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SENATE FILE

173

JUDICIARY

BY BEALL, TINSMAN, LUNDBY, CONNOLLY,
STEWART, QUIRMBACH, DVORSKY,
DOTZLER, DANIELSON, KREIMAN,
WARNSTADT, HORN, SENG, HANCOCK,
DEARDEN, RIELLY, SCHOENJAHN,
BOLKCOM, BLACK, GRONSTAL,
KIBBIE, McCOY, FRAISE, and
RAGAN

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the assessment of a brain injury surcharge,
2 creating a brain injury surcharge fund, and making
3 appropriations to the fund.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 135.23 BRAIN INJURY SURCHARGE
2 FUND.

3 A brain injury surcharge fund is created as a separate fund
4 in the state treasury under the control of the department.
5 The fund shall consist of appropriations made to the fund and
6 transfers of interest, earnings, and moneys required to be
7 collected for deposit in the fund, including moneys received
8 from the brain injury surcharge provided for in section 911.5.
9 All moneys in the fund are appropriated to the department for
10 use by the department to provide ongoing support for the
11 advisory council on brain injuries and to provide a source of
12 funding for programs benefiting persons with brain injuries.
13 Any balance in the fund on June 30 of any fiscal year shall
14 not revert to any other fund of the state but shall remain
15 available for the purposes described in this section.

16 Sec. 2. Section 602.8102, subsection 135A, Code 2005, is
17 amended to read as follows:

18 135A. Assess the surcharges provided by sections 911.2,
19 911.3, and 911.4, and 911.5.

20 Sec. 3. Section 602.8108, subsection 2, Code 2005, is
21 amended to read as follows:

22 2. Except as otherwise provided, the clerk of the district
23 court shall report and submit to the state court
24 administrator, not later than the fifteenth day of each month,
25 the fines and fees received during the preceding calendar
26 month. Except as provided in subsections 3, 4, 5, 7, and 8,
27 and 9, the state court administrator shall deposit the amounts
28 received with the treasurer of state for deposit in the
29 general fund of the state. The state court administrator
30 shall report to the legislative services agency within thirty
31 days of the beginning of each fiscal quarter the amount
32 received during the previous quarter in the account
33 established under this section.

34 Sec. 4. Section 602.8108, Code 2005, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 9. The clerk of the district court shall
2 remit all moneys collected from the brain injury surcharge
3 provided in section 911.5 to the state court administrator for
4 deposit in the brain injury surcharge fund established in
5 section 135.23.

6 Sec. 5. Section 902.9, unnumbered paragraph 2, Code 2005,
7 is amended to read as follows:

8 The surcharges required by sections 911.1, 911.2, and
9 911.3, and 911.5 shall be added to a fine imposed on a class
10 "C" or class "D" felon, as provided by those sections, and are
11 not a part of or subject to the maximums set in this section.

12 Sec. 6. Section 903.1, subsection 4, Code 2005, is amended
13 to read as follows:

14 4. The surcharges required by sections 911.1, 911.2,
15 911.3, and 911.4, and 911.5 shall be added to a fine imposed
16 on a misdemeanor as provided in those sections, and are not a
17 part of or subject to the maximums set in this section.

18 Sec. 7. Section 909.8, Code 2005, is amended to read as
19 follows:

20 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO
21 SURCHARGE.

22 The provisions of this chapter governing the payment and
23 collection of a fine, except section 909.3A, also apply to the
24 payment and collection of surcharges imposed pursuant to
25 chapter 911. However, section 909.10 shall not apply to
26 surcharges assessed under sections 911.3, and 911.4, and
27 911.5.

28 Sec. 8. NEW SECTION. 911.5 BRAIN INJURY SURCHARGE.

29 1. In addition to any other surcharge, the court or clerk
30 of the district court shall assess a brain injury surcharge of
31 twenty-five dollars if an adjudication of guilt or a deferred
32 judgment has been entered for a criminal violation under
33 section 321J.2.

34 2. The surcharge shall be remitted by the clerk of the
35 district court as provided in section 602.8108, subsection 9.

1 3. The surcharge is subject to the provisions of chapter
2 909 governing the payment and collection of fines, as provided
3 in section 909.8.

4 EXPLANATION

5 This bill assesses a brain injury surcharge and creates a
6 brain injury surcharge fund.

7 The bill assesses a brain injury surcharge in the amount of
8 \$25 if an adjudication of guilt or a deferred judgment has
9 been entered for the criminal offense of operating while
10 intoxicated under Code section 321J.2.

11 The bill also creates a brain injury surcharge fund under
12 the control of the Iowa department of public health. Under
13 the bill, moneys from the assessment of the brain injury
14 surcharge are appropriated to the brain injury fund including
15 surcharge moneys deemed delinquent. The bill provides that
16 the moneys in the fund shall be used by the Iowa department of
17 public health to provide ongoing support of the advisory
18 council on brain injuries and to provide a source of funding
19 for programs benefiting persons with brain injuries. Any
20 balance in the fund on June 30 of any fiscal year shall not
21 revert to any other fund of the state but shall remain
22 available for the purposes described in the new provisions.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 173 - Brain Injury Surcharge Fund (LSB 1172 SS)
Analyst: Lisa Burk (Phone: (515) 281-7942) (lisa.burk@legis.state.ia.us)
Fiscal Note Version - New
Requested by Senator Steve Warnstadt

Description

Senate File 173 assesses a brain injury surcharge and establishes a Brain Injury Surcharge Fund under the authority of the Department of Public Health to be used to provide ongoing support for the Advisory Council on Brain Injuries and associated activities.

Background

1. There were 15,412 convictions for Operating While Intoxicated (OWI) offenses in FY 2004.
2. A \$25 surcharge will be assessed for convictions or deferred judgments for the offense of OWI.

Assumptions

1. The cumulative collection rate for this scheduled traffic offense in year one is 71.0%, year two is 80.7%, and year three and thereafter is 86.6%.
2. The law will become effective July 1, 2005. A lag effect of six months is assumed from the law's effective date. The first full year of collections will not occur until the third year.
3. The Department of Public Health will utilize the additional funds generated by the surcharge for various initiatives recommended by the Advisory Council on Brain Injuries, including support for the Iowa Brain Injury Resource Network, support groups, prevention grants, public awareness, professional training, and additional administrative costs for data collection, analysis, and management of prevention activities.

Fiscal Impact

Senate File 173 is expected to generate the following revenue from the \$25 surcharge to be deposited into the Brain Injury Surcharge Fund:

Brain Injury Surcharge Fund Revenues

<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
\$ 274,000	\$ 585,000	\$ 645,000

The Department of Public Health anticipates the revenues from the Brain Injury Surcharge Fund would be utilized for FY 2006 and FY 2007 as follows:

<u>Anticipated Expenditures</u>	<u>FY 2006</u>	<u>FY 2007</u>
Brain Injury Resource Network	\$ 150,000	\$ 200,000
Support Groups	0	150,000
Prevention Grants	89,000	150,000
Epidemiologist - 0.5 FTE Position	35,000	35,000
Comm. Health Consultant - 1.0 FTE Position	0	50,000
Total	<u>\$ 274,000</u>	<u>\$ 585,000</u>

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning
Department of Public Health

/s/ Holly M. Lyons

March 16, 2005

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5. The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
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