

SENATOR MCFARLAND: Thank you, Mr. President, and fellow senators, this is an issue that came before the Judiciary Committee. I would like to explain at least my view on the subject and why we advanced it in the form we did. As you know, Initiative 403 was ratified by the voters last year and implemented into the Nebraska Constitution. As a result of that particular provision, there has been created a lot of uncertainty as to the ramifications of the language contained in that constitutional provision. And, as Senator Ashford said, we have had a number of court decisions that have been inconsistent and some of those court decisions have, in fact, said that the constitutional provision that was enacted in Initiative 403, in fact, allows felons to have guns. It voids a lot of laws and restrictions that were in our statutes as far as who should have or who should be able to own guns. And because of that uncertainty we advanced, at least I voted to advance, LB 642 in the amended form for that reason because, in fact, if the Supreme Court deliberates and concludes that, in fact, the constitutional provision of Initiative 403 voids a lot of the restrictions on gun ownership, particularly with respect to convicted felons and to other dangerous types of individuals, then I think that's particularly appropriate. There is a difference when constitutional provisions are...come through this Legislature and then are voted upon in this Legislature to be put on the ballot. When that process occurs you have a whole legislative history and you have a whole record of how the language was arrived at, what each and every provision or phrase means and you have some kind of basis for a court, a judge or the Supreme Court of Nebraska to go back to that legislative record and that legislative history and interpret that constitutional provision in that light, assuming it's approved by the voters after it is advanced through the Legislature. In contrast with the initiative process where it is brought by the people, you do not have a legislative history or a legislative record on what those words mean and so, in this particular case, we have a constitutional provision that never was debated or discussed really. The wording of it was never a product of the legislative process and so the court does not have that legislative history or legislative background to look into in trying to determine the intent of that particular constitutional provision of Initiative 403 and that is the reason we have a lot of uncertainty and a lot of confusion. And, for that reason, I think I and some of the other members of the Judiciary Committee voted to advance 642 in the amended form, the amended form being that it would repeal Initiative 403, particularly, in fact, if