

The push for school choice in Nebraska is pitting lawmakers against their constituents



In this June 2023 selfie, Angie Lauritsen collects signatures in downtown Gretna, Neb., for a ballot initiative seeking to repeal a state law that would divert taxpayer money to pay for private school tuition. Nebraska lawmakers are set for the first time to pass a bill that would block the public from voting on a ballot measure initiated by citizens of the state, setting up what could be a long battle over whether to fund private school tuition with public dollars. (Angie Lauritsen via AP)

AP

BY MARGERY A. BECK

April 16, 2024, OMAHA, Neb. (AP) — Nebraska lawmakers are set for the first time to pass a bill that would block the public from voting on a ballot measure initiated by citizens of the state, setting up what could be a long battle over whether to fund private school tuition with public dollars.

On Thursday, lawmakers will take a [final vote](#) on a bill that would repeal a law passed last year to divert millions in income tax receipts to pay for [private school scholarships](#). The bill would replace it with a measure that would directly fund private school tuition from state coffers. If it passes, it will effectively block voters from repealing the private school funding law that is set to appear on the November ballot following a successful [petition drive](#).

Retired Lincoln high school teacher Rita Bennett described lawmakers' plan to circumvent a vote of the people with one word.

"Outrage," Bennett said.



FILE - John Heineman delivers a box of petition signatures from Support Our Schools Nebraska to the Nebraska Secretary of State, Aug. 30, 2023, in Lincoln, Neb. Nebraska lawmakers are set for the first time to pass a bill that would block the public from voting on a ballot measure initiated by citizens of the state, setting up what could be a long battle over whether to fund private school tuition with public dollars. (Justin Wan/Lincoln Journal Star via AP, File)

The use of ballot initiatives has long been a source of pride not just for residents, but Nebraska's unique one-chamber, nonpartisan legislature. Lawmakers often refer to the state's residents as "the Nebraska Legislature's second house."

It's why the move to "usurp the will of voters" is so audacious, said Bennett, a volunteer who collected petition signatures last summer to get the repeal question on the ballot.

"It's quite chilling," she said.

For Gretna resident Angie Lauritsen — who collected signatures last summer at county fairs, on sidewalks and by knocking on doors — the issue is personal. Her son was rejected from a private preschool because he was born with a condition that left him nonverbal until

he was nearly 4, but through public school, he was given a specialist at the age of 2 and is now a talkative and thriving teen, she said.

“It’s about taking away the right of the people to vote,” Lauritsen said, noting that many people who signed mentioned being related to a public school teacher. “This is personal for a lot of people, not just me.”

The new bill is an “end-run” around the ballot initiative, said State Sen. Lou Ann Linehan, the author of last year’s law, during a public hearing. But it also gives a choice to families whose public school is not serving them well. A large portion of the private school scholarships would go to students who are being bullied, foster kids and students with a parent serving active military duty or had a parent killed in the line of duty, she said.

“This isn’t an anti-public schools bill,” she said recently during debate. “This is to give parents a choice. Why would we be against that?”

Anthony Schutz, a law professor at the University of Nebraska College of Law, testified against Linehan’s new bill to directly fund private school tuition, saying he believes it violates the Nebraska Constitution’s prohibition against appropriating public funds to nonpublic schools.

Opponents could try to launch another petition effort to ask voters to repeal the new bill this November, although they would have only weeks to gather enough signatures to meet a July deadline. Or they could sue, Schutz said.

“One line of argument is that it’s an appropriation to students and their parents, not a direct appropriation to private schools,” Schutz said.

But because the money can only be used for private school tuition, it might be difficult to convince a court, he said.

Linehan floated another argument earlier this year to try to convince Nebraska Secretary of State Bob Evnen to pull the repeal measure from the November ballot. Linehan held that the ballot initiative was unconstitutional because the state constitution places the power of taxation solely in the hands of the legislature.

Evnen ultimately found the ballot initiative to be legal, but acknowledged the issue was likely to be decided in court.

Asked whether the ballot initiative to repeal last year’s private school tuition scholarship law would remain on the November ballot or be pulled from it if Linehan’s new bill passes, Evnen’s office said it is consulting with the Nebraska Attorney General to make that decision.

Were the measure to remain on the ballot, it could prove a humbling rebuke if voters decide against public money going to private schools. Lauritsen said a good portion of the signatures she collected came from those who said they supported Linehan's bill, but wanted to give "everybody a chance to vote on it."

"At the end of the day, it's an unprecedented use of legislation to cut off a referendum," Schutz said. "It's a politically difficult action to defend."

Opponents of the bill say they're ready for another fight.

"I stand ready to do whatever is necessary," Bennett said. "If it means I'm out collecting signatures all summer, that's where I'll be."

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