

**TRAUMATIC BRAIN INJURY FUND**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James R. Gowans**

Senate Sponsor: Darin G. Peterson

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**LONG TITLE**

**General Description:**

This bill creates the Traumatic Brain Injury Fund and a board to administer it.

**Highlighted Provisions:**

This bill:

- ▶ creates the Traumatic Brain Injury Board within the Department of Human Services;
- ▶ creates a Traumatic Brain Injury Fund;
- ▶ increases the surcharge on DUIs and other offenses to provide monies for the fund;
- ▶ directs the state treasurer to deposit 5% of the surcharge into the fund; and
- ▶ specifies duties and responsibilities for the Traumatic Brain Injury Board.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63-63a-1**, as last amended by Chapter 2, Laws of Utah 2005

ENACTS:

**62A-16-101**, Utah Code Annotated 1953

**62A-16-102**, Utah Code Annotated 1953



- 28           **62A-16-201**, Utah Code Annotated 1953
- 29           **62A-16-202**, Utah Code Annotated 1953
- 30           **63-63a-10**, Utah Code Annotated 1953



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

33           Section 1. Section **62A-16-101** is enacted to read:

34                           **CHAPTER 16. TRAUMATIC BRAIN INJURY FUND**

35   **Part 1. General Provisions**

36           **62A-16-101. Title.**

37           (1) This chapter is known as the "Traumatic Brain Injury Fund."

38           Section 2. Section **62A-16-102** is enacted to read:

39           **62A-16-102. Definitions.**

40           As used in this chapter:

- 41           (1) "Board" means the board created in Section 62A-16-202.
- 42           (2) "Department" means the Department of Human Services.
- 43           (3) "Executive director" means the executive director of the Department of Human
- 44 Services.
- 45           (4) "Fund" means the Traumatic Brain Injury Fund created in Section 62A-16-201.

46           Section 3. Section **62A-16-201** is enacted to read:

47   **Part 2. Traumatic Brain Injury Fund**

48           **62A-16-201. Traumatic Brain Injury Fund.**

49           (1) There is created a restricted special revenue fund entitled the Traumatic Brain

50 Injury Fund.

51           (2) The fund shall consist of:

- 52           (a) amounts collected in accordance with Section 63-63a-10;
- 53           (b) gifts, grants, donations, or any other monies that may be made to the fund from
- 54 private sources; and

55           (c) legislative appropriations.

56           (3) The Traumatic Brain Injury Board shall administer the fund.

57           (4) The board may use fund monies to:

- 58           (a) educate the general public and professionals regarding understanding, treatment,

59 and prevention of traumatic brain injury;

60 (b) coordinate short-term care to assist individuals in identifying services or support  
61 needs, resources, and benefits for which they may be eligible;

62 (c) develop and support an information and referral system for persons with traumatic  
63 brain injuries and their families; and

64 (d) provide grants to persons or organizations to provide the services in Subsections  
65 (4)(a), (b), and (c).

66 (5) The board may:

67 (a) use up to 7% of the total fund revenues for the actual and necessary operating  
68 expenses of the board;

69 (b) seek outside donations from public and private entities to offset operating expenses;  
70 and

71 (c) contract with public and private organizations to provide the services in Subsection  
72 (4).

73 (6) An individual who receives services either directly from the board or through a  
74 public or private organization under contract with the board shall:

75 (a) be a resident of Utah;

76 (b) have been diagnosed by a qualified professional with a traumatic brain injury that  
77 results in impairment of cognitive or physical function; and

78 (c) have a need that can be met within the requirements of this chapter.

79 (7) The board may not duplicate any services or support mechanisms being provided to  
80 an individual by any government or private agency.

81 (8) The board may not provide short-term, long-term, or acute care.

82 Section 4. Section **62A-16-202** is enacted to read:

83 **62A-16-202. Traumatic Brain Injury Board.**

84 (1) There is created within the Department of Human Services, the Traumatic Brain  
85 Injury Board.

86 (2) The board shall consist of the following nine members appointed by the executive  
87 director:

88 (a) one person with a traumatic brain injury;

89 (b) one family member of a person with a traumatic brain injury;

90 (c) a representative of an association that advocates for persons with traumatic brain  
91 injury;

92 (d) a specialist in a profession that works with brain injury patients;

93 (e) a representative from the department; and

94 (f) four members at large appointed by the executive director from a list of  
95 recommendations compiled by members in Subsections (2)(a) through (e).

96 (3) The board shall:

97 (a) provide a centralized resource for:

98 (i) persons with traumatic brain injury and their families; and

99 (ii) professionals that work with persons with traumatic brain injuries;

100 (b) recommend and approve expenditures from the Traumatic Brain Injury Fund  
101 created in Section 62A-16-201; and

102 (c) make recommendations to state agencies, private organizations, and the Legislature  
103 regarding services and assistance for persons with traumatic brain injuries.

104 (4) (a) Members shall receive no compensation or benefits for their services, but may  
105 receive per diem and expenses incurred in the performance of the member's official duties at  
106 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

107 (b) Members may decline to receive per diem and expenses for their service.

108 (5) Not later than November 30 of each year the board shall:

109 (a) provide a written report to:

110 (i) the executive director of the department; and

111 (ii) the Health and Human Services Interim Committee; and

112 (b) in the report, summarize the activities of the board and identify each disbursement  
113 from the fund and its purposes.

114 Section 5. Section **63-63a-1** is amended to read:

115 **63-63a-1. Surcharge -- Application and exemptions.**

116 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures  
117 imposed by the courts.

118 (b) The surcharge shall be:

119 (i) [~~85%~~] 90% upon conviction of a:

120 (A) felony;

121 (B) class A misdemeanor;

122 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless  
123 Driving; or

124 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including  
125 violation of comparable county or municipal ordinances; or

126 (ii) 35% upon conviction of any other offense, including violation of county or  
127 municipal ordinances not subject to the [~~85%~~] 90% surcharge.

128 (2) The surcharge may not be imposed:

129 (a) upon nonmoving traffic violations;

130 (b) upon court orders when the offender is ordered to perform compensatory service  
131 work in lieu of paying a fine; and

132 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment  
133 of a case under Section 78-3a-502.

134 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to  
135 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if  
136 committed by an adult.

137 (b) However, the surcharge does not include amounts assessed or collected separately  
138 by juvenile courts for the Juvenile Restitution Account, which is independent of this chapter  
139 and does not affect the imposition or collection of the surcharge.

140 (4) The surcharge under this section shall be imposed in addition to the fine charged  
141 for a civil or criminal offense, and no reduction may be made in the fine charged due to the  
142 surcharge imposition.

143 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be  
144 authorized and managed by this chapter rather than attached to particular offenses.

145 Section 6. Section **63-63a-10** is enacted to read:

146 **63-63a-10. Traumatic Brain Injury Fund share of surcharge.**

147 The Division of Finance shall allocate 5% of the collected surcharge established in  
148 Subsection 63-63a-1(b)(i) to the Traumatic Brain Injury Fund established by Section  
149 62A-16-201.

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**Legislative Review Note**

**as of 2-7-06 3:37 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

Provisions of this bill would result in a reallocation of \$950,000 from the General Fund to the new Traumatic Brain Injury Fund. The Courts will need to reprogram their database to account for the collections change.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$950,000)	(\$950,000)
General Fund, One-Time	\$20,000	\$0	\$0	\$0
Restricted Funds	\$0	\$0	\$950,000	\$950,000
<b>TOTAL</b>	<b>\$20,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Passage of this legislation will assist individuals and their families with traumatic brain injuries.

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**Office of the Legislative Fiscal Analyst**