

1 **SPINAL CORD AND BRAIN INJURY REHABILITATION**

2 **FUND AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

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

6 Senate Sponsor: _____

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Utah Code related to the Spinal Cord and Brain
11 Injury Rehabilitation Fund.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ changes the name of the Traumatic Spinal Cord and Brain Injury Rehabilitation
15 Fund to the Spinal Cord and Brain Injury Rehabilitation Fund;
- 16 ▶ directs the Division of Motor Vehicles to collect an additional 50 cent fee to register
17 an off-highway vehicle and deposit the additional fees collected into the Spinal
18 Cord and Brain Injury Rehabilitation Fund; and
- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-54-101**, as enacted by Laws of Utah 2012, Chapter 226

27 **26-54-102**, as last amended by Laws of Utah 2013, Chapter 400



28 [26-54-103](#), as enacted by Laws of Utah 2012, Chapter 226

29 [41-6a-1406](#), as last amended by Laws of Utah 2013, Chapter 328

30 ENACTS:

31 [41-22-8.1](#), Utah Code Annotated 1953



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

34 Section 1. Section [26-54-101](#) is amended to read:

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

36 **[26-54-101](#). Title.**

37 This chapter is known as the "[~~Traumatic~~] Spinal Cord and Brain Injury Rehabilitation
38 Fund."

39 Section 2. Section [26-54-102](#) is amended to read:

40 **[26-54-102](#). Spinal Cord and Brain Injury Rehabilitation Fund -- Composition --
41 Administration.**

42 (1) [~~Because the state finds that persons with traumatic spinal cord and brain injuries
43 require intensive, focused, and specific rehabilitation there~~] There is created an expendable
44 special revenue fund [~~entitled the Traumatic~~] known as the Spinal Cord and Brain Injury
45 Rehabilitation Fund.

46 (2) The fund shall consist of:

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

49 (b) a portion of the impound fee as designated in Section [41-6a-1406](#); [~~and~~]

50 (c) the fees collected by the division under Section [41-22-8.1](#); and

51 [~~(c)~~] (d) amounts as appropriated by the Legislature.

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

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

56 (a) provides [~~services for people in this state with~~] rehabilitation services to an
57 individual in Utah with a traumatic spinal cord [~~and~~] or brain [~~injuries who require~~] injury that
58 tends to be nonprogressive or nondeteriorating who requires post-acute-care;

59 (b) employs licensed therapy clinicians; and

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

62 (5) Fund money shall be used to assist a qualified IRC 501(c)(3) charitable [clinics]
63 clinic to provide rehabilitation services to an individual with a traumatic spinal cord or brain
64 injury that tends to be nonprogressive or nondeteriorating, including:

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

66 (b) equipment necessary for daily living~~[-activities for people with spinal cord and~~
67 ~~brain injuries].~~

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

70 Section 3. Section **26-54-103** is amended to read:

71 **26-54-103. Spinal Cord and Brain Injury Rehabilitation Advisory Committee --**
72 **Creation -- Membership -- Terms -- Duties.**

73 (1) There is created a [~~Traumatic~~] Spinal Cord and Brain Injury Rehabilitation Fund
74 Advisory Committee.

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

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

78 (b) a survivor, or a family member of a survivor of a [~~traumatic~~] brain injury, appointed
79 by the governor;

80 (c) a survivor, or a family member of a survivor of a [~~traumatic~~] spinal cord injury,
81 appointed by the governor;

82 (d) a member of the House of Representatives appointed by the speaker of the House of
83 Representatives; and

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

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

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

89 (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum

90 is present at an open meeting, the action of the majority of members shall be the action of the
91 advisory committee.

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

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

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

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

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

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

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

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

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

107 (6) The advisory committee shall:

108 (a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah
109 Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee
110 to follow in recommending distribution of money from the fund to assist qualified IRC
111 501(c)(3) charitable clinics;

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

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

117 (d) submit an annual report, not later than November 30 of each year, summarizing the
118 activities of the advisory committee and making recommendations regarding the ongoing needs
119 of people with spinal cord or brain injuries to:

120 (i) the governor;

- 121 (ii) the Health and Human Services Interim Committee; and
- 122 (iii) the Health and Human Services Appropriations Subcommittee.

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

124 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
125 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

- 133 (a) a state impound yard; or
- 134 (b) if none, a garage, docking area, or other place of safety.

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

- 137 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 138 (b) by the department under Subsection (10).

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

- 141 (i) the peace officer or agency by whom the peace officer is employed; and
- 142 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
143 operator is employed.

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

- 146 (i) the operator's name, if known;
- 147 (ii) a description of the vehicle, vessel, or outboard motor;
- 148 (iii) the vehicle identification number or vessel or outboard motor identification
149 number;
- 150 (iv) the license number or other identification number issued by a state agency;
- 151 (v) the date, time, and place of impoundment;

152 (vi) the reason for removal or impoundment;

153 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
154 outboard motor; and

155 (viii) the place where the vehicle, vessel, or outboard motor is stored.

156 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
157 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

158 (i) collect any fee associated with the removal; and

159 (ii) begin charging storage fees.

160 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
161 Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
162 outboard motor and any lien holder in the manner prescribed by Section [41-1a-114](#).

163 (b) The notice shall:

164 (i) state the date, time, and place of removal, the name, if applicable, of the person
165 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
166 and the place where the vehicle, vessel, or outboard motor is stored;

167 (ii) state that the registered owner is responsible for payment of towing, impound, and
168 storage fees charged against the vehicle, vessel, or outboard motor;

169 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
170 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

171 (iv) inform the registered owner and lienholder of the division's intent to sell the
172 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
173 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
174 claim for release of the vehicle, vessel, or outboard motor.

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

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

181 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
182 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck

183 service in accordance with Subsection 72-9-603(1)(a)(i).

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

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

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

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

191 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
192 impound fee of \$350; and

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

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

197 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
198 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

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

201 (iv) the remainder of the administrative impound fee assessed under Subsection
202 (6)(a)(iv) shall be deposited in the General Fund.

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

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

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

212 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
213 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)

214 or any service rendered, performed, or supplied in connection with a removal or impoundment
215 under Subsection (1).

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

220 (b) The date of impoundment is considered the date of seizure for computing the time
221 period provided under Section [41-1a-1103](#).

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

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

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

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

234 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
235 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

236 (ii) The fees under this Subsection (11)(b) shall:

237 (A) be reasonable and fair; and

238 (B) reflect the cost of administering the database.

239 Section 5. Section [41-22-8.1](#) is enacted to read:

240 **[41-22-8.1. Registration fees.](#)**

241 (1) In addition to the fees established in Sections [41-22-8](#), [41-22-33](#), and [41-22-34](#), the
242 division shall require a person to pay 50 cents to register an off-highway vehicle under Section
243 [41-22-3](#).

244 (2) The division shall deposit the fees the division collects under Subsection (1) into

245 the Spinal Cord and Brain Injury Rehabilitation Fund created in Section [26-54-102](#).

Legislative Review Note
as of 2-25-14 11:55 AM

Office of Legislative Research and General Counsel