

ONE HUNDRED EIGHTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE RESOLUTION 348**

Introduced by Dungan, 26.

PURPOSE: This resolution proposes an interim study on a respondent's right to a trial by jury under the Uniform Residential Landlord and Tenant Act. That act requires that actions for possession be tried by the court without a jury. Neb. Rev. Stat. § 76-1446. In a recent case from the Nebraska Supreme Court, three Justices joined a concurring opinion which raised the possibility that this may violate the constitutional right to a jury trial, stating that this "bench trial provision may rest on constitutionally fragile ground." NP Dodge Mgmt. Co. v. Holcomb, 314 Neb. 748, 993 N.W.2d 105 (2023) (Papik, J., concurring).

This study shall include, but not be limited to, an examination of the following:

(1) How many states allow for a jury trial for residential eviction proceedings;

(2) How many cases in Nebraska went to a jury trial before repealing the right;

(3) Potential violations of constitutional rights; and

(4) The likely outcome if Nebraska does not allow for a right to a trial by jury under the Uniform Residential Landlord and Tenant Act.

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