

Senator Scott K. Jenkins proposes the following substitute bill:

**INCREASE IN SURCHARGE ON FINES**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: Kevin S. Garn

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**LONG TITLE**

**General Description:**

This bill increases the surcharges on fines and penalties to provide funds for increased law enforcement presence in areas with halfway houses.

**Highlighted Provisions:**

This bill:

- ▶ increases the surcharges on criminal fines and penalties from 85% to 90%;
- ▶ creates a Law Enforcement Services Account for the increased amounts;
- ▶ requires that the Commission on Criminal and Juvenile Justice administer the account;
- ▶ requires that the account be used for increased law enforcement in areas with halfway houses; and
- ▶ allows law enforcement agencies to receive funds based on the number of halfway house beds in their jurisdiction to accomplish the purpose of the account.

**Monies Appropriated in this Bill:**

**→ [None] This bill appropriates as an ongoing appropriation subject to future budget constraints, \$619,000 from the Law Enforcement Services Account for fiscal year 2010-11 to the Commission on Criminal and Juvenile Justice. ←**

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

**Utah Code Sections Affected:**



**2nd Sub. S.B. 217**

26 AMENDS:

27 **51-9-401**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and  
 28 amended by Laws of Utah 2008, Chapter 382

29 **51-9-402**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and  
 30 amended by Laws of Utah 2008, Chapter 382

31 ENACTS:

32 **51-9-412**, Utah Code Annotated 1953



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

35 Section 1. Section **51-9-401** is amended to read:

36 **51-9-401. Surcharge -- Application and exemptions.**

37 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures  
 38 imposed by the courts.

39 (b) The surcharge shall be:

40 (i) ~~85%~~ 90% upon conviction of a:

41 (A) felony;

42 (B) class A misdemeanor;

43 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless  
 44 Driving; or

45 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including  
 46 violation of comparable county or municipal ordinances; or

47 (ii) 35% upon conviction of any other offense, including violation of county or  
 48 municipal ordinances not subject to the ~~85%~~ 90% surcharge.

49 (c) The Division of Finance shall allocate \$→ [the first 4.5% of] ←\$ the collected 90%  
 49a surcharge

50 in Subsection (1)(b)(i) \$→ in the following order:

50a (i) the first \$30,000 to the General Fund;

50b (ii) the next 4.5% ←\$ to the Law Enforcement Services Account established in Section

51 51-9-412 \$→; ←\$ and \$→(iii)←\$ the remainder as prescribed in Sections 51-9-403 through  
 51a 51-9-411.

52 (2) The surcharge may not be imposed:

53 (a) upon nonmoving traffic violations;

54 (b) upon court orders when the offender is ordered to perform compensatory service  
 55 work in lieu of paying a fine; and

56 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment

57 of a case under Section 78A-6-602.

58 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to  
59 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if  
60 committed by an adult.

61 (b) However, the surcharge does not include amounts assessed or collected separately  
62 by juvenile courts for the Juvenile Restitution Account, which is independent of this part and  
63 does not affect the imposition or collection of the surcharge.

64 (4) The surcharge under this section shall be imposed in addition to the fine charged  
65 for a civil or criminal offense, and no reduction may be made in the fine charged due to the  
66 surcharge imposition.

67 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be  
68 authorized and managed by this part rather than attached to particular offenses.

69 Section 2. Section **51-9-402** is amended to read:

70 **51-9-402. Division of collected monies retained by state treasurer and local**  
71 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**  
72 **Financial information.**

73 (1) The amount of the surcharge imposed under this part by courts of record shall be  
74 collected before any fine and deposited with the state treasurer.

75 (2) The amount of the surcharge and the amount of criminal fines, penalties, and  
76 forfeitures imposed under this part by courts not of record shall be collected concurrently.

77 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the  
78 [~~85%~~] 90% surcharge, the monies shall be divided pro rata so that the local governmental  
79 collecting entity retains [~~54%~~] 53% of the collected monies and the state retains [~~46%~~] 47% of  
80 the collected monies.

81 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the  
82 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting  
83 entity retains 74% of the collected monies and the state retains 26% of the collected monies.

84 (c) The court shall deposit with the state treasurer the surcharge portion of all monies  
85 as they are collected.

86 (3) Courts of record, courts not of record, and administrative traffic proceedings shall  
87 collect financial information to determine:

- 88 (a) the total number of cases in which:  
89 (i) a final judgment has been rendered;  
90 (ii) surcharges and fines are paid by partial or installment payment; and  
91 (iii) the judgment is fulfilled by an alternative method upon the court's order; and  
92 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state  
93 and county or municipality, including:  
94 (i) waived surcharges;  
95 (ii) uncollected surcharges; and  
96 (iii) collected surcharges.

97 (4) The courts of record, courts not of record, and administrative traffic proceedings  
98 shall report all collected financial information monthly to the Administrative Office of the  
99 Courts. The collected information shall be categorized by cases subject to the [~~85%~~] 90% and  
100 35% surcharge.

101 (5) The purpose of the surcharge is to finance the trust funds and support accounts as  
102 provided in this part.

103 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for  
104 the purposes described in Sections 51-9-403 through 51-9-411.

105 (b) Allocations shall be made on a fiscal year basis.

106 (7) The provisions of this section and Section 51-9-401 may not impact the distribution  
107 and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13,  
108 78A-5-110, and 78A-7-120.

109 Section 3. Section **51-9-412** is enacted to read:

110 **51-9-412. Law Enforcement Services Account -- Funding -- Uses.**

111 (1) As used in this section:

112 (a) "Account" means the Law Enforcement Services Account.

113 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in  
114 Section 63M-7-201.

115 (c) "Law enforcement agency" means a local law enforcement agency.

116 (2) There is created a restricted account within the General Fund known as the "Law  
117 Enforcement Services Account."

118 (3) (a) The Division of Finance shall allocate funds from the collected surcharge in

119 accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount  
120 appropriated by the Legislature.

121 (b) Money in the account shall be appropriated to the commission to administer and  
122 distribute to law enforcement agencies providing services directly to areas with halfway  
123 houses.

124 (4) The commission shall allocate funds from the account to local law enforcement  
125 agencies on a pro-rata basis determined by the number of beds in each agency's jurisdiction for  
126 increased enforcement in areas with halfway houses.

127 (5) A law enforcement agency may use funds received under this section only for the  
128 purposes stated in this section.

129 (6) For each fiscal year, any law enforcement agency that receives funds from the  
130 commission under this section shall prepare, and file with the commission and the state auditor,  
131 a report in a form specified by the commission. The report shall include the following:

132 (a) the agency's name;

133 (b) the amount received;

134 (c) how the funds were used, including the impact on crime reduction efforts in areas  
135 with halfway houses; and

136 (d) a statement signed by both the agency's or political subdivision's executive officer  
137 or designee and by the agency's legal counsel that all funds were used for law enforcement  
138 operations related to reducing criminal activity in areas with halfway houses.

139 (7) The commission shall report in writing to the legislative Law Enforcement and  
140 Criminal Justice Interim Committee annually regarding the funds allocated under this section,  
141 including the amounts and uses.

142 Section 4. **Effective date.**

143 This bill takes effect on July 1, 2010.

143a **§→ Section 5. Appropriation.**

143b As an ongoing appropriation subject to future budget constraints, there is appropriated from  
143c the Law Enforcement Services Account established in Section 51-9-412 for fiscal year 2010-11,  
143d \$619,000 to the Commission on Criminal and Juvenile Justice to allocate for the purposes set forth in  
143e Section 51-9-412. ←§

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**S.B. 217 2nd Sub. (Salmon) - Increase in Surcharge on Fines - As Amended**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Provisions of this bill will increase surcharge collections by \$765,000 annually. The new restricted account created in this bill will receive \$619,000, and the balance of \$146,000 will be allocated to programs as currently outlined in statute. The bill appropriates \$619,000 annually from the new restricted account to the Commission on Criminal and Juvenile Justice.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
Restricted Funds	\$0	\$619,000	\$619,000	\$0	\$765,000	\$765,000
<b>Total</b>	<b>\$0</b>	<b>\$619,000</b>	<b>\$619,000</b>	<b>\$0</b>	<b>\$765,000</b>	<b>\$765,000</b>

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**Individual, Business and/or Local Impact**

Individuals convicted of felonies, class A misdemeanors, and certain other violations will see an increase in the surcharge from 85% to 90% of fines, penalties and forfeitures. No direct, measureable costs and/or benefits to local governments or businesses.