

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 SENATE MEETING

4 Held on March 11, 2013

5 HOUSE BILL 13-1229

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7 REPORTER'S TRANSCRIPT

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11 recording by Elissa Steen, Registered Professional Reporter
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1 P R O C E E D I N G S

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3 THE CHAIRMAN: Mr. Majors, would you
4 please read the title to House Bill 1229 by Majority
5 Leader Carroll.

6 MR. MAJORS: House Bill 1229 by
7 Representatives Fields and McCann and Senator
8 Carroll, concerning criminal background checks
9 performed pursuant to the transfer of a firearm, and
10 in connection therewith, making an appropriation.

11 THE CHAIRMAN: Majority Leader Carroll.

12 MAJORITY LEADER CARROLL: Thank you,
13 Mr. President.

14 I move House Bill 1229 on third reading,
15 final passage, and ask for an aye vote.

16 THE CHAIRMAN: Majority Leader Carroll, I
17 have an amendment on the desk.

18 Mr. Majors, would you please read
19 Amendment L.39 by Senator Carroll?

20 And so, actually, Senator Carroll, first.

21 Majority Leader Carroll.

22 MAJORITY LEADER CARROLL: Thank you,
23 Mr. President.

24 Members, I ask for permission to offer a
25 third reading amendment on House Bill 1229.

1 THE CHAIRMAN: Would you please explain
2 what you're thinking and what?

3 MAJORITY LEADER CARROLL: Yes, I'd be
4 happy to.

5 So as far as why permission, it will go
6 into the substance of the amendment a little bit.

7 You'll recall one of the exceptions of not
8 requiring a background check is in the case of being
9 repaired. And there's some potential ambiguity
10 about the way it's worded, where you might almost
11 need a background check to prove that you're
12 eligible for the exemption of a background check.

13 So this is basically for the repair
14 owners, you know, they can reasonably rely on the
15 information they're given, and it's to make the
16 intended exception work the way we meant so that you
17 don't need a background check to prove you don't
18 need a background check. That would be why I would
19 be asking permission, 'cause I think it is tighter
20 language around that exception.

21 And I'd ask for an aye vote.

22 THE CHAIRMAN: Okay. The motion before --
23 the question before the body is whether to grant
24 Majority Leader Carroll permission for a third
25 reading amendment.

1 All those in favor say aye.

2 Opposed, no.

3 The ayes have it. Permission has been
4 granted.

5 Mr. Majors, would you please read
6 Amendment 39 to House Bill 1229 by Majority Leader
7 Carroll.

8 MR. MAJORS: Amendment L.039 --

9 THE CHAIRMAN: Majority Leader Carroll.

10 MAJORITY LEADER CARROLL: Thank you,
11 Mr. President.

12 I move Amendment L.039.

13 Members you've heard this described.

14 Again, this is to make the exception to a
15 requirement of a background check for the case of
16 having your firearm repaired, to make sure that the
17 repair owner doesn't need to go through a background
18 check to prove they don't need a background check.

19 And I would just ask for an aye vote on
20 the amendment.

21 THE CHAIRMAN: Discussion?

22 Senator Renfroe.

23 SENATOR RENFROE: Thank you,

24 Mr. President.

25 Members, I -- I just want to make an

1 over-arching question, pose it to Mr. President and
2 the body with an amendment like this.

3 So what we're doing with this bill is
4 we're saying that we will trust a person when he
5 tells someone that's going to fix his gun that it's
6 okay, and that he's legal, but we won't trust a
7 person when he wants to give it to his neighbor that
8 he's know for 30 years that wants to go and do
9 something with the gun?

10 That's what this amendment allows, and
11 that's what this bill does.

12 THE CHAIRMAN: Further discussion?

13 Senator Lundberg.

14 SENATOR LUNDBERG: Thank you,
15 Mr. President.

16 I'm inclined to support this amendment and
17 would note that it underscores the severity of the
18 bill, but it at least creates a -- one reasonable
19 exception, and for that reason, as I say, I think
20 the amendment's good; good amendment for a bad bill.

21 THE CHAIRMAN: Further discussion?

22 Seeing none, the motion before the body is
23 the adoption of Amendment 39 to House Bill 1229.

24 Are there any no votes?

25 With a vote of 35 ayes, zero noes, zero

1 absent, and zero excused, the amendment is adopted.

2 To the bill.

3 Senator Lundberg.

4 SENATOR LUNDBERG: Thank you,
5 Mr. President.

6 Members, I just noted that we amended this
7 bill in a way that created one little tiny island of
8 sanity to a measure that I believe lacks much of
9 that rationality for the rest of its policies. And
10 this amendment, again, underscores the severity of
11 this legislation.

12 Background checks are one thing; universal
13 background checks are entirely another. Because the
14 background check system that has been in place,
15 bureaucratic, and tiresome, and expensive, and
16 troubling as it has been -- I mean, how many people
17 have talked to in the last couple of months who have
18 been very frustrated by the length of time it has
19 taken to simply purchase, legally purchase, a
20 firearm?

21 And, of course, much of this is because
22 Colorado policy creates its own little unique
23 background check system, never mind the fact that
24 the FBI has been doing it for no cost and with a
25 system large enough to handle the volume, but now

1 we're going to expand this to the universal
2 background check idea, which means we don't trust
3 anybody, except, of course, this amendment that we
4 put in place.

5 We don't trust anybody else to -- to
6 have -- have the -- the ability to understand how
7 this free exchange of if you're selling privately to
8 somebody or -- or you're loaning, and that's --
9 that's the -- you know, the most glaring shortcoming
10 in this bill, is to simply loan your firearm to
11 somebody for more than an extended period of time or
12 more than a very limited circumstance, such as
13 you're in a firing range, but not just any old
14 firing range, no, one that has specific parameters
15 and definitions.

16 In my part of Larimer County, about every
17 neighbor has a firing range, and every weekend you
18 can hear them out there tuning up their -- their
19 rifle. Not a bad idea. But that wouldn't qualify,
20 of course, because that's not the specified legal,
21 you know, definition of -- of a firing range. And
22 so it's -- it's -- it's -- it's just filled with so
23 much bureaucratic, dare I say it, nonsense, that it
24 really boils down to an impression, at least that I
25 get, that we don't trust the people of Colorado to

1 have good common sense when it has -- comes to
2 exercising their constitutional rights to own and
3 use their firearms.

4 And part of that use can be the most
5 practical application of -- of your neighborhood has
6 a reason for -- for needing to borrow a hammer, you
7 give them a hammer, you know, get it back to me next
8 week. But if it has to do with that firearm, oh,
9 you can't do that without going through a background
10 check.

11 Now, that's one concern I have, is just
12 the bureaucratic nonsense that this puts in place
13 for the people of Colorado. And I can deduce no
14 other reason for it, other than we must not trust
15 the people of Colorado to have good reasonable
16 common sense. These are the law-abiding citizens of
17 our state. And, no, no, no, we won't trust you
18 further than we can throw you.

19 That's one problem. The other dilemma we
20 have is the practical reality of how you're going to
21 enforce such a system, because I can see it very
22 clearly, oh, today, it's -- it's -- it's the
23 assurances. This is all it is. This is just what
24 we're going to do.

25 But next year, when we get the reports of

1 law enforcement, who have -- who have told us
2 repeatedly right now, we can't enforce this.
3 There's no way we can -- we can really plug this in
4 and make it a functional part of the -- of the legal
5 process here in the state unless we do one
6 particular thing, and that is register every firearm
7 in the state. Register every firearm in the state.

8 When I see universal background check, I
9 can put A and B and C together and draw the line
10 between, and it -- B is: We register your guns, and
11 that is a very, very troubling notion.

12 History is replete with examples of
13 country after country that simply says, Well, we
14 just want to know where it's at so we can look after
15 things properly and legally. You know, maybe it's
16 for background checks; maybe it's for some other
17 reason.

18 But when you register the guns, the next
19 step is, somewhere down the line, you confiscate
20 them.

21 That's what I see when I read the
22 particulars in House Bill 1229. That's why the
23 people in my district have been very, very, very
24 clear on House Bill 1229. Kill it. Vote no. Don't
25 allow this to become a part of the Colorado legal

1 requirements for the citizens of Colorado.

2 I've received thousands of responses from
3 people, thousands, and maybe a handful saying it's a
4 good idea, but the other thousands are saying,
5 absolutely not, this is a violation of our
6 constitutional rights. This is a -- an alarming
7 piece of legislation where the path is clear. The
8 trajectory is headed right in that direction.

9 Some people have talked of the arc of
10 history. Well, this arc is leading towards tyranny,
11 and it is clear.

12 THE CHAIRMAN: Majority Leader Carroll.

13 MAJORITY LEADER CARROLL: Thank you,
14 Mr. President.

15 You know, I've heard -- it's interesting.
16 I've watched different iterations through this bill,
17 and I've heard a lot of descriptions of what people
18 think the bill does, and if some of the assertions
19 overall that globally I've heard were true, I think
20 I'd be pretty alarmed too. So what I want to do is
21 create a factual record based on what the bill
22 actually does and -- and really what it does not do.

23 The bill trusts that law-abiding citizens
24 will pass a background check and can go on to buy
25 the weapon of their choice, or as many weapons of

1 their choice as they want. People can continue to
2 own or possess any firearm of their choosing, so
3 long as they're not a convicted felon and otherwise
4 prohibited under current law.

5 We have, as a matter of public policy,
6 before said that when people commit certain crimes,
7 you lose certain rights, and the right to purchase
8 or own a firearm is one of those rights you lose
9 after you have a serious conviction, whether that's
10 for homicide, for rape, for kidnapping, for
11 burglary. That is one of the consequences of what
12 happens.

13 Yet without a background check, any and
14 every single convicted felon in the State of
15 Colorado can easily access a gun, or as many as they
16 want, any type they want.

17 We have had incredible -- you know, on the
18 experience we've had before the -- the Internet made
19 it too easy for third-party postings. We have, in
20 fact, had experience with the background check
21 mechanism. That's your gatekeeper. That's what it
22 is. And what it does is it makes sure every
23 law-abiding citizen walks through that gate to go on
24 to exercise 100 percent of their Second Amendment
25 rights, for whatever purpose they see fit, whether

1 it's hunting, fishing, self-defense, competitive
2 shooting, whatever.

3 But the other side of the gate is that
4 everyone who is prohibited under law, who is not
5 supposed to, dangerous people, dangerous convicts,
6 who are not supposed to have access to a weapon,
7 there is no way other than a background check to
8 make sure that those folks don't access firearms.

9 It will be true that there are going to be
10 some people who continue to circumvent the law.
11 Murder is illegal now, and people go on to murder.
12 It is against the law to drive drunk. And it's
13 true, we do have people who drive drunk, but that
14 doesn't mean that we shouldn't, as a matter of
15 public policy, say that that shouldn't happen. And
16 because something less than 100 percent of people
17 may be caught doesn't mean we shouldn't do it.

18 The facts are that this is the gate that
19 lets law-abiding people walk through and stops
20 criminals from acquiring more guns. What it does is
21 basically extends to private sales an
22 ever-increasing share of the gun sale market, the
23 exact same background check we use at FFLs and
24 background checks. Same process.

25 If we fail to close this loophole, we are

1 saying that the difference between law-abiding
2 citizens and criminals isn't worth making and that
3 we might as well just go ahead and let anybody --
4 convicted felon, those under court order for being
5 dangerously mentally ill or not -- go ahead and have
6 it. Let's go ahead and skip that process.

7 That renders current law prohibiting
8 ownership and possession by convicted felons
9 meaningless because without the background check,
10 there's no factual way for determine.

11 Colorado's process on our background check
12 does tap into three additional databases, which
13 helps increase the accurate detection of people who
14 are not supposed to have access and makes it more
15 likely that we do.

16 The other thing the bill does, besides
17 being that gatekeeper, is it actually does some
18 things for gun owners to make sure that the data is
19 more accurate and more timely, in terms of what is
20 uploaded and downloaded. Why? Because false
21 positives and false negatives, either way, are a
22 problem.

23 So by having transfer within 48 hours,
24 this means that we are more likely, with passage of
25 this bill, to make sure that law-abiding citizens,

1 in fact, don't get a false flag to go through, nor
2 do we fail to capture people convicted of domestic
3 violence or other felonies, who may have just
4 recently been convicted yet escaped the background
5 check.

6 I've handed out a page that kind of goes
7 over the exceptions. There is no registration in
8 this bill. There is no confiscation in this bill.
9 Everyone can hunt. Everyone can fish. You can loan
10 it to your family. You can leave it on deployment.
11 You can have it repaired. You can inherit a weapon.
12 You can use it at Boy Scouts. I mean, there's a lot
13 of examples, and you will see for yourself that
14 those have been explicitly contemplated, plus two
15 additional catch-all. And I think there has been
16 some confusion among the exceptions.

17 In addition to everything that's
18 explicitly numerated, those other exceptions don't
19 have any 72-hour limit on them. That's just
20 temporary. It means something other than that
21 permanent. Those are exempted.

22 There is an additional exception for a
23 72-hour catch-all, as long as you're not giving it
24 to somebody who's a convicted felon or under court
25 order for mental health reasons, prohibited from

1 having a firearm. That is in case there's some
2 other scenario that we hadn't contemplated. But the
3 72 hours doesn't apply to all the exceptions. So
4 when you go through and you look at that, realize
5 that that only applies to the one. These are all
6 ors. Meaning, you don't have to satisfy all of
7 these. If you satisfy any of these, it's an
8 exception.

9 At the end of the day, it's just everybody
10 who's buying a gun gets a background check. You can
11 loan it, basically, to whoever you want, as long as
12 they're not a convicted felon.

13 And that is the gist of what has been done
14 to change the bill while it's there.

15 I think, at the end of the day, what I
16 find balanced about this, if I just look at the
17 public policy, is you don't want a bill that
18 prevents law-abiding people from having access to
19 firearms, nor do you want a public policy that fails
20 to differentiate dangerous and convicted people that
21 allows them to do it. This bill really actually
22 just does that. It's the gatekeeper. If you're law
23 abiding, you go through the gate; if you're not, you
24 don't.

25 The real agenda here that I've heard

1 questioned is that I'm an Auroran that comes from a
2 community that has been wracked by senseless and
3 very painful gun violence. And while we can't get
4 that to zero, if we fail to do a common-sense
5 measure, the one thing that the data tells us
6 actually works to block many, many, many ineligible
7 criminals from buying and transferring weapons, then
8 shame on us.

9 I'm proud to be carrying House Bill 1229.
10 I'm proud to be here to do something that does that
11 exact balance of letting law-abiding citizens walk
12 through that gate and hopefully stops a lot more of
13 the criminals from getting through and increasing
14 their access.

15 I appreciate your time, respect, and
16 attention, and respectfully ask for an aye vote.

17 THE CHAIRMAN: Senator Brophy.

18 SENATOR BROPHY: Thank you, Mr. President,
19 and good morning to you.

20 And on a side note, I'd like to mention
21 that today is the last day that you can buy a
22 20-ounce Mountain Dew in New York City. And I
23 think --

24 THE CHAIRMAN: New York city?

25 SENATOR BROPHY: I think one of us

1 probably hopes that value doesn't work its way to
2 Colorado soon.

3 Mr. President, I ask for a no vote on
4 House Bill 1229. In -- in all of the discussion
5 that we just heard about 1229, we barely heard a
6 mention about safety. So I will bring that up.

7 This bill will do absolutely nothing to
8 improve the safety of the citizens of Colorado.
9 Absolutely nothing. Now, you don't have to take my
10 word for that, you can ask the President.

11 United States Department of Justice
12 studied this proposal, universal background checks,
13 and their discovery was that universal background
14 checks would do absolutely nothing -- their words,
15 not mine -- to improve safety unless coupled with
16 universal registration of firearms, something the
17 proponents say isn't in this bill and isn't sought
18 through this bill.

19 Well, to me that sends a very clear
20 message. This bill does nothing to improve safety,
21 and we ought to then spike the bill because the bill
22 does produce some absurd results.

23 Under this bill, if one of my life-long
24 friends decides he's going on a week-long
25 backpacking trip down the Colorado Trail, for

1 instance, and he doesn't have the appropriate
2 firearm to -- to pack on a backpacking trip and he
3 wants to borrow one of mine, I can't loan him one of
4 mine without meeting him somewhere and arranging for
5 a background check and paying for it, and maybe
6 waiting up to three days for the check to clear.

7 Which one of you thinks that isn't an
8 absurd result? And that's in the bill because the
9 exemptions that have been steadily added to this
10 bill every time we point out how foolish the bill
11 is, only allows a temporary transfer to a friend for
12 a maximum of 72 hours, and a week-long camping trip
13 is longer than 72 hours. That's absurd.

14 And it's an absurdity that doesn't do
15 anyone any good because it doesn't improve safety,
16 unless and until you're willing to take the step of
17 registering all firearms.

18 Vote no.

19 THE CHAIRMAN: Senator Baumgardner.

20 SENATOR BAUMGARDNER: Thank you,
21 Mr. Sec -- sorry -- Mr. President. Thank you,
22 Mr. President.

23 We've heard about citizens of the state of
24 Colorado that will do things legal, law-abiding
25 citizens. This bill, if it were to pass, will make

1 law-abiding citizens not law-abiding citizens
2 anymore. That reason being, if a neighbor wants to
3 sell a firearm or give a firearm to the neighbor,
4 unless they go and have a background check done at a
5 federal firearms licensed dealership and wait for
6 that to come back, that check to come back, that
7 makes you a criminal.

8 So is it right that although our
9 Constitution says that you have the right to have
10 that firearm, is it right that you can't have it if
11 you don't pass a background check? Do we here in
12 the state, if we guarantee that law-abiding citizens
13 have to have a background check to swap, possess,
14 buy, and again, law-abiding citizens are going to
15 adhere to the law, criminals will never adhere to
16 the law.

17 And if we honestly believe in the State of
18 Colorado that if we pass this, this is going to have
19 any affect, whatsoever, on the criminal element in
20 this state or any other state in the nation, I think
21 that we need to come to the reality that this will
22 have nothing to do with criminals getting their
23 hands on any firearm they want to get it on.

24 The other thing, with this universal
25 background check, and this has been spoken about

1 before, what this will do, if every law-abiding
2 citizen or any private transfers, if they go and
3 register this firearm, or when they go and register
4 this firearm, because they are law-abiding citizens,
5 then there is a record, a national directory, as it
6 were, of anybody in the state, anybody in the
7 nation, that possesses a firearm.

8 Law-abiding citizens, they're going to do
9 the right thing. They've always done the right
10 thing. If this bill passes, that mandates that
11 someone purchases a firearm and then they don't
12 register it makes them a criminal. Makes them a
13 criminal.

14 Is that what we want to do in the United
15 States, is to pass laws that will make law-abiding
16 citizens criminals? I think not.

17 Consider what we're doing here with this
18 piece of legislation today. We want -- we want
19 people to do the right thing. People in the state,
20 people in the country, are afraid. They're scared
21 that their right, given to them by the Constitution,
22 is slowly being taken away. Let's not do that.
23 Let's do what we promised to do when we upheld our
24 right hands down here and swore an oath to uphold
25 the Constitution. Let's prove to the people of

1 Colorado that our word, my word -- my word means
2 something.

3 I would ask for a no vote on House Bill
4 1229.

5 THE CHAIRMAN: Senator Harvey.

6 SENATOR HARVEY: Thank you, Mr. President.

7 Thank you, members, for the discussion on
8 this. We have heard why this bill is important. We
9 have heard the sponsor say that this will stop
10 private sales of guns to those that should not get
11 guns. You've heard the arguments say that every
12 convicted felon can get a gun today because of the
13 loophole for private sales, but that's not just what
14 this bill is about. You've heard the polls that say
15 the public wants to tighten up this loophole
16 regarding private sales, but that's not what this
17 bill is about.

18 This bill is also talking about transfers
19 between family members. There is an exception in
20 the bill that says if you leave town for 72 hours,
21 you can loan -- I can loan my wife my .45 so that
22 she can protect herself. The sponsor of that
23 amendment said -- when I asked that, I said, okay,
24 so if it goes more than 72 hours, then what happens?
25 My wife is going to have to illegally protect

1 herself and my two kids?

2 And the sponsor of the amendment said,
3 well, that's giving time so that you're wife can go
4 buy a gun. I'm not joking. So if I go out of town
5 for a week and I am as poor as my family and I are,
6 then we can't go buy a gun, then my wife has to
7 violate the law and defend herself and her kids.

8 Or the statute says I can give her the
9 gun, but if I give her the gun, then when I come
10 back, she has to give it back to me and we have to
11 do, I believe, the legal paperwork showing that that
12 gun is in her legal possession because if by chance
13 she uses that gun when I am out of the house over
14 that 72-hour period, under the pretense of Make My
15 Day, will she really be protected under make my day
16 because she used a gun that she lawfully should not
17 have had?

18 So I will write a contract to her and say,
19 okay, she now owns it the gun legally under this
20 bill, and I put it in her hands and say you legally
21 have the right to protect yourself in your house
22 when I'm gone for more than 72 hours, and if
23 something happens where she actually does and
24 utilizes the make-my-day provisions of current
25 statutes, she can do that legally and not be called

1 into question. And then, when I come back, she can
2 sign the gun back to me. Is that ludicrous? Is
3 that ludicrous? We're talking about keeping guns
4 out of the hands of criminals.

5 Let's talk about out of the hands of
6 criminals. Those who can't have a gun right now are
7 felons, additionally persons awaiting a trial on
8 felony charges who are prohibited from receiving
9 firearms.

10 This is all in federal statute, Section
11 18 -- or -- or Section 18, 922 of the U.S. Code: A
12 drug user or addict, an alien -- an illegal alien,
13 is subject to a domestic restraining order, has a
14 prior conviction of domestic assault, fugitive from
15 justice, dishonorably charged from the military.

16 How many of you all are married? How many
17 of you all know or should have known that your
18 spouse falls under one of these categories? Do you
19 all know or should have known that your spouse would
20 have fallen under one of these categories? Most
21 likely you do.

22 And under current federal statute,
23 knowingly sell, give, or otherwise dispose of any
24 firearm or ammunition to any person who falls within
25 one of the above categories shall not have a gun.

1 So the paternalistic message that we are
2 sending to the citizens of the State of Colorado is
3 we don't think you know whether your spouse falls
4 under one of these categories, so we are going to
5 require you to sell your gun to your spouse if
6 you're going to be gone for 72 hours or your spouse
7 will have to go do a background check and buy a gun,
8 which many Coloradoans can't afford to do, or you
9 are going to be in violation of this law, and if you
10 are charged under this law for violating this law by
11 transferring a gun to somebody you already should
12 know or knowingly know doesn't fall under one of
13 these categories, you will be charged with a
14 misdemeanor of up to 18 months in prison.

15 Most likely that won't happen, but simply
16 by being charged, you will never, ever, ever be
17 allowed to own a gun, ever again, as long as you
18 live. How ridiculous is that?

19 The sentiment is, well, if you are not a
20 felon, you should not have to worry about it. You
21 should not have to worry about this bill. Well, I'm
22 worried about this bill. Do I want to be charged
23 with not selling my gun to my wife when I leave town
24 and somebody breaks in and she uses it and I
25 violated this law? Are you? Are you -- can you

1 honestly say you will -- that raised your hand in
2 here -- if you leave town for more than 72 hours,
3 you're going to abide by this law? Honestly,
4 honestly, can you look me in the eye and say you
5 will?

6 I ask for a no vote.

7 THE CHAIRMAN: Majority Leader Carroll.

8 MAJORITY LEADER CARROLL: Thank you,
9 Mr. President.

10 Members, I want to clear up something
11 that's really central to what you're hearing. There
12 is no 72-hour limit on the exception for immediate
13 family or for self-defense. I know that there have
14 been amendments, and they may be difficult to go
15 through. When you go through the list of
16 exceptions, one of the exceptions is sort of a
17 catch-all for 72 hours, as long as you're not giving
18 it to someone who's a convicted felon or otherwise
19 prohibited. There is no 72-hour exception on
20 gifting to your family, or using for self-defense,
21 or for hunting.

22 Grammar in this case matters. If you read
23 that to apply to all of the exceptions, then go on
24 and many of the hypothetical scenarios that carry
25 out, and you carry that all the way out to a

1 different conclusion.

2 There is no 72-hour limit on the other
3 exceptions. Therefore, you're not going to be
4 getting a background check on your wife, you're not
5 going to be getting a background check when you're
6 going hunting.

7 And as a practical matter, for all of --
8 for everybody who is a law-abiding citizen, and
9 before you give your firearm to someone else, this
10 just makes sure that you know, as a responsible gun
11 owner, that you're not handing it over to somebody
12 who is actually a convicted felon or otherwise
13 dangerous. And I would argue you'd be hard-pressed
14 to find any responsible gun owner who would want to
15 loan their gun to somebody who is ineligible.

16 But the most important correction before
17 we go any further down this debate, the 72 hours is
18 an addition. It does not apply to the other
19 exceptions. That doesn't mean you're going to like
20 the bill, but I do think we need to at least be
21 accurate about what the bill does.

22 THE CHAIRMAN: Senator Harvey, for your
23 second time.

24 SENATOR HARVEY: Thank you, Mr. President.

25 And with all due respect, I disagree.

1 This semantics of what was just said is talking
2 about gifting, and I'm not talking about gifting.
3 I'm talking about if you leave town for more than 72
4 hours and you want to transfer/loan your gun for
5 more than 72 hours, that is what the limit is. If
6 that is not the case, if we're not talking about
7 transferring of weapons, we're just talking about
8 the sale of weapons, then let's have a bill that
9 talks about the sale of weapons.

10 But what we are sitting here talking with
11 is saying we are going to outlaw this transfer of
12 weapons to people that we already know or should
13 have known is not able to own a gun, or own a gun,
14 or possess a gun. That is what we are talking about
15 here. If you want to do a bill on the sale of
16 firearms, private sales of firearms, let's have that
17 discussion, but you are having to run around the
18 semantics of what is a transfer and what is not a
19 transfer and say, if you do not know or should not
20 have known, then you have to do a background check.

21 When you transfer a gun, when you go out
22 to Senator Brophy's property to do a watermelon
23 shoot, or when you go on a hunt with a friend, or if
24 you want to go on a hunt like I did this fall, went
25 on a deer hunt with a friend's deer rifle, I

1 guarantee you my best friend knows or should have
2 known that I can or cannot carry a weapon, but under
3 this law, I am the criminal, and my friend is the
4 criminal.

5 I should say my best friend is
6 Representative Chris Holbert. We're both going to
7 jail.

8 This is a ridiculous bill. Vote no.

9 THE CHAIRMAN: Senator Lundberg, for your
10 second time.

11 SENATOR LUNDBERG: Thank you,
12 Mr. President.

13 Members of the Senate, citizens of
14 Colorado, I think it's quite obvious from the debate
15 we've been listening to that this bill is fraught
16 with -- with details that are difficult for any of
17 us to -- to capture and comprehend fully, and it
18 will provide a great deal of fodder for the courts
19 and trouble for the citizens. That's one problem.

20 Another problem is it puts additional
21 costs on the people of Colorado. I recognize
22 there's another bill that actually places costs on
23 background checks for the Colorado Bureau of
24 Investigation, but this bill authorizes the gun
25 dealer that you go to for the background check to

1 process it to charge you another 10 bucks. So
2 that's another problem.

3 I want to get to the main point, though,
4 because, as dysfunctional as this bill is, it's also
5 just a very bad idea that's offensive to the
6 freedoms of the people of Colorado.

7 Mr. President, the Second Amendment was
8 not written to protect duck hunting. The Second
9 Amendment was written to protect the citizens of
10 this country. And in Article II, Section 13 of the
11 Colorado Constitution, that right for the citizens
12 of Colorado is spoken of in even more clear terms.
13 It was written to allow the citizens the protections
14 that they have as inalienable rights as human
15 beings, to protect themselves, to protect their
16 families, to protect their property, to be a part of
17 the protection of their community when they are
18 called to do so.

19 Now, let me bring you back to the bill
20 itself, on page 3, before we get into all the
21 confusing exceptions and particulars that I'm not
22 sure anybody's ever going to fully sort out. But
23 there's one point that's very clear, and that is
24 it's not just a background check that you take, but
25 it's require that a background check be conducted of

1 the prospective transferee, and, not or, and obtain
2 approval of a transfer from the bureau.

3 Now, where in the Bill of Rights does it
4 say the government must be consulted for permission
5 before you exercise your God-given inalienable
6 rights? But that's what a background check is all
7 about, is going to the government and saying,
8 Mother, may I?

9 The sponsor said we need this for balance.
10 I submit to you that we have more than enough
11 balance in this area by the requirement of a
12 background check when going to a licensed firearms
13 dealer. Under those circumstances we have tolerated
14 this compromise of our Second Amendment rights by
15 requiring a background check for purchase of a
16 firearm from a licensed dealer. That is the
17 balance.

18 House Bill 1229 is throwing the balance
19 completely to the one side of government control,
20 and it states it very clearly here in the bill. In
21 order to even transfer, not just sell but just to
22 loan for an extended period of time for a great
23 number of people, you have to ask permission from
24 the government. Mother, may I?

25 And a little footnote: If you go through

1 that process, the only way you're going to get that
2 loan (sic) back is if you go through the same
3 process because it's a new transfer. That's very
4 clear.

5 But let me get back to the point. 1229
6 requires that the citizens of this state go to the
7 state for permission for approval. And the intent,
8 if I might speculate in that area, is to capture as
9 many of those transfers as possibly can be. That's
10 part of the reason where, no, there's no
11 registration written into this bill, but if you can
12 read between the lines and be a good student of
13 history or just a practical legal scholar, you'll
14 recognize that you can't enforce this. You can't
15 really put any teeth to what this is doing, without
16 knowing whose got what where.

17 That's called gun registration, or I've
18 heard a creative alternative that some have
19 suggested, which I think is equally abhorrent, and
20 that is: Let's not register the guns, let's just
21 register the gun owners. Wow. One or the other is
22 going to be the practical outgrowth of the
23 application of this bill, if it is -- if it becomes
24 law, and if those of us, myself included, are not
25 able to repeal it as soon as we possibly can.

1 But again, let me leave you with the
2 point. 1229 is not a bill of balance. 1229 is a
3 tightening of the noose of government control of
4 private ownership of firearms for the people of
5 Colorado. It's squeezing that down so that the only
6 way you can exercise your right of ownership of
7 allowing someone else the use of your firearm is to
8 ask permission from the state. Is that really what
9 the people of Colorado are expecting from this
10 legislature?

11 You know the answer. You've received it
12 thousands of times over in the last couple of weeks,
13 in your e-mail box, on your phones, I'm sure in
14 private conversations. If you attended any of the
15 committee hearings, you know that to be the case.

16 The people of Colorado know better. They
17 should not have to ask permission each and every
18 time they choose to exercise their right of
19 ownership by allowing the use of some, you know,
20 somebody else to use that firearm. That's not
21 balance. That's full government control. That's
22 completely inappropriate for the freedoms, for the
23 liberty, for the principles that our nation and our
24 state are founded upon, and particularly when it
25 comes to -- to firearms because it's underscored in

1 the Second Amendment. It's underscored in the
2 Colorado Constitution. It is so crystal clear.

3 Those acknowledgements of our God-given,
4 inalienable rights to defend ourselves were not
5 written for duck hunting. They were written to
6 protect the citizen, to protect them from any
7 threat, and those who wrote the Second Amendment had
8 clear memory of the threat being the very government
9 that exercised control over them.2they wrote that to
10 keep the balance in check.

11 1229 is not balance. 1229 is the heavy
12 hand of government taking over the lives of its
13 citizens in defiance of our constitutional rights.

14 Vote no.

15 THE CHAIRMAN: Senators Marble, Renfroe,
16 Scheffel.

17 Senator Marble.

18 SENATOR MARBLE: Thank you, Mr. President.

19 I'm here to express a very, very
20 resounding no on 1229, and that is coming from every
21 e-mail I have received over the weekend to please do
22 not stop our efforts to kill this bill.

23 When a government infringes on the rights
24 of law-abiding citizens, criminals are thankful to
25 those who pass such legislation. In trying to

1 curtail criminal activity, this bill does just the
2 opposite. It has no effect on where criminals
3 really go to purchase weapons, and that is the black
4 market.

5 240,000 guns are stolen every year. This
6 bill does not address that. And this is where the
7 criminal activity thrives, and this bill encourages
8 it. No amendment can make a bad bill an acceptable
9 bill.

10 Law enforcement, the real professionals,
11 they are the ones who came forth and said this is
12 unenforceable.

13 This is a poorly written bill, and it will
14 only criminalize law-abiding citizens. And another
15 way to say that -- and you have to admit, when
16 criminals find that out, they're going to love you
17 for passing this bill.

18 Vote no on 1229 because you cannot
19 criminalize law-abiding citizens.

20 THE CHAIRMAN: Senator Renfroe.

21 SENATOR RENFROE: Thank you,
22 Mr. President.

23 I also rise in opposition to this bill.
24 We heard a lot of testimony on this bill in
25 committee. We heard a lot of testimony on Friday on

1 this bill, but I would like to remind this body
2 again that there are a lot of people that didn't get
3 to testify on this bill, and it was a shame, in my
4 opinion, the process that we went through, the
5 people that came to this capital and did not have
6 their voices heard, the sheriffs that came and had
7 to choose one to speak on their behalf.

8 That's a sad day when we -- only 62 days
9 or whatever we are into our session, that we felt it
10 too unimportant to listen and to let the people have
11 their voice. And I think that's what this process
12 had when you look at all the bills together the way
13 they've went through, the way we've passed bills,
14 the way this one's come through.

15 Look at the questions that are even coming
16 up today on this bill that still have loopholes.
17 Loopholes. I thought this bill was to fix all the
18 loopholes. In my opinion this bill creates more
19 loopholes than the ones that allegedly is trying to
20 fix.

21 The one that, honestly, the data that was
22 used by our President of the United States, the
23 40 percent data, and that the sponsors used --
24 didn't use today, but used on Friday -- that data is
25 incomplete, inaccurate. That statistic comes before

1 background checks were even required. So how could
2 it have been a truthful reason to do this bill?

3 One of the major concerns I have with this
4 bill, we could start with the divide to where I
5 think half the people in the state or the country
6 would look at these answers or concerns and say,
7 yeah, I -- I agree, the other half probably tunes
8 out and doesn't even hear when we would mention
9 inalienable rights.

10 In my opinion, this is what happens. Or
11 if we mention or constitutional Second Amendment
12 rights, or if we go and we talk about our Colorado
13 Constitution in the Article II, Section 13 and what
14 it says: The right of no person to keep and bear
15 arms in defense of his home, person, and property,
16 shall be called into question.

17 This bill is, what, 30 -- 25 pages long.
18 How does that fit into that one little sentence? It
19 doesn't, in my opinion. And you may not listen to
20 those type of arguments, and that might not -- that
21 may not be what drives you. Honestly, there are a
22 lot of people in this world that that does. And for
23 those reasons alone, that's where they are.

24 You've heard people get up here today and
25 talk about Second Amendment rights and that that is

1 the reason to do this, and I believe strongly in
2 those rights, the inalienable rights, and as a
3 reason to vote no on this bill.

4 But we could also go back -- and this will
5 gloss over a few too -- and talk about what did our
6 founders think? Did they think that our
7 Constitution should change over time or should it
8 stay still? Is it a living document as some like to
9 say? I don't believe it's a living document in the
10 way a lot of people like to modify it, but I do
11 think our founders believed that things do change
12 over time, and there is a way to amend our
13 Constitution. And that's what our founders said we
14 should do.

15 Let me just read briefly out of this
16 little book on the Second Amendment. It says,
17 "The founders made it clear that when the meaning and thus
18 the application of any part Constitution was to be altered,
19 it was to be at the hands of the people."

20 I believe that's the people that we didn't
21 let testify last week.

22 "Not at the feet of the court or through the
23 encroachment of the legislative body. For this reason,
24 Article V was placed in the Constitution to establish the
25 proper means whereby the people might adjust their

1 government."

2 That's what we're trying to do with this
3 slew of bills. We're trying to adjust our
4 government, saying that there's loopholes and
5 there's problems, but they can't -- we can't
6 reconcile these problems if you read the language of
7 our Second Amendment and Article II, Section 13 of
8 our Constitution. How do you get there? I don't
9 think you can. I don't think you can.
10 Another problem I have with this bill -- and I have great
11 concerns about this part of it too -- is on page 5,
12 sentence -- lines 5 through 8. I want to read this part to
13 you.

14 It says, "a person who transfers a firearm in
15 violation of the provisions of this section may be jointly
16 and severally liable for the civil damages -- for any civil
17 damages proximately caused by the transferee's subsequent
18 use of the firearm."

19 Okay. So if I violate these provisions --
20 I've sold many firearms in my life. I've bought
21 many, and some of them have been through -- with
22 background checks, many, a majority of them, have
23 been privately. All the ones that I bought through
24 a background check and sold, how -- what if that's
25 used in a crime in the future or somehow used in

1 violation of this? How do I protect myself if they
2 were to trace that gun back to me?

3 I think this is -- that's the same type of
4 circular logic of why there was another bill that
5 didn't go forward. How do I protect myself from
6 that part right there with -- with what I've done
7 over the past 10, 15 years? Is that section of the
8 bill making me a potential criminal for something
9 that I did years ago? I would love an answer to
10 that question within this.

11 Another part of the bill, if we continue
12 on into the sections that don't apply, and we've had
13 some discussion about this, the Senator from
14 Highlands Ranch, I thought, brought up some very,
15 very valid points that English does matter, and we
16 need to look at what the language does say.

17 On line 13 under -- of page 5 -- it talks
18 about a bona fide gift. So for a family member, I'd
19 have to give it to them, gift it to them, then they
20 could do whatever they want with it. Maybe I don't
21 want to give my high school junior my guns when my
22 wife and I go out of a town for a conference for my
23 job. Is that what I'd have to do for them to be
24 able to protect themselves under this, under that
25 part? Could they take it out of the home? How does

1 that apply within that section?

2 Or you go down further under -- under Part
3 D, under Section D of this, or Pren. D, a temporary
4 transfer. How long is temporary? Is that another
5 loophole that we're creating within this bill?
6 Temporary. It says a transfer that is temporary and
7 occurs while in the home of the unlicensed
8 transferee. Who is an unlicensed transferee?

9 I think we talked about that being
10 language that's nowhere else in our statutes, of the
11 testimony we had, that came straight out of Mayor
12 Bloomberg's bill to Congress.

13 But that temporary transfer, how long is
14 temporary? That's not in this part. It's not 72
15 hours. I don't know. For me temporary might mean a
16 lot longer than what you think it is, but, of course
17 it's going to be the -- the police officer or the
18 sheriff that shows up at the door, or whenever it's
19 at, that that temporary -- and then the judge.
20 That's going to be who's going to decide that.

21 Why -- why are we allowing that? Why are
22 we passing legislation, if we say it's good
23 legislation, to allow that within this? And this
24 transfer has to be within the home.

25 THE CHAIRMAN: Senator Renfroe, 30

1 seconds.

2 SENATOR RENFROE: Thank you. I would like
3 to continue, if I may, then?

4 THE CHAIRMAN: So you're asking for your
5 second crack too? Is that what you're saying?

6 SENATOR RENFROE: Yes, please --

7 THE CHAIRMAN: Okay. Granted.

8 SENATOR RENFROE: -- Mr. President.

9 So think of that. The temporary transfer
10 in the home. So -- so the sponsor says, it's okay,
11 we -- we've covered it. Your -- your family can
12 have -- have the gun. I go out of town for a week.
13 What if she wants to have the gun in the car while
14 she goes to visit one of the college campuses with
15 my junior daughter? I don't think she can.

16 If I'm reading that wrong, please come up
17 and correct that because -- because that's a concern
18 that, of the way I look at the bill, I would have.

19 And then, on top of all of those other
20 reasons that I just talked about, obviously some
21 don't care, in my opinion, about the Constitution,
22 about inalienable rights, but a lot of people care
23 about safety. I think everybody cares about safety.
24 And the Senator from Wray I think said it best, this
25 bill is not about safety.

1 The U.S. Department of Justice, the
2 National Institute of -- of Justice, the arm -- the
3 research arm, clearly said without gun registration,
4 checks are unenforceable and do not improve safety.

5 So what are we doing here? What loopholes
6 are we trying to fix? Or are we just creating new
7 loopholes because our English and our words actually
8 mean things that are creating more loopholes, in my
9 opinion? More loopholes. That's what this bill is.
10 This isn't about safety. If it was about safety, I
11 would look at it.

12 But since it does even infringe on our
13 constitutional rights, in my opinion, I think we
14 need to go with what our founders said, and it needs
15 to be by constitutional amendment to fix it.

16 For those reasons, I would ask for you to
17 vote no on this bill.

18 THE CHAIRMAN: Senator Scheffel.

19 SENATOR SCHEFFEL: Thank you,
20 Mr. President.

21 Colleagues, this bill has been debated
22 extensively in committee, on the floor. And as I
23 think about it, I feel confident that our minority
24 leader talks about this aisle disappearing.

25 One of the things I feel very confident

1 about, where this aisle literally would disappear,
2 something that we all agree on, for to come to a
3 vote that would be 35-nothing, and that's that
4 criminals have deeply hurt our community, our state,
5 and our nation.

6 As we debate this here, there are families
7 out there -- probably some listening, maybe some up
8 in the gallery -- who even today and forever will
9 feel unspeakable hurt, as they've had family members
10 that have been wounded, killed. Their lives were
11 forever changed by Aurora, Columbine, the shootings
12 back East. And while those are the big ones that
13 make the news, there's actually little ones that go
14 on all the time that affect people and change their
15 lives forever.

16 And as we debate this topic, that's
17 something I know none of us would ever want to lose
18 sight of, because there is such a tangibly strong
19 desire, an ache, to do something.

20 Add to that the pressure that people elect
21 us to come to this building to do something. We're
22 expected to, and so bills like this result.

23 And so I think for all of us there's been
24 careful and detailed deliberation. I certainly hope
25 so for myself, and I believe so for my colleagues.

1 That is what the public expects of us, that we will
2 carefully consider these things. And having done
3 so, and with the template of the deep, deep hurt
4 that I know exists out there, because nobody would
5 like to see the things that had happened happen to
6 society, I'm persuaded that 1229 is not the right
7 answer for a number of reasons.

8 As much as I wish it were different, as
9 much as I wish I could come to a different
10 conclusion, I am persuaded by the evidence that says
11 that public safety will not be increased by the
12 passage of 1229. We so strongly desire for there to
13 be a nexus, but the evidence indicates otherwise.

14 And so I'm persuaded that this is not the
15 right answer. In fact, I -- I -- at the risk of
16 sending a false sense of security and indicating a
17 -- sending a message to the public that, hey, we are
18 going to do something, it -- it -- it seems clear
19 that it simply does not.

20 I believe that our work here is not done.
21 This may pass. I think the bottom line is there are
22 areas we need to look at. There's other things we
23 need to do, and -- and our work is not going to be
24 finished here.

25 In fact, with the passage of this, I'm

1 concerned, and my colleagues have alluded to it, and
2 so I -- I -- I will spare the detail, but -- but I
3 am concerned with the complexity of this bill and
4 the number of issues that have been raised.

5 I mean, here we are in third reading,
6 and -- and there's this -- this ongoing theme and
7 drum beat of discussion that says, what does this
8 mean? If I give it to my family, give it my wife,
9 I'm leaving town. Can I be gone for a week or just
10 72 hours? Is my wife and kids going to be able to
11 be protected? Is safety going to be compromised
12 because of this?

13 My fear with 1229 is that the only people,
14 if we're sitting here on third reading trying to
15 ferret this out and trying to discern the
16 complexities of it, the criminals are not going to
17 be doing this. Those are not the folks that are
18 going to be calling up the hotlines or hiring an
19 attorney saying, hey, I -- I need to figure out this
20 bill.

21 It's the law-abiding citizens that are
22 going to be doing it. It's going to be the people
23 in this room. It's going to be our constituency.
24 It's going to be the law-abiding citizens that are
25 going to try to figure this out. And based on what

1 I've heard, based on the testimony, based on the
2 discussion, my fear is that they, we, will fail.

3 And so now we're introducing a whole new
4 class of criminals, law-abiding citizens, trying
5 desperately to comply with the complex law and
6 failing. And we know the road that takes us down,
7 arbitrary enforcement.

8 And all of a sudden, we've read about
9 these in the papers, the purported good guy or gal
10 who finds themselves on the wrong side because,
11 oops, they did something, didn't mean to do it.
12 They left town for that extra day or whatever the
13 situation is with respect to this law, and they find
14 themselves on the wrong side of a prosecution --
15 prosecutorial discretion in a case. And none of us
16 would wish that on any our colleagues or any of our
17 constituencies that are law-abiding citizens.

18 The only people that will try to ferret
19 through this and figure it out are law-abiding
20 citizens. The criminals will ignore this. They
21 will not try to abide with this. They will
22 continue, I believe, in what they do now, which is
23 obtain weapons by clandestine means, and this will
24 not deter that. I fear for the chilling effect this
25 bill will have on law-abiding citizens.

1 And finally, for me all things complex
2 ultimately become simple. Like all of us, in
3 various forms, we're students of the Constitution.
4 We've read it; we're familiar with it; it's included
5 in our curriculum in schools.

6 I vividly remember the day I walked into
7 these chambers as a freshman, second row, second
8 seat over. Sat next to a gentleman senator, who is
9 no longer here, named Mike Kopp. I'd known Mike by
10 serving in this body would get to know him in much
11 more detail. He was sitting in that corner spot and
12 he leaned over to me, and he handed me this pocket
13 Constitution. He said, Here, you're going to need
14 this.

15 At that time it was all shiny and new. If
16 you look at it now, before coming up on five years
17 later, it's pretty tattered. I've marked it up and
18 highlighted different things. Whenever I see him, I
19 thank him for giving that to me. It wasn't my first
20 copy of the Constitution, but it seemed kind of
21 special that he gave it to me that day.

22 And we all know, it states in Amendment II
23 that the right of the people to keep and bear arms
24 shall not be infringed. I believe 1229 is an
25 infringement. Fairly simple for me. And,

1 therefore, I'm a no vote and would ask you to do the
2 same.

3 THE CHAIRMAN: Senator Cadman.

4 SENATOR CADMAN: Thank you, Mr. President.

5 I'm trying to remember back 13 years ago
6 when I was shiny and new here. I was.

7 So when I first heard this bill coming, I
8 thought, you know, this is really just an extension
9 of background checks beyond the current requirement,
10 beyond federally licensed firearms dealers, and
11 obviously, since the gun show initiative passed, to
12 include sales of firearms to each other, but as I
13 sat through committee and heard the bill presented,
14 it apparently became significantly greater than had
15 been purported.

16 It's more than just sales. This literally
17 has determined a new requirement for virtually any
18 type of transfers, any time you hand off a weapon to
19 another person. So then we get this bill that, as
20 was mentioned, is fairly lengthy. And why is it so
21 lengthy? Because it is well beyond what was being
22 reported initially, to close the private sales
23 loophole, which even in the fiscal note asserts that
24 38 percent of all sales in Colorado are private.

25 I'm still trying to figure out how they

1 came up with that number because we couldn't come up
2 with any number to estimate on another bill why the
3 drop-off in sales and the effect that it would have
4 on the departments that use revenues off of those
5 sales and hunting and fishing. But we have this
6 number, 38 percent private sales in Colorado,
7 private sales.

8 But this bill went so far beyond that that
9 now we have exemptions. Good. We have
10 exceptions -- exemptions. What the fiscal note
11 doesn't supply is the new office that we're going to
12 need in DORA or the Department of Public Safety, the
13 new office of exemptions to interpret what we meant
14 or what we should have included in that.

15 And I think after we heard the sheriffs
16 testify against this bill and saying how
17 unenforceable it was because it's so confusing and
18 so convoluted, chances are they're just going glean
19 over those additional pages in the Red Books. We
20 started getting amendments or exemptions.

21 Maybe what we should call them are, oops,
22 how about this? Oops, how about that? My colleague
23 from Douglas County was accurate to use that word,
24 oops. That should be our new acronym for
25 amendments.

1 So we talk about the oops exception for an
2 issue that was brought up in the committee, and I
3 also believe on the floor, for getting folks trained
4 in the Scouts. I believe the bill sponsor mentioned
5 that as well, and I think it was also articulated on
6 the handout that she provided.

7 But where's the oops of the oops? What's
8 not included in there is the transportation of those
9 weapons. It talks about having the use of those
10 weapons for Boy Scouts at a facility, but they don't
11 just show up. Really, as much as some people think
12 they do, they don't just fall out of the sky into
13 people's hands, including criminals and law-abiding
14 citizens.

15 So how do those weapons get to those
16 facilities? There is no provision in here for
17 transportation. None. So as our troop has done
18 over the years, we collect them from each other.
19 Somebody's responsible for every one of them, just
20 like we used to do in the army. When you were in
21 charge of all the weapons, that was your job. You
22 even slept with them.

23 Colonel, is that accurate?

24 UNIDENTIFIED SPEAKER: (Inaudible.)

25 SENATOR CADMAN: Yeah. That means yes to

1 all you civilians.

2 You are in charge of those weapons. They
3 were never out of your possession, ever, day or
4 night. Same thing that we do in the Scouts.

5 Somebody takes charge of those. They
6 become the arsenal quarter master. You're
7 responsible for them. And sometimes it's 5, 10, 15,
8 20 shotguns at a time. It's kind of cool. Some of
9 these are pretty nice weapons. No provision in here
10 for transporting weapons to these now exempted,
11 authorized activities. Oops. Oops.

12 How about this one? I have some friends
13 that spend three weeks every year going to Canada.
14 They're not allowed to take their weapons there.
15 And so they want to leave them with someone you-all
16 know. I'm not going to name names, but he has a gun
17 safe. He takes possession of about half a dozen of
18 these, puts them in his gun safe, and off they go to
19 Canada for three weeks.

20 Under this bill, I believe if that person
21 that took possession of these, they would have to
22 get a background check, and I think you have to get
23 one for each, or maybe you can get two under one.

24 But half a dozen weapons for a few weeks
25 means that person's got to get a background check.

1 And then, when they come back, they actually would
2 have to go to a background -- get a background check
3 to get their own weapons back, unless that person
4 becomes a weapon's blacksmith or a maintenance
5 facility as under the new exemption, under the other
6 oops.

7 How many more oops have we forgot? How
8 many more exemptions have we forgotten? How many
9 more -- because we've already -- now we have just
10 created two scenarios where multiple people will be
11 committing a misdemeanor, at least a misdemeanor.
12 It's only 18 months. It's only 500 or \$5,000. A
13 misdemeanor for an oops. We really should have the
14 office of unintended consequences to highlight the
15 oops factor.

16 I think the sheriffs knew what this meant.
17 The sheriffs, who are responsible to enforce this,
18 understood that this was a problem. There's
19 probably a bigger list than we can go get to. We've
20 picked up a few. I'm pretty sure we haven't caught
21 them all.

22 So what do we have now? We have a
23 situation where we don't have enough exemptions. So
24 now we're going to have innocent, law-abiding people
25 that are no longer law-abiding people. Though, in

1 their minds, they're probably still innocent, though
2 the law says different. How are we going to get the
3 word out to them? How are they going to understand
4 that what they've been doing for 5, 10, 15, 20, 25
5 years is now a misdemeanor? How do we do that? Is
6 that fair? It's not. It's not right.

7 I think the final parting shot of this
8 bill, which is egregious, is that component of
9 another bill that we don't have here today, to hold
10 somebody liable, to hold somebody liable if they use
11 a weapon illegally.

12 You know the global problem with this
13 whole concept is we keep referring to these items,
14 these weapons, these firearms, and those licensed to
15 use them. And I know those are the FFL's, and the
16 rest of us are unlicensed. Licensed for what? What
17 does that mean? We're talking about items that have
18 no title. We've referring to an item as if it is a
19 vehicle.

20 You can track the sale, the use, the
21 ownership of a motor vehicle all along its lifetime,
22 from the first dealer -- get the Carfax -- all the
23 way to the salvage yard. We have absolutely no way
24 to ensure title on any of these things. When you
25 buy one now, you don't get a title to it, you get a

1 receipt. You're not required -- I don't want you
2 guys to think this is an oops for you -- but you're
3 not required to laminate that receipt and wear it on
4 a chain around your neck to show I've got title to
5 this weapon.

6 They don't exist. They don't exist. Does
7 anybody have a title to their weapon? Show me the
8 Gunfax.

9 THE CHAIRMAN: Senator Cadman, you've got
10 30 seconds.

11 SENATOR CADMAN: Unworkable,
12 unenforceable, convoluted, confusing. Makes our
13 citizens, our neighbors, our friends criminals
14 overnight. Bad policy. Bad law. Vote no.

15 THE CHAIRMAN: Further discussion?

16 Senator Aguilar.

17 SENATOR AGUILAR: As you know, I'm pretty
18 new to politics, and one of the fun new experiences
19 I've had is that of reading court cases. And -- and
20 so when I got all these e-mails saying that I was
21 infringing on people's constitutional rights, I did
22 some research, and I found that, in fact, the
23 Supreme Court has stated that, like most rights, the
24 rights secured by the Second Amendment is not
25 unlimited. And so I really reject the argument that

1 I am violating people's constitutional right.

2 More importantly than that, in 2000,
3 Colorado passed a ballot measure to close the gun
4 show loophole, but as you know, since 2000, the use
5 of the Internet has become a major source of sales
6 for people. In fact, you don't have to pay state
7 taxes on the Internet.

8 So House Bill 1229 is set out to help
9 close that loophole by letting our law-abiding
10 citizens, setting a standard for them, of asking
11 them to please do background checks on people to
12 whom they sell weapons.

13 And interestingly enough, a national
14 survey done by the Department of Justice of inmates
15 found that nearly 80 percent of those who used a
16 handgun in a crime acquired it in a private
17 transfer.

18 There was an underground investigation
19 done by people who looked on the Internet to see
20 where they could find weapons and called people up
21 and actually met in person five times and were able
22 to secure five weapons without any questions at all
23 about their criminal history. And so I think that
24 this law is important to the safety of our state,
25 and I'm proud to vote for it today.

1 THE CHAIRMAN: Further discussion?

2 Senator Brophy, for your second crack.

3 SENATOR BROPHY: Thank you, Mr. President.

4 And I'm aware that this is my second time
5 at the microphone, so I'll cover a lot fairly
6 quickly. Listen fast.

7 First, with regard to Internet sales. No
8 secret, I'm a gunny and so I look at stuff on the
9 Internet a lot, and here's how it works. You can
10 buy a firearm on GunBroker.com if you want, but any
11 time the firearm is shipped through any of the
12 services, postal service, FedEx, whatever it is, it
13 has to ship from an FFL to an FFL.

14 So if you purchase a gun from someone on
15 GunBroker.com, if you're a private individual
16 selling it, you have to -- once the -- once the bid
17 is set -- it's like eBay, only it's eBay for cool
18 stuff like guns -- you -- you cut the deal, the
19 money comes in, you take the firearm to a licensed
20 dealer, and the licensed dealer ships it to another
21 licensed dealer, and the person who purchased it
22 goes to that licensed dealer, does a background
23 check, picks the gun up. This bill doesn't cover
24 that. It's already covered.

25 I think it's important again to let me

1 reiterate that the bill does absolutely nothing to
2 improve the safety of the citizens of the State of
3 Colorado, so says the Department of Justice and
4 their study, unless, of course, you want to go ahead
5 and go all the way in, go all in, shove them all in,
6 and say we're going to do full-on registration of
7 all firearms. Then this bill would actually reduce
8 the amount of guns that go into the hands of
9 criminals, but only that way, and not by very much,
10 because we still have the problem of theft and straw
11 purchases.

12 And speaking of straw purchases, when we
13 talk about opportunities to close the aisle down
14 here, if you wanted to work on -- and I offered this
15 to the Governor on January 17th, I believe, Monday
16 morning when I met with him -- if you want to work
17 on closing the -- the straw purchase loophole in
18 that know or should-have-known standard, we could
19 work on that together. That actually makes some
20 sense, but this bill doesn't do that either.

21 And then, finally, I want to talk about
22 the constitutionality of the bill. And I -- and
23 I've said this, you know, publicly before. I -- I
24 think arguing constitutionality in this room is --
25 is somewhat like Evangelicals and Buddhists arguing

1 matters of faith. It's just not very productive.

2 The arguments for constitutionality should
3 be held in the courtroom in front of a judge. But I
4 want to establish something for future arguments in
5 the courtrooms, and that is this: That this bill
6 sets up opportunity for law enforcement officers to
7 question whether or not you can legally possess a
8 firearm that you have. It sets up a scenario where
9 they can call into question your right to possess a
10 firearm because it gives them the opportunity to ask
11 you if you have received a background check on that
12 firearm.

13 Okay. So for the courts, and for the
14 record, I have a problem with that.

15 Now, let's deal with the absurdity. More
16 stories of absurdity that you get from this bill.
17 This bill has nine exceptions to the rule where you
18 have to have a background check for a transfer, any
19 transfer. One of those, of course, is a -- related
20 to an antique firearm that the fed's defined.
21 That's fine.

22 Another one of those transfers is for a
23 bona fide gift between family members, and that's
24 been expanded since we've been pointing out the
25 absurdities of this to include more people than it

1 had when it originally came out of the house, but
2 that's a bona fide gift. That means you are
3 relinquishing title of that firearm to somebody
4 else. It's theirs. There's no guarantee that
5 they're going to give it back.

6 It's like Toy Story, if you can imagine.
7 That's whether the new owner gets to scratch your
8 name off the bottom of the firearm and write their
9 name. It's theirs. Scratch Andy off and write
10 Greg. It's mine now. He gave it to me. That's one
11 of the exceptions.

12 Another one is through a will. So if
13 you -- if you pass away, you can give your guns to
14 just about anybody, and you won't have to go to
15 prison for that. That's mighty fortunate.

16 Temporary transfer that occurs while in
17 the home of the unlicensed transferee. Now, this is
18 the part about self-protection. So if you want to
19 loan a firearm to somebody so that they can protect
20 themselves, you can do that, and there is no
21 limitation on that. Okay? As long as they stay in
22 their home, but they can't come over to your house
23 and borrow it from you to take back to their house
24 for their own self-protection, because the law is
25 very specific, you have to do it in the home of the

1 unlicensed transferee.

2 Another one of the great exceptions to
3 this -- and this one's fairly lengthy and this goes
4 to hunting, et cetera, target shooting. Those
5 exceptions are only good while you're in the field.
6 So my example of loaning a firearm to a friend of
7 mine from my home, who is going to take it on a long
8 hunting trip, isn't covered. We have to arrange for
9 a background check.

10 Now, I -- I've been in this body for about
11 ten years -- a little over that. And I know that
12 the laws that show up in those Red Books aren't what
13 you think these bills say, it's what these bills
14 actually say. And this bill says I cannot loan a
15 firearm to a long-time friend of mine for him to
16 take it hunting if he's going to be gone for more
17 than 72 hours, period.

18 The only way it can go longer than 72
19 hours is if I go with him on the hunting trip, then
20 it's unlimited as to the amount of time. I can loan
21 it to someone, as long as I'm with them, for almost
22 any instance. That's G. And then you get to the
23 72-hour one, and it's clear, 72 hours. Once you
24 exceed 72 hours, you have a problem.

25 So then it brings up another absurdity.

1 This bill very well could criminalize legislative
2 spouses. Those of us who don't live in the Denver
3 metro area leave home on Monday morning and come up
4 here and leave our firearms in possession of our
5 family members back at home. Can't bring a bunch of
6 them up here with me because Denver bans some of
7 them that I own.

8 And under the two types of exemptions that
9 cover that, the one for -- unless it's a bona fide
10 gift -- if I want to gift them every week when I
11 leave and trust that they will gift them back to me
12 when I get home so I can use them over the weekend,
13 we could do that. The other one is the self-defense
14 in the home. So as long as Mrs. Brophy only uses
15 the firearms in the home, she's covered. We
16 haven't, either one of us, broken the law.

17 But what happens if on Thursday, I've been
18 gone for 72 hours and my dad, who lives at the farm
19 still, calls her up and says, Hey, we have a
20 rattlesnake out here bothering the livestock and I
21 can't get ahold of Greg's sister. Can you bring a
22 shotgun out and dispatch this rattlesnake to protect
23 our livestock? If she does that on Thursday, that's
24 an illegal transfer because we're outside the
25 72-hour period.

1 There are nine exemptions in this bill.
2 They keep getting added when we point out how absurd
3 this is, but we don't have them all covered yet.

4 Again, we could have tightened up the
5 biggest problem that we have, which is straw
6 purchases, but instead we go down this path that
7 results in utter absurdities in the day-to-day lives
8 of law-abiding Coloradoans.

9 Vote no.

10 THE CHAIRMAN: Senator Aguilar, for your
11 second crack.

12 SENATOR AGUILAR: Thank you,
13 Mr. President.

14 I want to clarify the Internet sales to
15 which I referred took place in person, and I've
16 purchased things from Craigslist, where I just went
17 to somebody's home and we traded goods.

18 And, secondly, I want to read the language
19 here because it says a temporary transfer of
20 possession without transfer of ownership or title to
21 ownership, which transfer takes place -- this is
22 page 6, if you go down to line 9 -- while hunting,
23 fishing, target shooting, or trapping, if this is
24 occurring where it's legal and where and as long as
25 the unlicensed transferee holds a license or permit

1 for hunting, fishing, target shooting or trapping.
2 There is no referral to a 72-hour limit. So Senator
3 Brophy's friend can take his gun on his trip.

4 THE CHAIRMAN: Further discussion?

5 Seeing none, the motion before the body is
6 the adoption of House Bill 1229. A roll call --
7 okay, sorry. Senator Lambert would like to speak.

8 Senator Lambert.

9 SENATOR LAMBERT: Thank you,
10 Mr. President. Sorry for my --

11 THE CHAIRMAN: Hitch in your get-along?

12 SENATOR LAMBERT: -- hitch in my get-along
13 here.

14 I'm -- I'm really confused now. I guess I
15 am one of those legislators that Senator Brophy just
16 talked about. We had our last election on
17 November 6th. I moved into my apartment on
18 November 8th, and I promptly went to the airport,
19 left for about three weeks to go to my mother's
20 funeral, came back right after Thanksgiving. And
21 I -- I didn't go home during the week.

22 And this weekend was the last -- a good
23 example of why. I couldn't get up my hill because
24 it was too icy. Plus it is difficult for me to load
25 my car. My wife's been sick for about three weeks.

1 So, you know, I'm -- I'm not sure if this is a
2 temporary transfer, if so, is it limited by 72
3 hours? Then I guess that's a new misdemeanor every
4 week for my wife. If it's a gift, then do I have to
5 pay the IRS every year for every week that I
6 transfer my weapon, all my weapons to my wife, that
7 total cost?

8 And then she has to transfer those all
9 back to me? Is that taxable? This is just raising
10 a lot more questions than we've heard answers to.

11 And I'm just an example of that. There
12 are other people who have to do their business out
13 of state, who have to do their business coming back
14 and forth to different parts of our state. Even our
15 state employees sometimes go out for days at a time.
16 And it just creates a -- a dilemma, a legal dilemma,
17 of how to interpret this, that we -- we just don't
18 need in law.

19 Now, I -- I said one time some of these
20 bills were a matter of trust. I trust my wife to do
21 the right thing. We were both diplomats overseas.
22 We were both trained by the State Department to
23 defend ourselves.

24 My wife actually thought it was really fun
25 going out to the shooting range with the Foreign

1 Protective Service in Washington, D.C., and shooting
2 the kinds of weapons that we might have to have to
3 defend ourselves in overseas environment, all the
4 inventory of our marine security guards at U.S.
5 embassies, including things like Uzis. She thought
6 that was particularly fun to shoot.

7 And yet what's the impact here on people
8 who are trained with firearms on our veterans, on
9 other people going overseas, over unforeseen
10 circumstances?

11 I didn't know it was going to be snowing
12 this week. It wouldn't have made any difference,
13 because I was here longer than 72 hours anyway. But
14 it just puts more complications into the law. What
15 do I have to do? Every Monday go down and do a
16 background check? If my wife's out of town, do I
17 have to leave them with somebody else and check
18 them? You know, I may have to ask for -- to be
19 excused every Monday so I can go down to some gun
20 shop because they're probably not open on Sunday.

21 Maybe -- you know, maybe I could do it
22 every Saturday in advance of coming up to the
23 capital every Monday, and then maybe get off early
24 on every Friday so I can go back and get my guns
25 back so that I can go back and on Saturday

1 retransfer them to somebody else.

2 It just -- there's so many scenarios we
3 just don't know about in this bill. And I think
4 people of Colorado are listening. They're having
5 the same questions. How do we do this? How do we
6 enforce this? Why would anybody want to enforce
7 this?

8 So I'd ask for a no vote on House Bill
9 1229.

10 THE CHAIRMAN: Further discussion?

11 Seeing none, the motion before the body is
12 the adoption of House Bill 1229. A roll call has
13 been requested.

14 Mr. Majors, would you please poll the
15 Senators?

16 MR. MAJORS: Aguilar?

17 SENATOR AGUILAR: Aye.

18 MR. MAJORS: Aguilar, aye.

19 Balmer?

20 SENATOR BALMER: No.

21 MR. MAJORS: Balmer, no.

22 Baumgardner?

23 SENATOR BAUMGARDNER: No.

24 MR. MAJORS: Baumgardner, no.

25 Brophy?

1 SENATOR BROPHY: No.

2 MR. MAJORS: Brophy, no.

3 Cadman?

4 SENATOR CADMAN: No.

5 MR. MAJORS: Cadman, no.

6 Carroll?

7 MAJORITY LEADER CARROLL: Aye.

8 MR. MAJORS: Carroll, aye.

9 Crowder?

10 SENATOR CROWDER: No.

11 MR. MAJORS: Crowder, no.

12 Giron?

13 SENATOR GIRON: Aye.

14 MR. MAJORS: Giron, aye.

15 Grantham?

16 SENATOR GRANTHAM: No.

17 MR. MAJORS: Grantham, no.

18 Guzman?

19 SENATOR GUZMAN: Aye.

20 MR. MAJORS: Guzman, aye.

21 Harvey?

22 SENATOR HARVEY: No.

23 MR. MAJORS: Harvey, no.

24 Heath?

25 SENATOR HEATH: Aye.

1 MR. MAJORS: Heath, aye.
2 Hill?
3 SENATOR HILL: No.
4 MR. MAJORS: Hill, no.
5 Hodge?
6 SENATOR HODGE: Aye.
7 MR. MAJORS: Hodge, aye.
8 Hudak?
9 SENATOR HUDAK: Aye.
10 MR. MAJORS: Hudak, aye.
11 Jahn?
12 SENATOR JAHN: Aye.
13 MR. MAJORS: Jahn, aye.
14 Johnston?
15 SENATOR JAHNSTON: Aye.
16 MR. MAJORS: Johnston, aye.
17 Jones?
18 SENATOR JONES: Aye.
19 MR. MAJORS: Jones, aye.
20 Kefalas?
21 SENATOR KEFALAS: Aye.
22 MR. MAJORS: Kefalas, aye.
23 Kerr?
24 SENATOR KERR: Aye.
25 MR. MAJORS: Kerr, aye.

1 King?
2 SENATOR KING: No.
3 MR. MAJORS: King, no.
4 Lambert?
5 SENATOR LAMBERT: No.
6 MR. MAJORS: Lambert, no.
7 Lundberg?
8 SENATOR LUNDBERG: No.
9 MR. MAJORS: Lundberg, no.
10 Marble?
11 SENATOR MARBLE: No.
12 MR. MAJORS: Marble, no.
13 Newell?
14 SENATOR NEWELL: Aye.
15 MR. MAJORS: Newell, aye.
16 Nicholson?
17 SENATOR NICHOLSON: Aye.
18 MR. MAJORS: Nicholson, aye.
19 Renfroe?
20 SENATOR RENFROE: No.
21 MR. MAJORS: Renfroe, no.
22 Roberts?
23 SENATOR ROBERTS: No.
24 MR. MAJORS: Roberts, no.
25 Scheffel?

1 SENATOR SCHEFFEL: No.

2 MR. MAJORS: Scheffel, no.

3 Schwartz?

4 SENATOR SCHWARTZ: Aye.

5 MR. MAJORS: Schwartz, aye.

6 Steadman?

7 SENATOR STEADMAN: Aye.

8 MR. MAJORS: Steadman, aye.

9 Tochtrop?

10 SENATOR TOCHTROP: No.

11 MR. MAJORS: Tochtrop, no.

12 Todd?

13 SENATOR TODD: Aye.

14 MR. MAJORS: Todd, aye.

15 Ulibarri?

16 SENATOR ULIBARRI: Aye.

17 MR. MAJORS: Ulibarri, aye.

18 Mr. President?

19 THE CHAIRMAN: Aye.

20 MR. MAJORS: Mr. President, aye.

21 THE CHAIRMAN: With a vote of 19 ayes, 16

22 noes, zero absent, zero excused, House Bill 1229 is

23 adopted.

24 Cosponsors: Senator Ulibarri, Senator

25 Aguilar, Senator Kerr, Senator Hudak, Senator Giron,

1 Senator Jones, Senator Heath -- sorry, Mr. Majors --
2 Senator Nicholson, Senator Todd, Senator Steadman,
3 Senator Guzman, Senator Hodge. Please add the
4 President. Senator Johnston, Senator Newell.

5 Majority Leader Carroll.

6 MAJORITY LEADER CARROLL: Thank you,
7 Mr. President.

8 I move that the Senate stand in recess until
9 1:30, where we'll come back and finish third reading.

10 (Whereupon, the recording was concluded.)

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CERTIFICATE

STATE OF COLORADO)
CITY AND COUNTY OF DENVER) ss.

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

IN WITNESS WHEREOF, I have hereunto affixed my hand and notarial seal this 21st day of June, 2013.

Registered Professional Reporter
and
Notary Public