

Considerations for Pursuing a TBI Trust Fund Program

Is a Trust Fund Constitutional in Your State?

Some States have been hampered in pursuing a trust fund from designated traffic fines due to unconstitutionality, as such fines are earmarked to education. Another consideration is to determine if other factions have pursued similar legislation that may be constitutional, but may deter lawmakers from increasing the fines you may have identified as being a hardship to constituents.

Why is a State Brain Injury Trust Fund Needed?

A needs and resources assessment will help to determine needs, amount of funds needed, and number of persons who could benefit, should the funds be used to support services, and other gaps in service delivery. If other funds are currently available, such as general revenue or Medicaid, perhaps identifying how the program will differ or augment may help to avoid the temptation to supplant existing resources.

What is the Purpose?

Defining the purpose is critical. It will help to define how much is needed; how it should be administered; and which State agency should be the primary agency to receive the appropriation from the trust fund revenue and administer the program. Often the trust fund program will take on the culture of the administering service agency in terms of mission, eligibility requirements, and how the funds will be dispersed.

Are There Competing Interests or Opponents?

State and county programs facing budget short falls may desire similar funding sources to support their priorities. For example, collecting fees or fines may involve the county court and judges who determine traffic fines. There have been instances when county courts needed funding to upgrade their IT. There have also been instances when the State general services administration agency (e.g., accounting, budget) proposed taking a percentage across all State dedicated accounts to meet State budget demands.

Does the Executive Branch Support the Program?

As a State agency will be responsible for receiving the funding from the revenue generated and for dispersing funding in accordance with the law., the agency will probably be asked for support and may be tasked with completing a fiscal note for the legislation. The agency head may not take a position, unless he or she knows that the Governor will support it. Other agencies, such as

the agency that collects fees/fines and maintains the accounts may be helpful in the pre-planning process.

What is a Source of Revenue?

Most States have imposed fines for traffic related offenses and/or boating offenses (boating while drinking), while other States have added a surcharge to a driver's license or reinstatement fee or other similar approach. The agencies involved in collecting these fees or surcharges will be helpful in determining how much could be generated from different approaches.

Will the Trust Fund Support Administration?

While States spend the funds as designated by the State statute, some have authority to use funding for staff and other administrative purposes. Many State laws require an annual report to policymakers with regard to expenditures. Some trust fund laws support an advisory body to oversee the fund and provide input into priorities. States may use the funds to support State staff, but outsource for services, public awareness, Information & Referral resource facilitation, registries, prevention and other non-direct services through provider agreements, contracts or grants.

Will the Trust Fund Duplicate Existing Services?

No, on the contrary, this will provide funding for those who are ineligible for a Medicaid or other State programs or provide funding for other functions necessary for service delivery. The beauty of a trust fund is that it can be tailored and flexible to meet the needs.

As a trust fund may not solve all the gaps in service delivery, policymakers should be made aware of the limitations so they are not surprised if advocates want to increase or add to the revenue source or advocate for State general revenue in future years.

Are There Legislative Champions?

Identifying lawmakers who can carry the water is critical for successful legislation. You may want to consider lawmakers who are on appropriations committees or a committee that will have jurisdiction for the legislation.

Is There Grassroots Support?

Identifying organizations and individuals who will help advocate is key. The brain injury alliance or association is a natural advocate. But, there may be other groups to ask for assistance such as the State Independent Living Council, State Developmental Disabilities Council, state medical association, state hospital association, injury prevention, insurance and any organization that may be impacted. These organizations may be useful for overall planning and to advocate as a coalition.

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National Association of State Head Injury Administrators

State TBI/ABI Trust Fund Programs

State	Trust Fund	Trust Fund Source	Trust Fund Services and Programs/ Administrative Costs	Advisory Board/Council Associated with Trust Fund
Alabama	Alabama Driver's Trust fund Enacted 1993	\$100 for each DUI conviction	Public information, prevention education, and research coordinated by the Alabama Head Injury Foundation. Post- acute medical care, rehabilitation therapies, medication, attendant care, home accessibility modification, and equipment necessary for activities of daily living. Priorities include: <ul style="list-style-type: none"> ● Resource Coordination ● An Interactive Community Based Model (ICBM) - five care coordinators ● An Independent Living Program and attendant care client services ● Extended Support in Supported Employment 	Trust Fund law created the Impaired Drivers Trust Fund Advisory Board, referred to as Alabama Head Injury Task Force.
Arizona	Arizona Spinal and Head Injuries Trust Fund Enacted 1992	13% penalty assessment on every fine, penalty, and forfeiture related to criminal offenses and traffic, fish, and game law violations. Trust Fund receives 22% of amount collected.	Client Services: Information, support & rehab; Prevention Programs; Education Programs. Specific purposes: <ol style="list-style-type: none"> 1. Public information, prevention and education of the general public and professionals. 2. Rehabilitation, transitional living and equipment necessary for activities of daily living. 3. A portion of the disease surveillance system and 	Governor created the Arizona Task Force on Head Injury via an Executive Order in 1989. Established statutorily through the Trust Fund legislation.

State	Trust Fund	Trust Fund Source	Trust Fund Services and Programs/ Administrative Costs	Advisory Board/Council
			<p>statewide referral services for those with head and spinal injuries.</p> <p>4. Costs incurred by the advisory council on spinal and head injuries established pursuant to section 41-3201.</p> <p>5. Administrative costs incurred by the Department of Economic Security to administer the program.</p>	
California	California TBI Fund Enacted 1988	Assessments on vehicle code, criminal and civil infractions are deposited in the State Penalty Fund. .66% of these revenues are provided to the Trust Fund.	Community Re-Integration, Supportive Living, Vocational Supports, Information and Referral, and Public and Professional Education	Costs for the advisory council on spinal and head injuries established pursuant to the law.
Colorado	Colorado TBI Trust Fund Enacted 2002	\$15 assessment on speeding convictions; \$20 assessment on DUI convictions; \$15 assessment on motorcycle helmet violations.	<p>Range of services may include, but shall not be limited to:</p> <p>(I) Case management;</p> <p>(II) Community residential services;</p> <p>(III) Structured day program services;</p> <p>(IV) Psychological and mental health services for the individual with the traumatic brain injury and the individual's family;</p> <p>(V) Prevocational services;</p> <p>(VI) Supported employment;</p> <p>(VII) Companion services;</p> <p>(VIII) Respite care;</p> <p>(IX) Occupational therapy;</p> <p>(X) Speech and language therapy;</p> <p>(XI) Cognitive rehabilitation;</p> <p>(XII) Physical rehabilitation;</p> <p>and</p> <p>(XIII) One-time home modifications.</p> <p>(b) Covered services shall not include</p>	Trust Fund law created the Colorado traumatic brain injury board to oversee the fund.

State	Trust Fund	Trust Fund Source	Trust Fund Services and Programs/ Administrative Costs	Advisory Board/Council
			institutionalization, hospitalization, or medications.	
Connecticut	Connecticut TBI Fund Enacted 2004.	\$5 assessment for each speeding, DUI, and reckless driving infraction	Funding is to be allocated to the Connecticut Department of Social Services in order to provide grants to the BIA-CT. The DSS contracts with BIA-CT for specific services. These services are part of a broader contract between DSS and BIA-CT.	
Florida	Florida Brain and Spinal Injury Rehabilitation Trust Fund Enacted 1988	\$60 (of \$135) surcharges on fines for DUI and BUI; fines for moving violations; specialty motorcycle tag fees; and \$1 (of \$2) surcharges on temporary license tags.	To provide acute care, inpatient and outpatient rehabilitation, transitional living services, adaptive equipment, home modifications, peer mentoring, transportation, housing, and other services necessary for community reintegration. Services are provided through state designated and approved facilities. Case management is the primary service available to assist clients and their families.	Florida Brain and Spinal Cord Injury Advisory Council.
Georgia	Georgia Brain and Spinal Injury Trust Fund Enacted 1998	10% surcharge on fines for DUI or drug convictions. On Nov. 4, 2014, voters approved Amendment B, which adds a 10% surcharge on reckless driving convictions which will add about \$250,000 to the fund.	Provides care and rehabilitative services and goods as approved by the Georgia Brain and Spinal Injury Commission. Funds are used for the actual and necessary operating expenses that the commission incurs in performing its duties.	Georgia Brain & Spinal Injury Trust Fund Commission.
Hawaii	Hawaii Neurotrauma Special Trust Fund Enacted 2002	\$10 surcharge for violation of child safety restraint; \$10 surcharge on seat belt violation; \$10 surcharge for speeding; \$25 for DUI; \$100 surcharge for accidents	Fund projects dedicated to prevention, education and research. (Stroke, traumatic brain injury or spinal cord injury)	Neurotrauma Advisory Board to establish spending priorities for the fund and provide advisory oversight of program operation.

State	Trust Fund	Trust Fund Source	Trust Fund Services and Programs/ Administrative Costs	Advisory Board/Council
		causing bodily injury; \$250 for substantial bodily injury; \$500 for accidents causing deaths.		
Kentucky	Kentucky Spinal Cord and Head Injury Trust Fund Enacted 1998	5.5% of each court cost to be deposited in Trust fund – not to exceed \$2,750,000; 8% of DUI service fees (\$375) after first \$50.	Funding Priorities: registry/surveillance, to provide funding for case management and support services that enable individuals to remain in their home communities. The Benefit Management Program (BMP) to provide toll free number; public information; case management; take application and review service plans.	Kentucky Brain Injury Trust Fund Board of Directors.
Louisiana	Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Enacted 1993	\$5 surcharge on fines for speeding or reckless operation; \$25 surcharge on fine for first offense DUI, \$50 – 2 nd offense, \$100 – 3 rd offense, \$250 – 4 th offense.	Services include: <ul style="list-style-type: none"> • Evaluations • Post-acute medical care rehabilitation • Therapies • Medication • Attendant care • Equipment necessary for activities of daily living 	The Louisiana Advisory Board to the Traumatic Head and Spinal Cord Injury Trust Fund has the responsibility of promulgating rules and regulations; establishing priorities and criteria for disbursement of the fund; investigating the needs of head or spinal cord injured individuals to identify service gaps; submitting an annual report with recommendations to the legislature and governor and monitoring, evaluating, and reviewing development and quality of services and programs funded by the trust fund.
Maryland	Maryland TBI	No revenue source		The State

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	Trust Fund Enacted 2012			Traumatic Brain Injury Advisory Board was authorized in October 2005 (Chapter 306, Acts of 2005; Chapter 236, Acts of 2008).
Massachusetts	Head Injury Treatment Trust Fund Enacted 1991	\$250 assessment for DUI and driving to endanger and \$50 assessment for speeding	Stipulates the use of these monies for non-recurring services and are to be used to serve State Head Injury Program (SHIP) eligible consumers whose needs are short-term. Services may include, but is not limited to day services, respite, recreation, assistive technology, home modifications, substance abuse treatment, transportation, extended rehabilitation, dental care, life skills training, and case management.	The Massachusetts Acquired Brain Injury Advisory Board (MABIAB) offers guidance and recommendations to the Commonwealth regarding the needs and priorities of people with brain injury. The board provides input into the SHIP program, established with general revenue, before the waiver and trust fund programs were established..
Minnesota	TBI Fund Enacted 1991	\$50 surcharge from each DUI conviction	Department of Health (MDH) uses 17 percent to operate the registry, analyze data, and support some community-based prevention initiatives; 83 percent supports Resource Facilitation through Minnesota's Brain Injury Alliance.	Initially, used two advisory committees to provide oversight: the first advised the MDH on collection, analysis and use of data. This committee has merged its functions into the Statewide Trauma Advisory Committee and has delegated all practicable reporting functions to the Department of Human Services (DHS) TBI/SCI Advisory Council. (TAC Trust Fund Packet, 2012.)
Mississippi	Spinal Cord Injury/TBI	\$25 surcharge for violation of DUI law;	Funds pay for direct services, prevention	A ten-member Advisory Council,

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	Trust Fund Enacted 1996	initially \$6, now \$5.45, from all moving vehicle violations	and public education. Program has donated multi-sport helmets in elementary schools, and partially funds the registry.	appointed by the Executive Director of MDRS, provides advice and expertise to the Mississippi Department of Rehabilitation Services in the preparation, implementation and periodic review of the TBI/SCI Trust Fund Program.
Missouri	Brain Injury Trust Fund Enacted 2002	\$2 surcharge on court costs related to violations of county ordinances, criminal or traffic laws	Funds shall be used for purposes of transition and integration of medical, social and educational services, or outreach activities and short-term supports that enable individuals with TBI and their families to live in the community.	The Missouri Head Injury Advisory Council was created by Executive Order in 1985, and statutorily in 1986. The council was to administer/ oversight of the fund when the trust fund bill legislation passed. In the following administration, the trust fund and council was transferred to the Department of Health and Senior Services which oversees the funds.
Montana	TBI Trust Fund Enacted 2003	\$1 voluntary donation through motor vehicle registration	May be used by the department to fund the Advisory Council and provide grants for public information, prevention.	Montana TBI Advisory Council created by law to advise and make recommendations to improve and develop services regarding TBI, including advising the Department of Public Health and Human Services on the expenditures of the trust fund account.
New Jersey	TBI Fund	\$.50 surcharge on	There is a process for	The New Jersey

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	Enacted 2002	vehicle registration fees	prioritizing individual requests for funds. Less than 10 percent is spent on administration. Provides assistance and supports; and awareness and education. The most requested services: cognitive therapy, followed by case management, physical therapy, assistive technology, and home modifications.	Advisory Council on TBI oversees the program.
New Mexico	Trust Fund Traumatic Brain Injury Program Enacted 1997	\$5 surcharge on all moving vehicle violations	Services include service coordination, life skills coaching, and crisis interim services---homecare/ respite, therapies (including alternative), physician co-pays, BI medications, transportation, in-home modifications, etc. The fund also covers services through the NM Brain Injury Resource Center, including statewide Brain Injury hotline, professional development, peer and family support program, and annual BI Symposium.	The Brain Injury Advisory Council (BIAC), established in 1995, is part of the Developmental Disabilities Planning Council. The BIAC identifies legislative and community initiatives and strategies for implementation.
Pennsylvania	Catastrophic Medical and Rehabilitation Fund Enacted 1985	25% of amount collected in surcharges on traffic violation fines (\$10 each) and fees in lieu of jail time (\$25 each)	Legislation states the trust fund can pay for medical rehabilitation services and attendant care. Services are assessment, rehabilitation and transitional case management. Consumers can obtain assistance from the Brain Injury Association of Pennsylvania (BIAPA) in applying to the Trust Fund Program.	
Tennessee	TBI Trust Fund Enacted 1993	Variable surcharges on 6 traffic violations: speeding, reckless driving, DUI, revoked	To fund the registry, the TBI coordinator position and additional staff requirements and other expenditures and grants.	Tennessee TBI Advisory Committee

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		license, drag racing, accidents resulting in death	Funds provide supported living, therapeutic recreation, camp, service coordination, and services under Project BRAIN. Service coordinators are in 8 locations covering 95 counties.	
Texas	TBI/SCI Trust Fund Enacted 1991	\$133 surcharge on felony convictions; \$83 on Class A & B misdemeanors, \$40 on convictions punishable by fines only (9.8218% of all fines collected)	Funding decisions are made by vocational counselors based on collected documentation. The trust fund will pay for three core services: 1) up to 90 days at an inpatient, comprehensive medical rehabilitation program if the consumer is making progress and all other resources have been utilized, 2) up to 120 hours of outpatient therapy if the consumer is making progress and all other resources have been utilized, and 3) up to 6 months of post-acute rehabilitation services - residential or non-residential - services, if the consumer is making progress and all other resources have been utilized. Additional services may be purchased while the consumer is receiving one of these three core services. Additional services include transportation, medication, assistive technology, personal attendant services, psychological services, orthotics and prosthetics. Once the limit on service is reached, a person cannot receive any more of that service. The exception is if there is a new TBI or spinal cord injury. There are no annual or lifetime caps on the amount of funding.	There was an advisory board that reviewed and suggested changes to the program. This was discontinued in 2003 (TAC Trust Fund Packet, 2012). The Texas Traumatic Brain Injury Advisory Council is in the Texas Health and Human Services Commission and is responsible for planning and making recommendations for improved service delivery.
Utah	Traumatic	Funds are received	Fund money shall be used to	TBI Fund Advisory

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	Spinal Cord and Brain Injury Rehabilitation Trust Fund Enacted 2012	through appropriations, gifts and a portion of impound fees to assist charitable clinics providing rehabilitation services for the post-acute-care of people with such injuries.	assist qualified IRC 501(c)(3) charitable clinics to provide: (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.	Council.
Virginia	Commonwealth Neurotrauma Initiative Trust Fund Enacted 1997	Trust Fund receives \$25 of the Driver's license reinstatement fee (\$30) levied on individuals whose license has been revoked or suspended.	47.5 percent of the revenue is used to support applied research on the mechanisms and treatment of neurotrauma, 47.5 percent to support community-based rehabilitation projects, and 5 percent is set aside for program administration. Also, a provision in 2004 legislation gives the Commissioner of the Department of Rehabilitative Services the authority to reallocate up to \$500,000 each year in unexpended balances to fund research grants.	The Virginia Commonwealth Neurotrauma Initiative Advisory Board sets priorities and oversees the fund. The Virginia Brain Injury Advisory Council was created in 1986 to plan, advise and oversee all brain injury funding.
Washington	Washington TBI Account Enacted 2007	TBI Account receives \$2 of each penalty fee imposed for violation of traffic laws	To support the activities in the statewide TBI comprehensive plan, to provide a public awareness campaign and services, for information and referral services; and for costs of required department staff who are providing support for the council.	The Strategic Partnership Advisory Council was established at the same time as the TBI Account, advises the Governor, the Legislature, and the Department of Social and Health Services.

This document was produced by Susan L. Vaughn, Director of Public Policy. For additional information regarding this chart or to correct/update this information, please contact her at publicpolicy@nashia.org. Visit NASHIA's website for further information on TBI and public services: www.nashia.org.

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