

ONE HUNDRED SEVENTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 138

Introduced by Lathrop, 12.

PURPOSE: The purpose of this interim study is to examine current and potential future remedies available for incarcerated persons who have property lost, stolen, or damaged during their confinement. Until recently, a tort claims process was available to incarcerated individuals for the purpose of providing a remedy to those in such a situation. However, a 2019 court case impacted this process because it recognized correctional staff as law enforcement officers covered by the exception to the waiver of sovereign immunity contained in subdivision (2) of section 81-8,219 of the Nebraska Revised Statutes. As a result, the tort claims process is only applicable to incarcerated individuals in extremely limited circumstances. Despite this ruling, correctional staff have continued to encourage incarcerated individuals to utilize the tort claims process notwithstanding the apparent futility of following this process in light of the court case.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.