

HB0359S01 compared with HB0359

~~{deleted text}~~ shows text that was in HB0359 but was deleted in HB0359S01.

Inserted text shows text that was not in HB0359 but was inserted into HB0359S01.

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Representative Eric K. Hutchings proposes the following substitute bill:

SPINAL CORD AND BRAIN INJURY REHABILITATION

FUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Health Code related to the Spinal Cord and Brain Injury Rehabilitation Fund.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund to the Spinal Cord and Brain Injury Rehabilitation Fund;
- ▶ directs the Motor Vehicle Division to collect an additional fee to register an off-highway vehicle and deposit the collected fees into the Spinal Cord and Brain Injury Rehabilitation Fund;

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- ▶ adds additional members to the Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

26-54-103, as last amended by Laws of Utah 2014, Chapter 387

41-6a-1406, as last amended by Laws of Utah 2016, Chapters 100 and 148

41-22-8, as last amended by Laws of Utah 2012, Chapter 71

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

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

CHAPTER 54. 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 amended to read:

26-54-102. Creation -- 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]~~

(1) There is created an expendable special revenue fund [~~entitled the Traumatic~~]
known as the 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~~]

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(c) the fees collected by the Motor Vehicle Division under Subsection 41-22-8(3); and
[~~(c)~~] (d) 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~~] rehabilitation services to individuals in the state:

(i) who have a traumatic spinal cord [and] or brain [injuries who require] injury that tends to be nonprogressive or nondeteriorating; and

(ii) 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.

(5) Fund money shall be used to assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

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

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

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

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

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

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

(2) The advisory committee shall be composed of [~~five~~] seven members as follows:

(a) the executive director of the [~~Utah~~] Department of Health, or the executive director's designee;

(b) [~~a survivor, or a family member~~] two survivors, or family members of a survivor of

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a traumatic brain injury, appointed by the governor;

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

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

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

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

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

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

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

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

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

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

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

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

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

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

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

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

(i) the governor;

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

(iii) the Health and Human Services Appropriations Subcommittee.

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

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

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

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

(a) a state impound yard; or

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

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

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

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

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

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

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

- (i) the operator's name, if known;
- (ii) a description of the vehicle, vessel, or outboard motor;
- (iii) the vehicle identification number or vessel or outboard motor identification number;
- (iv) the license number, temporary permit number, or other identification number issued by a state agency;
- (v) the date, time, and place of impoundment;
- (vi) the reason for removal or impoundment;
- (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and
- (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

- (i) collect any fee associated with the removal; and
- (ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

- (i) the registered owner;
- (ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

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

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

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

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

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

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

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

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

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

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

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$400; and

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

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

(ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

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

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

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

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

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

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under

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Section 41-1a-1104.

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

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

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

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

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

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

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

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 5. Section **41-22-8** is amended to read:

41-22-8. Registration fees.

(1) The board shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii), the fee for each off-highway vehicle registration may not exceed \$18.

(ii) The fee for each snowmobile registration may not exceed \$26.

(b) The fee for each duplicate registration card may not exceed \$3.

(c) The fee for each duplicate registration sticker may not exceed \$5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

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(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the ~~{division}~~Motor Vehicle Division shall require a person to pay 50 cents to register an off-highway vehicle under Section 41-22-3.

(b) The ~~{division}~~Motor Vehicle Division shall deposit the fees the ~~{division}~~Motor Vehicle Division collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section 26-54-102.

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~ Section 6. Effective date.

This bill takes effect on January 1, 2018.