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**TESTIMONY OF THE WISCONSIN INSTITUTE FOR LAW & LIBERTY IN
SUPPORT OF 2021 SENATE BILL 463 / ASSEMBLY BILL 488**

Chairman Thiesfeldt, Chairman Darling and Members of the Committees on Education:

Thank you for providing me with the opportunity to testify in favor of Senate Bill 463 and Assembly Bill 488. I am Libby Sobiech from the Wisconsin Institute for Law & Liberty (WILL) and I am here today to speak about why a bill to require transparency of public school classroom materials is critical for Wisconsin families and taxpayers.

The majority of Wisconsin students attend a K-12 public school in our state. For many families and students, their local public school is an integral part of their community and a pivotal place for student growth. But the pandemic provided parents a peek into the classroom and for far too many families, concerns about curriculum, classroom topics and activities were put on their radar. And when families reached out to their school leaders and school boards, their effort to access information was stonewalled despite Wisconsin's historical legal and public policy preference for taxpayers' access to public records.

This is not a new phenomenon. Parents have been raising concerns about curriculum materials for public school students for decades. For example, there have been debates on the use of Common Core, the teaching of health education and reading, among countless other subjects. Without a doubt, curriculum discussions will continue in the future. Senate Bill 463 / Assembly Bill 488 is a smart public policy proposal that addresses parental concerns today and in the future.

What problem is AB 488 / SB 463 addressing?

As the debates over curriculum and classroom materials exploded this past school year, parents were often locked out of the discussion. All too often, parents went to school leaders about the materials their children were learning in the classroom, yet school boards and administrators simply claimed that certain topics were not taught. This created an on-going debate that divided communities. At the heart of these disputes is the difficulty for parents to access the materials being taught in the classroom.



My colleagues at WILL tested this theory and submitted public records requests to several school districts for classroom materials from high school social studies and English classes. These requests were also narrowed to materials with specific phrases.¹ Unfortunately, our experience highlighted the difficulty for parents and taxpayers to access information from public school classrooms.

This difficulty of accessing learning materials is not just limited to larger districts. There have been recent media reports, and in some cases WILL has provided legal assistance, when smaller districts, like Elmbrook, also struggled to provide transparency to parents over curriculum concerns.

Unfortunately, due to concerns of political backlash, several parents and teachers were uncomfortable submitting testimony with personal identifiable information. Included in my testimony are messages from these individuals. It is these concerns that highlight the need for AB 488 / SB 463.

Why don't public records laws provide enough transparency?

When WILL submitted public records requests to districts for classroom materials, the district responses revealed more barriers than transparency.

For example, we requested information from seven teachers who taught classes at two Madison high schools. The district responded and requested at least \$10,000 for the request to be completed. The Kenosha School District requested that we pay over \$1,200 for the materials. These costs serve as significant barriers to accessing information and are, unfortunately, permitted under the public records laws.

WILL identified additional barriers to accessing classroom materials. For example, a Racine Unified district administrator claimed that teachers would not fulfill the request and other districts ignored our requests for months on end.

Unfortunately, these barriers are not a surprise. A WILL report in 2017 reviewed the largest school districts and their responses to public records requests. The report found that several districts, including Madison, failed to follow practices set forth by the Wisconsin Attorney General's office and often neglected to make public records a priority.²

School districts have failed to make these materials available to parents despite requests to do so. AB 488 / SB 463 addresses this concern and harmonizes Wisconsin school district practices with federal requirements. Despite the requirement under

¹ *Opening the schoolhouse door: promoting curriculum transparency*, Will Flanders and Jessica Holmberg, May 2021, https://will-law.org/wp-content/uploads/2021/05/OpeningTheSchoolhouseDoor_FINAL.pdf

² *Let there be light- how long does it take Wisconsin's largest school districts to comply with open records laws?* Libby Sobiech, November 2017, <https://will-law.org/wp-content/uploads/2021/01/sunshine-report-2017.pdf>



federal law that parents should have notice and access to their child's classroom surveys and educational curriculum, testimony today highlights that is not the case.³ AB 488 / SB 463 will take an important step to ensure that parents can access the materials in their child's classrooms.

Obligation of public schools to make materials accessible

Public school districts and their employees, including teachers, are entities that implement government speech. When materials are created by public school teachers and used in the classroom, parents, as well as taxpayers, have every right to access the materials. Therefore, the classroom materials in public school districts should be made accessible to the public.

AB 488 / SB 463 addresses any concerns or limitations on providing access to the classroom material. There is no obligation to fully provide a copy of any material that is copyrighted. In any situation in which ownership of the materials is of concern, the proposal requires the posting of identifiable information of the material.

Furthermore, the bill proposal only requires the information to be posted twice during the school year. This timeline ensures that teachers continue to have the flexibility to create and edit lessons plans based on any adjustment necessary. The obligation to post this information is specifically on the district and the format of posting this information can be simple, such as a Google document or online dropbox.

While a process will need to be created and a determination of how districts will meet this obligation, I believe the bill proposal provides significant flexibility for districts to create a process that limits the burden on our teachers.

Taxpayers have a right to know how our tax dollars are being spent. Government schools – public schools – are not exempt from this requirement. AB 488 / SB 463 provides critical access to the classroom to inform parents and taxpayers how our government is implementing education. Expanding transparency and letting the sunlight into the classroom will help rebuild our communities and ultimately, empower parents to work with teachers in the classroom.

Thank you for your time. I am happy to answer any questions you may have.

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³ Protection of Pupil Rights Amendment (PPRA)