FINANCIAL IMPACT OF QUESTION 1

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 1 proposes to amend various sections of the *Nevada Revised Statutes* to require that a background check be conducted by a licensed dealer before a firearm is transferred from one unlicensed person to another unlicensed person (private-party sales) under certain circumstances. Question 1 also establishes criminal penalties for violations of these provisions by unlicensed persons who sell or transfer firearms.

FINANCIAL IMPACT OF QUESTION 1

Pursuant to the provisions of the federal Brady Handgun Violence Prevention Act (Public Law 103-159), federally licensed firearm dealers are required to obtain a background check on an individual before a firearm may be purchased by that person. The law requires that the background check be conducted either directly through the National Instant Criminal Background Check System (NICS) maintained by the Federal Bureau of Investigation (FBI), or through a point of contact (POC) established within each state.

The Department of Public Safety has indicated that the Department's Criminal History Repository (CHR) serves as Nevada's POC based on the provisions of the Brady Act. As a result of this POC status, licensed firearm dealers contact the CHR to initiate background checks on retail firearm sales instead of contacting NICS directly. Currently, the CHR assesses a $25 fee for each background check that is conducted for this purpose.

The Department of Public Safety has indicated that passage of Question 1 would require a renegotiation of POC status or the development of an alternative agreement with the FBI in order to accommodate the provisions of the question. Based on this requirement, the Fiscal Analysis Division has identified three potential scenarios that could occur due to the implementation of Question 1:

1. If the agreement between the State and the FBI required the CHR to perform all background checks, it would result in additional expenditures of approximately $650,000 per year. However, the Department has estimated that the additional revenue that would be generated from the $25 fee imposed on the private-party background checks would be sufficient to defray these expenditures, which would result in no financial impact upon state government.

2. If the agreement between the State and the FBI allows licensed firearms dealers to contact NICS directly to conduct federal background checks for private-party sales, but allows the State to maintain POC status and continue to conduct background checks through the CHR for all other sales by licensed firearm dealers as is currently required by federal law, there would be no financial impact upon state government.

3. If the agreement between the State and the FBI removes Nevada's POC status under the Brady Act, licensed firearms dealers would be required to contact NICS directly to obtain

background check information for retail and private-party sales rather than contacting the CHR. The Department has indicated that, if licensed dealers are required to access NICS directly for background checks on all gun sales, this would result in the elimination of approximately 13 positions and a loss in revenue of approximately $2.7 million per year, which is used to support the current operations of the CHR. This loss in revenue would result in a negative financial impact upon state government, as additional revenue would be required from the State General Fund or other sources to supplant revenues used to support the CHR’s functions.

Because the Fiscal Analysis Division cannot determine what agreement may be reached between the Department and the FBI with respect to Nevada’s status as a POC state under the Brady Act, the resultant financial impact upon state government cannot be determined with any reasonable degree of certainty.

The provisions creating misdemeanor and felony provisions for violations of the requirements of Question 1 may increase the workload of various state and local government agencies with respect to enforcement, investigation, incarceration, probation, and parole. The Department of Corrections, the Department of Public Safety, and the Fiscal Analysis Division are unable to determine the number of persons who may be investigated, prosecuted, or incarcerated as a result of violations of these provisions. Thus, the resultant financial effect upon state and local government cannot be determined with any reasonable degree of certainty.

The provisions creating misdemeanor and felony provisions for violations of the requirements of Question 1 will require two changes to the Nevada Offense Codes used in the CHR. The Department of Public Safety has indicated that these changes can be accommodated with existing staff, and that no additional financial impact would be incurred by the Department.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 12, 2016