

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 Senate Meeting

4 Held on March 8, 2013

5 HOUSE BILL 13-1229

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7 REPORTER'S TRANSCRIPT

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1 P R O C E E D I N G S

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

8 THE PRESIDENT OF THE SENATE: Majority
9 Leader Carroll.

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

12 I move House Bill 1229, the State,
13 Veteran, Military Affairs Committee report, and the
14 Appropriation's Committee report.

15 THE PRESIDENT OF THE SENATE: To the
16 committee report, Senator --

17 MAJORITY LEADER CARROLL: Thank you,
18 Mr. Chair.

19 In the State, Veterans, Military Affairs
20 Committee on this, let me walk through the committee
21 report. A few changes were made there in response
22 to some points that had been raised in testimony and
23 from the public.

24 The first thing, on page 1 of the
25 committee report, if you look at it, some folks were

1 concerned about the potential for a new loophole on
2 getting around it by yet again if a criminal -- some
3 of the criminal gun traffickers could use a trust to
4 essentially do a purchase, one version of a
5 strawman, if you will, to get around it. So this is
6 just tightening that up to make sure that that
7 loophole would not be in here.

8 The second thing we do is that when a
9 member goes on the FFL, we are clarifying that it is
10 both the buyer and seller who would get a copy of
11 sort of the receipt of approval or denial for their
12 records, should they choose to keep it in addition
13 to the FFL.

14 The third thing we did is that we expanded
15 the definition of immediate family. This is in a
16 provision that is an exception to the bill, if you
17 will. Anytime anyone is transferring a firearm to a
18 family member, they obviously don't have to go
19 through a background check.

20 And this is expanding the definition of
21 immediate family beyond the original, which includes
22 nieces, nephews, aunts, uncles, and first cousins,
23 that were not in the first draft.

24 The next and probably the most significant
25 substantive changes that were made in response to

1 many examples that had been raised by people, it
2 adds to catch-all the provisions. And this will
3 make a little bit more sense when we get into the
4 content of the bill proper. But much of the prior
5 discussion and debate and testimony included coming
6 up with some hypothetical and real examples of where
7 totally appropriate, legitimate transfers may be
8 going where a background check does not make sense.

9 The first of these catch-all exceptions is
10 that a person who is basically selling or
11 transferring a firearm can do that to anyone they
12 want, really, as long as they're -- they remain in
13 the presence of the firearm. And all of these are
14 subject -- of course you can't transfer to someone
15 who's a convicted felon or otherwise prohibited.
16 But whatever that transfer is, this is one catch-all
17 scenario where the owner can remain with the gun and
18 loan it to whoever they want, as long as it's not
19 illegal.

20 And the second catch-all transfer really
21 allows you to loan outside of your presence to
22 anyone you want for up to 72 hours, as long as,
23 again, you're not handing it over to someone who is
24 a convicted criminal.

25 These are two important catch-all sections

1 that were offered because there's a variety of
2 legitimate sort of temporary-transfer situations
3 where a background situation would not make sense.

4 The next thing that we did, these are
5 really in the vein of a technical clean-up with the
6 judicial department. You will notice that it is
7 changing the clerk of the court with the state court
8 administrator because that's how the current
9 background check system works. And in the context
10 of the bill, that is where the data transfer's
11 happening. So that is making sure that we are
12 identifying the correct source of data transfer on
13 that.

14 The other thing we're doing, one of the
15 improvements that's happening in the bill, some of
16 you may have recognized one of the criticisms to
17 some of the current system can be staleness of data
18 upload and download, which can either lead to a
19 false allowance of somebody who is criminally
20 ineligible to purchase a gun being able to do so, or
21 conversely, someone who has had their rights
22 restored, is no longer prohibited, and basically a
23 false denial on that situation.

24 So this has a transfer of data within 48
25 hours of when that happens.

1 One of the smaller changes of what was
2 happening in the -- to the original section of the
3 bill, you will have noticed that there are two
4 restoration of rights sections that actually add to
5 the current due process for restoration of rights on
6 that. And within that there is a technical
7 amendment that clarifies that the appellate court
8 has discretion to receive additional information, if
9 necessary, for a review.

10 I do that walk-through because it may
11 impact -- those are substantive policy changes from
12 the original version of the bill. Those were the
13 amendments that we did in the judiciary -- or
14 judiciary committee -- in the State, Veterans,
15 Military Affairs Committee.

16 And I would ask for an aye vote on the
17 committee report.

18 THE CHAIRWOMAN: Is there any discussion
19 on the committee report?

20 Seeing none, the motion before you is to
21 accept the State, Veterans, and Military Affairs
22 Committee report.

23 All those in favor say aye.

24 All those opposed, no.

25 Committee report is adopted.

1 To Appropriation's Committee report.

2 MAJORITY LEADER CARROLL: Thank you,
3 Madame Chair.

4 I -- on the Appropriation's Committee
5 report, the appropriation's clause, you will have
6 noticed, was a contingent clause, one cash-funded,
7 one general-funded. The change that was done in
8 appropriations was front load the funding such that
9 the Colorado Bureau of Investigations could be ready
10 to come into compliance in an important way to make
11 sure that we weren't causing any kind of delays with
12 implementation or for people who are seeking a
13 background check for their purchase.

14 And I would ask for an aye on the
15 Appropriation's Committee report.

16 THE CHAIRWOMAN: Any discussion on the
17 Appropriation's Committee report?

18 You've heard the motion. All those in
19 favor say aye -- oh, I'm sorry, Senator Harvey.
20 This is on the appropriations?

21 SENATOR HARVEY: No.

22 THE CHAIRWOMAN: Okay. On the
23 Appropriation's Committee report approval?

24 So all those in favor say aye.

25 All those in opposed, no.

1 The committee report is accepted -- is
2 adopted.

3 To the bill.

4 MAJORITY LEADER CARROLL: Thank you,
5 Madame Chair.

6 THE CHAIRWOMAN: No, I'm -- I'm sorry.
7 Senator Carroll, there is an amendment on the -- on
8 the 30 -- Amendment 30.

9 Mr. Majors, could you please read the
10 Amendment 30? Sorry about that.

11 THE READING CLERK: Amendment L.030 to the
12 House Bill 1229 by Senator Carroll, amend the State
13 and Senate State, Veterans, Military Affairs
14 Committee report dated March 4, 2013, page, 2, after
15 line 4, insert --

16 THE CHAIRWOMAN: Senator Carroll.

17 MAJORITY LEADER CARROLL: Thank you,
18 Madame Chair.

19 Members, I move Amendment 30.

20 And this is a technical amendment that was
21 brought to me by the drafter. This is a grammatical
22 adjustment in light of the substantive changes we
23 had made in the others that was caught this morning.

24 I had it distributed to your desks so you
25 could see for yourself the grammatical clean-up

1 nature of the amendment.

2 And I would just ask for an aye vote on
3 Amendment 30.

4 THE CHAIRWOMAN: Is there any discussion
5 on Amendment 30?

6 Seeing none, the motion is for the
7 adoption of Amendment 30.

8 All those in favor say aye.

9 All those opposed, no.

10 The amendment is adopted.

11 There is another amendment on the desk,
12 Amendment 31.

13 Senator Harvey.

14 Mr. Majors, would you please read the
15 Amendment 31.

16 MR. MAJORS: Amendment L.031 by -- the
17 House Bill 1229 by Senator Harvey to strike the
18 Senate Appropriation's Committee reported dated
19 March 6th --

20 THE CHAIRWOMAN: Senator Harvey.

21 SENATOR HARVEY: Thank you, Madame Chair.

22 This is in -- thank you, Madame Chair. I
23 move Amendment 031, and it is in accordance with a
24 previous amendment that had been offered on this
25 floor by the chairman of the Joint Budget Committee.

1 And because of the amendments that we just
2 passed in State Affairs, where we have taken out
3 some of the transfers, and there really is no known
4 amount of transfers that is will be going on with
5 this bill, because who knows how many people will be
6 transferring between family members and -- and
7 non-family members. It's almost impossible for us
8 to know that.

9 Historically, when the total number of
10 background check requests has exceeded the Bureau's
11 ability to process them in a timely manner, the
12 Bureau was able to shift resources from elsewhere to
13 meet the temporary increase in demand without
14 requiring any additional spending or hiring
15 authority. And remember, this bill has a 2.4
16 million dollar fiscal note. I don't understand why
17 that is the case.

18 So in light of the uncertain fiscal impact
19 of requiring additional background checks on
20 firearms sales and transfers, it is the intent of
21 the General Assembly that any resulting increase in
22 the national instant criminal background check
23 program workload will be offset through regular
24 supplemental appropriations processes.

25 Therefore, the General Assembly has

1 determined that this Act can be implemented within
2 existing appropriation; and therefore, no separate
3 appropriations of state monies is necessary to carry
4 out the purpose of this act.

5 There is impact of this bill on the
6 citizens of the State of Colorado. There is no
7 impact to the citizens of the State of Colorado for
8 the state to be requiring them to do a background
9 check to transfer between husband and wife, or any
10 other way. If this is an important statewide
11 concern, we should be doing it out of the state
12 budget and doing it within a current appropriations.
13 This amendment simply says that is the way we've
14 done it in the past and that's the way we'll do it
15 in the future.

16 I'd ask for an aye vote.

17 THE CHAIRWOMAN: Any discussion on the
18 amendment?

19 Senator Carroll.

20 MAJORITY LEADER CARROLL: Thank you,
21 Madame Chair.

22 I want to thank Senator Harvey for helping
23 get the fiscal note off my bill. I really
24 appreciate that.

25 Oh, not -- some well-esteemed Senator from

1 Douglas County. So my apologies on that.

2 The reality, though, is if we could do
3 this within existing means, I think it would
4 actually be an unfair burden to gun owners
5 everywhere because it would probably take three
6 years to get your background check. That's a little
7 long.

8 And so while I do appreciate the spirit in
9 which this is offered, and I wish we could do it
10 within existing means, I would respectfully ask for
11 a no vote on this amendment.

12 THE CHAIRWOMAN: Further discussion on
13 Amendment 31?

14 Seeing none, the motion before you is to
15 adopt Amendment 31.

16 All those in favor say aye.

17 All those opposed, no.

18 And that motion fails.

19 One more. There is an amendment on the
20 desk.

21 And, Mr. Majors, would you please read
22 Amendment 33.

23 MR. MAJORS: Amendment L.033 to House Bill
24 1229 by Senator Carroll, amend the Appropriation's
25 Committee report dated March 6th --

1 THE CHAIRWOMAN: Senator Carroll. Senator
2 Carroll.

3 MAJORITY LEADER CARROLL: Oh, thank you,
4 Madame Chair.

5 Members, I move L.033.

6 This is another technical amendment.

7 There was some language that was left off on the
8 Appropriation's Committee report. I have also asked
9 that it be distributed to you so you can see the
10 language it is of what should have been included and
11 wasn't.

12 This too is a technical cleanup amendment,
13 and I would just ask for an aye vote.

14 THE CHAIRWOMAN: Any discussion on
15 Amendment 33?

16 Seeing none, the motion before us is to
17 adopt Amendment 33.

18 All those in favor say aye.

19 All those opposed, no.

20 And the amendment is adopted.

21 Senator Carroll.

22 MAJORITY LEADER CARROLL: Thank you,
23 Madame Chair.

24 Members, I'm very proud to be here today
25 to bring you House Bill 1229. I know and respect

1 how intense, obviously, the issues are around these
2 issues, and where everyone is coming from, where I
3 think we all believe we are defending deeply held
4 principles. And for that, I thank everybody for
5 participating in this.

6 I do think everyone agrees that
7 law-abiding citizens should be able to own firearms,
8 and that guns should be kept out of the hands of
9 dangerous criminals.

10 As we all know, it is currently illegal
11 for someone convicted of certain crimes to own or
12 possess a firearm. That's illegal right now under
13 state law. It's illegal under federal law.

14 How would we ever know when we buy or sell
15 a gun whether someone is a dangerous, convicted
16 felon but for a background check? There is zero
17 other way to know. We can't know unless we do a
18 background check.

19 If we don't have a meaningful background
20 check system, we are essentially giving a nod and a
21 wink to the prohibition that keeps guns out of the
22 hands of the folks who are convicted murders,
23 convicted rapists, or those convicted of domestic
24 violence. But for the background check, there is
25 zero way for us to ever enforce the state or federal

1 law prohibiting those folks, not the law-abiding
2 folks, prohibiting those folks from being able to
3 purchase or possess.

4 House Bill 1229 simply requires the exact
5 same background check before a private purchase of a
6 gun that we use when a gun is purchased from a
7 licensed dealer or a gun show.

8 Back when we were first implementing the
9 background check for licensed gun dealers and for
10 gun show folks, at that time the Internet was still
11 in its infancy. And what was maybe a rare and novel
12 mechanism for how guns, for example, on online
13 posting boards are really a modern phenomenon that
14 our prior laws really weren't drafted to contemplate
15 and keep up.

16 Why am I carrying this bill? I'm carrying
17 this bill because gun violence has become an
18 epidemic. And while 34 Americans die on average
19 every day as a result of guns, this issue hit home
20 personally for me on July 20, 2012, when 70 people
21 were shot down at the Aurora Century 16 Theater in
22 my district this summer, fatally injuring 12 people.

23 And just when I couldn't imagine how it
24 could get any worse, on December 14, 2012, 20
25 children were shot and killed, along with six adults

1 at Sandy Hook Elementary School.

2 There are 310 million guns in America, and
3 314 million people in America.

4 America still has one of the highest
5 homicide rates amongst any of the developed
6 countries, at 4.7 murders for every 100,000 people.
7 72 percent of all homicides in this country involve
8 guns. And every year, guns are responsible for
9 8,583 homicides, 19,392 suicides, and 606 accidents.

10 There are more gun deaths each year in the
11 United States than total war casualties in Iraq and
12 Afghanistan over a 12-year period of time.

13 Enough is enough. Closing the
14 private-sale loophole is a meaningful way to keep
15 guns out of the hands of dangerous people, because a
16 high percentage of killers were known to have had
17 a -- 71 percent -- had a prior arrest record,
18 42 percent a prior conviction that would have
19 triggered a denial of a gun purchase at any licensed
20 dealer, any gun show, and with passage of this bill,
21 at any private transaction.

22 These -- those folks are not the
23 law-abiding folks, and those are the folks whose
24 hands we need to keep guns out of so that everybody
25 else is free to continue to enjoy their Second

1 Amendment rights, but not those who are dangerous
2 criminals.

3 As you probably know by now, we've been
4 requiring background checks at licensed gun dealers
5 since 1993, and for purchases at gun shows in
6 Colorado, by way of ballots since 2002, making
7 effective use of FFLs.

8 This bill builds on the exact same
9 existing infrastructure to use in order to reduce
10 arms trafficking and help keep guns out of the hands
11 of convicted felons and those who are dangerously
12 mentally ill.

13 Here's what the bill does: The bill
14 closes the private sale and transfer loopholes to
15 the current laws on background checks by using the
16 exact same FFL system that we use on all other
17 background checks.

18 The bill updates the accuracy of the data
19 within the background check process to be virtually
20 near live-time transfer to better ensure that we are
21 both blocking illegal purchases to criminals but
22 also by making sure that we are not inappropriately
23 blocking purchases to law-abiding citizens.

24 The bill, as amended, provides a copy of
25 either an approval or a denial to both the buyer and

1 seller, should they wish to keep it for their
2 records. They do not have to. The official record
3 is kept, not by the government, but by the FFL, just
4 like they do in all other background checks
5 currently.

6 The bill makes exceptions for private
7 sales or transfers. And I think this is important
8 just to keep up because this has been amended. The
9 exceptions to the requirement of a background check
10 for private sales or transfers include if it's a
11 gift to a family member; if it is inherited by will
12 or estate; if it occurs in the home for need -- for
13 purpose of self-defense; for use at a shooting
14 range; at a shooting competition; if it's dropped
15 off for repair; for hunting; fishing; target
16 shooting, at any lawful location, so long as it's
17 not transferred to a convicted felon or a person who
18 is currently federally or by state law prohibited
19 from owning or possessing a firearm.

20 The bill adds enhanced due process to the
21 restoration of rights section for people who were
22 previously prohibited from purchasing guns, either
23 for criminal reasons or for serious mental health
24 reasons, who become eligible for lawful purpose.
25 This adds appellate rights and due-process rights

1 and evidentiary rights and timeliness rights for
2 law-abiding citizens, who, at one point may have
3 been denied who should, in a more expeditious and
4 fair way, get restored in their Second Amendment
5 right to purchase a firearm.

6 So why support background checks? Why
7 support closing the loophole on private
8 transactions? This measure is absolutely essential
9 if we believe, as a matter of public policy, that we
10 do need to keep guns out of the hands of convicted
11 felons and the dangerously mentally ill, yet, at the
12 same time, allow law-abiding citizens to proceed
13 with their purchases.

14 Approximately 40 percent of all guns are
15 sold in private transactions. This loophole, if
16 left unclosed, is so large so as to make it easy,
17 and, in fact, perhaps inviting, for any and every
18 convicted criminal in Colorado, who would otherwise
19 currently be prohibited from buying or owning a gun,
20 to simply skirt the laws with open flagrancy by
21 simply making their purchases privately or on online
22 sales boards.

23 For lawful, law-abiding gun owners, who
24 are seeking to sell or transfer their firearms, a
25 law-abiding gun owner has no way of knowing when

1 they, in good faith and in the good conscience, have
2 every right to sale their -- sell their firearm, but
3 that law-abiding seller has no way to know that
4 they're not selling their firearm to a convicted
5 felon, a convicted murderer, a convicted rapist, or
6 someone convicted of domestic violence, but for that
7 background check.

8 I believe this protects the law-abiding
9 seller as well as the public at large.

10 So why? 80 percent of handguns found at
11 crime scenes were acquired through private sellers.
12 Under current law as mentioned, 100 percent of all
13 criminals in Colorado could purchase guns through
14 private sellers without a background check. In
15 fact, most criminals, who know they can't pass a
16 background check, would do just that. And yet you'd
17 think, well, why would any criminal then actually go
18 through a process where they're subjected to a
19 background check? Why even do that?

20 We do have data to tell us that background
21 checks work. And while nothing is perfect, and I'll
22 be the first to concede that, this mechanism has
23 detected, even under current law, we have detected
24 and blocked sales of over 700,000 prohibited gun
25 sales that would have gone to criminal, but for the

1 background check. In 2012, Colorado alone, 5,607
2 applicants were denied because of background checks
3 revealing ineligible, criminal purchasers.

4 Why do this? We have data that tells us
5 that violent incidents go down in states that
6 require a background check for every handgun sale.
7 Thirty-eight percent fewer women are shot to death
8 by their intimate partners in states that close this
9 loophole.

10 We export fewer guns in the criminal gun
11 trafficking market when we close this loophole.
12 Data show us that after Colorado closed the gun-show
13 loophole, Colorado went from the 17th largest source
14 of guns found at crime scenes in other states down
15 to 32nd by 2009.

16 Why close this loophole? We know from
17 data that the rate of suicide with a firearm in
18 states with background checks on every gun sale is
19 in fact 49 percent lower than in states that don't
20 require it.

21 The overwhelming majority of the public,
22 including poled NRA members, support background
23 checks and closing loopholes for private sales,
24 according to three separate polls.

25 In some ways, I know all of these bills

1 and conversations are charged, but we just have to
2 have one public policy question of do we or don't we
3 believe that we need some mechanism to detect, at
4 any point of purchase or transfer, whether or not
5 we're transferring to someone who is a dangerous or
6 convicted criminal.

7 In the context of many of these bills, it
8 has been almost as important to talk about what the
9 bill does not do. The bill will not prohibit any
10 law-abiding citizen from buying or purchasing (sic)
11 any firearm of their choosing. And I think that
12 bears repeating. This bill will not prohibit a
13 single law-abiding citizen from buying or possessing
14 a firearm of their choosing. The people it
15 prohibits are people who are criminally ineligible
16 under state or federal law now.

17 The bill does not violate the Second
18 Amendment. And, in fact, background checks were
19 explicitly upheld by the Supreme Court in the case
20 of D.C. v. Heller.

21 The bill does not prohibit anyone from
22 using a firearm for self-defense. The bill does not
23 limit family members from giving weapons to other
24 family members, long-term, or loaning, or for the
25 short-term.

1 It does not prohibit hunting, target
2 practice, or competitive shooting.

3 And this is a significant point. This
4 bill does not create a registry. I do not support a
5 registry. There is no registry in this bill.

6 You may hear that this bill is
7 unenforceable, but it is enforceable. Within the
8 bill, there is both a civil and criminal remedy.
9 And failure to comply with this measure may be
10 detected or reported by a buyer, a seller, an FFL, a
11 member of law enforcement, or a whistleblower.

12 No law any of us have ever passed in our
13 history of the General Assembly, in any of our time
14 here, has ever had 100 percent compliance. And if
15 perfect, 100 percent compliance was the standard for
16 any law, I think we could easily go home and realize
17 there was no need for a single law, ever.

18 But we do have data that we know this
19 works because of what we've seen in Colorado and in
20 other states that have chosen to close these
21 loopholes. And this important loophole being closed
22 actually does reduce the number of criminals,
23 substantially, who with purchase guns.

24 You may hear that running background
25 checks on private sales somehow violates the Second

1 Amendment. It doesn't. And I read from the
2 decision, the Supreme Court decision, on the Second
3 Amendment, "like most rights, the right secured by
4 the Second Amendment is not unlimited. From
5 Blackstone through the 19th century cases,
6 commentators and courts routinely explain that the
7 right was not a right to keep and carry any weapon,
8 whatsoever, for any purpose, whatsoever. Nothing
9 in our opinion should be taken to cast doubt on a
10 longstanding prohibitions on the profession -- on
11 the possession -- of firearms by felons and the
12 mentally ill."

13 That is an explicit upholding of what we
14 are doing today in House Bill 1229, and by a
15 conservative Supreme Court justice, I might add.

16 You may hear that there are variety of ad
17 hoc situations where one would want to buy, sell, or
18 transfer a gun without a background check. We have
19 amended the bill to ensure that anyone can loan a
20 weapon to anyone they want for up to 72 hours
21 without a background check, so long as they're not
22 loaning it to a convicted felon or someone who is
23 otherwise criminally prohibited from owning or
24 possessing a gun.

25 What this bill does do is it ensures that

1 there will be a criminal background check on the
2 sale of all guns in Colorado to ensure that we do
3 allow law-abiding citizens to purchase guns of their
4 choosing, yet prevent criminals and the dangerously
5 mentally ill, from buying and possessing firearms.
6 It's actually quite simple.

7 As a member of the Aurora community that
8 has been directly and repeatedly impacted by
9 senseless gun violence, I can tell you it is time to
10 modernize Colorado's gun laws so that no one can buy
11 a gun without a basic, common-sense requirement of a
12 background check.

13 THE CHAIRWOMAN: Thank you.

14 Senator Balmer.

15 SENATOR BALMER: Thank you, Madame Chair.

16 Members, good afternoon. We each
17 represent 143,000 Coloradans. We each have in our
18 district babies, little tiny infants that are either
19 sleeping right now or crying to be changed or fed,
20 and they have no idea what we're discussing today,
21 but we will affect their lives today. We will
22 affect their rights today, from sleeping babies to
23 the oldest citizens that we have in our districts.

24 I've received many e-mails from elderly
25 people in my district, and they are just shaking

1 their heads because they moved here -- they moved to
2 a Colorado decades ago, and the Colorado that they
3 moved to would have never considered bills like the
4 bills that we are discussing today.

5 So we represent 143,000 Coloradans, and
6 each one of those Coloradans has the honor of also
7 being an American. So I think it's important that
8 we discuss this bill under the context of our U.S.
9 Constitution.

10 Now, foundational to any bill that we
11 discuss is the U.S. Constitution and our State
12 Constitution. We each took an oath on our first
13 day. We had our families here. We took pictures.
14 And we each took an oath to defend our Constitution.

15 So it's incredibly important that when we
16 discuss these bills today, and specifically this
17 bill, that we talk about the Constitution and how
18 does it affect this bill, and more importantly, how
19 does this bill infringe on our constitutional
20 rights.

21 So let's first talk about the Second
22 Amendment. Now, why do we have the Second
23 Amendment? It's very important understand that.
24 Those who don't know this are going to accidentally
25 or intentionally infringe on Second Amendment

1 rights.

2 So why do we have the Second Amendment?

3 Well, it's critical that you understand history. In
4 April, 1775, British General Thomas Gage's spies
5 alerted him that the American patriots were
6 stockpiling weapons in Concord, Massachusetts.
7 Determined to disarm the rebels, General Gage
8 ordered Major John Pitcairn, a British Major, and
9 700 British soldiers to march on Concord and seize
10 and destroy the patriot arms. That's a quote from
11 the (inaudible) order.

12 Well, a silversmith named Paul Revere rode
13 on horseback all night long to warn patriots the
14 British were coming.

15 When Major Pitcairn marched into
16 Lexington, his force came across a small and
17 determined group of militia. Pitcairn demanded that
18 the group disarm. Pitcairn said, and I quote,
19 "Disperse ye rebels, damn you. Throw down your arms
20 and disperse."

21 I apologize for swearing, I'm just quoting
22 him.

23 The militia's refusal to disarm resulted
24 in the shot heard round the world, which began the
25 Revolutionary War. In the aftermath of the battles,

1 General Gage would attempt to disarm the entire city
2 of Boston.

3 Well, as you know, our founders fought a
4 long war, not a short war, but a long Revolutionary
5 War to gain our independence. That war was not
6 fought on a faraway land, it was fought right here,
7 in the United States of America. Their homes were
8 burned. Their families were killed. And if they
9 had not succeeded, they all would have been killed.

10 So when they won the war, our founders
11 were not casual about the rights that they wanted to
12 protect as sacred. No, the founders were determined
13 to put into their Constitution certain rights that
14 had been very much infringed by the British
15 government. They wanted to make sure that the new
16 American government would not allow the infringing
17 of these sacred rights. So they debated, and they
18 debated.

19 You can read the federalist papers if you
20 wanted to read the debates. It's very interesting
21 reading. Our founders were passing a Constitution
22 that was not just for the 1700's. Our founders knew
23 that they were passing a Constitution that would
24 live many decades, many centuries into the future.
25 They thought about the future, and they said, these

1 are the rights that we're going to protect in this
2 Constitution.

3 As I've heard it said many times, well,
4 that was just passed because it was in the 1700's.
5 I think that we are selling our founders short with
6 that kind of thinking. Our founders knew by the
7 time that they were finished writing the
8 Constitution that they had written a truly unique
9 model for government, a model that has been copied
10 by every freedom-loving people in the world ever
11 since.

12 Indeed, we are blessed in this country to
13 have the best written Constitution in the history of
14 the world, the best form of government in the
15 history of the world.

16 So why did the founders protect certain
17 rights as sacred? There's two main reasons.

18 First, they wanted to protect the
19 individual American from an overreaching government,
20 from a tyrannical government. Our founders wanted
21 to put rights in the Constitution that would protect
22 individual Americans from their government.

23 Secondly, our founders wanted to put
24 rights in the Constitution to protect individual
25 Americans from an overreaching majority. How many

1 times have you heard it said, oh, well, majority
2 rules? Well, let me tell you something, majority
3 does not rule in America. We are unique. We
4 protect the rights of minorities in America. We do
5 not allow a steamrolling majority to just roll over
6 the rights of the minority in America. Isn't that
7 great that we have that in our Constitution?

8 I'm sure there's certain things that each
9 of you love the most about the rights that you have
10 as Americans, and isn't it great that those rights
11 are preserved and protected by your Constitution?

12 So I'll just give you one example.
13 There's many, many examples. The Japanese
14 internment, which happened in our state.

15 THE CHAIRWOMAN: Senator Balmer, could you
16 please stick to the bill?

17 REPRESENTATIVE BALMER: Thank you, Madame
18 Chair. I appreciate that.

19 When you talk about the Second Amendment,
20 when you talk about how important the Second
21 Amendment is, you have to think about can we or
22 should we allow the rights of a minority to be so
23 infringed?

24 Now, one thing that a lot of people have
25 misunderstood about the first ten amendments to our

1 U.S. Constitution, and we're talking about a bill in
2 this body, we've got to make sure -- we have to make
3 sure -- that it's constitutional. So let's talk
4 about that.

5 The first ten amendments are not in a
6 random order. The first ten amendments to the U.S.
7 Constitution were deliberately written by our
8 founders to be interconnected and to ride on top of
9 the foundation of the First Amendment and the Second
10 Amendment.

11 The First Amendment right to free speech
12 is built on top of the Second Amendment.

13 Do you think that they had free speech
14 rights in Nazi Germany? No, they didn't. It's also
15 because they didn't have any Second Amendment
16 rights.

17 Do they have free-speech rights in
18 Communist Russia? No, because they didn't have any
19 Second Amendment rights in Communist Russia.

20 Well, let's talk specifically about this
21 bill. This bill definitely, definitely, infringes
22 on our Second Amendment rights.

23 Now, what if we passed a bill that --
24 basically, what this bill does is, is it says, well,
25 you can have Second Amendment rights, but in certain

1 categories you can't have Second Amendment rights.
2 Is that what the Constitution says? No. The
3 Constitution says that we shall not infringe on
4 Second Amendment rights, period. There's no
5 footnote, one, two, three, four, except in these
6 categories you can infringe. No.

7 What if we passed a bill that said that
8 you can infringe -- you cannot infringe on freedom
9 of speech except for this subject you can infringe
10 on? What if we passed a bill on freedom of
11 religion, except for this religion? That's what
12 we're doing here today. We're saying that you can
13 have the right to bear arms except that we're going
14 to take it away in certain situations.

15 What if we passed a bill on the Fourth
16 Amendment that took away your right to be safe from
17 search and seizure?

18 These rights are all sacred. We must
19 protect them all. We can't just have your favorite
20 rights in the Bill of Rights. All of us are charged
21 when we take that oath to protect all the rights,
22 not just the ones that we particularly like.

23 Why is this so important? Why should we
24 take so seriously protecting these rights? Well,
25 let me tell you why. Because there's a lot of

1 people over the years that have protected these
2 rights. They haven't just protected these rights
3 with their words, they've protected their rights --
4 these rights -- with their lives.

5 There were men and women during the
6 American Revolution that fought for our country
7 because they wanted to see a Second Amendment right
8 in the U.S. Constitution. There were men and women
9 who fought during the War Between the States to
10 protect Second Amendment rights.

11 Interestingly, while we're on the war
12 between the states, it's interesting to notice that
13 General Grant allowed the -- right after the
14 surrender -- of course there's a lot of people in
15 this South that don't acknowledge they surrendered,
16 but anyway that is an aside -- General Grant allowed
17 a lot of Confederate troops to return home with
18 their weapons. Why? Well, because it never even
19 occurred to the commanding general of the U.S. Army
20 that he would take away the Confederate's right to
21 bear arms. Now, he'd just been fighting them for
22 four and a half years, but he let them have their
23 weapons, because everyone in America knew that that
24 was a sacred right.

25 Let me read you about one particular

1 American who sacrificed greatly to protect these
2 sacred rights. This is a letter you've probably
3 heard before, but it's -- it's just worth reading.
4 It's -- it's poetic. This is a letter from Abraham
5 Lincoln. It's written on November 21, 1864 to
6 Ms. Bixby in Boston, Massachusetts.

7 It reads: "Dear Madame. I have been
8 shown in the files of the war department a
9 statement of the Adjutant General of Massachusetts
10 that you are the mother of five sons who have died
11 gloriously on the field of battle.

12 "I feel how weak and fruitless must be
13 any words of mine which should attempt to beguile
14 you from the grief of a loss so overwhelming. I
15 cannot refrain from tendering you the consolation
16 that may be found in the thanks of a Republic they
17 died to save.

18 "I pray that our Heavenly Father may
19 assuage the anguish of your bereavement and leave
20 only the cherished memory of the loved and lost,
21 and the solemn pride that must be yours to have
22 laid so costly a sacrifice upon the alter of
23 freedom.

24 "Yours, very sincerely and respectfully.
25 Abraham Lincoln."

1 There were many Americans who fought
2 gloriously and bravely to defend these sacred rights
3 in World War I. There were many Americans who
4 fought courageously to protect these rights in World
5 War II. There are many souls at the bottom of the
6 harbor in Pearl Harbor.

7 I had last year the opportunity to go to
8 the American Sector Battlefield Cemetery in
9 Normandy, France. It's actually a part of the
10 United States. The French government actually gave
11 the land where our American cemetery is to the
12 United States of America.

13 If you walk down the rows of American
14 graves in Normandy, it will fill up your heart, and
15 you will understand, once again, how important it is
16 that we protect these precious rights that our
17 founders made.

18 There's many people that gave their life
19 in World War II, Korea, Vietnam.

20 If you ever have an opportunity to thank a
21 Vietnam veteran, I hope you'll take it, because they
22 didn't get thanked enough when they came home.

23 There's more than 3,000 people that burned
24 to death in the Twin Towers. Not their choice, but
25 that's where they were.

1 And one of my friends in Afghanistan, who
2 I was in the bible study with, died. His son has
3 his father's flag in a triangle-shaped shadow box.
4 His father believed deeply in the Second Amendment.
5 His father believed deeply in the freedoms that we
6 hold sacred in America.

7 Let me tell you how great America is.
8 This -- his son who was a little boy when his dad
9 was shot in Afghanistan, the son is now starting
10 college, and he's in Army R.O.T.C. And from
11 generation to generation, to generation, we have the
12 noble duty to protect these rights.

13 So I just wanted to talk about the Second
14 Amendment today because I feel like we get so much
15 into the weeds that we forget what these bills are
16 actually doing.

17 Madame Chair, I ask for a no vote. Thank
18 you.

19 THE CHAIRWOMAN: Thank you.

20 Senator Harvey.

21 SENATOR HARVEY: Thank you, Madame Chair.

22 And thank you, Senator Balmer, for giving
23 us a history lesson on why America is great and why
24 America is free.

25 You talked about how we have it to defend

1 ourselves against a tyrannical government, that
2 being the Second Amendment, but we also have it to
3 defend ourselves and our family from evil.

4 And no government has the authority to
5 take away somebody's inalienable right to defend
6 themselves and their family. No government has the
7 right to say we will disarm you and tell you that
8 you have to be helpless. That is what this debate
9 all day long will be about. What is the role of
10 government when it comes to the right of
11 self-defense?

12 You all received an e-mail from a young
13 lady who most of us have forgotten about. Most of
14 us were kids when her story was on the front page of
15 every paper in the country. I read that e-mail, and
16 I asked her to come testify in committee on Monday
17 as one of my, quote/unquote, expert witnesses. Many
18 of you weren't in that -- many of you weren't in
19 that chamber in that committee room when Krista
20 Ceresa gave her testimony. Do you know the name?
21 Do you remember her story?

22 Let me read her testimony: "My name is
23 Krista Ceresa. I grew up and currently reside in
24 District 29 and am represented by Senator Morgan
25 Carroll.

1 "I am here today on behalf of my family,
2 as well as a large number of people from my
3 community who are so familiar with the tragedy I'm
4 going to share with you today.

5 "The last man executed in the State of
6 Colorado was the man who killed my mom.

7 "July 21, 1986, Gary Davis kidnapped,
8 raped, and murdered my mom -- my mother, Genie May.
9 Gary Davis had a history of predatory sexual
10 behavior, raping 15 woman, and convicted -- and
11 convictions of grand larceny, burglary, menacing,
12 and jailed on sexual assault in Colorado.

13 "Four years prior to my mother's murder,
14 a man who should have never been released from
15 prison was released early.

16 "In 1985 my mother met Gary Davis and his
17 wife Becky at church. He stalked my mother until
18 killing her one year later. He was a criminal, and
19 it was against the law for him to have a gun. He
20 had no respect for my mother, my family, and he
21 certainly had no respect for the law.

22 "If I had to do it over again, this is
23 often a phrase we throw around when reflecting on
24 how we could have done things differently, whether
25 it relates to our careers or maybe raising our

1 children. I was speaking with my dad. He said to
2 me, 'If I had to do it over again, I would have
3 made sure your mother had a gun. If she could have
4 had a chance to protect herself and you kids.

5 "In this case -- in this case we were
6 talking about saving someone's life and keeping a
7 family in tact.

8 "I know my father struggles daily with
9 the fact that he was unable to protect my mother on
10 that day. The reality is these sick individuals
11 prey on those who are considered least likely to be
12 able to protect themselves, woman and children, in
13 places we falsely label as safe zones, gun-free
14 zones.

15 "If my mother had been armed with a gun,
16 my story might be much different. She was
17 approached by two assailants that day."

18 Listen to this, members.

19 "She was approached by two assailants
20 that day, not just one. She was outnumbered.

21 "If any of you are parents, maybe you can
22 imagine what might have went through her mind as
23 the lives of her two young children would now be
24 forever changed because of the premeditated acts of
25 this -- of these sick individuals.

1 "I am a mother now, and I think back
2 daily on that terrible moment when I saw Gary Davis
3 physically force my mom from our front yard as I
4 was held -- as I was held by his wife on the front
5 steps of our country home. I will never forget the
6 last time -- the last time I saw my mom. I was
7 four years old."

8 And she was held by this man's wife as
9 he -- as he threw her mother into a truck.

10 "My efforts must be focused now on my
11 children and what I can do to ensure that their
12 lives, that their last memories of their mother are
13 never the same as what I have of mine.

14 "As a concealed-carry permit holder, I
15 exercise my right to carry daily. As carrying a
16 firearm may seem unnecessary, those who know my
17 story understand the heartbreaking reality that
18 evil, evil can approach without warning. It is
19 because of the Second Amendment that I do not have
20 to worry about what others think is necessary or
21 unnecessary as it relates to the protection of my
22 family and myself.

23 "I am thankful for that right and choose
24 to exercise that right quietly and carefully,
25 whether I am at church or visiting my cousin for

1 lunch at the college campus at UNC, where she
2 works.

3 "She too is a mother and legally
4 exercises her right to carry. We know better than
5 anyone that the moment we are unprepared might be a
6 moment we live or may not live to regret.

7 "I have seen firsthand how quickly a
8 situation like this can occur, and as many of our
9 law enforcement officers are outstanding public
10 servants, there simply may not be enough time. I
11 understand more than most, my protection is
12 ultimately my responsibility.

13 "So as I ask you to consider the
14 consequences of imposing more regulations upon
15 law-abiding citizens, please remember whom these
16 laws will really restrict. How, by diluting these
17 rights, my rights, you will only make people like
18 myself, a daughter, a wife, a mother, an easy
19 target.

20 "These regulations will not affect those
21 whose intent is to ultimately break the law by
22 obtaining a gun, not getting a background check.
23 Statistics have shown that many of these people
24 committing these heinous crimes had illegally
25 obtained a gun in the first place. Stricter gun

1 control will not stop another sick-minded Gary
2 Davis from killing somebody else's mother. In
3 fact, if you pass these regulations, it is more
4 likely that you will ensure that it will happen
5 again.

6 "My stance, along with my entire family,
7 is to oppose any measures for gun control. And we
8 will oppose any lawmaker who authors or votes in
9 favor of any legislation that infringes on the
10 Second Amendment and my right to self-protection.

11 "The government was never intended to
12 regulate my needs as it relates to protecting
13 myself.

14 "We follow the law, and have every right
15 to protect our family from danger with the highest
16 measure of security we see fit.

17 "I am standing before you today having
18 just shared a story I have never spoken publicly
19 about."

20 Never, until Monday, when she came into
21 the State Affairs Committee to tell her story. She
22 has never spoken publicly since she was four years
23 old. Her dad has never spoken publicly since she
24 was four years old. Her brother, who is three years
25 older than she is, has never spoken publicly since

1 she was four years old, until she walked through the
2 doors of that committee room upstairs to tell you
3 this story.

4 "This is because I have never felt more
5 passionate for a cause as I do about this and
6 understand first hand the consequences this
7 legislation presents. These restrictions will only
8 make my world less safe, leaving law-abiding
9 citizens out-gunned by criminals who have no
10 respect for the law.

11 "I'm speaking out today because you have
12 to be out of your mind to believe someone with a
13 plan to kill will not get their hands on a gun,
14 that any measure to put restrictions on the Second
15 Amendment will keep firearms of any capacity out of
16 the hands of criminals, nor will it influence where
17 they will choose to use them. And I certainly know
18 that these measures will not take away the
19 malicious intent of those with evil in their
20 hearts.

21 "Thank you for hearing me today. I pray
22 that God guides you as you cast your very powerful
23 vote on this dangerous piece of legislation."

24 She finishes with a quote from Thomas
25 Jefferson:

1 "No free man shall ever be debarred the
2 use of arms. The strongest reason for the people
3 to retain the right to keep and bear arms is at a
4 last resort to protect themselves against tyranny
5 of government."

6 Members, thank you for listening to that.
7 I think that's what we are talking about on all of
8 these bills that we have coming before us. How
9 profound is it that this family chose to go public
10 about their horrific story to tell you how important
11 this is for them and their family?

12 I wrote them -- I wrote Krista and asked
13 her to be here today.

14 She said, "Senator Harvey, I would love
15 to be your guest on Friday. I have already
16 arranged for a sitter. The irony of all of this, I
17 can only think how nervous I will be walking alone
18 from my car to the capital, knowing that I'll have
19 to leave my .38 in the car, or, according to your
20 Senate colleagues, my false sense of security.

21 "I am so glad you felt it was worth --
22 was worth it. I just wish I could make everyone
23 who questions my position understand my reality
24 without -- without experiencing my tragedy.
25 Impossible. So I will -- so I will continue to

1 carry around my false sense of security while
2 people, your colleagues, carry around their false
3 sense of reality."

4 She took me up on my offer. She's in the
5 chamber today. Thank you, Krista, for being here.

6 Vote no on this bill.

7 THE CHAIRWOMAN: Senator King.

8 SENATOR KING: Thank you, Madame Chair.

9 Well, the Bloomberg dysfunctional hit
10 parade just keeps coming.

11 Let's talk about self-defense. Let's talk
12 about personal safety. Let's talk about one
13 exception which covers a temporary transfer to a
14 person faced with imminent death or bodily harm. It
15 has to be in the transferee's home.

16 So if my neighbor, whom I've known for 30
17 years, comes to my home to borrow a gun because a
18 criminal has just broken into hers, I can't give her
19 that gun in my house. I have to go back to her
20 house before I can hand her the gun.

21 If someone is getting calls from a stalker
22 but the stalker's not shown up at that person's
23 home, I can't loan the targeted victim a gun. That
24 would be a crime under this bill. The reason is
25 that that transfer to a person being threatened by

1 criminals are allowed only when the threat is so
2 imminent that the victim would be justified in
3 shooting the threatening person at that very
4 instant.

5 Another exception is for temporary
6 transfer of possession is permitted at a shooting
7 range of specific charter: at a target, firearms
8 shooting is completed, it is under the auspices of
9 the state agency or non-profit organization while
10 hunting or fishing under those prescribed terms.

11 Another exception allows a temporary
12 transfer up to 72 hours. This is a good exception,
13 but it's flawed. The transfer -- the transfer or --
14 is justly and severely liable for anyone who is
15 injured by the use of that transferred gun.

16 Notably, liability is for use. Liability
17 is for use, not unlawful use. So if I loan my gun
18 to my brother-in-law and he's going to take it out
19 hunting, and my brother-in-law is attacked by a
20 violent criminal, and my brother-in-law, in
21 defending himself and his life, shoots the criminal
22 in self-defense, ladies and gentlemen, that criminal
23 can sue me.

24 This is a day of dysfunctionallism.

25 THE CHAIRWOMAN: Senator Baumgardner.

1 SENATOR BAUMGARDNER: Thank you, Madame
2 Chair.

3 Thank you, members.

4 Heard a lot of talk this morning. Let's
5 go back about an hour. Let's talk about law-abiding
6 citizens. That, in itself, is a statement,
7 law-abiding citizens, which means law-abiding
8 citizens play by the rules. And I think that every
9 law-abiding citizen that is in the State of Colorado
10 does play by the rules.

11 What makes us think that if we pass this
12 piece of legislation it's going to stop criminals
13 from getting guns? There's nothing that will ever
14 stop someone that is mean, someone that is a
15 criminal, from getting a weapon to carry out
16 whatever they want to carry out.

17 We heard about closing loopholes. I've
18 been to gun shows. I've been to gun shops. You
19 have to apply, you have to pass a background check
20 to receive a firearm from these places.

21 Does the criminal go in and say, hey, I
22 want to buy in a .357 magnum right there and, oh, by
23 the way, I want to fill out this background check?
24 Most generally, you won't find -- well, probably 100
25 percent of the time you won't find a criminal in a

1 gun shop or at a gun show buying a piece of --
2 buying a handgun or buying a rifle or whatever,
3 because they know they have to pass a background
4 check.

5 The loophole. Again, we've heard from all
6 of our constituents, and a lot of people seem to
7 think that to close this loophole, especially on
8 private sales, is to just make sure that it's known
9 who owns a gun, who's got the gun, where the gun is,
10 to where, not only in this state, but all over this
11 nation, there's a national directory on who owns a
12 gun.

13 The Constitution says we have the right to
14 keep and bear arms. Can you imagine when we went to
15 war, when these guys left their homes in defense of
16 this country, in defense of the tyranny that we had
17 when England was over us, that they'd say, you know,
18 we'd like for you to take that gun and go over there
19 and fight, but we have to check you out to make sure
20 that you didn't steal something or you didn't do
21 something. Law-abiding citizens goes through the
22 process.

23 The Constitution gives us that right to
24 keep and bear arms, and it also says those rights
25 will not be infringed. This bill infringes those

1 rights.

2 When a licensed firearm dealer elects to
3 pursue the business of selling new and used
4 firearms, he or she does so under the constraints
5 already in place under the provisions of federal
6 law. He or she agrees to abide by that law, in the
7 place, at the time, and any subsequent laws that may
8 be related to the licensed business.

9 Now, private individuals, private
10 individuals own and possess firearms under the
11 provisions of the U.S. Constitution, which, to my
12 understanding, usurping federal, state, or local
13 law, because those firearms, possessed under the
14 provisions of the United States Constitution, are
15 not registered or otherwise tagged by a private or
16 governmental agency or entity, the availability to
17 enforce firearm background legislation that attempts
18 to control the transfer of ownership of private
19 sales, is impossible.

20 The bill defines transfers very broadly.
21 It includes temporary changes in possession that has
22 nothing to do with ownership. We're talking about
23 swapping arms, giving somebody a firearm. You know,
24 one of the problems I see, you know, we talk about
25 72 hours here so -- and this may have already been

1 spoken about, and if it is, I apologize to make you
2 sit through it again -- but if I leave town and I
3 give my firearms to one of my esteemed colleagues
4 and say I'm going to be back in four days, if he
5 doesn't clear a background check, he's a criminal.

6 It becomes a Class 1 misdemeanor for any
7 person to accept even a temporary loan of a gun,
8 except in very limited exemptions.

9 Even if the actual sentence for this
10 misdemeanor is 60-day probation and a \$50 fine, the
11 fact that the potential punishment of this crime is
12 more than a year in jail, means that violating this
13 definition of a temporary transfer, even once, will
14 lead to the loss of the ability to legally own a gun
15 under federal law. That's what this bill does. We
16 talked -- we keep talking about, we're just trying
17 to get in line with -- with the federal law.

18 This bill, as written, could lead to gun
19 confiscations in Colorado in various circumstances.
20 In Denver, in a traffic stop, the police can
21 confiscate a gun if the person possessing legal
22 ownership of the gun cannot prove to that officer
23 that the gun belongs to them.

24 How's the officer to know, unless he's got
25 a gun registration that I bought this gun, this is

1 when I bought it, here's the paperwork, it is my
2 gun.

3 When a driver's stopped by police, you
4 know, on a traffic infraction, any infraction, and
5 he can't show a vehicle registration to prove
6 ownership, that officer may decide he has probable
7 cause to impound that vehicle. Are we moving
8 towards the same thing with guns that law-abiding
9 citizens own, have the right to possess, that our
10 Constitution says you have that right? And just
11 because I can't prove it, I lose that right.

12 There's none of us in here that wants guns
13 in the hands of criminals. There's none of us in
14 here that wants hands -- or guns in the hands of
15 people that are mentally ill, but doing a national
16 background check on every citizen, law-abiding
17 citizen, on any type of firearm transfer, especially
18 on private transfers, is just unconscionable, that
19 we, as one of the senators spoke earlier, we all
20 stood down here, we raised our right hand and we
21 swore an oath to uphold the Constitution of the
22 United States and the Constitution of the State of
23 Colorado. The Constitution I swore an oath to tells
24 me that I have the right to keep and bear arms
25 without a universal background check.

1 THE CHAIRWOMAN: Thank you.

2 There is an amendment on the desk.

3 Mr. Majors, would you please read Amendment 34?

4 MR. MAJORS: Amend L.034 to House Bill
5 1229 by Senator Carroll, amend the --

6 THE CHAIRWOMAN: Thank you.

7 Senator Carroll.

8 MAJORITY LEADER CARROLL: Thank you,
9 Madame Chair.

10 I move Amendment L.034.

11 Members, to a point raised earlier by a
12 colleague, maybe the easiest way to look at this is
13 on page 2 of the State, Veterans, and Military
14 Affairs report. Amendment 34 inserts the word
15 unlawful before the word use of firearm.

16 And to put this into context, this is one
17 of the two catch-all provisions that says you can
18 loan any firearm to anyone you want for up to 72
19 hours without a background check, as long as they're
20 not a convicted felon or prohibited.

21 But the point was also made that as far as
22 being responsible for the subsequent use, what this
23 amendment does, is it adds the word for the
24 subsequent unlawful use. One word, I think an
25 important word, raised by a colleague, which is

1 consistent -- more consistent, actually, with my
2 intent of the bill.

3 So I would just ask for an aye vote on
4 Amendment 34.

5 THE CHAIRWOMAN: A discussion on Amendment
6 34?

7 The motion is -- yes, I'm sorry, Senator
8 Brophy.

9 SENATOR BROPHY: Thank you, Madame Chair.

10 And -- and this amendment will be an
11 important improvement to the bill, but it still
12 doesn't solve all of the problems with regard to
13 assuming liability for things that happened that are
14 completely beyond your control. And we're going to
15 discuss another bill today that deals with that
16 extensively also. But that -- that still remains in
17 this bill, you're -- you can be held liable for
18 things that are completely beyond your control.

19 We don't do that very often in very many
20 areas. This is -- this is -- this is a huge step to
21 place you in a position where you're responsible for
22 things that happen that are clearly, way beyond your
23 control.

24 THE CHAIRWOMAN: Senator Carroll.

25 MAJORITY LEADER CARROLL: Thank you,

1 Madame Chair.

2 And just to be clear, it's joint and
3 several liability, it's not strict liability. So if
4 anything's out of your control, it's not strict
5 liability, you wouldn't be held liable. It's the
6 ordinary negligence standard.

7 And I would just ask for an aye vote as
8 far as clarifying the use of the word unlawful.

9 THE CHAIRWOMAN: Thank you.

10 The motion before us is to adopt Amendment
11 34.

12 All those in favor say aye.

13 All those opposed, no.

14 And that amendment is adopted.

15 Next, we have Senator Scheffel.

16 SENATOR SCHEFFEL: Thank you, Madame
17 Chair.

18 Members, if we go back and just recall
19 ever so slightly the events of Monday, when these
20 were heard in committee. I remember being on the
21 way down here and received a phone call, a friend of
22 a gentleman that I did not know. I believe his name
23 was Rick.

24 And he indicated -- asked me -- indicated
25 he was going to come down here and testify. He was

1 concerned in particular about the package of bills,
2 but in particular this bill. And I gave him the
3 outline of the procedures and how to come down here
4 and warned him about the parking, whatnot, and then
5 I was able to bump into him when he was actually
6 down here. He left before he could testify.

7 He had tried to attempt to circumvent the
8 process that day, and suffice it to say, and we all
9 know that this place was very, very busy, very
10 crowded, and unfortunately a lot of folks could not
11 testify.

12 To this particular gentleman, I apologized
13 on behalf of the process and the fact that it had
14 turned unfortunately against his ability to speak
15 that day, and I said as best as I can do, I will
16 speak for you, given the opportunity. And so,
17 relevant to this particular bill, I'd like to -- to
18 read into the record Rick's words.

19 Concerning the requirement -- and relevant
20 to the discussion, I appreciate the sponsor's
21 amendment, and it maybe addresses some of things
22 here, and we can --

23 THE CHAIRWOMAN: Senator Scheffel, could I
24 ask you -- I just want to confirm: This is
25 testimony on this particular bill that was supposed

1 to be read?

2 SENATOR SCHEFFEL: It is, Madame Chair.

3 THE CHAIRWOMAN: Okay. Thank you.

4 SENATOR SCHEFFEL: He indicated that
5 concerning the requirement that loans of firearms
6 must go through a background check, the bottom line
7 is that such a requirement would be complicated,
8 impractical, and unenforceable. My hope is that
9 once your colleagues understand what would be
10 involved that they will drop this idea.

11 He writes: "I'm a certified instructor.
12 I mostly teach woman and young adults, especially
13 young adults belonging to a chartered national
14 organization. Except for very few certain
15 circumstances, I do all of this training at my
16 expense.

17 "When I work with women, I take them to
18 various shops to see different firearms. I do this
19 so that they might learn about them, about their
20 differences, and to find one that would suit them.
21 This process prevents people from buying a firearm
22 that they don't really need, which will end up
23 stuck in a drawer somewhere.

24 "As part of this educational process, I
25 take them to the range so they can try some

1 different types of firearms. And as I don't own
2 all the different models and types I might use for
3 this purpose, I have to borrow them. I generally
4 have to get two or three friends involved, so no
5 single one of my friends owns all the types I might
6 want to demonstrate. Right now, they loan them to
7 me, and then I go to the range with the person I'm
8 instructing, and then I return them to the owners
9 afterward.

10 "If I'm teaching my youth group, I use
11 simple .22 rifles, however, I don't own enough to
12 cover my needs for even a small group, so I have to
13 involve several friends there as well.

14 "However, if this proposed requirement
15 for transfers on loans between friends and families
16 become law, the whole process would grind to a
17 halt, at least for me. I would have to have each
18 of my friends accompany me to an FFL holder. I
19 would then fill out the federal form and transfer
20 the FFL, run a background check. I have to do all
21 that with every firearm from every friend. And I
22 have to pay the fee for the FFL holder charges at
23 the time. And if the state passes its own fee, I
24 would also have to pay that.

25 "After that, the firearms are technically

1 mine and not the property of the owner, as they
2 have been transferred to me. Add to that, the time
3 I it takes more me to wait for the background check
4 to clear, depending on how much the CBI is backed
5 up, and the process becomes even worse.

6 "Then I go to the training. Hopefully,
7 handling a firearm to -- handing a firearm to
8 someone in the range is not a transfer. And once
9 the training is finished, I have to drag each of my
10 friend's back, fill out the forms again and go
11 through the CBI background check again with the
12 accompanies fees and wait times. Only then, could
13 they take possession of their firearms as I return
14 them.

15 "Note that there is no such thing that
16 I'm aware of, of any sort of batch processing, if
17 that's what anyone thinks happens in this
18 circumstance. Each firearm requires its own
19 paperwork, and each firearm requires a separate
20 background check. Each check requires time in the
21 CBI system and separates the fees.

22 "All of this to serve no useful purpose.
23 It clogs the CBI system, and it's a monetary
24 hardship on people like me who teach for free. It
25 would keep my friends from participating in

1 responsible training. In fact, the whole idea is
2 ultimately counterproductive to government's goals,
3 because it hinders safe firearms education and
4 could actually put more firearms into the hands of
5 the public. I would have to buy firearms I don't
6 really need in order to give this training, or some
7 people would buy firearms they don't really need or
8 that they couldn't use properly.

9 "Some of the young people I've taught
10 over the years were headed into the military. I
11 taught them shooting fundamentals that helped them
12 master the necessary military skills. I know this
13 from my own experience. I learned to shoot with
14 the Boy Scouts, then shot expert for the military
15 police training during the Vietnam era, even though
16 I had no prior experience with the military
17 firearms.

18 "You say you don't want inexperienced
19 people to own firearms, but when training is made
20 this difficult, that's what you'll get.

21 "The requirement is time consuming,
22 expensive, we don't know what the state wants to
23 charge yet, and it's obnoxious. I guarantee most
24 shooters will just ignore it, as it is, frankly,
25 unenforceable. I would hope that elected officials

1 would not knowingly put an unenforceable law in the
2 books. That would be irresponsible, and
3 ultimately, such actions undermine the rule of
4 law."

5 Rick, I appreciate you taking the time to
6 get in touch with me. I enjoyed meeting you. And I
7 hope in some small way this makes up for your
8 failure to be able to testify the day these were
9 heard. People are listening now, as I've related
10 this. Your arguments resonate with me.

11 And, for that reason, I will be a no vote
12 on this bill.

13 THE CHAIRWOMAN: Thank you.

14 Senator Brophy.

15 SENATOR BROPHY: Thank you, Madame Chair.

16 Colleagues, I'm going to ask obviously for
17 a no vote on this bill. It is interesting in that
18 it will yield absurd results. It is absolutely
19 unnecessary, will not improve state of the one iota,
20 and will ultimately lead us down a dangerous path
21 that I think we ought not start our way down.

22 I appreciate some of the other stories
23 that we heard about the absurdity of this, the
24 notion that you would have to go and get a
25 background check every time you borrow a few

1 firearms from some friends to take other friends to
2 the shooting range so that everybody would have, you
3 know, an assortment of firearms to experiment with
4 so they could figure out what it is that they like,
5 what suits them, what becomes the best firearm that
6 they can use for their own personal safety.

7 And I guess these stories of absurdity
8 shouldn't shock anybody in here, when the real
9 proponents of the bill appear not to reside in the
10 State of Colorado and have Colorado values.

11 If you lived here in Colorado, you might
12 know a little about our Colorado values.

13 I -- I commend to the story that Curtis
14 Lee wrote in the Denver Post last Sunday, a fabulous
15 story talking about the rural culture, which
16 encompasses almost all of the area that most of you
17 folks are unfamiliar with, with the population
18 growth here on the Front Range. Only four of us, I
19 think, represent the -- the rural edges of the State
20 of Colorado at this day.

21 Another story of absurdity under this bill
22 -- and again, I wouldn't expect folks from New York
23 to understand this, but when you go elk hunting in
24 the state of Colorado, which is a great past time of
25 mine, especially as a youth, and members of my

1 family and extended family, my neighbors, and
2 friends all engage in this activity. It's a --
3 it's -- it truly was always the highlight of my
4 Fall, since I wasn't big enough to play football.
5 You go for a week.

6 Now, a lot of our friends, distant
7 cousins, neighbors, will take their kids hunting for
8 the first time, and maybe they haven't -- haven't
9 gotten around to purchasing the first hunting rifle
10 for that -- for that new hunter, and they want to
11 come to me and -- and borrow one of mine.

12 Under this bill, we either have to make an
13 appointment with one of the two FFL dealers that I
14 know in -- in my hometown. They don't have
15 storefronts. You have to make an appointment with
16 them, go down and pay for all the background checks,
17 just to loan a hunting rifle to a person who you've
18 known maybe your whole life. You probably know he
19 has a .22 rifle because almost everybody does out
20 there. So I know he understands firearms.

21 He can -- he can have a firearm, but I
22 have to get a background check on him, or both of us
23 go to jail for 18 months because it exceeds the
24 arbitrary 72-hour period placed upon the loaning of
25 a firearm to somebody established in the Judiciary

1 Committee.

2 I think, and you may hear from everybody
3 on my side of the aisle, another story of absurdity.
4 Hopefully, that one will do it, because I just think
5 that is absolutely ludicrous.

6 I say it's unnecessary, because if you
7 look at the existing statute, it's 18-12-111. It
8 says that it is unlawful to purchase a firearm for
9 or transfer a firearm to someone who you know or
10 reasonably should know cannot legally possess the
11 firearm. That's what it says, 18-12-111.

12 Now, what does that mean? Well, if you
13 know they can't own -- own or possess the firearm,
14 you got that. But what -- what does reasonably
15 should know? Well, the case law is fairly clear on
16 that. Florida courts, for instance, have construed
17 this standard to require proof that quote, the
18 circumstances of the transaction were sufficiently
19 suspicious to put a person of ordinary intelligence
20 and caution on inquiry.

21 So if somebody is insisting to buy a
22 firearm from you and you don't know them, it's not a
23 neighbor that you've gone forever, which, by the way
24 would -- is not allowed under this bill, so
25 neighbors that I've known forever, I can't sell them

1 a firearm privately, it has to be a public
2 transaction, loss of privacy. But someone you don't
3 know, you can and you probably should, ask them to
4 do a background check. And if they say, yes, no
5 problem. If they say, no, hum? Why? Would that
6 put a reasonable person on caution? I think so.
7 And I think for that reason the bill is absolutely
8 unnecessary.

9 And as the county sheriffs tell us, it's
10 absolutely unenforceable because there's no way to
11 know if the firearm that anybody has, has ever --
12 was purchased or obtained with a background check.
13 There is no way to know, and that's part of why this
14 bill is so dangerous.

15 I also said that the bill won't improve
16 safety at all. And how do I know that? Well, the
17 National Institutes of Justice tells us that. Eric
18 Holder's Department of Justice did a study on
19 various gun control proposals, and they studied
20 specifically universal background checks.

21 And to really understand this study,
22 you -- you probably ought to look at the history of
23 crime associated with firearms and how those
24 firearms were attained -- obtained, and you should
25 note then that half of them are obtained through

1 straw purchase.

2 Now, a straw purchase is when you use a
3 friend who can legally possess and purchase a
4 firearm to go and obtain that firearm on your
5 behalf. It's illegal, but half of the firearms
6 currently used in crimes are obtained through this
7 manner, a quarter are stolen, but 20 percent truly
8 were purchased from a private seller. So this bill
9 would be dealing with that 20 percent.

10 And then you say, okay, well, what if
11 then -- if we stop that 20 percent, it would
12 probably be worth it, wouldn't it? And the answer
13 is, yes, if we stopped that 20 percent, but we
14 won't. We won't come anywhere near stopping that 20
15 percent, because if you read a little bit further in
16 the National Institute of Justice study, what you
17 will find is they say -- and this is, again, from
18 Eric Holder's Department of Justice -- looking at
19 this proposal, they said it will have no affect
20 because it will just force criminals to use other
21 methods to obtain their firearms.

22 So you won't really get at that 20
23 percent, you will just force those people who want
24 firearms into other avenues, more straw purchases,
25 more stolen weapons, creating more crime. All that,

1 all that, no improvement on safety, merely imposing
2 upon law-abiding citizens a pretty significant
3 inconvenience, coupled with other bills, a fairly
4 expensive inconvenience, and taking away from the
5 citizens of Colorado, the law-abiding citizens of
6 Colorado, the opportunity to engage in a private
7 transaction because some of us actually believe it's
8 smart to own a handful of firearms for which there
9 is no government record.

10 And I'll tell you the bill is dangerous,
11 and it's dangerous just because it is unenforceable,
12 as one of the other senators said. And I wrote this
13 in the Denver Post op-ed the other day. I mean,
14 I -- I am rural. And again, this goes back to rural
15 culture. It is highly likely that at any given time
16 when I hop in my pickup to head out to the farm from
17 my home in Wray there will be one or two firearms in
18 that vehicle.

19 One of them, which we'll probably be
20 discussing later today, is -- is effectively the
21 utility rifle of all farmers and ranchers because
22 it's perfect for the job. And, let's just say for
23 instance that I fail to use my turn single when I
24 pull onto the highway to head north of town to my
25 farm, because heck, everybody in Wray knows where

1 I'm going anyway, I really don't need a turn signal.

2 But let's say we have a new police officer
3 who doesn't know where I'm headed, and he pulls me
4 over and says, Mr. Brophy, I pulled you over because
5 you failed to use your turn signal, and -- and, you
6 know, while we're sitting here, I'd like to see
7 your -- your driver's license, your registration,
8 and your proof of insurance.

9 Happens all the time, even though I have tags on
10 the back of the pickup that says it is registered by -- of
11 having the appropriate color of year, which I think is red
12 now. And then he looks in there and he notices in the gun
13 rack -- because I have a gun rack in my pick up, I am rural
14 -- and he sees the firearm and he says, Mr. Brophy, did you
15 obtain that firearm with a background check? Well,
16 dependent upon which one it is, the answer is yes, maybe,
17 no. I got my first rifle when I was nine years old, it's a
18 .22. I got my second one when I was 13. And by the time I
19 was 18, I had a few more than that. And I didn't have a
20 background check on any of them, my mother did. And the
21 rest of the story is, is that there no longer exists any
22 paperwork at all on those firearms, because, and again,
23 unless you really look into this and know this, you
24 wouldn't know that the form 4473 that you fill out now to
25 obtain a background check -- all noes and one yes, if I

1 remember right -- the FFL, the dealer, who got that firearm
2 from a distributor and sold it to you, is required to keep
3 that piece of paper that says you passed the background
4 check with some identification for the particular firearm
5 or firearms associated with that background, and sometimes
6 it's more than one.

7 They're required to keep it in a file cabinet for
8 20 years. After 20 years, they can do one or two things --
9 actually, they can do three things: they continue to keep
10 it, they can turn it over to ATF, or they can shred it,
11 which is what most of them do, God bless them.

12 So now a portion of the firearms that I
13 own, there is no way an God's green earth for me to
14 prove that I legally obtained them. Then what
15 happens? Do I get to keep it? I can't get an
16 affidavit from my mother. She passed away on
17 May 19, 2003. What do we do?

18 There's only one answer. There's only one
19 answer. You have to register all of them. And
20 that's what so insidious about this bill, is that
21 after a handful of law-abiding gun owners have their
22 guns held or taken away from them by the
23 authorities, the law-abiding gun owners seeking
24 relief very well may suggest that a centralized
25 registry database would protect them from the

1 authorities, and maybe they'll be asking for it
2 themselves. And that, everybody knows, is very
3 dangerous.

4 Members, I'm going to urge a no vote on
5 this bill. I hope, I hope, that some of you were
6 listening and that it went to your hearts. It is
7 absurd, the outcomes of this bill. It's
8 unnecessary, doesn't improve safety, and it's
9 ultimately very, very dangerous.

10 I ask for a no vote.

11 THE CHAIRWOMAN: Thank you.

12 Senator Marble.

13 SENATOR MARBLE: Thank you, Madame Chair.

14 I rise in opposition to House Bill 1229
15 for more reasons than I can count, and for more
16 reasons than we have days to address this issue.

17 During testimony on Monday, I was
18 privileged to sit in, in the State Affairs Committee
19 and listen to some of the most incredible, marvelous
20 testimony I have ever heard. I doubt that history
21 will ever give me that chance again.

22 We had sheriffs of Colorado come in and
23 testify regarding the fact that not only was this
24 bill not properly drafted, but also unenforceable,
25 the unintended consequence of burden that we are now

1 forcing upon our law enforcement.

2 Besides that fact El Paso County Sheriff,
3 Terry Maketa, gave us some pretty good statistics
4 regarding firearms, stolen, between 2005 and 2010.
5 It was 1.4 million firearms. That's 240,000 a year.
6 Don't you think that's where the black market really
7 begins? Do you really think that criminals are
8 going through and getting a background check when
9 there is such a black market available for them?

10 Terry Maketa also testified to the fact
11 that this is not only unenforceable, but it will
12 create an inconvenience and more innocent criminals.

13 I think that we have enough laws directing
14 law enforcement to the overcriminalization of
15 America. Right now the State of Colorado has one of
16 the lowest firearm crime rates in the nation,
17 1.9 percent per 100,000. Less than half of the
18 national average. And what are we doing? We're
19 punishing them. We're punishing good citizens for
20 what?

21 I want to read you a quote, which I'm
22 sure you're all very, very aware of. And I bet you
23 will know exactly who it came from. It says,
24 "Nothing we're going to do is going to
25 fundamentally alter or eliminate the possibility of

1 another mass shooting or guarantee that we will
2 bring gun deaths down do a thousand a year from
3 what it is now. Vice President Joe Biden."

4 What's the real reason behind these gun
5 bills? What are we really trying to prove? Who are
6 we trying to punish? And who are we making promises
7 to?

8 I want to take a minute and address that
9 40-percent rate that has been bantered about, saying
10 that 40 percent of gun sales never go through a
11 background check.

12 I'm going to read from (sic) you, a piece
13 from the National Review that was actually written
14 by John Fund.

15 One of the reasons for the high number is
16 that 250 people back during the Clinton
17 Administration were all that were considered for the
18 study when it came to that 40-percent rate. 250
19 people. And that was before the Brady Bill was even
20 enacted. Before we even had background checks.

21 He says: "Most advocates of gun control
22 believe the loopholes in federal law are the rule
23 and not the exception when it comes to gun
24 purchases.

25 "A 2011 study by the Office of New York

1 Mayor Michael Bloomberg claimed that 40 percent of
2 guns are sold through private sellers. His study
3 went on to say, these sales, which take place in
4 many venues, including gun shows and increasingly
5 on the Internet, fuel the black market for illegal
6 guns."

7 The dubious statistic of guns that avoided
8 background checks, which is actually around
9 36 percent, comes from a small 251-person survey on
10 gun sales two decades ago, very early in the Clinton
11 Administration, which I explained to you. Most of
12 the survey covered sales before the Brady Act
13 instituted mandatory federal background checks in
14 early 1994.

15 If that alone didn't make the number
16 invalid, the federal survey simply asks buyers if
17 they thought they were buying from a licensed
18 firearms dealer? While all federal firearm
19 licensees do background checks, only those perceived
20 as being FFL's were counted. Yet there is much
21 evidence that survey respondents, who went to the
22 smallest FFL's, especially the kitchen-table types,
23 had no idea that the dealer was actually licensed.
24 Many buyers seem to think that only the
25 brick-and-mortar stores were license dealers, and so

1 the survey underestimating the number of sales
2 covered by checks.

3 And another reason for the high number is
4 that it includes gun transfers as inherited or as
5 gifts from family members. Even President Obama's
6 background proposal excludes almost all of those
7 transfers.

8 We have another study by John Lott that
9 says his research suggests that expanding background
10 checks might actually contribute to a slight net
11 increase in violent crime, particularly rapes.
12 Before we expand background checks, he suggests we
13 focus on the real world statistics, not Obama's
14 magical number, and recognize that criminals are
15 seldom burdened by background checks because they
16 buy weapons on the black market.

17 As for gun bans, they do little to combat
18 crime. When guns were banned in Washington, D.C.,
19 or Chicago, the rate of violent crime went up. Even
20 in islands nations, such as Great Britain, Ireland,
21 and Jamaica, murder rates went up after the gun bans
22 were put in place.

23 When you look between 1965 and 2010, in
24 Colorado, there has been no change in crime with
25 background checks. None at all. So the purpose of

1 this bill is for what? To punish law-abiding
2 citizens who have carried Colorado to the lowest
3 gun-crime rate in the nation? To make us an example
4 of the overuse and abuse of power? Bad legislation?
5 What are we telling -- what are we telling the
6 people of the world about our Constitution?

7 This bill does not reflect the Colorado
8 Constitution, nor the federal -- nor our federal
9 Constitution. It reflects New York politics,
10 Bloomberg agenda, and New Jersey's handprints are
11 all over it.

12 Before we go any further, let's take a
13 look at who we really serve. We serve the people of
14 Colorado. We are elected by the people of Colorado,
15 and we answer to the people of Colorado, not to any
16 other administration, not to any other state.

17 And I am here to speak for the people who
18 elected me. Don't punish us.

19 I will never advocate for criminals by
20 taking away the gun rights of law-abiding citizens,
21 and I'm hoping that you will follow suit.

22 Thank you for your time. And I really, I
23 beg you, vote no on this bill.

24 SENATE PRESIDENT: Majority Leader
25 Carroll.

1 MAJORITY LEADER CARROLL: Thank you,
2 Mr. Chair.

3 Members, just a couple of things for the
4 record. I'm a second generation Colorado native. I
5 come from the community of Aurora in eastern
6 Arapahoe County. That is who I am representing here
7 today on this bill.

8 There have been a lot of very legitimately
9 absurd examples given of what things that other
10 folks are suggesting could happen here. And, I
11 guess I with just say that the good news is, is that
12 if you look on page 2, lines 7 through 18 on the
13 committee report of what was already amended, and
14 then look at the actual text of the bill, whether it
15 was shooting instruction classes, loaning to a
16 neighbor, or self-defense, none of those folks have
17 to go through a background check. And the only
18 prohibition is just making sure that you comply with
19 current law, as was mentioned that you are not
20 supposed to be transferring to someone who is a
21 convicted felon.

22 I do think those stories would be
23 problematic. You will look to the text to find that
24 some of them in early versions of the bill actually
25 could have come about. It's the importance of the

1 amendments in the bill taken as a whole on the
2 total. And so, hopefully, it should be the relief
3 to some that whether it's hunting or training or
4 self-defense, you will find in this text of the
5 bill, as amended, that those situations are
6 exempt -- are exempted.

7 The people who are harmed by this bill
8 would be people who can't pass a background check.
9 And those are people who are already criminally
10 ineligible to own or possess a firearm.

11 SENATE PRESIDENT: Thank you, Majority
12 Leader Carroll.

13 Now that I'm back up here, I just want to
14 re-emphasize the rules of decorum and not imputing
15 the motives of others. Thank you for stating your
16 motives and intentions clearly with this bill. And,
17 again, if comments are made to the contrary, they
18 will be called out of order.

19 There is an amendment on the desk.

20 Mr. Majors, would you please read
21 Amendment L.035?

22 THE CLERK: Amendment L.035 to House Bill
23 1229 by Senator Balmer, amend the State, Veterans
24 and Military Affairs Committee report dated March 4,
25 2013: page 2, line 9, strike "or"; page 2, line 14,

1 strike "firearm" and substitute "firearm or"; page
2 2, after line 14, insert Subsection I: A transfer of
3 a firearm from a person serving in the armed forces
4 of the United States who will deployed outside of
5 the United States within the next 30 days to any
6 family member or friend of the person.

7 SENATE PRESIDENT: Senator Balmer.

8 REPRESENTATIVE BALMER: Thank you,
9 Mr. Chairman.

10 And thank you, Reading Clerk, for reading
11 it.

12 I think that sometimes it's important that
13 we do read the amendments out loud, because, you
14 know, those who are following at home can't tell
15 what we're doing otherwise.

16 This is simply an amendment to allow for a
17 service member, military personnel, who has got a
18 deployment order getting ready to go overseas to
19 defend our country, this allows them to transfer to
20 a family member or a friend.

21 Now, currently underneath the bill, if
22 they want to transfer it to their family, it's got
23 to be a permanent gift. They actually, they have to
24 give it to their mom or dad. And as you know,
25 that -- that has a lot of -- I mean, you don't want

1 to do that. What you would want to do is just what
2 you currently could do in Colorado, at least for
3 today, at least right now, you can do this.

4 You can -- if you're getting deployed
5 overseas, you can leave your privately owned weapon
6 with your parents. You're probably going to leave
7 your car at your -- at your parents' house. A lot
8 of these young Americans are 18, 19, 20 years old,
9 and the way that they handle these situations is
10 they leave their car at their parents' house, and
11 they leave their weapons with their mom and dad.

12 They -- and -- and this would also allow
13 them, if they didn't have a mom and dad or if
14 they're in a situation where their mom and dad is
15 several states away, they could say well, we're
16 going to leave it with my trusted friend.

17 Well, that friend would be doing them a
18 great favor to safeguard their weapon for them while
19 they're gone, but underneath our -- the -- the way
20 the law is going be changed with this bill, we would
21 be penalizing that -- that American, that Coloradan,
22 for safeguarding a weapon of a deployed soldier.

23 So I apologize, Senator Carroll, for not
24 giving you a lot of notice on this, but I just
25 thought of it. And I think it's important that we

1 safeguard our military personnel. When they're
2 getting ready to be deployed, they have a lot things
3 on their mind, and we should make it easy for them
4 to take care of their personal things.

5 Thank you, Mr. Chairman.

6 SENATE PRESIDENT: Majority Leader
7 Carroll.

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

10 Members, I actually may be open and
11 receptive to this. My understanding of the reading
12 is that this, like any other provisions, would still
13 have kind of that generic, as long as you're not
14 transferring it to a convicted felon and someone
15 who's already criminally ineligible. And I think
16 where you've inserted it, that umbrella still
17 applies.

18 So more time would have been good, but
19 I -- I believe that the circumstances approached
20 here are reasonable, where you may not want to do a
21 permanent transfer, and 72 hours may not cover it.
22 So at this point, I'm not going to oppose this
23 amendment.

24 SENATE PRESIDENT: Is there any further
25 discussion on L.035?

1 Seeing none, the motion before the body is
2 the adoption of Amendment L.035.

3 All those in favor say aye.

4 Those opposed, no.

5 The ayes have it.

6 And the amendment is adopted.

7 Back to the bill. I have Senator King.

8 SENATOR KING: Thank you, Mr. Chair.

9 I got -- I have received a very good book
10 called the Second Amendment: Preserving the
11 Inalienable Rights of Individual Self-Protection.
12 Got it from a good friend.

13 In it, "A free people ought to be armed."
14 George Washington, President of the United States,
15 signer of the Constitution.

16 How can that be prevented? How can a free
17 people be prevented from being armed? House Bill
18 1228 (sic) imposes two fees, on the applicant, a \$10
19 fee by the dealer processing the application --

20 SENATE PRESIDENT: Senator King, we're
21 speaking to House Bill 1229 at this point. You
22 addressed your comments to House Bill 1228. You
23 just referenced House Bill 1228.

24 SENATOR KING: Yes, Mr. Chair, thank you.

25 SENATE PRESIDENT: Please proceed.

1 SENATOR KING: Right now, in Denver -- and
2 this is not a hypothetical -- the police department
3 has a 90-day waiting period for the mere acceptance
4 of an application for a concealed-carry permit. The
5 total waiting period in Denver is now five months.
6 The idea that -- I pass.

7 Thank you, Mr. Chair.

8 SENATE PRESIDENT: Next, I have Senator
9 Lundberg.

10 SENATOR LUNDBERG: Thank you, Mr. Chair.

11 Members, as I look at this bill, it -- it
12 troubles me. And I just had a discussion with --
13 with my county sheriff, Justin Smith, Larimer
14 County, and he concurred with me that -- that any --
15 any time we are trying to put in place a universal
16 system for background checks, it -- it becomes
17 practically impossible to stand on its own. It --
18 it begs the policy of universal registration in
19 order to facilitate the process.

20 As a county sheriff, he -- he says, you
21 know, there's no way he can deal with this without
22 having that set of data. And he understands that to
23 be -- well, he's concerned that it's the next step,
24 and so am I.

25 You know, put aside all of the

1 unreasonable circumstances where it just doesn't
2 work and it will be ignored, and we will essentially
3 criminalize a great deal of the law-abiding citizens
4 in the State of Colorado, whose only desire is to be
5 able to defend themselves and their family and their
6 property.

7 And world history is replete with the
8 examples of when you register, you eventually
9 confiscate. So whenever I see that concept of
10 registration for firearms, I mean I am a student of
11 history, that's the next step. It may not be this
12 legislature, maybe ten years from now, when no one
13 sitting here today will be there. A new group may
14 look at it, and they're like, well, okay, now we
15 know where they are, let's go get them. That's the
16 concern, the major concern I have with this piece of
17 legislation.

18 And if I lay that up against our Colorado
19 Constitution's right to bear arms, it makes no sense
20 whatsoever. There's been several references to --
21 to this section, but I'm not sure that we've
22 actually looked at it word for word here today.

23 You may not have been familiar with this
24 in this past, but I think you're becoming fast
25 familiar with -- it's part of our Bill of Rights,

1 which is Article II. It's Section Number 13, Right
2 to Bear Arms. And the pertinent parts of it read
3 like this:

4 "The right of no person to keep and bear
5 arms in defense of his home, person, and property,
6 or in aid of the civil power when thereto legally
7 summoned, shall be called in question."

8 Now, if I were constructing something to
9 state clear defense of the citizens to defend
10 themselves, their home, their property, their
11 families, I would seek for this kind of language,
12 not something that just sort of says it or it could
13 be questioned to some degree or another. No, I'd
14 say it clearly. And that's what they've done. It
15 shall not be called in question.

16 This bill calls it into question. It sets
17 up an unreasonable standard for the honest citizen
18 to comply with at all times. It sets up an
19 expectation that we don't trust the citizens of the
20 State of Colorado, and so we're going to run them
21 through that many more hoops before they can legally
22 possess and bear firearms. It puts in concepts that
23 are contrary to the Constitution. How many times do
24 we have to remind ourselves of this? Shouldn't it
25 take but one time? Remember the oath of office we

1 all took when we took our office?

2 Some of us who have been here for many
3 years have taken that oath again and again. It's
4 the same. I take that as job number one when I'm
5 down here, and there are some elements within the
6 Colorado constitution that I -- I have some
7 heartburn over, but I have no question as to where
8 my allegiance lies, because I took that oath of
9 office to follow that Constitution.

10 I would like the sponsor to clearly defend
11 how this comports with not only the letter but the
12 spirit of Article II, Section 13. I believe the
13 people of Colorado deserve nothing less. And I'm
14 pretty sure I'm going to be down at this mike later
15 today with other mayors that call into question the
16 citizen's right to defend themselves, to possess, to
17 control, to bear those arms.

18 Now, oftentimes, I'm chided or derided
19 because I have this notion that the Constitution is
20 where we need to start. I got that because it is
21 our job. It is our solemn oath and commitment.

22 Let me read it to you again:

23 "The right of no person to keep and bare
24 arms in defense of his home, person, and property,
25 or in aid of the civil power when thereto legally

1 summoned, shall be called in question."

2 Answer that question before you vote on
3 this bill and the entire agenda before us today.

4 SENATE PRESIDENT: Is there any further
5 discussion?

6 Senator Hill.

7 SENATOR HILL: Thank you, Mr. Chair.

8 Mr. Chair, I too had some friends come
9 up -- constituents come up -- wanted to testify on
10 this bill. I see some of them up in the gallery
11 today, and thank you all for coming.

12 I would like to read some of their
13 testimony as well. They were unable to because of
14 time, but I would like to honor their desires as
15 well as represent them, as we have --

16 Phil writes: "While I can understand the
17 intent of this bill, it is entirely unenforceable.
18 Unless every firearm in the state was registered
19 into a database, the transfer of ownership cannot
20 be identified unless through licensed firearm's
21 dealers or by volunteered participation or mandate.

22 "Obviously, the criminal or mentally
23 impaired have to -- have no incentive to
24 participate. The state would get better results if
25 it could get all criminals to register with the CBI

1 and constantly monitor their whereabouts.

2 "Again, this bill is an example of a
3 make-the-public-feel-good law that cannot be
4 enforced and will be totally ineffective in solving
5 the violent crime problem. It will successfully
6 alienate the law-abiding citizens."

7 Again, that's from Phil.

8 From Quinten (phonetic), he writes:

9 "Like House Bill 1224, this bill can
10 never be enforced against the people of Colorado
11 unless one of two things happens: the State would
12 either have to start an illegal gun registry
13 database, or they would have to violate our Fourth
14 Amendment rights and inventory every home in
15 Colorado to document what weapons are owned by each
16 person. The fact that these are only two possible
17 methods of enforcement of this law, it betrays the
18 true intentions of the author."

19 And that's from Quinton.

20 Nick is Navy retired. A good man.

21 "More bureaucratic paperwork and tax
22 money from the poor people, which won't stop one
23 bad guy from doing what he or she decides he or she
24 wants to do.

25 "As I recall, the State of Colorado

1 hasn't done a very good job on keeping drugs from
2 entering the state over the past few years, so why
3 would anyone, in their right mind, think this bill
4 will keep the bad guys from obtaining and bringing
5 unregistered firearms into our state?"

6 And, finally, Matt writes: "I'm struck by
7 the attitude of many advocates of this bill who
8 accept the notion that it's permissible to
9 restrict -- restrict the rights of law-abiding
10 citizens on the off chance that they may at some
11 future date commit a crime.

12 "In legal terms, this is known as prior
13 restraint, which is generally impermissible. Our
14 system of governance and law, rule of law, rejects
15 this concept.

16 "In common language, this reminds us of
17 the film *Minority Report*. A dystopian vision of
18 the future of people arrested for pre-crime. This
19 bill will make pre-criminals of tens, hundreds of
20 thousands of Coloradans. The Colorado Constitution
21 makes it explicit that such prior restraint on the
22 right to keep and bear arms is not permissible."

23 And he quotes here the Constitution.

24 "The right of no person to keep and bear
25 arms in defense of his home, person or property, or

1 in aid of the civil power with thereto legally
2 summoned, shall not -- shall be called into
3 question."

4 What does this bill seek to do but to
5 call into question the right of law-abiding
6 citizens to exercise a fundamental constitutional
7 right?

8 "A key issue" -- and I continue to quote
9 this letter -- "a key issue in this bill is the
10 concept of reasonableness. The threshold should be
11 set very high to infringe or call into question a
12 fundamental constitutional right. Is it reasonable
13 to require private citizens, not dealers, to obtain
14 government permission to engage in lawful commerce
15 of legal goods?

16 "Should private citizens -- is it
17 reasonable to require private citizens to invest
18 time and money to find, locate, travel to a
19 licensed firearm dealer? Is it reasonable to
20 require private citizens to self-register ownership
21 of firearms? Is it reasonable to require intrusion
22 into all aspects of owning firearms? Is it
23 reasonable to require private citizens to suggest
24 themselves to vague, undefined regulations, subject
25 to whim of law enforcement?"

1 And he leaves here as a note that the
2 40-percent private sale figure is a myth and has
3 been debunked from the 1994 survey. The state came
4 from a single survey of 251 people, two decades ago,
5 before the national instant check system passed.
6 And he links here to an article in the Washington
7 Post.

8 Friends, I want to say I appreciate all of
9 you who have brought in testimony and who've been a
10 part of this process. Thank you for participating,
11 and hopefully we can represent you well here.

12 But to that, I would add a few of my
13 comments and questions as well.

14 I grew up in Blacksburg, Virginia, at
15 Virginia Tech, which was tragically part of the
16 shooting several years ago. My -- many dear
17 friends, actually, were personally involved in -- in
18 that day, and then in also celebrating the lives
19 that were lost that day as well.

20 And -- and my question comes back to this.
21 The testimony in support of this law -- and
22 Mr. Chair, I will address this question to you --
23 but I would appreciate maybe understanding, would
24 this bill -- Columbine, Aurora, Newtown were given
25 in examples of why this law is important. And my

1 question is -- would any one of those, Virginia
2 Tech, Columbine, Newtown, Aurora, would any of those
3 have been prevented had this law been in place?

4 SENATE PRESIDENT: Senator Grantham.

5 SENATOR GRANTHAM: Thank you, Mr. Chair.

6 We did have many constituents that wanted
7 to be able to voice their concerns with each of
8 these bills, and for whatever reason, they were not
9 afforded that opportunity. But they had other means
10 of expressing themselves to us, and I'm sure
11 regardless of the divide in the aisle here, we all
12 received many pieces of input into this process.

13 I've just got a couple here I'd like to
14 share in regard specifically to this bill. First
15 one comes from a fellow by the name of Kevin. And,
16 no, that's not why I picked this one.

17 But, it says:

18 "Requiring a background check for all
19 firearms transfers is an idea that's been tossed
20 around for some time now. However, the hastily
21 written bill that is currently being considered was
22 not drafted with enough care.

23 For starters, this bill would criminalize
24 common instances in which a law-abiding friend
25 loans another law-abiding friend a firearm for an

1 unspecified amount of time.

2 By way of example, you few years back, I
3 loaned one of my guns to my girlfriend for four
4 months as she had taken a Colorado POST law
5 enforcement academy. Such an act would be
6 prohibited under this proposed law.

7 If you aren't involved in shooting
8 sports, you might be surprised how often such
9 activities also occur for hunting trips, shooting
10 competitions, and other lawful activities.

11 I personally borrowed a friend's rifle
12 for a hunting trip that my friend wasn't attending.
13 And a couple of my friends have borrowed rifles
14 that I've owned for similar purposes.

15 There's no need or justifiable benefit to
16 restricting our citizens in such a manner.

17 Furthermore, the current bill will create
18 undo hardship on rural citizens, who wish to
19 actually transfer ownership of their firearms to
20 other citizens.

21 Gun shops are not very accessible in all
22 parts of our great state, and not all gun shops
23 will be willing to perform such a transfer for two
24 private parties.

25 As such, it may prove very difficult for

1 many law-abiding citizens to sell privately owned
2 firearms in private transactions.

3 I do realize that this is a contentious
4 issue, and each of you has probably been
5 overwhelmed with letters both for and against these
6 measures. If you've made it this far," in the
7 letter he says, "I thank you for taking the time to
8 read my letter. I do hope that I can count on your
9 support in this matter."

10 And the second one, colleagues, is really
11 kind of to the point that the previous letter was
12 about and the transference and the -- the creation
13 of illegal transfers through this bill, and what
14 would normally be legal activity.

15 "Like all Americans, Colorado's federally
16 licensed firearms retailers are deeply saddened by
17 tragic events that took place over the last few
18 months in Aurora, Colorado, and Newtown,
19 Connecticut.

20 "Our thoughts and prayers go out to all
21 the victims and families of these horrible
22 tragedies.

23 "We share the goal of all Coloradans in
24 wanting to find real and effective solutions that
25 will make our children and communities safer, while

1 at the same time respecting and safeguarding our
2 constitutional rights.

3 "We believe the gun control measures
4 currently proposed by the Colorado legislature,
5 while well-intentioned, will not achieve our shared
6 goal, and instead will burden law-abiding citizens.
7 The unfortunate reality is that none of the
8 proposed laws will stop a madman determined to
9 pursue evil. Law enforcement agencies agree,
10 notably including Colorado County Sheriffs.

11 "The so-called universal background
12 check, 1229, is one of the bills of particular
13 concern to Colorado's firearms retailers, most of
14 whom are hard-working, tax-paying, jobs-creating
15 small businesses. 1229 requires federally licensed
16 firearms retailers to perform background checks for
17 the private transfers of firearms unrelated to our
18 businesses.

19 "This legislation will not deter
20 criminals who are determined to obtain firearms.
21 For example, most guns used in crime are stolen.

22 "We are deeply concerned, however, about
23 the significant financial and regulatory burdens
24 and legal consequences this bill will have on our
25 businesses. It is clear the legislature never

1 bothered to ask us retailers how this proposal
2 would impact our businesses or they were wholly
3 indifferent to our concerns.

4 "Requiring retailers to conduct
5 background checks will have a significant impact on
6 our ability to service our actual customers. I can
7 think of no other government mandate which requires
8 a business to provide a service on behalf of a
9 non-paying individual. By definition, these
10 private transferors are not entering our stores
11 interested in buying our products. They will only
12 be in our stores to take advantage of our
13 designation as a federally licensed dealer.

14 "While the bill allows for a \$10 fee to
15 be charged for the background check, this hardly
16 equates to the value of the lost time with actual
17 customers that will taken to conduct private sale
18 background checks.

19 "Based on the experience of licensed
20 firearms retailers in the few states that require
21 retailers to conduct background checks on the
22 private transfer of firearms between individuals,
23 we know requiring universal background checks will
24 impose on federally licensed retailers significant
25 increased regulatory burdens, tremendous additional

1 cost, logistical nightmares, unacceptably lengthy
2 delays and processing (inaudible) checks,
3 unprecedented liability exposure, and other
4 additional unintended consequences.

5 "Further, if universal background checks
6 become law, it would be difficult to measure
7 compliance without mandatory national firearm
8 registration, a policy broadly opposed by
9 law-abiding citizens and retailers.

10 "Increased cost to businesses. Before
11 any retailer mandate is enacted, please consider
12 the following: The universal background check is a
13 pure cost to the retailer, and most of us are small
14 mom-and-pop businesses.

15 "As retailers, we would lose a
16 significant amount of money generating the legally
17 required recordkeeping entries, maintaining those
18 records for decades for law enforcement, and
19 performing the background check on a firearm we are
20 not selling, and for which we realize no profit.

21 "Licensed retailers would be forced to
22 use paid staff hours or to hire additional staff
23 and pay for additional infrastructure to
24 accommodate such transactions, including, but not
25 limited to, additional surveillance equipment to

1 secure firearm storage, parking, I.T.
2 infrastructure, and acquisition and distribution of
3 records.

4 "Staff conducting background checks on
5 private party transfers will not be able to serve
6 paying customers, many of whom will leave our
7 stores rather than wait, resulting in lost sales.

8 "The liability risk. In addition to the
9 cost of providing this government function, the
10 liability a retailer has in such transactions, for
11 example, retaining additional ATF form 4473,
12 subject to inspections and litigation for 20 years.
13 Maintaining the (inaudible) records for life of the
14 business, would require a significant increase in
15 compliance efforts. Any errors would be cited as
16 violations by ATF against the retailers. A single
17 violation of the Gun Control Act or the ATF
18 regulations is sufficient to revoke our license.
19 Imagine losing your livelihood for a recordkeeping
20 error for a product you didn't even sell?

21 "We would be forced to handle firearms
22 that we are not familiar with because we do not
23 stock them. It would no longer be the case that
24 every firearm we now acquire, whether new or used,
25 is a firearm that we want to acquire. Some used

1 firearms in commerce may have been modified by
2 their owners, may have been missing markings,
3 making proper firearm acquisition and disposition
4 records difficult for retailers to achieve a
5 compliant transfer. The licensed retailer would
6 also be subject to product liability and other
7 lawsuits if the transferred firearm is alleged to
8 be defective.

9 "Insurance coverage in those cases will
10 likely be unavailable to us, since we did not sell
11 the firearm. Imagine being sued over an accident
12 involving a firearm you didn't sell, and having no
13 insurance coverage.

14 "Federal law requires us as licensed
15 retailers to provide a secure gun storage or safety
16 device, typically a gun lock, when we transfer any
17 handgun. Who will pay for the cost of that gun
18 lock in these private transfers?

19 "If the firearm being transferred is in a
20 retailer's possession, custody and control while a
21 delayed NIX response is being resolved, up to three
22 business days, the retailer would face additional
23 liability over claims that the firearm was altered
24 or damaged while in the retailer's possession.

25 "There are significant safety concerns

1 presented by a massive influx of private-party
2 firearms entering a carefully controlled retail
3 establishment. For example, in California, persons
4 have entered large retailers with a firearm, walked
5 through the store, for example, passed the shoe
6 department to get to the sporting goods in order to
7 conduct a private-party background check.

8 "About what the logistical nightmare of
9 this? In the event a buyer is denied based on the
10 background check results, it is now unclear how the
11 transaction should be handled. Would we then be
12 required to run a background check on the seller
13 before returning the firearm back to the seller?
14 If the firearm is maintained overnight by the
15 licensed retailer, federal law would require for
16 retailer to conduct a background check and have
17 them complete a form 4473 in order to return the
18 firearm to the private-party seller.

19 "What is a licensed retailer to do in the
20 event of a double denial? Both the private party
21 is denied and the potential seller is denied. This
22 has happened. It's happened in California. How
23 would such a transaction be noted on the ATF 4473?

24 "As a point of contact state, Colorado is
25 already overwhelmed with retail transactions.

1 Colorado CBI is already overwhelmed, and at one
2 point was eight days behind in processing these
3 background checks. Adding a massive influx in
4 transactions would further tax the system to the
5 point of potential collapse.

6 "Additionally, there remains uncertainty
7 about how to best handle temporary transactions,
8 such as the loan of a firearm for a hunting trip or
9 at the shooting range.

10 "All of these concerns aside, the
11 firearms industry contributes over \$590 million in
12 economic activity to Colorado, creating 4,800 jobs,
13 paying \$43 million in state taxes in these
14 difficult economic times. This industry is one of
15 the few industries that continues to create jobs.

16 "We ask you to oppose this so-called
17 universal background check, 1229, because it places
18 costly and unreasonable burdens on Colorado's
19 retailers, infringes upon our Second Amendment
20 rights, while failing to make Colorado safer. It
21 cannot be effective without mandatory universal
22 firearms registration, a policy universally opposed
23 by firearms owners."

24 Sincerely, Lucas Galeb, Michael Shane,
25 Matt Solomon, John Devoe, Jeffry Ray, John Burred,

1 Patrick Blake, Douglas Craft, Brent Hoffbauer, Lisa
2 Cohen, Randy Terbush, Chris Camp, William Comegys,
3 Keith Martin, Glenn Rocovich, Tyler and Tracy Hoff,
4 Bryce Meretti, Robert Parker, Phillip Collins, Roy
5 Rutz, Brue Baredicas, Jr., Perry McDonald, Matthew
6 Paskowitz, Derrick Dercoli, Steve Gettle, Calvin
7 Boyer, Diane Mestis, Victor Gabriela, and Kitt
8 Robertson.

9 Colleagues, please vote no.

10 SENATE PRESIDENT: Senator Scheffel.

11 SENATOR SCHEFFEL: Thank you,
12 Mr. Chairman.

13 Colleagues, I wanted to take a minute to
14 thank Angel, who contacted me and said: "Yes, I
15 woke up last Monday at 6:00 a.m. to arrive at the
16 capital early and sign up to testify, and after nine
17 hours seated in a closed room listening to the
18 process for two bills, not eat anything all day, I
19 can't testify, of course so angry and frustrated, I
20 drive, come back home for two hours."

21 Unfortunately, his conclusion was that
22 after watching the process, "Honestly, lost my faith
23 in the process."

24 If he had been given the opportunity to
25 testify -- and I won't read all of it, I'll just

1 read the relevant portions as applied to 1229 here.

2 "My name is Angel. I'm a resident of
3 Colorado Springs. I'm from Puerto Rico. Last year
4 I decided to move to a nice, safe, and free state,
5 and after a lot of research and friend's
6 recommendations, I choose Colorado and moved here.

7 "My wife and me are in love with this
8 state, but now I find that Colorado will no longer
9 free and safe in the future and with this
10 anti-constitutionals bands.

11 "Why I said this? Because my experience
12 living in Puerto Rico has taught me this."

13 I'll just highlight, but he then relates:
14 "While I was in Puerto Rico, which seemed to be
15 fairly onerous and describes a litany of costs and
16 fees and registrations and background checks. He
17 concludes, that anyone can see that more gun
18 control in a state equals higher crime, and on the
19 other hand, less gun control, like Colorado, until
20 now, equals less crime. I moved to this beautiful
21 state looking for a better place to live for me and
22 my family, and it will make me really sad that you
23 are choosing the path that Puerto Rico choose and
24 that it has been proven to be a failure." Angel.

25 Steven writes: "I write to you today to

1 express my deep concern about the extreme proposals
2 being brought forward in the state legislature
3 regarding gun control. To me, this is a knee-jerk
4 reaction to the actions of a few mentally unstable
5 persons.

6 "These legislative proposals are absurd.
7 We all know that gun control laws are obeyed only
8 by law-abiding citizens. Criminals, will, by
9 definition, ignore any new and current gun control
10 laws. Taking lawful guns off the streets won't
11 make the problem better, in fact, they will make it
12 worse.

13 "I strongly oppose limitations and urge
14 rejection of redundant background checks that are
15 nothing more than a new tax and burden. Enforce
16 the current laws and rescind redundant burdens on
17 the lawful. Sincerely, Steven."

18 To Steven and Angel, I want to thank you
19 for not giving up on our process. I'm sorry that
20 you were not able to come here and testify. But it
21 has been the theme here, your arguments resonate
22 with me. They resonate in this building.

23 We know that this particular bill is an
24 overreach. It cannot successfully accomplished and
25 will without what is tantamount to registration. I

1 cannot support that. Your words resonate with me.
2 I thank you for taking the time to contact us here,
3 and I will be a no vote on this bill.

4 THE CHAIRWOMAN: Senator Crowder.

5 SENATOR CROWDER: Thank you, Madame
6 Chair.

7 I'd just like to talk a little bit about
8 the things I've been hearing in here. I'd like to
9 start out by kind of reading a short blurb of a
10 letter I got from the American Legion.

11 "From the 35,000 members of the American
12 Legion family in Colorado, I'm asking you to vote
13 no on the subject bills of Friday, March 8, 2013.
14 By doing so, you'll be sending the message to all
15 citizens of our great state that you believe in the
16 Second Amendment and the right of your constituents
17 to bear arms freely and without prejudice."

18 And that's all I'll read of that.

19 The slippery slope in which we talk
20 about, we -- if we could just go back a little bit
21 and look at it, I come from an era where, if you
22 wanted a weapon, you get a catalog or however you
23 want to do it, and you order that weapon, and it
24 comes in the mail.

25 The slippery slope in which we've already

1 come down to this point, we have gun laws in place,
2 but now we see the mass murders going on. The laws
3 in which we have placed is part of that slippery
4 slope to registration.

5 I'm not sure that I would agree with any
6 additional laws would -- would refrain that from
7 happening again. I'm of the opinion that -- I'm
8 basically of the opinion that if -- the one thing
9 that's not been talked about today is our freedom.
10 If indeed we are a free nation, we should be
11 looking in the opposite direction. Instead of
12 restricting our rights, we should be expanding our
13 rights.

14 There was a enormous amount of -- of gun
15 sales in this country, but I think the -- the laws
16 in which we have placed today is not necessarily
17 what has kept the -- the homicide rates down, I
18 think it's the gun ownership rights that have kept
19 that down.

20 So I -- again, if we're -- if we're going
21 to talk about being a free nation without
22 additional regulation, that's almost a -- an issue
23 that cannot be compromised. So I'm opposed to this
24 bill. You know, I -- I do not believe additional
25 regulation for the best of intent is -- in the

1 direction to go.

2 I -- until this -- until today, I had an
3 argument with veterans over the last 40 years that
4 I was adamant that I was right. And that argument
5 has been -- I'm a Vietnam veteran -- that argument
6 has been in the past I do not believe there's ever
7 been an American veteran who has died in vain for
8 this country.

9 I'm a very, very firm believer that every
10 American death in service had a purpose, and that
11 purpose was to promote the freedom of this nation,
12 not restrict it. I do believe adamantly that
13 freedoms can be attained, but it has to be worked
14 for and fought for. That's what, you know, the
15 letter I just read was from 35,000 American
16 Legions.

17 We have roughly two million veterans in
18 this state, and I think that, that in itself -- the
19 veterans understand exactly what it means to the --
20 the Second Amendment and the right to bear arms,
21 and those rights shall not be infringed upon.

22 So I -- and I normally -- what I normally
23 do is just represent my district.

24 And in my district right now, the Pueblo
25 Chieftain had an article the other day, their poll,

1 and it wasn't scientific by no means, but they --
2 they indicated 60 percent of the people in Pueblo,
3 which is out of my district, but it's within my
4 boundaries, but 60 percent of the people were
5 opposed to this gun bill.

6 I do believe in my district, which
7 surrounds Pueblo, which is predominantly rural,
8 St. Luis Valley and ten counties east, would be
9 considerably higher than 60 percent. I would not
10 make a judgment, but I do believe it would be close
11 to 80 percent. Of the 5,000 e-mails I've -- I've
12 received, it's well over 80 percent.

13 So I would -- you know, I would really
14 look at the slippery slope that we're going down as
15 one to registration.

16 There is -- there is one thing that I
17 would never do. I'm a fifth-generation Coloradan,
18 and I will never leave this state. I will continue
19 to stay here and fight for what I believe is right
20 for the State of Colorado and its people.

21 But I would really urge a no vote on --
22 on, you know, these existing gun bills. And I would
23 ask for your support on that.

24 And thank you very much.

25 THE CHAIRWOMAN: Thank you.

1 Senator Cadman.

2 SENATOR CADMAN: Thank you, Madame
3 Chairman.

4 I want to share a letter that was sent to
5 one of my colleagues. Trying to maintain decorum, I
6 won't mention his name, but he is from Grand
7 Junction, and his hair is perfect. I'm 0-2 there.

8 "Dear Senator. I met you yesterday after
9 the so-called public hearings on the anti-gun
10 bills.

11 "As I mentioned, I am an executive
12 producer for Outdoor Channel. I currently have
13 four series in production, including Gun Stories,
14 the top show on the Outdoor Channel, with several
15 additional series in development. My series focus
16 on guns, hunting, shooting, and the outdoors."

17 It sounds like a pretty good fit for
18 Colorado, doesn't it?

19 "This morning, I met with my three
20 producers, and we made the decision that if these
21 anti-gun bills become law, we will be moving all of
22 our production out of Colorado. We've already
23 canceled a scheduled filming session for late this
24 month.

25 "Obviously, part of this is due to our

1 own commitment to the right to keep and bear arms
2 it also reflects" -- listen to this -- "this also
3 reflects three lawyers' opinions that these laws
4 are so poorly drafted and so designed to trap
5 otherwise legal citizens into a crime, one of our
6 attorneys referred to them as flypaper laws, that
7 it is simply too dangerous for us to film here."

8 That's a pretty strong message. Three
9 lawyers' opinions.

10 "I can give you chapter and verse on the
11 legal implications if you need, but suffice it to
12 say that the first legal opinion was so scary we
13 went out and got two others, all three attorneys
14 agreed."

15 The first legal opinion was so scary that
16 we went out and got two others.

17 I think this really confirms the
18 assertion that I have made in this building, and
19 probably at this microphone. Have you ever been in
20 a situation where you had one attorney and two more
21 attorneys made it better? No.

22 I'd say forgive me to the all the
23 attorneys here, but you know it's true.

24 "We are relatively small potatoes in
25 television, but our relocation of production will

1 cost Colorado just under one million dollars in
2 2013.

3 "Secondly, we have proudly promoted
4 Colorado in our productions, and have been moving
5 more and more production into the State. Now we
6 will do exactly the opposite.

7 "What does this mean for Colorado? The
8 community of television producers is a small one.
9 Last week, I had lunch with a major network
10 producer who is looking to locate his new reality
11 series here in Colorado. That producer is also a
12 shooter, and the new reality series will now be
13 based out of Phoenix. That lunch cost Colorado
14 over a million dollars in economic impact."

15 That's an expensive lunch. That's an
16 expensive lunch even before Amendment 41 kicked in.
17 A million dollars, another production company gone.

18 "Thirdly, according to numbers I received
19 from the National Shooting Sports Foundation" --
20 for whom he used to work -- "hunting had an almost
21 \$800 million impact on Colorado in 2012."

22 You heard mentioned up here earlier that
23 firearms specifically were 400 million, so if you
24 add to that all of the other peripheral components
25 into hunting, it doubles that. Citing nearly 8,330

1 jobs.

2 "Next month, I will be in Texas meeting
3 with most of the top outdoor hunting producers.
4 And the number one agenda item will be Colorado.

5 "Already hunting organizations and
6 statewide hunting clubs around the country are
7 pulling out of Colorado, and we expect this trend
8 to accelerate rapidly.

9 "The message we will take to our viewers
10 and listeners is that these proposed laws are so
11 dangerous -- these laws are dangerous to hunters
12 and any other person, be she a fisherman or a skier
13 who brings a handgun into the state for
14 self-defense, that we cannot recommend hunting,
15 fishing, or visiting Colorado.

16 "We reach millions of people, and quite
17 frankly, we have a credibility that the Colorado
18 government officials can no longer match.

19 "Colorado Division of Wildlife is already
20 running ads trying to bring more out-of-state
21 hunters to Colorado in light of the flood of
22 negative publicity about these proposed laws. I
23 can assure you, those ads will fail."

24 Sounds like we have two situations
25 coming: One, we can probably expect to see our

1 former Senator -- former colleague Senator White
2 over here asking for more money to promote Colorado
3 to counter these; or frankly, since we probably
4 can't, once this tidal wave gets rolling, we ought
5 to ask them for the \$15 to \$20 million back. How
6 do you think that will go over?

7 He goes on. "We estimate that as many as
8 one-quarter to one-third of out-of-state hunters
9 will desert Colorado in the next 18 to 24 months,
10 which will, quite frankly, be a disaster for the
11 hunting industry here and have a devastating affect
12 on our western and northern communities, certainly
13 like Grand Junction.

14 "This is not a boycott in the traditional
15 sense of a centralized, organized operation,
16 rather, it is a more grassroots decision on where
17 shooters, hunters, and other sportsmen are willing
18 to spend their money.

19 Look at the collapse of the Eastern
20 Sports and Outdoor Show in February. That
21 venerable, multimillion dollar trade show chose to
22 ban modern sporting rifles and standard capacity
23 magazines. And within three weeks, it collapsed,
24 as all vendors and sponsors pulled out.

25 "Colorado is going to pay a huge price

1 for laws that will do nothing to increase public
2 safety.

3 Thank you for your support. As one of
4 the top gun guys in the America, I personally reach
5 more than a million people a week. If there's
6 anything I can do to help in this fight, I would be
7 glad to help you in any way."

8 You know, a few years ago, we had an
9 opportunity at the end of the session each year to
10 go to a conference up in Craig, and I know my
11 colleagues, I think some of them may have stepped
12 out of the room, but one of my colleagues I served
13 in the House with Adams County would attend, my
14 other colleague from Jefferson County would attend.

15 And what really struck me about my time
16 up there was all these big beautiful hotels in
17 Craig. Anybody been to Craig? It's a ways from
18 everything. And what I found out sustained these
19 hotels and why they were continuing to add to them
20 and build more, was mostly for the hunting
21 industry.

22 And I found out that major celebrities
23 buy up entire wings of some of these -- or rent up
24 the entire wings of some of these hotels during
25 hunting season for two, three, four, six, eight

1 weeks at a time. It is a -- it is the lifeblood,
2 the lifeblood of these communities, hunting season.

3 Obviously, this will have a significant
4 impact -- affect on a whole lot of rural communities
5 in Colorado.

6 I'm sure Senator White is listening right
7 now wondering what our next move will be. I don't
8 see myself supporting more money for him to try to
9 make up for this loss. Frankly, how could we
10 even -- how could we even put a figure to this?
11 Somebody has a million -- a reach of a million
12 people a week and he says don't come here.

13 Remember the old adage, good news stays
14 quiet, bad news travels fast? This bad news is
15 traveling very fast.

16 I would ask for a no vote.

17 THE CHAIRWOMAN: Thank you.

18 And now the Senator from Grand Junction
19 with the perfect hair, Senator King. Your minority
20 leader said it, I didn't. Then Senator Renfroe.

21 Oh, Senator Harvey. Okay.

22 SENATOR HARVEY: The Senator from Douglas
23 County with no hair.

24 THE CHAIRWOMAN: Yes.

25 SENATOR HARVEY: Thank you, Madame Chair.

1 I'd like to take a minute to talk about
2 another business here in Colorado, who is concerned
3 about the impacts of this legislation, not on them,
4 but on the freedoms of all Coloradoans. This is a
5 company that is a significant employer here in
6 Colorado that is going to be expanding -- was
7 planning on expanding substantially here in 2013.

8 I'm -- I assume that you all got this
9 letter, and I wanted to read it to you as well.

10 It's -- it says: "Dear Fellow Coloradan" --

11 THE CHAIRWOMAN: And -- and Senator
12 Harvey, this is pertaining to 1229?

13 SENATOR HARVEY: Yes.

14 THE CHAIRWOMAN: Okay. Thank you.

15 SENATOR HARVEY: That's why I'm up here.
16 And all other bills, as well. I might come up for
17 every bill and read this.

18 "Our state legislature is embroiled in a
19 gun control debate that is precipitating a malaise
20 in our citizens and tolls ominous consequences for
21 local businesses like ours.

22 "My name is Mark Butler, and I'm the CEO
23 and co-founder of J.R. Butler, Inc. We are an
24 engineering and manufacturing firm, specializing in
25 commercial glass industry. We are located in the

1 heart of Denver, at 6th and I-25, and employing 104
2 local men and women. We serve on numerous local
3 boards of directors. Our employees donate hundreds
4 of thousands of dollars to charities -- I'm
5 sorry -- our employees donate hundreds of
6 charitable hours annually and donate hundreds of
7 thousands of dollars. We are the City and County
8 of Denver. We are Colorado.

9 "Our company is considering a two-fold
10 expansion in our operations, which demands a
11 facility and a number of employees twice the size
12 of our current one. Naturally, our original plans
13 included building locally and deepening our
14 Colorado roots. Due to the recent action in our
15 state, however, we are looking instead to move our
16 operations out of Colorado, potentially to Texas.
17 We are currently in the process of reaching out to
18 their EDC's, while you're in the process of
19 considering these egregious gun bills.

20 "J.R. Butler is a vehement defender of
21 the U.S. Constitution and the Second Amendment. We
22 will not abide the loss of our liberties. We will
23 not allow our rights to be tread upon. If these
24 egregious bills are signed into law, we will move
25 all of our jobs, charitable activities, and tax

1 base away from the State of Colorado.

2 "We know that you will directly consider
3 these statements, as we have. I believe I am one
4 of the many CEO's that will see the legislative
5 actions that you are taking in the same light.
6 Colorado cannot endure the loss of so many leaders.
7 God's speed, Mark Butler, CEO."

8 Just one more example of how these bills
9 are going to have a detrimental impact, not only on
10 our economy, but also on the perception of who we
11 are as Coloradoans, and what our state has become.

12 I remember a couple of decades ago when
13 Amendment 2 was passed on the ballot, and we had
14 film industry experts leaving the state; we had
15 companies leaving the state; we have people saying
16 we weren't going to come back to Colorado because
17 Colorado was quote, a hate state.

18 What do we hate today? Freedom, liberty,
19 the right of self-protection?

20 I ask for a no vote.

21 THE CHAIRWOMAN: Thank you. Senator
22 Renfroe.

23 SENATOR RENFROE: Thank you, Madame Chair.

24 Members, you've heard some amazing letters
25 from companies that call Colorado home. Now, you

1 might think that, well, this is a gun bill, what are
2 we doing about -- talking about companies? Well,
3 every bill that we face down here has a lot of sides
4 to it, obviously. One of them is a economic impact;
5 one of them is a safety impact; hopefully, one of
6 them is a constitutional impact.

7 I think this bill is one of those that we
8 could look at all three levels as reasons why to
9 vote no on this bill.

10 You heard stares just now. List to that.
11 The Outdoor Channel. You don't think they don't
12 reach every hunter and fisherman in the country, in
13 the world?

14 In fact, I did get an e-mail from a man
15 that lives in Switzerland, that calls Colorado his
16 summer home. And I think he sent that to quite a
17 few of you, too. And within that, I think he said
18 that he was almost ashamed of us and was probably
19 looking for a different place to call his
20 Colorado -- his summer home rather than Colorado,
21 because of the freedoms that we were taking away
22 with these bills, and this bill in particular.

23 That is amazing with the Outdoor Channel.
24 What Senator Cadman read, I don't think -- I think
25 is -- deserves to be repeated in a few highlights.

1 Number one, the executive producer met
2 with his other three producers, and they have a
3 decision -- made the decision to move out of state
4 if these anti-gun bills become law, moving all of
5 their production out of Colorado. What do you think
6 that will do to hunting and fishing?

7 But they just didn't say that because
8 they're pro-Second Amendment. They actually hired
9 some attorneys to look at the legislation, to see if
10 it stands up to one of the other pillars, our
11 Constitution, see how it stands there. And their
12 lawyers' opinions said they are so poorly drafted
13 and designed to trap otherwise legal citizens into a
14 crime.

15 I don't think anybody could have said
16 anything better about this bill. That's truly what
17 I believe this bill does. There are so many
18 examples, many that have been shared, many that
19 unfortunately we're going to find out through the
20 newspaper of stories of people being trapped by them
21 in the future, if this passes.

22 It is too -- simply too dangerous for us
23 to film here. Wow. Wow. Too dangerous to film
24 here. They have proudly promoted Colorado and have
25 been moving more and more production into our state.

1 Now we will do exactly the opposite. The message we
2 will take to your viewers and listeners is that
3 these proposed laws are so dangerous to hunters and
4 any other person, be she a fisherman or a skier who
5 brings a handgun into the state for self-defense,
6 that we cannot recommend hunting, fishing, or
7 visiting Colorado.

8 When you look at the Governor's office and
9 his economic development department, they've given
10 documents to our JBC staff. And here's a little
11 backgrounder of -- of their goals and what they
12 stand for.

13 "The Colorado Office of Economic
14 Development" --

15 THE CHAIRWOMAN: Senator Renfroe --

16 SENATOR RENFROE: -- "and International
17 Trade" --

18 THE CHAIRWOMAN: -- would be willing to
19 stick to the bill, please?

20 SENATOR RENFROE: This is exactly to the
21 bill, Madame Chairman, because this is talking about
22 the economics of what this policy -- this bill -- is
23 going to do to the State of Colorado.

24 THE CHAIRWOMAN: Thank you. Let's stick
25 to that.

1 SENATOR RENFROE: And so I'm talking about
2 one of the other branches of government, the
3 Governor's Office of Economic Development and
4 International Trade, and what they have said about
5 what their goals are, are for our state, when it
6 comes to economic development.

7 I think the last letter from the outdoor
8 channel shows what the problems will be, that there
9 will be great economic impact to our state. And so
10 I just want to share with the -- with the body and
11 with you what their goals actually are and what
12 they're tasked with, if I may.

13 May I do that, Madame Chair?

14 THE CHAIRWOMAN: Yes.

15 SENATOR RENFROE: Thank you, Madame Chair.

16 The governor's office -- The Colorado
17 Office of Economic Development and International
18 Trade is tasked with assisting and creating a
19 positive business climate, encouraging economic
20 development, and building sustainable job growth
21 across the state. They're focused on retention and
22 growth in 14 key industries. They will not meet
23 their goals. They cannot with this bill. This bill
24 is absolutely against what we're funding another
25 part of government to promote.

1 The third part I talked about within the
2 bill that we need to look at is -- is the safety
3 aspect.

4 The Senator from Fort Collins talked about
5 some data early on that the -- the sponsor of the
6 bill referenced, and frankly that the President of
7 the United States has referenced in regards to this
8 matter. And I would have questions for the sponsor
9 and for the Chair, Madame Chairman.

10 Where did the 40 percent number come from,
11 when we're talking about the so-called loophole?
12 Could you please tell me where that number came
13 from? I think I know where it came from. So if I'm
14 wrong, I would love to be corrected with the -- the
15 proper data on this and the proper facts. Because
16 I'd hate for us to mess up the statistics and the
17 facts on a bill that we're hearing on guns.

18 That 40 percent number, which actually I
19 think in the study that it was supposedly using out
20 of is actually 36 percent, but we can round up and
21 say that. But, it's a study that was conducted with
22 only 251 people during the Clinton Administration,
23 which was from, I think, a '91 to '96 period of
24 time.

25 But the thing you have to remember,

1 colleagues, is that we did not require background
2 checks until I think it was '94. So the question
3 that was put during this so-called loophole study
4 was before we even required a background check at
5 all. So how can we say 40 percent of people are in
6 this loophole that we're trying to fix with this
7 bill?

8 So I would love, Madame Chair, for an
9 answer to these questions and some -- some
10 statistics to show the need and where that
11 40 percent comes from.

12 And you could even go a little further
13 into digging into what the questions of that 1994
14 survey was, and actually what the survey simply
15 asked was if they thought they were buying from a
16 licensed dealer, so it didn't even actually ask the
17 right questions within that.

18 So is there really proper data that we've
19 been told about on this bill? I would love that
20 answer, Madame Chair.

21 Another question I would have, when you
22 look at background checks and you question
23 40 percent out there that we've allegedly been told
24 is what the loophole is we're trying to protect,
25 okay, well then, the other side of that is, how

1 about the people that we've been told failed a
2 background check and the number that they are, what
3 percentage of those really actually failed the test?

4 8 percent of background checks are
5 initially denied, but actually 94 percent of that
6 eight percent is found to be a false positive, in
7 that they just had a name was similar or the same as
8 somebody else that was on the list, and they had to
9 go through a few steps to get there.

10 So in reality, what this bill, in my
11 opinion, really does from a safety issue, and there
12 are researchers that actually have come to this same
13 conclusion, is that this bill, by expanding
14 background checks, might actually contribute to an
15 increase in violent crime because of the time it
16 would take people to wait for this to happen, the
17 people that actually do need the right to protect
18 themselves, and they will be waiting for that right.

19 This is a very, very bad bill, a bad
20 package of bills. And I would ask for a no vote.

21 THE CHAIRWOMAN: Members, we have been
22 joined by Secretary of State Gessler, and we should
23 acknowledge his presence in the room.

24 Senator Baumgardner.

25 SENATOR BAUMGARDNER: Thank you, Madame

1 Chair.

2 We just heard from one of our colleagues
3 that talked about key industries here in the State
4 of Colorado and reports that we had from other
5 branches of our legislative body that talked about
6 the amount and percentage of money that comes into
7 our state from people coming into the state, jobs
8 that are here in the state.

9 And one of the most important pieces of
10 this, I believe, is the tourism industry that brings
11 as tremendous amount of money into the state.

12 This is just one of the components in the
13 Governor's Blueprint to make our state one of the
14 best in the nation, along with outdoor recreation
15 and natural resources and energy.

16 Madame Chair, if I may, I -- I have some
17 letters from constituents and from members of -- or
18 the citizens of the State of Colorado, just a
19 couple. If I may, if I could read those?

20 THE CHAIRWOMAN: Are they pertaining to
21 House Bill 1229?

22 SENATOR BAUMGARDENER: Yes, Madame Chair,
23 they are.

24 THE CHAIRWOMAN: Yes, sir.

25 SENATOR BAUMGARDENER: Thank you.

1 Understand these were not my words. These
2 are words of a citizen in the State of Colorado.
3 These are boycott letters.

4 It says:

5 "I am a registered Democrat and a
6 lifelong Colorado citizen. I need to let you know
7 that I'm strongly against the current gun laws
8 being proposed. A vote for these laws will do
9 nothing to prevent any of the current tragedies
10 that have happened. In fact, some will actually
11 weaken the law-abiding Colorado citizens from being
12 able to protect themselves, their loved ones, and
13 others if when they -- when some sick individual
14 tried to copycat what has already happened. They
15 are not common-sense approaches to deal with
16 criminal forces, as the criminals already do not
17 follow the laws we have.

18 More effort is needed to place -- to
19 enforce our current gun laws. It is already
20 illegal to knowingly sell or give a gun to a felon
21 or an individual that you know who will commit a
22 crime. Most of these individuals have long
23 histories or a background of criminal behavior, and
24 many are repeat offenders, and they're being let
25 back out on to the streets."

1 And he cites an example:

2 "A couple of years ago, I was broken into
3 by two individuals that among things stolen were
4 three guns. They were arrested later that day and
5 had in their possession some of my property, but of
6 course none of the guns. When arrested, they had
7 several bags of pot, a large amount of cash, and
8 some -- and both were high on drugs. Most likely,
9 they had swapped or sold my guns in some dope deal.

10 "During the interrogation or the
11 questioning by the police, they both admitted and
12 pointed a finger at each other on the break-in and
13 on other break-ins they had committed that same
14 night.

15 "The owner of the car was the only one
16 since the property was in the possession of the
17 car, the other one he was the only one that was
18 charged because he had possession of the property.
19 The other one was released, even though he had a
20 prior warrant.

21 "The owner was convicted of a felon. He
22 was out on parole from another county in Colorado
23 with a same, similar of offense.

24 "Again, criminals do not go in and have a
25 background check done. They don't go in to gun

1 dealers and buy a firearm that can be registered.
2 They don't go to a gun show where you have to
3 register a firearm. They break in, they steal, or
4 they get it from another criminal.

5 "During the plea deal, I asked, what had
6 been done to find out what they had done with my
7 guns. They informed me that there was no -- there
8 had been no warrants, and it had not been an issue
9 on any of their other locations. I also asked were
10 they pressing him to divulge what they did with the
11 guns, and what was going to be -- if that was going
12 to be part of the plea agreement to where he could
13 be let off if he plead, and they said no."

14 He also adds: "Now, in we're going to be
15 serious about keeping guns out of the hands of
16 these type of people and off the streets," he
17 asked, "what kind of law enforcement is that? What
18 kind of laws do we need? What type of laws do we
19 have on the books? Do we not need to enforce the
20 laws we have on the books without adding more
21 laws?"

22 And he would like your opinions. He
23 says:

24 "I'm a very proud Coloradan, and I resent
25 outside forces like the Bloombergs trying to push

1 their money into Colorado to try to add legislation
2 that will not solve anything. It will weaken the
3 law-abiding citizen's gun rights and turn us into
4 New York or California. Keep Colorado proud and
5 maintain our western heritage.

6 "If gun restrictions and laws like this
7 work, then why do Chicago, Washington, D.C., and
8 New York have some of the highest crime rights and
9 have some of the most restrictive laws on the
10 books?"

11 He asks for you to vote against House
12 Bill 1229.

13 Madame Chair --

14 THE CHAIRWOMAN: Yes, Senator.

15 SENATOR BAUMGARDENER: -- may I proceed
16 with this last letter?

17 THE CHAIRWOMAN: As long as it pertains
18 to 1229, yes.

19 SENATOR BAUMGARDENER: Thank you, Madame
20 Chair.

21 This gentleman spends a lot of time in
22 Colorado. He doesn't live here. He's from Kansas.

23 "Dear Colorado Senators, it is our
24 understanding that a representative from Denver,
25 who put forth these bills, which would disarm

1 responsible citizens in Colorado has a past --

2 THE CHAIRWOMAN: Senator --

3 SENATOR BAUMGARDENER: -- "while we
4 respect" --

5 THE CHAIRWOMAN: -- is this about 1229?

6 SENATOR BAUMGARDENER: Yes, Madame Chair,
7 it is. I did not mention any names. It's not --
8 these are not my words. This is someone that --
9 thank you -- it is about the bill, thank you.

10 Thank you, Madame Chair, may I continue?

11 THE CHAIRWOMAN: Yes.

12 SENATOR BAUMGARDENER: Thank you, Madame
13 Chair.

14 "I urge you to vote against all gun
15 control bills," House Bill 1229 and other bills
16 that I can't mention in the bills that we've
17 already heard.

18 "These bills will do nothing to improve
19 safety or reduce crime, and will only serve to
20 further abridge the fundamental rights of
21 responsible Colorado citizens.

22 "Although I am not a resident of
23 Colorado, I and my family travel and spend leisure
24 money in your state that will seize, should any new
25 gun-legislation related bills pass.

1 "I am also actively contacting everyone I
2 know who travels to and spends recreational dollars
3 in Colorado to consider boycotting your state,
4 should any of these erroneous bills be passed."

5 Madame Chair, there's more to this, but I
6 think I will reserve the right to come back later
7 and read it, since it pertains to another piece of
8 legislation.

9 THE CHAIRWOMAN: Well, thank you, sir.

10 SENATOR BAUMGARDENER: I would just ask
11 that we consider House Bill 1229 as a piece of
12 legislation that's going to affect economic
13 development in Colorado to the effect that tourism
14 dollars will be lost because people will not come to
15 the state, and this is part of our bottom-up or the
16 Blueprint piece of our economic development. These
17 bills are going to affect that. So let's be very
18 careful.

19 And I would ask for a no vote on 1229.

20 THE CHAIRWOMAN: Thank you.

21 Senator Lundberg.

22 SENATOR LUNDBERG: Thank you, Madame
23 Chair.

24 Jobs, jobs, jobs. House Bill 1229 is not
25 about jobs, it's about getting rid of jobs. No,

1 that isn't the specific language that you'll read in
2 the bill, but as you've heard the recent discussion,
3 that is in fact the affect you'll see from the bill,
4 along with all of these other bills.

5 Let me talk to the people in the gallery
6 as well as the Senate, because it's your jobs, it's
7 your economic future, it's your life we're talking
8 about.

9 This bill is a part of a package of bills
10 that are clearly seen by the -- not just the people
11 of Colorado -- but the people of this nation as a--
12 as an anti-Second Amendment package. It -- from my
13 understanding, is predicated upon the assumption
14 that the fewer guns we have anywhere, the better off
15 we all are.

16 Never mind the fact that the Constitution
17 is very, very clear on that one specific point, both
18 the U.S. Constitution and the State Constitution.

19 Never mind the fact that the people of Colorado have
20 spoken very clearly.

21 It would be interesting to hear one
22 Senator come down to this microphone and say the
23 overwhelming number of constituents who have
24 contacted me through e-mail and phone calls and
25 personal conversations are urging me to pass this

1 legislation. Is there one of you out here who can
2 attest to that?

3 For my part, I've received thousands of
4 e-mails, thousands. And they are overwhelming. You
5 know, let's say like 90-something percent,
6 95 percent, 99 percent opposed to this legislation.

7 And those from outside of the state very
8 often will add that little note, you know I used to
9 go elk hunting in your state, never again if you
10 cross the line. I don't blame them. If another
11 state were to take this action, I would take that as
12 a you're not welcome sign and take my business
13 elsewhere.

14 Now, I'll leave the podium here with this
15 one final point to the people of Colorado, and that
16 is: Don't give up on this. Don't give up on us.
17 Don't give up on our state. I, for one, commit to
18 you that any anti-Second Amendment legislation
19 that's passed by this legislature, I will do
20 everything within my power to repeal.

21 And there are many of us, not only on the
22 floor here, but maybe up in the gallery or maybe
23 watching elsewhere, who can come down and join our
24 ranks and make that difference and put Colorado back
25 on the track we need to be, because bills like House

1 Bill 1229 do not deserve to be in the statutes of
2 the State of Colorado, not this land of liberty, not
3 this land of freedom, not this land of opportunity.

4 And even as our founding fathers
5 understood that one of the key elements to the
6 opportunity is that ability to defend yourself, and
7 your family, and your property, and your community,
8 and to have that freedom as an individual.

9 It's so clearly stated in our
10 constitutions, in our -- the -- the warp and the
11 weave of the fabric of our laws from the very
12 founding. All of this contributes to that general
13 direction of -- of personal responsibility rather
14 than the government saying no, we'll take care of it
15 and we'll take care of you too.

16 No, that's not what this nation was
17 founded on. That's not what this state of Colorado
18 is all about. That is definitely what the people of
19 Colorado are calling for. I urge each and every
20 Senator to look their constituents in the eye and
21 follow their lead.

22 Vote no on 1229.

23 THE CHAIRWOMAN: Senator King.

24 SENATOR KING: Thank you, Madame Chair.

25 Well said, Senator.

1 I'm asked why today is a day of
2 dysfunction at the capital. So let's take a look a
3 this.

4 All studies show that the vast majority of
5 guns used in crime are obtained either through theft
6 or straw purchases, neither of which will be
7 affected by this bill. Criminals, and their use of
8 firearms will not be deterred by this bill.

9 And crazy people, I'm sorry, but I'm
10 convinced that the only thing that stops a crazy
11 person with a weapon from violence is a sane person
12 with a better sight picture.

13 All we are doing with this proposal, with
14 1229, is imposing costs and burdens on law-abiding
15 citizens and not making them safer.

16 Vote no on 1229.

17 THE CHAIRWOMAN: Any further discussion on
18 Senate -- on House Bill 1229?

19 Senator Tochtrop.

20 SENATOR TOCHTROP: Thank you, Madame
21 Chair.

22 And I wasn't going to get up and talk on
23 any of these bills, but when Senator Cadman brought
24 up Craig, Colorado, and I will tell you I used to
25 live up there, and our son still lives up there, and

1 he is right, they have gorgeous hotels, and hunting
2 is -- other than energy, hunting is one of the main
3 economies in the northwest part of the state.

4 They've got prized -- prized game that
5 everybody goes after, and in particular your
6 out-of-state hunters who come up. And every year
7 you've got the group that go to the same motels and
8 rent the rooms. In fact, when they had the oil boom
9 a couple years ago, it was interesting because the
10 motels made sure that those rooms, even though they
11 had a lot of the oil people staying at the motels,
12 they had to make sure that they were vacant for
13 their yearly hunters that came up every year. I
14 would venture to say that about 20 percent of sales
15 tax that the City of Craig receives is from hunting
16 season.

17 And it was really kind of ironic, it is a
18 rural area, but when we lived up there, our kids
19 were in high school. And my one son, who is living
20 up there now, had a pickup truck. And he would get
21 up in the morning, and he would go deer hunting when
22 it was both seasons, and then go off to school with
23 his rifle on the gun rack, along with many, many of
24 the other students in his school, get off of school
25 and then go hunting again because the deer -- you

1 like to hunt them dawn and dusk, those of you that
2 are hunters.

3 So, you know, I guess, again, I wasn't
4 going to say this, but if -- if this bill affects
5 some of the parts of the state that really rely on
6 hunting, I am concerned about it because even though
7 I don't represent that area, I think we need to look
8 very carefully of how we impact the entire state of
9 Colorado.

10 And, anyway, I just wanted to make a
11 comment about the hunting -- how hunting is
12 important in many parts of the State of Colorado.

13 THE CHAIRWOMAN: Senator Carroll.

14 MAJORITY LEADER CARROLL: Thank you,
15 Madame Chair.

16 I agree, hunting is important. So
17 everyone who owns a gun can obviously continue to
18 hunt just as they do in Colorado.

19 And, in fact, I'll just remind you there's
20 an exception written in there that even if it's --
21 if it's not your gun, if it's borrowed, again, as
22 long as you're not a convicted felon, you can use
23 your own gun, you can borrow a gun, but hunting is
24 one of the explicit exemptions in the bill.

25 Thank you.

1 THE CHAIRWOMAN: Senator Brophy.

2 SENATOR BROPHY: Well, thank you Madame
3 Chair.

4 And as I said in my first time that I came
5 up here -- and I thank the previous senator speaking
6 about the importance of -- of hunting up in the
7 Craig area -- this does impact hunting, because as I
8 mentioned earlier, most hunting trips are for longer
9 than 72 hours. So this bill still has a cast of
10 negative impact upon hunting.

11 And -- and we're -- we're all getting
12 e-mails from all over the country. People that come
13 to the state to -- to -- for tourist activities
14 swearing they're going to Wyoming and Montana if we
15 pass this package of bills. They're paying
16 attention to all of them, and specifically to -- to
17 this bill, the constitutionally of the ability of a
18 police officer to call into question your right to
19 possess a firearm because you may or may not be able
20 to prove that you legally obtained a background
21 check on it.

22 Which brings me to a communication that I
23 had from a friend of mine up in Longmont asking very
24 clearly, Why are checks tied to guns? Shouldn't
25 they be tied to people? Why aren't the bad guys

1 being watched instead of the good guys being
2 watched? Why can't the police officers check to see
3 if the person that they have pulled over is a felon
4 and not allowed to own a gun. That's the solution
5 that the people of Colorado like.

6 And they're paying attention outside of
7 the state and inside of this state. You have seen
8 all of the e-mails that you received. I just
9 distributed to each and every one of you a poll
10 result memo. It looks like this, Public Opinion
11 Strategies.

12 And they polled specifically about all the
13 bills as a package, and this one, and especially the
14 one that we're going to take up in a couple of
15 bills. This is important. Two-thirds of likely
16 voters say that they are very or fairly closely
17 watching the progress of these bills as they move
18 through the legislature. Two-thirds of the people
19 of Colorado either oppose them outright or think
20 that they go too far. Like this bill does. It goes
21 too far.

22 It was supposed to be about background
23 checks, but it doesn't even allow you to loan a
24 firearm to a friend for more than three days. It
25 calls into question whether or not anybody wants to

1 bring a firearm to the State of Colorado.

2 What if law enforcement start -- starts
3 harassing out-of-state hunters who don't even know
4 about this law? Well, that's not likely, because
5 this is the -- did you guys see the Outdoor Life
6 Channel letter? Colorado is the number one topic at
7 a director's meeting they're having in Texas later
8 this month.

9 The eyes of the nation are upon us. What
10 we do here today matters to everybody, just like it
11 matters to a former constituent of mine, now she's
12 in senate district 35, because you guys stole her
13 from me. A brand new county commissioner from
14 Prowers County, who, along with about 49 other
15 people from La Mar, drove all the way up here last
16 Monday to have their voices heard on the bills that
17 they believe are unconstitutional, like this one.

18 "Hi. I am Wendy Buxton-Andrade." She
19 had -- she had prepared a statement that she wanted
20 to give us to everybody.

21 "I'm a county commissioner in Prowers
22 County just as you are. I'm an elected official
23 and sworn to uphold the Constitution of the United
24 States and the Second Amendment that upholds the
25 rights of all American citizens to bear arms.

1 "As we are all elected officials, I am
2 asking you to uphold our American rights set forth
3 by our forefathers. Passing any bills that limit
4 our ability to bare arms is against our
5 Constitution and the rights of law-abiding
6 citizens."

7 The eyes of the entire nation are upon
8 Colorado. All of your constituents are watching
9 what we do here today, and a large majority of
10 them, nearly two-thirds, oppose the things that you
11 are imposing upon them.

12 Vote no on 1229.

13 THE CHAIRWOMAN: Thank you.

14 Senator Crowder.

15 SENATOR CROWDER: Thank you, Madame Chair.

16 I -- I just had a quick question for the
17 sponsor and anybody who supports this bill. We've
18 heard from the people that oppose this about the
19 bill -- the businesses that are leaving the state of
20 Colorado. What I was wondering if you could tell us
21 of any businesses wanting to locate in Colorado due
22 to this bill?

23 Thank you.

24 THE CHAIRWOMAN: Any further discussion on House
25 Bill 1229?

1 Seeing none, the motion before you is to adopt
2 House Bill 1229.

3 All those in favor say aye.

4 All those opposed, no.

5 The ayes have it, and it is adopted.

6 (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