CITY AND COUNTY OF DENVER
STATE OF COLORADO
JUDICIAL COMMITTEE MEETING
Taken on February 15, 2013
HOUSE BILL 13-1229

REPORTER'S TRANSCRIPT

This transcript was taken from an audio recording by Jana Mackelprang, Certified Realtime Reporter, Registered Professional Reporter, and Notary Public.
THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

I move House Bill 1229 and the committee report from appropriations.

THE CHAIRMAN: Representative McCann to the committee report, please.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

The committee report is an appropriation that has two different appropriation possibilities. As you can see, there's a Section 9. And Section 9 will apply only if House Bill 1228 does not become law, so that the funding for the background checks would come from general funds.

If House Bill 1228 becomes law, Section 10 of the appropriation clause will be effective, so that the payment for the background checks comes from cash funds that will be as a result of the collection of the charge for the background check.

So that is the extent of the committee report.

THE CHAIRMAN: Thank you, Representative
McCann, to the bill.

Oh, there's a further discussion on the committee report. Representative Gardner.

REPRESENTATIVE GARDNER: Thank you, Mr. Chair. It was just enjoyable to see that moment of hope across the faces of the sponsors.

Members, this bill is so-called uniform background checks, universal background checks. The fact of the matter is that I hope, I sincerely hope, that each of you have taken a very good and close reading of this bill and of the committee report. The committee report has -- is an appropriation. And the appropriation is associated with what this is going to cost the people of Colorado, and yet it's tied with another bill. And it makes it very difficult for us to talk about them separately, because if you do universal background checks, there is a cost that goes with it.

And we talked about this in appropriations quite a bit yesterday, not as much as we needed to, but quite a bit. And it is problematic as to dealing with the appropriation under House Bill 1229.

I was not satisfied. The debate in appropriations was curtailed. But suffice it to say that what the appropriation report does is really kind of set a contingency in case the bill, which is sort of
a companion, is not passed to pay for this.

I'm going to defer because I think people have been -- not intentionally, but somewhat loose with talking to the committee report versus the bill and simply saying that this appropriation, absent the passage of another bill, which should not pass, is an appropriation that is unnecessary.

It does not promote public safety, and that goes to the merits of the bill. So I will stop with that and ask for another vote.

THE CHAIRMAN: Is there any further comment on the committee report?

Seeing none, the question before us is the adoption of the appropriations committee report. All in favor say aye.

UNIDENTIFIED SPEAKERS: Aye.

THE CHAIRMAN: Opposed.

UNIDENTIFIED SPEAKERS: No.

THE CHAIRMAN: The committee report is adopted.

Representative Fields to the bill.

REPRESENTATIVE FIELDS: Thank you,

Mr. Chair.

Members, currently right now in the state of Colorado, private sales are unregulated. Basically
what House Bill 1229 will do, it will require a background check on all gun transfers in the state of Colorado. Currently, our laws only require a background check if you go to a licensed dealer -- that would be a new place to buy a gun -- or if you go to a gunshow in the state of Colorado, you have to complete a background check. So we're halfway there.

What I'm trying to do at this point is to close the circle, close that loophole so that if you want to buy a gun from a private seller, then you also would have to complete a background check.

It is estimated that 40 percent of all guns purchased occur without a background check. That allows hundreds and thousands of guns to get in the hands of criminals each year.

A recent undercover investigation showed that 62 percent of private sellers on the Internet were willing to sell to someone who actually admitted that they couldn't pass a background check due to a prior felony.

Also, according to a national survey of incarcerated individuals, 80 percent of those who used a handgun in a crime acquired it from a private seller. The private sales loophole is a way for criminals to skirt around our background check system so they can get
access to guns.

Just to remind you, it was in 2000, after Columbine in Colorado, we voted to close the gunshow loophole. That vote was 70 percent to a 30 percent margin, which meant that before any gun could transfer at a gunshow, the buyer had to pass a background check.

So we know in order to close this loophole, we need to make sure that everyone who wants to buy a gun from a private seller has to complete a background check.

Facts about it: States who require a background check for every handgun sale means that fewer women will be shot by an intimate partner because they will be restricted from buying that handgun, or whatever gun it is, from a classified ad or from the Internet, because if you are considered a domestic, violent abuser, they just skirt around our system, look on the Internet, and they buy a handgun.

You may recall the situation that happened in Arizona. This person, this gunman, had a restraining order on him. He advertised in the paper he was looking for a gun. He had $300, and he would buy a gun. He bought the gun, went into an Arizona salon and shot his wife and two other employees at that salon. So background checks do save lives.
I'm going to be sharing some statistics that relates to the number of denials that we have in the state of Colorado as it relates to CBI InstaCheck. And I'll put this over there for you all to look at. But just in one month alone -- and this will be January of 2013 -- 956 denials. We were able to keep those guns out of 956 people who were denied access to a gun. And this is with people trying to access the gun legally, through a gunshow or through licensed dealers.

The kind of people who were trying to get guns in the month of January, 42 restraining orders. We had some that were fugitives, sexual assaults, robbery, burglary, larceny.

So what House Bill 1229 will do, it will require private sellers to perform a background check before the sale is completed. It will require that the seller goes to a licensed dealer to get that background check.

It does provide for several exemptions in the bill for those who might want to give it as a gift to a family member, for those who might want to transfer the gun if they're hunting or fishing or those kinds of things. And so we did provide lots of exceptions -- not a lot, but some that maybe would address some concerns that you might have.
It also includes penalties for those who are not compliant with performing a background check before the gun is sold. So I will conclude my remarks by just asking for a yes vote on House Bill 1229.

THE CHAIRMAN: Thank you, Representative Fields.

Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

And I also rise in support of this bill. This truly is a public safety issue. It's another bill that we're considering that is directly related to public safety.

So think to yourself: What would you do if you wanted to get a gun and you thought you wouldn't pass a background check? You would go to the Internet. You would go to a private person and try to purchase your gun that way. And you would be able to do that, even if you could not pass a background check in Colorado today. A convicted felon, someone who has a temporary restraining order against them, any of these folks can legally purchase a gun right now through the Internet or through a private seller.

This bill is simply closing a loophole
that we currently have in our background check law. And
many of you know that here in Colorado, after the
Columbine shooting, the public voted 70 percent to close
the gunshow loophole.

It's a common-sense requirement -- or we
continue to hear that responsible gun owners do not
commit crimes. So it's hard for me to understand how
responsible gun owners would have any objection to this
bill. All it's doing is requiring everyone to go
through the same background check that those who do it
now go through. All of those people who purchase from
licensed gun dealers or in a gunshow go through a
background check. What this bill does is say anyone who
wants to purchase a gun in Colorado has to go through
that same background check.

And I also want to cite a recent poll in
January of 2013 that reflected that 80 percent of
Colorado voters support requiring criminal background
checks for all gun sales. 86 percent of NRA members
nationwide believe that all gun buyers should be
required to pass a background check.

We're talking about ensuring that every
sale is subject to the same background check. We're not
imposing any new requirements. They're the same
prohibitions against purchasing a gun that apply
currently to those who purchase their guns legally.

What we are doing -- and this bill
directly goes to trying to prevent criminals from
getting guns. That's what we have heard here today,
that it's not the responsible gun owners; it's the
criminals. Criminals currently can go and purchase guns
on the Internet. They can purchase guns from private
sellers with no background check. So this bill is
clearly directed toward preventing criminals, those with
domestic violence, fugitives from justice, those
juveniles who have felonies, from purchasing a gun.

I also want to comment briefly on the
impact this has on domestic violence victims. We know
now that about 30 to 40 percent of guns are purchased
currently without a background check.

Studies reveal that the presence of
firearms significantly increases the lethality of
domestic violence incidents. According to one study,
domestic violence assaults involving a firearm are 23
times more likely to result in death than those
involving other weapons or bodily force.

Another study found that abused women are
five times more likely to be killed by their abuser if
the abuser owns a firearm.

According to justice -- Department of
Justice statistics, in states that require background checks for every handgun sale, 38 percent fewer women are shot to death by intimate partners.

In 2011, the most recent year for which data is available, at least 13 of the 34 domestic violence deaths in Colorado in one year occurred in cases where the domestic violence offender used a firearm despite being prohibited under the law from purchasing or possessing firearms.

We know that existing background check requirements keep guns out of the hands of domestic abusers because currently our background checks capture these people when they try to purchase them at gunshows or from licensed dealers. They are not captured when they purchase on the Internet or through private sales.

We know that passing this bill will save lives in Colorado by keeping guns out of the hands of even more abusers.

So what we're asking you to do here today, Colleagues, is to provide safety for our citizens by saying it's perfectly fine to purchase a gun as long as you can pass that background check, the same background check that those of you here in the gallery who own weapons go through.

It's hard for me to understand why you
wouldn't want everyone to go through the same background check that you had to go through, or that those responsible gun owners have to go through. It's simply a matter of fairness and equity and safety.

I do have one amendment, however, to offer to the bill, Amendment L.016. If that could be displayed on the screen, please.

THE CHAIRMAN: Amendment L.016 is properly displayed. Please proceed.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

During the hearing in the judiciary committee, we heard from a woman who was concerned about the fact that she target practices in her backyard, which is perfectly legal. But she was concerned that if she transferred her gun temporarily to her friend that was also there with her target practicing, that it might come under this bill -- she might be limited under this bill.

So this amendment will make it very clear by amending page 5, line 27, inserting that a temporary transfer of possession of a weapon can take place under this bill while hunting, fishing, trapping, or target shooting. The same amendment -- or the same lines -- or the same language would be included on page 6, line 1,
Therefore, if someone is target shooting on their property, they would be able to exchange guns so they could try out different kinds of guns and each other's guns.

So I would ask for the adoption of Amendment L.016 to House Bill 1229 to address the issue that was raised by the woman who testified in the committee.

THE CHAIRMAN: Thank you, Representative McCann.

Is there any further discussion on the amendment? Representative Gardner.

Hold for Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

I just want to make sure that I did move Amendment 016.

THE CHAIRMAN: Amendment 016 is properly moved to the amendment. Representative Gardner.

REPRESENTATIVE GARDNER: Yes, thank you, Mr. Chair and Representative McCann. I appreciate you bringing this amendment. However, it sort of highlights what is problematic here, because, as I read this exception -- and we will visit these exceptions later on
the bill in some detail because people's criminal liability will be riding on how they understand these exceptions -- this particular exception will then read, while -- what it will do is read: The transfer -- well, the exception will read -- and you'll start at line 11 -- it will say: A transfer that is temporary and occurs while in the home of the unlicensed transferee if -- and then you go to D at line 18 -- the transfer is a temporary transfer or possession without transfer of ownership or a title to ownership, which transfer takes place while hunting, fishing, target shooting, or trapping, if the hunting, fishing, target shooting, or trapping is legal in all places where the unlicensed transferee possesses the firearm and the unlicensed transferee holds any license or permit that's required for such hunting, fishing -- I assume target shooting or trapping.

What's so interesting to me about this is that the poor, average citizen will now realize that if their next-door neighbor says, "Can I borrow your shotgun, I don't own one, but can I borrow your shotgun to go target shooting?" and you transfer the weapon to them temporarily in your living room, and that person goes the next day with another friend to target shoot, this exception will not apply to them. It doesn't
apply.

It really seems to me, if read literally -- and you're supposed to read these exceptions, I think, narrowly, not broadly -- I think this exception only occurs if you go with someone and they drive to the location. And once they get there -- and it has to be a legal location -- God help you that you didn't accidentally trespass because you didn't know and you got on the wrong place, because it has to be legal. And then, since you're not target shooting yet, it will only be when you go out on the firing line that you can transfer this weapon.

Now, you may scoff over there or not, I don't know, but I can almost imagine that there would be those that would scoff and say, "Well, Representative Gardner, that's just absurd." But that's what it says. It doesn't say, "for the purpose of." It doesn't say, "in anticipation of." It doesn't say any of that. It's written very narrowly, and I think that's what's intended. But that makes this exception for all of these other things in target shooting so narrow that you couldn't -- you couldn't borrow a weapon from your brother-in-law or your father-in-law or your son-in-law. We'll get to all of those, why I say in-laws and not "others" later. You couldn't borrow a shotgun from your
father-in-law, who may be at a stage in life that he
doesn't want to go target shooting with you and your
brother-in-law or your best friend. That's not the
exception.

Now, if I'm reading that wrong, I would
invite you to explain to me why those words say
something other than what I say. And I think this
exception, as amended or as written, either way, is very
dangerous for the average citizen.

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you,
Mr. Chair.

Yes, Representative Gardner, the amendment
does state that the transfer is legal while hunting,
fishing, trapping, or target shooting. And the purpose
for that is so that anyone who is stopped doesn't simply
claim, "Well, I am on my way to go hunting, fishing,
target shooting."

The purpose of the amendment is to make it
clear that if you are engaged in a legal activity with a
weapon, with a gun, you can do a temporary transfer
among friends or among relatives so that you can use
each other's guns for hunting, fishing, trapping, and
target shooting while you're engaged in that activity.

So I would ask for an aye vote. All this
amendment does is add target shooting to the other three items that are listed. So I would ask for a yes vote on Amendment 016.

THE CHAIRMAN: Is there further discussion on the amendment? Representative Gardner.

REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

Well, the problem is that this amendment to the provision that says you can transfer while trapping doesn't really -- or target shooting -- doesn't -- it just doesn't go far enough. That's my concern with this exception and this amendment.

For instance, if you were, say, a senator who worked with the boy scouts and you gathered weapons so the boy scouts could learn to target shoot, and you transferred those weapons to them in anticipation, or you loaned some weapons for the boy scouts to go, you would have violated this exception. And that is my objection. This exception, even as amended, does not go far enough.

I would urge a no vote on the amendment simply because it doesn't do what it needs to do.

THE CHAIRMAN: Further discussion on the amendment? Representative Holbert.

REPRESENTATIVE HOLBERT: Thank you, Mr.
Chairman. Honor to serve with you, sir.

THE CHAIRMAN: And an honor to serve with you as well.

REPRESENTATIVE HOLBERT: Thank you very much.

Representative McCann, I have a legitimate question, and I would ask, though not required, but I would very much like to understand the answer to this question.

My sons and I hunt together. And as they get older, they grow out of weapons, rifles that I purchased for them when they were youth, and now they're starting use weapons that I have because of their now -- my older son is taller than I am. What I wonder, as my older son now, who is 18, as he starts to venture out over the next few years and maybe go out on a hunting trip of his own, under this bill, would I be allowed to loan him, allow him to take one of my hunting rifles, say, out into the national forest for a week or 10 days?

If I was not there and I am the legal owner of that weapon, could I let my son go out on that hunting trip and use one of my weapons, or would I have to go to a gun dealer and go through that transfer to allow him to take that weapon for a week or so, or 10 days, if I wasn't there?
THE CHAIRMAN: Thank you, Representative Holbert.

Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

Representative Holbert, I appreciate the question. The way I read this bill, you would be able to make a gift of your gun to your son with no consequence under this bill.

THE CHAIRMAN: Representative Holbert.

REPRESENTATIVE HOLBERT: Thank you, Mr. Chair.

And, Representative McCann, as you say gift, does that mean permanent or temporary?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair.

I think under this bill, that can be either a permanent or temporary gift. So if it's an immediate family member, like your son, you would be able to transfer your weapon to him so he could use it for hunting.

THE CHAIRMAN: Representative Holbert.

REPRESENTATIVE HOLBERT: Thank you, Mr. Chair.
So I appreciate that perspective. How immediate does the family member need to be? If -- I have neighbors who we converse about guns. And if a neighbor came and asked, "Could I borrow your hunting rifle for 10 days," but I'm not related, could I make that gift legally and have protection?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Representative Holbert, and thank you, Mr. Chair.

No, you could not transfer to a neighbor under the bill without -- you can transfer to immediate family members, which includes spouses, parents, children, siblings, grandparents, and grandchildren. You could make a temporary transfer to your neighbor if the neighbor was going to go hunting, fishing, trapping, or target shooting, but only while they're actually doing it. So you would need to be with them while they were doing that activity.

THE CHAIRMAN: Representative Lawrence to the amendment.

REPRESENTATIVE LAWRENCE: Well, I get to play with the fun toys. Thank you, Mr. Chair.

I guess I'm still a little confused on the amendment. If -- as an example, we own a gravel pit, and sometimes we have people who like to go down there
because it's a safe place to set up targets and shoot,
and we would loan our weapons. But this says we have to
loan them in our home and we have to be with them? So
we couldn't loan them to a friend or a neighbor to go
down to our private property?

THE CHAIRMAN: Representative McCann.

Excuse me. Representative McCann.

REPRESENTATIVE McCANN: Thank you,

Mr. Chair.

And, Representative Lawrence, you could -- you do not have to transfer them in your home. That's
Section D, which is the transfer that occurs while in
the home, if the person needs protection. But you can
do a temporary transfer for other people to use your
weapons for hunting, target shooting, et cetera, but you
do have to be with them.

So if you were going to have them target
shoot in your gravel pit, you would need to be with them
when they used your gun.

THE CHAIRMAN: Representative Lawrence.

REPRESENTATIVE LAWRENCE: Okay. Still
confusion because we're dealing with my private
property, which is my firearm on my private property,
which is my gravel pit, which I no longer have any
control over. And, you know, there are instances when I
might be going out of town, and as much as I would like
to go down and target shoot, I'm not available to do
that. But I have a friend who would like to try out one
of my guns. This would make me a criminal if I did
that. Am I reading that correctly?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you,
Mr. Chair.

Under the bill, you cannot transfer one of
your guns for someone else to use on your -- for target
shooting unless you are present.

THE CHAIRMAN: Is there any further
discussion on Amendment L.016?

Seeing none, the question before us is the
adoption of Amendment L.016 to the bill. Those in favor
say aye.

UNIDENTIFIED SPEAKERS: Aye.

THE CHAIRMAN: Opposed, no.

UNIDENTIFIED SPEAKERS: No.

THE CHAIRMAN: The amendment passes.

I need a lesson from former Speaker
McNulty on gable slamming.

(Laughter.)

(Inaudible discussion.)

THE CHAIRMAN: To the bill Representative
REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

I'd like to move Amendment L.008.

THE CHAIRMAN: The amendment is properly displayed -- will be properly displayed. Is about to be properly displayed.

Amendment L.008 is properly displayed.

Please proceed.

REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

And basically this amendment will allow a transfer of a firearm that could go to a gunsmith. So if you had a gun that needed to have repairs, you could make that transfer. The gunsmith can then work on this gun, have possession of the gun, and it can be transferred back to the owner.

This was an idea that I need to contribute to Representative Gerou. She made my strong bill stronger.

And so that's what L.008 is all about. I urge an aye vote.

THE CHAIRMAN: Is there any further discussion on the amendment?

Representative Gerou.
REPRESENTATIVE GEROU: Thank you,
Mr. Chair.

Members, this is not at all what I was talking about in appropriations. This is -- this is not at all what we were talking about in appropriations. So I -- as much as I appreciate Representative Fields calling me out like this, as if I need this today, thank you very much, this has absolutely nothing to do with my argument in appropriations. I will talk to you about my problem when we get to the bill, but I deny any attribution to this amendment.

THE CHAIRMAN: Any further discussion on Amendment L.008?

Seeing none, the question before us is the adoption of L.008 to the bill. Those in favor say aye.

UNIDENTIFIED SPEAKERS: Aye.

THE CHAIRMAN: Opposed, no.

UNIDENTIFIED SPEAKERS: No.

THE CHAIRMAN: The amendment passes.

Representative Fields to the bill.

REPRESENTATIVE FIELDS: Thank you,
Mr. Chair.

Members, background checks are the only systematic way to stop felons, domestic abusers, and people who are seriously ill from obtaining and buying
firearms from private sellers. I'm going to share some statistics with you.

After the mass shooting at Columbine, an overwhelming number of Coloradans voted to close the gunshow loophole. And since closing that loophole, Colorado has escorted significantly fewer crime guns to other states.

In 2000, the state was the 17th largest exporter of guns later found at crime scenes in other states. A year after the law was passed, in 2009, it was reduced then to the 27th range. So that just shows that closing that loophole as it related to gunshows did prevent guns from being exported where crimes were being committed in other states.

So, once again, I urge you to an aye vote that would close the private sales of guns without making sure that a background check is completed.

Thanks.

THE CHAIRMAN: Is there any further discussion on the bill? Representative DelGrosso.

REPRESENTATIVE DelGROSSO: Thank you, Mr. Chair, and representative's question.

What is defined a transfer of ownership?

So if I'm out with, you know, Representative Gerou and I talk to her about: What did you guys do -- or what did
you do this weekend? And I say, "Oh, I got this brand-new handgun that I bought." And we're out there, and she goes, "Oh, can I see it?" If I just set it in her hands, is that a transfer of ownership, if she wanted to look at it?

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

Absolutely not. If you just want to transfer a gun in your home and there's no sales that's associated with it, you're just letting the person see that firearm, then that's not a violation of this bill.

THE CHAIRMAN: Representative DelGrosso.

REPRESENTATIVE DelGROSSO: Thank you, Mr. Chair.

But, no, I'm talking about not in my home. Let's say we're out in the parking lot. We're out in the parking lot, and a police officer or someone else sees me place that gun in Representative Gerou's hands. How does he not know -- is that considered a transfer of ownership if I'm putting that in her hands and she's looking at that? How would I prove -- I mean, would that be considered a transfer of ownership?

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Thank you,
Mr. Chair.

You know, you're kind of highlighting scenarios that I just have a hard time picturing how realistic that would be, where an officer would just be kind of hanging out watching you as you're transferring a gun in the parking lot. And what would be the intention of that transfer? If it's going to be a sale, then you are going to need to complete a background check before that transfer of that gun is considered legal.

THE CHAIRMAN: Representative DelGrosso.

REPRESENTATIVE DelGROSSO: But I think that happens all the time. Let's say I don't have a gun and I've got a bag of pills, and I place those bag of bills -- or bag of pills in Representative Gerou's hands. And then -- now the police officer observes that. That would be, I think, grounds for me distributing an illegal activity. So I think that is a legitimate scenario to where, if an officer does not know me and Representative Gerou are colleagues, they could assume that maybe we are engaging in this illegal activity of me handing her my weapon.

THE CHAIRMAN: Representative DelGrosso.

REPRESENTATIVE DelGROSSO: Thank you,

Mr. Chair.
And I guess that goes back to my next
question, which is how is this bill actually going to be
enforced? At what point -- how would the officer even
know that the weapon that I'm giving to her is even
mine, and that when she actually drives away, that that
actually wasn't her weapon and that I was actually
looking at it? So how would they know when she drove
away and then they pulled her over and they say, "You
know what? I saw Representative DelGrosso hand you that
weapon. Did you guys perform a background check?" She
can be like: That was my weapon in the first place, and
I was letting him look at it. How would they ever prove
what weapon belonged to who, if that belonged to her or
if it belonged to me?

So, to me, the only way you can possibly
know that is if somehow there was some markings on the
gun, and then somehow they are able to go back and look
at these markings and say, "By these markings, this was
a gun that belonged to Representative DelGrosso."

I guess I'm trying to figure out how that
would work.

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you,

Mr. Chair.

When people go through a background check,
they will be able to show that they have been through a
background check. So if you have legitimately purchased
the gun, the CBI can verify with the law enforcement
officer that it is in fact your gun because you legally
went through a background check.

So I think that scenario could be handled
quite easily by law enforcement.

THE CHAIRMAN: Is there further
discussion? Representative DelGrosso.

REPRESENTATIVE DelGROSSO: Thank you,
Mr. Chair.

And it's my recollection that when you go
through a background check, it does not say what weapon
it is that you got the background check for. So I might
have a paper or something that says that I performed a
background check, but they would not know what firearm
that background check was for.

So, there again, it leads me back to my
original line of questioning of: There's no way to
prove who owns what gun and if you actually did a change
of possession with a private sale.

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you,
Mr. Chair.

Representative DelGrosso, if you are
charged with a crime, you would have the ability to
defend yourself by showing that you had legally
purchased your weapon and gotten a background check,
just like people do now.

All this bill does is say those who
purchase from private sellers have to do the same thing
that those who purchase from licensed dealers or
gunshows do.

It's difficult for me to understand the
opposition to this because those people who go through a
background check, I would think they would want everyone
to have to go through a background check. It would make
all of us safer. I mean, that's the whole point of the
background check. And we have this big, huge area where
people can get around the need for a background check.

So if you want to purchase a gun, you go
to a licensed dealer, you submit to a background check,
you get clearance, you buy your gun.

To me, it seems as though you wouldn't
want to have someone who has a felony conviction or a
restraining order against them able to avoid what you
yourself had to go through in order to get a gun, simply
by going through the Internet.

It's not -- this bill is not that
complicated. We're just saying people who purchase guns
need to have background checks so we can all be assured that they aren't felons, that they don't have domestic violence convictions, and that they can responsibly handle a weapon. It's really a safety for you, the legitimate gun owners, as much as it is for everyone else.

THE CHAIRMAN: Representative Wright.

REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

Representative McCann, you speak to the fact that you feel everyone is safer if this background check goes through. The issue I have with that argument is that we place these labels on people. We say you're a criminal or you're a law-abiding citizen or you're a felon or -- but these are not static in time events. These are ever changing in a human being's life. We're going to have a human being who, one day, possibly wakes up as a law-abiding citizen, gets upset, loses his or her temper, has a mental health care crisis -- who knows what -- and they suddenly become a criminal in our minds.

So this isn't a: You are always a criminal; and, therefore, this background check is going to solve all of our public safety problems. We need to look no further than I think the example that just
occurred in Los Angeles with Chris Dorner. This was far more, Representative McCann, than a background check. This was a psychological evaluation that he took, the same psychological evaluation that I have taken, and some may argue didn't take, but the same psychological evaluation that I went through. This was far more than a background check. And look what he did. He caused untold loss of life.

So I guess I'm not seeing what's -- how is this making us safer when you could go to the gun store and transfer your weapon to another individual one morning and that evening become the criminal, as we are labeling it?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair, and thank you, Representative Wright.

This bill only says that everyone has to go through the same process. Someone doesn't become a criminal by having an episode in the morning. That's if they get a conviction. And the law currently says you're not supposed to purchase a weapon or possess a weapon or purchase a weapon if you are a convicted felon.

So if you're a convicted felon today, where are you going to go to get your gun? You're going
to go to the Internet so you can get a gun without having to go through the background check. So it's just really common sense.

But to directly respond to you in how this is going to make us safer, I do have some research that was done regarding some incidents that occurred where people were killed who would not have been able to purchase a gun had they -- had this bill been in effect.

There was a shooting at the ESL Company in California where a former employee, Richard Farley, gunned down seven people at his former workplace. He's now on death row. He is a person who had been involved in stalking someone in the past, and she had a temporary restraining order against him. Before he was fired, he was ordered to undergo psychological counseling.

Now, his restraining order would have been picked up by a background check, if it had been in effect. And he used two semiautomatic handguns, two revolvers, two shotguns, and one assault weapon, killed seven people.

In Kentucky, in Louisville, Kentucky, Joseph Wesbecker gunned down eight people at his former workplace before committing suicide. Prior to shooting, he had voluntarily checked into hospitals for mental problems. So his prior psychiatric hospitalization
would have prevented him from purchasing a gun had he
had to go through a background check. He used a
semiautomatic handgun, a revolver, and three assault
weapons.

In Royal Oak, Michigan, a laid-off postal
worker opened fire at his former workplace before he
committed suicide. And it turned out his CCW permit had
been revoked for mental health issues.

Another one was in Watkins Glen, New York,
where John Miller killed four child-support workers in a
county office building before he killed himself. He had
a prior felony conviction and also a domestic violence
report. I don't know if he actually had a temporary
restraining order, so that might not have been picked
up, but the felony would have been. He used a
semiautomatic handgun.

In Connecticut, lottery worker Matthew
Beck gunned down four bosses over a salary dispute
before committing suicide. He had also been
hospitalized previously and used a semiautomatic
handgun. So his prior psychiatric hospitalization would
have prevented him from purchasing a gun.

In Melrose Park, Illinois, a fired
employee William Baker opened fire before he committed
suicide at his workplace. He had a child abuse
conviction, a sexual assault conviction, which would have prevented him from purchasing guns. He used a revolver, a shotgun, and two assault weapons.

Another one was discharged from the military on mental health grounds, and I actually don't think that would have been picked up because I don't think currently that's a disqualification. But in the Virginia Tech massacre, the individual there did have an official history of mental illness. I don't know if he'd actually been hospitalized, which is what our current law requires, that you actually have a hospitalization, but he certainly had psychiatric problems.

In Northern Illinois University in 2008, a young man opened fire in a lecture hall, then shot and killed himself. He had been hospitalized prior to the shooting for psychiatric reasons and discharged from the military on mental health grounds.

So will this bill make us safer? Absolutely. It will prevent people who have psychiatric hospitalizations, who have felony convictions, who have restraining orders against them from purchasing weapons. It just makes sense.

We don't want these people to be able to purchase weapons. I don't think you would want them to
be purchasing weapons. So all we're saying is, because everybody else has to go through a background check, why shouldn't someone who's buying privately have the same responsibility? Makes sense to me.

THE CHAIRMAN: Representative Gerou.

REPRESENTATIVE GEROU: Thank you, Mr. Chair.

Members, you know when we're talking about all these statistics, I think sometimes you get so passionate about coming up with proof and reasons for your bill that you forget that these statistics actually represent people. And the amount of lose of life that we've been talking about just over the course of the day is, to me, staggering and truly depressing. It makes me think of my family.

I have a son and a daughter. My son lives here in Denver. My daughter lives in Chicago. And it's important to me that they stay safe and that their families stay safe. Then we all have an opportunity to live a full and productive life.

In order to put this bill into context, I need to talk a little bit about when this bill was before appropriations. I was telling the sponsors that I grew up in a very rural setting. I had four brothers. I grew up in a ranching family. As the only girl, we
didn't do anything that really involved girl things. We did a lot of hunting. We did a lot of shooting. We used to -- although the -- my father's family, it was a sheep ranch. My mother's family, it was a cattle ranch. So we -- we actually spent -- every fall, we would go out and hunt for the food that we would eat that winter.

We prided ourselves in being law-abiding citizens. My parents took great pride in their children, and they took great pride in making sure that their children were taught gun safety and the importance and the respect that you need to have for firearm. It was very important to us.

When Representative McCann was listing those statistics, the one point she didn't make that I didn't hear was where those individuals that committed those crimes got their weapons. She didn't say they got them from private sources. She just said they got weapons.

So to go back to my story, when -- I have an aunt and an uncle that did not have children, and I became their caregivers at their end of life. If this bill were in effect at the time that I lost my uncle, it would be creating a problem because my uncle left me all of his firearms. I'm actually more heavily armed than my husband. And I respect those firearms and I value
the heritage that my family passed them down to me with. And it's my intent to give these firearms to my children when they want them and when they're ready for them, and they do want them, eventually.

The problem I have with the bill right now, the way it's written, is it makes a supposition. And the supposition with this bill is that you are guilty until you're proven innocent. When the joint budget committee was asked whether or not they wanted to give more money to the CBI background check so that we could make sure that we kept Colorado citizens safe, I was one of two legislators -- Representative Duran was the other legislator who had voted with me to give more money for the CBI background check.

I appreciate the system we have in place, and it's valuable to me. And, unfortunately, we lost that vote because we were in the minority. But the idea that this bill assumes that we are guilty until you are proved innocent is bothering to me. It's bothering to me because, had this bill been law at the time that I inherited my uncle's guns, I couldn't have inherited his guns without a background check.

I now own pieces and parts of rifles that my uncle was working on restoring. And if the bill had been in place when my uncle had passed or before he had
passed, in order to get those guns restored and built, I
would have to undergo a background check in order to
receive those guns.

And, Representative Kagan, I see you
shaking your head no. And please, dear sir, I respect
you; I would ask the same.

So what I'm saying, Members, is that this
bill is going to impact families. This bill does not
allow my uncle to give me the guns in our family that is
his right to give them to me. If the bill -- if I have
pieces and parts of guns, and I take them in and have
them built into a gun, I will have to have a background
check in order to receive the guns that were made from
the pieces and parts that I own.

There have been a lot of conversations
today about where I am on these gun bills and there's
been a lot of rumors running rampant. You know, I -- I
respect the people of Colorado. I want to keep them
safe. But this won't keep them safe. If we can enforce
the laws that we have right now, if he can fund CBI and
let CBI do the background checks that we need to right
now, if we can take care of the backlog of background
checks that are out there sitting right now, that will
help people in Colorado stay safe.

With all due respect, Sponsors -- and
please do not attribute any other amendment to me. With all due respect, I am -- I am not worthy of your attribution.

I ask for a no vote.

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

Representative Gerou, if you look on page 5 of the bill, line 7 through 10, it identifies the operation of law where a family member can will you, and you can pass those items down to your family members.

THE CHAIRMAN: Representative Gardner.

REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

Well, Representative Fields, I had not planned to address this until later, when I went through all of these particular exceptions, but since my friend Representative Gerou made such a compelling statement about how this affects family relations, the situation she described, while one that is very common in terms of family relations and how firearms may be passed from uncles to nephews and nieces, from fathers-in-law to sons-in-law -- and they might happen on the death bed; they may happen at the last illness.

In fact, as a boy growing up in Texas --
you say, "Well, how often does that happen?"

Representative McCann just doesn't know about all these things happening. She said she didn't understand; and I believe that's true. I recognize that she doesn't understand because her cultural experience is so vastly different from mine.

    I know of multiple instances as I was growing up that a firearm was passed in someone's last illness. Well, that's not a transfer that occurs because of operation of law or because of the death of the person for whom the prospective transferor is an executor or administrator. That's a gift. That takes you back to the other exception. And that person is not a spouse or parent, a child, a sibling, a grandparent, or a grandchild.

    I will come back and discuss this later at great length, but the situation that my friend Representative Gerou describes is not, clearly not covered by that exception, by any stretch of the imagination. So I don't want the sponsor to be under some misapprehension or misguided instruction from those who are passionate about getting this into hand, that these exceptions are very broad because they are not that. They are incredibly narrow, and don't in any way cover some of the most common situations that occur in
rural areas throughout Colorado and, indeed, in our
suburban and other areas, and certainly in my community.
So let's not be under any illusions just because it says
"by operation of law." That particular, very touching,
gift and understanding that representative engineer row
talks about is not covered at all by this bill.

THE CHAIRMAN: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you,
Mr. Chair.

Members, as we talk about background
checks and trying to keep people safe in Colorado and
keep guns out of those that intend to do harm, all this
bill does is make us law-abiding citizens go through
another hoop.

It doesn't stop criminals. Those that
can't pass a background check, those that are felons, it
doesn't stop them from breaking into my house and
stealing my guns. It doesn't stop them from meeting the
guy down the street here and buying the gun there,
although you would like to have them, I know, do a
background check, but I have a stinking suspicion that
that gun sale in the alley between two hoodlums will
never make it to the CBI.

It comes back again to what do we want to
do to law-abiding citizens, because the fact of the
matter is what you're doing will have no impact on those criminals intent to do harm. We cannot keep evil people from doing evil things, unless we lock them up. And the fact of the matter is, we need to lock them up and keep them locked up. And those are the ways we make people safer in Colorado.

This bill doesn't do it. This bill adds another hoop for legal citizens like me to jump through. If I want to hand my gun to my son-in-law or my neighbor, it makes me jump through that hoop. But rest assured, those intent on hurting me and hurting you or hurting our families, this bill will not deter them.

I ask for your help in defeating this bill. I ask for a no vote.

THE CHAIRMAN: Thank you, Representative Sonnenberg.

Representative Saine.

REPRESENTATIVE SAINE: Thank you,

Mr. Chair.

I keep hearing this figure -- and I believe Representative Fields had said something about it -- 40 percent of guns are transferred without a background check. Well, that seems like a pretty impressive figure, doesn't it? And I've heard President Obama say this several times. But if you consider that
this 40 percent came from a 251-person survey, that's not a very large survey. 251 people from two decades ago. A 40 percent figure that came from a survey from two decades ago with 251 people.

Well -- and if you consider, on top of that, that survey was conducted with more than three-quarters of that survey conducted before the Brady Act. Well, part of the fallacy of the survey is that the survey asked buyers if they thought they were buying firearms from licensed dealers. But all FFLs do background checks. And they thought that the only FFLs that counted were the brick and mortar stores.

So out of this 251 people, if we look at two decades later, you'll find that actually 85 percent of them went through FFLs and that 15 percent were transferred without a background check.

Now, we don't sell guns today like we did two decades ago. And because of increasing regulation and costs, most of these small dealers are out of business. So there are less than half of FFLs as there were small, small dealers that operated out of their home than there were two decades ago. Most of them are now brick and mortar stores.

So if you consider these transfers actually occurred, the remaining 15 percent, from family
members or inheritances, from a survey from two decades ago, that figure falls to 11.5 percent.

I can't believe today, two decades later, that especially with less than half of the FFLs than there were two decades ago, we would have anything over single-digit figures for transfers without background checks. So I just wanted to bring this to your attention, that this is a myth, this 40 percent or anything higher than that. And, again, this is another bill that will not do anything to increase public safety, but decrease -- it will decrease public safety.

I urge a no vote. Thank you.

THE CHAIRMAN: Representative Holbert.

REPRESENTATIVE HOLBERT: Thank you,

Mr. Chairman.

Members, I do rise in opposition to House Bill 1229. Probably not a great surprise, but I do see a fundamental problem with the bill. And Representative DelGrosso touched on this before.

These universal background checks, one thing, will not be universal. There's a very significant class of people in our society who will not undergo background checks. And we see that time after time in places like the United Kingdom, in Australia, in Washington, D.C., in Chicago. Where people are not
allowed certain types of weapons, violence tends to go
up. Where guns are outlawed, only outlaws have guns.
Some might say, "Oh, that's a cliché," and chuckle at
that.

The United Kingdom experienced a
40 percent increase in gun violence after guns were
outlawed in the United Kingdom. And that was
confiscation. This bill is not confiscation, but I use
those as examples to point to the unfortunate reality
that criminals will not be prevented from obtaining
guns. That won't happen. That's fiction.

When this bill takes place, and when
universal -- more background checks are conducted and
more law-abiding citizens undergo background checks, it
will continually put pressure on the market, the black
market, for criminals to break into homes and steal
guns, to obtain them in illegal ways, to break into gun
stores and steal guns.

This won't prevent criminals from
obtaining guns. That's fiction.

The next step -- and this is the
fundamental problem with the bill -- this is an
incremental step towards registration. Some people
might say, "Oh, there's no claim that registration is
the next step. This bill has nothing to do with this."
Functionally, that will be the next step because, as Representative DelGrosso pointed out, if I go to a private party, if I go to Representative Priola and I want to buy a gun from him, and we do one background check for one gun, and then we transfer ownership of 10 or 100 guns, there's only one background check.

So until we can track, or those who would want to track every gun, this really doesn't do anything. This creates a greater need for universal registration of every firearm. And I believe there are plenty of people in this chamber who would say that's a great idea. But for those in the gallery, listening online, watching on Channel 165, this is the problem:

This bill will not prevent criminals from getting guns. This bill will not prevent crime. It will encourage more criminals to come find you and your guns in your home and take them.

It will encourage criminals to set up black market operations and sell guns that are not available in legal ways to people who want to use them for the worst purposes. And, ultimately, this will lead to universal registration.

I ask us to please be thoughtful before we support 1229. I ask for a no vote.
THE CHAIRMAN: Thank you, Representative Holbert.

Representative Waller.

REPRESENTATIVE WALLER: Mr. Minority Leader, thank you, Mr. Chair.

Well, Members, here we are again. And I would at least like to thank the bill sponsors for actually bringing some data on this one. That's good to actually have some data on the piece of legislation as we're considering it.

You know, Members, we've heard a lot of discussion. And, once again, this comes down to public safety. What we want to do -- and I know that it's in Representative McCann's heart, Representative Fields' heart, to increase -- to do what they think is right to increase public safety.

Once again, here we are. These bills are going to do nothing, nothing to increase public safety. Once again, a feel-good measure so we can walk out of here and say to our constituents that we've done something. Well, something is not better than nothing when something is bad.

You know, Members, I'm a prosecutor in my off time. And over the years, I have charged a significant number of criminal cases. I've had the
opportunity to charge all different kinds of crime,
murder, all the way down to the lowest level felonies.

But, Members, I'm here to tell you, a lot of times, you know, the cases that I've charged have involved violence with firearms. It happens from criminals.

It is no secret that criminals use firearms to commit crimes. Well, guess what? Any time we've been able to track down where that criminal got that gun from, you know what? They didn't go to the store to buy it. Didn't go to the licensed federal firearms dealer to buy it. Most times, trading drugs for guns. That's what the criminals do. They don't even use cash most of the times. Trading something for the gun. That's how they get it. That's what they do when they commit crime.

And I can tell you the last thing on their mind is: Oh, boy, I'm going to get in trouble if I don't go down to the federally licensed firearm dealer and complete this transaction with a federally licensed firearms dealer before I use this gun to go out and commit a crime. They don't think about that. That's not a consideration. When they're trading drugs for guns, that's absolutely not one of their considerations.

So what does this bill do? Penalizes the
law-abiding citizen. Does nothing more than that.

Going to cost -- well, I guess it's not going to cost
the taxpayers a significant amount of money because
we're going to put that burden back on individuals to
exercise their constitutional right.

But don't be under the misconception that
doing this is going to enhance public safety. It's not.
Criminals get guns. They don't get guns legally. They
get guns however they can get guns. And then they use
those guns for their purpose, which is to commit a
crime.

Background checks don't help us accomplish
that. Background checks don't get us to the point of
enhancing our public safety.

Now, maybe we could hear from
Representative McCann or Representative Fields, because
there's a lot of exceptions in this piece of
legislation. It's going to grandfather all of us that
have gotten firearms somewhere else down the road.
Those aren't going to be tracked. Those aren't going to
be covered in this piece of legislation. It's going to
grandfather -- or it's going to give an exemption for
transitioning between family members, and it's going to
give exemptions for this and give exemptions for that.

Completely unenforceable. As this bill is
written under current Colorado law, this piece of legislation is just "feel good" because it's completely unenforceable.

And I'd like to know: What's the plan? Now, I could potentially see an argument somebody might make to say, This works, if we create a registry. Is that what we're looking to do, Representative McCann? Do you want to create a registry for Colorado guns? Representative Fields, maybe you could answer that question for us. Is that the goal here? Do we want to create an opportunity for every Colorado citizen to have to let public officials or government officials know that they have a gun? Is that where this is headed? Because as the bill is written, completely, totally unenforceable.

We need to be a no on this bill.

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Mr. Chair, and Representative -- or Majority Leader Waller --

THE CHAIRMAN: That was the minority leader.

REPRESENTATIVE McCANN: Minority leader.

Oh, it's late in the day.

Mr. Minority Leader, there is nothing in
this bill that requires registration of guns. And what
the bill does is simply extend the current background
check requirement to people who purchase from private
sales. It's not changing the procedure that CBI goes
through now to check people's backgrounds. It simply
adds those who purchase their guns through private
sales.

And I need to wait because I have some
more data for you. Ready for some more data? All
right.

Recent state and industry data indicate
that private transfers remain a large and growing share
of total gun transfers. I need to wait until I have
someone's attention.

Okay. All right. Michigan is one of 13
states that regulate private handgun transfers through a
permit-to-purchase system. The Michigan State Police
recently disclosed that 48 percent of handgun transfers
in the state were conducted between private citizens.

In 2010, the National Sports Shooting
Foundation conducted an online survey of 7,000 assault
weapon owners. Only 45 percent of them bought their
guns at stores where background checks were required.
So this is a problem nationwide and here in our state as
well.
We do need to make sure that everyone who purchases a gun does so with a background check, to make sure they aren't felons and they don't have domestic violence restraining orders against them.

So thank you.

THE CHAIRMAN: Thank you, Representative McCann.

Representative Salazar.

REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

So I -- sitting on judiciary and listening to the ample conversation that we had, both proponents for this bill and opponents for this bill, some of you had heard me express quite directly that I had concerns for the bill. But I wanted to have the debate. And that's why I voted to have this bill move forward, so that way this committee, as a whole, could listen in on it.

I had some concerns about the exceptions and about family members and things of that nature. I also had concerns about language involving hunting and fishing and trapping. But I wanted to have the debate, because this is important. And it's important because we know that 82 percent of gun owners, 74 percent of NRA members, support criminal background checks for anyone
purchasing a gun. We know -- well, that in of itself
right there is July 2012. They want to have this
debate. But I walked away because I was still a little
concerned about this bill.

The next morning I come in and my aide
says to me, "You've got to listen to this message." I'm
going to read this message. It's right on my phone.
It's right on my phone. You can go upstairs and listen
to it, if you want. And this is what it says -- and
I'll do my best to take out the expletives, but it's
riddled with expletives, so there's going to be just a
long beep.

It says, Hey, Salazar, you (expletive)
fascist. You want to outlaw magazines. Come and
(expletive) take them. You willing to kill the
(expletive) outlaw magazines, because you will
(expletive) die.

I started thinking to myself: Boy, I sure
would want that guy to go through a universal background
check.

The reason why I wanted this bill to move
forward wasn't just because of this. And, yes, you're
right -- and this is what I said on judiciary -- I said:
A criminal will do anything to try to get a gun. And
they'll even go through a private seller, because we
don't have data on how many criminals got a gun through
a private seller because that data doesn't exist.

And that's what this bill is about. It's
created. Let's move the tool away from them. Yes, they
will find a way to get a gun. They will. But this is
one less option for them.

I sure wish he would have left me his
number because I'd like to have a conversation with him,
but he didn't.

Thank you. I support this bill. Let's
goto it.

THE CHAIRMAN: Thank you, Representative
Salazar.

Representative Murray.

REPRESENTATIVE MURRAY: Well, thank you,
Mr. Chair.

How fortunate, Representative Salazar,
that you asked for some data about criminals and how
they bought their guns.

I have here -- this is 1997, by the U.S.
Justice Department. And there are a lot of small
numbers here, until you get to 39.2 percent through an
illegal or street source. And we would say, as
Representative Waller pointed out, I guarantee you that
they're not going to be volunteering for a background
check during that exchange between someone that has
drugs and exchanging it for a gun.

39.6 percent got their guns through family
or friends. So, you know, if we want to know where
criminals -- and these were criminals that were in
prison and used a firearm during their offense.

But that was not the main thing I wanted
to talk about. I wanted to chat about something that we
haven't even dealt with yet. And that's the fact that
this is a government mandate on retailers or private
business people in order to perform an administrative
process for government. So the government is telling
someone in private business that even though there is no
sale going on with a product that is under some control
of the government in that shop, that you have to do our
bookwork for us.

I would expect that when we see a proposal
like this, that it is a sign to some sort of a
government department. This should be associated with
an office, like a motor vehicle department, a real
estate recording office, a health department. We should
find some government office that manages this function
for government because it's for government's purposes.

And to say $10 is what we're going to
allow them to charge -- I can guess that there are many
people that haven't been in a mom and pop gun shop. If you'd been in a mom and pop gun shop on a weekend, it is a very busy place. There's a lot of guns being shown to people. They're trying to keep up with their business. They're trying to make some sales. And now we're saying that we're allowing -- or we're requiring them to accept these requests for these background checks from a line of people that are wanting to come into their business and not buying anything from them. I'm having a hard time picturing how this works.

Furthermore, there are many gun shops that are out of their homes. And I've had a couple of them say, you know, I don't want people that are not wanting to buy product from me coming and knocking on my door, saying here is my $10, would you help me with my background check?

So aside from the fact that I don't think that this function is going to work in the way that we're hoping for public safety, it's also a drastic imposition on a group of business owners that are being mandated by government to do -- to perform a function, a compliance function, that has nothing to do with the product that they're selling to that person.

I urge a no vote on this bill.

THE CHAIRMAN: Thank you, Representative
Representative Saine.

REPRESENTATIVE SAINÉ: Thank you,

Mr. Chair.

I had a thought considering this bill,
along with the last one, but I'll stick with this bill.

What Representative Waller said about this
is a back door to background checks -- just imagine some
of the unintended consequences of this bill, where
you're stopped in a routine traffic stop or, you know,
police are called to your home for some reason. They
saw a gun laying out, and they asked, "Did you get a
background check on that?" How much would it cost you
to prove it? How much in lawyer time? Would your guns
be taken from you?

These are questions I'd like to ask
representative Fields, if you can answer those questions
for me.

Sorry, I'll ask the question again.

Would your guns be taken if you're stopped
in a routine traffic stop? How much would it cost to
prove that you did own the weapon? Is this a precursor
to a background check? Those are just questions that
I'd like to ask.

THE CHAIRMAN: Representative Fields.
REPRESENTATIVE FIELDS: Thank you, Mr. Chair, and thank you for your question.

So in the scenario that you're describing, as long as you have already completed a background check, then there shouldn't be any problems at all with you having possession of that gun.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE SAINÉ: Thank you, Mr. Chair.

Representative Fields, again, what if a background check -- how would they prove that they had owned the gun before this law had passed?

THE CHAIRMAN: Representative McCann --

REPRESENTATIVE FIELDS: Because you would have had to already have completed a background check. If you were to have bought your gun at a gunshow or at a new Wal-Mart or something like that, a new dealer, then you would have to go through a background check already to have occupation of that gun, to have that gun in your possession.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE SAINÉ: Thank you, Mr. Chair.

Representative Fields, again, I'm just
confused because, again, if someone were stopped and the police asked, "Did you comply with this law after it was passed" -- I guess I'm confused -- how would the police know if you complied with the law or not?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you and thank you, Representative Saine.

It's the same way they do now. If someone is stopped with a gun in their car, the police contact CBI, and there is a record of whether or not that person has a legitimate background check on record. So the law enforcement officer would have the responsibility of determining what your situation was.

So it doesn't change what we already do. It simply adds additional people to what we already do. It's the situation we have currently.

REPRESENTATIVE SAINÉ: Mr. Chairman.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE SAINÉ: I guess I'm still confused. I'm sorry. Maybe I'm not understanding.

How would they determine if somebody willfully is not complying with the law or not? Because they could say, "Well, Mr. Officer, I have obtained this gun before this law has passed; therefore, I did not need a background check."
THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: They would handle it just as they handle it now.

REPRESENTATIVE SAIN: Which is . . .

REPRESENTATIVE McCANN: The law enforcement officer has the responsibility to find out if you have a legal possession of your gun.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE McCANN: And if you're charged with an offense, you have the ability to come to court and say, "I legally possess this weapon." It's -- we're not changing anything.

REPRESENTATIVE SAIN: Mr. Chair.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE SAIN: I'm sorry, I'm still further confused. I just don't see how this law is enforceable. Who's determining if they've complied with the law or not? If the person says, "I obtained this weapon before this law passed," are you allowing the police officer to make that determination or the Court?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you.

Representative Saine, I don't really have any further -- I think I've answered your questions
several times. And I'm sorry that you're not understanding it, but right now, an officer stops someone for probable cause for some offense. And if there's a gun in plain view, the officer has the right to determine whether or not you lawfully possess the weapon. And that would be the same if this bill passes.

REPRESENTATIVE SAINÉ: Okay. So the --

THE CHAIRMAN: Representative Sainé.

REPRESENTATIVE SAINÉ: Thank you, Mr. Chair.

So the officer would determine whether to take your gun or not at that point in time?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE MCCANN: This is up to the officer. I'm sorry if you don't understand it, but it's what we do now. I can't -- I have no further answer for you.

REPRESENTATIVE SAINÉ: Okay. Thank you, Mr. Chair. Having not personally been in that situation, that's why I'm asking. Thank you.

THE CHAIRMAN: Representative Wright.

REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

Well, since we are talking about facts and statistics on this bill today, I thought that I would
point out some statistics from the Bureau of Alcohol, Tobacco and Firearms. And I think this is important and pertinent to this argument.

The BATF reported that 37 percent of armed career criminals obtained firearms from street sales, 34 percent from criminal acts and associates, 8 percent from relatives, and only 7 percent from dealers. 6 percent from flea markets and gunshows.

Now, this was in 2001. So as you'll notice, we see 6 percent from flea markets and gunshows, and only 7 percent from dealers, both of which are requiring background checks. So what you see here is a shift away from methods where background checks are performed. The criminals always go for the illegal method, the method by which they can hide. And that's what we're going to see here.

I don't understand, and I don't think I ever will, how this bill makes our community safer without some method of enforcement. Are we -- what is our next step?

Sitting on judiciary, we heard a police chief testify that this was a slow, methodical, systematic approach toward limiting our Second Amendment rights. Slow, systematic, methodical approach. And that is the only way I see any form of enforcement being
accomplished here, is if there -- the next step is registry. The next step is a gun registry. And I believe that my constituents certainly, and I believe the people of Colorado, are strongly against a registry.

So I guess I would ask you: What's our next step? When we hear our own chiefs of police admitting that this is unenforceable without a next step, what is that next step?

Now, we talk about a loophole in the law. And, apparently, our predecessors saw one of those loopholes as being gunshows. Now, when we closed the so-called gunshow loophole in 2000, for the next four years between 2000 and 2004, we saw a systematic murder rate increase in the state of Colorado from 3.1 to 3.6, to 4.0, to 4.1, to 4.4, year over year, an increase to the same extent in violent crime.

So tell me where are the facts -- how are the facts there supporting that this loophole is somehow a real problem?

Comparing to other states -- let's talk about some more facts and statistics -- HB 1229 is similar to the background check laws that are currently in place for private transfers in the state of California. California has failed to show conclusively any benefit to infringing upon the rights of law-abiding
citizens.

Now, comparing to Colorado, California and
the national average as it relates to violent crime and
murder rates from 1960 through 2011 illustrates one main
overriding trend. Crime and murder in the last two
decades have continued to decline at a similar rate in
California as in Colorado, and nationally on average,
with California consistently maintaining a higher
average than both Colorado and nationally. And
California already has this law in place.

So I, too -- I can't overemphasize -- and
I don't want this to be lost on the fact that I'm
arguing against this bill -- that I care about public
safety. I've committed the last six years of my life to
public safety. But when I see fellow law men on both
sides of this issue, I have to question whether we're
moving in the right direction.

We heard testimony in judiciary from
county sheriffs from across the state, many of them in
rural areas like mine, who are opposed to this bill and
who see no benefit to public safety.

And I guess let's cut to the chase here,
since we heard a chief of police himself say that this
is a systematic approach, that this law itself is not
perfect and it will take more strict laws to be passed
to reach a solution for public safety in the state of Colorado -- this is about gun control. And it will take a registry to enforce this law.

So let's talk about the states -- or countries, for that matter -- that have established some of the most strict gun control laws in the world. Let's look at England.

In 1997, Great Britain established and adopted one of the most stringent gun control measures in the world, that made ownership of almost all pistols and semiautomatic rifles illegal.

Now, since the passage of that law, crimes involving firearms have increased from 13,874 in 1997 to, in 2006, 21,521. That's a 55 percent increase in firearms-related crimes after the passage of this total gun control law.

This is enforceable, ladies and gentlemen. These were guns that were rounded up from the individuals, the citizens of this country, taken forcibly and destroyed, and their violent gun crime rate went up.

Once again, data. So we see data, apparently, on both sides of this issue. I'm not compelled that this is a solution to our public safety needs in the state of Colorado.
And then the crescendo here to the people of Colorado is the fact that we just passed a law moments ago, on second reading, that essentially drove out a $46 million business -- my understanding is they're packing their bags -- 600 jobs lost, $46 million a year to the State of Colorado --

THE CHAIRMAN: Representative Wright, would you deal with the background check bill, please.

REPRESENTATIVE WRIGHT: Yes, thank you, Mr. Chair.

House Bill 1229 will cost the people of Colorado $1.6 million in fiscal year 2013 through 2014 and another $1.6 million in 2014, 2015. That's $3.2 million over the next two fiscal years.

Oh, that's right, back to the bill very quickly: But we have a bill coming up after this one that's shifting those costs to the individuals who are buying the firearms. How is that constitutional? Regardless, these costs are falling on the people of the state of Colorado.

We're creating 25 new full-time positions just this year in the CBI and another 30 the next fiscal year. We're growing a state bureaucracy that has proven to me in testimony and committee that they are already experiencing problems in their management practices when
I hear facts like these from the CBI director.

56 percent of all appeals are sustained.

56 percent. That's more than half of the people that appeal their purchase is legitimate, and that they can actually take possession of a weapon, are first denied. These individuals are forced to appeal, go through a waiting process, an overly bureaucratic waiting process. And then, oh, you know what? You're right, you can have your weapon; we were wrong.

How is that right? And if you think that this is not going to increase, this statistic is not going to increase with requiring the CBI to perform more background checks, I think we're mistaken.

So I ask you this: How is this good public policy? How is this good public policy? The CBI director then told me: Oh, I forgot, just to make sure you're clear, this is 56 percent of only the appeals that are being overturned, as if I'm supposed to rest easy with that statistic. I would argue that that makes that statistic likely worse because there are people that are being denied these transfers that may just give up and say, "You know what? I'm not even going to bother," that may legitimately be able to take possession of a firearm.

So we already have problems within the
CBI. We heard testimony from an individual named James Winchester, who himself worked on the first InstaCheck system as an attorney. He helped establish this policy for the state of Colorado, who testified to us that CBI is now well -- operating well beyond its legal scope and has become overly bureaucratic.

So we're asking an agency of state government that is already experiencing problems to increase its burden of checks by, some say, 30 -- somewhere between 30 and 40 percent on private transfers. This is -- ladies and gentlemen, this is just poor public policy for the state of Colorado from a financial sense, from an economic sense, from a revenue sense to the state, from a constitutional sense.

I just don't buy it. I rise as a no vote.

Big surprise.

THE CHAIRMAN: Thank you, Representative Wright.

Representative Priola.

REPRESENTATIVE PRIOLA: Thank you, Mr. Chair.

Representative Court, it's been a while since you brought up those statistics for Michigan, but, you know, I'm glad you did because I'm going to plan my next trip to Detroit. I haven't read that much about
it, but it seems like a wonderful place to visit because apparently they have solved all the ills of the world.

I did have -- reading through the bill, came to mind, it looks like the penalty is a misdemeanor. But where are the bill sponsors?

Representative Fields. I don't see Representative Fields.

No one is here. The bill sponsors are not here. Where'd they go? Don't they know this is what we're supposed to do, is discuss legislation?

THE CHAIRMAN: To the bill, Representative Priola.

REPRESENTATIVE PRIOLA: I have a question for the sponsors, and neither of the sponsors -- you would assume that if there are two sponsors on a house bill, that at least one of them would be in the well to answer questions concerning the bill. I don't think -- the chair cannot answer questions to the bill. Can the chair? I don't think that's in the rules.

I do have a question to the bill, but I would at least like to have one of the sponsors here, but apparently the sponsors have lost interest in their own bill. Maybe that's a good sign. Maybe that's a good sign. They finally realized, you know, this really isn't good policy of the state of Colorado and only
law-abiding citizens are going to follow this.

    Well, I'll throw my question out there and
maybe they'll show up soon.

    Say you have a situation of someone is
trading drugs for a stolen gun. Which person is charged
with the misdemeanor for not doing a background check?
Is it the person that is offering the payment or the
person selling the stolen gun? It's not clear in this
bill if both of them or one of them can be charged with
that misdemeanor.

    So I really would like either of the bill
sponsors to be down here to answer that question. But
maybe someone could inform them -- maybe they're
listening someplace else to this debate and could answer
that question.

    Also, on page 3, line 20, I have a
question concerning recordkeeping, but, again, neither
of the bill sponsors are here in the chambers to answer
the question. So maybe I'll just have to come back up
when they're down here to answer that question.

    And then I had a further question on the
definition of Class 1 misdemeanor, but I'll just wait.

THE CHAIRMAN: Thank you, Representative
Priola.

Representative Levy.
REPRESENTATIVE LEVY: Thank you, Mr. Chair.

I really just have one -- one thing to say, and it harkens back to our other bill. You know -- what it goes to is: What is the solution to this problem? When I listen to the national debate about gun violence and gun safety, what I hear from the proponents, the so-called gun rights people, is that we have to do more to keep guns out of the hands of criminals. That's the problem; it's criminals.

So Representative McCann and Representative Fields propose a bill, the only legal tool I think we really have to keep guns out of the hands of criminals; and the answer from this side of the aisle is no.

And I guess what I'm having a problem with is, if we -- if there are too many gun deaths -- and I hope there isn't any dispute that 30,000 gun deaths a year is a problem -- if there are too many gun deaths, and the assertion is that the problem is not law-abiding people, the problem is criminals, and they have proposed using the tools at our disposal to keep guns out of the hands of criminals, and this is not the solution, and you're going to spend the next several hours telling us why it's not the solution -- I am still waiting for
something more constructive, more helpful than what
we've seen so far this session, which is let's have more
guns.

This is a good bill. I urge a yes vote.

THE CHAIRMAN: Thank you, Representative Levy.

Representative Lawrence.

REPRESENTATIVE LAWRENCE: Thank you, Mr. Chair.

One of the issues that I have with this bill is that, per CBI policy, once they've approved a background check, the name and information of that person is deleted from their records within 24 hours. So should there be a stop, the police don't have any information to go back to, unless this is a registration bill, which my understanding is that it is not.

So, really, the police don't have information saying that they were successful going through a background check. They would only have information if the gun had been reported stolen, or if that person had failed a background check.

So I think parts of this bill have been misrepresented. And maybe there's a misunderstanding on the policy of the CBI, but my understanding, after being briefed by Director Sloan, was that any approved
background check, all data is deleted from their
database within 24 hours.

I see this as a fatal flaw for this bill
and enforcement, and I would ask for a no vote.

THE CHAIRMAN: Thank you, Representative
Lawrence.

Representative Coram.

REPRESENTATIVE CORAM: Thank you very
much, Mr. Chairman.

And perhaps the bill sponsor could answer
this because I do not believe that all states have a
background check in these situations. Is that correct?

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Thank you,
Mr. Chair.

That's correct, not all states require a
background check.

THE CHAIRMAN: Representative Coram.

REPRESENTATIVE CORAM: Thank you very
much, Mr. Chairman.

Okay. This creates a bit of a problem for
me because I go to another state, I buy a weapon, I
bring it back across the Colorado line. I might have a
heavy foot. I'm stopped. It's laying in the seat. How
do I prove to that officer that I have a right to have
this weapon in my possession? Is that possible without
a registry?

Could I get the sponsor to respond to
that, please?

THE CHAIRMAN: Is there further discussion
on House Bill 1229? Representative Coram.

REPRESENTATIVE CORAM: Thank you,

Mr. Chairman.

I didn't hear an answer to my question.

Am I entitled to an answer, or is that out of order?

THE CHAIRMAN: Is there any further
discussion on House Bill 1229?

Representative Stephens.

REPRESENTATIVE STEPHENS: Thank you,

Mr. Chair. Thank you, Members.

In reviewing this bill and the fiscal
note, I was -- I was intrigued because I think that we
are going to see this bill cost Colorado -- even though
we're told that we have a semi, kind of, fiscal answer
to it in terms of attacks on it, on a background check
or fee on a background check, it says, This fiscal note
should be considered preliminary. And I know, as it
went through appropriations, that we were looking at the
basic -- at full-time positions, 24 and 29,
respectively, and 14 and 15.
But I was very struck as I was going through the fiscal note about the departmental differences, because not all departments have weighed in. So we really don't know what this bill is going to cost the general fund. And the Department of Public Safety made several assumptions concerning the number of private gun transfer background checks. And what struck me is that now they're saying: Well, you know, we may have to modernize our system because we're going to have to know the court record search process. We may have to line up and we may have to modernize that.

And the bill would require $3,471,000 from general fund and 49 full-time people and 56 full time, if we have to go in that direction.

And so my question, I guess, was: Okay, well, why would you put this in? I mean, we don't really know. And I always look at this as kind of a cover yourself because you can pretty much be assured it's coming. Pretty much be assured that this bill is going to cost us, I think, a whole lot more than what is said. It's going to cost a whole lot more than the fee or tax that are going to be put on law-abiding citizens to have this done, to try to pay for their right to Second Amendment freedom.

And the other thing that strikes me is
that, for so many years, we have tried to deal with the
drunk-driving issue, tried to get the penalties up. I
know Representative Waller has tried. And yet here,
here in revenue and fines, you could have up to six to
18 months imprisonment in a county jail. So this is an
unfunded mandate on our counties. Our counties are
going to be on the hook for this, fines, imprisonment, a
fine of $500 to $5,000 or both.

Folks, our counties are so burdened
enough. The rights of law-abiding citizens to be able
to hold and carry and have their guns and transfer as
they see fit -- to me this is crazy. And I'm telling
you, when anyone puts that in that fiscal and they say,
"Oh, just by the way, we may have to modernize this
system; and, by the way, we may need about 49 or 50 more
full-time employees of the state to do it," I take note,
because you can be sure -- maybe not today, but next
year, we'll be hearing that, indeed, they need to
modernize the system and they'll need a number of people
to be able to do this.

Folks, this bill is fraught with some
problems. I urge a no vote.

THE CHAIRMAN: Thank you, Representative
Stephens.

Representative Humphrey -- Wilson. I
apologize. Representative Wilson.

REPRESENTATIVE WILSON: Thank you,

Mr. Chair.

I was up here earlier talking about I
really didn't have experience doing this, but I'm
gaining a lot of experience, I see.

I'm very much concerned, and I need to ask
some questions, because all the people that have been
talking about the people that have high-capacity
magazines, that have semiautomatics, that have shotguns,
that would be me. And not only do I need answers for
myself, but I need it for my constituents. And I think
we owe it to our constituents to be able to tell them
how this might be enforced.

For those of you who have seen me in
committee, you know that I played a game of "just
suppose." So I'd like to play that game of "just
suppose," if I could.

If I've been to the Chaffee County
shooting range with my family and I'm stopped for
speeding like Representative Coram indicated, and there
are six weapons in the vehicle, how do I prove that
those weapons were legal before this bill? How do we
answer that? Representative McCann, Representative
Fields?
If there is no answer, I have to answer my constituents that we have no way of enforcing this, therefore, good luck. How do we enforce it?

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you, Representative Wilson. I think I've already answered that question several times, but thank you.

REPRESENTATIVE WILSON: Well, Representative McCann -- oh, Mr. Chair.

THE CHAIRMAN: Representative Wilson.

REPRESENTATIVE WILSON: The response was that it's up to the officer. So the officer says, "Mr. Wilson, do you have evidence?" And I say, "I don't need it." If the burden of proof lies on me, then that's against my constitutional right of being assumed innocent until proven guilty, and I think that that's wrong.

The other piece to that would be the only way to prove that is with registration. I know that some of the conversation has moved towards: Well, this really isn't registration. I would ask the bill sponsors: What all information is required on the 4473 form at the time that you have to pass the background check?

REPRESENTATIVE McCANN: Representative
Wilson, we already have a background requirement in our law. And this will continue to be enforced, just as it is now, by law enforcement. I don't have any further answer. It will be enforced as it currently is by law enforcement. Thank you.

THE CHAIRMAN: Thank you, Representative McCann.

Representative Wilson.

REPRESENTATIVE WILSON: Thank you, Mr. Chair.

The question was actually: What's on the form? The form that's required at that point is full information, name, address, height, weight, date of birth, type of firearm, serial number, make, model, and caliber. That information is kept on file for 20 years by the FFL, and the duty-bound book that you're required to keep is then turned over to the ATF. So there is a registration of every firearm.

And just to give us a little bit more to discuss at a later time, the FFL 4473 prohibits anyone who uses marijuana from owning a firearm. That might be an interesting debate coming up later in this house.

Thank you.

THE CHAIRMAN: Thank you, Representative Wilson.
Representative Gardner.

REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

Well, as I think everyone in this body knows, I was admonished yesterday in appropriations that there would be plenty of time for my questions on the floor of the house. Now, I'm not at all sure that I can get my questions answered here because the witnesses from the executive branch aren't here on the floor of the house with me to answer those questions, but I suppose, being a person who accepts admonishment so well, I will make that attempt and hope that the sponsors and others will address my questions and concerns about this bill.

And so -- I know that all of you have read it carefully. Have every confidence that you have. And you have your bill with you. I would just ask that if you're interested in following along in this discussion, that you turn to page 3 of the bill.

And one of the first questions I have, in no particular order of the things that have come up during the debate here, is something that I asked of Director Sloan of the CBI yesterday. And the origin of that question really kind of came from my friend Representative Gerou, who was talking about having been
given various pieces and parts and having received those
as a gift, and her assumption or belief that she would
need to have a background check to receive those, or
whether she would or not. And it raises the question
of: At what point does something become a firearm?

And, actually, I've had an opportunity
since yesterday to take a look at that issue, but I
don't have a good answer. In fact, it's sort of
astounding to me that as much time and as much energy
and effort and discussion and in anticipation that there
would be many of us who were opposed to this that I
don't -- I don't know that there's any good guidance on
this. In fact, I asked Director Sloan yesterday. And
this is the director of the organization that will be
responsible for background checks and all of this
program. I laid out this hypothetical, although I was
interrupted a couple of times because there were those
who, I guess -- I don't know -- thought that somehow
laying out what was a serious set of facts not an
appropriate way to approach that.

The question I put to Director Sloan was:
I've got pieces of a firearm. I've got a firing
mechanism. I've got a barrel. I've got a stock. I've
got a trigger. I want to hand those over to somebody.

Or another possibility is I take a weapon apart. There
are people in this room, I know, who know how to do
that, as do I. And pieces of it are transferred. And
so a question that I would like to ask the sponsors is:
What is a firearm and when does a set of parts become a
firearm?

Mr. Chairman, may I continue?

THE CHAIRMAN: You may, Representative
Gardner.

REPRESENTATIVE GARDNER: I -- I am met
with silence. I am met with silence, members of this
body, because I was told yesterday in committee I would
have plenty of time and I would receive my answers. But
I am met with silence when I ask the question that I
asked in committee. When will a person have a set of
parts constructed -- because this is a serious question.

You say, oh, Representative Gardner,
you're just making things up. No, this is a serious
question. I have amateur gunsmiths. I have hobbyists.
I have people who want to know: When will I be liable
for a crime? And yet I am met with silence.

Is there no answer to when is a firearm a
firearm? In fact, there's no answer to what is a
firearm, in this bill?

In federal law, kind of ironically under
the federal definition, a firearm doesn't actually
include a revolver or pistol. That's a different definition.

And there is a definition of a firearm over in another title and article in a Colorado Revised Statute. But it isn't clear at all to me that that's what applies here.

So what is a firearm and when are a set of components a firearm? Perhaps I do have an answer now.

Finally, Mr. Chair, if I have to ultimately raise my voice, as regrettably -- as regrettably as I have to do so, maybe perhaps there is an answer to when is a firearm a firearm?

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Mr. Chair, thank you. And, Representative Gardner, it's not necessary for you to raise your voice just to get a response to your question.

But when is a firearm a firearm? I'm thinking if you have bits and pieces of equipment that's not assembled, then it's not considered a firearm. So if you can't operate and use the firearm, then I would say it's not one. If you have bits and pieces, I would say it's not a legitimate firearm. But I'm going to look in the statutes to see if I can find the definition of a firearm, but, in my belief, if you have bits and
pieces and it's not assembled, and it's not functional and it's not operational, then it's not considered a firearm.

THE CHAIRMAN: Representative LaBouda.

REPRESENTATIVE LaBOUDA: Thank you, Mr. Chair.

Representative Gardner, I was in the committee yesterday, and I recall when Director Bob Sloan, who's head of the Colorado Bureau of Investigation, came back to answer that question. And you posed it to him. And he said: No, it is not a firearm if it's in pieces. He answered that very clearly.

THE CHAIRMAN: Representative Gardner.

REPRESENTATIVE GARDNER: Representative LaBouda, I would admonish you -- perhaps he answered that off the record to you, but I would admonish you and ask you to listen to the record. What Representative (sic) Sloan said to me is: I don't know, Representative Gardner. I'm not an armorer.

But I am pleased to hear Representative Fields' answer when a firearm is not a firearm. So that, if I understand it clearly, if you want to transfer -- if you want to break your weapon down, you want to remove the firing mechanism and you want -- you
want to transfer it, that will be a pretty straightforward thing. You can take out the cylinder. You can take out -- you can take the barrel off. It will no longer be a firearm. And I'm pleased to know that.

Let me move on. Another concern I have about this bill is one that was raised by the many, many federal firearms licensed dealers in the state. Some of these people have large outlets, and many of them have a license and they work out of their home. They're very small dealers. They want to be able to deal in firearms and they want to do so legitimately. And it's a side business for them, or even a hobby, but they have an FFL as a hobby.

Now, if you look at this bill, what you see is that we're going to expect all of those dealers to do background checks and go through all of this process with all of these private transfers for $10. We're going to expect them to engage in all of that activity.

Now, we're going to hear another bill later that's sort of part and parcel to this bill. And I don't want to debate the merits of that bill at the moment, but we're going to hear a bill about -- you know, paying the State for its cost of doing this, but
we are only going to allow the private FFL and the
transferor to collect $10. Now, that's what they're
getting now. But, you know, if you're doing a transfer
and you're doing a sale, or you're running a gunshow and
you're engaged in a sale, $10 may just kind of be the
cost of doing business. But if you're doing private
transfers, that may not be what you want to do.

Now, I was concerned, and I asked during
judiciary committee about this. And, in fact, I tried
to address the concern, because the concern is this:
That FFLs operating in this state, even at the smallest
level, will be concerned that they have to do this when
requested. And you know what? The people who came to
me and asked me to carry that amendment, I kind of -- I
was kind of inclined to say: Well, that seems rather
unnecessary. Surely that wouldn't be what the
understanding was. But if you're -- if you're concerned
about that, I guess I kind of understand.

And so I carried an amendment during
judiciary committee that did exactly that, that said you
don't have to do this. If you're an FFL in Colorado,
you do not have to do a private transfer. You can turn
it away. You don't have to accommodate people.

And you know what happened is the
discussion of that amendment -- there were comments from
those on the committee who gave me pause because it
began to appear as if what really needed to happen was
we needed to have this amendment. There were those on
the committee whose comments and remarks made me think
that what an FFL in Colorado will be after this bill is
like a public utility. They'll have to service
everybody just by their existence here, and they will
have to do so for $10.

Now, when I offered the amendment,
everybody said: No, no, no, unnecessary, we don't need
to do that. But the remarks by members of the committee
were of the genre of: Well, you know what? If we have
all these people out there and we need to do this, maybe
they will have to do it.

So for that reason, Members, I come to you
once again and I offer L.009 and I move L.009 and ask
that it be displayed.

THE CHAIRMAN: The amendment is properly
displayed to the amendment.

Representative Gardner.

REPRESENTATIVE GARDNER: Yes, thank you,
Members.

Members, this is an amendment that very
clearly just says that nothing in this section shall be
construed to require a licensed gun dealer to obtain a
background check upon their request of a prospective firearm transferor.

You know, I hope people will do this, but I don't think that we should impose the duty and the obligation upon small FFLs to do this, people who work out of their homes, people who have a small shop where it's not economic for them to do it. And I wouldn't have thought that this amendment would be necessary to say what ought to be the law, but what I see is that this has become so regulated that we better make this clear, because the legislative record so far makes it pretty unclear.

And so for that reason, I ask for a very straightforward amendment. A very straightforward provision in this statute is that small gun dealer does not have to do private transfers. Nothing can make them do it. If they want to do it for $10, they can do it for $10. If they want to do it for free, they can do it for free, but they do not have to do it.

And I ask for an aye vote.

THE CHAIRMAN: Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Chair, and thank you, Representative Gardner, for bringing this amendment back up again, but just like in committee, I did not support the amendment. So today on
the floor, I cannot support this amendment as well. So
I urge a no vote on this amendment.

THE CHAIRMAN: Representative Gardner.

REPRESENTATIVE GARDNER: Thank you,

Mr. Chair.

Well, Representative Fields, is it your
position, then, that the small dealers must or somehow
should be required or might well be required to conduct
these background checks for these private transferors
for which they're not the seller, they're not the buyer?
And yet because they're a gun dealer here in Colorado
and operate under Colorado laws as well as federal laws,
that they should be required to do them? Is that your
position? Because I can't think of any reason you would
oppose this amendment unless that is your position.

THE CHAIRMAN: Representative McCann.

REPRESENTATIVE McCANN: Thank you,

Mr. Chair.

There is nothing in the bill that requires
that a licensed firearm dealer do a particular
transaction. So this amendment is unneeded.

THE CHAIRMAN: Representative Gardner.

REPRESENTATIVE GARDNER: And that being
the case, Representative McCann, what's the problem with
the amendment, to make it very clear so that it's never
construed that way? Because there were comments in the committee that made it very clear. And I have to tell you, I fear that this will become a problem, because at $10 a pop, I don't think that there are going to be a lot of people out there wanting to engage in this activity.

The State is going to be getting -- I don't know how much -- I would bet you it will be 25, 30, or $40 that the State will be getting for this activity pretty quickly. And I will suspect that FFLs are not going to want to do this when they are not part of the transaction. And they have people who are coming through for background checks just to loan their weapon to their brother-in-law so he can go hunting. They're not going to want to do it. And I don't blame them.

So let's make it clear and let's not leave it unclear. It's not enough -- there is a concern about this. It was brought to me, and it got to be a larger concern whenever I heard comments from the committee, which was: Well, maybe. Maybe.

This is going to be a problem. And I ask you, if it's not required and that is not your intention to leave this open, then there is no reason not to have this amendment, other than some surreptitious thought that perhaps we will want to do this later. Either that
or just -- substantively, if that's your intention, this is all that this does, is say that you don't have to do it.

THE CHAIRMAN: Representative Murray.

REPRESENTATIVE MURRAY: Thank you, Mr. Chair.

Yes, in committee, it was very clear to me, whenever we were looking at this amendment or one similar to it, that the opposition said: No, we want everyone to do this background check. So I'm amazed to hear that nothing in the bill requires someone to perform these background checks when they have not been responsible for the sale of the firearm.

So if that is true, I would agree with Representative Gardner, that everyone should fully support this, because this is an important understanding that we need to have for this bill.

I urge an aye vote on this amendment.

THE CHAIRMAN: Representative Salazar.

REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

So I guess we could dance and prance as much as we want instead of actually getting to the vote on this bill. But, Representative Gardner, on page 3, line 15 through 17, it says: A prospective firearms
transferor who is not a licensed gun dealer shall
arrange for a licensed gun dealer to obtain the
background check required by this section.

That meaning that a prospective firearm
transferor will go to somebody who is willing to do it.
It doesn't mean that they go to somebody and they're
required to do it. It says that they can arrange for
it. This amendment is unnecessary because there is
nothing in the language of this bill that requires a
licensed gun dealer to say, "Oh, you've come to me, so
now I must do it." There's nothing in here for that.

Let's move on. Let's vote on this thing.

THE CHAIRMAN: Representative Gardner.

REPRESENTATIVE GARDNER: Well, yes, thank
you, Representative Salazar. And I didn't think that
this was prancing and dancing to avoid voting on the
bill. This was a serious amendment brought in
judiciary, and it's a serious amendment brought here.
It became even more serious in terms of its need when,
in fact, as Representative Murray attested to and
supports, we heard members of the committee actually
indicate that it was their belief that, yes, indeed,
these gun dealers might well be required to do this.
These gun dealers ought to be doing this, and they --
this was a duty.
Now, Representative Salazar, with due respect, I would have initially read this the way you did, but I had -- I had constituents who were FFLs who were concerned, and I brought the amendment. I said: Really? You think? And they said: You know, the way this is going and the way it seems and our small FFLs, this is a problem. So I offered it. I offered it, and I found out that they were right. They were right. There are those members of this body who hold the view that that's what we're doing.

And when that's the case, it's simple enough -- it's simple enough, Representative Salazar, we can get right to voting on this bill, after we answer my other questions that didn't get answered in committee, we can get right to that. We can pass this amendment, and we can move on.

So I ask for an aye vote.

THE CHAIRMAN: Representative Salazar.

REPRESENTATIVE SALAZAR: Thank you,

Mr. Chair.

And, Representative Gardner, I hear what you're saying about your constituents, I really do, that there's some concern about this bill. If it said in there that a prospective firearms transferor who is not a licensed gun dealer shall arrange for a licensed gun
dealer to obtain the background check required by this
section, and the licensed gun dealer must perform the
background check, well, then, I think that people would
definitely want to take a look at your amendment. But
it doesn't say that.

It just says that it will arrange for a
licensed gun dealer, which means that they're going to
go to somebody who will say, Yeah, you know what? I
don't want to do that. Go to somebody else. And
they'll go do it with somebody else. And they will
eventually find somebody who will actually perform the
background check.

There's nothing in here that creates a
duty for a licensed gun dealer to do the background
check. You're reading much too much into this
amendment -- into this bill. I appreciate your concern,
but you know that that doesn't say that.

THE CHAIRMAN: Representative Murray.

REPRESENTATIVE MURRAY: Thank you,

Mr. Chair.

Then, Representative Salazar, why don't
you support the amendment? If you agree with the
thinking that's contained in the amendment, why are you
disagreeing? Now you're walking away because you're not
wanting to support this amendment, and yet you're saying
that you agree with what it says. So you either agree
with what it says and support it or you say, Well, no,
we would rather leave it vague so that, at some point,
we can say to these gun dealers: You have to do it.

Why leave it vague?

THE CHAIRMAN: Representative Holbert.

REPRESENTATIVE HOLBERT: Thank you,

Mr. Chairman.

Members, I support this amendment, and I
believe that it is true, that there's nothing in this
bill that compels the dealer to do this, but let's make
that clear.

I equate this to automobile dealers. And
having, back in the '80s, worked at a dealership, people
would come in often and say, "Appraise my car. You're a
car dealer. Appraise my car." And car dealers are
compelled to offer that service for free, and they can
choose to do it. But there's an expectation among the
public that a dealer would do that.

And I'm concerned with these background
checks that we effectively change the role of that
licensed firearm dealer from a private company that
makes its own decisions as to what services it will or
will not offer and the products that it carries to an
expectation that the public would come in and say, "I'm
required to do this; so, therefore, you are required to
do this business with me."

I think that, with this amendment, we
allow firearm dealers in Colorado to make that decision
for themselves. If, for some reason, they don't want to
be involved in private transfers -- for instance, maybe
they don't want to have any liability associated with
something that could go wrong with the item or the
people, the individuals, because we're doing a
background check on the purchaser; we're not doing a
background check on the seller. And maybe there's
something wrong in that transaction and all of a sudden
that retailer, that firearms dealer, is caught in a
lawsuit.

I can certainly understand why the gun
shop in Parker might say: We don't want to be involved
in that, or we at least want to be able to refuse
business when we think it's right for us to do this.
And with this amendment, that could happen. But without
this amendment, I think that Representative Gardner has
hit on a factual concern.

I don't see any political motivation. I
don't see this as any sort of poison pill. I don't see
this as any sort of sabotage to the bill. If the
problem isn't in the bill, then there's no problem with
this amendment, and I urge you to please vote for L.009.

THE CHAIRMAN: Representative Lawrence.

REPRESENTATIVE LAWRENCE: Thank you, Mr. Chair.

I, too, rise in support of this amendment. I've been approached by several small FFL dealers who are one-man operations. They work out of their home. They don't want people they don't know knocking on their door saying, "Hey, you need to run a background check so that I can sell this gun." That's intrusive on their private life.

They have this -- they have their FFL designation, but not because they're selling guns. They might be collecting. They might be sampling. It might just be for their own personal use. And they don't run these background checks. And they have told me -- I've been contacted by many -- they do not want people knocking on their door because this law says that it has to be a licensed dealer who's going to run this background check.

So I would ask you to please support this amendment.

THE CHAIRMAN: Is there any further discussion on Amendment L.009?

A division has been called for. Would any
who are not permitted in the chamber, please take their seats.

(Inaudible discussion.)

THE CHAIRMAN: The question is the adoption of Amendment L.009 to House Bill 1229. A division has been requested of all those in chamber not entitled to vote. Please be seated.

All those in favor of L.009 please stand and remain standing in one place until the count is taken.

You may be seated.

All those opposed please stand and remain standing in one place until the count is taken.

You may be seated.

The amendment is lost.

Representative Gardner to the bill.

REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

Well, Members, if you recall, before we dealt with the amendment, we were talking about the various provisions of the bill about which there were many questions. One that did not really get discussed as it should have been during committee is on page 4, lines 22 through 25.

Says a person who transfers a firearm in
violation of the provisions of this section may be jointly and severally liable for any civil damages proximally caused by the transferee's subsequent use of the firearm.

So here's the problem: I'm sure -- I don't want to assume too much, but I think it's kind of safe to assume that the proponents of the bill think that if you illegally transfer a firearm, it's nothing but right that you be jointly and severally liable for anything that happens thereafter. But, you know, it's not as if every one of these transfers is going to be because of a really bad actor.

The really bad actors, as Representative Waller talked about earlier today, the really bad actors are going to do these transfers on the street corner in exchange for drugs. And, by the way, they're not going to have a lot of assets in the bank to be jointly and severally liable against.

But if someone loans a firearm and they don't exactly meet one of these exceptions -- and we're not even talking about prosecutions now. We're talking about somebody who has -- who loans a firearm and they're not exactly within these exceptions, and there's a hunting accident or a shooting accident -- there are accidents in that activity like there are in rock
climbing, in motorcycling, and almost any other
activity -- there's an accident. Guess what? The
person who loaned that firearm and loaned it before the
person borrowing it went hunting, instead of going
hunting with them -- that person is going to be jointly
and severally liable for anything that happens after
that.

And by the way, I think a pretty good
trial lawyer -- and there are many -- would have a
pretty good time saying: Well, you violated the statute
when you loaned that firearm to your neighbor. And in
the skeet shooting, somebody got injured. And now
you're jointly and severally liable.

And I don't really have a question about
this. I don't have a question about this because this
is a fact.

And if the sponsors want to come and
disagree with me, I welcome them doing so, but I can
tell you that I can make that case and I could write
that pleading right now. I could write that pleading
for that case in between my colleagues coming and asking
other questions and having it displayed as an exhibit
here because it wouldn't take me but about half an hour.

So we're going to expose innocent
citizens, those who do something as a favor for a
friend, to a liability for something over which they had no control.

Now, Members, one of the things that I find most objectionable in discussion of this bill -- and people can describe things however they wish; they can use whatever language they would like to to characterize things -- but one of the things I find most objectionable is the notion that this bill is to close a loophole. We've got a loophole in the law. There's a loophole. A loophole is somehow a nefarious, underhanded, tricky, devious thing.

There's not a loophole in the law presently, Colleagues. There was a public policy judgment made by the people of Colorado and those running a ballot issue to ask the people to require background checks at gunshows, but not for private transfers, because they most surely could have done so. And subsequent legislators most surely could have required this.

This is not a loophole. What people are doing today when they loan a firearm to a neighbor, when they have a private sale, they are following the law. They are obeying the law.

What we are discussing is whether or not we're going to change the law of Colorado, not somehow
close some inadvertent exception that the people or prior legislators didn't make a public policy judgment was going to be the law. It's not like: Oh, my goodness, when this ballot issue for gunshow background checks went up, those people just didn't think about it, they just weren't that smart, it just got by them. Well, subsequent legislators aren't as smart as all of us and just couldn't figure it out. And, oh, my goodness, they woke up the next day and they said: Oh, we forgot all about private transfers.

No, Members, this represents a public policy judgment. And you say: Well, why would they do such a thing? And the proponents of this bill say: Well, there's all this gun violence. And I recognize there have been horrific events, and that even more to the point, there are 30,000 gun-related deaths in the United States every year, and that many on our highways and all sorts of accidental deaths, and on and on.

So why did we have this public policy that we would not require background checks for private transfers? Well, I suggest to you that it was intrusive, it was unworkable, it was unenforceable, and it really didn't get to the problem.

Let me show you what I mean by unworkable. On page 5, we start the exceptions. Actually, at the
bottom of page 4. The provisions of this section do not
apply to a transfer of an antique firearm as defined by
18 USC 921(a)(16), as amended, or a curio or relic as
defined by 27 CFR 478.11, as amended. I'm not even
going to go down that road this evening, to have 18 USC
921(a)(16) displayed on the board and discuss the finer
points of what is an antique firearm or a curio or a
relic under 27 Code of Federal Regulations 478.11, as
amended, although that might be fun.

Suffice it to say that someone who has one
of those weapons is probably going to need a law degree
to find those and figure that out.

The next exception, except as prohibited
by Section 18-12-111 -- that's of the CRS -- a transfer
that is a bona fide gift between immediate family
members, which are limited to spouses, children,
siblings, grandparents, and grandchildren.

So the first example: You have a fiancee.
She lives in an apartment building where there have been
some problems. You'd like to loan her a firearm. And,
by the way, since you regulated no target shooting
together under the other exception here, and you never,
ever loan that weapon to her except when you're out on
the range, because you wouldn't want to violate the
law -- guess what? You can't loan that weapon to your
fiancée. That seems absurd.

Your father-in-law who considers you just like one of his own wants to give you a weapon for Christmas. Can't do that. Got to have a background check. Don't be wrapping up that bow on Christmas. Don't be opening that package on Christmas Day.

That's absurd, Members. That's why this hasn't been the law of the state of Colorado. This is not a loophole. This was bad public policy.

It has to be a bona fide gift. You know, I asked Director Sloan during the testimony on this, I said, Well, you know, my brother -- and not withstanding the fact my brother lives in Texas -- let's assume he got tired of the August heat and came to Colorado with his gun collection -- if he gives me one of his Colt revolvers, that's okay. If I swap him, if you will, trade him my 9 millimeter for one of the Colt revolvers, we better do a background check, because that isn't a bona fide gift. That's called an exchange. That's called a sale, in fact.

Oh, and, by the way, the State of Colorado would like to have sales tax on that, once they value the weapon, but we won't go down that rabbit trail.

Now, some of you were raised in blended families, I would expect. So you may have a stepbrother
or a stepson or stepdaughter, and you might want to give
them a weapon, or, you know, your parent that raised you
both passes away and there's nothing in the will --
we'll get to operation of the law later and discuss that
in some detail, what operation of law means, because I
know inquiring minds wish to know, because we are voting
on this and we ought to understand what we are voting
on. But, you know, this doesn't allow you to make a
gift to your stepbrother or your stepparent. It doesn't
allow your uncle, on his death bed or in his last
illness, to call you over to the house and say, "You
know, there's something I really want you to have."

And, oh, by the way, if you accidentally
hurt yourself with a weapon later, he would be jointly
and severally liable. And if he passed away, you could
go after his estate. And I think, if I can stand down
here and do that, I think some smart trial lawyer can
figure that one out as well.

Something else you can't do under this
exception -- you've got to make a complete gift. So you
can't loan your brother or your sister a weapon. Now,
you could say, "Well, is the law going to do that? Are
they going to go after that?"

You know what? We make assumptions here
all the time that people are honest and tell the truth.
And I like to believe that. So if that person is honest and tells the truth and says, "No, it wasn't a gift; I loaned it to them" -- you should have had a background check.

Now, I don't know if these were intended; I don't know if all of these very common hypothetical but real fact patterns were intended. I kind of think they were. I mean, I kind of think that these exceptions were intended to be window dressing, not very broad. We've got to have them. We've got to have them because people say, "You mean, I can't -- I can't give my son a .22 rifle for Christmas without doing a background check?"

Well, let's go to the next exception, C, on page 5. A transfer that occurs by operation of law or because of the death of a person for whom the prospective transferor is an executor or an administrator of an estate or a trustee of a trust created in a will.

Well, setting aside that the uniform probate code refers to personal representatives and not executors anymore -- so I'm kind of wondering about why we're using the word "executive" -- or "executor" -- this seems like it ought to take care of Representative Gerou's situation, but it doesn't. You know, if my mom
has my dad's -- really, my grandfather's rifle, and she wants to make a gift of it to me, but it's not really hers because my brother, who is the personal representative, and is fully cognizant and aware of what she's doing, is the personal representative or executor, then my mom will have violated the law, because she didn't -- she's not one of these people.

Oh, then we get to temporary transfers that occur while in the home of the unlicensed transferee. So don't -- don't invite someone to your home to hold and use and sort of enjoy handling and understanding about that weapon, because that's not the home of the unlicensed transferee. That's the home of the transferor. And, besides, the unlicensed transferee has to reasonably believe that the possession of the firearm is necessary to prevent imminent death or serious bodily injury to the unlicensed transferee.

Well, so I should be able to loan my single personal -- or administrative assistant a firearm, if she lives alone and she's had some problem? Well, no. No. She has to call me whenever the person is at her door. And then I can rush over because then she's in imminent bodily danger, et cetera. This is not very broad either.

I mean -- in fact, I don't even understand
how it works, Members, because the transfer has to be
temporary and has to occur in the home of the unlicensed
transferee. So if you're in my home and somebody is
breaking in, I can't hand you a weapon, even though
maybe I'm lying in bed with a broken leg, because that's
my home, not your home. And, of course, if you shoot
somebody who's trying to break in, even though "Make My
Day" might save you -- I don't know -- you might be
jointly and severally liable because I couldn't transfer
to you.

And so the bad guy gets to sue you. And
if you think that doesn't happen, I read the newspapers
as well as any of you, and you know it does.

We talked earlier about transfers that
take place when someone goes target shooting and so
forth. It wouldn't be okay for the scout leader to
borrow some weapons or have those 16-year-old Explorer
scouts borrow a weapon and take it with them as you go
out for supervised target shooting. Everybody who loans
that weapon has to take it with them.

Now, these exceptions, they only work a
little bit, and they only work on their circumstances
and their facts. And if you don't get them right, you
commit a Class 1 misdemeanor and you shall be punished.
And you won't be able to possess a firearm for two years
beginning on the date of your conviction. And, of course, you can't possess a firearm while you're under charges, so give yourself another six months.

Members, as I said yesterday, you can choose to trivialize my argument, if you wish. That may be the easiest thing for you to do. But the fact of the matter is, those are not far-fetched examples that I use. We all have blended families, many of us. It's very common. We couldn't transfer to a stepbrother or stepsister, a stepparent, a stepchild, half-inlaw. We couldn't loan the weapon for legitimate purposes. We would have to go along.

So Representative Lawrence, who was planning on going target shooting tonight with her family, couldn't loan that weapon because she's stuck on the floor of the house. My point about that is things happen in life.

Members, this is -- with respect, I truly believe the sponsors are well intended and believe that this bill is good public policy. I sincerely respect and believe that that is their belief. But what this bill is is ill-considered public policy. It is -- the exceptions are ill-considered.

The idea that FFLs are going to want to deal with every one of these private transfers for $10
is ill-considered. I think it's going to expose them to a regulatory finding that if they're a regulated dealer in Colorado, they have to do this. Why do I think that? Because the sponsors are unwilling to have a very simple amendment that says they don't have to. And I scratch my head and I say, Why is that? Why is that? It's pretty simple. It doesn't change what they intended. They tell me they didn't intend that, but they won't do it.

And then I begin to wonder if really we're not on our way to a whole system of firearm registry, because the way to enforce is to create the system and require the background check and require the dealers to do it.

And so I hope, during your evening dinner hour, as we've discussed this bill, you may have had a moment to consider that the exceptions are not nearly broad enough, that the utility of the bill, when you think about the fact that really bad actors don't get background checks; they just trade guns for drugs on the street corner, that this will be an imposition, it will be a prior restraint upon law-abiding citizens with no correlative gain in public safety. And so I ask for a no vote.

THE CHAIRMAN: Representative Saine.
REPRESENTATIVE SAINÉ: Thank you,

Mr. Chair.

Colleagues, Representative McCann, if you're here, I had the privilege of talking to some members over at Fein (phonetic) Colorado Law Enforcement. And they have some concerns that if 1229 would pass in conjunction with a bill that, say, redefines an unloaded gun is a deadly weapon, and these members made a routine traffic stop or a potential domestic violence call because some neighbors called 911 because some other neighbors had their voices raised a little too loud, and a cell phone was thrown and destroyed. And while investigating this, the officer or sheriff sees a 30-round magazine and an unloaded weapon in the home -- and, nowadays, a domestic violence call, police must arrest both the parties in a dispute. And an unloaded weapon and a magazine gives reasonable suspicion, so the gun is confiscated.

So the owner, male or female, even after a favorable adjudication, which is often the case, must now go to a court of law to prove they have obtained the weapon legally.

Law enforcement tells me the only way to mitigate the backlog this would create or for the owner to avoid costly court fees would be to have a gun
registration program.

So Representative McCann or Representative Fields, if she would be available to answer a couple questions -- I have two -- are the consequences rendered by this bill intended to pave the way for gun registration, or is it really intended for a gun buyback program without the buyback? Or, my second question is, is this an unintended consequence rendered by this bill?

THE CHAIRMAN: Is there any further discussion?

REPRESENTATIVE SAINÉ: I need an answer from the sponsors, if I could, Mr. Chair.

THE CHAIRMAN: They need not.

Is there any further discussion?

Representative Szabo.

REPRESENTATIVE SZABO: Thank you, Mr. Chair.

We've spent many hours debating 1229 and the bill before it. And I would like to just bring it back to the original assertion. And that is, if we can just save one life. Well, you know, that's been the talk this week, about one life. There was a bill brought last Wednesday that can save many lives. It was Jessica's Law. But it was sent immediately to the kill committee. Are we really worried about saving one life,
or are we not?

THE CHAIRMAN: To the bill.

REPRESENTATIVE SZABO: I want to know, are we really willing to talk about the true issue, to save one life? These gun violence issues are not the only way we can save one life. And Jessica's Law was a way we can save many lives.

THE CHAIRMAN: Representative Szabo, would you talk to the bill, about the background.

REPRESENTATIVE SZABO: Thank you, Mr. Chair.

THE CHAIRMAN: Representative Saine.

REPRESENTATIVE SAINÉ: Thank you, Mr. Chair.

I have a rationale for some of the questions I asked earlier. And one is, in The Denver Post, it says the CBI is facing questions over its inability to meet the three-day federal background check. It also has an appeals process where they received 300 -- 3,814 and reversed 2,183, reversed. And that takes some time.

There was a discussion earlier about women, and do more guns really solve any problems? Well, it's been proven nationwide that women, in an assault situation, are much more likely to be hurt
without a firearm. They are smaller than the man is.
If those women were armed, maybe so many of them
wouldn't be killed by a domestic partner.

And if -- again, I ask, is this bill
paving the way for gun registration? And if it is, or
if it isn't, with the CBI process in place, those women
who may be arrested even for throwing a cell phone are
entered into the criminal justice system and can't
obtain a weapon because they're in that system. They go
back home to the situation and they are defenseless.

I have some real questions about this
bill. I do not believe this is going to save lives, but
may endanger more women in domestic violence situations.

Thank you.

THE CHAIRMAN: Representative Moreno.

REPRESENTATIVE MORENO: Thank you,

Mr. Chair.

Members, I wasn't planning to come to the
well today on this bill, but I would just like to point
out that I do have cupcakes. Now that you've all had
your dinner, please stop by my office -- my desk. We
have birthday cupcakes in honor of my birthday this
weekend. It is a passionate debate, but I would
encourage you not to use your cupcake as a deadly
weapon.
So thank you, Members, and feel free to come grab a cupcake.

THE CHAIRMAN: Representative Scott.

REPRESENTATIVE SCOTT: Thank you, Mr. Chair, and happy birthday, Representative Moreno. No capitol choir for you, buddy. I do have a clarification that I would ask for from my little sponsor or one of the proponents of the bill.

On page 5, lines 21 through 23, when it talks in respect to gun ranges, I would like some help understanding real quickly -- it says, basically, at a shooting range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in firearms. I have no idea what the conservation purpose of a firing range is. I'm hoping that one of the proponents of the bill can maybe answer that for me.

THE CHAIRMAN: Is there any further discussion? Is there any further discussion on House Bill 1229?

Seeing none, the question before us is -- Representative Priola, under the wire.

REPRESENTATIVE PRIOLA: Thank you, Mr. Chair. And, Members, I am back here to give some of
my other questions a shot for the sponsors. Let me find
my notes.

And in the time between that, actually
another question came to mind. What if you're out
hiking with your buddy or your family and you find a
firearm? This bill, as far as I can tell, doesn't
address anything about time period. As soon as you pick
up that firearm, you are technically breaking the law.
It might take you a day or two to get back to your
vehicle. It might take you a couple days to get into
town to actually find someone to run a background check
on yourself for a firearm that you found, because it
fell out of someone's rucksack up in the mountains or
so.

So I would really like to have that
component of the bill addressed as well as my previous
questions, but I really don't think it's going to get
addressed because the sponsors are not here. I don't
know where they're at.

Actually, one is right back there.

Representative McCann.

UNIDENTIFIED SPEAKER: They're talking to
Joe Biden.

REPRESENTATIVE PRIOLA: They're talking to
Joe Biden, okay.
Representative McCann?

I saw Representative Fields leave out the back.

I would really appreciate having that question and others addressed.

THE CHAIRMAN: Is there any further discussion?

Seeing none, the question before us is the passage of House Bill 1229. All in favor say aye.

UNIDENTIFIED SPEAKERS: Aye.

THE CHAIRMAN: Those opposed, no.

UNIDENTIFIED SPEAKERS: No.

THE CHAIRMAN: House Bill 1229 passes.

(WHEREUPON, the audio recording was concluded.)
CERTIFICATE

STATE OF COLORADO  )

)ss.

CITY AND COUNTY OF DENVER  )

I, Jana Mackelprang, Certified Realtime Reporter, Registered Professional Reporter, and Notary Public for the State of Colorado, do hereby certify that this transcript was taken in shorthand by me from an audio recording and was reduced to typewritten form by computer-aided transcription; that the speakers in this transcript were identified by me to the best of my ability and according to the introductions made and the information provided; that the foregoing is a true transcript of the conversations; that I am not an attorney nor counsel nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in its event.

IN WITNESS WHEREOF, I hereunto affix my hand and notarial seal this 27th day of June, 2013. My commission expires January 24, 2016.

___________________

Jana Mackelprang
CRR, RPR, Notary Public
Calderwood-Mackelprang, Inc.