

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA
OMAHA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEBRASKA,

Defendant.

CIVIL No. 8:26-cv-172

JOINT MOTION FOR ENTRY OF CONSENT JUDGMENT

1. On April 21, 2026, Plaintiff United States of America filed its Complaint against Defendant the State of Nebraska, ECF No. 1.

2. The Parties agree that the Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and venue is proper under 28 U.S.C. § 1391.

3. In the Complaint, Plaintiff challenged portions of four provisions in the State of Nebraska’s Revised Statutes, Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), that extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States, as preempted by Federal immigration law at 8 U.S.C. § 1623(a).

4. Plaintiff requested that this Court enter a judgment declaring those portions of Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), to the extent they extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States, violate the Supremacy Clause and are therefore invalid.

5. Plaintiff further requested that this Court issue a permanent injunction that prohibits the Defendant, as well as its successors, agents, and employees, from enforcing those portions of Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), to the extent they extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States.

6. The Parties agree that the Court has the authority to provide the requested relief under the Supremacy Clause, U.S. Const. Art. VI, cl. 2, as well as 28 U.S.C. §§ 2201 and 2202, and its inherent equitable powers.

7. The Parties agree those portions of Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), are preempted by 8 U.S.C. § 1623(a), to the extent they extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States.

8. The Parties request that the Court enter a final judgment declaring those portions of Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), to the extent they extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States, violate the Supremacy Clause and are therefore invalid.

9. The Parties request that the Court enter a permanent injunction prohibiting the Defendant, as well as its successors, agents and employees, from enforcing those portions of Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-3202(6), and 85-2102(6), to the extent they extend eligibility for in-state tuition benefits to aliens who are not lawfully present in the United States.

10. The Parties agree that each will bear their own costs and fees.

DATED: April 21, 2026

Respectfully submitted,

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DATED: April 21, 2026

Respectfully submitted,

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