

One Hundred Eighth Legislature - Second Session - 2024

Introducer's Statement of Intent

LB1191

Chairperson: Senator Tom Brewer

Committee: Government, Military and Veterans Affairs

Date of Hearing: February 22, 2024

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1191 relates to the Attorney General and eliminates provisions relating to opinions of the Attorney General regarding the unconstitutionality of legislative bills.

Nebraska Statute Section 84-215 allows the Attorney General to selectively issue formal opinions as to the constitutionality of Nebraska statutes. Section 84-215 further provides that the Attorney General may seek to invalidate any statute that it opines is unconstitutional if a state officer relies on the Attorney General opinion and refuses to comply with the statute at issue. The Legislature created Section 84-215 and granted this authority to the Attorney General in 1977. This provision of law has been used sparingly and as intended. However, in 2023, the current Attorney General has manipulated this grant of authority in the issuance of a number of opinions, including an opinion relating to legislative oversight and the constitutionality of Inspector General Acts, and an opinion relating to the retroactivity of LB 50, an omnibus criminal justice reform bill passed into law in 2023 with widespread support. LB 1191 would outright repeal the grant of authority given to the Attorney General in Section 84-215.

The Attorney General would still be free to issue legal opinions upon request and otherwise and would still have the authority to challenge and defend legislative acts on behalf of the state. Additionally, agencies and citizens alike would have the authority to litigate legislative acts.

Principal Introducer: _____

Senator Danielle Conrad