

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 JUDICIAL COMMITTEE MEETING

4 Taken on February 15, 2013

5 HOUSE BILL 13-1229

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REPORTER'S TRANSCRIPT

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P R O C E E D I N G S

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1 THE CHAIRMAN: Representative McCann.

2 REPRESENTATIVE McCANN: Thank you,
3
4 Mr. Chair.

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

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

9 REPRESENTATIVE McCANN: Thank you,
10 Mr. Chair.

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

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

22 So that is the extent of the committee
23 report.

24 THE CHAIRMAN: Thank you, Representative
25

1 McCann, to the bill.

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

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

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

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

22 I was not satisfied. The debate in
23 appropriations was curtailed. But suffice it to say
24 that what the appropriation report does is really kind
25 of set a contingency in case the bill, which is sort of

1 a companion, is not passed to pay for this.

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

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

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

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

16 UNIDENTIFIED SPEAKERS: Aye.

17 THE CHAIRMAN: Opposed.

18 UNIDENTIFIED SPEAKERS: No.

19 THE CHAIRMAN: The committee report is
20 adopted.

21 Representative Fields to the bill.

22 REPRESENTATIVE FIELDS: Thank you,
23 Mr. Chair.

24 Members, currently right now in the state
25 of Colorado, private sales are unregulated. Basically

1 what House Bill 1229 will do, it will require a
2 background check on all gun transfers in the state of
3 Colorado. Currently, our laws only require a background
4 check if you go to a licensed dealer -- that would be a
5 new place to buy a gun -- or if you go to a gunshow in
6 the state of Colorado, you have to complete a background
7 check. So we're halfway there.

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

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

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

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

1 access to guns.

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

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

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

19 You may recall the situation that happened
20 in Arizona. This person, this gunman, had a restraining
21 order on him. He advertised in the paper he was looking
22 for a gun. He had \$300, and he would buy a gun. He
23 bought the gun, went into an Arizona salon and shot his
24 wife and two other employees at that salon. So
25 background checks do save lives.

1 I'm going to be sharing some statistics
2 that relates to the number of denials that we have in
3 the state of Colorado as it relates to CBI InstaCheck.
4 And I'll put this over there for you all to look at.
5 But just in one month alone -- and this will be January
6 of 2013 -- 956 denials. We were able to keep those guns
7 out of 956 people who were denied access to a gun. And
8 this is with people trying to access the gun legally,
9 through a gunshow or through licensed dealers.

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

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

19 It does provide for several exemptions in
20 the bill for those who might want to give it as a gift
21 to a family member, for those who might want to transfer
22 the gun if they're hunting or fishing or those kinds of
23 things. And so we did provide lots of exceptions -- not
24 a lot, but some that maybe would address some concerns
25 that you might have.

1 It also includes penalties for those who
2 are not compliant with performing a background check
3 before the gun is sold.

4 So I will conclude my remarks by just
5 asking for a yes vote on House Bill 1229.

6 THE CHAIRMAN: Thank you, Representative
7 Fields.

8 Representative McCann.

9 REPRESENTATIVE McCANN: Thank you,
10 Mr. Chair.

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

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

25 This bill is simply closing a loophole

1 that we currently have in our background check law. And
2 many of you know that here in Colorado, after the
3 Columbine shooting, the public voted 70 percent to close
4 the gunshow loophole.

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

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

22 We're talking about ensuring that every
23 sale is subject to the same background check. We're not
24 imposing any new requirements. They're the same
25 prohibitions against purchasing a gun that apply

1 currently to those who purchase their guns legally.

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

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

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

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

25 According to justice -- Department of

1 Justice statistics, in states that require background
2 checks for every handgun sale, 38 percent fewer women
3 are shot to death by intimate partners.

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

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

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

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

25 It's hard for me to understand why you

1 wouldn't want everyone to go through the same background
2 check that you had to go through, or that those
3 responsible gun owners have to go through. It's simply
4 a matter of fairness and equity and safety.

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

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

10 REPRESENTATIVE McCANN: Thank you,
11 Mr. Chair.

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

20 So this amendment will make it very clear
21 by amending page 5, line 27, inserting that a temporary
22 transfer of possession of a weapon can take place under
23 this bill while hunting, fishing, trapping, or target
24 shooting. The same amendment -- or the same lines -- or
25 the same language would be included on page 6, line 1,

1 and page 6, line 4.

2 Therefore, if someone is target shooting
3 on their property, they would be able to exchange guns
4 so they could try out different kinds of guns and each
5 other's guns.

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

10 THE CHAIRMAN: Thank you, Representative
11 McCann.

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

14 Hold for Representative McCann.

15 REPRESENTATIVE McCANN: Thank you,
16 Mr. Chair.

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

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

21 REPRESENTATIVE GARDNER: Yes, thank you,
22 Mr. Chair and Representative McCann. I appreciate you
23 bringing this amendment. However, it sort of highlights
24 what is problematic here, because, as I read this
25 exception -- and we will visit these exceptions later on

1 the bill in some detail because people's criminal
2 liability will be riding on how they understand these
3 exceptions -- this particular exception will then read,
4 while -- what it will do is read: The transfer -- well,
5 the exception will read -- and you'll start at line
6 11 -- it will say: A transfer that is temporary and
7 occurs while in the home of the unlicensed transferee
8 if -- and then you go to D at line 18 -- the transfer is
9 a temporary transfer or possession without transfer of
10 ownership or a title to ownership, which transfer takes
11 place while hunting, fishing, target shooting, or
12 trapping, if the hunting, fishing, target shooting, or
13 trapping is legal in all places where the unlicensed
14 transferee possesses the firearm and the unlicensed
15 transferee holds any license or permit that's required
16 for such hunting, fishing -- I assume target shooting or
17 trapping.

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

1 apply.

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

13 Now, you may scoff over there or not, I
14 don't know, but I can almost imagine that there would be
15 those that would scoff and say, "Well, Representative
16 Gardner, that's just absurd." But that's what it says.
17 It doesn't say, "for the purpose of." It doesn't say,
18 "in anticipation of." It doesn't say any of that. It's
19 written very narrowly, and I think that's what's
20 intended. But that makes this exception for all of
21 these other things in target shooting so narrow that you
22 couldn't -- you couldn't borrow a weapon from your
23 brother-in-law or your father-in-law or your son-in-law.
24 We'll get to all of those, why I say in-laws and not
25 "others" later. You couldn't borrow a shotgun from your

1 father-in-law, who may be at a stage in life that he
2 doesn't want to go target shooting with you and your
3 brother-in-law or your best friend. That's not the
4 exception.

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

10 THE CHAIRMAN: Representative McCann.

11 REPRESENTATIVE McCANN: Thank you,
12 Mr. Chair.

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

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

25 So I would ask for an aye vote. All this

1 amendment does is add target shooting to the other three
2 items that are listed. So I would ask for a yes vote on
3 Amendment 016.

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

6 REPRESENTATIVE GARDNER: Thank you,
7 Mr. Chair.

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

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

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

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

25 REPRESENTATIVE HOLBERT: Thank you, Mr.

1 Chairman. Honor to serve with you, sir.

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

4 REPRESENTATIVE HOLBERT: Thank you very
5 much.

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

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

20 If I was not there and I am the legal
21 owner of that weapon, could I let my son go out on that
22 hunting trip and use one of my weapons, or would I have
23 to go to a gun dealer and go through that transfer to
24 allow him to take that weapon for a week or so, or 10
25 days, if I wasn't there?

1 THE CHAIRMAN: Thank you, Representative
2 Holbert.

3 Representative McCann.

4 REPRESENTATIVE McCANN: Thank you,
5 Mr. Chair.

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

10 THE CHAIRMAN: Representative Holbert.

11 REPRESENTATIVE HOLBERT: Thank you,
12 Mr. Chair.

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

15 THE CHAIRMAN: Representative McCann.

16 REPRESENTATIVE McCANN: Thank you,
17 Mr. Chair.

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

23 THE CHAIRMAN: Representative Holbert.

24 REPRESENTATIVE HOLBERT: Thank you,
25 Mr. Chair.

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

7 THE CHAIRMAN: Representative McCann.

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

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

19 THE CHAIRMAN: Representative Lawrence to
20 the amendment.

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

23 I guess I'm still a little confused on the
24 amendment. If -- as an example, we own a gravel pit,
25 and sometimes we have people who like to go down there

1 because it's a safe place to set up targets and shoot,
2 and we would loan our weapons. But this says we have to
3 loan them in our home and we have to be with them? So
4 we couldn't loan them to a friend or a neighbor to go
5 down to our private property?

6 THE CHAIRMAN: Representative McCann.

7 Excuse me. Representative McCann.

8 REPRESENTATIVE McCANN: Thank you,

9 Mr. Chair.

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

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

20 THE CHAIRMAN: Representative Lawrence.

21 REPRESENTATIVE LAWRENCE: Okay. Still
22 confusion because we're dealing with my private
23 property, which is my firearm on my private property,
24 which is my gravel pit, which I no longer have any
25 control over. And, you know, there are instances when I

1 might be going out of town, and as much as I would like
2 to go down and target shoot, I'm not available to do
3 that. But I have a friend who would like to try out one
4 of my guns. This would make me a criminal if I did
5 that. Am I reading that correctly?

6 THE CHAIRMAN: Representative McCann.

7 REPRESENTATIVE McCANN: Thank you,
8 Mr. Chair.

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

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

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

17 UNIDENTIFIED SPEAKERS: Aye.

18 THE CHAIRMAN: Opposed, no.

19 UNIDENTIFIED SPEAKERS: No.

20 THE CHAIRMAN: The amendment passes.

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

23 (Laughter.)

24 (Inaudible discussion.)

25 THE CHAIRMAN: To the bill Representative

1 Fields.

2 REPRESENTATIVE FIELDS: Thank you,
3 Mr. Chair.

4 I'd like to move Amendment L.008.

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

8 Amendment L.008 is properly displayed.
9 Please proceed.

10 REPRESENTATIVE FIELDS: Thank you,
11 Mr. Chair.

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

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

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

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

25 Representative Gerou.

1 REPRESENTATIVE GEROU: Thank you,
2 Mr. Chair.

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

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

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

16 UNIDENTIFIED SPEAKERS: Aye.

17 THE CHAIRMAN: Opposed, no.

18 UNIDENTIFIED SPEAKERS: No.

19 THE CHAIRMAN: The amendment passes.

20 Representative Fields to the bill.

21 REPRESENTATIVE FIELDS: Thank you,
22 Mr. Chair.

23 Members, background checks are the only
24 systematic way to stop felons, domestic abusers, and
25 people who are seriously ill from obtaining and buying

1 firearms from private sellers. I'm going to share some
2 statistics with you.

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

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

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

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

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

23 What is defined a transfer of ownership?
24 So if I'm out with, you know, Representative Gerou and I
25 talk to her about: What did you guys do -- or what did

1 you do this weekend? And I say, "Oh, I got this
2 brand-new handgun that I bought." And we're out there,
3 and she goes, "Oh, can I see it?" If I just set it in
4 her hands, is that a transfer of ownership, if she
5 wanted to look at it?

6 THE CHAIRMAN: Representative Fields.

7 REPRESENTATIVE FIELDS: Thank you,
8 Mr. Chair.

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

13 THE CHAIRMAN: Representative DelGrosso.

14 REPRESENTATIVE DelGROSSO: Thank you,
15 Mr. Chair.

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

24 THE CHAIRMAN: Representative Fields.

25 REPRESENTATIVE FIELDS: Thank you,

1 Mr. Chair.

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

11 THE CHAIRMAN: Representative DelGrosso.

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

23 THE CHAIRMAN: Representative DelGrosso.

24 REPRESENTATIVE DelGROSSO: Thank you,
25 Mr. Chair.

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

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

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

22 THE CHAIRMAN: Representative McCann.

23 REPRESENTATIVE McCANN: Thank you,
24 Mr. Chair.

25 When people go through a background check,

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

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

8 THE CHAIRMAN: Is there further
9 discussion? Representative DelGrosso.

10 REPRESENTATIVE DelGROSSO: Thank you,
11 Mr. Chair.

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

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

22 THE CHAIRMAN: Representative McCann.

23 REPRESENTATIVE McCANN: Thank you,
24 Mr. Chair.

25 Representative DelGrosso, if you are

1 charged with a crime, you would have the ability to
2 defend yourself by showing that you had legally
3 purchased your weapon and gotten a background check,
4 just like people do now.

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

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

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

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

24 It's not -- this bill is not that
25 complicated. We're just saying people who purchase guns

1 need to have background checks so we can all be assured
2 that they aren't felons, that they don't have domestic
3 violence convictions, and that they can responsibly
4 handle a weapon. It's really a safety for you, the
5 legitimate gun owners, as much as it is for everyone
6 else.

7 THE CHAIRMAN: Representative Wright.

8 REPRESENTATIVE WRIGHT: Thank you,
9 Mr. Chair.

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

22 So this isn't a: You are always a
23 criminal; and, therefore, this background check is going
24 to solve all of our public safety problems. We need to
25 look no further than I think the example that just

1 occurred in Los Angeles with Chris Dorner. This was far
2 more, Representative McCann, than a background check.
3 This was a psychological evaluation that he took, the
4 same psychological evaluation that I have taken, and
5 some may argue didn't take, but the same psychological
6 evaluation that I went through. This was far more than
7 a background check. And look what he did. He caused
8 untold loss of life.

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

14 THE CHAIRMAN: Representative McCann.

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

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

24 So if you're a convicted felon today,
25 where are you going to go to get your gun? You're going

1 to go to the Internet so you can get a gun without
2 having to go through the background check. So it's just
3 really common sense.

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

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

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

21 In Kentucky, in Louisville, Kentucky,
22 Joseph Wesbecker gunned down eight people at his former
23 workplace before committing suicide. Prior to shooting,
24 he had voluntarily checked into hospitals for mental
25 problems. So his prior psychiatric hospitalization

1 would have prevented him from purchasing a gun had he
2 had to go through a background check. He used a
3 semiautomatic handgun, a revolver, and three assault
4 weapons.

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

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

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

23 In Melrose Park, Illinois, a fired
24 employee William Baker opened fire before he committed
25 suicide at his workplace. He had a child abuse

1 conviction, a sexual assault conviction, which would
2 have prevented him from purchasing guns. He used a
3 revolver, a shotgun, and two assault weapons.

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

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

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

24 We don't want these people to be able to
25 purchase weapons. I don't think you would want them to

1 be purchasing weapons. So all we're saying is, because
2 everybody else has to go through a background check, why
3 shouldn't someone who's buying privately have the same
4 responsibility? Makes sense to me.

5 THE CHAIRMAN: Representative Gerou.

6 REPRESENTATIVE GEROU: Thank you,
7 Mr. Chair.

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

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

21 In order to put this bill into context, I
22 need to talk a little bit about when this bill was
23 before appropriations. I was telling the sponsors that
24 I grew up in a very rural setting. I had four brothers.
25 I grew up in a ranching family. As the only girl, we

1 didn't do anything that really involved girl things. We
2 did a lot of hunting. We did a lot of shooting. We
3 used to -- although the -- my father's family, it was a
4 sheep ranch. My mother's family, it was a cattle ranch.
5 So we -- we actually spent -- every fall, we would go
6 out and hunt for the food that we would eat that winter.

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

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

19 So to go back to my story, when -- I have
20 an aunt and an uncle that did not have children, and I
21 became their caregivers at their end of life. If this
22 bill were in effect at the time that I lost my uncle, it
23 would be creating a problem because my uncle left me all
24 of his firearms. I'm actually more heavily armed than
25 my husband. And I respect those firearms and I value

1 the heritage that my family passed them down to me with.
2 And it's my intent to give these firearms to my children
3 when they want them and when they're ready for them, and
4 they do want them, eventually.

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

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

23 I now own pieces and parts of rifles that
24 my uncle was working on restoring. And if the bill had
25 been in place when my uncle had passed or before he had

1 passed, in order to get those guns restored and built, I
2 would have to undergo a background check in order to
3 receive those guns.

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

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

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

25 With all due respect, Sponsors -- and

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

4 I ask for a no vote.

5 THE CHAIRMAN: Representative Fields.

6 REPRESENTATIVE FIELDS: Thank you,
7 Mr. Chair.

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

12 THE CHAIRMAN: Representative Gardner.

13 REPRESENTATIVE GARDNER: Thank you,
14 Mr. Chair.

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

25 In fact, as a boy growing up in Texas --

1 you say, "Well, how often does that happen?"
2 Representative McCann just doesn't know about all these
3 things happening. She said she didn't understand; and I
4 believe that's true. I recognize that she doesn't
5 understand because her cultural experience is so vastly
6 different from mine.

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

16 I will come back and discuss this later at
17 great length, but the situation that my friend
18 Representative Gerou describes is not, clearly not
19 covered by that exception, by any stretch of the
20 imagination. So I don't want the sponsor to be under
21 some misapprehension or misguided instruction from those
22 who are passionate about getting this into hand, that
23 these exceptions are very broad because they are not
24 that. They are incredibly narrow, and don't in any way
25 cover some of the most common situations that occur in

1 rural areas throughout Colorado and, indeed, in our
2 suburban and other areas, and certainly in my community.
3 So let's not be under any illusions just because it says
4 "by operation of law." That particular, very touching,
5 gift and understanding that representative engineer row
6 talks about is not covered at all by this bill.

7 THE CHAIRMAN: Representative Sonnenberg.

8 REPRESENTATIVE SONNENBERG: Thank you,
9 Mr. Chair.

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

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

24 It comes back again to what do we want to
25 do to law-abiding citizens, because the fact of the

1 matter is what you're doing will have no impact on those
2 criminals intent to do harm. We cannot keep evil people
3 from doing evil things, unless we lock them up. And the
4 fact of the matter is, we need to lock them up and keep
5 them locked up. And those are the ways we make people
6 safer in Colorado.

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

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

15 THE CHAIRMAN: Thank you, Representative
16 Sonnenberg.

17 Representative Saine.

18 REPRESENTATIVE SAINÉ: Thank you,
19 Mr. Chair.

20 I keep hearing this figure -- and I
21 believe Representative Fields had said something about
22 it -- 40 percent of guns are transferred without a
23 background check. Well, that seems like a pretty
24 impressive figure, doesn't it? And I've heard President
25 Obama say this several times. But if you consider that

1 this 40 percent came from a 251-person survey, that's
2 not a very large survey. 251 people from two decades
3 ago. A 40 percent figure that came from a survey from
4 two decades ago with 251 people.

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

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

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

24 So if you consider these transfers
25 actually occurred, the remaining 15 percent, from family

1 members or inheritances, from a survey from two decades
2 ago, that figure falls to 11.5 percent.

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

12 I urge a no vote. Thank you.

13 THE CHAIRMAN: Representative Holbert.

14 REPRESENTATIVE HOLBERT: Thank you,
15 Mr. Chairman.

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

20 These universal background checks, one
21 thing, will not be universal. There's a very
22 significant class of people in our society who will not
23 undergo background checks. And we see that time after
24 time in places like the United Kingdom, in Australia, in
25 Washington, D.C., in Chicago. Where people are not

1 allowed certain types of weapons, violence tends to go
2 up. Where guns are outlawed, only outlaws have guns.
3 Some might say, "Oh, that's a cliché," and chuckle at
4 that.

5 The United Kingdom experienced a
6 40 percent increase in gun violence after guns were
7 outlawed in the United Kingdom. And that was
8 confiscation. This bill is not confiscation, but I use
9 those as examples to point to the unfortunate reality
10 that criminals will not be prevented from obtaining
11 guns. That won't happen. That's fiction.

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

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

21 The next step -- and this is the
22 fundamental problem with the bill -- this is an
23 incremental step towards registration. Some people
24 might say, "Oh, there's no claim that registration is
25 the next step. This bill has nothing to do with this."

1 Functionally, that will be the next step
2 because, as Representative DelGrosso pointed out, if I
3 go to a private party, if I go to Representative Priola
4 and I want to buy a gun from him, and we do one
5 background check for one gun, and then we transfer
6 ownership of 10 or 100 guns, there's only one background
7 check.

8 So until we can track, or those who would
9 want to track every gun, this really doesn't do
10 anything. This creates a greater need for universal
11 registration of every firearm. And I believe there are
12 plenty of people in this chamber who would say that's a
13 great idea. But for those in the gallery, listening
14 online, watching on Channel 165, this is the problem:
15 This bill will not prevent criminals from getting guns.
16 This bill will not prevent crime. It will encourage
17 more criminals to come find you and your guns in your
18 home and take them.

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

24 I ask us to please be thoughtful before we
25 support 1229. I ask for a no vote.

1 THE CHAIRMAN: Thank you, Representative
2 Holbert.

3 Representative Waller.

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

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

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

17 Once again, here we are. These bills are
18 going to do nothing, nothing to increase public safety.

19 Once again, a feel-good measure so we can
20 walk out of here and say to our constituents that we've
21 done something. Well, something is not better than
22 nothing when something is bad.

23 You know, Members, I'm a prosecutor in my
24 off time. And over the years, I have charged a
25 significant number of criminal cases. I've had the

1 opportunity to charge all different kinds of crime,
2 murder, all the way down to the lowest level felonies.

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

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

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

25 So what does this bill do? Penalizes the

1 law-abiding citizen. Does nothing more than that.
2 Going to cost -- well, I guess it's not going to cost
3 the taxpayers a significant amount of money because
4 we're going to put that burden back on individuals to
5 exercise their constitutional right.

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

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

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

25 Completely unenforceable. As this bill is

1 written under current Colorado law, this piece of
2 legislation is just "feel good" because it's completely
3 unenforceable.

4 And I'd like to know: What's the plan?
5 Now, I could potentially see an argument somebody might
6 make to say, This works, if we create a registry. Is
7 that what we're looking to do, Representative McCann?
8 Do you want to create a registry for Colorado guns?

9 Representative Fields, maybe you could
10 answer that question for us. Is that the goal here? Do
11 we want to create an opportunity for every Colorado
12 citizen to have to let public officials or government
13 officials know that they have a gun? Is that where this
14 is headed? Because as the bill is written, completely,
15 totally unenforceable.

16 We need to be a no on this bill.

17 THE CHAIRMAN: Representative McCann.

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

21 THE CHAIRMAN: That was the minority
22 leader.

23 REPRESENTATIVE McCANN: Minority leader.
24 Oh, it's late in the day.

25 Mr. Minority Leader, there is nothing in

1 this bill that requires registration of guns. And what
2 the bill does is simply extend the current background
3 check requirement to people who purchase from private
4 sales. It's not changing the procedure that CBI goes
5 through now to check people's backgrounds. It simply
6 adds those who purchase their guns through private
7 sales.

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

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

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

20 In 2010, the National Sports Shooting
21 Foundation conducted an online survey of 7,000 assault
22 weapon owners. Only 45 percent of them bought their
23 guns at stores where background checks were required.
24 So this is a problem nationwide and here in our state as
25 well.

1 We do need to make sure that everyone who
2 purchases a gun does so with a background check, to make
3 sure they aren't felons and they don't have domestic
4 violence restraining orders against them.

5 So thank you.

6 THE CHAIRMAN: Thank you, Representative
7 McCann.

8 Representative Salazar.

9 REPRESENTATIVE SALAZAR: Thank you,
10 Mr. Chair.

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

19 I had some concerns about the exceptions
20 and about family members and things of that nature. I
21 also had concerns about language involving hunting and
22 fishing and trapping. But I wanted to have the debate,
23 because this is important. And it's important because
24 we know that 82 percent of gun owners, 74 percent of NRA
25 members, support criminal background checks for anyone

1 purchasing a gun. We know -- well, that in of itself
2 right there is July 2012. They want to have this
3 debate. But I walked away because I was still a little
4 concerned about this bill.

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

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

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

21 The reason why I wanted this bill to move
22 forward wasn't just because of this. And, yes, you're
23 right -- and this is what I said on judiciary -- I said:
24 A criminal will do anything to try to get a gun. And
25 they'll even go through a private seller, because we

1 don't have data on how many criminals got a gun through
2 a private seller because that data doesn't exist.

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

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

10 Thank you. I support this bill. Let's
11 get to it.

12 THE CHAIRMAN: Thank you, Representative
13 Salazar.

14 Representative Murray.

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

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

20 I have here -- this is 1997, by the U.S.
21 Justice Department. And there are a lot of small
22 numbers here, until you get to 39.2 percent through an
23 illegal or street source. And we would say, as
24 Representative Waller pointed out, I guarantee you that
25 they're not going to be volunteering for a background

1 check during that exchange between someone that has
2 drugs and exchanging it for a gun.

3 39.6 percent got their guns through family
4 or friends. So, you know, if we want to know where
5 criminals -- and these were criminals that were in
6 prison and used a firearm during their offense.

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

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

24 And to say \$10 is what we're going to
25 allow them to charge -- I can guess that there are many

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

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

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

24 I urge a no vote on this bill.

25 THE CHAIRMAN: Thank you, Representative

1 Murray.

2 Representative Saine.

3 REPRESENTATIVE SAINÉ: Thank you,

4 Mr. Chair.

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

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

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

19 Sorry, I'll ask the question again.

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

25 THE CHAIRMAN: Representative Fields.

1 REPRESENTATIVE FIELDS: Thank you,
2 Mr. Chair, and thank you for your question.

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

7 THE CHAIRMAN: Representative Saine.

8 REPRESENTATIVE SAINÉ: Thank you,
9 Mr. Chair.

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

13 THE CHAIRMAN: Representative McCann --
14 Representative Fields.

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

22 THE CHAIRMAN: Representative Saine.

23 REPRESENTATIVE SAINÉ: Thank you,
24 Mr. Chair.

25 Representative Fields, again, I'm just

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

5 THE CHAIRMAN: Representative McCann.

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

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

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

17 REPRESENTATIVE SAINÉ: Mr. Chairman.

18 THE CHAIRMAN: Representative Saine.

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

21 How would they determine if somebody
22 willfully is not complying with the law or not? Because
23 they could say, "Well, Mr. Officer, I have obtained this
24 gun before this law has passed; therefore, I did not
25 need a background check."

1 THE CHAIRMAN: Representative McCann.

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

4 REPRESENTATIVE SAINÉ: Which is . . .

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

8 THE CHAIRMAN: Representative Sainé.

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

13 REPRESENTATIVE SAINÉ: Mr. Chair.

14 THE CHAIRMAN: Representative Sainé.

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

22 THE CHAIRMAN: Representative McCann.

23 REPRESENTATIVE McCANN: Thank you.

24 Representative Sainé, I don't really have
25 any further -- I think I've answered your questions

1 several times. And I'm sorry that you're not
2 understanding it, but right now, an officer stops
3 someone for probable cause for some offense. And if
4 there's a gun in plain view, the officer has the right
5 to determine whether or not you lawfully possess the
6 weapon. And that would be the same if this bill passes.

7 REPRESENTATIVE SAINÉ: Okay. So the --

8 THE CHAIRMAN: Representative Saine.

9 REPRESENTATIVE SAINÉ: Thank you,
10 Mr. Chair.

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

13 THE CHAIRMAN: Representative McCann.

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

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

21 THE CHAIRMAN: Representative Wright.

22 REPRESENTATIVE WRIGHT: Thank you,

23 Mr. Chair.

24 Well, since we are talking about facts and
25 statistics on this bill today, I thought that I would

1 point out some statistics from the Bureau of Alcohol,
2 Tobacco and Firearms. And I think this is important and
3 pertinent to this argument.

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

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

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

21 Sitting on judiciary, we heard a police
22 chief testify that this was a slow, methodical,
23 systematic approach toward limiting our Second Amendment
24 rights. Slow, systematic, methodical approach. And
25 that is the only way I see any form of enforcement being

1 accomplished here, is if there -- the next step is
2 registry. The next step is a gun registry. And I
3 believe that my constituents certainly, and I believe
4 the people of Colorado, are strongly against a registry.

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

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

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

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

1 citizens.

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

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

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

22 And I guess let's cut to the chase here,
23 since we heard a chief of police himself say that this
24 is a systematic approach, that this law itself is not
25 perfect and it will take more strict laws to be passed

1 to reach a solution for public safety in the state of
2 Colorado -- this is about gun control. And it will take
3 a registry to enforce this law.

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

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

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

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

22 Once again, data. So we see data,
23 apparently, on both sides of this issue. I'm not
24 compelled that this is a solution to our public safety
25 needs in the state of Colorado.

1 And then the crescendo here to the people
2 of Colorado is the fact that we just passed a law
3 moments ago, on second reading, that essentially drove
4 out a \$46 million business -- my understanding is
5 they're packing their bags -- 600 jobs lost, \$46 million
6 a year to the State of Colorado --

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

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

11 House Bill 1229 will cost the people of
12 Colorado \$1.6 million in fiscal year 2013 through 2014
13 and another \$1.6 million in 2014, 2015. That's
14 \$3.2 million over the next two fiscal years.

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

21 We're creating 25 new full-time positions
22 just this year in the CBI and another 30 the next fiscal
23 year. We're growing a state bureaucracy that has proven
24 to me in testimony and committee that they are already
25 experiencing problems in their management practices when

1 I hear facts like these from the CBI director.

2 56 percent of all appeals are sustained.

3 56 percent. That's more than half of the people that
4 appeal their purchase is legitimate, and that they can
5 actually take possession of a weapon, are first denied.

6 These individuals are forced to appeal, go through a
7 waiting process, an overly bureaucratic waiting process.
8 And then, oh, you know what? You're right, you can have
9 your weapon; we were wrong.

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

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

25 So we already have problems within the

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

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

15 I just don't buy it. I rise as a no vote.
16 Big surprise.

17 THE CHAIRMAN: Thank you, Representative
18 Wright.

19 Representative Priola.

20 REPRESENTATIVE PRIOLA: Thank you,
21 Mr. Chair.

22 Representative Court, it's been a while
23 since you brought up those statistics for Michigan, but,
24 you know, I'm glad you did because I'm going to plan my
25 next trip to Detroit. I haven't read that much about

1 it, but it seems like a wonderful place to visit because
2 apparently they have solved all the ills of the world.

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

6 Representative Fields. I don't see
7 Representative Fields.

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

11 THE CHAIRMAN: To the bill, Representative
12 Priola.

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

20 I do have a question to the bill, but I
21 would at least like to have one of the sponsors here,
22 but apparently the sponsors have lost interest in their
23 own bill. Maybe that's a good sign. Maybe that's a
24 good sign. They finally realized, you know, this really
25 isn't good policy of the state of Colorado and only

1 law-abiding citizens are going to follow this.

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

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

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

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

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

23 THE CHAIRMAN: Thank you, Representative
24 Priola.

25 Representative Levy.

1 REPRESENTATIVE LEVY: Thank you,
2 Mr. Chair.

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

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

16 And I guess what I'm having a problem with
17 is, if we -- if there are too many gun deaths -- and I
18 hope there isn't any dispute that 30,000 gun deaths a
19 year is a problem -- if there are too many gun deaths,
20 and the assertion is that the problem is not law-abiding
21 people, the problem is criminals, and they have proposed
22 using the tools at our disposal to keep guns out of the
23 hands of criminals, and this is not the solution, and
24 you're going to spend the next several hours telling us
25 why it's not the solution -- I am still waiting for

1 something more constructive, more helpful than what
2 we've seen so far this session, which is let's have more
3 guns.

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

5 THE CHAIRMAN: Thank you, Representative
6 Levy.

7 Representative Lawrence.

8 REPRESENTATIVE LAWRENCE: Thank you,
9 Mr. Chair.

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

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

22 So I think parts of this bill have been
23 misrepresented. And maybe there's a misunderstanding on
24 the policy of the CBI, but my understanding, after being
25 briefed by Director Sloan, was that any approved

1 background check, all data is deleted from their
2 database within 24 hours.

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

5 THE CHAIRMAN: Thank you, Representative
6 Lawrence.

7 Representative Coram.

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

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

13 THE CHAIRMAN: Representative Fields.

14 REPRESENTATIVE FIELDS: Thank you,
15 Mr. Chair.

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

18 THE CHAIRMAN: Representative Coram.

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

21 Okay. This creates a bit of a problem for
22 me because I go to another state, I buy a weapon, I
23 bring it back across the Colorado line. I might have a
24 heavy foot. I'm stopped. It's laying in the seat. How
25 do I prove to that officer that I have a right to have

1 this weapon in my possession? Is that possible without
2 a registry?

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

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

7 REPRESENTATIVE CORAM: Thank you,
8 Mr. Chairman.

9 I didn't hear an answer to my question.
10 Am I entitled to an answer, or is that out of order?

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

13 Representative Stephens.

14 REPRESENTATIVE STEPHENS: Thank you,
15 Mr. Chair. Thank you, Members.

16 In reviewing this bill and the fiscal
17 note, I was -- I was intrigued because I think that we
18 are going to see this bill cost Colorado -- even though
19 we're told that we have a semi, kind of, fiscal answer
20 to it in terms of attacks on it, on a background check
21 or fee on a background check, it says, This fiscal note
22 should be considered preliminary. And I know, as it
23 went through appropriations, that we were looking at the
24 basic -- at full-time positions, 24 and 29,
25 respectively, and 14 and 15.

1 But I was very struck as I was going
2 through the fiscal note about the departmental
3 differences, because not all departments have weighed
4 in. So we really don't know what this bill is going to
5 cost the general fund. And the Department of Public
6 Safety made several assumptions concerning the number of
7 private gun transfer background checks. And what struck
8 me is that now they're saying: Well, you know, we may
9 have to modernize our system because we're going to have
10 to know the court record search process. We may have to
11 line up and we may have to modernize that.

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

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

25 And the other thing that strikes me is

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

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

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

23 THE CHAIRMAN: Thank you, Representative
24 Stephens.

25 Representative Humphrey -- Wilson. I

1 apologize. Representative Wilson.

2 REPRESENTATIVE WILSON: Thank you,
3 Mr. Chair.

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

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

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

19 If I've been to the Chaffee County
20 shooting range with my family and I'm stopped for
21 speeding like Representative Coram indicated, and there
22 are six weapons in the vehicle, how do I prove that
23 those weapons were legal before this bill? How do we
24 answer that? Representative McCann, Representative
25 Fields?

1 If there is no answer, I have to answer my
2 constituents that we have no way of enforcing this,
3 therefore, good luck. How do we enforce it?

4 THE CHAIRMAN: Representative McCann.

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

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

10 THE CHAIRMAN: Representative Wilson.

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

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

25 REPRESENTATIVE McCANN: Representative

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

6 THE CHAIRMAN: Thank you, Representative
7 McCann.

8 Representative Wilson.

9 REPRESENTATIVE WILSON: Thank you,
10 Mr. Chair.

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

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

23 Thank you.

24 THE CHAIRMAN: Thank you, Representative
25 Wilson.

1 Representative Gardner.

2 REPRESENTATIVE GARDNER: Thank you,
3 Mr. Chair.

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

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

20 And one of the first questions I have, in
21 no particular order of the things that have come up
22 during the debate here, is something that I asked of
23 Director Sloan of the CBI yesterday. And the origin of
24 that question really kind of came from my friend
25 Representative Gerou, who was talking about having been

1 given various pieces and parts and having received those
2 as a gift, and her assumption or belief that she would
3 need to have a background check to receive those, or
4 whether she would or not. And it raises the question
5 of: At what point does something become a firearm?

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

21 The question I put to Director Sloan was:
22 I've got pieces of a firearm. I've got a firing
23 mechanism. I've got a barrel. I've got a stock. I've
24 got a trigger. I want to hand those over to somebody.
25 Or another possibility is I take a weapon apart. There

1 are people in this room, I know, who know how to do
2 that, as do I. And pieces of it are transferred. And
3 so a question that I would like to ask the sponsors is:
4 What is a firearm and when does a set of parts become a
5 firearm?

6 Mr. Chairman, may I continue?

7 THE CHAIRMAN: You may, Representative
8 Gardner.

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

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

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

24 In federal law, kind of ironically under
25 the federal definition, a firearm doesn't actually

1 include a revolver or pistol. That's a different
2 definition.

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

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

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

13 THE CHAIRMAN: Representative Fields.

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

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

1 pieces and it's not assembled, and it's not functional
2 and it's not operational, then it's not considered a
3 firearm.

4 THE CHAIRMAN: Representative LaBouda.

5 REPRESENTATIVE LaBOUDA: Thank you,
6 Mr. Chair.

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

14 THE CHAIRMAN: Representative Gardner.

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

21 But I am pleased to hear Representative
22 Fields' answer when a firearm is not a firearm. So
23 that, if I understand it clearly, if you want to
24 transfer -- if you want to break your weapon down, you
25 want to remove the firing mechanism and you want -- you

1 want to transfer it, that will be a pretty
2 straightforward thing. You can take out the cylinder.
3 You can take out -- you can take the barrel off. It
4 will no longer be a firearm. And I'm pleased to know
5 that.

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

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

21 Now, we're going to hear another bill
22 later that's sort of part and parcel to this bill. And
23 I don't want to debate the merits of that bill at the
24 moment, but we're going to hear a bill about -- you
25 know, paying the State for its cost of doing this, but

1 we are only going to allow the private FFL and the
2 transferor to collect \$10. Now, that's what they're
3 getting now. But, you know, if you're doing a transfer
4 and you're doing a sale, or you're running a gunshow and
5 you're engaged in a sale, \$10 may just kind of be the
6 cost of doing business. But if you're doing private
7 transfers, that may not be what you want to do.

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

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

24 And you know what happened is the
25 discussion of that amendment -- there were comments from

1 those on the committee who gave me pause because it
2 began to appear as if what really needed to happen was
3 we needed to have this amendment. There were those on
4 the committee whose comments and remarks made me think
5 that what an FFL in Colorado will be after this bill is
6 like a public utility. They'll have to service
7 everybody just by their existence here, and they will
8 have to do so for \$10.

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

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

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

20 Representative Gardner.

21 REPRESENTATIVE GARDNER: Yes, thank you,
22 Members.

23 Members, this is an amendment that very
24 clearly just says that nothing in this section shall be
25 construed to require a licensed gun dealer to obtain a

1 background check upon their request of a prospective
2 firearm transferor.

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

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

20 And I ask for an aye vote.

21 THE CHAIRMAN: Representative Fields.

22 REPRESENTATIVE FIELDS: Thank you,
23 Mr. Chair, and thank you, Representative Gardner, for
24 bringing this amendment back up again, but just like in
25 committee, I did not support the amendment. So today on

1 the floor, I cannot support this amendment as well. So
2 I urge a no vote on this amendment.

3 THE CHAIRMAN: Representative Gardner.

4 REPRESENTATIVE GARDNER: Thank you,
5 Mr. Chair.

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

16 THE CHAIRMAN: Representative McCann.

17 REPRESENTATIVE McCANN: Thank you,
18 Mr. Chair.

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

22 THE CHAIRMAN: Representative Gardner.

23 REPRESENTATIVE GARDNER: And that being
24 the case, Representative McCann, what's the problem with
25 the amendment, to make it very clear so that it's never

1 construed that way? Because there were comments in the
2 committee that made it very clear. And I have to tell
3 you, I fear that this will become a problem, because at
4 \$10 a pop, I don't think that there are going to be a
5 lot of people out there wanting to engage in this
6 activity.

7 The State is going to be getting -- I
8 don't know how much -- I would bet you it will be 25,
9 30, or \$40 that the State will be getting for this
10 activity pretty quickly. And I will suspect that FFLs
11 are not going to want to do this when they are not part
12 of the transaction. And they have people who are coming
13 through for background checks just to loan their weapon
14 to their brother-in-law so he can go hunting. They're
15 not going to want to do it. And I don't blame them.

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

21 This is going to be a problem. And I ask
22 you, if it's not required and that is not your intention
23 to leave this open, then there is no reason not to have
24 this amendment, other than some surreptitious thought
25 that perhaps we will want to do this later. Either that

1 or just -- substantively, if that's your intention, this
2 is all that this does, is say that you don't have to do
3 it.

4 THE CHAIRMAN: Representative Murray.

5 REPRESENTATIVE MURRAY: Thank you,
6 Mr. Chair.

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

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

18 I urge an aye vote on this amendment.

19 THE CHAIRMAN: Representative Salazar.

20 REPRESENTATIVE SALAZAR: Thank you,
21 Mr. Chair.

22 So I guess we could dance and prance as
23 much as we want instead of actually getting to the vote
24 on this bill. But, Representative Gardner, on page 3,
25 line 15 through 17, it says: A prospective firearms

1 transferor who is not a licensed gun dealer shall
2 arrange for a licensed gun dealer to obtain the
3 background check required by this section.

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

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

13 THE CHAIRMAN: Representative Gardner.

14 REPRESENTATIVE GARDNER: Well, yes, thank
15 you, Representative Salazar. And I didn't think that
16 this was prancing and dancing to avoid voting on the
17 bill. This was a serious amendment brought in
18 judiciary, and it's a serious amendment brought here.
19 It became even more serious in terms of its need when,
20 in fact, as Representative Murray attested to and
21 supports, we heard members of the committee actually
22 indicate that it was their belief that, yes, indeed,
23 these gun dealers might well be required to do this.
24 These gun dealers ought to be doing this, and they --
25 this was a duty.

1 Now, Representative Salazar, with due
2 respect, I would have initially read this the way you
3 did, but I had -- I had constituents who were FFLs who
4 were concerned, and I brought the amendment. I said:
5 Really? You think? And they said: You know, the way
6 this is going and the way it seems and our small FFLs,
7 this is a problem. So I offered it. I offered it, and
8 I found out that they were right. They were right.
9 There are those members of this body who hold the view
10 that that's what we're doing.

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

17 So I ask for an aye vote.

18 THE CHAIRMAN: Representative Salazar.

19 REPRESENTATIVE SALAZAR: Thank you,
20 Mr. Chair.

21 And, Representative Gardner, I hear what
22 you're saying about your constituents, I really do, that
23 there's some concern about this bill. If it said in
24 there that a prospective firearms transferor who is not
25 a licensed gun dealer shall arrange for a licensed gun

1 dealer to obtain the background check required by this
2 section, and the licensed gun dealer must perform the
3 background check, well, then, I think that people would
4 definitely want to take a look at your amendment. But
5 it doesn't say that.

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

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

18 THE CHAIRMAN: Representative Murray.

19 REPRESENTATIVE MURRAY: Thank you,
20 Mr. Chair.

21 Then, Representative Salazar, why don't
22 you support the amendment? If you agree with the
23 thinking that's contained in the amendment, why are you
24 disagreeing? Now you're walking away because you're not
25 wanting to support this amendment, and yet you're saying

1 that you agree with what it says. So you either agree
2 with what it says and support it or you say, Well, no,
3 we would rather leave it vague so that, at some point,
4 we can say to these gun dealers: You have to do it.

5 Why leave it vague?

6 THE CHAIRMAN: Representative Holbert.

7 REPRESENTATIVE HOLBERT: Thank you,
8 Mr. Chairman.

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

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

20 And I'm concerned with these background
21 checks that we effectively change the role of that
22 licensed firearm dealer from a private company that
23 makes its own decisions as to what services it will or
24 will not offer and the products that it carries to an
25 expectation that the public would come in and say, "I'm

1 required to do this; so, therefore, you are required to
2 do this business with me."

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

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

22 I don't see any political motivation. I
23 don't see this as any sort of poison pill. I don't see
24 this as any sort of sabotage to the bill. If the
25 problem isn't in the bill, then there's no problem with

1 this amendment, and I urge you to please vote for L.009.

2 THE CHAIRMAN: Representative Lawrence.

3 REPRESENTATIVE LAWRENCE: Thank you,
4 Mr. Chair.

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

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

21 So I would ask you to please support this
22 amendment.

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

25 A division has been called for. Would any

1 who are not permitted in the chamber, please take their
2 seats.

3 (Inaudible discussion.)

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

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

11 You may be seated.

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

14 You may be seated.

15 The amendment is lost.

16 Representative Gardner to the bill.

17 REPRESENTATIVE GARDNER: Thank you,
18 Mr. Chair.

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

25 Says a person who transfers a firearm in

1 violation of the provisions of this section may be
2 jointly and severally liable for any civil damages
3 proximally caused by the transferee's subsequent use of
4 the firearm.

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

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

19 But if someone loans a firearm and they
20 don't exactly meet one of these exceptions -- and we're
21 not even talking about prosecutions now. We're talking
22 about somebody who has -- who loans a firearm and
23 they're not exactly within these exceptions, and there's
24 a hunting accident or a shooting accident -- there are
25 accidents in that activity like there are in rock

1 climbing, in motorcycling, and almost any other
2 activity -- there's an accident. Guess what? The
3 person who loaned that firearm and loaned it before the
4 person borrowing it went hunting, instead of going
5 hunting with them -- that person is going to be jointly
6 and severally liable for anything that happens after
7 that.

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

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

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

24 So we're going to expose innocent
25 citizens, those who do something as a favor for a

1 friend, to a liability for something over which they had
2 no control.

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

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

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

24 What we are discussing is whether or not
25 we're going to change the law of Colorado, not somehow

1 close some inadvertent exception that the people or
2 prior legislators didn't make a public policy judgment
3 was going to be the law. It's not like: Oh, my
4 goodness, when this ballot issue for gunshow background
5 checks went up, those people just didn't think about it,
6 they just weren't that smart, it just got by them.
7 Well, subsequent legislators aren't as smart as all of
8 us and just couldn't figure it out. And, oh, my
9 goodness, they woke up the next day and they said: Oh,
10 we forgot all about private transfers.

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

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

24 Let me show you what I mean by unworkable.
25 On page 5, we start the exceptions. Actually, at the

1 bottom of page 4. The provisions of this section do not
2 apply to a transfer of an antique firearm as defined by
3 18 USC 921(a)(16), as amended, or a curio or relic as
4 defined by 27 CFR 478.11, as amended. I'm not even
5 going to go down that road this evening, to have 18 USC
6 921(a)(16) displayed on the board and discuss the finer
7 points of what is an antique firearm or a curio or a
8 relic under 27 Code of Federal Regulations 478.11, as
9 amended, although that might be fun.

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

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

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

1 fiancée. That seems absurd.

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

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

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

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

24 Now, some of you were raised in blended
25 families, I would expect. So you may have a stepbrother

1 or a stepson or stepdaughter, and you might want to give
2 them a weapon, or, you know, your parent that raised you
3 both passes away and there's nothing in the will --
4 we'll get to operation of the law later and discuss that
5 in some detail, what operation of law means, because I
6 know inquiring minds wish to know, because we are voting
7 on this and we ought to understand what we are voting
8 on. But, you know, this doesn't allow you to make a
9 gift to your stepbrother or your stepparent. It doesn't
10 allow your uncle, on his death bed or in his last
11 illness, to call you over to the house and say, "You
12 know, there's something I really want you to have."

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

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

24 You know what? We make assumptions here
25 all the time that people are honest and tell the truth.

1 And I like to believe that. So if that person is honest
2 and tells the truth and says, "No, it wasn't a gift; I
3 loaned it to them" -- you should have had a background
4 check.

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

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

20 Well, setting aside that the uniform
21 probate code refers to personal representatives and not
22 executors anymore -- so I'm kind of wondering about why
23 we're using the word "executive" -- or "executor" --
24 this seems like it ought to take care of Representative
25 Gerou's situation, but it doesn't. You know, if my mom

1 has my dad's -- really, my grandfather's rifle, and she
2 wants to make a gift of it to me, but it's not really
3 hers because my brother, who is the personal
4 representative, and is fully cognizant and aware of what
5 she's doing, is the personal representative or executor,
6 then my mom will have violated the law, because she
7 didn't -- she's not one of these people.

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

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

25 I mean -- in fact, I don't even understand

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

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

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

21 Now, these exceptions, they only work a
22 little bit, and they only work on their circumstances
23 and their facts. And if you don't get them right, you
24 commit a Class 1 misdemeanor and you shall be punished.
25 And you won't be able to possess a firearm for two years

1 beginning on the date of your conviction. And, of
2 course, you can't possess a firearm while you're under
3 charges, so give yourself another six months.

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

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

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

24 The idea that FFLs are going to want to
25 deal with every one of these private transfers for \$10

1 is ill-considered. I think it's going to expose them to
2 a regulatory finding that if they're a regulated dealer
3 in Colorado, they have to do this. Why do I think that?
4 Because the sponsors are unwilling to have a very simple
5 amendment that says they don't have to. And I scratch
6 my head and I say, Why is that? Why is that? It's
7 pretty simple. It doesn't change what they intended.
8 They tell me they didn't intend that, but they won't do
9 it.

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

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

25 THE CHAIRMAN: Representative Saine.

1 REPRESENTATIVE SAINÉ: Thank you,
2 Mr. Chair.

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

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

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

1 registration program.

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

9 THE CHAIRMAN: Is there any further
10 discussion?

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

13 THE CHAIRMAN: They need not.
14 Is there any further discussion?

15 Representative Szabo.

16 REPRESENTATIVE SZABO: Thank you,
17 Mr. Chair.

18 We've spent many hours debating 1229 and
19 the bill before it. And I would like to just bring it
20 back to the original assertion. And that is, if we can
21 just save one life. Well, you know, that's been the
22 talk this week, about one life. There was a bill
23 brought last Wednesday that can save many lives. It was
24 Jessica's Law. But it was sent immediately to the kill
25 committee. Are we really worried about saving one life,

1 or are we not?

2 THE CHAIRMAN: To the bill.

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

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

10 REPRESENTATIVE SZABO: Thank you,
11 Mr. Chair.

12 THE CHAIRMAN: Representative Saine.

13 REPRESENTATIVE SAINÉ: Thank you,
14 Mr. Chair.

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

22 There was a discussion earlier about
23 women, and do more guns really solve any problems?
24 Well, it's been proven nationwide that women, in an
25 assault situation, are much more likely to be hurt

1 without a firearm. They are smaller than the man is.
2 If those women were armed, maybe so many of them
3 wouldn't be killed by a domestic partner.

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

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

15 THE CHAIRMAN: Representative Moreno.

16 REPRESENTATIVE MORENO: Thank you,
17 Mr. Chair.

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

1 So thank you, Members, and feel free to
2 come grab a cupcake.

3 THE CHAIRMAN: Representative Scott.

4 REPRESENTATIVE SCOTT: Thank you,
5 Mr. Chair, and happy birthday, Representative Moreno.
6 No capitol choir for you, buddy.

7 I do have a clarification that I would ask
8 for from my little sponsor or one of the proponents of
9 the bill.

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

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

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

24 REPRESENTATIVE PRIOLA: Thank you,
25 Mr. Chair. And, Members, I am back here to give some of

1 my other questions a shot for the sponsors. Let me find
2 my notes.

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

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

20 Actually, one is right back there.
21 Representative McCann.

22 UNIDENTIFIED SPEAKER: They're talking to
23 Joe Biden.

24 REPRESENTATIVE PRIOLA: They're talking to
25 Joe Biden, okay.

1 Representative McCann?

2 I saw Representative Fields leave out the
3 back.

4 I would really appreciate having that
5 question and others addressed.

6 THE CHAIRMAN: Is there any further
7 discussion?

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

10 UNIDENTIFIED SPEAKERS: Aye.

11 THE CHAIRMAN: Those opposed, no.

12 UNIDENTIFIED SPEAKERS: No.

13 THE CHAIRMAN: House Bill 1229 passes.

14 (WHEREUPON, the audio recording was
15 concluded.)

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1 CERTIFICATE

2 STATE OF COLORADO)

) ss.

3 CITY AND COUNTY OF DENVER)

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

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

20
21 _____
Jana Mackelprang

22 CRR, RPR, Notary Public

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