

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING A REQUIREMENT OF CRIMINAL HISTORY BACKGROUND CHECKS IN CONNECTION WITH THE TRANSFER OF FIREARMS AT GUN SHOWS.

Prime Sponsors: Representative Gordon

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Summary of Amendments Made to the Bill After the 01/24/00 Legislative Council Staff Fiscal Note was Prepared (Amended by the Judiciary Committee on 01/27/00)

The Judiciary Committee changed the entire printed bill by striking all text below the enacting clause and substituting the following provisions, which currently constitute the substance of this bill:

1. Defines "gun show" to mean "an event that is sponsored to foster the collecting, competitive use, sporting use, or other legal use of firearms and at which fifty or more firearms are offered or exhibited for sale, transfer, or exchange and at which there are at least ten gun show vendors".
2. Makes it unlawful for a gun show vendor to sell, exchange, or otherwise transfer a firearm at a gun show unless he or she conducts a national instant criminal (NICS) background check pursuant to the provisions of 18 U.S.C. Section 922 (t), also known as the "federal Brady law", and requires a response authorizing a vendor to proceed. Since federal law allows states to designate a point-of-contact (POC), in states like Colorado where a POC has been designated to process background checks for NICS, licensed firearm dealers must contact the POC to initiate a NICS check. Upon receiving a request for a NICS check, a POC may also conduct a search of criminal records in other state and local law enforcement databases.
3. Excludes the sale, exchange, or transfer of an antique firearm or a firearm that is a relic or curio from this background check.
4. Exempts from this background check individuals with a valid, written permit to carry a concealed weapon for which the issuing authority, prior to issuing a permit, determined that, based on the information available, possession of a firearm would not be in violation of the law.
5. Exempts individuals who provide written evidence certified by the Colorado Bureau of Investigation (CBI) that during the course of the gun show at which the sale, exchange, or transfer is to occur, the CBI has conducted a NICS check and received a proceed response.
6. Makes any violation of this provision by a gun show vendor a class 1 misdemeanor.
7. Permits a licensed firearm dealer to charge a private gun show vendor a fee of up to \$10.00 per person for conducting a background check on behalf of a private gun show vendor. (This

transaction fee is paid to the licensed dealer and not to the State to offset the costs of performing background checks on transactions involving non-licensed dealers at gun shows.)

8. Provides for a procedure for the CBI to perform background checks at a gun show, if allowed by law and if requested by a gun show organizer.
9. Provides civil and criminal immunity to any gun show transferor who complies with the provisions of this bill.

JBC Staff Concurrence with Legislative Council Fiscal Note

Concurs **Does Not Concur** **Updated**

Reason for the Update

Joint Budget Committee (JBC) staff and Legislative Council staff have agreed that the amendment added by the Judiciary Committee on 01/27/00 substantially changed the fiscal impact of this legislation as discussed in the Fiscal Note dated 01/24/00. The major changes are as follows:

- A. New Felony Penalty. The amendment eliminates the new class 4 felony charge, which thereby eliminates the five-year fiscal impact on correctional facilities. (This was estimated to cost \$486,269 General Fund in FY 2000-01.) There would still be a fiscal impact on local governments due to the possible increase in county court filings for misdemeanor offenses and the associated county jail sentences.
- B. Funding Mechanism. The printed bill allowed the Department of Public Safety to cover direct and indirect costs through a fee. The bill, as amended by the Judiciary Committee, assumes that any additional costs would be supported by the General Fund, similar to the funding mechanism for S.B. 00-125, which re-authorizes the Statewide Insta-check Program.

The bill would require criminal background checks on the transfer of most firearms at a gun show to be conducted by CBI in the Department of Public Safety. This updated fiscal assessment assumes that the Statewide Insta-check Program, which currently conducts criminal background checks for federally licensed firearm dealers and denies transfers based upon arrest records, would be re-authorized in S.B. 00-125. **If Colorado decides to *only* access NICS directly, there would be no fiscal impact to the State because the federal system does not charge its licensed dealers a fee to perform checks.**

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The Department estimates that an additional 15,000 transactions would occur annually at gun shows from non-licensed dealers who request firearm transfers. Existing permanent state employees working overtime and temporary labor, as necessary, would be used during these periods, with one additional permanent employee (1.0 FTE) dedicated to resolving appeals from transferees. Additional leased space and capital outlay for computers, telephones, and headsets would also be required because the Statewide Insta-check Program would be operating at close to capacity during gun shows to meet the needs of regular transactions involving licensed dealers. Additional program costs are shown on the following table, and are based on the adjusted transaction costs of the current Statewide Insta-check Program between August 1999 and December 1999:

Category	Actual Expenses Five Months	Adjusted for Overtime Costs	Estimated Additional Costs	Staff Notes
Personal Services	\$387,245	\$580,868	\$27,924	Additional Permanent FTE for appeals.
FTE	N/A	N/A	1.0	19.0 FTE in Insta-check.
Benefits	\$11,906	\$0	\$0	
Operating Expenses	\$72,012	\$72,012	\$4,036	Additional Permanent FTE for appeals.
Capital Outlay	\$120,277	Excluded	\$120,277	One-time costs.
Leased Space	\$0	Excluded	\$67,301	
SUBTOTAL	\$591,440	\$652,880	<u>\$219,538</u>	
Number of Transactions	73,637	73,637	15,000	New Transactions - Estimated Private Sales at Gun Shows.
Cost Per Transaction	\$8.03	\$8.87	\$8.87	Adjusted Overtime Cost Per Transaction.
Additional Costs Based Upon Average Transaction Expenses			<u>\$132,993</u>	Includes continuing overtime and operating costs.
TOTAL - FY 2000-01			\$352,531	GENERAL FUND
FTE			1.0	

Source - JBC staff and COFRS reports.

In FY 2000-01, staff estimates that it would cost \$352,531 General Fund and 1.0 FTE to implement the provisions of this bill based upon an average adjusted transaction cost. *Both JBC staff and Legislative staff agree on this estimate for FY 2000-01.*

Amendments/Appropriation Status

Currently, there is not an appropriation clause on this bill. Therefore, staff has prepared an amendment (**J.001**) that would appropriate \$352,531 General Fund and 1.0 FTE for FY 2000-01.

Sponsor Amendments

Staff is not aware of any sponsor amendments.

Questions and Concerns

1. This fiscal analysis assumes that the Statewide Insta-check Program, re-authorized by S.B. 00-125 (Owen/Tool), will be enacted during the 2000 Legislative Session. Since August 1, 1999, the Statewide Insta-check Program has been operating on emergency supplemental spending authority that is intended to support it through April 1, 2000, at a cost of \$900,442 and 12.7 FTE. **The annual cost of this program in FY 2000-01 is estimated to be \$1,065,480 and 19.0 FTE, all of which would be supported by the General Fund.** If S.B. 00-125 is not enacted, there would not be a base appropriation that JBC staff has assumed would partially offset the fiscal impact of H.B. 00-1242.