

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING REQUIRING THE COLORADO BUREAU OF INVESTIGATION TO RECOUP THE COST OF PERFORMING AN INSTANT CRIMINAL BACKGROUND CHECK PRIOR TO THE TRANSFER OF A FIREARM.

Prime Sponsors: Representative Court
Senator Heath

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 2/12/13.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Legislative Fiscal Note stated that the Department of Public Safety will require a General Fund reduction of \$1,386,956. However, this number does not include centrally appropriated line items in the Long Bill (such as health benefits and payments to the Public Employees Retirement Association) totaling \$161,609 General Fund for FY 2012-13. For purposes of drafting an appropriations clause, JBC staff assumes that the centrally appropriated line items will also be reduced to account for the elimination of General Fund support for this program.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision reducing appropriations to the Department of Public Safety for FY 2013-14 totaling \$1,548,565 General Fund and 22.0 FTE.

The Bill currently states that "The bureau is authorized to expend such moneys from the fund as are necessary to pay the direct and indirect costs incurred by the bureau in performing background checks pursuant to this section." JBC staff considers this section's intent to be

that the Colorado Bureau of Investigation is being provided continuous spending authority from the newly created Instant Criminal Background Check Cash Fund, as such, no appropriation from the cash fund is necessary for the implementation of this bill.

L.002 and J.002

Bill sponsor amendment **L.002** (attached):

- Specifies that the moneys in the Instant Criminal Background Check Cash Fund (Fund) shall be subject to annual appropriation by the General Assembly;
- Allows the Colorado Bureau of Investigation (CBI) to receive a General Fund appropriation for a portion of FY 2013-14 for the purpose of performing criminal background checks for six months after the effective date of the bill or until sufficient moneys exist within the Fund to pay for the performing of criminal background checks.

Amendment L.002 changes the fiscal impact of the bill by allowing the CBI to continue to receive General Fund appropriations in FY 2013-14 for the purpose of performing criminal background checks for six months after the effective date of the bill or until there is sufficient moneys in the Fund to pay for the performing of criminal background checks. Legislative Council Staff and JBC Staff agree that the Department should have a sufficient fund balance to pay for the performing of criminal background checks within four months of the start of FY 2013-14.

JBC staff has prepared amendment **J.002** (attached). Sub-section (1) of J.002 adds a provision reducing appropriations to the Department of Public Safety for FY 2013-14 totaling \$1,032,376 General Fund and 15.0 FTE, or an eight month pro-rata reduction. Sub-section (1) in effect provides a four-month General Fund appropriation to the CBI National Instant Criminal Background Check System to continue paying for criminal background checks with General Fund. Sub-section (2) adds a provision appropriating to the Department of Public Safety for FY 2013-14 \$1,032,376 cash funds from the Instant Criminal Background Check Cash Fund and 15.0 FTE, or an eight months pro-rata appropriation from the Fund. Please note that this appropriation is consistent with the Legislative Fiscal Note and it does not increase appropriations to the Department to address the current backlog, leased space, or computer programming costs.

If L.002 is adopted, J.002 should be adopted and J.001 should not be adopted.

Points to Consider*Legislative Authority*

Is it necessary to "continuously appropriate" moneys in the Instant Criminal Background Check Cash Fund? This method of funding the activities of the Colorado Bureau of Investigation for instant criminal background checks essentially moves related expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process. If the Committee adopts L.002, the moneys in the Fund will be subject to annual appropriation by the General Assembly.