

**IN THE SUPREME COURT OF THE STATE OF NEBRASKA**

STATE OF NEBRASKA ex rel.  
LATASHA COLLAR

Case No. \_\_\_\_\_

Relator,

v.

ROBERT B. EVNEN, Secretary  
of State of the State of  
Nebraska,

Respondent.

**APPLICATION FOR LEAVE  
TO COMMENCE ORIGINAL  
ACTION AND STATEMENT  
OF JURISDICTION**

COMES NOW Relator, Latasha Collar, and requests leave of the Court to commence an original action, pursuant to Neb. Ct. R. App. P. § 2-115, as set forth in the Verified Petition for Writ of Mandamus attached hereto as Exhibit “A” and incorporated herein. In support of this Application, Relator states as follows:

**STATEMENT OF ORIGINAL JURISDICTION**

1. This Court has original jurisdiction over this action by virtue of Article V, Section 2 of the Constitution of the State of Nebraska and Neb. Rev. Stat. § 24-204, as this case involves an action for mandamus and because the challenged proposed referendum relates to the revenue of the State of Nebraska.

**REASONS WHY AN ORIGINAL ACTION IN THE NEBRASKA  
SUPREME COURT IS NECESSARY**

2. Relator directs the Court’s attention to the accompanying Verified Petition for Writ of Mandamus. As described more fully in

that document, the Private Education Scholarship Partial Referendum Petition (the “Referendum”) is invalid and legally insufficient to be placed on the 2024 general election ballot. The Referendum violates Article III, Section 3 of the Nebraska Constitution as it seeks to invoke the power of referendum to repeal an act, or a portion thereof, that makes an appropriation “for the expense of state government or a state institution existing at the time of the passage of such act.” For this reason, and the other reasons set for in the accompanying Verified Petition, the Judiciary must intervene.

3. Pursuant to Neb. Rev. Stat. § 32-801, the Respondent Secretary of State is required to certify the November 5, 2024, general election ballot fifty (50) days prior to such general election. According to the Secretary of State’s Official Election Calendar, September 13, 2024, is the last day for the Secretary to meet this ballot certification deadline. Thus, only 8 days remain from the date of this filing until the certification deadline.

4. Relator promptly filed this action after the Secretary of State previewed on August 30, 2024, that the Referendum would be placed on the November 5, 2024, general election ballot once the verification and certification has been completed.

5. The number of days available for the Court to adjudicate the issues in this case are fewer than the time period in *Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014) (forty-six days), fewer than the seventeen days in *State ex rel. McNally v. Evnen*, 307 Neb. 103, 948 N.W.2d 463 (2020), and comparable to the fourteen-day period in *State ex rel. Wagner v. Evnen*, 307 Neb. 142, 948 N.W.2d 244 (2020). The Court exercised original jurisdiction in each of these cases.

6. Confirming the appropriateness of the case as an original action, adjudication of this matter in the Lancaster County District Court is not a practical alternative for several reasons. First, the adjudication of the case in the District Court would allow very little, if

any, time for consideration of the matter by this Court on appeal by either party. Second, the Verified Petition presents questions of law, and specifically the interpretation of the Nebraska Constitution. Any appeal from the District Court would be reviewed de novo. The matter is within the original jurisdiction of this Court and must ultimately be resolved by this Court in any event. Thus, filing this action in the District Court would only delay this action's final resolution.

7. The legal issue which is the subject of the Verified Petition is one which is uniquely suited to this Court as it involves interpretation of the Nebraska Constitution and application of this Court's own precedent concerning the legal sufficiency of a ballot referendum measure. This Court is uniquely positioned to decide the legal issues in this action, which will ultimately come before the Court regardless of any outcome in the District Court.

8. No discovery is necessary for disposition of this matter. Relator believes there will be no dispute as to the facts underlying the questions of law presented to this Court. Relator stands ready to enter into any necessary factual stipulation with Respondent, including, for example, stipulating as to true and correct copies of Legislative Bill 1402 and Referendum submitted to Respondent.

9. Relator's Verified Petition invokes an issue of fundamental constitutional rights which should be determined by the highest court of this State.

WHEREFORE, Relator respectfully requests leave to commence an original action in this Court.

Dated: September 5, 2024.

**LATASHA COLLAR, Relator.**

/s/ Kamron T.M. Hasan  
Marnie A. Jensen, #22380

Kamron T.M. Hasan, # 25494  
Aubrey L. Wells, #27956  
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And

Brenna M. Grasz, #26794  
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& PETER, PC, LLO  
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Lincoln, NE 68510  
Telephone: 402-475-8230  
Facsimile: 402-475-8328  
[bgrasz@keatinglaw.com](mailto:bgrasz@keatinglaw.com)



**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that on this 5th day of September 2024, a copy of the foregoing Application for Leave to Commence an Original Action and Statement of Jurisdiction, was served upon Respondent by certified mail as follows:

Robert B. Evnen, Secretary of State  
c/o Eric Hamilton, Solicitor General  
2115 State Capitol  
PO Box 98920  
Lincoln, NE 68509

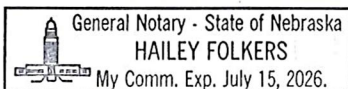
In addition, the same was sent by email on this 5th day of September 2024, to Respondent and Respondent’s counsel as follows: Robert B. Evnen at Robert.Evnen@nebraska.gov; and Eric Hamilton at Eric.Hamilton@nebraska.gov.

  
Aubrey L. Wells

SUBSCRIBED AND SWORN TO before me by Aubrey L. Wells this 5<sup>th</sup> day of September 2024.

  
Notary Public  
State of Nebraska  
Commission Exp. Date: July 15, 2026

[SEAL]



# EXHIBIT A

**IN THE SUPREME COURT OF THE STATE OF NEBRASKA**

STATE OF NEBRASKA ex rel.  
LATASHA COLLAR,

Relator,

v.

ROBERT B. EVNEN, Secretary  
of State of the State of  
Nebraska,

Respondent.

Case No. \_\_\_\_\_

**VERIFIED PETITION FOR  
WRIT OF MANDAMUS**

COMES NOW Relator, Latasha Collar, and for her causes of action and claims for relief against Respondent, Robert B. Evnen, Secretary of State of the State of Nebraska, alleges that Relator is entitled to a writ of mandamus requiring Respondent, in his capacity as Secretary of State, to deny certification and withhold from the ballot the Private Education Scholarship Partial Referendum Petition (the “Petition”) (attached as Exhibit 1), or in the alternative, issue an order declaring the Petition invalid and legally insufficient because it violates the constitutional requirements for placement on the ballot. In support of this petition, Relator hereby states and alleges as follows:

**PARTIES**

1. Relator Latasha Collar (“Ms. Collar” or “Relator”) is a dedicated resident and registered voter of Douglas County, Nebraska. She is employed by a Nebraska water and gas company, where she provides multimedia communication services. Beyond her professional commitments, Ms. Collar is a devoted mother to two children. Her daughter, currently a senior at Marian High School in Omaha, Nebraska, has previously benefited from being a recipient of the



Nebraska Opportunity Scholarships Act, which enabled her to attend Marian, an esteemed private preparatory school for young women in Nebraska. Ms. Collar is concerned that the incorrect inclusion of the Petition on the general ballot could jeopardize the future of Nebraska students, including her daughter or those like her, by eliminating crucial support and funding necessary for their education. This potential impact on education funds to address expenses of state government underscores the importance of this issue.

2. Respondent Secretary of State Robert B. Evnen (the “Secretary of State”) is the duly elected, authorized, and acting Secretary of the State of Nebraska. The Secretary of State is charged with the duty of administering Nebraska’s election laws and with supervising the conduct of Nebraska’s general elections. *See* Neb. Rev. Stat. §§ 32-201, 32-202. The Secretary of State has the authority and clear duty to withhold legally insufficient and unconstitutional measures from the ballot. Neb. Rev. Stat. §§ 32-1409(3), 32-1411(2).

### **JURISDICTION AND VENUE**

3. Relator is authorized to bring this action pursuant to Article V, Section 2 of the Constitution of the State of Nebraska and Neb. Rev. Stat. § 25-2156.

4. The Court has original jurisdiction over this matter by virtue of Article V, Sec. 2 of the Constitution of the State of Nebraska and Neb. Rev. Stat. § 24-204, as this case involves an action for mandamus and because the challenged proposed referendum relates to the revenue of the State of Nebraska.

### **GENERAL ALLEGATIONS**

5. Pursuant to Neb. Rev. Stat. § 32-202, the Secretary of State has, among his duties, the enforcement of the Election Act (Neb. Rev. Stat. §§ 32-101 to 32-1551).

6. Pursuant to Neb. Rev. Stat. § 32-801, the Secretary of State must transmit a certification of issues that appear on the state ballot to each election commissioner or county clerk at least fifty (50) days before any general election date. This year, the general election date falls on November 5, 2024.

7. Under Nebraska law, a measure proposed by a referendum petition may be placed before the voters only if constitutional and statutory requirements have been met. Neb. Rev. Stat. § 32-1409(3). Where a ballot measure fails to meet these requirements, it must be withheld from the ballot.

8. This matter involves a challenge based on a referendum petition's procedural requirements and its legal sufficiency; thus, it is ripe for preelection review.

9. On or about April 30, 2024, the Sponsors signed a Petition Sponsor Sworn Statement (the "Sworn Statement"), which was filed with the Secretary of State's office on or about April 30, 2024. The Sworn Statement lists the following as sponsors of the Petition: Support Our Schools, a Nebraska nonprofit public benefit corporation; Jenni Benson; Paul Shulte; and Tim Royers. A true and correct copy of the Sworn Statement is contained in Exhibit 1.

10. The Petition is a voter-initiated ballot measure which proposes repeal of Section 1 of LB 1402 which was passed by the 108<sup>th</sup> Nebraska Legislature in 2024.

11. Section 1 of LB 1402 appropriates funds for the education of Nebraska students in kindergarten through twelfth grade. A true and correct copy of LB 1402 which was approved by the Governor on April 24, 2024, is attached hereto as Exhibit 2.

12. On May 7, 2024, the Object Statement of the Petition was filed with Secretary of State. The Object Statement provides:

“The object of this Petition is to

Repeal Section 1 of LB 14202, passed by the 108<sup>th</sup> Nebraska Legislature in 2024, which directs \$10 million dollars annually for financial grants-in-aid for eligible students to attend a qualifying privately operated elementary or secondary school in Nebraska.”

13. On or about July 17, 2024, the Sponsors submitted signatures to the Secretary of State to place the Petition on the ballot for the November 5, 2024, general election.

14. On or about August 30, 2024, the Secretary of State indicated that the verification process for the Petition was nearing the end and that while, “[t]he Elections Division has not certified the petitions yet...the three remaining initiative and referendum petitions have met 100% signature threshold required for verification and certification, and subsequently, will qualify for the general ballot once verification and certification has been completed.” A true and accurate copy of the August 30, 2024 press release is attached hereto as Exhibit 3.

15. The Secretary of State’s decision to certify and not withhold the Petition from the ballot is legally incorrect.

### **COUNT ONE**

#### **Violation of Article III, Section 3 of the Nebraska Constitution**

16. Relator incorporates the allegations contained in paragraphs 1 through 15 as though set forth here in full.

17. Article III, Section 3 of the Nebraska Constitution governs voter-initiated referendum petitions.

18. Among other limitations, Article III, Section 3 of the Nebraska Constitution only allows the power of referendum to be invoked “against any act or part of an act of the Legislature, *except* those making appropriations for the expense of the state government or a state institution existing at the time of the passage of such acts.” (Emphasis added).

19. LB 1402 is an act or a part of an act that makes an appropriation for the expense of the state government or a state institution at the time of its passage and, therefore, is not subject to referendum. First, Section 1(7) of LB 1402 provides, “[i]t is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Treasurer for the purpose of providing education scholarships as provided in this section.” Further, Section 1 (1)(a) provides: “[t]he legislature finds that: funds appropriated for the education of students in kindergarten through twelfth grade are for the fundamental public purpose of state government and constitute an ordinary expense of the state government.”

20. “The legislative power is supreme in matters relating to appropriations as to which no constitutional restrictions exist. Constitutional provisions requiring the existence of appropriations made by law secure to the Legislature this exclusive power of deciding how, when, and for what purposes the public funds shall be applied in carrying on the government, and are conservative, not restrictive or prohibitory of the legislative power over the public revenue.” *Rein v. Johnson*, 149 Neb. 67, 80, 30 N.W.2d 548, 556 (1947) (quoting 59 C.J., States, § 382).

21. The Petition violates Article III, Section 3 of the Nebraska Constitution as it seeks to invoke the power of referendum to repeal an act, or portion thereof, that makes appropriations “for the expense of state government or a state institution existing at the time of the passage of such act.”

22. There is no adequate remedy to address the violations of the Nebraska Constitution or to address the resulting harm to the rights of Nebraska voters other than enjoining placement of the proposed petition on the ballot.

23. Therefore, due to its legal insufficiency, Relator seeks a writ of mandamus requiring the Secretary of State to deny certification of the Petition, withhold the Petition from the 2024 general election ballot, and enjoin the Secretary of State and all other officers from certifying or printing on the official ballot for the November 5, 2024, general election the ballot title and number of the Petition.

### **ADVANCEMENT ON THE DOCKET**

24. Consistent with Neb. Rev. Stat. § 32-1412(3), Relator respectfully requests that the Court set this matter for hearing as soon as practicable and give it priority over other cases due to the necessity of Respondent transmitting in ballot form to each commissioner or county clerk a certification of the issues that appear on the November 5, 2024, general election ballot fifty (50) days prior to the November 5, 2024, election pursuant to Neb. Rev. Stat. § 32-801.

### **REQUEST FOR RELIEF**

WHEREFORE, Relator respectfully requests the Court grant relief as follows:

1. That the Court issue a briefing schedule as soon as possible, advance this matter on the docket, and hear and decide this matter in an expedited manner.

2. That the Court issue a writ of mandamus requiring Respondent, in his capacity as Nebraska Secretary of State, to withhold from the November 5, 2024 general election ballot the proposed referendum to repeal Section 1 of LB 1402, or alternatively, if resolution of this matter occurs after the general election ballots are

certified, that the Court issue a writ of mandamus requiring Respondent, in his capacity as Nebraska Secretary of State, to abstain from certifying the election results of the proposed referendum.

3. That the Court award Relator's reasonable attorneys' fees and costs pursuant to Neb. Rev. Stat. § 25-2165 or as otherwise permitted by Nebraska law; and

4. That the Court grant such other and further relief as is appropriate in law and equity.

Dated: September 5, 2024.

**LATASHA COLLAR, Relator.**

*/s/ Kamron T.M. Hasan*

Marnie A. Jensen, #22380

Kamron T.M. Hasan, # 25494

Aubrey L. Wells, #27956

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And

Brenna M. Grasz, #26794

KEATING, O'GARA, NEDVED,

& PETER, PC, LLO

200 South 21st Street, Suite 400

Lincoln, NE 68510

Telephone: 402-475-8230

Facsimile: 402-475-8328

[bgrasz@keatinglaw.com](mailto:bgrasz@keatinglaw.com)



**CERTIFICATE OF SERVICE**

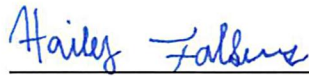
The undersigned hereby certifies that on this 5th day of September 2024, a copy of the foregoing Verified Petition for Writ of Mandamus, was served upon Respondent by certified mail as follows:

Robert B. Evnen, Secretary of State  
c/o Eric Hamilton, Solicitor General  
2115 State Capitol  
PO Box 98920  
Lincoln, NE 68509

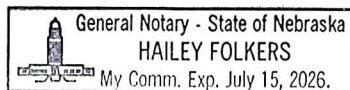
In addition, the same was sent by email on this 5th day of September 2024, to Respondent and Respondent's counsel as follows: Robert B. Evnen at Robert.Evnen@nebraska.gov; and Eric Hamilton at Eric.Hamilton@nebraska.gov.

  
Aubrey L. Wells

SUBSCRIBED AND SWORN TO before me by Aubrey L. Wells  
this 5<sup>th</sup> day of September 2024.

  
Notary Public  
State of Nebraska  
Commission Exp. Date: July 15, 2026

[SEAL]





# **EXHIBIT 1**

Nebraska Secretary of State  
Petition Sponsor Sworn Statement

RECEIVED

APR 30 2024

SECRETARY OF STATE  
ELECTIONS DIVISION

**Petition: Private Education Scholarship Partial Referendum**

This is a Sworn List of Sponsors for the Private Education Scholarship Partial Referendum:

Support Our Schools - Nebraska, a Nebraska nonprofit public benefit corporation and a ballot committee, 605 South 14<sup>th</sup> Street, Lincoln, Nebraska, 68508

Jenni Benson, Board Member  
7110 South 70<sup>th</sup> Street  
Lincoln, NE 68516  
402-890-3169  
jenni.benson62@yahoo.com

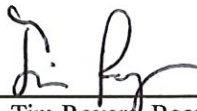
Paul Schulte, Board Member  
5615 South 115<sup>th</sup> Circle  
Omaha, NE 68137  
402-516-2018  
kcop100@hotmail.com

Tim Royers, Board Member  
15606 L Street  
Omaha, NE 68135  
402-214-6948  
royerst@gmail.com

STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF LANCASTER    )

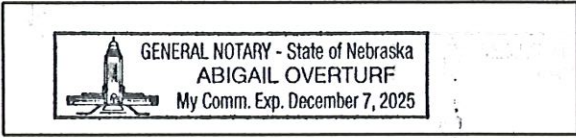
I hereby swear that this is a complete list containing the names and street addresses of every person, corporation, or association sponsoring the aforementioned petition.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30<sup>th</sup> day of April, 2024.

SIGNATURE OF SPONSOR:   
Tim Royers, Board Member

Subscribed in my presence and sworn before me this 30 day of April, 2024.

By Abigail Overturf  
My Commission Expires: 12 / 05 / 25



# FINAL LANGUAGE

## PRIVATE EDUCATION SCHOLARSHIP PARTIAL REFERENDUM

### Object Statement

The object of this Petition is to

Repeal Section 1 of LB 1402, passed by the 108th Nebraska Legislature in 2024, which directs \$10 million dollars annually for financial grants-in-aid for eligible students to attend a qualifying privately operated elementary or secondary school in Nebraska.

RECEIVED

MAY 07 2024

SECRETARY OF STATE  
ELECTIONS DIVISION

# FINAL LANGUAGE

## LEGISLATIVE BILL 1402

Approved by the Governor April 24, 2024

RECEIVED

MAY 07 2024

SECRETARY OF STATE  
ELECTIONS DIVISION

Introduced by Linehan, 39; Slama, 1.

A BILL FOR AN ACT relating to education scholarships; to amend sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Supplement, 2023; to provide for education scholarships; to repeal the Opportunity Scholarships Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-7101, 77-7102, 77-7103, 77-7104, 77-7105, 77-7106, 77-7107, 77-7108, 77-7109, 77-7110, 77-7111, 77-7112, and 77-7113, Revised Statutes Supplement, 2023.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Legislature finds that:

(a) Funds appropriated for the education of students in kindergarten through twelfth grade are for a fundamental public purpose of state government and constitute an ordinary expense of state government;

(b) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children;

(c) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children;

(d) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children; and

(e) Making it possible for more parents and legal guardians to be able to choose privately operated schools benefits Nebraska parents and taxpayers.

(2) For purposes of this section:

(a) Education scholarship means a financial grant-in-aid to be used to pay all or part of the cost to educate an eligible student attending a qualified school;

(b) Eligible student means a resident of Nebraska who:

(i) Is receiving an education scholarship for the first time and is (A) entering kindergarten or ninth grade in a qualified school or the first grade level offered by the qualified school, (B) transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives an education scholarship to a qualified school and is entering any of grades kindergarten through twelve, or (C) a member of an active duty or reserve military family transferring into Nebraska from another state or another country and is entering any of grades kindergarten through twelve in a qualified school;

(ii) Has previously received an education scholarship under this section and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iii) Has previously received an education scholarship under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iv) Is the sibling of a student who is receiving an education scholarship and resides in the same household as such student; or

(v) Is currently enrolled in a qualified school and is a member of a family whose household income is no more than two hundred thirteen percent of the federal poverty level; and

(c) Qualified school means any nongovernmental, privately operated elementary or secondary school located in this state that (i) is operated not for profit, (ii) complies with the antidiscrimination provisions of 42 U.S.C. 1981, as such section existed on January 1, 2024, (iii) complies with all health and life safety laws or codes that apply to privately operated schools, and (iv) fulfills the applicable accreditation or approval requirements established by the State Board of Education pursuant to section 79-318.

(3) The State Treasurer shall establish a program to provide education scholarships to eligible students to pay the costs associated with attending a qualified school. Under such program, the State Treasurer shall:

(a) Establish a priority system for awarding education scholarships under the program. Such priority system shall:

(i) Give first priority to:

(A) Eligible students who received an education scholarship under this section or under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, during the previous school year; and

(B) The sibling of a student who is receiving an education scholarship, so long as the sibling resides in the same household as such student;

(ii) Give second priority to:

(A) Eligible students whose household income levels do not exceed one hundred eighty-five percent of the federal poverty level;

(B) Eligible students whose application for the enrollment option program established in section 79-234 has been denied;

# FINAL LANGUAGE

(C) Eligible students who have an individualized education program;

(D) Eligible students who are experiencing bullying, harassment, hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or intimidation, or fighting at school;

(E) Eligible students who are in foster care; and

(F) Eligible students who are in a family with a parent or guardian in an active duty role in a branch of the armed forces of the United States or in the National Guard, or whose parent or guardian was killed serving in the line of duty;

(iii) Give third priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level; and

(iv) Give fourth priority to eligible students whose household income levels exceed two hundred thirteen percent of the federal poverty level but do not exceed three hundred percent of the income indicated in the income eligibility guidelines for reduced price meals under the National School Lunch Program in 7 C.F.R. part 210;

(b) Limit the maximum scholarship amount awarded to any eligible student to the cost necessary to educate the eligible student at the qualified school such student attends; and

(c) Limit scholarship amounts awarded to eligible students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003.

(4) The annual limit on the total amount of education scholarships awarded under this section for fiscal year 2024-25 and each fiscal year thereafter shall be ten million dollars.

(5) On or before December 1, 2025, and on or before December 1 of each year thereafter, the State Treasurer shall electronically submit a report to the Governor and the Legislature that includes the following:

(a) A summary description of the State Treasurer's policies and procedures for awarding education scholarships;

(b) The number of eligible students receiving education scholarships in the most recent fiscal year;

(c) The total amount of education scholarships awarded in the most recent fiscal year;

(d) The number of eligible students currently wait-listed or denied from receiving an education scholarship and the reason for the wait-listing or denial; and

(e) The demographic information of eligible students receiving education scholarships, including, but not limited to:

(i) Income level;

(ii) Grade level; and

(iii) Geographic location.

(6) The State Treasurer may enter into contracts with up to three program managers for the purposes of carrying out the education scholarship program described in this section.

(7) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Treasurer for the purpose of providing education scholarships as provided in this section.

(8) Up to seven and one-half percent of the funds appropriated for purposes of this section may be used by the State Treasurer, or by the program managers with which the State Treasurer contracts, for administrative expenses.

(9) This section shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student receiving an education scholarship.

# REFERENDUM PETITION

For Secretary of State Use Only

The object of this petition is to: (See reverse side for actual text of measure)

**Repeal Section 1 of LB 1402, passed by the 108<sup>th</sup> Nebraska Legislature in 2024, which directs \$10 million dollars annually for financial grants-in-aid for eligible students to attend a qualifying privately operated elementary or secondary school in Nebraska.**

To the Honorable Robert Evnen, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of \_\_\_\_\_, respectfully order that Section 1 of Legislative Bill No. 1402 entitled A BILL FOR AN ACT relating to education scholarships; to amend sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Supplement, 2023; to provide for education scholarships; to repeal the Opportunity Scholarships Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-7101, 77-7102, 77-7103, 77-7104, 77-7105, 77-7106, 77-7107, 77-7108, 77-7109, 77-7110, 77-7111, 77-7112, and 77-7113, Revised Statutes Supplement, 2023, passed by the One Hundred Eighth Legislature of the State of Nebraska at its Second Session, shall be referred to the registered voters of the state for retention or repeal at the general election to be held on the 5<sup>th</sup> day of November 2024, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of \_\_\_\_\_ and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and my printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

**WARNING TO PETITION SIGNERS-- VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not qualified to sign the petition shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.**

#	DATE (mm/dd/yy)	SIGNATURE	PRINTED NAME	DATE OF BIRTH	ADDRESS (Street Number & Name, City or Village, Zip Code)
1					
2					
3					
4					
5					
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Not more than twenty signatures on one sheet shall be counted. Nebraska Revised Statute §32-1409

STATE OF NEBRASKA )  
 ) ss \_\_\_\_\_, (name of circulator) being first duly sworn, deposes and says that he or she is the circulator  
 COUNTY OF \_\_\_\_\_ ) of this petition containing \_\_\_\_\_ signatures, that he or she is at least eighteen years of age, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

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Circulator's Signature

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Address

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City, State, Zip

Subscribed and sworn to before me, a notary public, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, Nebraska.  
(City or village of notarial act.)

(Seal)

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Notary Public's Signature

## **Proposed Referendum to Repeal LB 1402 Section 1 (2024):**

(underscored language indicates language added by LB 1402, ~~strike through~~ indicates language removed by LB 1402)

### **Title and Text of LB 1402 Section 1**

**A BILL FOR AN ACT relating to education scholarships; to amend sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Supplement, 2023; to provide for education scholarships; to repeal the Opportunity Scholarships Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-7101, 77-7102, 77-7103, 77-7104, 77-7105, 77-7106, 77-7107, 77-7108, 77-7109, 77-7110, 77-7111, 77-7112, and 77-7113, Revised Statutes Supplement, 2023.**

**Be it enacted by the people of the State of Nebraska,**

**Section 1.** (1) The Legislature finds that: (a) Funds appropriated for the education of students in kindergarten through twelfth grade are for a fundamental public purpose of state government and constitute an ordinary expense of state government; (b) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children; (c) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children; (d) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children; and (e) Making it possible for more parents and legal guardians to be able to choose privately operated schools benefits Nebraska parents and taxpayers. (2) For purposes of this section: (a) Education scholarship means a financial grant-in-aid to be used to pay all or part of the cost to educate an eligible student attending a qualified school; (b) Eligible student means a resident of Nebraska who: (i) Is receiving an education scholarship for the first time and is (A) entering kindergarten or ninth grade in a qualified school or the first grade level offered by the qualified school, (B) transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives an education scholarship to a qualified school and is entering any of grades kindergarten through twelve, or (C) a member of an active duty or reserve military family transferring into Nebraska from another state or another country and is entering any of grades kindergarten through twelve in a qualified school; (ii) Has previously received an education scholarship under this section and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first; (iii) Has previously received an education scholarship under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first; (iv) Is the sibling of a student who is receiving an education scholarship and resides in the same household as such student; or (v) Is currently enrolled in a qualified school and is a member of a family whose household income is no more than two hundred thirteen percent of the federal poverty level; and (c) Qualified school means any nongovernmental, privately operated elementary or secondary school located in this state that (i) is operated not for profit, (ii) complies with the antidiscrimination provisions of 42 U.S.C. 1981, as such section existed on January 1, 2024, (iii) complies with all health and life safety laws or codes that apply to privately operated schools, and (iv) fulfills the applicable accreditation or approval requirements established by the State Board of Education pursuant to section 79-318. (3) The State Treasurer shall establish a program to provide education scholarships to eligible students to pay the costs associated with attending a qualified school. Under such program, the State Treasurer shall: (a) Establish a priority system for awarding education scholarships under the program. Such priority system shall: (i) Give first priority to: (A) Eligible students who received an education scholarship under this section or under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, during the previous school year; and (B) The sibling of a student who is receiving an education scholarship, so long as the sibling resides in the same household as such student; (ii) Give second priority to: (A) Eligible students whose household income levels do not exceed one hundred eighty-five percent of the federal poverty level; (B) Eligible students whose application for the enrollment option program established in section 79-234 has been denied; (C) Eligible students who have an individualized education program; (D) Eligible students who are experiencing bullying, harassment, hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or intimidation, or fighting at school; (E) Eligible students who are in foster care; and (F) Eligible students who are in a family with a parent or guardian in an active duty role in a branch of the armed forces of the United States or in the National Guard, or whose parent or guardian was killed serving in the line of duty; (iii) Give third priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level; and (iv) Give fourth priority to eligible students whose household income levels exceed two hundred thirteen percent of the federal poverty level but do not exceed three hundred percent of the income indicated in the income eligibility guidelines for reduced price meals under the National School Lunch Program in 7 C.F.R. part 210; (b) Limit the maximum scholarship amount awarded to any eligible student to the cost necessary to educate the eligible student at the qualified school such student attends; and (c) Limit scholarship amounts awarded to eligible students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003. (4) The annual limit on the total amount of education scholarships awarded under this section for fiscal year 2024-25 and each fiscal year thereafter shall be ten million dollars. (5) On or before December 1, 2025, and on or before December 1 of each year thereafter, the State Treasurer shall electronically submit a report to the Governor and the Legislature that includes the following: (a) A summary description of the State Treasurer's policies and procedures for awarding education scholarships; (b) The number of eligible students receiving education scholarships in the most recent fiscal year; (c) The total amount of education scholarships awarded in the most recent fiscal year; (d) The number of eligible students currently wait-listed or denied from receiving an education scholarship and the reason for the wait-listing or denial; and (e) The demographic information of eligible students receiving education scholarships, including, but not limited to: (i) Income level; (ii) Grade level; and (iii) Geographic location. (6) The State Treasurer may enter into contracts with up to three program managers for the purposes of carrying out the education scholarship program described in this section. (7) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Treasurer for the purpose of providing education scholarships as provided in this section. (8) Up to seven and one-half percent of the funds appropriated for purposes of this section may be used by the State Treasurer, or by the program managers with which the State Treasurer contracts, for administrative expenses. (9) This section shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student receiving an education scholarship.

# **EXHIBIT 2**



## LEGISLATIVE BILL 1402

Approved by the Governor April 24, 2024

Introduced by Linehan, 39; Slama, 1.

A BILL FOR AN ACT relating to education scholarships; to amend sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Supplement, 2023; to provide for education scholarships; to repeal the Opportunity Scholarships Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-7101, 77-7102, 77-7103, 77-7104, 77-7105, 77-7106, 77-7107, 77-7108, 77-7109, 77-7110, 77-7111, 77-7112, and 77-7113, Revised Statutes Supplement, 2023.  
Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Legislature finds that:

(a) Funds appropriated for the education of students in kindergarten through twelfth grade are for a fundamental public purpose of state government and constitute an ordinary expense of state government;

(b) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children;

(c) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children;

(d) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children; and

(e) Making it possible for more parents and legal guardians to be able to choose privately operated schools benefits Nebraska parents and taxpayers.

(2) For purposes of this section:

(a) Education scholarship means a financial grant-in-aid to be used to pay all or part of the cost to educate an eligible student attending a qualified school;

(b) Eligible student means a resident of Nebraska who:

(i) Is receiving an education scholarship for the first time and is (A) entering kindergarten or ninth grade in a qualified school or the first grade level offered by the qualified school, (B) transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives an education scholarship to a qualified school and is entering any of grades kindergarten through twelve, or (C) a member of an active duty or reserve military family transferring into Nebraska from another state or another country and is entering any of grades kindergarten through twelve in a qualified school;

(ii) Has previously received an education scholarship under this section and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iii) Has previously received an education scholarship under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iv) Is the sibling of a student who is receiving an education scholarship and resides in the same household as such student; or

(v) Is currently enrolled in a qualified school and is a member of a family whose household income is no more than two hundred thirteen percent of the federal poverty level; and

(c) Qualified school means any nongovernmental, privately operated elementary or secondary school located in this state that (i) is operated not for profit, (ii) complies with the antidiscrimination provisions of 42 U.S.C. 1981, as such section existed on January 1, 2024, (iii) complies with all health and life safety laws or codes that apply to privately operated schools, and (iv) fulfills the applicable accreditation or approval requirements established by the State Board of Education pursuant to section 79-318.

(3) The State Treasurer shall establish a program to provide education scholarships to eligible students to pay the costs associated with attending a qualified school. Under such program, the State Treasurer shall:

(a) Establish a priority system for awarding education scholarships under the program. Such priority system shall:

(i) Give first priority to:

(A) Eligible students who received an education scholarship under this section or under the Opportunity Scholarships Act, as such act existed prior to its repeal by this legislative bill, during the previous school year; and

(B) The sibling of a student who is receiving an education scholarship, so long as the sibling resides in the same household as such student;

(ii) Give second priority to:

(A) Eligible students whose household income levels do not exceed one hundred eighty-five percent of the federal poverty level;

(B) Eligible students whose application for the enrollment option program established in section 79-234 has been denied;

(C) Eligible students who have an individualized education program;  
(D) Eligible students who are experiencing bullying, harassment, hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or intimidation, or fighting at school;

(E) Eligible students who are in foster care; and

(F) Eligible students who are in a family with a parent or guardian in an active duty role in a branch of the armed forces of the United States or in the National Guard, or whose parent or guardian was killed serving in the line of duty;

(iii) Give third priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level; and

(iv) Give fourth priority to eligible students whose household income levels exceed two hundred thirteen percent of the federal poverty level but do not exceed three hundred percent of the income indicated in the income eligibility guidelines for reduced price meals under the National School Lunch Program in 7 C.F.R. part 210;

(b) Limit the maximum scholarship amount awarded to any eligible student to the cost necessary to educate the eligible student at the qualified school such student attends; and

(c) Limit scholarship amounts awarded to eligible students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003.

(4) The annual limit on the total amount of education scholarships awarded under this section for fiscal year 2024-25 and each fiscal year thereafter shall be ten million dollars.

(5) On or before December 1, 2025, and on or before December 1 of each year thereafter, the State Treasurer shall electronically submit a report to the Governor and the Legislature that includes the following:

(a) A summary description of the State Treasurer's policies and procedures for awarding education scholarships;

(b) The number of eligible students receiving education scholarships in the most recent fiscal year;

(c) The total amount of education scholarships awarded in the most recent fiscal year;

(d) The number of eligible students currently wait-listed or denied from receiving an education scholarship and the reason for the wait-listing or denial; and

(e) The demographic information of eligible students receiving education scholarships, including, but not limited to:

(i) Income level;

(ii) Grade level; and

(iii) Geographic location.

(6) The State Treasurer may enter into contracts with up to three program managers for the purposes of carrying out the education scholarship program described in this section.

(7) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Treasurer for the purpose of providing education scholarships as provided in this section.

(8) Up to seven and one-half percent of the funds appropriated for purposes of this section may be used by the State Treasurer, or by the program managers with which the State Treasurer contracts, for administrative expenses.

(9) This section shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student receiving an education scholarship.

Sec. 2. Section 77-2715.07, Revised Statutes Supplement, 2023, is amended to read:

77-2715.07 (1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such nonrefundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the

federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(c) A refundable credit as provided in section 77-5209.01 for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended;

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Volunteer Emergency Responders Incentive Act; and

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 32 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit for personal exemptions allowed under section 77-2716.01;

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in sections 77-27,238 and 77-27,240;

(g) A credit as provided in the Affordable Housing Tax Credit Act; and

(h) A credit to grocery store retailers, restaurants, and agricultural producers as provided in section 77-27,241; ~~and~~

~~(i) A credit as provided in the Opportunity Scholarships Act.~~

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730;

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act; and

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(b) For all taxable years beginning on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(c) Each partner, shareholder, member, or beneficiary shall report his or her share of the credit in the same manner and proportion as he or she reports

the partnership, subchapter S corporation, limited liability company, or estate or trust income. If any partner, shareholder, member, or beneficiary cannot fully utilize the credit for that year, the credit may not be carried forward or back.

(6) There shall be allowed to all individuals nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3604 and refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3605.

(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(9)(a) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to the parent of a stillborn child if:

(i) A fetal death certificate is filed pursuant to subsection (1) of section 71-606 for such child;

(ii) Such child had advanced to at least the twentieth week of gestation; and

(iii) Such child would have been a dependent of the individual claiming the credit.

(b) The amount of the credit shall be two thousand dollars.

(c) The credit shall be allowed for the taxable year in which the stillbirth occurred.

(10) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7203 and nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7204.

Sec. 3. Section 77-2717, Revised Statutes Supplement, 2023, is amended to read:

77-2717 (1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income

and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, ~~the Opportunity Scholarships Act~~, and sections 77-27,238, 77-27,240, and 77-27,241.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, ~~the Opportunity Scholarships Act~~, and sections 77-27,238, 77-27,240, and 77-27,241.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, ~~the Opportunity Scholarships Act~~, and sections 77-27,238, 77-27,240, and 77-27,241. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax return which shall include (a) in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, ~~the Opportunity Scholarships Act~~, and sections 77-27,238, 77-27,240, and 77-27,241 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with

sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c) does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Sec. 4. Section 77-2734.03, Revised Statutes Supplement, 2023, is amended to read:

77-2734.03 (1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as (i) taxes on such premiums and assessments included as Nebraska premiums and assessments under section 77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on, or after January 1, 1998, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523 shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as assessments allowed as an offset against premium and related retaliatory tax liability pursuant to section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for contributions to community betterment programs as provided in the Community Development Assistance Act.

(3) There shall be allowed to corporate taxpayers a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to motor fuels purchased during any tax year ending or deemed to end on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended.

(5) There shall be allowed to corporate taxpayers refundable income tax credits under the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable income tax credit for investment in a biodiesel facility as provided in section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable income tax credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, ~~the Opportunity Scholarships Act~~, and sections 77-27,238, 77-27,240, and 77-27,241.

Sec. 5. Sections 2, 3, 4, 6, and 7 of this act become operative on

October 31, 2024. The other sections of this act become operative on their effective date.

Sec. 6. Original sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Supplement, 2023, are repealed.

Sec. 7. The following sections are outright repealed: Sections 77-7101, 77-7102, 77-7103, 77-7104, 77-7105, 77-7106, 77-7107, 77-7108, 77-7109, 77-7110, 77-7111, 77-7112, and 77-7113, Revised Statutes Supplement, 2023.

## LEGISLATIVE BILL 1402A

Approved by the Governor April 24, 2024

Introduced by Linehan, 39.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1402, One Hundred Eighth Legislature, Second Session, 2024; and to declare an emergency.  
Be it enacted by the people of the State of Nebraska,

Section 1. There is hereby appropriated (1) \$10,000,000 from the General Fund for FY2024-25 and (2) \$10,000,000 from the General Fund for FY2025-26 to the State Treasurer, for Program 480, to aid in carrying out the provisions of Legislative Bill 1402, One Hundred Eighth Legislature, Second Session, 2024.

There is included in the appropriation to this program for FY2024-25 \$9,250,000 General Funds for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY2025-26 \$9,250,000 General Funds for state aid, which shall only be used for such purpose.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$12,500 for FY2024-25 or \$13,125 for FY2025-26.

Sec. 2. Since an emergency exists, this act takes effect when passed and approved according to law.



# **EXHIBIT 3**



# STATE OF NEBRASKA

ROBERT B. EVNEN  
SECRETARY OF STATE

For immediate release:  
August 30, 2024

Contact:  
Jackie Ourada  
(402) 471-4086

## Secretary of State provides updates on remaining petitions

Secretary of State Bob Evnen says the signatures of the three petitions are nearing the end of the verification process by county election offices.

The three remaining initiative and referendum petitions include:

- Nebraska Medical Cannabis Patient Protection initiative petition,
- Nebraska Medical Cannabis Regulation initiative petition and
- Private Education Scholarship partial referendum.

The Elections Division has not certified the petitions yet. However, the three remaining initiative and referendum petitions have met the 100% signature threshold required for verification and certification, and subsequently, will qualify for the general election ballot once verification and certification has been completed. The Secretary of State's office will release updates once the petitions are certified.

"Our office is providing this update to keep voters informed of where county election offices are in the signature verification process," Secretary Evnen said. "Election workers are checking every voter's signature on the remaining petitions, and we will have petitions verified before the September 13 deadline to certify the November ballot."

Initiative petitions seeking to enact new laws, such as the [Nebraska Medical Cannabis Patient Protection](#) initiative petition and the [Nebraska Medical Cannabis Regulation](#) initiative petition, need to collect valid signatures from at least **7%** of registered voters in Nebraska and valid signatures from at least **5%** of registered voters in **38** counties.

The **Nebraska Medical Cannabis Patient Protection initiative petition** has collected **89,051** valid signatures and has met the **5%** distribution requirement in at least **51** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

The **Nebraska Medical Cannabis Regulation initiative petition** has collected **89,005** valid signatures and has met the **5%** distribution requirement in at least **51** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

Referendum petitions seeking to repeal a new law, such as the [Private Education Scholarship partial referendum](#), need to collect valid signatures from at least **5%** of registered voters in Nebraska and valid signatures from at least **5%** of registered voters in **38** counties.

The **Private Education Scholarship partial referendum** has collected **62,042** valid signatures and has met the **5%** distribution requirement in at least **57** counties. The petition has collected enough valid signatures to be certified but has not met the **110%** threshold provided under state law to cease verifying signatures. County election offices are verifying the remaining signatures.

The Nebraska Secretary of State's office must certify the November general election ballot by September 13. All petitions will be processed and the results announced by that date.

# Certificate of Service

I hereby certify that on Thursday, September 05, 2024 I provided a true and correct copy of this *Application to Docket Original Action* to the following:

Evnen,Robert,B. (Self Represented Litigant) service method: **Email**

Signature: /s/ Kamron Hasan (25494)