

1 **TRAUMATIC HEAD AND SPINAL CORD INJURY**

2 **REHABILITATION FUND**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill creates the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund and an
11 advisory committee to administer it.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ creates and authorizes the Traumatic Spinal Cord and Brain Injury Rehabilitation
15 Fund Advisory Committee to disburse funds received through appropriations from
16 the Legislature, gifts, and a portion of impound fees to assist charitable clinics
17 providing rehabilitation services for the post-acute-care of people with traumatic
18 spinal cord and brain injuries.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **41-6a-1406**, as last amended by Laws of Utah 2009, Chapter 167

26 ENACTS:

27 **26-54-101**, Utah Code Annotated 1953

28 **26-54-102**, Utah Code Annotated 1953

29 **26-54-103**, Utah Code Annotated 1953

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

Section 1. Section **26-54-101** is enacted to read:

**CHAPTER 54. TRAUMATIC SPINAL CORD AND BRAIN INJURY
REHABILITATION FUND**

26-54-101. Title.

This chapter is known as the "Traumatic Spinal Cord and Brain Injury Rehabilitation Fund."

Section 2. Section **26-54-102** is enacted to read:

26-54-102. Creation -- Traumatic Spinal Cord and Brain Injury Rehabilitation Fund.

(1) Because the state finds that persons with traumatic spinal cord and brain injuries require intensive, focused, and specific rehabilitation there is created a restricted special revenue fund entitled the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund.

(2) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406; and

(c) amounts as appropriated by the Legislature.

(3) The fund shall be administered by the executive director of the Department of Health in consultation with the advisory committee created in Section 26-54-103.

(4) A "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides services for people in this state with traumatic spinal cord and brain injuries who require post-acute-care;

(b) employs licensed therapy clinicians; and

(c) has no less than five years experience operating a post-acute-care rehabilitation clinic in the state.

58 (5) Fund money shall be used to assist qualified IRC 501(c)(3) charitable clinics to
59 provide:

60 (a) physical, occupational, and speech therapy; and

61 (b) equipment necessary for daily living activities for people with spinal cord and brain
62 injuries.

63 (6) All actual and necessary operating expenses for the advisory committee and staff
64 shall be paid by the fund.

65 Section 3. Section **26-54-103** is enacted to read:

66 **26-54-103. Traumatic Spinal Cord and Brain Injury Rehabilitation Advisory**
67 **Committee -- Creation -- Membership -- Terms -- Duties.**

68 (1) There is created a Traumatic Spinal Cord and Brain Injury Rehabilitation Fund
69 Advisory Committee.

70 (2) The advisory committee shall be composed of five members as follows:

71 (a) the executive director of the Utah Department of Health, or the executive director's
72 designee;

73 (b) a survivor, or a family member of a survivor of a traumatic brain injury, appointed
74 by the governor;

75 (c) a survivor, or a family member of a survivor of a traumatic spinal cord injury,
76 appointed by the governor;

77 (d) a member of the House of Representatives appointed by the speaker of the House of
78 Representatives; and

79 (e) a member of the Senate appointed by the president of the Senate.

80 (3) (a) The term of advisory committee members shall be four years. If a vacancy
81 occurs in the committee membership for any reason, a replacement shall be appointed for the
82 unexpired term in the same manner as the original appointment.

83 (b) The committee shall elect a chairperson from the membership.

84 (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum
85 is present at an open meeting, the action of the majority of members shall be the action of the

86 advisory committee.

87 (d) The terms of the advisory committee shall be staggered so that members appointed
88 under Subsections (2)(b) and (d) shall serve an initial two-year term and members appointed
89 under Subsections (2)(c) and (e) shall serve four-year terms. Thereafter, members appointed to
90 the advisory committee shall serve four-year terms.

91 (4) The advisory committee shall comply with the procedures and requirements of:

92 (a) Title 52, Chapter 4, Open and Public Meetings Act;

93 (b) Title 63G, Chapter 2, Government Records Access and Management Act; and

94 (c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

95 (5) A member may not receive compensation or benefits for the member's service, but,
96 at the executive director's discretion, may receive per diem and travel expenses in accordance
97 with:

98 (a) Section 63A-3-106;

99 (b) Section 63A-3-107; and

100 (c) rules adopted by the Division of Finance pursuant to Sections 63A-3-106 and
101 63A-3-107.

102 (6) The advisory committee shall:

103 (a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah
104 Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee
105 to follow in recommending distribution of money from the fund to assist qualified IRC
106 501(c)(3) charitable clinics;

107 (b) identify, evaluate, and review the quality of care available to people with traumatic
108 spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics;

109 (c) explore, evaluate, and review other possible funding sources and make a
110 recommendation to the Legislature regarding sources that would provide adequate funding for
111 the advisory committee to accomplish its responsibilities under this section; and

112 (d) submit an annual report, not later than November 30 of each year, summarizing the
113 activities of the advisory committee and making recommendations regarding the ongoing needs

114 of people with spinal cord or brain injuries to:

115 (i) the governor;

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

117 (iii) the Health and Human Services Appropriations Subcommittee.

118 Section 4. Section **41-6a-1406** is amended to read:

119 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
120 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

121 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
122 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
123 officer or by an order of a person acting on behalf of a law enforcement agency or highway
124 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
125 expense of the owner.

126 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
127 impounded to:

128 (a) a state impound yard; or

129 (b) if none, a garage, docking area, or other place of safety.

130 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
131 removed by a tow truck motor carrier that meets standards established:

132 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

133 (b) by the department under Subsection (10).

134 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
135 of the removal shall be sent to the Motor Vehicle Division by:

136 (i) the peace officer or agency by whom the peace officer is employed; and

137 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
138 operator is employed.

139 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
140 include:

141 (i) the operator's name, if known;

- 142 (ii) a description of the vehicle, vessel, or outboard motor;
- 143 (iii) the vehicle identification number or vessel or outboard motor identification
- 144 number;
- 145 (iv) the license number or other identification number issued by a state agency;
- 146 (v) the date, time, and place of impoundment;
- 147 (vi) the reason for removal or impoundment;
- 148 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
- 149 outboard motor; and
- 150 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 151 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
- 152 required under this Subsection (4), a tow truck motor carrier or impound yard may not:
- 153 (i) collect any fee associated with the removal; and
- 154 (ii) begin charging storage fees.
- 155 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
- 156 Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
- 157 outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.
- 158 (b) The notice shall:
- 159 (i) state the date, time, and place of removal, the name, if applicable, of the person
- 160 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
- 161 and the place where the vehicle, vessel, or outboard motor is stored;
- 162 (ii) state that the registered owner is responsible for payment of towing, impound, and
- 163 storage fees charged against the vehicle, vessel, or outboard motor;
- 164 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
- 165 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and
- 166 (iv) inform the registered owner and lienholder of the division's intent to sell the
- 167 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
- 168 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
- 169 claim for release of the vehicle, vessel, or outboard motor.

170 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
171 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
172 to notify the registered owner and any lien holder of the removal and the place where the
173 vehicle, vessel, or outboard motor is stored.

174 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
175 the vehicle, vessel, or outboard motor is stored.

176 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
177 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
178 service in accordance with Subsection 72-9-603(1)(a)(i).

179 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
180 owner, lien holder, or the owner's agent:

181 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
182 the State Tax Commission;

183 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
184 vessel, or outboard motor;

185 (iii) completes the registration, if needed, and pays the appropriate fees;

186 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
187 impound fee of [~~\$330~~] \$350; and

188 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
189 motor is stored.

190 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
191 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

192 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
193 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
194 [~~and~~]

195 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
196 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

197 [~~(iii)~~] (iv) the remainder of the administrative impound fee assessed under Subsection

198 (6)(a)(iv) shall be deposited in the General Fund.

199 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
200 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
201 owner's agent presents written evidence to the State Tax Commission that:

202 (i) the Driver License Division determined that the arrested person's driver license
203 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
204 or other report from the Driver License Division presented within 30 days of the final
205 notification from the Driver License Division; or

206 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
207 stolen vehicle report presented within 30 days of the impoundment.

208 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
209 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
210 accordance with that section and the proceeds, if any, shall be disposed of as provided under
211 Section 41-1a-1104.

212 (b) The date of impoundment is considered the date of seizure for computing the time
213 period provided under Section 41-1a-1103.

214 (8) The registered owner who pays all fees and charges incurred in the impoundment of
215 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and
216 charges, together with damages, court costs, and attorney fees, against the operator of the
217 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

218 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
219 or outboard motor.

220 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
221 the department shall make rules setting the performance standards for towing companies to be
222 used by the department.

223 (11) (a) The Motor Vehicle Division may specify that a report required under
224 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and
225 retrieval of the information.

226 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
227 administrator of the database may adopt a schedule of fees assessed for utilizing the database.
228 (ii) The fees under this Subsection (11)(b) shall:
229 (A) be reasonable and fair; and
230 (B) reflect the cost of administering the database.