

Colorado Legislative Council Staff Fiscal Note

STATE

REVISED FISCAL IMPACT

(replaces fiscal note dated February 12, 2013)

Drafting Number: LLS 13-0574

Date: February 15, 2013

Prime Sponsor(s): Rep. Court
Sen. Heath

Bill Status: House Second Reading

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TITLE: 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.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds		
Instant Criminal Background Check Cash Fund	\$2,475,000	\$2,772,500
State Expenditures		
General Fund	(\$924,637)	(\$1,386,956)
Cash Funds		
Instant Criminal Background Check Cash Fund	\$2,475,000	\$2,772,500
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: See the State Appropriations section for details.		
Local Government Impact: None.		

Note: This fiscal note is provided pursuant to House Rule 32A (c). It incorporates amendments adopted to the bill on second reading and new assumptions about the number of background checks expected to be required in the future and the fee necessary to cover costs.

Summary of Legislation

As amended, this bill requires the Colorado Bureau of Investigation (CBI) in the Department of Public Safety to charge a fee for performing instant criminal background checks related to the transfer of firearms. The fee may not exceed the direct costs associated with performing the background checks. The CBI may contract with a public or private entity for services related to the collection of the new fee. All revenue collected will be deposited into the newly created Instant Criminal Background Check Cash Fund and the CBI is authorized to use the moneys in the fund to pay the costs associated with performing background checks and processing appeals.

Amendments to the bill permit the CBI to continue using General Fund appropriations in FY 2013-14 for background checks for up to six months, or until sufficient money exists in the cash fund to pay for the background checks. Committee amendments also make the cash fund subject to annual appropriation. Amendments adopted on second reading limit the fee to the CBI's direct costs.

Background. With the passage of House Bill 94-1276, Colorado established the Statewide Instant Criminal Background Check (Instacheck) System to perform background checks prior to all firearms transfers and process appeals of denials. The CBI is the state's point-of-contact for Instacheck. Between 1994 and 1999, Instacheck was financed through a \$10 fee on each requested background check. From 1999 through 2000, the Federal Bureau of Investigation conducted Colorado background checks. The Instacheck System was reestablished in 2000 and has been funded by the General Fund since that time. In FY 2012-13, the General Fund appropriation for the Instacheck program was \$1.5 million and 22.0 FTE. The CBI also receives a cash fund appropriation of approximately \$286,000 and 4.4 FTE per year from fees charged by county sheriffs to perform background checks for concealed handgun permits. The current cash fund appropriation is unaffected by the bill. Each technician can process 1,483 background checks per month. The Instacheck Unit also processes appeals for denied firearms transfers. Approximately 2.3 percent of transferees are denied and approximately 54 percent of denials are appealed. Appeals require three hours each to process.

State Revenue

The bill will increase state cash fund revenue by an amount equal to the fee set by the CBI multiplied by the number of background checks performed. It is estimated that approximately 330,000 background checks will be requested in FY 2013-14 and 363,000 in FY 2014-15. It is also estimated that a fee of \$7.50 for each background check will be sufficient to cover the program's direct costs, although the amount may need to be adjusted in the future. Table 1 shows potential revenue for different fee levels, assuming 330,000 background checks..

Proposed Fee	Total Fee Impact
\$5.00	\$1.7 million
\$7.50	\$2.5 million
\$10.00	\$3.3 million
\$12.00	\$4.0 million

State Expenditures

Assuming that the CBI is able to transition to a fully cash-funded program for conducting background checks for firearm transfers within four months, the bill will *decrease General Fund expenditures by approximately \$924,637 and increase cash fund expenditures by an estimated \$2.5 million in the Department of Public Safety in FY 2013-14 and each year thereafter*. The direct costs of the Instacheck program are currently funded through a General Fund appropriation of \$1,386,956 for background checks and appeals related to firearm transfers. Eight months' worth of direct costs equals \$924,637. Assuming direct costs of \$7.50 per check and 330,000 background checks per year, the total costs under the bill are estimated to be \$2,475,000 in FY 2013-14. Actual costs may vary with demand.

Departmental Differences

The Department of Public Safety identified a need to continue its current General Fund appropriation of \$1,548,565 for FY 2013-14 in order to more smoothly transition to cash funding and to account for time to hire a vendor to build a system to collect fees for background checks. The department also identified a need to expand the Instacheck Unit by 21.7 FTE in order to address a current backlog of background check requests and provide administrative support and supervisory functions for the unit, including new leased space to accommodate the new personnel. Additionally, the department reported that computer programming costs would be \$406,000 for modernizing the entire transfer process and \$4,932 each year would be paid for queries to the Colorado Crime Information Center. The fiscal note does not include these costs or the continued General Fund appropriation because they do not appear to be required by the plain language of the bill. Instead, the fiscal note assumes that any new resources required for the existing Instacheck Unit should be addressed through the annual budget process.

State Appropriations

For FY 2013-14, the General Fund appropriation to the Department of Public Safety should be reduced by \$924,637. The fiscal note also implies that the department should be appropriated \$2,475,000 from the Instant Criminal Background Check Cash Fund.

As amended, the bill reduces the General Fund appropriation to the Department of Public Safety by \$1,032,376 and increases by the same amount the appropriation from the Instant Criminal Background Check Cash Fund.

Departments Contacted

Public Safety