

To: Senate Finance Committee

From: Sean R. List, Esq.

Date: March 23, 2021

Re: Analysis of Fiscal Impact of SB 141 in response to Fiscal Note Submitted by Attorney Head

Members of the Finance Committee:

Although I did not intend on submitting testimony to the Finance Committee given the clear cost savings presented by SB 141, I would be remiss if I did not respond to the submission by my fellow officer of the court, Attorney Richard Head.

At the outset, let me make clear that I had a lengthy call with Attorney Head and the DV Liaison for the Judiciary, Sarah Freeman, during my drafting of the bill. The bullet-pointed concerns contained within Attorney Head's fiscal note are a mixture of costs not attributable to SB 141 and incomplete data. I will respond to each point in turn.

Incomplete Dispositional Records

I certainly appreciate the transparency of the disclosure that the Department of Safety maintains approximately 170,000 files without complete dispositional records. This incomplete record-keeping is incredibly concerning for not just firearm background checks but also for the average citizen who might be required to submit to a background check for a job application, security clearance or professional license. Records that show arrests without dispositions could cause a person who has been acquitted to suffer consequences as though he or she was convicted. These records must be corrected to protect our citizens. The cost of correcting and completing records that were hastily compiled by the Department of Safety cannot be properly imputed to SB 141. These records should have been entered correctly in the first place.

Although correcting the Department of Safety's records might incur costs in the short-term, the current protracted process of internal searches and calls to various Court Clerks for the purpose of completing background checks will no longer be necessary, which will ultimately net a higher level of efficiency and cost-savings for decades to come. SB 141 was amended so that the effective date was pushed out an additional six months to give the Judiciary and Department of Safety the time to clean up its records.

Reporting into the Federal NICS

The NICS pulls records from three places: the National Crime Information Center ("NCIC,") the Interstate Identification Index ("IIP"), and the NICS Index.

Records that are submitted into NCIC regarding prohibitors under federal law, such as final protective orders, will not need to be entered a second time into the NICS Index. NICS will already

pull those records from NCIC. State prohibitors, such as temporary restraining orders that are not currently reported into NCIC, will need to be entered into the NICS Index. There will be no double-reporting cost because only one entry will be required in either situation. Under our current system with the Gun Line, temporary orders are not entered into the NICS Index and are instead held only by the Gun Line. They are only utilized with handgun purchases. This means that someone prohibited from buying a gun due to a temporary restraining order under state law can go to a dealer and purchase a shotgun or rifle. The dealer and the State of New Hampshire face liability if that prohibited purchaser shoots someone.

Records Without Date of Birth

The Gun Line's current system of compiling the names of prohibited individuals without dates of birth is both ineffective and inefficient, leading to the unnecessary expenditure of time and resources. A name without a date of birth is not enough information to stop a prohibited buyer, but it is enough to delay an innocent buyer who shares a name with a prohibited person. If Aaron Smith is prohibited but a date of birth is not on file, when he submits to a firearm-related background check the Gun Line cannot determine that the Aaron Smith submitting to the check is the prohibited Aaron Smith or a different person with the same name. If someone named Aaron Smith who is not prohibited attempts to buy, the Gun Line cannot clear that person. In both cases, a delay response will be provided by the Gun Line and the State undergoes the cost of the Gun Line making contact with the Court and investigating. If the investigation is not completed within three days, prohibited Aaron Smith could walk away with the gun.

Overall Fiscal Impact

SB 141 contains a monetary allocation totaling \$100,000.00. As depicted in the attached accounting summary from the New Hampshire Accounting Unit, the regular costs of the Gun Line are expected to total more than \$700,000.00 annually by 2023, not including the unknown costs currently incurred by the Judiciary for the current entry of records, investigation of cases without dispositional information, and compilation of the names of prohibited persons without dates of birth. These figures also do not include the eight State Troopers temporarily assigned to the Gun Line. The starting base salary for a New Hampshire State Trooper is \$53,913.60. This base salary does not include special duty pay, holiday pay, or overtime pay. This figure also does not include Group II participation in the New Hampshire Retirement System, health insurance, dental insurance, optical insurance, or disability insurance. To approximate the cost of each State Trooper at \$80,000.00 per year would be a very conservative estimate. Therefore, taking these facts into account along with the attached accounting summary, the savings to New Hampshire for each of the following three years would be at least the following:

	2021	2022	2023
Accounting Unit's Projected Annual Cost of Gun Line	552,430.00	693,311.00	716,930.00
Addition of Eight State Troopers	640,000.00	640,000.00	640,000.00
Allocation for SB141	(100,000)	(100,000)	(100,000)
Total Savings	\$1,192,330.00	\$1,233,311.00	\$1,256,930.00

Costs that Cannot Be Calculated to Exact Figures as this Juncture

- Technology Upgrade: The Judiciary already maintains an extensive computer system and a call center. Although it is unexpected that the Judiciary will be required to upgrade its system to simply report records accurately, any limited cost of any required upgrade cannot be calculated to an exact figure.
- Transcript Costs regarding appeals to the Supreme Court: The Circuit Court currently reports under 500 motions for the return of firearms submitted per year. Under SB 141, if a motion is denied and then an appeal hearing at the Circuit Court leads to a second denial, the case could be appealed to the Supreme Court. A very low percentage of cases in New Hampshire are appealed to the Supreme Court generally. When an appeal does happen, the transcript cost is charged by the following calculation method: length of Circuit Court proceeding rounded to the nearest .5 hour increment x \$137.50. Most cases are allotted 15 or 30 minutes. Being incredibly conservative, if a hearing and appeal at the Circuit Court total one hour, the transcript cost is \$137.50. Even if 50 cases per year (more than 1/10) went to the Supreme Court (which is highly unlikely), the total cost would be \$6,875.00.

Conclusion

SB 141 provides significant cost savings to New Hampshire while improving our records, protecting gun owners, and protecting victims.

Sincerely,



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STATE OF NEW HAMPSHIRE

ACCOUNTING UNIT SUMMARY

CATEGORY 02 ADMIN OF JUSTICE AND PUBLIC PRTN
 DEPARTMENT 00023 SAFETY DEPT
 AGENCY 023 SAFETY DEPT
 ACTIVITY DSP234010 DIVISION OF STATE POLICE
 ORGANIZATION 2913PAL PERMITS AND LICENSING

FUND 010 AGENCY 023 ACCOUNTING UNIT 29130000

	FY 2020	FY 2021	FY 2022			FY 2023		
	ACTUAL EXPENSE	ADJUSTED AUTHORIZED	EFFICIENCY BUDGET	ADDL PRIORITIZED NEEDS	REQUEST	EFFICIENCY BUDGET	ADDL PRIORITIZED NEEDS	REQUEST
Expenditures								
010 Personal Services-Perm. Classi	244,788	245,491	276,236	0	276,236	295,619	0	295,619
018 Overtime	47,441	30,000	60,000	0	60,000	60,000	0	60,000
019 Holiday Pay	5,945	5,000	6,000	0	6,000	6,000	0	6,000
020 Current Expenses	23,799	46,742	52,810	0	52,810	50,310	0	50,310
022 Rents-Leases Other Than State	3,092	2,800	2,800	0	2,800	2,800	0	2,800
027 Transfers To Oit	0	0	15,538	816	16,354	15,526	774	16,300
030 Equipment New/Replacement	409	2,000	2,000	0	2,000	2,000	0	2,000
037 Technology - Hardware	0	1,500	2,000	0	2,000	0	0	0
039 Telecommunications	1,530	1,000	1,600	0	1,600	1,600	0	1,600
049 Transfer to Other State Agenci	0	0	295	0	295	316	0	316
050 Personal Service-Temp/Appointe	17,788	80,000	100,000	0	100,000	100,000	0	100,000
060 Benefits	134,440	137,855	173,977	0	173,977	182,700	0	182,700
211 Property and Casualty Insuranc	0	42	55	0	55	59	0	59
Expenditure Total	479,232	552,430	693,311	816	694,127	716,930	774	717,704
Estimated Source of Funds								
General Fund	479,232	552,430	693,311	816	694,127	716,930	774	717,704
Total	479,232	552,430	693,311	816	694,127	716,930	774	717,704
Number of Positions								
Permanent Classified	7.00	7.00	7.00	0.00	7.00	7.00	0.00	7.00
Total Number of Positions	7.00	7.00	7.00	0.00	7.00	7.00	0.00	7.00