MAHB
Assisting Massachusetts Boards of Health through training, technical assistance and legal education

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Interest Earnings on Opioid Settlement Funds: Proposed Amendment and Municipal Appropriation Strategies

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In recent fiscal years, many municipalities have established Special Revenue Funds under Chapter 44, Section 53A, following its amendment in 2023 to permit deposits of opioid settlement proceeds. As required by Section 53, interest earned by a Special Revenue Fund is directed to the General Fund. The 2023 amendment to Section 53 permitted opioid settlement funds to be held in a Special Revenue Account but did not change the section's other requirements.

Although interest earned on these funds is not a settlement payment, the spirit of the State Subdivision Agreement and the Recovery and Remediation Fund statute call for settlement *proceeds* to be used exclusively for the agreement's purposes. Interest could be considered part of those proceeds.

Proposed Amendment

Ideally, Section 53A would be amended to let the Opioid Settlement Special Revenue Fund retain its interest. A bill would need to be filed, reviewed by a legislative subcommittee and Ways and Means, passed by the Massachusetts House and Senate, and signed by the Governor. The amendment should apply only to this fund: allowing all Special Revenue Funds to retain interest would reduce General Fund revenue, a redirection some municipalities might oppose.

Municipal Appropriation

As an alternative to a statutory amendment, a City Council or Town Meeting could vote annually to appropriate an amount equal to the Special Revenue Fund's interest from the General Fund back to the

Opioid Settlement Special Revenue Fund. Timing determines which fiscal year's revenue is available; prior-year revenue is preferable because the amount is known and can be budgeted. Key considerations follow:

1. **Appropriate Prior-Year Interest.** At Annual Town Meeting (ATM) or the City Council's annual budget meeting in the spring of the *current* fiscal year, appropriate an amount equal to the settlement fund's *prior*-year interest, credited to the General Fund, back to the Opioid Settlement Special Revenue Fund for the *upcoming* fiscal year. That interest would have closed out to Free Cash the previous fall and would be available for appropriation.
    a. Example: At Annual Town Meeting in 2027, appropriate the interest earned in Fiscal Year 2026 and certified as available Free Cash in the fall of 2026 to the Opioid Settlement Special Revenue Fund.
2. **Coordinate Spending Caps and Warrant Order.** Annual Town Meeting typically includes an article approving all Special Revenue Fund spending caps. Include the additional interest revenue in the applicable cap. Place the interest appropriation article before the spending cap article in the warrant so the cap can be amended if the appropriation does not pass.
3. **Plan for the Following Fiscal Year.** Plan to use the interest as revenue for FY28, rather than the current fiscal year, FY27. Depending on the Annual Town Meeting date, only three months or less may remain to spend funds in FY27. If the FY27 budget assumes the appropriation will pass and it fails, the same limited period remains to make budget reductions. Planning for FY28 is therefore preferable.

FY26–FY28 Timeline

Period	Milestone
FY26	Interest is earned by the Opioid Settlement Special Revenue Fund.
Fall 2026	The FY26 interest is certified as available Free Cash.
Spring 2027 (FY27)	Annual Town Meeting votes on appropriating the FY26 interest to the Opioid Settlement Special Revenue Fund.
FY28	Include the interest as a planned revenue source for the following fiscal year, rather than relying on its use during the remainder of FY27.

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