

3-17-95 Amend/Do Pass w/H. 3336  
3-22-95 Ways & Means

FEB 13 1995

JUDICIARY

HOUSE FILE 160  
BY WEIDMAN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to imposing a prison and jail surcharge on  
2 scheduled fines and forfeitures and providing for the  
3 appropriation and disposition of the proceeds from the  
4 surcharge for prisons and jails.

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

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HF 160

1 Section 1. Section 331.302, subsection 2, Code 1995, is  
2 amended to read as follows:

3 2. A county shall not provide a penalty in excess of a one  
4 hundred dollar fine or in excess of thirty days imprisonment  
5 for the violation of an ordinance. The criminal penalty  
6 surcharge required by section 911.2 and the prison and jail  
7 surcharge required by section 911A.2 shall be added to a  
8 county fine and is not a part of the county's penalty.

9 Sec. 2. Section 364.3, subsection 2, Code 1995, is amended  
10 to read as follows:

11 2. A city shall not provide a penalty in excess of a one  
12 hundred dollar fine or in excess of thirty days imprisonment  
13 for the violation of an ordinance. An amount equal to ten  
14 percent of all fines collected by cities shall be deposited in  
15 the account established in section 602.8108. However, one  
16 hundred percent of all fines collected by a city pursuant to  
17 section 321.236, subsection 1, shall be retained by the city.  
18 The criminal penalty surcharge required by section 911.2 and  
19 the prison and jail surcharge required by section 911A.2 shall  
20 be added to a city fine and is not a part of the city's  
21 penalty.

22 Sec. 3. Section 602.8107, subsection 2, paragraph b, Code  
23 1995, is amended to read as follows:

24 b. Fines or penalties and ~~criminal-penalty~~ surcharges.

25 Sec. 4. Section 602.8107, subsection 4, unnumbered  
26 paragraph 2, Code 1995, is amended to read as follows:

27 This subsection does not apply to amounts collected for  
28 victim restitution, the victim compensation fund, criminal  
29 penalty surcharge, prison and jail surcharge, or amounts  
30 collected as a result of procedures initiated under section  
31 421.17, subsection 25.

32 Sec. 5. Section 805.8, subsection 1, Code 1995, is amended  
33 to read as follows:

34 1. APPLICATION. Except as otherwise indicated, violations  
35 of sections of the Code specified in this section are

1 scheduled violations, and the scheduled fine for each of those  
2 violations is as provided in this section, whether the  
3 violation is of state law or of a county or city ordinance.

4 The ~~criminal-penalty-surcharge~~ surcharges required by section  
5 911.2 and section 911A.2 shall be added to the scheduled fine.

6 Sec. 6. Section 805.8, subsection 11, unnumbered paragraph  
7 1, Code 1995, is amended to read as follows:

8 For violations of section 142B.6 or 453A.2, subsection 2,  
9 the scheduled fine is twenty-five dollars, and is a civil  
10 penalty, and the ~~criminal-penalty-surcharge~~ surcharges under  
11 section 911.2 and section 911A.2 shall not be added to the  
12 penalty, and the court costs pursuant to section 805.9,  
13 subsection 6, shall not be imposed. If the civil penalty  
14 assessed for a violation of section 142B.6 is not paid in a  
15 timely manner, a citation shall be issued for the violation in  
16 the manner provided in section 804.1. However, a person under  
17 age eighteen shall not be detained in a secure facility for  
18 failure to pay the civil penalty. The complainant shall not  
19 be charged a filing fee.

20 Sec. 7. Section 902.9, unnumbered paragraph 2, Code 1995,  
21 is amended to read as follows:

22 The criminal penalty surcharge required by section 911.2  
23 and the prison and jail surcharge required by section 911A.2  
24 shall be added to a fine imposed on a class "C" or class "D"  
25 felon, as provided by ~~that-section~~ those sections, and ~~is~~ are  
26 not a part of or subject to the maximums set in this section.

27 Sec. 8. Section 903.1, subsection 4, Code 1995, is amended  
28 to read as follows:

29 4. The criminal penalty surcharge required by section  
30 911.2 and the prison and jail surcharge required by section  
31 911A.2 shall be added to a fine imposed on a misdemeanor, and  
32 ~~is~~ are not a part of or subject to the maximums set in this  
33 section.

34 Sec. 9. Section 909.8, Code 1995, is amended to read as  
35 follows:

1 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
2 PENALTY-SURCHARGE SURCHARGES.

3 The provisions of this chapter governing the payment and  
4 collection of a fine, except section 909.3A, also apply to the  
5 payment and collection of a criminal penalty surcharge imposed  
6 pursuant to chapter 911 and the prison and jail surcharge  
7 imposed pursuant to chapter 911A.

8 Sec. 10. Section 909.10, subsection 1, Code 1995, is  
9 amended to read as follows:

10 1. As used in this section, unless the context otherwise  
11 requires, "delinquent amounts" means a fine, court-imposed  
12 court costs in a criminal proceeding, ~~or~~ criminal surcharge  
13 imposed pursuant to section 911.2, or prison and jail  
14 surcharge imposed pursuant to section 911A.2, which remains  
15 unpaid after two years from the date that the fine, court  
16 costs, or surcharge was imposed, and which is not collected by  
17 the county attorney pursuant to section 602.8107. However, if  
18 the fine may be paid in installments pursuant to section  
19 909.3, the fine is not a delinquent amount unless the  
20 installment remains unpaid after two years from the date the  
21 installment was due.

22 Sec. 11. NEW SECTION. 911A.1 PRISON AND JAIL SURCHARGE  
23 ESTABLISHED.

24 A prison and jail surcharge shall be levied against certain  
25 law violators as provided in section 911A.2. The surcharge  
26 shall be used as provided in section 911A.3.

27 Sec. 12. NEW SECTION. 911A.2 SURCHARGE.

28 When a court imposes a fine or forfeiture for a violation  
29 of a state law, or of a city or county ordinance except an  
30 ordinance regulating the parking of motor vehicles, the court  
31 shall assess an additional penalty in the form of a surcharge  
32 equal to ten dollars. In the event of multiple offenses, the  
33 surcharge shall be based upon the total number of offenses.  
34 When a fine or forfeiture is suspended in whole or in part,  
35 the surcharge shall not be reduced.

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

4 Sec. 13. NEW SECTION. 911A.3 DISPOSITION OF SURCHARGE.

5 When a court assesses a surcharge under section 911A.2,  
6 notwithstanding any other provision of the Code to the  
7 contrary, proceeds from the surcharge shall be appropriated  
8 and distributed as follows:

9 1. If the surcharge is assessed for a scheduled violation  
10 under section 805.8 and the citation was issued by a peace  
11 officer employed by the state, all of the surcharge shall be  
12 transferred to the department of corrections to be used only  
13 for the construction and maintenance of incarceration space  
14 necessary to expand the capacity of prisons or community-based  
15 correctional facilities.

16 2. If the surcharge is assessed for a scheduled violation  
17 under section 805.8 and the citation was issued by a peace  
18 officer employed by a political subdivision, the surcharge  
19 shall be disposed of in accordance with subsection 3,  
20 paragraphs "a" and "b".

21 3. If the surcharge is assessed for a violation other than  
22 a scheduled violation, the surcharge shall be disposed of as  
23 follows:

24 a. Five dollars of the surcharge shall be transferred to  
25 the department of corrections to be used only for the  
26 construction and maintenance of incarceration space necessary  
27 to expand the capacity of prisons or community-based  
28 correctional facilities.

29 b. Five dollars of the surcharge shall be transferred to  
30 the treasurer of the county in which the citation was issued  
31 to be deposited in the general fund of the county and used  
32 only for the expansion of the capacity of the county jail or  
33 the maintenance of county jail facilities.

34

#### EXPLANATION

35 This bill provides for the assessment of a \$10 surcharge on

1 fines and forfeitures imposed for the violation of state law  
2 or city or county ordinance. If the surcharge is imposed for  
3 a scheduled violation, the entire surcharge shall be allocated  
4 to the department of corrections for use in expanding the  
5 capacity of Iowa prisons and community-based correctional  
6 facilities, if the citation is issued by a peace officer  
7 employed by the state. If the citation is issued by a peace  
8 officer from a political subdivision or for nonscheduled  
9 violations, \$5 of the surcharge would be allocated to the  
10 department of corrections and the other \$5 of the surcharge  
11 would be transferred to the county in which the citation was  
12 issued for use in financing the expansion of county jail  
13 facilities or the maintenance of existing jail facilities.  
14 The bill also provides that the prison and jail surcharge is  
15 not considered part of a penalty imposed by a city or county.

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**HOUSE FILE 160  
FISCAL NOTE**

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A fiscal note for **House File 160** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 160 provides for a \$10 surcharge on fines and forfeitures imposed for the violation of state law or local ordinance. When the citation is issued by a State peace officer for a scheduled violation, the surcharge is allocated to the Department of Corrections to be used in expanding prison and community-based corrections facilities. If the citation is issued by a peace officer from a political subdivision or if the offense is a nonscheduled violation, then \$5 of the surcharge is allocated to the Department of Corrections and \$5 is transferred to the county where the citation was issued to be used for jail expansion and maintenance.

**Assumptions:**

1. There will be 431,000 scheduled fines. Seventy percent of the surcharges for scheduled fines will be collected. Sixty percent will be issued by State peace officers.
2. There will be 193,000 simple misdemeanors. Seventy percent of the surcharges will be collected.
3. There will be 19,000 felonies and indictable misdemeanors. Thirty-five percent of the surcharges will be collected.
4. There will be 403,000 city ordinance violations. Seventy percent of the surcharges will be collected.

**Fiscal Impact:**

The Department of Corrections will receive \$4.5 million annually.

The counties will receive \$2.7 million annually.

The Judicial Department will incur \$7,600 in expenses for conversions and enhancements to the Iowa Court Information System (ICIS).

**Sources:**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Judicial Department (LSB 1682hh, MDF)

FILED MARCH 21, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 160  
FISCAL NOTE**

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House File 160 provides for a \$10 surcharge on fines and forfeitures imposed for the violation of State law or local ordinance. When the citation is issued by a State peace officer for a scheduled violation, the surcharge is allocated to the Department of Corrections to be used in expanding prison and community-based corrections facilities. If the citation is issued by a peace officer from a political subdivision or if the offense is a nonscheduled violation, \$5 of the surcharge is allocated to the Department of Corrections and \$5 is transferred to the county where the citation was issued to be used for jail expansion and maintenance.

**Assumptions:**

1. There will be 450,000 scheduled violations on which prison and jail surcharges will be collected. Sixty percent will be issued by State peace officers.
2. There will be 67,233 simple misdemeanors on which prison and jail surcharges will be collected.
3. There will be 4,430 felonies and indictable misdemeanors on which prison and jail surcharges will be collected.
4. There will be 53,733 city ordinance violations on which prison and jail surcharges will be collected.

**Fiscal Impact:**

The Department of Corrections will receive \$4.2 million annually.

The counties will receive \$1.5 million annually.

The Judicial Department will incur \$7,600 in expenses for conversions and enhancements to the Iowa Court Information System (ICIS).

**Sources:**

Judicial Department

(LSB 1682hh.2, MDF)

FILED APRIL 17, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR



HOUSE FILE 160

H-3336

- 1 Amend House File 160 as follows:  
2 1. Page 4, by striking line 12 and inserting the  
3 following: "transferred to the general fund of the  
4 state to be used only".  
5 2. Page 4, by striking line 25 and inserting the  
6 following: "the general fund of the state to be used  
7 only for the".

By COMMITTEE ON JUDICIARY  
HURLEY of Fayette, Chairperson

H-3336 FILED MARCH 17, 1995

HOUSE FILE 160

H-3406

- 1 Amend House File 160 as follows:  
2 1. Page 4, line 31, by inserting after the word  
3 "used" the following: "as follows:  
4 (1) Sixty percent of the amount deposited from the  
5 surcharge shall be used only for traffic safety and  
6 accident prevention programs.  
7 (2) Forty percent of the amount deposited from the  
8 surcharge shall be used".  
9 2. Title page, line 4, by inserting after the  
10 word "jails" the following: "and traffic safety  
11 programs".

By SHOULTZ of Black Hawk

H-3406 FILED MARCH 22, 1995