

Representative Eric K. Hutchings proposes the following substitute bill:

SPINAL CORD AND BRAIN INJURY REHABILITATION

FUND AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah 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 Division of Motor Vehicles to collect an additional 50 cent fee to register an off-highway vehicle and deposit the additional fees collected into the Spinal Cord and Brain Injury Rehabilitation Fund;
- ▶ adds two additional members to the Spinal Cord and Traumatic Brain Injury Rehabilitation Fund Advisory Committee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **26-54-101**, as enacted by Laws of Utah 2012, Chapter 226

29 **26-54-102**, as last amended by Laws of Utah 2013, Chapter 400

30 **26-54-103**, as enacted by Laws of Utah 2012, Chapter 226

31 **41-6a-1406**, as last amended by Laws of Utah 2013, Chapter 328

32 ENACTS:

33 **41-22-8.1**, Utah Code Annotated 1953



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

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

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

38 **26-54-101. Title.**

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

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

42 **26-54-102. Spinal Cord and Brain Injury Rehabilitation Fund -- Composition --**
43 **Administration.**

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

48 (2) The fund shall consist of:

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

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

52 (c) the fees collected by the division under Section **41-22-8.1**; and

53 [~~(e)~~] (d) amounts as appropriated by the Legislature.

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

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

57 that:

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

61 (b) employs licensed therapy clinicians; and

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

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

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

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

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

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

73 **26-54-103. Spinal Cord and Brain Injury Rehabilitation Advisory Committee --**
74 **Creation -- Membership -- Terms -- Duties.**

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

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

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

80 (b) [~~a survivor~~] two survivors, or [~~a~~] family [~~member~~] members of a survivor of a
81 [~~traumatic~~] brain injury, appointed by the governor;

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

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

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

87 (3) (a) The term of advisory committee members shall be four years. If a vacancy

88 occurs in the committee membership for any reason, a replacement shall be appointed for the
89 unexpired term in the same manner as the original appointment.

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

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

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

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

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

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

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

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

105 (a) Section [63A-3-106](#);

106 (b) Section [63A-3-107](#); and

107 (c) rules adopted by the Division of Finance pursuant to Sections [63A-3-106](#) and
108 [63A-3-107](#).

109 (6) The advisory committee shall:

110 (a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah
111 Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee
112 to follow in recommending distribution of money from the fund to assist qualified IRC
113 501(c)(3) charitable clinics;

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

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

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

- 122 (i) the governor;
- 123 (ii) the Health and Human Services Interim Committee; and
- 124 (iii) the Health and Human Services Appropriations Subcommittee.

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

126 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
127 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

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

- 148 (i) the operator's name, if known;
- 149 (ii) a description of the vehicle, vessel, or outboard motor;

150 (iii) the vehicle identification number or vessel or outboard motor identification
151 number;

152 (iv) the license number or other identification number issued by a state agency;

153 (v) the date, time, and place of impoundment;

154 (vi) the reason for removal or impoundment;

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

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

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

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

161 (ii) begin charging storage fees.

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

165 (b) The notice shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 (A) be reasonable and fair; and

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

241 Section 5. Section 41-22-8.1 is enacted to read:

242 **41-22-8.1. Registration fees.**

243 (1) In addition to the fees established in Sections [41-22-8](#), [41-22-33](#), and [41-22-34](#), the
244 division shall require a person to pay 50 cents to register an off-highway vehicle under Section
245 [41-22-3](#).

246 (2) The division shall deposit the fees the division collects under Subsection (1) into
247 the Spinal Cord and Brain Injury Rehabilitation Fund created in Section [26-54-102](#).

248 Section 6. **Effective date.**

249 This bill takes effect on July 1, 2014.