

Coburn amendment 727 recognizes the need to close an illogical policy gap in secondary and private firearm markets

- Longstanding federal law prohibits convicted felons, those with dangerous mental illness and illegal aliens from purchasing or possessing a firearm
- Since the Brady Background Check bill in 1993, every firearm that has been bought at a gun store has required a National Instant Criminal Background Check System (NICS) check be conducted prior to the final transaction to prevent those prohibited people from purchasing firearms at retail stores
- There remains a massive flaw in these laws that allow violent felons, those who are adjudicated as dangerously mentally ill, and illegal immigrants to still purchase firearms in legal secondary markets such as gun shows, flea markets, and through internet advertisements
- Unlike retailers, we as private citizens have no tool to know if the purchasers of our weapons in these secondary markets
- Under current policy, the more than \$1 billion in federal tax dollars spent on creating and maintaining the National Instant Criminal Background Check System (NICS) is rendered useless when a prohibited purchaser can just as easily procure a firearm from a gun show or an internet marketplace without a background check as they can at a gun store

Coburn amendment 727 empowers individual gun owners, not government licensed 3rd parties, to safely and responsibly transfer firearms in the secondary market

- Gun owners operating in secondary markets have no way of know if their counterparty is legally able to purchase or possess a firearm
- The goal to solve the information gap between two unlicensed strangers should be one focused on workable and flexible solutions that can be bolstered by 21st century technological enhancements
- Unlike other proposed plans that require a government designated 3rd party to perform transactions in the secondary or private markets, Coburn XXX will retain the current freedoms and liberties of law abiding gun owners to participate in gun commerce without a federally licensed dealer
- Instead of rerouting all commerce through federally designated person that will charge a \$30-\$50 fee that creates a new de facto tax on guns, Coburn amendment XXX would allow the consumer portal and concealed carry permits to be used for verification, protecting law abiding gun owners freedom to easily and safely transfer firearms.
- Under the system created by Coburn Amendment XXX, if you have a concealed carry permit your life will not be impacted at all. If you do not, you will need to take an extra

2 minutes of your time to obtain a 30 day permit through a consumer portal when purchasing a firearm in a secondary market. Further, the flexibility of the 30 day permit allows gun show attendees plenty of lead time to obtain their permit beforehand.

Coburn Amendment 727 respects the 10th amendment by giving states the ability to take primacy of enforcement, implement flexible solutions, and create certain exemptions

- Coburn Amendment 727 provides states the ability to assume primacy of enforcement of the NICS check law by passing legislation with similar requirements
- States may create exemptions for areas that are both rural and lack the technological capacity to access the consumer portal option
- States that assume primacy of enforcement may also narrow the scope of covered transfers to gun shows, flea markets, internet advertisements or any other transfer that occurs based on a public announcement of the intention to purchase or sell (i.e. states may exempt friends, family, and co-worker transfers)
- States can also create alternative solutions to satisfy the law's standards to prevent firearms from being transferred to prohibited purchasers, and allows these solutions to be used for interstate transfers with a reciprocal agreement in place

Coburn Amendment 727 enhances privacy measures beyond current law to protect gun owners

- Coburn Amendment 727 would reaffirm the federal policy that there will not be a federal firearms registry, and places strict penalties for violation of this policy
- Coburn Amendment 727 requires a biannual audit of FBI NICS check processes to ensure there is no waste, fraud, or abuse of records and that all private information contained in background checks is destroyed by FBI within 24-hours for both FFL and consumer portal checks
- Coburn Amendment 727 creates new prohibitions and penalties on ATF agents that abuse records during audits by prohibiting the seizure, copy, or reproduction of records kept by FFLs in bound books
- Coburn amendment 727 places penalties on persons that use the new consumer portal for any other purpose than its intended use to run a self-NICS check

Coburn Amendment 727 Reforms NICS Improvement Act Amendments grant programs to help fix inadequacies of state disqualifying record reporting into NICS system

- Congress passed the NICS Improvement Amendments Act of 2007 (NIAA) following the Virginia Tech shooting to address an information gap between mental health adjudications or commitments and mental health disqualifying records made available

to NICS (mental health information that would have prohibited the VT shooter from purchasing a weapon was not submitted to NICS).

- As of October 2011, more than half the states made less than 100 mental records available to NICS, 17 states and all five U.S. territories had made fewer than 10 mental health records available to NICS, including 8 that had not made a single submission.
- Challenges faced by states include technological, legal, and coordination issues
- Coburn Amendment 727 reforms the NICS grant programs to help states improve their reporting systems using workable incentives tailored around a unique four year plan for each state with a goal of full coordination and automation of disqualifying records submissions
- Coburn Amendment 727 also bolsters incentives for states to implement relief from disabilities programs for those that recover from their mental encumbrances can exercise their 2nd amendment rights.

Coburn amendment 727 provides proper due process for veterans to prevent them from being unfairly deprived of their Second Amendment Rights

- As a result of the Brady Bill, the Bureau of Alcohol, Tobacco, and Firearms Enforcement Regulations (ATF) promulgated regulations to define the term “adjudicated as a mental defective.” Anyone covered under this definition is prohibited from purchasing or possessing a firearm.
- Unfortunately, this regulation was overly expansive and included individuals who are in no danger to themselves or to others but simply cannot manage their own affairs.
- The Department of Veterans Affairs (VA) consequently determined that the ATF regulations directed them to send the names of all those determined to be “mentally-incompetent” to ATF to be included on National Instant Criminal Background Check System (NICS) and prohibited from purchasing or possessing firearms.
- The current regulations have prompted the VA to forward the names of Veterans who are in no danger to themselves but merely depend on others to manage their finances. In fact, the type of disability a veteran may suffer from is not considered – even if they may be found to be a danger to themselves or to others.
- As of August 2011, the VA accounted for 98 percent of NICS submissions by a federal agency for mental health concerns. Veterans account for 11 percent of all Americans included in NICS as persons prohibited from possessing or purchasing firearms because of mental health concerns (138,968 of 1,286,489 individuals).¹

¹ NICS Index Stats(as of 8/31/2011)

- Coburn Amendment 727 provides ex ante due process for veterans that are appointed a fiduciary to receive a hearing from a VA board or court of competent jurisdiction prior based on his/her ability to handle a firearm, rather than finances
- Coburn Amendment 727 also provides veterans with recourse through an appeals process through a court of competent jurisdiction to regain his/her 2nd amendment rights
- Coburn Amendment 727 requires the VA to review current policy to ensure that a veteran that voluntarily appoints a fiduciary is not automatically placed in the NICS system.