of the state that have executed or will execute an agreement to participate in and adhere to the terms of a settlement agreement or any memorandum of understanding entered into between [state] and a political subdivision of the state; and
 - (2) Any public or private recipients of such funds.

Commentary

OxyContin is the brand name of an opioid analgesic containing oxycodone, a semisynthetic narcotic analgesic, manufactured and marketed by Purdue Pharma.⁹ It is a Schedule II controlled substance and is available by prescription only for the treatment of moderate to severe pain.¹⁰ OxyContin was approved for use by the U.S. Food and Drug

⁹ Art Van Zee, *The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy*, 99(2) AM. J. OF PUBLIC HEALTH 221 (Feb. 2009), <https://pmc.ncbi.nlm.nih.gov/articles/PMC2622774/>.

¹⁰ *Drug Fact Sheet: Oxycodone*, DEP'T OF JUST., DRUG ENT'T ADMIN. (April 2020), https://www.dea.gov/sites/default/files/2020-06/Oxycodone-2020_0.pdf.

Administration (FDA) in 1995 and released by Purdue Pharma in 1996, after which time “it was aggressively marketed and highly promoted.”¹¹ Purdue Pharma launched an extensive marketing campaign over the next five years, a campaign that allegedly downplayed the risks of addiction and oversold the safety of the drug as a pain reliever.¹² OxyContin, and Purdue Pharma’s actions in promoting its use, are blamed by experts for the start of the opioid crisis.¹³ Starting in 1999 and continuing for almost two decades, overdose deaths involving prescription opioids rose from 3,442 in 1999 to a high of 17,029 in 2017 before beginning to decrease again.¹⁴

According to the National Survey on Drug Use and Health, in 2024:¹⁵

- More than 63 million individuals reported *using* a prescription opioid in the past year;¹⁶
- More than 7.5 million individuals reported *misusing* a prescription opioid in the past year;¹⁷
- More than 48 million individuals reported having *any* substance use disorder (SUD) in the past year, including alcohol use disorder;¹⁸
- Almost 4.6 million individuals reported having a *prescription* opioid use disorder (OUD) in the past year, ranging from mild to severe;¹⁹
- More than 4.8 million individuals reported having *any* OUD in the past year;²⁰ and
- More than 21 million individuals aged 18 and older reported having a co-occurring SUD and mental health disorder in the past year.²¹

Of the 48 million individuals who reported having SUD in the past year, only 10.1 million (21 percent) reported receiving treatment in the year prior to completing the survey.²² Of those, just over four million received treatment for OUD.²³ Fewer than one million individuals reported receiving medications for OUD in 2024.²⁴ Respondents’ most common reasons for not obtaining treatment included perceptions that it would cost too much; lack of health insurance

¹¹ Van Zee, *supra* note 9.

¹² *Id.*

¹³ See, e.g., *What Led to the Opioid Crisis—and How to Fix It*, HARVARD SCH. OF PUBLIC HEALTH (Feb. 9, 2022), <https://hsph.harvard.edu/news/what-led-to-the-opioid-crisis-and-how-to-fix-it/>.

¹⁴ *Drug Overdose Deaths: Facts and Figures, U.S. Overdose Deaths Involving Prescription Opioids, 1999-2023*, NAT’L INST. ON DRUG ABUSE (released Jan. 2025), <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates#Fig4>.

¹⁵ Except as otherwise indicated, all data points in the bullets listed in this section apply to individuals aged 12 and older.

¹⁶ 2024 *National Survey on Drug Use and Health (NSDUH)*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. Table 1.110A (last updated Sept. 8, 2025), [2024 National Survey on Drug Use and Health \(NSDUH\) Releases | CBHSQ Data](#).

¹⁷ *Id.*

¹⁸ *Id.* at Table 5.3A.

¹⁹ *Id.* at Tables 5.2A and 5.6A.

²⁰ *Id.* at Table 5.1A.

²¹ *Id.* at Table 9.51A.

²² *Id.* at Tables 5.14A.

²³ *Id.* at Tables 5.14A.

²⁴ *Id.* at Table 5.22A.

coverage for treatment; insufficient health insurance coverage for treatment costs; lack of awareness of where or how to obtain treatment; inability to find treatment program or healthcare professional they wanted to go to; issues with transportation, child care, or appointment times; insufficient time for treatment; worry that information would not be kept private; worry about stigma for and negative repercussions of getting treatment; unreadiness to start treatment and/or stop or reduce drug use; the respondents' beliefs that they should be able to handle their drug or alcohol use on their own; and disbelief that treatment would help them.²⁵

SUD affects individuals, families, and communities across America, in cities, suburbs, small towns, and rural areas.²⁶ SUD is a treatable medical condition from which individuals and families can recover. However, many of the programs and policies needed to provide primary prevention, evidence-based treatment, recovery services, and overdose rescue and response to individuals and for families impacted by SUD are underfunded or non-existent in certain geographical areas, making it difficult for individuals in need to access these services.

On June 11, 2001, the Attorney General of West Virginia filed a lawsuit against Purdue Pharma and other defendants on behalf of West Virginia citizens who were prescribed and ingested OxyContin.²⁷ The complaint alleged that the defendants knowingly and intentionally misled physicians and patients by claiming that the drug was safe and had a low risk of addiction and that such behavior by Purdue Pharma led to the opioid epidemic.²⁸ The parties settled this case on November 4, 2004, and a Final Order entered on December 22, 2004; however, since then, state and local governments and other non-government plaintiffs filed more than 2,400 cases against numerous manufacturers, distributors, pharmacies, and other defendants “along the prescription opioid supply chain” that were consolidated for pre-trial proceedings in what is known as the opioid multidistrict litigation (MDL).²⁹ The parties settled most of these lawsuits pursuant to national settlement agreements under which the plaintiffs have begun to receive payments.³⁰

Under the terms of the opioid litigation settlement agreements, state and local government plaintiffs agreed to dismiss their current and any future claims against the defendants related to prescription opioids, while the defendants agreed to make monetary payments to be allocated between the plaintiffs over a period of time (ranging from six to 18 years) following an initial “base” payment.³¹ Plaintiffs are also eligible for incentive payments as

²⁵ *Id.* at Table 5.36A.

²⁶ *The Drug Overdose Epidemic Affects All Communities*, NAT'L INST. ON MINORITY HEALTH AND HEALTH DISPARITIES (Oct. 25, 2019), <https://www.nimhd.nih.gov/news-events/features/community-health/overdose-epidemic.html#reference1>.

²⁷ *State of West Virginia v. Purdue Pharma L.P.*, no. CC-27-2001-C-137 (June 11, 2001) (complaint).

²⁸ *Id.*

²⁹ *Id.* (Dec. 22, 2004) (final order); Wen W. Shen, *Overview of the Opioid Litigation and Related Settlements and Settlement Proposals*, CONGRESSIONAL RSCH. SERV. (Nov. 25, 2019), <https://www.congress.gov/crs-product/LSB10365>.

³⁰ Wen W. Shen, *National Opioid Litigation: Settlement Agreements as of January 2025*, CONG. RSCH. SERV. (Feb. 19, 2025), <https://www.congress.gov/crs-product/LSB11270>.

³¹ *Id.*

set forth in the specific settlement agreements.³²

These large-scale settlements harken back to tobacco-related litigation three decades ago. In the 1990s, 46 states settled claims against the four largest tobacco manufacturers, under which the states received billions of dollars in payments over the course of more than 20 years.³³ States continue to receive tobacco settlement funds to this day, with states collecting almost \$26 billion from the settlements and tobacco taxes in 2024.³⁴ However, only a fraction of the proceeds from those settlements is used for the intended purpose of reducing tobacco use. For example, states spent less than three percent of the proceeds received in fiscal year 2024 on programs to prevent youth tobacco use and smoking cessation programs.³⁵ One of the reasons for this is that the tobacco settlement agreements imposed no requirements on the use of the settlement proceeds. By contrast, the opioid litigation settlement agreements typically include the following:

- (1) A requirement that a minimum of between 85 to 95 percent (depending on the agreement) of the monies paid out be used for opioid abatement or remediation activities;
- (2) An exhibit that sets forth permissible opioid abatement/remediation activities;
- (3) A requirement that plaintiffs publicly account for any and all opioid litigation funds not spent on permissible activities, including attorney fees and costs; and
- (4) A requirement that the state create an advisory committee or similar advisory body to provide expert advice and recommendations regarding disbursements from the funds.³⁶

Settlement funds are allocated to the states that have entered into a settlement agreement.³⁷ The states then further allocate the funds to the political subdivisions within the state that have agreed to the settlement, typically pursuant to the terms of a memorandum of understanding or a “state-subdivision agreement” between the state and its localities.³⁸ Pursuant to the terms of the settlement agreements, these funds should be used to mitigate the opioid epidemic in states and communities impacted by OUD. The agreements also permit funds to be used for activities related to any co-occurring substance use or mental health disorder. While the agreements do not prohibit using opioid litigation settlement funds to address SUD generally, states must report to the national settlement fund administrator and the party defendants the

³² See, e.g., *Distributor Settlement Agreement*, NATIONALSETTLEMENTAGREEMENT.COM (March 25, 2022), <https://nationalopioidsettlement.com/wp-content/uploads/2023/02/Final-Distributor-Settlement-Agreement-3.25.22-Final-Exhibit-C-as-of-5.27.22-Exhibit-G-and-I-as-of-02.22.23.pdf>.

³³ *Master Settlement Agreement*, TRUTH INITIATIVE (accessed Jan. 29, 2026), <https://truthinitiative.org/who-we-are/our-history/master-settlement-agreement>.

³⁴ *New Report: States Continue to Shortchange Tobacco Prevention Programs Despite Collecting Additional Revenue from Juul Settlements*, KFF.ORG (Jan. 10, 2024), https://www.tobaccofreekids.org/press-releases/2024_01_10_state-report-fy2024.

³⁵ *Id.* See also, *Who is Really Benefiting from the Tobacco Settlement Money?*, AM. LUNG ASS’N (Feb. 3, 2016), <https://www.lung.org/blog/who-benefit-tobacco-settlement>.

³⁶ See, e.g., *Distributor Settlement Agreement*, NATIONALSETTLEMENTAGREEMENT.COM (March 25, 2022), <https://nationalopioidsettlement.com/wp-content/uploads/2023/02/Final-Distributor-Settlement-Agreement-3.25.22-Final-Exhibit-C-as-of-5.27.22-Exhibit-G-and-I-as-of-02.22.23.pdf>.

³⁷ Shen, *supra* note 29.

³⁸ See, e.g., *State Opioid Settlement Spending Decisions*, NAT’L ACAD. FOR STATE HEALTH POL’Y (updated Oct. 1, 2025), <https://nashp.org/state-tracker/state-opioid-settlement-spending-decisions/>. This site includes state specific information, including any memoranda of understanding entered into between the state and its participating subdivisions.

amounts not used for opioid abatement or remediation and an explanation of how such funds were used (*e.g.*, for litigation expenses or attorney fees), and such reports must be made available to the public.³⁹ In Section VI below, the drafters of this Act included provisions related to both OUD specifically and SUD generally, bearing in mind that any funds not used for opioid abatement or remediation must be reported as required by the settlement agreements.

Overall, this Act: (1) requires states to establish a separate fund for opioid litigation proceeds; (2) establishes how such funds can be used; (3) establishes an advisory council to establish a grant program, review applications for monies from the fund, and approve disbursements from the fund; and (4) establishes reporting requirements. The purpose of these provisions is to create a uniform law that states can use to ensure that opioid litigation proceeds are used for their intended purpose; that is, to effectively address public health needs associated with OUD, co-occurring substance use or mental health disorders, and other harms associated with drug use and misuse, including primary prevention, evidence-based treatment, recovery services, and overdose rescue and response.

SECTION III. DEFINITIONS.

[States may already have definitions in place for some or all of the following listed terms. In such case, states are free to use the existing definitions in place of those listed below.]

For purposes of this Act, unless the context clearly indicates otherwise, the words and phrases listed below have the meanings given to them in this section:

- (a) Conflict of interest.—“Conflict of interest” means any official action, decision, or recommendation by a council member, the effect of which would be to the private pecuniary benefit of the council member, an immediate family member or member of the council member’s household, or a business with which the council member, immediate family member, or member of the council member’s household is associated;⁴⁰
- (b) Co-occurring disorder.—“Co-occurring disorder” means the coexistence of both a mental health and a substance use disorder in an individual;⁴¹
- (c) Council.—“Council” means the [opioid litigation proceeds] council established pursuant to this Act;
- (d) Evidence-based.—“Evidence-based” means an activity, practice, program, service, support, or strategy that meets one of the following evidentiary criteria: (1) meta-analyses

³⁹ See, *e.g.*, *Distributor Settlement Agreement*, NATIONALSETTLEMENTAGREEMENT.COM 28 (March 25, 2022), <https://nationalopioidsettlement.com/wp-content/uploads/2023/02/Final-Distributor-Settlement-Agreement-3.25.22-Final-Exhibit-C-as-of-5.27.22-Exhibit-G-and-I-as-of-02.22.23.pdf>.

⁴⁰ IDAHO CODE ANN. § 74-403 (West 2025).

⁴¹ *Mental Health and Substance Use Disorders*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. (last updated March 29, 2024), [Co-Occurring Disorders and Other Health Conditions | SAMHSA](#).

or systematic reviews have found the strategy to be effective; (2) evidence from a scientifically rigorous experimental study, such as a randomized controlled trial, demonstrates the strategy is effective; or (3) multiple observational studies from U.S. settings indicate the strategy is effective.⁴² As used in this definition, “effective” means an activity, practice, program, service, support, or strategy that helps individuals avoid initiation of drug use or the development or progression of substance use disorders; or manages, slows the progression of, or supports recovery from a substance use disorder or co-occurring mental health disorder;

- (e) Evidence-informed.—“Evidence-informed” means an activity, practice, program, service, support, or strategy that incorporates the best available evidence, patient needs, values, and preferences, and practitioner expertise in the decision-making process;⁴³
- (f) Fund.—“Fund” means the [opioid litigation proceeds] fund established pursuant to this Act;
- (g) [General fund].—“[General fund]” means the primary operating fund of the [state] government and consists of all money received by the state treasury that is not required by law to be credited to another fund;
- (h) Infrastructure.—“Infrastructure” means the personnel, buildings, equipment, and other resources required for [state] or a county, city, locality, or other political subdivision thereof, or private, non-governmental organizations therein, to provide primary prevention, evidence-based treatment, recovery, and overdose rescue and response programs, services, supports, and resources;⁴⁴
- (i) Mental health disorder.—“Mental health disorder” means a syndrome characterized by a clinically significant disturbance in an individual’s cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning;⁴⁵
- (j) Opioid abatement and opioid remediation.—“Opioid abatement” and “opioid

⁴² Jennifer J. Carroll, Traci C. Green, and Rita K. Noonan, *Evidence-Based Strategies for Preventing Opioid Overdose: What’s Working in the United States*, CTR. FOR DISEASE CONTROL AND PREVENTION (2018), [Evidence-Based Strategies for Preventing Opioid Overdose: What’s Working in the United States, 2018](#).

⁴³ D.C. CODE ANN. § 7-3211 (West 2025).

⁴⁴ *Infrastructure*, MERRIAM-WEBSTER.COM DICTIONARY (accessed Dec. 8, 2025), <https://www.merriam-webster.com/dictionary/infrastructure>.

⁴⁵ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC & STAT. MANUAL OF MENTAL DISORDERS, FIFTH EDITION, text rev., 2022.

remediation” mean care, evidence-based treatment, and other programs and expenditures, including reimbursement for past such programs or expenditures except where otherwise prohibited by federal or state law or any settlement agreement entered into between [state] and a manufacturer or distributor of prescription opioid analgesics, pharmacy that dispensed opioid analgesics, or other party involved in the litigation, designed to remediate alleged harms, including to:

- (1) Address the misuse and abuse of opioid products;
- (2) Treat or mitigate opioid use or related disorders; or
- (3) Mitigate other effects of, including on those injured as a result of, the opioid epidemic;⁴⁶

- (k) Opioid litigation.—“Opioid litigation” means any civil lawsuit, demand, or settlement, including any settlement in lieu of litigation, filed against any manufacturer, distributor, dispenser, pharmacy, or related entity or individual for any cause of action filed for the purpose of redressing the impact of the opioid epidemic to the state or any political subdivision;⁴⁷
- (l) Opioid litigation proceeds.—“Opioid litigation proceeds” or “proceeds” means all current or future base or incentive payments, damages, penalties, attorneys’ fees, costs, disbursements, refunds, rebates, or any other monetary payment, plus interest thereon, made or paid by any defendant [manufacturer or distributor of prescription opioid analgesics, pharmacy that dispensed prescription opioid analgesics, or related party], including through bankruptcy proceedings, to [state] or a participating subdivision thereof by reason of any judgment, consent decree, or settlement agreement, after payment of any costs or fees required by court order;
- (m) Opioid use disorder.—“Opioid use disorder” is a subset of substance use disorder that means a pattern of opioid use leading to clinically significant impairment or distress as manifested by symptoms identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) of the American Psychiatric Association or its successor;⁴⁸

⁴⁶ CVS Settlement Agreement at 8, In Re: National Prescription Opiate Litigation, Case No. 1:17-md-2804 (N.D. Ohio Feb. 3, 2023).

⁴⁷ IND. CODE ANN. § 4-6-15-1 (West 2025).

⁴⁸ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC & STAT. MANUAL OF MENTAL DISORDERS, FIFTH EDITION, text rev., 2022.

- (n) Participating subdivision.—“Participating subdivision” means a city, county, locality, or other political subdivision of [state] participating in the settlement agreements;⁴⁹
- (o) Prevention.—“Prevention” means a proactive process of helping individuals, families, and communities to develop the resources needed to develop and maintain healthy lifestyles and focuses upon the development of innovative evidence-based or evidence-informed programs and carefully planned interventions that are implemented before the onset of physical, psychological, emotional, or social problems and is intended to alleviate a wide range of at-risk behaviors;⁵⁰
- (p) Primary prevention.—“Primary prevention” means evidence-based or evidence-informed approaches that aim to prevent disease conditions from developing;⁵¹
- (q) Recovery.—“Recovery” means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential;⁵²
- (r) Settlement agreement.—“Settlement agreement” means a current or future agreement, including a consent judgment, consent decree, filed or unfiled, and related agreements or documents, including an approved bankruptcy plan, between this state or a political subdivision thereof and certain opioid manufacturers, distributors, pharmacies, dispensers, and related entities or individuals, to provide or allocate remuneration for actual or alleged conduct related to the manufacture, promotion, dispensing, sale, or distribution of opioid products;⁵³
- (s) Substance use disorder.—“Substance use disorder” means a pattern of use of alcohol or other substances leading to clinical or functional impairment that meets the applicable diagnostic criteria delineated in the Diagnostic and Statistical Manual of Mental Disorders (DSM–5-TR) of the American Psychiatric Association, or in any subsequent editions;⁵⁴

⁴⁹ CAL. GOV’T CODE § 12534 (West 2025).

⁵⁰ *Certified Prevention Specialist (CPS) Manual, Definition of Prevention*, TENN. CERTIFICATION BD. (updated Dec. 1, 2018), <https://irp-cdn.multiscreensite.com/ee7d847b/files/uploaded/120118%20CPS%20Manual%20DEC2018%20APPROVED.pdf>.

⁵¹ See Amanda D. Latimore, et al, *Primary, Secondary, and Tertiary Prevention of Substance Use Disorders through Socioecological Strategies*, NAT’L ACAD. OF MED. 1 (Sept. 6, 2023), <https://nam.edu/perspectives/primary-secondary-and-tertiary-prevention-of-substance-use-disorders-through-socioecological-strategies/>.

⁵² *SAMHSA’s Working Definition of Recovery*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. (Feb. 2012), <https://library.samhsa.gov/sites/default/files/pep12-recdef.pdf>.

⁵³ DEL. CODE ANN. tit. 16, § 4802B (West 2025).

⁵⁴ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC & STAT. MANUAL OF MENTAL DISORDERS, FIFTH EDITION, text rev., 2022.

- (t) Supplant.—“Supplant” means to reduce state or federal funding for substance use disorder abatement infrastructure, programs, services, supports, or resources specifically because opioid litigation proceeds are available, or expected to be available, to fund the same substance use disorder abatement infrastructure, programs, services, supports, or resources;⁵⁵
- (u) Supplement.—“Supplement” means to add funds to existing public or private funding for substance use disorder abatement infrastructure, programs, services, supports, or resources to enhance current public or private funding for such substance use disorder abatement infrastructure, program, service, support, or resource;⁵⁶ and
- (v) Treatment.—“Treatment” means an evidence-based practice or service to intervene upon, care for, manage, slow progression of, or support recovery from a substance use disorder or co-occurring mental health disorder. Treatment is individualized to address each person’s medical needs and includes, but is not limited to, screening for and diagnosing substance use disorders and co-occurring mental or physical health disorders, as well as pharmacological and non-pharmacological therapeutic interventions for substance use disorders and co-occurring mental health disorders.

Commentary

The terms defined in this section are primarily based on existing state laws and peer reviewed journal articles. These terms may already be defined under individual state laws in reference to other topics, and states are free to use those definitions in lieu of the definitions provided in this section. However, some of the definitions in this section may have been revised to better fit the needs and circumstances of this Act, and changes to such definitions may impact the effectiveness of the Act.

SECTION IV. [OPIOID LITIGATION PROCEEDS] FUND.

- (a) [Opioid litigation proceeds] fund established.—The [opioid litigation proceeds] fund (fund) is hereby established in the [state treasury].
- (b) Fund administration.—The fund shall operate as a dedicated, non-lapsing fund separate from the general fund to be administered by the [state treasurer]. The balance in the fund shall not be considered part of the balance of the general fund of the state.⁵⁷

⁵⁵ *Supplanting Guide Sheet*, OFF. OF JUST. PROGRAMS, TERRITORIES FIN. SUPPORT CTR. 1 (accessed Dec. 9, 2025), https://www.ojp.gov/tfsc/supplanting_guide_sheet_508.

⁵⁶ *Id.*

⁵⁷ IOWA CODE ANN. § 12.51 (West 2025).

- (c) Reversion of monies.—Monies deposited into the fund shall not revert to the general fund at the end of the fiscal year or at any other time.⁵⁸
- (d) Sub-funds or sub-accounts.—The [state treasurer/legislature] is authorized to create sub-funds or sub-accounts as may be required by a settlement agreement, judgment, verdict, court order, memorandum of understanding, or as may be necessary or appropriate to implement the provisions of this Act.
- (e) Credits to fund.—There shall be credited to the fund:
 - (1) Opioid litigation proceeds received by [state] from any source;
 - (2) Monies appropriated or transferred to the fund by the [legislature];
 - (3) Interest on monies in the fund;
 - (4) Investment income received on monies invested by the [state treasurer] on behalf of the fund; and
 - (5) Gifts, donations, grants, bequests, and any monies from any other source, public or private, received by the state on behalf of the fund.
- (f) Monies not credited to fund.—Opioid funds designated by any settlement agreement, judgment, verdict, court order, or memorandum of understanding to be distributed to participating subdivisions shall not be deposited into or credited to the fund but may be deposited into a separate fund, sub-fund, or sub-account created for that purpose.⁵⁹
- (g) Fund balance.—For purposes of this Act, the fund balance shall be determined as of [date] each year.
- (h) Prospective use.—Unless otherwise required by a settlement agreement, judgment, verdict, court order, or memorandum of understanding, monies in the fund shall be used for prospective purposes only and shall not be used to reimburse expenditures incurred prior to the effective date of this Act.
- (i) Allocation to participating subdivisions.—
 - (1) Opioid litigation proceeds shall be allocated and disbursed to participating subdivisions pursuant to the terms of a settlement agreement and/or a memorandum of understanding entered into between the state and the participating subdivisions.⁶⁰

⁵⁸ CONN. GEN. STAT. ANN. § 17a-674c (West 2025) and D.C. CODE ANN. § 7-3221 (West 2025).

⁵⁹ N.M. STAT. ANN. § 6-4-28 (West 2025).

⁶⁰ CONN. GEN. STAT. ANN. § 17a-674c (West 2025).

(2) The restriction in (i)(1) does not preclude nor limit the allocation and disbursement of opioid litigation proceeds for the benefit of individuals or programs within counties, cities, and other political subdivisions of the state that have not executed an agreement to participate in such settlement or do not adhere to the terms of such agreement.⁶¹

(3) If a participating subdivision's distribution is less than [\$1,000], the participating subdivision's distribution shall instead be allocated to the next largest participating subdivision in which the participating subdivision is located or, if none, to the state.⁶²

(4) Distributions under this subsection may be used only for purposes as set forth in the settlement agreement or memorandum of understanding entered into between the state and the participating subdivision, or pursuant to this Act.⁶³

(j) Disbursements.—

(1) Disbursements from the fund shall be made by the [state treasurer] upon approval of the council established in Section V.

(2) The [state treasurer] shall not:

(A) Make any disbursement without the approval of the council; or

(B) Refuse to make any disbursement approved by the council and allowable pursuant to this Act.

(3) Monies in the fund shall be used solely for the purposes set forth in Section VI to treat, prevent, or reduce opioid use disorder, the misuse of opioids, a co-occurring substance use or mental health disorder, or to otherwise abate or remediate the opioid epidemic, or for any other purpose approved by the council established in Section V, or a related settlement agreement, judgment, verdict, court order, memorandum of understanding, or as may be necessary or appropriate to implement the provisions of this Act.⁶⁴

(4) Monies in the fund and any sub-funds or sub-accounts may not, unless otherwise specifically permitted by a settlement agreement, judgment, verdict, court order,

⁶¹ CONN. GEN. STAT. ANN. § 17a-674c (West 2025).

⁶² IND. CODE ANN. § 4-6-15-4 (West 2025).

⁶³ IND. CODE ANN. § 4-6-15-4 (West 2025).

⁶⁴ VA. CODE ANN. § 2.2-2377 (West 2025).

memorandum of understanding, or this Act, be used to:

- (A) Reimburse expenditures that were incurred before the opioid litigation proceeds were received by the state;
- (B) Supplant or take the place of any funds that would otherwise have been expended for that purpose;⁶⁵ or
- (C) Fund any services, programs, or other activities whose primary purposes are not for primary prevention, evidence-based treatment, recovery, or overdose rescue and response including, but not limited to:
 - (i) The purchase of law enforcement equipment, including, but not limited to, vehicles, not primarily used for opioid remediation or abatement;
 - (ii) The construction or expansion of correctional facilities, jails, or prisons;
 - (iii) Fund general government operations or personnel whose primary job responsibilities are not related to opioid remediation or abatement; or
 - (iv) Fund capital expenditures unrelated to treatment, primary prevention, recovery, overdose rescue and response, or opioid remediation or abatement programs and services.
- (k) Investment.—The [state treasurer] shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.⁶⁶
- (l) Fund investigation.—The [state inspector general or other appropriate state official] may investigate and address allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, violations of a controlling settlement agreement or memorandum of understanding, or wrongdoing related to the fund, including any allegations related to the actions of the council created in Section V.⁶⁷
- (m) Audit.—Beginning [one year after the date this Act is enacted], and every year by [date] thereafter, the [state auditor/attorney general] shall conduct an audit of the fund and any sub-funds or sub-accounts.
 - (1) The audit shall include both financial and performance evaluation of funded

⁶⁵ UTAH CODE ANN. § 26B-5-211 (West 2025).

⁶⁶ IND. CODE ANN. § 4-12-16.2-7 (West 2025).

⁶⁷ S.C. CODE ANN. § 11-58-30 (2025).

programs to determine that expenditures are consistent with any controlling settlement agreement, judgment, verdict, court order, or memorandum of understanding.

- (2) The [state auditor/attorney general] shall provide a report of its findings to the opioid litigation proceeds council, the [legislature], and the governor.⁶⁸

Commentary

As of May 2026, only nine states (Alabama, Alaska, Arizona, Arkansas, Georgia, Hawaii, Louisiana, Ohio, and Wyoming), Guam, and Puerto Rico do not have a law or policy in place that creates a dedicated separate fund for opioid litigation proceeds.⁶⁹ This section, like the majority of existing state law, requires states to establish a dedicated, non-lapsing fund in which to deposit all opioid litigation proceeds received on behalf of the state, including all interest earned on such funds, monies appropriated or transferred to the fund by the legislature, investment income earned, and any other monies given to the state for the purpose of opioid abatement or remediation. The fund is separate from the state general fund in order to ensure that the proceeds are not commingled with monies in the state general fund.

Pursuant to the terms of the settlement agreements, only those political subdivisions of a state that join in the settlement agreements (*i.e.*, “participating subdivisions”) are entitled to receive a percentage of the opioid litigation proceeds paid out to that state. This section provides that opioid litigation proceeds allocated to those participating subdivisions are not included in the monies deposited into the fund but may be deposited into a sub-fund, a sub-account, or a separate fund created specifically for that purpose. It also provides that individuals and programs within a participating subdivision are still eligible to receive opioid litigation proceeds even if that political subdivision has opted out of the settlement agreement so that those individuals and programs are not penalized for the political subdivision’s decision not to participate. Additionally, it provides that if the allocation to a participating subdivision would be less than a certain amount (subsection (i)(3) recommends \$1,000 as anything less than that would likely not be cost effective for the political subdivision in question), the funds that would otherwise be disbursed to that participating subdivision will be disbursed to the next largest participating subdivision, *e.g.*, the county or parish in which the participating subdivision is located, or to the state if no such subdivision exists.

Working group members specifically mentioned that some political subdivisions are using funds in a manner that might not fall within the permissible uses set forth in the settlement agreements or memoranda of understanding or this Act, such as for purchasing new police cars and law enforcement equipment or paying the salaries of local officials (which is also an example of supplantation, a practice which is disallowed pursuant to the terms of this Act). Another issue mentioned by experts related to the use of settlement funds is the diversion of funds to state agencies. For example, Arizona allocated \$115 million in opioid litigation funds to

⁶⁸ S.C. CODE ANN. § 11.58-30 (2025).

⁶⁹ *Opioid Litigation Proceeds: Summary of State Laws*, LEGIS. ANALYSIS & PUB. POL’Y ASSN. 4 (Nov. 2025), [Opioid Litigation Proceeds Summary of State Laws](#).

the state’s department of corrections, rehabilitation, and reentry for “past and current department costs for care, treatment, programs, and other expenditures” for incarcerated individuals diagnosed with opioid use disorder and any co-occurring substance use or mental health disorder.⁷⁰ The experts argue that this type of allocation is used to “backfill” a shortfall in the state budget, an action that is not technically supplantation but still takes funds away from other organizations working in the substance use disorder arena. The Arizona attorney general sued to stop the transfers, alleging that they violated the terms of the opioid settlement agreements; however, a judge ruled that the disbursement could proceed.⁷¹ A subsequent audit of the department of corrections concluded that there are not any records to support the spending of nearly \$51 million of those funds for approved purposes, and the attorney general is once again considering a lawsuit against the governor and state legislators.⁷² Subsection (i)(4) prohibits distributions by participating subdivisions from being used for any purpose not approved by the controlling settlement agreement, verdict, judgment, court order, or memorandum of understanding.

This section recommends that the fund be administered by the state treasurer, whose duties are exclusively ministerial. Subsection (j)(2) provides that the treasurer cannot refuse to disburse funds as approved by the council created in Section V and cannot disburse funds not approved by the council.

Subsection (l) permits the state inspector general (or equivalent person) to investigate any allegations of fraud, waste, abuse, mismanagement, misconduct, and other wrongdoing related to the opioid litigation proceeds fund in order to ensure that the funds are being allocated and disbursed pursuant to any settlement agreement, judgment, verdict, court order, or memorandum of understanding, including any allegations of wrongdoing on the part of the council created in Section V.

Finally, subsection (m) requires the state auditor, or similar person (a working group member suggested the state attorney general, who might be in a better position to determine that expenditures are consistent with this Act), to conduct an annual audit of the fund and report the findings of such audits to the council, the legislature, and the governor. The results of the audit will also be posted to the dashboard created in Section VII. In addition to finding any indications of fraud, waste, or abuse, the auditor should also determine that expenditures from the fund, including any expenditures by participating subdivisions, were consistent with the controlling settlement agreement, judgment, verdict, court order, or memorandum of understanding.

SECTION V. [OPIOID LITIGATION PROCEEDS] COUNCIL.

(a) Establishment of council.—There is established an [opioid litigation proceeds] council

⁷⁰ Gloria Rebecca Gomez, Judge Allows AZ Opioid Settlement Money to Go to State Prisons, AZ Mirror (June 25, 2024, at 3:23 PM), <https://azmirror.com/briefs/judge-allows-az-opioid-settlement-money-to-go-to-state-prisons/>.

⁷¹ *Id.*

⁷² Howard Fischer, Arizona AG Considers Suing Governor, Lawmakers over Diversion of Opioid Funds, Tucson.com (updated June 4, 2026), https://tucson.com/news/state-regional/government-politics/article_55ae8cad-5b75-4e92-ac16-7b3e0b9e60af.html.

(council) which shall be housed within the [department of mental health/substance abuse services/health] for administrative purposes.

(b) Purpose.—The purpose of the council is to:

- (1) Review applications for awards and grants and oversee the disbursement of monies from the fund;
- (2) Ensure that such proceeds are used to treat, prevent, or reduce opioid use disorder, the misuse of opioids, co-occurring substance use or mental health disorders, or to otherwise abate or remediate the opioid epidemic, or for any other purpose approved by the council; and
- (3) Ensure robust public involvement, accountability, and transparency in allocating and accounting for the monies in the fund.

(c) Membership.—

- (1) The council shall be composed of [n] voting members and one non-voting ex-officio member. The [secretary/commissioner of mental health/substance abuse services/health] or his or her designee shall serve as the non-voting ex-officio member.
- (2) At a minimum, the council shall include the following members:
 - (A) [One (1)] member appointed by the attorney general;
 - (B) [One (1)] member appointed by the [president] of the senate;
 - (C) [One (1)] member appointed by the speaker of the [house of representatives];
 - (D) [Two (2)] members appointed by the [association of counties];
 - (E) [N] member(s) appointed by the [department of health];
 - (F) [N] member(s) appointed by the [department of mental health];
 - (G) [N] member(s) appointed by the [department of substance abuse services];
 - (H) [N] member(s) appointed by the [department of public safety];
 - (I) [N] member(s) appointed by a [local health department]; and
 - (J) [N] members of the public with lived experience of opioid use disorder or a co-occurring substance use or mental health disorder appointed by the governor or his or her designee.
- (3) Voting members must be residents of this state.
- (4) The council shall include:

- (A) One or more individuals with experience in providing primary prevention, evidence-based treatment, recovery services, and overdose rescue and response;
 - (B) To the extent practicable, one or more individuals with expertise, experience, or education in public health policy or research, medicine, mental health services, or public budgeting;
 - (C) Individuals with lived or living experience with substance use disorder, including family members of individuals who have, or decedents who had, a substance use disorder; and
 - (D) Representatives from all geographic regions of the state.
- (5) Members of the council shall be appointed within [30] days of the effective date of this Act.⁷³
- (6) Members of the council shall select one member to serve as chairperson.
- (d) Term of membership.—
- (1) Except as set forth in paragraph (2) below, each member of the council shall serve a staggered [three]-year term, with terms ending on [date] each year.
 - (2) To enable the staggering of terms, upon creation of the council:
 - (A) Members appointed pursuant to paragraphs (c)(2)(B), (E), (G), and (I) shall serve an initial [two]-year term;
 - (B) Members appointed pursuant to paragraphs (c)(2)(C), (D), (F), (H), and (J) shall serve an initial [one]-year term; and
 - (C) Members appointed pursuant to paragraph (c)(2)(A) shall serve an initial [three]-year term.
 - (3) No council member may serve more than [two] consecutive or non-consecutive terms.
- (e) Meetings.—
- (1) The council shall hold at least [four] public meetings per year.
 - (2) The first meeting shall be held within 60 days of the council’s creation or 30 days after all members have been appointed, whichever comes first.⁷⁴

⁷³ S.C. CODE ANN. § 11-58-70 (2025).

⁷⁴ *Id.*

- (3) Meetings may be called by the chairperson or by a majority of council members.
- (4) Members may attend meetings in person, remotely by audiovisual means, or by audio-only means.
- (5) The chairperson shall appoint a secretary to prepare written minutes covering all meetings and actions of the council which shall be maintained by the council and posted to the website created pursuant to this section.⁷⁵
- (6) Meetings shall comply with the open meeting requirements of [reference to state open meetings law] and the federal Americans with Disabilities Act.
- (7) The council shall publicize meetings and hold them in a manner reasonably designed to facilitate in-person and live-stream attendance by residents throughout the state and during which the council shall receive testimony and input from the community. The council shall also establish a process for the public to provide written comments and proposals at each meeting of the council.⁷⁶
- (8) Notwithstanding the open meeting requirements of [reference to state open meetings law], the council may meet in a closed executive session solely for the purposes of receiving legal advice, addressing a potential conflict of interest by a member, or discussing personnel-related issues, in addition to any other purposes allowed by [reference to state open meetings law].⁷⁷
- (f) Quorum.—A majority of the voting members of the council shall constitute a quorum for the transaction of business.
- (g) Voting.—If a quorum is present, then all actions of the council shall be taken by an affirmative vote of a majority of the members present at the meeting in person or remotely by audio or audiovisual means. Each voting member shall have one vote.
- (h) Compensation.—Each member of the council who is not an officer or employee of the state is entitled to receive a stipend of not more than [\$] for each day or portion of a day spent on the meetings of the council. Additionally, members may be reimbursed for their actual and necessary expenses incurred in carrying out their duties as members of the council pursuant to [reference to state law].

⁷⁵ TENN. CODE ANN. § 33-11-103 (West 2025).

⁷⁶ H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

⁷⁷ S.C. CODE ANN. § 11-58-70 (2025) and TENN. CODE ANN. § 33-11-103 (West 2025).

- (i) Vacancies.—In the event of a vacancy on the council, the vacancy shall be filled in the manner of the original appointment for the remainder of the term. For purposes of subsection (d), a partial term of more than [two] years shall be considered a full term.
- (j) Removal of members.—A council member may be removed by the appointing authority for failure to attend at least one-half of the scheduled meetings in any one-year period; a violation of subsection (n); or for unethical, dishonest, or bad faith conduct.
- (k) Powers and duties.—The council shall:
 - (1) Review local, state, and federal initiatives and activities related to primary prevention, treatment, recovery, overdose rescue and response, and other services for individuals and families experiencing and affected by opioid use disorder;
 - (2) Conduct, or cause to be conducted, a statewide evidence-based needs assessment at least every [three] years that includes, at a minimum, all of the following:
 - (A) A summary of current local, state, and federal funding used to address opioid use disorder and co-occurring substance use and mental health disorders;
 - (B) A discussion of how to prevent overdoses and prevent youth substance use;
 - (C) An analysis, based on quantitative and qualitative data, of the effects on this state of opioid use disorder and co-occurring substance use and mental health disorders; and
 - (D) A description of the most common risk and protective factors associated with opioid use disorder and co-occurring substance use and mental health disorders, including any demographic factors;
 - (3) Develop and publish, not later than one year after the effective date of this Act and every three years thereafter, a statewide opioid abatement strategy that shall:
 - (A) Identify statewide priorities for primary prevention, evidence-based treatment, recovery services, and overdose rescue and response;
 - (B) Identify geographic, demographic, and service gaps;
 - (C) Establish measurable goals and benchmarks;
 - (D) Describe how opioid litigation proceeds will be coordinated with other federal, state, local, and private funding streams addressing substance use disorder and related public health needs; and
 - (E) Identify opportunities to leverage opioid litigation proceeds to strengthen and

- sustain existing substance use disorder infrastructure;
- (4) Solicit feedback, in a manner and method established by the council, from stakeholders; local providers; advocates; individuals with lived experience with opioid use disorder, including individuals who have or are in recovery from an opioid use disorder and family members of individuals with an opioid use disorder; the academic community; individuals with expertise in areas related to substance use disorder; community groups; and members of the public regarding the services needed to prevent and treat opioid use disorder and co-occurring substance use and mental health disorders across the state;
 - (5) Establish goals related to addressing the opioid epidemic and determine baselines for each against which progress shall be monitored;
 - (6) Prepare and publish an annual list of priorities to address the state’s opioid epidemic and guide the selection of grant recipients;
 - (7) Develop and publish criteria and procedures for the submission of grant applications for opioid litigation proceeds;
 - (8) Publish the criteria and scoring rubric used to evaluate grant applications and make such criteria publicly available prior to the solicitation of applications;
 - (9) Review and evaluate applications based on established criteria to determine the most effective and impactful use of funds in addressing opioid-related issues;
 - (10) Ensure that all applications are reviewed and evaluated for compliance with the terms of a settlement agreement, judgment, verdict, court order, or memorandum of understanding;
 - (11) Submit a prioritized list of approved grantees to the [state treasurer] including the amount of the grant or award to be disbursed to each individual or entity;
 - (12) Authorize disbursements from the fund by awarding grants or awards, by directing the [state treasurer] to enter into contracts, or by distributing monies to state and local agencies and local governments to be administered as directed by the council;⁷⁸
 - (13) Oversee the expenditure of funds by the [state treasurer], awardees, and grantees to

⁷⁸ DEL. CODE ANN. tit. 16, § 5196B (West 2025).

ensure that authorized payments are used only for approved purposes, to facilitate accountability for their use, and to prevent fraud, waste, abuse, mismanagement, and misconduct;

- (14) Develop and recommend metrics, measures, and/or datasets to assess the progress and success of the infrastructure, programs, services, supports, and resources funded by opioid litigation proceeds;
- (15) Monitor recipient agreements authorized by Section VI and require each awardee or grantee to comply with the terms of the recipient agreement or reimburse the amount granted to the fund;
- (16) Review how opioid litigation proceeds have been spent and the results achieved from those disbursements;
- (17) Provide technical assistance to state and local governments on resolving or abating the opioid epidemic;
- (18) Contract for the services of consultants and other professional services to assist the council in the performance of its duties, including conducting a statewide needs assessment;
- (19) Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the council or otherwise in furtherance of the purposes of this Act;
- (20) Review, aggregate, and publish reports submitted to the council pursuant to Section VII;
- (21) Submit and publish council reports as required by Section VII;
- (22) Create and maintain a public website that includes:
 - (A) Council meeting attendance, agendas, and minutes;
 - (B) The governing principles, policies, and procedures developed pursuant to this section;
 - (C) A listing of awards and grants from the fund with the name of the recipient, amount awarded, date of award, and purpose of the grant;
 - (D) A listing of any awards, grants, or other expenditures from the fund, including the name of the recipient, the amount disbursed, the date of disbursement, and the purpose of the disbursement, that do not fall within the permitted

- expenditures set forth in the national opioid litigation settlement agreement;
- (E) A [quarterly] listing of the amount spent on administration of the fund;
- (F) The annual reports required by this Act; and
- (G) A confidential mechanism for the reporting of potential ethical violations by council members.
- (23) Adopt procedures and policies for the disqualification of a council member who has a conflict of interest and/or the removal of a council member who fails or refuses to disclose a conflict of interest and recuse himself or herself from participating in the review, discussion, deliberation, or vote on an application for an award under this Act when the council member has a conflict of interest;
- (24) Provide an ongoing training mechanism for council members related to identifying and disclosing conflicts of interest and a method by which to receive guidance related to potential conflicts of interest;
- (25) Adopt necessary procedures and policies to effectuate the purposes of this Act; and
- (26) Take any other actions the council deems appropriate to inform its decisions, with the purpose of promoting the equitable and efficient distribution of opioid litigation proceeds, including the distribution of funds using evidence-based and evidence-informed practices and strategies.⁷⁹
- (l) Administrative assistance.—The [department of mental health/substance abuse services/health] shall provide any necessary staff, resources, technical assistance, and administrative support to assist the council in the performance of its duties. Such assistance shall be in accordance with any settlement agreement, judgment, verdict, court order, or memorandum of understanding. Administrative operations may include, but are not limited to, finance, human resources, procurement, clerical, and associated support services.⁸⁰
- (m) Legal services.—The [attorney general] shall designate an attorney within the [office of the attorney general] to attend all council meetings, to provide all necessary legal services

⁷⁹ D.C. CODE ANN. § 7-3213 (West 2025); FLA. STAT. ANN. § 397.335 (West 2025); MICH. COMP. LAWS ANN. § 4.1851 (West 2025); MISS. CODE ANN. § 41-153-1 (West 2025); N.J. STAT. ANN. § 26:2G-40 (West 2025); S.C. CODE ANN. § 11-58-70 (2025); TEX. GOV'T CODE ANN. § 403.509 (West 2025); VA. CODE ANN. § 2.2-2369 (West 2025).

⁸⁰ S.C. CODE ANN. § 11-58-80 (2025).

to the council, to ensure that monies within the fund are spent only on approved abatement strategies, and to ensure that the council complies with all applicable laws, settlement agreements, judgments, verdicts, court orders, and memoranda of understanding.⁸¹

(n) Conflicts of interest.—

(1) A council member shall disclose a conflict of interest and recuse himself or herself from participating in the review, discussion, deliberation, or vote on an application for an award under this Act if the council member knows that the council member, an immediate family member, or a member of the council member's household has a professional or financial interest in an entity that is directly receiving or applying to receive money from the fund.⁸²

(2) Notwithstanding paragraph (1) of this subsection or any other law to the contrary, it is not a conflict of interest for a trustee, director, officer, or employee of an organization, or for any person having a financial interest in such organization, to serve as a member of the council, provided such person shall disclose such position or interest to all other members of the council and abstain from deliberation, action, and vote by the council that specifically concerns the organization of which such member is a trustee, director, officer, or employee, or in which such member has a financial interest.⁸³

(3) Failure to disclose a conflict of interest may result in the council member's removal from the council.

(o) Council termination.—The council shall terminate when all opioid litigation proceeds have been received and disbursed, unless the [attorney general] certifies that additional funds are anticipated within one year.⁸⁴

Commentary

This section establishes an opioid litigation proceeds council to oversee and approve disbursements from the fund. The drafters suggest that the council be housed within either the state department of mental health, the department of substance abuse services, or the department of health, or a similar agency for administrative purposes as those agencies will be in the best

⁸¹ S.C. CODE ANN. § 11-58-80 (2025).

⁸² TEX. GOVT. CODE ANN. § 403.5041 (West 2025).

⁸³ CONN. GEN. STAT. ANN. § 17a-674d (West 2025) and MINN. STAT. ANN. § 256.042 (West 2025).

⁸⁴ MISS. CODE ANN. § 41-153-1 (West 2025).

position to provide the public health expertise needed to provide administrative assistance to the council as required by subsection (I).

The Act proposes that council member appointments are made across multiple branches of government to ensure that no single branch of government has sole control over the selection of council members. Additionally, an association of counties or similar group is granted the power to appoint members to ensure that counties have adequate representation.⁸⁵ Some states may choose to insert alternative language (e.g., municipal league) or take a different approach, given that not all states are made up of counties or have associations of counties.⁸⁶ Although participating subdivisions, including counties (or the state equivalent), are granted a specific percentage of opioid litigation proceeds pursuant to the terms of a settlement agreement or memorandum of understanding, enacting legislatures should consider ways to include individuals on the council who represent participating subdivisions in a way that limits administrative expenses and the risk of an over-allocation of monies from the fund being disbursed to the state's population centers. States should also refer to the opioid litigation settlement agreements which may have specific requirements for council membership.⁸⁷

Pursuant to the provisions of subsection (c), the council is also made up of members who represent various state agencies, including the department that oversees SUD services within the state, and at least one member of the public with lived experience who can monitor, review, and evaluation programs and services and advocate for individuals with OUD and co-occurring substance use and mental health disorders across the state. SUDs have far-reaching impacts on society, and viewpoints on how best to mitigate their effects can vary widely. As such, this Act requires that the council be composed of a diverse body of individuals with varying expertise and experience. It does not include a specific number of council members; however, membership size should be sufficient to satisfy the different levels of expertise needed. States should bear in mind that very large groups could create a situation where there is a lack of efficiency or a high rate of membership turnover.

A working group member referenced the Ryan White Planning Councils and suggested that it might be a good model for including individuals with lived/living experience on the council. The working group member also suggested that it might be beneficial to the council to include an individual with lived experience as co-chair.

Seventeen states and the Northern Mariana Islands have laws that create a separate governing body, council, or committee whose duties include approving disbursements from settlement proceeds. An additional seventeen states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands have a governing body, council, or committee, but that body can only make recommendations regarding disbursements rather than actually approving such disbursements.⁸⁸ This Act follows the lead of the first group of states whose governing body

⁸⁵ State associations of counties are professional organizations that support county officials and represent, promote, and protect the interests of counties within the state.

⁸⁶ COUNTY EXECUTIVES OF AMERICA, [County Executives of America](#) (last visited Jan. 20, 2026).

⁸⁷ See, e.g., *Distributors Settlement Agreement*, NATIONALOPIOIDSETTLEMENT.COM 33 (March 25, 2022), <https://nationalopioidsettlement.com/distributor-janssen-settlement-documents/>.

⁸⁸ LEGIS. ANALYSIS & PUB. POL'Y ASS'N, *supra* note 64.

must approve disbursements in order to streamline the process and prevent undue delays in deciding how monies are distributed. It leaves the decision-making process in the hands of the individuals with the requisite professional expertise and knowledge of the application process, the applications received, the needs of the state, and how best to meet those needs.

Subsection (e) sets forth the meeting requirements for the council, including a requirement that the council meet a specific number of times per year. The drafters recommend that the council meet at least four times (*e.g.*, quarterly) per year. Additional meetings can be held at the call of the chairperson or a majority of the members. The minimum number of meetings should be frequent enough to adapt to changing needs or circumstances but should not burden council members. With certain limited exceptions set forth in this subsection, meetings must be open to the public, and the council must have a mechanism through which they can accept comments and questions from members of the public.

Subsection (h) provides that council members who are not officers or employees of the state are entitled to receive a stipend for each day or part of a day spent on council meetings. Most states with laws in place establishing an advisory council or similar body prohibit members from receiving compensation while permitting reimbursement of expenses.⁸⁹ A ban on compensation potentially serves as a barrier to diversifying membership by discouraging participation by individuals whose expertise is their lived experience, are from lower socio-economic backgrounds, or represent communities severely impacted by SUD. Additionally, the council is required to undertake a significant amount of work under the provisions of subsection (k). Therefore, states should consider providing compensation for time spent on council activities, including preparing for and participating in council meetings.

The extensive list of powers and duties in subsection (k) were taken from a variety of existing state laws and cover activities such as creating a grant and application process for the disbursement of funds to individuals and entities in the state for opioid abatement and remediation purposes. It also includes such things as conducting a needs assessment to determine the needs of the state and reviewing, compiling, and submitting the reports required by this Act. A working group member suggested that states also create a list of non-allowable uses, such as building correctional facilities and similar projects, to ensure that opioid litigation proceeds are used for their intended purposes.

Several state advisory bodies and independent evaluations of opioid settlement spending have recommended dedicating a portion of funding to community-based and peer-led organizations. These organizations often provide recovery support services, and overdose rescue and response services that may not be available through larger institutional providers. However, smaller organizations may face barriers in accessing competitive grant programs due to limited administrative capacity. States may wish to consider mechanisms such as technical assistance, simplified grant processes, or targeted funding opportunities to ensure community-based and peer-led organizations are able to participate in settlement-funded initiatives.

⁸⁹ See, LEGIS. ANALYSIS & PUB. POL’Y ASS’N, *supra* note 64.

SECTION VI. DISBURSEMENTS FROM FUND.

- (a) In general.—The [state treasurer] shall disburse monies from the fund in a manner consistent with this Act or in any settlement agreement, judgment, verdict, court order, or memorandum of understanding, or as may be necessary or appropriate to implement the provisions of this Act.
- (b) Exceptions.—
- (1) In the event a settlement agreement, judgment, verdict, court order, or memorandum of understanding permits expenditures outside of those authorized by this Act, the council shall adhere to the limitations on the use of monies as set forth in this Act.
 - (2) In the event this Act permits expenditures other than or in excess of those authorized in a settlement agreement, judgment, verdict, court order, or memorandum of understanding, the council shall adhere to the limitations on the use of opioid litigation proceeds as set forth in such settlement agreement, court order, judgment, verdict, memorandum of understanding, or other official document.
- (c) Anti-supplantation.—Monies disbursed from the fund shall be supplemental to, and shall not supplant any other funds including, but not limited to, insurance benefits or local, state, or federal funding that would otherwise have been expended for such purposes.⁹⁰ A reduction in state funding for recipients of opioid litigation proceeds funds within two fiscal years following receipt of such funds shall be presumed to constitute supplantation unless the state demonstrates otherwise.
- (d) Grant requirements.—
- (1) The council shall develop, publicize, solicit, and accept applications for grants or awards from the fund.⁹¹
 - (2) The recipient of a grant may use not more than [n] percent of opioid litigation proceeds received for administrative expenses related to the grant or the projects supported by the grant.⁹²
 - (3) Each recipient of monies from the fund shall submit an annual certification that the recipient used the monies consistent with the requirements of this Act and shall

⁹⁰ CONN. GEN. STAT. ANN. § 17a-674c (West 2025).

⁹¹ NEV. REV. STAT. ANN. § 433.740 (West 2025).

⁹² DEL. CODE ANN. tit. 16, § 5196B (West 2025).

include such certification with the reports required by Section VII.⁹³

(4) If the council does not approve a grant or funding to a state or local agency or local government, the council shall provide a written explanation of the decision, and the applicant may be offered the opportunity to revise and resubmit the application.⁹⁴

(5) To promote program stability and workforce development, the council may authorize grants or awards for multiple fiscal years when the council determines that longer-term funding is necessary to implement or sustain effective programs or services.

(e) Limitations on disbursements.—

(1) No more than [n] percent of the fund balance may be spent on administrative costs per fiscal year.⁹⁵

(2) Annually, a portion of the monies in the fund shall be allocated to the dashboard created pursuant to Section VII to collect, analyze, and publish data about the efficacy of primary prevention, evidence-based treatment, recovery services, and overdose rescue and response statewide.⁹⁶

(f) Eligible recipients.—The following entities are eligible to apply for and receive monies from the fund for infrastructure, programs, services, supports, and resources for primary prevention, evidence-based treatment, recovery, and overdose rescue and response:

(1) Governmental entities;

(2) Non-profit non-governmental entities;⁹⁷ and

(3) Federally recognized tribal governments and tribal organizations located within the state that are not participating in, or eligible for grants or awards from, the tribal settlement.

(g) Permissible uses.—Monies in the fund shall be allocated for funding statewide, regional, and local infrastructure, programs, services, supports, and resources that engage in, or propose to engage in, activities identified in a settlement agreement, judgment, verdict, court order, memorandum of understanding, or this Act as permissible expenditures. If an

⁹³ KY. REV. STAT. ANN. § 15.293 (West 2025).

⁹⁴ DEL. CODE ANN. tit. 16, § 5196B (West 2025).

⁹⁵ H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

⁹⁶ H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

⁹⁷ CONN. GEN. STAT. ANN. § 17a-674c (West 2025).

activity funded pursuant to this Act serves multiple purposes, only the portion of the cost reasonably attributable to opioid abatement or remediation may be paid from the fund.

Permissible expenditures include, but are not limited to:

- (1) Primary prevention, evidence-based treatment, recovery services, overdose rescue and response, and programs that use evidence-based or evidence-informed strategies to:
 - (A) Provide evidence-based treatment for opioid use disorder and/or any co-occurring or poly-substance use or mental health disorders;
 - (B) Support early intervention, evidence-based treatment, recovery services, and overdose rescue and response provided to individuals with opioid use disorder or co-occurring substance use or mental health disorders or who have experienced an overdose;
 - (C) Support individuals in recovery from opioid use disorder and any co-occurring substance use or mental health disorders;
 - (D) Support evidence-based withdrawal management and detoxification services including medical detoxification, referral to evidence-based treatment, or connections to other services;
 - (E) Expand access to indicated prevention of and early intervention for individuals at risk of opioid use disorder and co-occurring substance use or mental health disorders;
 - (F) Provide connections to care for individuals who have or are at risk of developing opioid use disorder and any co-occurring substance use or mental health disorders;
 - (G) Reduce initiation and risk of substance use by school-aged children, and prevent opioid use disorder and co-occurring substance use or mental health disorders, through evidence-based and evidence-informed youth-focused public health education and primary prevention campaigns, including school-based primary prevention and healthcare services and programs, to promote protective factors;
 - (H) Support crisis stabilization centers that serve as an alternative to hospital emergency departments for individuals with opioid use disorder and any co-

- occurring substance use or mental health disorders or individuals that have experienced an overdose;
- (I) Address the needs of and increase access to evidence-based treatment for individuals with opioid use disorder and any co-occurring substance use or mental health disorders who are involved in, at risk of becoming involved in, or in transition from the criminal justice system;
 - (J) Provide early intervention, evidence-based treatment, recovery services, support, and overdose rescue and response for women who are pregnant, may become pregnant, or who are parenting and have opioid use disorder or a co-occurring substance use or mental health disorder, and the needs of their families, including babies with neonatal abstinence syndrome;
 - (K) Support efforts to discourage or prevent misuse of opioids;
 - (L) Support efforts to prevent or reduce overdose deaths or other opioid-related harms;
 - (M) Provide training on evidence-based medication-assisted treatment and overdose rescue and response for healthcare providers, students, or other supporting professionals;
 - (N) Provide evidence-based treatment for mental health trauma issues resulting from the traumatic experiences of opioid users or their family members;
- (2) Programs to provide access to opioid-abatement-related housing including recovery housing;
 - (3) Programs to provide or support transportation to treatment or recovery programs or services;
 - (4) Programs that provide employment training or educational services for individuals in treatment or recovery;
 - (5) Programs that provide mobile intervention, evidence-based treatment, recovery, and overdose rescue and response services, offered by qualified professionals, for individuals with opioid use disorder and any co-occurring substance use or mental health disorders or individuals who have experienced an overdose, including the prevention and/or treatment of secondary physical health conditions associated with, or exacerbated by, opioid use disorder;

- (6) Programs that provide scholarships and support for certified addiction counselors and other licensed mental and behavioral health professionals including training scholarships, fellowships, loan repayment programs, or incentives for providers to work in rural or underserved areas of the state;
- (7) Programs and activities that support the development, training, and retention of the substance use disorder workforce, including peer recovery specialists, community health workers, addiction medicine providers, behavioral health professionals, and other professionals providing primary prevention, evidence-based treatment, recovery services, and overdose rescue and response;
- (8) Programs that support leadership development, civic engagement, and workforce development among individuals with lived experience of substance use disorder, including programs that build capacity for peer leadership, recovery community organizations, and community-based initiatives addressing opioid use disorder and co-occurring substance use or mental health disorders;
- (9) Programs to educate law enforcement and other first responders regarding appropriate practices and precautions when dealing with users of fentanyl or other opioids;
- (10) Programs to provide wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events;
- (11) Programs that provide public education about opioids or opioid disposal;
- (12) Programs to support efforts to provide leadership, planning, coordination, facilitation, training, and technical assistance to abate or mitigate the opioid epidemic through activities, programs, or strategies;
- (13) Programs that support treatment and recovery courts for individuals with opioid use disorder and any co-occurring substance use or mental health disorders, but only if they provide referrals to evidence-based treatment;
- (14) Infrastructure required for evidence-based or evidence-informed primary prevention, evidence-based treatment, recovery, or overdose rescue and response activities, practices, programs, services, supports, and strategies, including evidence-informed pilot programs or demonstration studies;
- (15) Evaluations of effectiveness, outcomes, and impact for activities, practices,

- programs, services, supports, and strategies for opioid use disorder and co-occurring substance use or mental health disorders for which monies from the fund were disbursed, such as the impact on access to primary prevention, evidence-based treatment, recovery, and overdose rescue and response services;
- (16) Funding to support opioid abatement research including, but not limited to, development of evidence-based treatment, barriers to evidence-based treatment, non-opioid treatment of chronic pain, and mitigating risk; and
- (17) Any other programs, activities, services, or supports permitted by the opioid litigation settlement agreements.⁹⁸
- (h) Technical assistance and accessibility of funding opportunities.—The council shall take steps to ensure that community-based and peer-led organizations are able to participate in funding opportunities supported by the fund. Such steps may include, but are not limited to:
- (1) Providing technical assistance to potential applicants;
 - (2) Offering informational sessions or other application guidance; and
 - (3) Developing simplified application processes for smaller grants.
- (i) Award considerations.—In making its decisions regarding awards or grants to applicants, the council shall consider:
- (1) The goals and priorities established by the council;
 - (2) The need for and current availability of services in the area to be served by the awardee or grantee as evidenced by the results of the needs assessment;
 - (3) Overdose mortality, evidence-based treatment access gaps, socioeconomic barriers, and other indicators of unmet needs;
 - (4) Geographic distribution of opioid-related harms and access to services across the state;
 - (5) The council’s ongoing evaluation of the efficacy of the funding allocations;
 - (6) Evidence-based and evidence-informed strategies and best practices;
 - (7) The sustainability of programming after grant funds are exhausted;

⁹⁸ CONN. GEN. STAT. ANN. § 17a-674c (West 2025); D.C. CODE ANN. § 7-3221 (West 2025); KY. REV. STAT. ANN. § 15.291 (West 2025); N.H. REV. STAT. ANN. § 126-A:86 (West 2025); NY MENTAL HYG. LAW § 25.18 (McKinney 2025); H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

- (8) Input the council receives from the public; and
- (9) The terms of the opioid litigation settlement agreements.⁹⁹
- (j) Recipient capabilities.—Before authorizing disbursements from the fund to an awardee or grantee, the council may require that the recipient have, or have the ability to obtain, the appropriate financial, material, equipment, facility, and personnel resources and expertise necessary to indicate its ability to meet all requirements established by the council and a record of satisfactory performance.¹⁰⁰
- (k) Recipient agreements.—Application requirements adopted by the council shall include the requirement that a recipient of monies from the fund enter into one or more agreements with the council that:
 - (1) Are enforceable as contracts;
 - (2) May impose restrictions on the appropriate use of funds and penalties for the misuse of such funds; and
 - (3) May impose payment, purchasing, accounting, auditing, record keeping, performance and financial reporting, and compliance requirements, as long as such requirements are not overly burdensome.¹⁰¹
- (l) Compliance and corrective action.—The council shall establish procedures to ensure that recipients use funds consistent with the terms of any settlement agreement, judgment, verdict, court order, or memorandum of understanding.
 - (1) If the council identifies a material violation of permissible use requirements, the council shall first provide the recipient an opportunity to correct the violation or bring the expenditure into compliance.
 - (2) The council may require repayment of funds in cases of intentional misuse of funds, fraud, or upon identifying a pattern of material non-compliance.
- (m) Recipient merger, dissolution, or closure.—In the event a recipient of monies from the fund merges, dissolves, or ceases to exist, any remaining allocations of an awarded opioid grant award in excess of [\$] shall be reallocated equitably based on the composition of

⁹⁹ KAN. STAT. ANN. § 75-778 (West 2025); OKLA. STAT. ANN. tit. 74, § 30.8 (West 2025); H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

¹⁰⁰ S.C. CODE ANN. § 11-58-70 (2025).

¹⁰¹ *Id.*

the successor eligible recipient or recipients.¹⁰²

- (n) Council oversight.—Council members may inspect, audit, and examine any individual or entity receiving monies from the fund.¹⁰³

Commentary

This section sets forth the requirements for making disbursements from the fund, including who is eligible to receive monies from the fund, the methods by which monies can be disbursed (via a grant, award, pursuant to the terms of a contract, or directly to a state or local government agency), and a requirement that disbursements supplement and not supplant funding already in place for a particular program or service. This provision – set out in subsection (c) – is particularly important at the time of drafting this Act as a great number of programs, services, supports, and resources have lost federal funding.

If a settlement agreement and this Act are in conflict, subsection (b) delineates which document controls in a particular circumstance. While the drafters have tried to adhere to the requirements of the opioid litigation settlement agreements related to disbursements and allocations from opioid litigation proceeds, some discrepancies may arise. Subsection (b) is intended to resolve any such inconsistencies.

Subsection (g) includes a list of permissible expenditures for opioid litigation proceeds. The Act and the opioid litigation settlement agreements permit opioid litigation proceeds to be spent on evidence-based and evidence-informed OUD and co-occurring substance use and mental health disorders prevention, treatment, or recovery infrastructure, programs, services, supports, and resources. In addition to the list included in subsection (g), each of the opioid litigation settlement agreements includes an exhibit that sets forth the allowable expenditures from opioid litigation proceeds.¹⁰⁴ A coalition of organizations from 40 states released the third National Roadmap for Opioid Settlement Funds (Roadmap) which provides an updated list of funding priorities and prohibited uses for opioid litigation proceeds.¹⁰⁵ These priorities include increasing “access to the proven, comprehensive services that reduce the harms of drug use and prevent overdose....”¹⁰⁶ It also specifically recommends that opioid litigation proceeds not be used for “initiatives that only perpetuate criminalization, support police, or invest in jails.”¹⁰⁷ The Roadmap cites several recent examples of such spending, including the purchase of “body cameras, tasers, handguns, ammunition, K9 units, police cruisers ... drone systems and license plate reader cameras.”¹⁰⁸ Funds are also being used to pay overtime for police officers.¹⁰⁹ While these disbursements do not logically fall within the permissible expenditures in the opioid

¹⁰² Ok. Stat. Ann. tit. 74, § 30.8 (West 2025).

¹⁰³ S.C. Code Ann. § 11-58-70 (2025).

¹⁰⁴ See, e.g., *Distributor Settlement Agreement*, NATIONALOPIOIDSETTLEMENT.COM, E-1 (March 25, 2022), <https://nationalopioidsettlement.com/distributor-janssen-settlement-documents/>.

¹⁰⁵ *A National Roadmap for Spending Opioid Settlement Funds in 2026: Supporting Communities & Ending the Overdose Crisis*, OPIOIDSETTLEMENTROADMAP.ORG (Jan. 15, 2026), <https://populardemocracyinaction.org/wp-content/uploads/2026/01/EMBARGOED-Final.-Design-National-Roadmap-for-Spending-Opioid-2026.pdf>.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

litigation settlement agreements, neither are they expressly prohibited as long as the allocations are reported to the settlement fund administrator and made available to the public as required by the settlement agreement.¹¹⁰ Funding for law enforcement generally far exceeds funding for public health, including infrastructure, programs, services, supports, and resources needed to abate the opioid epidemic in states.¹¹¹ Therefore, states should strive to ensure that funds are disbursed only for evidence-based and evidence-informed primary prevention, evidence-based treatment, recovery, and overdose rescue and response purposes.

Subsection (e) limits the use of opioid litigation proceeds for administrative purposes to a certain percentage of monies in the fund, which includes the cost of creating and maintaining the dashboard required by Section VII. The October 2021 published version of this Act recommended that administrative costs be limited to eight percent of the fund’s annual balance as that figure was in line with the indirect cost limitations in certain federal grants at the time this Act was initially published.¹¹² Oregon law, by contrast, limits administrative expenses to five percent of monies in the fund.¹¹³ In determining an appropriate limitation under this subsection, states should refer to the legal documents governing their participation in the opioid litigation settlements and strive to keep overhead costs as low as possible to ensure that the majority of opioid litigation proceeds are spent on opioid abatement and remediation infrastructure, programs, services, supports, and resources.

Subsection (j) requires the council to enter into recipient agreements with individuals and entities in receipt of opioid litigation proceeds to ensure that monies are spent in compliance with this Act and any settlement agreement, judgment, verdict, court order, or memorandum of understanding. It also permits, in subsection (l), council members to conduct oversight of fund recipients.

SECTION VII. REPORTING AND FUND DASHBOARD.

(a) [State treasurer].—Beginning [date] and annually by that date thereafter, the [state treasurer] shall prepare and submit a report to the governor, the [legislature], and the council that includes, at a minimum, each of the following:

(1) The opening and closing balance of the fund for the preceding reporting period and

¹¹⁰ See, e.g., *Distributor Settlement Agreement*, NATIONALOPIOIDSETTLEMENT.COM (March 25, 2022), <https://nationalopioidsettlement.com/distributor-janssen-settlement-documents/>.

¹¹¹ See, e.g., Ella Fassler, *10 Largest US Cities Will Spend More on the Police than Public Health This Year*, TRUTHOUT (Feb. 24, 2021), <https://truthout.org/articles/10-largest-us-cities-will-spend-more-on-police-than-public-health-this-year/#:~:text=Other%20studies%20have%20uncovered%20similar,be%20responsible%20for%20criminalized%20behaviors.>

¹¹² See, e.g., *FY 2021 Grants to Prevent Prescription Drug/Opioid Overdose-related Deaths*, U.S. DEP’T OF HEALTH AND HUM. SERVS., SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN. (2021), <https://www.samhsa.gov/sites/default/files/grants/pdf/fy-2021-pdo-foa.pdf> and NEV. REV. STAT. ANN. § 433.740 (West 2025).

¹¹³ H.B. 4098, Ch. 63, 81st Leg. Assemb. (Or. 2022).

- the total amount of opioid litigation proceeds received by the state to date;
- (2) An inventory of fund investments for the preceding reporting period;
 - (3) The net income earned by the fund for the preceding reporting period;
 - (4) The dollar amount and percentage of the fund balance expended for expenses related to administering and staffing the fund and council during the preceding reporting period; and
 - (5) The dollar amount and percentage of the fund balance expended for expenses associated with managing, investing, and disbursing monies in the fund during the preceding reporting period.¹¹⁴
- (b) Council.—Beginning [date] and annually by that date thereafter, the council shall prepare a written report to be provided to the governor and the [legislature/legislative committees] that includes, at a minimum, the following information:
- (1) A listing of all applications received for awards and grants of monies from the fund;
 - (2) The name and a description of each awardee or grantee that received monies from the fund, the amount disbursed to each such awardee or grantee, and the date of each disbursement;
 - (3) The total amount of monies obligated but not yet expended and the name and description of each recipient of such obligated funds, the amount to be disbursed, and the date of the expected disbursement;
 - (4) A description of the intended use of each award or grant from the fund, including the specific activity, practice, program, service, support, strategy, or resource funded; the population served; and the measures that the recipient will use to assess the impact of the award;
 - (5) The primary criteria used to select each awardee or grantee and its respective award or grant amount;
 - (6) A certification that the monies disbursed from the fund supplemented and did not supplant or replace any existing or future local, state, or federal government funding;
 - (7) The performance indicators and progress toward achieving the goals and objectives

¹¹⁴ CONN. GEN. STAT. ANN. § 17a-674c (West 2025) and D.C. CODE ANN. § 7-3221 (West 2025).

- developed by the council in Section V, such as metrics on improving outcomes and reducing mortality and other harms related to opioid use disorder and co-occurring substance use and mental health disorders;
- (8) An aggregated summary of reports received from awardees, grantees, and participating subdivisions pursuant to this section;
 - (9) A description of any finding or concern as to whether all opioid litigation proceeds disbursed from the fund violated any provision of this Act; and
 - (10) The dollar amount and percentage of fund balance incurred for expenses of administering and staffing the fund and the council during the reporting period, including indirect rates and direct service costs, if any.¹¹⁵
- (c) Participating subdivisions.—Beginning within one year of the date a participating subdivision receives its first distribution of opioid litigation proceeds and by [date] annually thereafter until the total of such monies received by the participating subdivision has been expended, a participating subdivision shall submit a report to the council that includes, at a minimum:
- (1) The amount of opioid litigation proceeds received during the reporting period and the total received to date;
 - (2) The amount of opioid litigation proceeds disbursed or applied during the previous year, broken down by categories of approved uses, and including a description of the intended use of each disbursement, including the specific activity, practice, program, service, support, strategy, or resource funded and the population served; and
 - (3) Performance indicators and progress toward achieving the goals and objectives developed by the council in Section V.¹¹⁶
- (d) Recipients.—Beginning within one year of the date an individual or entity receives a disbursement from the fund and annually by that date thereafter until the total of such monies received by the individual or entity has been expended, a recipient shall submit a report to the council that includes, at a minimum:

¹¹⁵ CONN. GEN. STAT. ANN. § 17a-674f (West 2025); D.C. CODE ANN. § 7-3221 (West 2025); MD. CODE ANN., STATE FIN. & PROC. § 7-331 (West 2025); and UTAH CODE ANN. § 26b-5-211 (West 2025).

¹¹⁶ W. VA. CODE ANN. § 5-31-5 (West 2025).

- (1) An accounting of all opioid litigation proceeds received;
 - (2) The number of individuals served, delineated by race, age, gender, and any other relevant demographic factor, which shall be reported in a deidentified manner;
 - (3) The measures that were used to determine whether the specific activity, practice, program, service, support, strategy, or resource funded achieved the intended outcomes;
 - (4) If applicable, any information required to be submitted to the council under applicable law, contract, or other agreement;
 - (5) The percentage of total funds received by the individual or entity that were used to promote evidence-based treatment services, recovery support services, primary prevention, overdose rescue and response, criminal justice, recovery housing, legal support, education, or job training; and
 - (6) If a plan to ensure the sustainability of the infrastructure, program, service, support, or resources funded exists, a summary of such plan.¹¹⁷
- (e) [State inspector general].—Beginning [date] and annually by that date thereafter, the [state inspector general] shall provide a report to the council, the [legislature], and the governor that includes, at a minimum:
- (1) The number of complaints of fraud, misuse, mismanagement, misconduct, or wrongdoing related to opioid litigation proceeds received by the [state inspector general]’s office;
 - (2) The number of investigations initiated as a result of such complaints and the dispositions of such investigations; and
 - (3) Any actions taken as a result of an investigation.¹¹⁸
- (f) Public posting.—The reports submitted pursuant to this section shall be made publicly available on the council website created pursuant to Section V.
- (g) Dashboard.—
- (1) Within [six] months of the date this Act is enacted, the [state treasurer] shall develop and maintain an interactive dashboard on fund spending for the purpose of sharing information with the public.

¹¹⁷ CONN. GEN. STAT. ANN. § 17a-674d (West 2025) and UTAH CODE ANN. § 26b-5-211 (West 2025).

¹¹⁸ MD. CODE ANN., STATE FIN. & PROC. § 7-331 (West 2025).

- (2) The dashboard shall include, disaggregated by state and participating subdivisions:
- (A) Payment schedule information on estimated payments to the state and participating subdivisions from opioid litigation;
 - (B) The fund balance as determined pursuant to Section IV(g) each year;
 - (C) Detailed information on how opioid litigation proceeds are being spent, including information on how opioid litigation proceeds were spent prior to the date this Act is enacted;
 - (D) Spending plans and priorities; and
 - (E) A detailed description of any initiative funded with opioid settlement funds, including performance measures, if applicable.
- (3) If there is a state, county, or municipal website that provides access to additional information on the use of opioid litigation proceeds by the state, county, or municipality, the dashboard shall include a link to such website.
- (4) To the extent practicable, the dashboard shall use existing platforms that provide data on opioid use and overdoses in the state.
- (5) The dashboard shall be developed and maintained using monies from the fund.¹¹⁹

Commentary

This section requires the state treasurer (or other fund administrator), council, recipients of monies from the fund, and the state inspector general (or equivalent) to prepare and submit reports related to opioid litigation proceeds. These reports are required to be posted to the council website to keep the public informed as to the status of opioid litigation proceeds in the fund. Subsection (f) requires the state treasurer (or other fund administrator) to develop and maintain an interactive dashboard on fund spending that includes information regarding how monies in the fund are being spent along with any performance measures for initiatives funded through the fund.

SECTION VIII. RULES AND REGULATIONS.

Unless specified differently in this Act, within [four] months of the effective date of this Act, the [appropriate state agency/department/division] shall promulgate such rules and regulations as are necessary to implement the provisions of this Act.

Commentary

This section recommends four months for the state agency that provides administrative

¹¹⁹ MD. CODE ANN., HEALTH-GEN. § 7.5-1001 (West 2025).

support to the council to promulgate rules and regulations necessary to implement agency responsibilities under this Act. The urgent need to address high rates of overdoses supports expediting the regulatory timeline to enable the council to distribute opioid litigation proceeds as soon as possible.

SECTION IX. SEVERABILITY.

If any provision of this Act or application thereof to any individual or circumstance is held invalid, the remaining provisions of this Act shall not be affected nor diminished.

SECTION X. EFFECTIVE DATE.

This Act shall be effective on [specific date or reference to standard state method of determination of the effect] and shall apply to any settlement agreement, judgment, court order, verdict, or memorandum of understanding finalized on or after [date].

ABOUT THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

The Legislative Analysis and Public Policy Association (LAPPA) is a 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorder, and the criminal justice system.

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