

# 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;

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(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)
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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.

\_\_\_\_\_  
Circulator's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
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)

\_\_\_\_\_  
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.