

https://lmtribune.com/opinion/opinion-idaho-voucher-bill-will-open-pandora-s-box/article_a9ace8bc-2cdd-5949-aac7-9c6cd7292616.html

OPINION: Idaho voucher bill will open Pandora's box

By MARTY TRILLHAASE The Lewiston Tribune

Jul 8, 2022

Diverting Idaho's public education dollars into vouchers for private schools has acquired more legislative votes — perhaps even enough to pass.

But a school voucher would be a Pandora's box. Beware of the law of unintended consequences.

Until now, opposition has hinged on these themes:

- Despite their duty under the state constitution to “establish and maintain a general, uniform and thorough system of public, free common schools,” lawmakers have presided over a system that provides the least amount of support per pupil in the country, relies increasingly on property taxes to prop up the system and tolerates a growing gap between rich and poor school districts.
- Private schools are not evenly dispersed across the state. So students in wealthier urban settings would benefit while children who rely on public schools in rural communities would be left with the crumbs. In contrast to public schools, which answer to elected school boards, no private school owes any accountability to the taxpayer.
- Support for public schools, particularly in eastern Idaho, is strong. Once again, education ranked as the state's top priority in the most recent Boise State University public policy survey.

Nonetheless, the state came perilously close to crossing that threshold. Two years ago, the House voted 47-22 to allow parents of private school students to draw upon state scholarships and grants for tuition. A weaker version of the measure — with the scholarships excised — died by a squeaker 16-18 vote in the Senate.

Last year, a consensus measure, which disallowed state funds for private school tuition, became law. But a pure voucher bill came within one vote of clearing the House Education Committee. Among those who stopped it were Chairman Lance Clow, R-Twin Falls and Reps. Ryan Kerby, R-New Plymouth, Lori McCann, R-Lewiston, Gary Marshall, R-Idaho Falls, and Julie Yamamoto, R-Caldwell.

Since then, the Idaho Freedom Foundation — whose president, Wayne Hoffman, has called public schools “grotesque” and “the most virulent form of socialism (and indoctrination thereto)” — won round after round in the May 17 GOP primary. Conservatively, the Freedom Foundation now has 11 allies in the Senate, eight more than it began with.

So what happens if this new Legislature goes along with Hoffman’s support for allowing “the money to follow the child”?

Start with the U.S. Supreme Court. Last month, it seemed to overturn Idaho’s Blaine amendment. Carved out at a time of religious animosity during statehood, it makes the U.S. Constitution’s establishment clause pale in comparison: No body from the Legislature to the school district to the city, town, county or other public entity “shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever. ...”

The high court did not necessarily eviscerate that provision in its recent ruling regarding Maine's private tuition program. Idaho's Blaine amendment remains intact — as long as the state refuses to divert public dollars into any private school. Once it breaches that precedent, however, it cannot refuse to support religious schools.

“If such legislation were to be approved, SCOTUS has just made it clear that Idaho taxpayer money will have to also go to support religious schooling,” wrote former Idaho Supreme Court Chief Justice Jim Jones.

And the legal headaches don't end there.

The Legislature's apparent failure to follow its own mandate to provide a “general, uniform and thorough system of public, free” schools — the same issue that persuaded the House Education Committee to reject the voucher bill earlier this year — could rear its head. Jones says the state is vulnerable to a legal challenge, and passage of a voucher bill would “surely invite a lawsuit” from groups such as the Committee to Protect and Preserve the Idaho Constitution.

Idaho taxpayers would be on the hook for all of this.

Don't say you've not been warned.

Marty Trillhaase is the opinion page editor of the Lewiston Tribune, where this editorial originally appeared.