CITY AND COUNTY OF DENVER
STATE OF COLORADO
JUDICIAL COMMITTEE MEETING
Held on March 14, 2013
HOUSE BILL 13-1229

REPORTER'S TRANSCRIPT

This transcript was taken from an audio recording by Elissa Steen, Registered Professional Reporter and Notary Public.
COMMITTEE CHAIR REP. FIELDS: Good morning.

Calling together the conference committee for House Bill 1229.

Ms. Shipley, please call the roll.

THE CLERK: Representative McCann.

REPRESENTATIVE MCCANN: Here.

THE CLERK: Senator Ulibarri.

SENATOR ULIBARRI: Here.

THE CLERK: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Here.

THE CLERK: Senator Brophy.

SENATOR BROPHY: Here.

THE CLERK: Senator Carroll.

SENATOR CARROLL: Here.

THE CLERK: Madame Chair.

COMMITTEE CHAIR REP. FIELDS: Here.

REPRESENTATIVE FIELDS: We're here to discuss the -- the merits of the bill and the reason (inaudible) specifically treats corporations, and how they're used to make straw purchases for individuals who cannot pass a background check. So that's going to be the -- the scope of our discussion today.

Senator Carroll.
SENATOR CARROLL: Thank you, Madame Chair.

I can start our discussion with -- move conference committee report Amendment Q for the first report on the first conference committee. And folks may know that this (inaudible), I had actually started with an amendment in the Senate that was trying to deal with --

(Inaudible speakers.)

COMMITTEE CHAIR REP. FIELDS: Who seconded?

REPRESENTATIVE MCCANN: I did.

COMMITTEE CHAIR REP. FIELDS: Seconded by Representative McCann. Okay. Thank you.

Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair.

Sorry about that.

So in the amendment that I had put on in the House, we were trying to deal with, and we were alerted to the fact that anyone could (inaudible) any criminal avert a background check by basically doing it through a straw purchase (inaudible).

And I think you guys helped highlight yesterday -- and some of the language specifically, for example, looking at anyone with a beneficial interest could be incorporated to include shareholders and all kinds of people who may never,
in fact, come into possession with any firearm. And so what 2 does, is this -- so it's conforming the definition of a transferee. But specifically the way it fixes the problem and what's there is it narrows it only to natural persons who come into actual possession.

So in the shareholder situation, if you had a corporation or a trust or -- but somebody who's never going to see this firearm, in this case, it's only natural people who would come into actual possession. And so that is meant to narrow the point of the (inaudible) on that.

COMMITTEE CHAIR REP. FIELDS: Further discussion?

Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you, Madame Chair.

And I am -- for the purpose of discussion, I am going to move to substitute 4 --

SENATOR BROPHY: Second.

REPRESENTATIVE SONNENBERG: -- and ask that we discuss that as well, because the provisions in 4 and -- and understand that even though you made the statement this is solely to deal with the corporate, we can still deal with any of the Senate amendments in
the conference committee.

And those amendments also address, I think, the -- the husband-wife issue that is a part of 4 as well. And so I would ask at least to have that discussion on 4, as I think those are -- those are things that needed to be added as well.

COMMITTEE CHAIR REP. FIELDS: 4 has been moved and seconded.

Can we have discussion?

Representative Brophy -- Senator.

SENATOR BROPHY: Thank you, Madame Chair.

And looking at -- looking at the -- the first amendment and comparing it to the second amendment, I see that we have zeroed in on a -- on one of the same flaws in 1229, one of the many absurdities that exist in this bill, where, for instance, if you had a security corporation, every shareholder would have to be background checked under 1229 on the re-revised bill. And I think both Amendment 2 and Amendment 4 address that.

I think that the -- the language in Amendment 2 appears to be more elegant, but I think it misses a couple of things that are picked up in the language in Amendment 4 on the first page, where we include it -- the -- I think it's a
subparagraph -- or -- or, well, we don't have lines on this, but down where the last A in parentheses is, in regards to whether the transferee of the -- of the transfer is a member of the corporation, association, partnership, or limited liability company.

That would actually catch those security guards, who are employees of the security corporation, for instance, if the corporation happens to purchase some of the firearms used for the security purposes. And I -- I believe that your -- your amendment misses that. And I think we could make the language more elegant like yours is, but I think -- I think Amendment 4 catches other (inaudible) people who would have reason to possess a firearm.

And further, on the second page of Amendment 4, Representative Sonnenberg also discovered that we could, under that same difference between the House and the Senate, ensure that the transferee does not include a member of a youth organization whose participation in shooting sports if they take temporary possession of a firearm.

And, you know, for instance, on a 4-H shooting sport, when we're trying to reach out to --
to kids in -- in the 4-H community, sometimes
you'll -- you'll find young people who come from a
household where they may not possess, for instance,
a shotgun for -- for a shooting sports purposes, and
they may need to take temporary possession of the
shotgun through their 4-H participation. It goes
well beyond the 72-hours. They may need to
take possession (inaudible) -- I mean, they may need
to take possession of that shotgun for the entire
length of the shooting sport season, which runs from
sometime early in the spring until either the county
fair, or if they're so lucky as to achieve it, the
state fair at the end of August, where they have the
final shooting competition -- trap-shooting
competition.

And so, on the top of page 2, Roman
numeral III takes that into account, and I think
fixes that absurdity that resulted from the
re-revised version of House Bill 1229.

And then further down on page 2, where we
amend the build, that re-revised bill, on page 5,
line 13, if you want to go to that part.

What we're talking about there, this is
where you have the -- the -- the bona fide gift
section, which again, created the absurdity that,
for instance, when I leave home on Monday morning, unless I do a bona fide gifting over to my wife on day four of the -- of my absence, she can no longer take a firearm out of the house for any purpose without being in violation of the illegal transfer part of this bill.

Another absurdity that -- that -- that we're trying to fix here with -- with the inclusion of loan besides bona fide gift to immediate family members, as expressed in that section of the bill.

And then, finally, further down on page 2, where we say -- where we're amending -- actually, on page 2 of the amendment, go to page 7 of the bill, after line 6, this is where we expand the definition of immediate family members to include step relations.

So, for instance, if you have a stepson or a stepdaughter, you would be able to do the bona fide gift or loan to your stepchildren, partners of civil unions, and domestic partnership, and then finally, the dreaded mother-in-law.

COMMITTEE CHAIR REP. FIELDS: Further discussion on L.004?

Senator Morgan Carroll.

SENATOR CARROLL: Thank you, Madame Chair.
So I guess just a couple of different thoughts on some of the different components on -- on what's here.

As to closing, like, the shareholder issue, I -- I -- I do think that I have preference for the language that's in Q.

As to the additional issues that you raised in yours, some comments on feedback, I would believe a member in a youth organization is already covered under the 72-hour section. I actually like the -- I think the addition (inaudible) next section of making a gift or loan may make some sense, because they're still subject to, as long as you're not a convicted felon and all that other stuff.

And I -- I'm -- the definition on family, this is broader than the scope of either the House or Senate version on the definition of family. So despite different reaction to the different components of what you have in here, and cutting and pasting isn't the easiest thing of what we do, but I think the last part is broader than what we did in either the House or the Senate.

COMMITTEE CHAIR REP. FIELDS: Representative McCann.

REPRESENTATIVE MCCANN: Thank you, Madame
Chair.

So I had a question about the boarding, the (inaudible) club boarding kind of situation. Because it seems to me that if the way it would work that the 4-H, or the person that's running the 4-H club, would be the one that would actually get the gun, and then -- or do the guns get transferred to the parent of the person that's -- I mean, because you're not going to give the gun to a 14-year-old, I assume. I mean, you could -- you have to have somebody supervising the person.

So it -- what I'm getting at is that, if the director of the 4-H group takes possession of the gun and has a background check, then presumably the gun would be used in his or her presence. So I don't know that we need to add that in here. It seems like it's already covered through other provisions that are exceptions.

Committee Chair Rep. Fields: Representative Sonnenberg.

Representative Sonnenberg: Thank you, Madame Chair.

And actually I'll address your question first, and then I'll go back to Senator Carroll's question.
The way it typically works in -- in youth sports, those youth shooting sports, is that you will have someone that wants to learn about guns and then they have the opportunity to take guns apart, to clean them. And this is done over a longer period of time than 72 hours.

What happens is, is you find someone that's supportive within the community that will allow them to borrow a gun, whether it be a simple 22 or a shotgun, whatever type of shooting sport they're using at that time, and they will loan that gun to actually the child, and the child -- I believe they have already gone through the hunting -- hunter's safety course to be able to participate in the shooting sports, but I'm not sure of that -- but what happens is, is that they are then allowed to keep that gun and utilize that gun on their own without a -- a leader there.

That's the purpose for them to continue to -- to work on that project and learn about that gun without the leader there. And so I don't believe it would fall under the 72 hours. Many of those are -- sometimes a project can be completed in 30-45 days.

As Senator Brophy said, oftentimes they're
given in the spring to be utilized until the county fair or the state fair, when the project's completed. So it can be three, four months.

With regard to Senator Carroll and talking about the -- the potential of the last portion being outside of the scope, I would argue that the top of page 7, where we are talking about family, and the Senate indeed added the provisions and then tried to define what is family as a spouse, a parent, a child, but this indeed would be part of that scope as we figure out indeed what a family member is, as we try to figure that solution. So I would argue that it indeed fits within the scope of this committee.

COMMITTEE CHAIR REP. FIELDS: Further discussion?

Senator Ulibarri.

SENATOR ULIBARRI: So I want to keep to one of the provisions of that line. Page 5, line 13, after difficult, insert or loan.

I guess in terms of property in common between spouses, I don't understand why you would have to loan property that's held commonly between spouses if that property is -- is essentially owned by two married couples. I say that for me, a perspective of
someone who is not yet in a civil union or has any legal recognition in my relationship. I understand what is mine is mine under law. But for married couples, what is hers is also his, and vice versa. And so saying that there must be a loan or bona fide gift belies the fact that the property that's held in a marriage is property that's jointly held. So I guess I'm confused about why that would be necessary.

COMMITTEE CHAIR REP. FIELDS: Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair. It -- it's actually an interesting point because as respect to spouses, as you guys know, any property that's acquired subsequent to marriage is joint property by law.

COMMITTEE CHAIR REP. FIELDS: Senator Brophy.

SENATOR BROPHY: Thank you, Madame Chair. And I thought about that. The problem is that the specifics in this bill, with regard to firearms and transfers, would override that general rule because the legislature got specific in here dealing with bona fide gifts, and then potentially loans. So that specific, then, suggests that the spouse would have to either be gifted the firearm or
go get a background check in order to qualify for
the handling of it.

I would suggest that your -- your joint
property ownership rule would apply if they have a
divorce and you have to take into account the value,
the monetary value, of the firearms. But because
1229 gets specific about background checks and
transfers, the transfer rule still applies, even
between spouses.

COMMITTEE CHAIR REP. FIELDS: Representative
Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you,
Madame Chair.

And if I would -- could add to that, I
would also say that, that many of my guns, I've had
for years before I was married. And for my wife to
be able to access those guns, that would be a
violation.

COMMITTEE CHAIR REP. FIELDS: Representative
McCann.

REPRESENTATIVE MCCANN: Personally, I don't
have any problem adding loan in there because, um, I
think the idea of gifting a (inaudible) Representative
Sonnenberg doesn't want to give all his guns to his
wife --
REPRESENTATIVE SONNENBERG: She won't give
them back.

REPRESENTATIVE MCCANN: See, that's a part
of the problem with the way that it's worded, is that
if you give it to somebody, technically they don't
have to give it back.

So, I mean, I think that's the spirit of
what we were trying to say is that you can loan your
gun to your child to go hunting without having to
gift it or have to (inaudible) background check.

And I -- I would like a little more
discussion on the expansion of the family members,
actually, because, um, you know, if you have a
stepson, not (inaudible) or a son or a daughter, and
I think we do want to expand it to partners of
civil unions and domestic partnerships. Inlaws, I
don't know, maybe. I think we have to be careful
about that, because I'm not sure what that
encompasses, maybe father-in-law, mother-in-law, but
inlaws of nieces and nephews and cousins and aunts
and uncles and all of that, I don't -- I don't think
we want to deal with. Maybe a brother-in-law or a
sister-in-law, mother-in-law, father-in-law, I
wouldn't have any problem with that, something more
limited.
COMMITTEE CHAIR REP. FIELDS: Senator Brophy.

SENATOR BROPHY: Thank you, Madame Chair.

And, Representative, thank you for your -- your -- your thoughtful reception on all of the first part of -- of this latter part of Amendment 4. I'd like to specifically address the -- the in-law question. I think it's -- I think it's fairly important if we -- if we keep the -- the in-law relationship very similar to what was amended in -- in the Senate to include, you know, your -- you can have a -- a brother-in-law, you know, who's a -- who's an avid hunter who maybe is trying a different type of game than he's ever hunted before, who would like to borrow one of my specific rifles that would be, you know, the appropriate size for that, he isn't covered under this bill. It's another one of the absurdities in this bill. So I think that it would be appropriate to add them at that relationship level. And -- and I think that's what this really does grasp, and I'm not sure about the niece and nephew. I also have, you know, when a -- you know, if you're from a multi-generation farming family in a community, you end up with great-nieces and great-nephews and, you know -- I
have -- I have -- I have a great-nephew who's actually older than my son, but pretty much a contemporary, and I've contemplated that I can loan him a shotgun, you know, when he -- when he goes to the farm to stay with my dad, you know, his great-grandpa.

You know, and I -- and I think that -- we should catch that type of relationship. And again, if they are not legally allowed to possess or purchase a firearm, you're still not covered, you know, it's not a blanket -- it's not a blanket get-out-of-jail-free card here. It -- it's -- it's just recognizing that, you know, just so many absurd results from trying to require every single transfer have a background check, even -- you know, even to the extent which we're sort of working on but still not covered, if you're out camping but not target shooting, and only one of you brings a handgun, the other can't possess it without a background check.

COMMITTEE CHAIR REP. FIELDS: So I believe L.004, on page 2, the paragraph that we're discussing right now, which would be immediate family members, is beyond the scope of differences. So I don't -- I don't think that we can expand the scope.

Senator Carroll.
SENATOR CARROLL: Thank you, Madame Chair.
You know, for the committee, just one
thought is -- because we're an a substitute motion here, and I think the committee members might have slightly different thoughts about the components of what's been brought on 4.
So one thought, I think, is that we could take -- we could start with the narrower question of just lending it to natural persons on transfer here, and then maybe take up portions of this committee report separately.
Because I am sensing -- you know, I agree with Representative McCann, you know, for example, on the provision of adding or loan, gift or loan, under the immediate family section. And so rather than doing it all, I think right now in order to get the underlying motion, we could either withdraw or, frankly, I'd be -- if it's all or nothing, I'd be inclined to vote that down or if we do it (inaudible), but I think if we could accept the natural language stuff here and then maybe take up components of your proposed changes on one issue at a time would be (inaudible).

COMMITTEE CHAIR REP. FIELDS: Representative Sonnenberg.
REPRESENTATIVE SONNENBERG: Thank you, Madame Chair.

My concern with the natural person language in 002, for example, the Haxton Gun Club is a corporation, and it's a shooting club with 104 members.

Under the way this is written, if they purchased the gun, in order for anyone in that corporation to use that gun, according to this language, all 104 would have to have done a background check, if I read that correctly.

Under my provision, and the first page, that takes care of that and allows them to use that gun on the range there within that 72-hour period.

COMMITTEE CHAIR REP. FIELDS: Senator Ulibarri.

SENATOR ULIBARRI: So I think procedurally we're at a point in discussing whether or not to substitute 4 for L.002, right? So speaking to 2 is definitely speaking to 4. And I understand there's a difference in what it's saying.

I guess for me, I understand that folks who use guns that are owned or purchased by a corporation have the ability, that 72-hour period, but for a gun club, there would be, in my opinion,
ability for someone to come and use that gun
underneath the guise of that club, and would still
be subject to a background check if they're going
through the club for a pheasant hunt or something
else.

And so I guess I see the language,
definitely, but I think the motion before us is
whether or not this substitutes L.004 for 2, and
then we can go back to (inaudible) 2 versus 4.

COMMITTEE CHAIR REP. FIELDS: Senator
Brophy.

SENATOR BROPHY: Thank you, Madame Chair.
And -- and once again, Senator, the
problem is: The specific overrules the general when
the courts look at things -- questions like that.

But the 72-hour rule applies or does the
corporate rule apply because there was a specific
rule directed at corporate relationship, that
specific rule will apply and overrule this
general -- especially since the 72-hour rule has
been characterized as a general catch-all by the
sponsor of the bill. So we have to fix that part.

The 72-hour rule can no longer overrule
the specific exemptions laid out in the bill. It is
a catch-all general, and the courts will look at the
specifics and say that they rule over the general.

So we have no -- well, if we want to make it right. If we want to make it so that everyone doesn't have to get a background check by sense of being a member of the corporation, then we have to accept that language.

We can't try to rely on the general 72-hour catch-all rule because the courts will not go along with that. They will follow the specifics.

COMMITTEE CHAIR REP. FIELDS: Senator -- Representative McCann.

REPRESENTATIVE MCCANN: Thank you, Madame Chair.

I don't -- I don't know if that's correct. I mean, I think an argument can be made both ways. But in general, the specifics would overrule the general, but that's usually if they're different statutes.

In that statute, because we have exemptions that are outlined, and then this section comes later. I'm not sure that you -- that that's the way a court would rule. I mean, I think you could make arguments both ways.

COMMITTEE CHAIR REP. FIELDS: And I -- I agree with Representative McCann because the way I
read the bill, when I look at page 5, the transfer
of -- the transfer is a temporary transfer of
possession without transferring of ownership, and it
then identifies organizations, it identifies shooting
ranges, it identifies that it can do that without
having to be restricted to a 72-hour hold. So I
believe that that is already covered in the original
intent of the bill.

Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you,
Madame Chair.

And let's -- let's assume that you are
correct, that that's the way the court would see it.
As this is written, for any of the members of the
gun club to take possession of that gun, to utilize
it according to this, they would have to have a
background check. So every one of the 104.
I don't believe that fits under the
72-hours. Are you -- are you saying to me that you
believe it does?

COMMITTEE CHAIR REP. FIELDS: Senator
Carroll.

SENATOR CARROLL: Thank you, Madame Chair.
First of all, I don't think if you're a
member of a club that you are receiving it as an
entity. I think you're receiving it as an individual.

So you'll recall, when we go through the whole structure of the exception, (inaudible), you can meet any one of these exceptions. So if I'm a member of a club, I'm still a person. And there's, yes, the 72-hour catch-all, and you can do basically whatever, as long as you stay in possession, you're not giving it to a felon.

But there's actually multiple -- you don't lose your status as an individual, you don't become an entity because you're a member of a club. So the -- we are focusing on the, like, trust and the straw corporation, but the fact is, is that if I belong to a club, and I'm either buying or transferring a weapon, and I'm still doing that as an individual, natural person.

And so you'll see, for example, the exceptions about at a shooting range where it's located or at a firearms shooting competition. There's existing language in there about organization organized for conservation purposes or to foster proficiency in firearms.

I think there's up to four different exceptions explicitly spelled out that would satisfy
the facts that you're talking about. You could pick any number of them, but I believe under the current bill, none -- that -- that scenario, those -- would not have to go through a background check, under a number of existing exemptions.

COMMITTEE CHAIR REP. FIELDS: Senator Brophy.

SENATOR BROPHY: Thank you.

Well, the problem is: We have so many specifics in here. For instance, the -- the temporary transfer or possession without transfer of ownership, which I have on page 6, at the top of page 6, in the re-revised bill, which should be the latest version. That -- that is limited.

Then, E, specifically E, is limited then by Roman numerals I, II, and III; and then III is limited by I think that's subparagraph A and B.

And so -- so that's -- what that all talks about in that case is, is those -- are those temporary transfers that -- that happen while you're all together as a group doing some kind of group activity, hunting together, because it says while in the field and while hunting, so while engaging in that activity, at -- at the shooting range.

So I'm still afraid that we have to
address the -- the unintended consequences of -- of drawing in everybody who may not be there but are specifically listed as -- as members of a corporation.

Again, go back to the security company example that -- that may be publicly held. Every shareholder has to get a background check if we don't -- if we don't fix this. And they won't ever even see that aspect of the security company, namely a firearm purchased for security purposes, but they have to get a background check.

And I think it's important that we -- that we fix that and that we recognize that when you start getting specific like this, you've got to follow the specifics because the general wouldn't apply.

COMMITTEE CHAIR REP. FIELDS: Representative McCann.

REPRESENTATIVE MCCANN: Thank you, Madame Chair.

Well, the way I read Amendment 02, even though I know we're talking about the substitute (inaudible), the background check is only required for the person who's actually going to take possession of the weapon. It's not every member of
the club.

If -- you know, if you go into a club --
the way I understand it is that most people take
their own guns to the club. But if somebody doesn't
have a gun or a new person that wants to show
someone else how to use a gun and they don't have --
actually, maybe the club has purchased some guns
that people can rent or borrow, I think they would
be exempted under the 72-hour, myself. But, also, I
think even if they're not exempted under the
72-hour, it's only the people who actually -- it's
only the person that's going to use the gun that
would -- would need to get a background check.

Most of your members who bring their own
guns are never going to need to lend a gun or own --
take a gun from the gun club.

COMMITTEE CHAIR REP. FIELDS: Representative
Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you,
Madame Chair.

And that is very true. The scenario in
which this creates a problem is: If a gun club buys
a gun and it's put in its gun case and then one of
the members comes to utilize -- and he brings his
own gun, but he brings someone else that needs a gun
-- and they want to utilize that gun, according to this, every -- he would have had to have had a background check before he could utilize that gun or loan it under the 72 hours to someone else.

And since you don't know which one of the other 103 are going to bring somebody and need to use that gun, they will all need to have that background check according to the language in 2.

And, Madame Chair, thank you for allowing us to -- to have a discussion on 2 as part of the discussion with 4. I appreciate being able to openly discuss this.

COMMITTEE CHAIR REP. FIELDS: Representative McCann.

REPRESENTATIVE MCCANN: Thank you.

And thank you, Representative Sonnenberg.

But to me, the way I read this is that a person who comes with someone else to the club to use the gun would come under the temporary transfer of not more than 72 hours. So I don't -- that would be the first line of defense, if you will.

And then, secondly, I think that the way this is written, it is the person who will actually possess the firearm.

So, I mean, I would argue that the
temporary transfer covers a member of the club who uses the club's gun or someone who comes with the member of the club who uses the club's gun.

COMMITTEE CHAIR REP. FIELDS: So I'd like to call for a vote, then, on L.004.

THE CLERK: Representative McCann.

REPRESENTATIVE MCCANN: No.

THE CLERK: Senator Ulibarri.

SENATOR ULIBARRI: No.

THE CLERK: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Yes.

THE CLERK: Senator Brophy.

SENATOR BROPHY: Aye.

THE CLERK: Senator Carroll.

SENATOR CARROLL: No.

THE CLERK: Madame Chair.

COMMITTEE CHAIR REP. FIELDS: No.

THE CLERK: That amendment fails, 2-4, 4-2.

COMMITTEE CHAIR REP. FIELDS: Back to Amendment L.002.

Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair.

You know, (inaudible) if we want to, as a committee, adopt any portions of what was here, we can amend it to this one before final adoption of
And people have different thoughts on different sections, and I probably agree with the Chair about strictly the scope issue on the family. I don't think on page 2 Subsection 2 is needed because I think there's actually up to four exemptions that already cover that. But I -- I -- I did wonder if you did want to have some discussion on the gift or loan or any of the other portions that were in 4 before we take action on 2?

Committee Chair Rep. Fields: Representative McCann.

Representative McCann: Well, I would make a motion -- see, I don't know how we do this. But I would like to add (inaudible) as outlined in 004, on page 5, line 13 after gift, I would like to insert or loan. I don't know if I need to make a motion to amend --

Unidentified Speaker: Yes.

Representative McCann: So I would make a motion to amend 002 to add page 5, line 13, and after gift insert or loan.

Senator Carroll: Second.

Committee Chair Rep. Fields: Seconded by Senator Carroll.
THE CLERK: Representative McCann.

REPRESENTATIVE MCCANN: Yes.

THE CLERK: Representative Ulibarri.

SENATOR ULIBARRI: Aye.

THE CLERK: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Yes.

THE CLERK: Senator Brophy.

SENATOR BROPHY: Voting for Ms. Brophy, aye.

THE CLERK: Senator Carroll.

SENATOR CARROLL: Aye.

THE CLERK: Madame Chair.

COMMITTEE CHAIR REP. FIELDS: Yes.

THE CLERK: That passes, 6-0.

COMMITTEE CHAIR REP. FIELDS: Any other adoptions to L.002?

Senator -- Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you for the demotion. I appreciate that, Madame Chair.

And I am going to go ahead and make the motion that we include Roman numeral II at the top of page 2 on 4 so I can actually get a better understanding of where you think that is already covered within the four exemptions.

And that's respectfully asked for a second.
SENATOR BROPHY:  Second.

COMMITTEE CHAIR REP. FIELDS: So it has been moved and seconded by Senator Brophy. If you'll then call -- Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair.

Sorry, I didn't mean to drag this out a little bit. But I do think (inaudible) to where specifically I think it's covered, and if you start on page 5, on there -- in fact, I'm on page 6. I believe line 3, at a shooting range located in or on the premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in firearms. That is not 72-hour limited. That covers the scenario that we were talking about in one way.

I think under subsection 2, a shooting competition, in fact, may be narrower, but in some cases that may apply.

Also, for any lawful, you know, hunting, fishing, less relevant, as long as they're, you know, doing it on lawful land or with a permit. That may be one of those youth activities. That is possibly another exemption.

If an adult is staying there, hopefully, to supervise children with firearms, then the
temporary transfer that occurs in the present may
also apply.

And then, finally, the catch-all 72 hours
would apply. And so I believe that that fact
pattern is covered by (inaudible) exemptions.

COMMITTEE CHAIR REP. FIELDS: You have a
question, Senator Brophy?

SENATOR BROPHY: Yeah. Unfortunately, it --
it doesn't quite cover it. And again here's why:
Because these -- these programs last for several
months, and part of what is so great about 4-H is you
actually make the participants responsible for the
entire project.

If it's a steer, they have to buy them, feed
them, water them, care for them. If it's a firearm,
in this case they have to be responsible for it. They
don't only use it at the shooting range, and they --
they actually are expected, then, to take it home
and -- and care for it and clean it and do all of the
things that you would normally do with a firearm.

And again, it takes, you know, it's a three-
or four-month project. And if you want the kid to,
you know, to hit 25 out of 25 at the state shooting
competition, they got to practice more than just once
a week, when the organized classes occur that are
covered under E in the bill.

So I -- I do. I think it's an unintended consequence of the bill that the kid wouldn't be allowed -- actually they're teenagers -- they wouldn't be allowed to take full responsibility and fully participate in the 4-H program without the background check.

And again, remember in -- in many, many, many of these rural communities where this is occurring, there's no store where you can walk into and get a background check.

COMMITTEE CHAIR REP. FIELDS: I believe that -- I agree with Senator Carroll that the scenario that you-all are -- are describing is covered on page 6, because it also talks about fostering proficiency in firearms. And so that doesn't necessarily mean to be at a specific area, shooting range, those kind of things. I believe it encompasses it.

Representative McCann.

REPRESENTATIVE MCCANN: No, I -- I think there might be a (inaudible) here. I mean, we don't have problems with 4-H kids shooting people. I mean, I don't think we want to cover -- I don't think we want any -- any confusion or any unintended consequence that, you know, a 4-H kid can't use
somebody else's gun. I mean, I'm -- I'm -- I'd like
to ask a question, though.

Don't most of these kids have -- their --
their parents have guns or they have their own guns?

COMMITTEE CHAIR REP. FIELDS: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: You know, I
would say probably many do. But what -- what we tried
to reach out to is youth shooting sports, if
(inaudible) that hasn't had that education at home.
Give them an opportunity because their parents aren't
interested in guns and they are interested in
shooting.

And so I would also say that many of them
don't. Many of them have never had that opportunity.
Their parents wouldn't (inaudible) the first idea on
how to help them, and that's why they become part of
the shooting course within the 4-H club.

COMMITTEE CHAIR REP. FIELDS: Senator Ulibarri.

SENATOR ULIBARRI: Thank you, Madame Chair.

I just want to say: I think that
the current exemptions do apply, and one of the
reasons why I think that the current exemptions
should remain in tact that we don't -- we don't need
a change to take place is that the exemptions that exist include a component of supervision.

So to give a, you know, 13-year-old, 14-year-old a gun for three or four weeks without
having a background check in the house or of the person supervising, I think goes against what we've said, is that we want to make sure that there's consistency under the law, that there's -- especially when folks are using firearms, that there's an understanding that there is consistency or supervision, and the person who is responsible for the supervision, whether it's a non-profit organization or the firing range, they have to go through that process, and the exemptions currently allow for that use.

To put a gun in a household for three or four months and with an adult maybe we don't know who's supervising who wouldn't pass a background check, I think, the supervision piece, as the exemptions currently exist, are important because it makes sure that there is a responsible party, 4-H, that non-profit that's already outlined in the exemption, will still have a continuing relationship or -- or supervision with the young person who's learning how to shoot, which I think is an important
To say that a person could give a gun to a 13-year-old for four weeks and put it a household where someone may not be responsible I think is concerning. So to have the supervision piece with the exemptions as they currently, I think, balances what I think is an important part of someone being -- to learn how to shoot, but still having it under a responsible party, a shooting range, a non-profit organization or other entity that can help ensure that that person knows how to use that -- that weapon responsibly.

COMMITTEE CHAIR REP. FIELDS: Senator Brophy.

SENATOR BROPHY: Senator, I'm not sure I followed. At first you started off saying you thought it was covered by the exemptions, and then you -- I think you then morphed into an argument where everybody in the household from which the 4-H shooting sport attendant comes -- should have a background check.

Could you clarify your position? Do you believe that we -- that it's already covered, that they can take it home for four months, or do you believe that we need to expand the background check
to include everybody in the household from which they come?

COMMITTEE CHAIR REP. FIELDS: Senator Ulibarri.

SENATOR ULIBARRI: Thank you.

I think the way the -- the multiple exceptions allow for someone to take possession of a weapon with supervision related to that, so we talked about at a target firearm shooting competition under the auspices of an non-profit organization, state agency.

You know, I think the pieces here speak to continual supervision. That's why I think these pieces need to stay in place.

I probably shouldn't have said anything further there, but saying that supervision is essential and that there is a responsible entity that's connected to this exemption. So I think that's an important piece for me in understanding as the law currently exists. That's why I don't think Number 2 is necessary.

COMMITTEE CHAIR REP. FIELDS: And so I think what we have on the table right now -- and it's been moved and seconded -- is if we should include Roman number II, page 2, of L.004, as a part of L.002.
SENATOR BROPHY: Thank you, Madame Chair.

So let me be clear, then. You do not think the 4-H kids should be allowed to take the shotgun home from the shooting range so that they can become responsible for it and clean it and take care of it under the -- the way 4-H has worked for -- for years? Because I think that's what you said. I think -- I'd -- I'd like to have you clarify that.

Because the supervision that exists at the shooting range is the -- is the 4-H instructor who goes back to his home after it's over, and traditionally, then, the participant, the 4-H kid, who's never once been involved in any kind of incident or accident, takes the firearm home then, away from the shooting range and away from the direct supervision of the shooting sports instructor so that they can properly care for and clean the weapon in their home environment.

So I -- I need to be clear. Either -- I don't see how it's covered in the bill. And you can show me how it's cover in the bill, that allows them to take it home for the four or five months that the program lasts, or you can make the statement that you don't think they should be allowed to take it
home?

COMMITTEE CHAIR REP. FIELDS: It's clear to me. And what I've heard the Senator say did not say he does not believe that you cannot have that young person take that firearm home. And I believe that that is the direct on page 6 of the bill, as it relates to temporary transfers, as it relates to the proficiency of firearms.

So, Ms. Shipley, I'd like to call for the vote.

SENATOR BROPHY: Madame Chair, a clarification question.

COMMITTEE CHAIR REP. FIELDS: Senator Brophy.

SENATOR BROPHY: Um, I see the -- I see the proficiency in firearms, but that's under the -- the part about where it says it's at a shooting range to foster proficiency in firearms. I still don't see how it allows that -- that participant in 4-H to take it away from the shooting range for care.

COMMITTEE CHAIR REP. FIELDS: Senator Ulibarri.

SENATOR ULIBARRI: Thank you, Madame Chair.

I think, looking at the totality of the exceptions, including the 72-hour transfer, as I
understand how 4-H works, you have weekly or
semi-frequent meetings where you meet with your
instructors and talk with folks, you're coming back
working on the skill with your -- your person more
than once a week.

And so maybe that's -- that's how I
understand that you would have continual contact
with bringing the weapon back and forth in between
the shooting competition, where you would have
someone there who could then transfer the weapon
again to you during the course of that competition,
where you could take that home for up to 72 hours
and have the ability to use it while you're at
the -- at the firing range or under the auspice of a
shooting competition, which means during the course
of those four or five months with the person
learning the skill, the totality of the exceptions
would -- would allow that person to keep and retain
that firearm, but there is a level of supervision
that I think is important.

COMMITTEE CHAIR REP. FIELDS: Senator
Brophy.

SENATOR BROPHY: Thank you, Madame Chair.
And -- and, Senator, I appreciate that.
So they could do it if they had a practice every
three days, let's say under 72 hours, and
re-establish the 72-hour rule. But the reality is,
is that 4-H shooting sports practices on Sunday
afternoon, once a week. So the 72 -- we -- we
clearly go beyond the 72-hour rule.

That's -- that's just how they do it.

They -- they don't get together once every three
days, which, on average, would be 2.1 times a week.
They get together once a week. And I really think
that it's important. Unless you just want to
cripple the shooting sports program that 4-H puts
together, I think we have to vote for Representative
Sonnenberg's motion.

COMMITTEE CHAIR REP. FIELDS: Representative
McCann.

REPRESENTATIVE MCCANN: No. I think that
we're saying it's available under other exemptions.
So why not just make it clear? I mean, I really don't
think our intention in this bill is to say we don't
want kids who are learning how to handle a gun
responsibly not to be able to take it home, if that's
the way the 4-H program works.

I was never in 4-H, but I can see the
benefit of having the kid learn how to clean and take
the gun apart so they can handle it safely. I mean, I
think that our goal here is to make sure that we're safe, our communities are safe. And, I mean, it seems to me that if it -- if we're having this much trouble figuring out if it covers or it doesn't, and some of us want to allow them to take it home and some don't, I don't see any harm personally in putting this in the bill.

I -- I don't think our intention is to say to a 4-H kid you can't take the gun home when -- I'm not aware of any problems we've had with 4-H kids using guns inappropriately, but --

COMMITTEE CHAIR REP. FIELDS: I don't want to do that, but I -- I do believe the bill is clear.

Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair.

I have two points: One a drafting point and then one kind of a conceptual point.

Let me first bring up that this exception isn't written like the others as an exemption. This is written as an exception to a definition we didn't adopt. So us this language that a transferee does not include. So the transferee language here is talking about an entity, and I don't think anyone is thinking that kids are entities.

If what -- the whole -- the discussion
we've had would make a little bit more sense to me
if it were written straight up as an exception to
just requiring a background check. But the way this
is written, it's as an exception to basically
whether or not kids are entities, which they're not
an entity. If they're a member of a club, they're
still acting in their individual capacity.

So I think even -- wherever anybody thinks
about the actual scenarios, this is drafted to be an
exception to a definition, not an exception to a
background check, like the other lists of
exceptions.

So I would just want to make that point.

And overall I -- I think it's fair to say
that, you know, to Representative McCann's point, I
don't think anyone thinks that 4-H kids are a
problem. I think we know overall that the
overwhelming majority of people, in fact, are
law-abiding people. But, this is the one way we
know any time a gun changes hands, we either do or
don't find out whether we're transferring it over
the long-term to somebody who is not prohibited
under law from checking (inaudible).

So I have sort of a narrow drafting point,
which adopting this doesn't make sense in the
context of the other exceptions, as an exception to a transferee. And because ut really was written to go with subsection 1, when the approach was how do you define a transferor, which is not what we're doing.

But the other issue is, is that, you know, somebody -- whoever the person who's getting transferred -- whoever is receiving the firearm as a point of a transfer, you know, at the end of the day, the whole purpose of the bill is to make sure we're not transferring it to someone where it's prohibited. And you will find 95 percent of these are going to places where they are perfectly allowed to transfer, and some percentage of the time where they're not.

So I guess I would just make those two points about this section. And even if you wanted to address this, I don't think you would address it with this language.

COMMITTEE CHAIR REP. FIELDS: Ms. Shipley, take a vote.

THE CLERK: Representative McCann.

REPRESENTATIVE MCCANN: Yes.

THE CLERK: Senator Ulibarri.

SENATOR ULIBARRI: No.
THE CLERK: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Yes.

THE CLERK: Senator Brophy.

SENATOR BROPHY: Aye.

THE CLERK: Senator Carroll.

MR. CARRIGAN: No.

THE CLERK: Madame Chair.

COMMITTEE CHAIR REP. FIELDS: No.

THE CLERK: That motion fails, 3 to 3.

COMMITTEE CHAIR REP. FIELDS: So back to our discussion on L.002, which it was amended to include page 5, line 13, after gift insert or loan.

Senator Brophy.

SENATOR BROPHY: Thank you, Madame Chair.

I -- I move an amendment to Amendment 2 that includes that part of 4, where it says, starting on page 7, after line 6, insert this Section 7.

UNIDENTIFIED SPEAKER: Second.

COMMITTEE CHAIR REP. FIELDS: So it has been moved and seconded by Senator Brophy (sic).

Senator McCann.

REPRESENTATIVE MCCANN: I think you ruled this is beyond the scope. Didn't you already rule that?
COMMITTEE CHAIR REP. FIELDS: Yes, it's already been ruled.

Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you, Madame Chair.

And clearly -- and although I made the argument on how I think that fits within the definition that the Senate puts in there, perhaps what needs to be done, then, is we need to dissolve this conference committee and -- and go and ask for a second conference committee that goes beyond the scope so we can actually fix these things.

COMMITTEE CHAIR REP. FIELDS: Further discussion on that?

Senator Brophy.

SENATOR BROPHY: Thank you, Madame Chair.

I think Representative Sonnenberg really hit on the important point. We sit here discussing a bill that has so far passed two chambers without a single solitarily Republican vote. It's a bill that has so far only garnered bipartisan opposition.

If, on the other hand, as a -- as a conference committee we come out of here and go to the floor of our respective chambers and ask to dissolve this conference committee and form a new
conference committee that goes beyond the scope of differences, we might just be able to craft a brand new bill that would garner bipartisan support and start acting like the traditional Colorado legislature as opposed to the dysfunctional Washington, D.C., congress.

The purpose of the bill is to make sure that we aren't transferring to people who shouldn't have firearms. I think everybody agrees with that goal. And to that end, I think what we could do is come back in a new conference committee that's going beyond the scope, put in a -- an addition to 18-12-111, a stranger-danger rule, which says that it shall be considered unlawful to sell a firearm to somebody whom you don't have a prior relationship with, and we'd do away with all of the exemptions. No more unintended consequences of who is left out and who isn't.

But instead recognize that if you know the person, then you should know whether or not they can legally purchase or possess a firearm. So that's the should-have-known clause. If you don't know them, it's the stranger-danger rule, that you ought to be more cautious, that you should have known not to sell that firearm to somebody with whom you do
not have a prior relationship.

And then we do away with all of the exemptions and all of the unintended consequences of who is left out. We pass a bill that can earn bipartisan support, the way the Colorado legislature usually works when we identify a problem.

Madame Chair, Madame Vice Chair, that's what I recommend that we do, that we go back to our body, stand side by side at the podium, and say let's (inaudible). Let's put some Colorado values back to work here, find a bipartisan solution to a problem that's been identified.

COMMITTEE CHAIR REP. FIELDS: Our Colorado values are hard at work in this committee.

Senator Carroll.

SENATOR CARROLL: Thank you, Madame Chair. I guess I have two points. I -- I would love to see a bipartisan version of this bill. I think we're gaining support for that at the federal level. We have made probably over a dozen changes to this bill, not because we had to, but because we have been reaching out, listening and responding, maybe not to a hundred percent of what's been raised, but the majority of what you see's changed on this bill on the way through is actually
listening and responding to what you've said. So we are, in fact, responding, and none of it has changed anyone's position so far to date. I would love to see a bipartisan bill.

My thought on the stranger-danger rule, and, Senator Brophy, I think that's a totally legitimate public-policy question. The problem is, is that criminals know each other. And in firearms trafficking situations, you also have gun trafficking that's going on with people who know each other. And so that's in some ways the heart of what we're actually trying to get at. And you can have two convicted felons who know each other well and thereby evade a background check. And obviously that's beyond the scope, and this isn't what we have permission to be here anyway.

But I do think it's important to note that relationships among the criminal underground, in fact, are often with each other, and -- and while may be strangers to us, they're certainly no stranger to each other.

COMMITTEE CHAIR REP. FIELDS: Ms. Shipley, let's call for the vote on L.002 as amended.

THE CLERK: Representative McCann.

REPRESENTATIVE MCCANN: Yes.
THE CLERK: Senator Ulibarri.

SENATOR ULIBARRI: (Indiscernible).

THE CLERK: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: I'm not sure.

I'm disappointed that you won't allow the discussion to continue to have the discussion.

Senator Brophy clearly wanted to make a statement. And -- and quite frankly, I'd like to make a statement as well.

The example that Senator Carroll brought up, felons are already illegal to have guns. We haven't stopped them from having guns, and background checks still around are going to stop them from having guns.

But rather than belabor the point and disrespect the Chair, it's not my intent to disrespect the Chair, I will simply vote no and save my comments for later.

THE CLERK: Senator Brophy.

SENATOR BROPHY: No.

THE CLERK: Senator Carroll.

SENATOR CARROLL: Let me make a quick comment too.

Um, I could vote no here too, and we could go back with, you know, where we were on the
differences and try and go back. Each of these things that we've adopted has come at your suggestion. So even though you didn't get everything you wanted, I think it's unfortunate that we, in good faith, heard, made changes, again at your suggestion, and yet you'll vote no on your own suggested changes.

But I am an aye vote.

THE CLERK: Madame Chair.

COMMITTEE CHAIR REP. FIELDS: Yes.

THE CLERK: So that's 4 to 2.

COMMITTEE CHAIR REP. FIELDS: We're adjourned.

(Whereupon, the recording was concluded.)
CERTIFICATE

STATE OF COLORADO )

CITY AND COUNTY OF DENVER ) ss.

I, Elissa Steen, Professional Shorthand 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; 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 5th day of August, 2013.

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