

ONE HUNDRED EIGHTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 143

Introduced by Brewer, 43; Cavanaugh, J., 9; Conrad, 46; DeKay, 40; Dungan, 26; Wayne, 13.

PURPOSE: The purpose of this resolution is to propose an interim study to review applicable court precedent related to the Nebraska Indian Child Welfare Act to determine whether a legislative response is appropriate in order to clarify the law and to ensure that the protections, provisions, and intent of the act are fulfilled.

The Nebraska Indian Child Welfare Act governs child custody proceedings and is intended to protect the best interest of Indian children and promote the stability and security of Indian tribes and families. Specifically in the act, section 43-1502 provides that it is "the policy of the state to cooperate fully with Indian tribes in Nebraska in order to ensure that the intent and provisions of the federal Indian Child Welfare Act are enforced". This expression of legislative intent further provides that "[t]he state is committed to protecting the essential tribal relations and best interests of an Indian child by promoting practices consistent with the federal Indian Child Welfare Act". Despite this policy statement, Indian families and children continue to exist within Nebraska's child welfare system at disproportionate rates, threatening the stability and security of Indian tribes and families.

The study should also focus on how state courts interact with tribal representatives and tribal courts to ensure the state is respecting the sovereignty of Indian tribes and examine the relationship between federal and state law to ensure that all laws intended to effectuate rights and legal protections for Indian children are being effectively realized and implemented.

In order to carry out the purposes of this resolution, the committee may consult with any tribal, public, and private stakeholders the committee deems necessary; may utilize existing and past studies, reports, and data relating to

compliance with the Nebraska Indian Child Welfare Act; and, if feasible, should conduct at least one public hearing on an Indian reservation to ensure the committee has full access to the collective experience and expertise of tribes in effectuating the act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH 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.