

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM WITH THE COLORADO BUREAU OF INVESTIGATION SERVING AS THE STATE POINT OF CONTACT, AND MAKING AN APPROPRIATION THEREFOR.

Prime Sponsors: Senator Owen
 Representative Tool

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Summary of Amendments Made to the Bill After the 01/21/00 Legislative Council Staff Fiscal Note was Prepared (Amended by the Judiciary Committee on 01/24/00)

1. Changed civil and criminal liability exemption for firearm transferors from "any transferor who does not willfully and intentionally violate the provisions of this section shall not be subject to any civil or criminal liability...." to "any transferor who complies with the provisions of this section shall not be subject to any civil or criminal liability....".

Both Legislative Council staff and JBC staff agree that this amendment does not affect the fiscal impact of this legislation or alter any of the following fiscal analyses or assumptions.

JBC Staff Concurrence with Legislative Council Fiscal Note

Concur XXX Does Not Concur Updated

Reason for the Non-Concurrence

JBC staff does not concur with Legislative Council staff on the estimated cost to conduct "expedited investigations" for those arrest records based in Colorado only. (Denials based on arrest records outside of Colorado would continue to be the responsibility of the firearm applicant to resolve through an appeals process at CBI.)

In order to estimate this additional cost, Legislative Council staff used the federal NICS system as a model, and concluded that "a one to one ratio of call center positions [current CBI staff that are used at Insta-check to conduct background checks] to support center positions [additional CBI staff that would conduct "expedited investigations"] is assumed to be the minimum necessary to research unmatched dispositions". **JBC staff used a different model, in part because the federal NICS system is responsible for national searches (not just state searches) and in part because any federally-administered system may not be the best model of operational efficiency.**

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The JBC analysis of the additional cost is based on the number of denials based on arrests, as reported by the Department between August 1, 1999, and December 31, 1999. During this period, there were a total of 3,898 denials based on arrest records. (Some of these denials were based on arrest records outside of Colorado, but for the purposes of this analysis, staff has assumed that all arrests occurred in Colorado.) **This sample equals 37.1 denials based on arrest records per business day.** Staff has assumed that one Data Specialist could match a final disposition to an arrest record within one hour on average (or resolve approximately 7 denials based on arrest records per day); therefore, **six employees should be able to resolve 42 denials based on arrest records per business day.** (The current bill allows the CBI to conduct these "expedited investigations" within three business days, but for the purposes of this analysis, staff assumes that most records would be matched within one business day.)

The identified program costs are listed below:

Additional Program Need - "Expedited Investigations"	FY 2000-01	FY 2001-02
<u>Personal Services (6.0 FTE)</u> Data Specialist I at \$26,995 base salary, \$3,077 (PERA at 11.4%) and \$391 (Medicare) for a total of \$30,463 per 1.0 FTE	\$182,778	\$182,778
<u>Operating Expenses</u> Assumes \$4,036 per 1.0 FTE, which was the average operating expense for the Insta-check program in FY 1998-99.	\$24,216	\$24,216
<u>Leased Space</u> Staff has excluded this cost (estimated by Legislative Council staff to be \$2,981 per 1.0 FTE) because these 6 new employees could be placed in existing space at the Department.	\$0	\$0
<u>Capital Outlay</u> Assumes \$3,950 per 1.0 FTE for the first year only.	\$23,700	\$0
<u>Health, Life, Dental</u> Assumes \$2,211 per 1.0 FTE per year.	\$13,266	\$13,266
<u>Short-term Disability</u> Staff has excluded this cost (estimated to be \$57 per FTE) in the first year.	\$0	\$336
TOTAL ADDITIONAL COST	\$243,960	\$220,596
	6.0 FTE	6.0 FTE

Note - This assumes an average workload of 37.1 denials based on arrest records per business day.

Additionally, Legislative Council staff included funding in its 1/21/00 Fiscal Note for 1.0 Criminal Investigator (to remove firearms from individuals if a transfer is later deemed to have been unlawful), for 1.0 General Professional (to provide overall administrative support for this program), and 1.0 Information Technician (to improve electronic database searches). JBC staff has excluded these costs on the assumption that the Department has sufficient investigative, administrative, and technical resources to address any additional costs. In FY 1999-00, the Department was appropriated a total of \$149.3 million and 1,151.1 FTE, of which \$49.5 million was supported by the General Fund. *If the time allowed for "expedited investigations" increased from three business days to five business days, staff estimates that this would reduce the need for additional resources from \$243,960 and 6.0 FTE in FY 2000-01 to \$203,300 and 5.0 FTE (or by the reduction of \$40,660 and 1.0 FTE).* If this support team has more time to match arrest records to final dispositions, then fewer resources are needed by the Department.

The following table provides a summary of the JBC staff cost analysis, including the base program costs, which have been authorized by the Joint Budget Committee through the emergency supplemental process established in H.B. 98-1331.

Insta-Check Program Costs	FY 2000-01	FY 2001-02
<i>Option 1 - 3 Days for "Expedited Investigation" in Colorado</i>		
Annualized JBC Action (Denials Based on Arrests)	\$1,065,480	\$1,065,480
	19.0	19.0
Additional Costs for "Expedited Investigation"	\$243,960	\$220,596
	6.0	6.0
TOTAL COSTS	\$1,309,440	\$1,286,076
	25.0	25.0
<i>Option 2 - 5 Days for "Expedited Investigation" in Colorado</i>		
Annualized JBC Action (Denials Based on Arrests)	\$1,065,480	\$1,065,480
	19.0	19.0
Additional Costs for "Expedited Investigation"	\$203,300	\$186,097
	5.0	5.0
TOTAL COSTS	\$1,268,780	\$1,251,577
	24.0	24.0

Note - This program is supported entirely by the General Fund. One-time costs incurred in FY 1999-00 for capital outlay and computer programming were supported by existing reserves in the Instant Background Check Fund for \$190,122 cash funds exempt.

The following table provides an overall comparison of cost estimates:

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Analysis	FY 1999-00			FY 2000-01	FY 2001-02
	Annual	8/1/99 to 4/1/00	4/1/00 to 6/30/00	Annual	Annual
JBC Action To Date - Emergency Supplemental Funding - Denials Based on Arrests (Previous Program)					
TOTAL	\$1,255,602	\$900,442	\$266,370	\$1,065,480	\$1,065,480
FTE	19.0	12.7	4.8	19.0	19.0
General Fund	\$1,065,480	\$710,320	\$266,370	\$1,065,480	\$1,065,480
FTE	19.0	12.7	4.8	19.0	19.0
Cash Funds Exempt	\$190,122	\$190,122	\$0	\$0	\$0
A. Legislative Council Staff Fiscal Note (1/21/00) - 3 Days for "Expedited Investigation" in Colorado					
TOTAL	N/A	N/A	\$533,158	\$2,132,633	\$1,962,885
FTE	N/A	N/A	11.8	47.0	47.0
General Fund			\$533,158	\$2,085,202	\$1,915,454
FTE			11.8	46.0	46.0
Cash Funds Exempt			\$0	\$47,431	\$47,431
FTE			0.0	1.0	1.0
B. JBC Staff Fiscal Analysis (1/27/00) - 3 Days for "Expedited Investigation" in Colorado					
TOTAL - GENERAL FUND	N/A	N/A	\$327,360	\$1,309,440	\$1,286,076
FTE	N/A	N/A	6.3	25.0	25.0
C. Legislative Council Staff Memorandum (1/27/00) - 5 Days for "Expedited Investigation" in Colorado					
TOTAL	N/A	N/A	Pending	Pending	Pending
FTE	N/A	N/A	Pending	Pending	Pending
D. JBC Staff Fiscal Analysis (1/27/00) - 5 Days for "Expedited Investigation" in Colorado					
TOTAL - GENERAL FUND	N/A	N/A	\$317,195	\$1,268,780	\$1,251,577
FTE	N/A	N/A	6.0	24.0	24.0

Amendments/Appropriation Status

Staff has prepared two amendments that would change the existing appropriations clause to match either the Legislative Council staff fiscal note dated 01/21/00 or the JBC staff analysis discussed above. *At most, only one of these amendments should be adopted.*

Staff has been instructed to only include the pro rated funding for these costs from April 1, 2000, through June 30, 2000. Assuming that this bill is enacted prior to introduction of the FY 2000-01 Long Bill, all future year funding would be included in the FY 2000-01 Long Bill. **Therefore, this bill would not access the General Fund set-aside funds.** *Funding for this program has been included in a supplemental bill for the Department of Public Safety from August 1, 1999, through April 1, 2000 in the amount of \$900,442 and 12.7 FTE.*

The first amendment (**J.001**) changes the appropriations clause so that funding for the balance of FY 1999-00 (04/01/00 to 06/30/00) is provided for **\$533,158 and 11.8 FTE, all of which would be supported by the General Fund.** This amendment matches the Legislative Council staff fiscal note dated 01/21/00.

The second amendment (**J.002**) changes the appropriations clause so that funding for the balance of FY 1999-00 (04/01/00 to 06/30/00) is provided for **\$327,360 and 6.3 FTE, all of which would be supported by the General Fund.** This amendment matches the JBC staff analysis outlined above.

Sponsor Amendments

There is one sponsor amendment (**J.003**) that proposes to **extend the deadline for the CBI to match arrest records with final dispositions from three business days to five business days.** This amendment would change both the Legislative Council staff fiscal note dated 01/21/00 and the JBC staff analysis.

Legislative Council staff was unable to alter its 01/21/00 fiscal note prior to the Appropriation Committee meeting; therefore, it has not supplied an estimate of the fiscal impact of this sponsor amendment. JBC staff estimates that by allowing the Department to have five business days instead of three business days to conduct "expedited investigations", it would reduce the JBC staff estimate by \$40,660 General Fund and 1.0 FTE in FY 2000-01. The requested reduction to the appropriation clause is included in the sponsor amendment using the JBC staff analysis; therefore, **if J.003 is adopted, no other amendments are necessary.**

Questions and Concerns

None.