

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: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ increases the surcharges on criminal fines and penalties from 85% to 95%;
- ▶ 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 around halfway houses; and
- ▶ allows law enforcement agencies to apply for grants to accomplish the purpose of the account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



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

33

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%~~] 95% 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%~~] 95% surcharge.

49 (2) The surcharge may not be imposed:

50 (a) upon nonmoving traffic violations;

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

53 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment
54 of a case under Section 78A-6-602.

55 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to
56 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if

57 committed by an adult.

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

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

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

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

67 **51-9-402. Division of collected monies retained by state treasurer and local**
68 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**
69 **Financial information.**

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

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

74 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the
75 [~~85%~~] 95% surcharge, the monies shall be divided pro rata so that the local governmental
76 collecting entity retains [~~54%~~] 51% of the collected monies and the state retains [~~46%~~] 49% of
77 the collected monies.

78 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the
79 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting
80 entity retains 74% of the collected monies and the state retains 26% of the collected monies.

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

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

85 (a) the total number of cases in which:

86 (i) a final judgment has been rendered;

87 (ii) surcharges and fines are paid by partial or installment payment; and

88 (iii) the judgment is fulfilled by an alternative method upon the court's order; and
89 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state
90 and county or municipality, including:

- 91 (i) waived surcharges;
- 92 (ii) uncollected surcharges; and
- 93 (iii) collected surcharges.

94 (4) The courts of record, courts not of record, and administrative traffic proceedings
95 shall report all collected financial information monthly to the Administrative Office of the
96 Courts. The collected information shall be categorized by cases subject to the [~~85%~~] 95% and
97 35% surcharge.

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

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

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

103 (7) The provisions of this section and Section 51-9-401 may not impact the distribution
104 and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13,
105 78A-5-110, and 78A-7-120.

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

107 **51-9-412. Law Enforcement Services Account -- Funding -- Uses.**

108 (1) As used in this section:

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

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

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

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

115 (3) (a) The Division of Finance shall allocate the first 9% of the collected surcharge
116 under Section 51-9-401 to the account, to be appropriated by the Legislature.

117 (b) Money in the account shall be appropriated to the commission for grants to law
118 enforcement agencies providing services directly to the areas around halfway houses.

119 (c) The state treasurer shall invest monies in the account according to Title 51, Chapter
120 7, State Money Management Act.

121 (d) The Division of Finance shall deposit interest or other earnings derived from
122 investment of account monies into the General Fund.

123 (4) The commission shall, upon application, allocate grants of funds from the account
124 to local law enforcement agencies for increased enforcement in areas around halfway houses.

125 (5) A law enforcement agency may use funds granted under this section only for the
126 purposes stated by the commission in the grant.

127 (6) The commission may retain up to 1% of the amount appropriated to cover the costs
128 of administering the fund.

129 (7) For each fiscal year, any law enforcement agency that receives a grant 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 regarding each grant:

133 (a) the agency's name;

134 (b) the amount of the grant;

135 (c) the date of the grant;

136 (d) how the grant was used; and

137 (e) a statement signed by both the agency's or political subdivision's executive officer
138 or designee and by the agency's legal counsel that all grant funds were used for law
139 enforcement operations approved by the commission and that relate to reducing criminal
140 activity in areas around group homes.

141 (8) The commission shall report in writing to the legislative Law Enforcement and
142 Criminal Justice Interim Committee annually regarding the grants allocated under this section,
143 including the amounts and uses of the grants.

S.B. 217 1st Sub. (Green) - Increase in Surcharge on Fines

Fiscal Note

2010 General Session
State of Utah

State Impact

Provisions of this bill will increase surcharge collections by \$1,530,000 annually. The new restricted account created in this bill will receive \$1,308,000, and the balance of \$222,000 will be allocated to programs as currently outlined in statute. Provisions would reduce revenue to the General Fund by \$82,000 annually.

	<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>
General Fund	\$0	\$0	\$0	\$0	(\$82,000)	(\$82,000)
Restricted Funds	\$0	\$0	\$0	\$0	\$1,530,000	\$1,530,000
Total	\$0	\$0	\$0	\$0	\$1,448,000	\$1,448,000

Individual, Business and/or Local Impact

Individuals convicted of felonies, class A misdemeanors, and certain other violations would see an increase in the surcharge from 85% to 95% of fines, penalties and forfeitures. No direct, measurable costs and/or benefits to local governments or businesses.
