

Wisconsin Joint Finance Committee Hearing on Literacy Curriculum

11 March 2024

[00:00:00] Representative Mark Born ([R-Beaver Dam](#)) Uh, we are now under 1310. Today we're here to take up DPI's request on early literacy curriculum, fiscal bureau. Could you explain the request? So, the Department of Public Instruction has made a request under 1310 regarding, uh, curricula to be approved for the literacy program. If you recall, there was an act that [Act 20](#) that required, uh.

[00:00:29] Of this year that required the creation of the literacy council and literacy program, and part of that act was that DPI would need to come forward to the committee and make a recommendation on the curricula that would, uh, that would be advanced, and that would be used for the 20 24, 25 fiscal year. Uh, in subsequent years.

[00:00:55] The council would also have to make, uh. Make such, uh, [00:01:00] recommendations to the committee. So what's before us is a request of DPI to approve a list of curricula that would be used for 24 25 fiscal year.

[00:01:15] Thank you. Does the minority party have a motion Representative Deb Andraca ([D-Whitefish Bay](#)). Thank you, Mr. Chair. Um, we would like to move alternative one. Um, I would like to thank all of the, let's hold on a second there. We got a motion for alternative one. Well, a second, sorry, from Rep McGuire and then it sounds like Representative Andraca is eager to be heard on the motion.

[00:01:36] Representative Deb Andraca ([D-Whitefish Bay](#)) I am, I was on, so go ahead. I am, I'm sorry. I was an elementary school teacher, so this bill makes me very, very happy that we're seeing this move forward and we spent an awful lot of time, uh, working on it in, um, and just talking about what the state needs to move our reading scores forward. So sorry for jumping the gun there, but, um.

[00:01:54] This is something that's very important to a lot of us. Um, I do wanna thank the council members who spend a lot of time [00:02:00] and energy, uh, to produce a list of recommendations, uh, that the, that the bill, uh, suggests. Uh, we really appreciate the service to teachers and students. Um, we're proposing alternative one because it incorporates this suggestions, uh, from the council members, but it also ensures that we have confidence that the recommended curricula provided to the schools meets the standards outlined in Act 20.

[00:02:24] Um, act 20 did establish criteria that were rooted in science and evidence. And the recommendations that DPI has put forward includes three out of the four of the recommended curricula, uh, that were on the council's list. Um, if you, just taking from personal experience, um, when we teach in the classroom and I spent more time in, uh, third grade than others, uh, we post the list of our academic standards, uh, on the chalkboard.

[00:02:49] I would do that every day in the classroom to make sure that we are, um, teaching what kids need to know. And when we're grading papers, we make sure that we have a rubric so [00:03:00] that everyone is using the same criteria in order to grade papers fairly and make sure we're not. Uh, missing anything or moving the goalposts on what we're doing.

[00:03:08] So when in moving this motion and making sure that, um, we're in talking about DPI's List, uh, we do hope that other members of the committee will support this list. Uh, also to avoid legal uncertainty. Um, we wanna make sure that these literacy efforts can be focused on students. Um, if we were to veer from what the criteria was put forth.

[00:03:30] In Act 20, we could open the state up to litigation if a school was using something that wasn't approved in the law. So, um, I hope you'll consider, uh, this particular motion what the, the actual Act 20 says and making sure that we're giving lots of flexibility to our students and our teachers in the classroom who are gonna be putting this law forward.

[00:03:51] Uh, one last thing I'd like to say about this is that we're kind of running ahead of time. There are schools who urgently need this list in hand so that they can make the [00:04:00] changes that this bill was designed to do. So, um, I hope we can get this done today and make sure that we're moving the state forward and, uh, helping our students all across the state.

[00:04:09] Thanks.

[00:04:14] (Senator Mark Born [R- Beaver Dam](#)) Alright, scene, no one else in the queue. Um, option one was moved by rep Andraka and seconded by Rep McGuire. And the clerk can call the roll. Representative Bourne, no Kama, no Rodriguez, no Kurtz, no Dalman, no McGuire. Yes. Andraka. Senator Mark Lane, no Strobel, no Skalski ton Berger Johnson, Royce

[00:04:44] Motion fails 4 to 10. I will now move to Alternative to seconded by Senator Strobel ([R-Saukville](#)). Any any discussion on this motion? Uh, Senator Strobel. Thank you. Um, when I authored Act 20 [00:05:00] last year, it was estimated nearly 70% of Wisconsin fourth graders couldn't read at grade level. And that is just totally unacceptable, and something had to be done and legislature took it upon itself to do something.

[00:05:13] And that's what Act, act 20 is all about. Um. We know that when kids can't read the way they should, they're less likely to graduate from high school, more likely to drop out, more likely to be incarcerated. So this is a problem. Our state is in a reading crisis and which is why I was so proud to work together with many last year to pass Act 20.

[00:05:37] Um, it's a transformational literacy reform that, uh, is gonna make a big difference in the state of Wisconsin. Um, today is another day for us to continue to work on ensuring the effective implementation of the science of learning in our schools. While we voted on trailer legislation earlier [00:06:00] this year, this is actually the first movement that we have made to execute a function outlined in Act 20.

[00:06:07] So again, a lot of work was gone into reviewing the proposed curriculum for our new evidence-based pro reading program here in Wisconsin. Alternative two approves four submissions for the inaugural list as recommended by the Early Literacy Curriculum Council, A council that is made up of nine members who are all incredibly knowledgeable when it comes to early literacy and education, and they work extremely hard to get this done.

[00:06:35] I understand the reasoning that DPI recommended 11 total curricula. Other states, including Mississippi, have found success using a smaller, more manageable number. I. I believe that if we wanna see Act 20 succeed, we need to embrace quality over quantity. Uh, and the recommendations made, made by the ELCC represent a level of quality that we should be [00:07:00] proud of by selecting these four curricula.

[00:07:03] I think it's gonna be a, a lot easier for the coaches that will also be part of, of this process to get a grasp on what these, each of these curriculum is and to be able to effectively deliver it. Uh, when they're starting to go out into the field rather than 11, I don't think that's really realistic to figure that that could be done, uh, that to implement 11 different curricula in that manner.

[00:07:27] So the state of Wisconsin set aside a significant amount of money to help subsidize curriculum costs for school districts and is important, uh, that our state funding is the best, is funding the best, which I believe we are. Uh, I want to be clear, the four curricula that were approved today, it's not a mandate, but, um, 'cause this is a local decision, but these are the curricula that this very excellent and credentialed board has put together that will have the biggest [00:08:00] impact, um, improving our reading scores in the state of Wisconsin.

[00:08:03] Um, and any di local district can use whatever curriculum they want, frankly, but it, it can't, uh, teach three queuing. But these are the ones that a grant will be available for. Um, I'm not going to go through all the submissions, but my office, I'm sure many of my colleagues have reviewed these in detail.

[00:08:22] Uh, after taking input from various people in the field, including science of reading, advocates, teachers, parents, educators, um, my conclusion is that the ELCC got it right while DPI was not confident that Bookworms met Act 20 criteria. Both my office's re research. And the early literacy council, including the three members appointed by DPI on that council, uh, determined that Bookworms did meet the criteria.

[00:08:50] So again, we're, we're approving today does not mandate any, any vendor or any particular curriculum, um, from choosing [00:09:00] whatever options that they want. But this, this list basically, again, is which ones they'll receive grant funding for and which ones are determined by the. Commission to most effectively, uh, deliver the phonetics approach to reading, uh, to our kids so we can see better results.

[00:09:18] Um, so and if you didn't make the cut, there's always next year too. And because this committee will be constantly reevaluating and evaluating these curriculum, uh, moving forward. So I just wanna briefly thank, uh, a lot of the people that helped make this all possible. Um, my co-author, representative Joel Kitchens.

[00:09:38] Uh, as well as representatives Witke and Senator Jagler was also very involved in, uh, the work that was involved to get this through the, the process D-P-I-D-P-I, uh, for their collaborative engagement. They worked also very hard and I think in a, in a, with good intentions through drafting and the implementation.

[00:09:58] Um, members from both [00:10:00] parties that voted for Act 20, which includes 75% of the people of the Democrats on this, uh. On our joint finance

committee, so there's buy-in all around. Uh, and then and lastly, the nine members of the ELCC for their work in the past six months, they worked incredibly diligently without any compensation.

[00:10:19] Um, took a lot of hard work to get this done, but I know that they knew what was best in their mind to improve the reading scores in Cedar, Wisconsin. And I think that they, they did the right thing and I'm, I'm very proud and of them, and, and they deserve a whole lot of credit in this whole. Situation here.

[00:10:36] So, uh, we're not done with literacy in Wisconsin. Uh, but today is of course a significant step in reversing the status quo that has led to the reading crisis in our state. And there's still work to do. We need to approve the funds that we set aside in the budget. Uh, and we will, I look forward to continuing our work on literacy, uh, next session as well.

[00:10:58] And I want to thank the co-chairs for moving [00:11:00] this along because as. As was said, it is important that we get this done quickly because a lot of decisions are being made right now on what curriculum to buy, and I think it'll have a significant impact if, uh, there's, uh, substantial grants available to, to pick the ones that are going to most improve our, our reading scores in the state of Wisconsin.

[00:11:20] So, um, again, I look forward to seeing the benefit of this act 20, uh, throughout the state of Wisconsin in the years to come, and I urge all my colleagues to support alternative two. Thank you very much. Thank you, representative Tip McGuire ([D-Kenosha](#)). Thank you. Um, I wanna start off by saying I, I, I appreciate Senator Strobel's comments, uh, and that, um, I too am grateful that the chairs brought this 1310 forward today.

[00:11:49] Uh, I would encourage them to bring forward some of the other, uh, currently unaddressed 1310s like PFAS in hospitals that are urgent and need to be dealt with quickly. Um, but on this bill. [00:12:00] I wanna say, you know, I supported this bill when it, when it came before the body. Um, I thought this was a great opportunity for us to, to improve literacy in Wisconsin.

[00:12:09] And, um, and, you know, I, I think that one of the challenges that we have is often, you know, dnce of opinions. And so I, I appreciate that this was a compromised piece of legislation. I, I really do. Uh, unfortunately. Um, one of my big concerns today is the likelihood of litigation stemming from this action.

[00:12:30] And that's not a, a fever dream that I had. That's not something that, you know, representative McGuire came up with one day. That's in LF B'S notes. That's something that we believe is, is pretty likely. And, uh, obviously this is urgent legislation. This is something that needs to be done and to have something like that, that would stall the impact of this legislation, uh, for Wisconsin's kids.

[00:12:51] Um, is, is really troubling. And so I, I think it clearly the easier option and the better option would be to take the DPI recommended list and make sure [00:13:00] that schools can choose what, what books they want to use, and then also avoid needless litigation that, that would hopefully, um, not stall the impact of important legislation that was a Compromise Bill and, and something that we were able to agree on previously.

[00:13:13] So, I, I'd urge voting no on this. Thank you, representative Deb Andraka ([D-Whitefish Bay](#)). Well, we have already narrowed the number of curricula choices down from, um, 56 to 11. So when we're talking about four, you know, 11 is too many versus four. We started with, you know, 56 schools could have picked really any curricula. So we've already done a job of taking the available universe of curricula that schools can choose and narrowing them down to 11.

[00:13:47] Now we. Are saying that, oh, this isn't a, this isn't a mandate, you know, this, is this what you're gonna get a grant for? Well, it is a mandate because what we've done is we've outlawed the teaching of three queuing and similar, uh, [00:14:00] holistic, um, you know, approaches. Uh, and we're saying, this is how we wanna teach reading.

[00:14:04] That's a good thing. But we are also narrowing down the choices that schools have to simply four curricula. Not the 11 and one of them, um, wasn't evaluated, and I'm not sure why we're taking a whole different motion because one curricula was left off of the list. I mean, the compromise position here is to take a list that has three out of four, and we can always come back and address it later if we wanna narrow the list down.

[00:14:32] But why are we starting so narrow at this point in time? So it's confusing why we're, we're, we're taking this approach. Um, I wish that we could talk about the actual hard work that's in that's in ahead of us. I mean, this is really the easy part, uh, because we have to train teachers in the classroom. We have to make sure that we have literacy coaches ready to go.

[00:14:57] We have to completely reeducate [00:15:00] and retrain, uh, how we're going to teach literacy in schools. And here we're. Completely changing the recommendations put forth because one curricula was left off the list. So I don't know how many people on this committee went through the entire binder of all the different curricula.

[00:15:19] Um, I don't know how many here could actually evaluate a curricula, um, because you really don't know what you're looking at and it's very hard to compare apples and oranges. And I share, uh, representative McGuire's concern that. If one of the curricula is adapted that wasn't recommended by the, the committee, then they're opening themselves up to a lawsuit.

[00:15:39] So it's, I think it's dangerous what we're doing here today. I think we should take a broader approach and then narrow it down as we go forward. So, um, I just ask the committee to, to reconsider 'cause this isn't, or this is the easy part and we're not off to a good start. So, thanks

[00:15:57] Senator LaTonya Johnson ([D-Milwaukee](#)). [00:16:00] I'm wondering if the LRB could explain, um, the Wisconsin Legislative Council attachment. I'm not a lawyer and so I just wanted to make sure that I have the correct understanding of this before I make any comments. Senator, um, and members, uh, Emily Hicks is with us from the Leg Counsel who wrote the, uh, who wrote that attachment on the legal aspect of it.

[00:16:28] So. I would ask Emily to respond to Senator Johnson's question. Thank you.

(Emily Hicks Legislative Counsel) Um, do you, do you have like a specific question or just kind of short summary of the analysis or short summary of the analysis, what it means? Mm-Hmm. Senator LaTonya Johnson ([D-Milwaukee](#)) I'm just looking for clarity. (Emily Legislative Counsel) So, um, in DPI's, um, request to joint finance, they indicated that their, their analysis was that the counsel's list could present some legal risk [00:17:00] to the state.

[00:17:01] Um, I believe that the legal risk that they're referring to is the potential of litigation, um, under an equal protection clause claim. So, um, theory generally the equal protection clause, um, requires that the government treat. All individuals the same. Um, and so the, there are different standards that apply.

[00:17:24] So, um, if we're talking about a protected class such as race, religion, national origin, um, the standard that applies is, um, that the, the government must demonstrate that their action is justified by a compelling interest and that, um, the, the action is narrowly tailored to accomplish that interest. When we're not talking about a protected class, as would be the case here, um, the d the, the, uh, standard of review is rational basis review.

[00:17:53] So the government needs to demonstrate, um, it's a pretty low, low bar of review, but needs to [00:18:00] demonstrate that their classification is rational, um, and related to a legitimate state interest. Um, so the, the claim here, if someone were to bring, if one of these vendors was to bring an equal protection clause claim here, um, they would have to demonstrate that the government's action here, the council's decision was clearly irrational and did not serve a legitimate seat interest.

[00:18:25] The likelihood of success of that claim, I'm not sure. Um, but that's, that's kind of the short summary.

Senator LaTonya Johnson ([D-Milwaukee](#)) Okay. And so how does that pertain to, I believe it's. 11, um, to the 11 that were already reviewed and chosen by DPI.

(Emily Hicks Legislative Counsel) So my, I guess this is a little bit of speculation, but I believe that a claim, the Equal Protection Clause claim, would likely come down to, um, an analysis.

[00:18:56] So there, there were assertions in DPI's letter that the council [00:19:00] did not fully review all of the submitted materials. And so a vendor, an aggrieved vendor, would likely claim that, um, their materials did not get full review, and then they would have to prove that that is not rational and related to the state interest.

[00:19:16] So there is evidence, I believe, in DPI's letter, that they reviewed all of the vendors. And so that's, that's where the, the lists, uh, kind of come away differently.

Senator LaTonya Johnson ([D-Milwaukee](#)) Okay. And so my other question is if either one of those vendors. Brought a lawsuit against the state who would pay for that?

(Emily Hicks Legislative Counsel) I believe the suit would likely be brought against DPI.

[00:19:42] Senator LaTonya Johnson ([D-Milwaukee](#)) So then DPI would have to bear the cost of paying to protect themselves against this lawsuit. That's my

understanding. Okay. And so they would have to bear the cost of protecting themselves against this lawsuit. And so to avoid. [00:20:00] A lawsuit, they're asking us to choose one of the 11 or to just choose the 11 reviewed and chosen by DPI.

[00:20:08] And so if DPI has to pay for that lawsuit, where does that funding come from? Is that paid by taxpayers?

(Legislative Counsel) I, I would, I suspect in this case, if there were to be a lawsuit, as Emily said, it would probably be filed against the DPI. The DPI would be represented by the attorney general's office.

Senator LaTonya Johnson ([D-Milwaukee](#)) Okay, so that would still fall on the backs of taxpayers, right?

[00:20:37] (Legislative Counsel) Well, whatever. I, I don't have an additional amount of money that would be provided, but because DOJ is funded with state tax dollars, it would, it would be dealt with through their already approved appropriation of money. They would internally. Be the ones that would represent just like they do anytime there's a suit [00:21:00] brought against the state agency.

[00:21:01] The attorney general, unless provided otherwise represents the dis the, uh, the agency.

Senator LaTonya Johnson ([D-Milwaukee](#)) Okay. I guess what I'm trying to say, and, and thank you for this clarity because I just wanted to make sure that I have the correct understanding, is that DPI is literally telling us that. They could possibly be sued if we don't choose the 11 reviewed and chosen dpi.

[00:21:33] I selected curriculums. We are taking the bet that no, they probably won't be, and even if they are, it's gonna fall on GPI and they're gonna be protected by the Department of Justice. Which is still gonna be a cost to taxpayers. Now, if I'm correct, [00:22:00] the early literacy council is packed, kind of like how this body is packed.

[00:22:08] Um, six GOP to 3D PI appointees,

[00:22:15] and they couldn't get it right. They couldn't do their job. Oops. And so now we're gonna go against the better judgment of DPI. Who is gonna be responsible for defending this lawsuit at taxpayer's expense. Even if it is money already allocated to

their budget, it's still additional dollars that they hadn't planned on spending on a lawsuit that they're gonna have to defend.

[00:22:48] And all we have to do is choose alt one.

[00:22:54] Now, from where I sit, alt one seems to be [00:23:00] the better choice, especially for people who are concerned about tax taxpayer dollars. I know for some of you it would probably be confusing that as a Democrat, I'm sitting over here concerned about taxpayer dollars 'cause I'm shocked. That I'm, that this side of the aisle seems to be the only one that's concerned, but maybe those are just risks that we are not willing, um, to take.

[00:23:31] I think that it's arrogant. I think it's pure foolishness that we are going to go against the better judgment of the Department of Public instruction. Especially considering they're saying that this is a possibility, and then if that lawsuit comes about, they're the ones who are gonna be expected to bear the cost, and the Department of Justice is expected to [00:24:00] defend them when they've already given us forewarning that this is a possibility.

[00:24:06] I'm just not understanding that

[00:24:11] Senator Duey Strobel ([R-Saukville](#)) for a second time. Boy, there's a lot of hypotheticals going on here. I'll tell you that. Act 10 and Act 20 picked a council and newsflash, some of the members on that council are from DPI. Okay. Um, and this council, they're experts. This is what they do. And I'm sorry, I'm not going to look.

[00:24:38] The DPI as my God, the only people in the world who can pick the correct curriculum, and they really showed a lot of guts by picking almost everything out there. I mean, seriously, we want the best. That's what we want for our kids, the best. And I don't think we should be intimidated by future lawsuits. Oh, let's water this down because God forbid we might [00:25:00] get sued.

[00:25:01] Well, the legal theory, there is one heck of a stretch. And it's put out by DPI as far as I'm concerned, just to try to justify their existence in this whole process. And again, they had an existence, they were on this council that helped pick this stuff. So I'm, I don't think we should be afraid of a li of this legal issue that we should, again, water down, not give our kids the best, the, the quality curriculum.

[00:25:28] 'cause we're afraid of some farfetched legal theory brought up by DPI about being sued. I. And you know what? If somebody wants to sue over our reading

curriculum and screw up the reforms that we're trying to get done, so we don't have 70% of our kids not being able to read it properly, I wouldn't wanna be on that lawsuit, I'll tell you that because they're not doing anybody any favors, nor are they doing the next generation a favor, either.

[00:25:55] Um, nobody said this process was gonna be easy. [00:26:00] Um, you know, changing the way we teach reading because we've seen the results, how badly it's gone, and it's really kind of strange that you have to leave it up to the legislature to actually reform the way we teach reading. Where's DPI? Where was DPI ever on this thing?

[00:26:19] Where is the educational establishment? But yet it's the legislature who's coming up with the proper way to get this done. Looking at other states, not just pulling this outta the air, but looking at how other states have done it and the good results that they have seen. And thus, that is why we are moving in this direction because it's time tested and science-based, as they all say.

[00:26:39] So, um, again, this is a great reform. It is, um, sanctioned by a council of people with the credentials that we need to make decisions like this. And, um, again, I look forward to our voting on this [00:27:00] and moving this alternative ahead. And getting our kids on a better path to reading better sooner. Thank you.

[00:27:08] Thank you, Representative Jessie Rodriguez ([R - Oak Creek](#)). Well, I have, I was looking at the memo that, uh, alleged council put together and I highlighted some areas and I think the area that I kind of wanna ask a question about is the last paragraph of the memo and it says whether the list of curricula would withstand rational basis review would likely depend on whether a complaint.

[00:27:32] Could prove that the council's failure to review and rate all the submitted material in the same manner amounts to bad faith or an intentional violation of the essential principles principle of practical uniformity. It sounds like a pretty high standard, doesn't it? Um, so rational basis review is. I guess in, in one respect, a pretty high, it's a low [00:28:00] bar of, um, of, of review.

[00:28:03] (legislative counsel Emily Hicks) So the courts very much defer to the government. Um, and so it does require kind of a high finding or a high burden of proof by the complainant. Yes. Yeah. So I, I mean, I, I think the work that we tasked, uh, the literacy council was an important task, and I think they took it seriously. And I don't think that they, their recommendations were in any way in bad faith or an in, uh, an intention to, you know, this include and not include certain, uh, vendors.

[00:28:36] Um, one of the thing that I remember from, from the memo was that, uh, the council can come back on a yearly basis and make other recommendations in the future. Is that a correct.

(legislative counsel Emily Hicks) Um, yes, the, the council will make, um, annual recommendations.

Representative Jessie Rodriguez ([R - Oak Creek](#)) Okay. So they'll, they'll do more recommendations next year. Okay. So this whole, you know, conversation about litigation, I think it's, it's, I, [00:29:00] I understand the concern, but I think if the council's gonna come back and, and could potentially provide other recommendations in the future, I don't think we need to be concerned about, uh, litigation.

[00:29:11] Um, I think we, they did a good job in, in the short time that they had to provide recommendations that they felt were evidence-based, which was what the, uh, bill required them to do. So I think, um, the vote on this is definitely, yes, we should move forward and let this, uh, uh, move, uh, let this, uh, pass this and, you know, hopefully allow, uh, schools to choose to either, uh, use one of the curriculums that are, uh.

[00:29:39] That are, that were recommended by the council. Thank you. Thank you Senator Johnson for a second time.

Senator LaTonya Johnson ([D-Milwaukee](#)) So I only got two minutes, so I really gotta make this count. So I'm gonna be real quick. Um, Democrats want the best for our children too, but who would argue [00:30:00] that having a state sued at taxpayer's expense is good for this state or the way to do it.

[00:30:10] Who would welcome the possibility of a lawsuit on the backs of taxpayer dollars, and we're supposed to be the stewards of those dollars. Who would argue that that's good government? Obviously there's one party that thinks that it is. There is no justification. For telling people, come Sue the state. I dare you to, is that really what we're saying?

[00:30:48] Because that's really what we're saying. We're welcoming the possibility of a lawsuit at taxpayer's expense. [00:31:00] No big deal.

[00:31:04] And the only thing that we can do. Is await the outcome. But I guess if we are sued, if we really are sued and the possibility is real, it's okay because that's just the way we govern around here.

Senator Kelda Roys ([D-Madison](#)). So Act 20 set out pretty specific and high standards for what? A curriculum needs to include and what it may not include in order to be considered valid to be a high quality curriculum.

[00:31:44] Now, within that, um, of the several dozen that were submitted for consideration, DPI found that 11 met the standards. Now, some might ask, isn't it better to have fewer and because we'll just be picking the very best. Um, but actually when you think [00:32:00] about all the different school districts in our state, the different kinds of students that they serve, their different budgets, their needs, their sizes, things that they, materials, they may already have technology that's available to them.

[00:32:14] I think in a state as diverse as Wisconsin, it's much better for our school districts to have the flexibility to choose among a wider number of curricula that to find one that meets their needs and is in in the budget that they can afford. Um. So I would agree that we should have a smaller number if it meant we were getting rid of some of the lower quality ones.

[00:32:37] But Act 20 made very clear that this is, we're setting a high bar and only the curricula that need it and exceed it are under consideration. And that's why not all the curricula were chosen. Um, just a small number. Now in terms of the, the goals, it's obviously to help kids [00:33:00] read. We all wanna be in a state where young people have the opportunity to learn, to read, to meet their potential.

[00:33:05] Mississippi is universally looked at as a leader on this, and if you look at the six curricula that they have chosen on the law that this was kind of modeled on, they have six different providers. All six of those are on the DPI list. None of Mississippi's providers are on the list that was provided by, um, the curriculum council.

[00:33:28] The ELCC. So whatever Mississippi's doing, it's working. And we should take that as a clue that the list put forth by DPI that has 11 on it, um, is likely to yield a great result for Wisconsin kids in terms of the threats of lawsuits. This is not an empty threat, these school curricula, these are big, big money.

[00:33:57] There's a lot of money at stake. These are [00:34:00] big, well-funded businesses, and if anybody thinks they're gonna just walk away without trying to defend their ability to make profits, I think that's crazy. Ohio's been sued, Louisiana's been sued, and it is exactly the kind of arbitrary decision making that if you look at the council meetings.

[00:34:25] They sometimes engaged in that leads to lawsuits and that gives credence to the idea that, um, maybe, uh, the criteria were switched in order to get a particular outcome. If you wanna show that there's a fair process, if you wanna defend against a lawsuit, you have to show, here are the criteria that we used.

[00:34:47] It's exactly consistent with what's in the law. We didn't add anything. We weren't editorializing, we weren't bringing our own opinions and our own biases in. We were looking at things carefully and here's the rubric and here's how it matches [00:35:00] the law. That's how you defend against the lawsuit.

[00:35:02] Unfortunately, that's not the process that happened, uh, with the counsel, and that's why we're here. There is one curriculum that did not meet the high standards set forth by Act 20, and it was excluded from DPI's List, but it's been added on. To that small list by the council, and that is where we're gonna have the, the likely threat of a lawsuit.

[00:35:30] So, um, if the process had been fair and transparent all along and there wasn't this kind of discrepancy, I would say, yeah, we can dismiss the idea that there's gonna be a lawsuit. But given what's happened, I don't think that that can be dismissed. Um, and finally, I'll just say to my, my colleague and friend, Senator Strobel, um, I like the newfound deference that you're showing to, um, a board a, a board that has some expertise, but I wish that, [00:36:00] uh, when it came to, for instance, banning conversion therapy, that we would've, uh, given the same kind of deference to the experts, uh, that you're willing to give now,

[00:36:13] Representative Deb Andrackan (D-Whitefish Bay). So when you're grading a paper, whether it's a, you know, second grade book report or a senior thesis, there are many ways that you can issue a grade. If you don't have standards, you could say that it meets the theme. You could say that it has the most original idea. You could say something's most grammatically correct.

[00:36:36] In the younger grades. You could say that the handwriting is clearest. Uh, lots of ways that you can grade. Uh. When the Council on Early Literacy curricula looked at a lot of these criteria, um, many of them graded them on different aspects

of the curricula. Um, of the four, uh, motions that we have in front of us, um, there [00:37:00] is only, we have many options.

[00:37:04] Um, and it's just astounding to me that we're picking and we're talking about doing option two when we have option one, which would. Pick the 11 that were recommended by DPI. Option three would have the three that overlap on both lists. Option four is to deny the request. So obviously that's, no one wants to do that here, but what we should be looking at is who understood the assignment?

[00:37:31] Are we looking at curricula that meet the letter of the law? That is the only question that we should be looking at. Do these curricula meet the letter of the law? That was passed by this legislature so that we can improve literacy scores. And I do not believe that the motion in front of us that includes one that was not recommended by DPI meets that criteria.

[00:37:55] So we have other options here that meet the assignment, and the [00:38:00] one we're considering right now does not. So I would suggest we either go with number one or with number three, but the fact that we're just going to go with number two. It's, it's the most dangerous option, aside from completely denying the request and making this process more delayed than it already is.

[00:38:18] So it's a, I would say it's a reckless choice right now. The only more reckless one would be to delay this decision anymore. So I hope we will reconsider, including the 11 curricula that meet the letter of the law, that give our schools more choices. And yes, we can revisit it going forward. Thank you,

Senator Eric Wimberger ([R-Green Bay](#)), you, um, well, I'm having a hard time understanding the legal argument being made because in irrational, uh, it's irrationality is the standard.

[00:38:56] So in fact, the alleged council memo [00:39:00] says that when, that it's only irrational or fails to meet the rational basis. Review when it rests on grounds wholly irrelevant to the achievement of the state's objective. So what I'm hearing is that, um, of the 11 in option one, that includes the four. So if you were to say that you don't like these four, you have to say that you voted or wanted something that was irrational, if it's not gonna, um, satisfy the review.

[00:39:32] And if you were to have voted for number one, you would have supported those irrational ones and also subjected the state to litigation if that were the case. But as the alleged counsel memo also states that mere errors of judgment by

officials will not support a claim of discrimination, um, that's important because what is being said here is that you just would prefer one thing over another, [00:40:00] and it's, uh.

[00:40:00] Thankful that we won't be sued for what you consider to be bad judgment. And I think that, um, uh, while I don't agree it's bad judgment, um, I kind of find it entertaining, but a waste of time to argue the point that we're gonna get litigated over this.

[00:40:24] Representative Mark Born ([R-Beaver Dam](#)) All right. Since, no one else in the queue. I'm. I'm gonna respond to a few of the things we heard and make some final comments. I think, um, I think I'm gonna start with the legal argument too. I think the senator just made a, an important point there, but I think one of the things that's most surprising with, with the focus on this argument, and I understand why it's the focus, it's really all you got.

[00:40:47] That's really all that DPI threw out there is the strawman argument. But I mean, anything we pass people can sue. That's our system. That's our system of government, that's our [00:41:00] constitutional system that we operate under. And I mean, let me ask legislative counsel, is, is there any reason that the one curriculum that was removed by DPI because the expert panel believes that they do meet the criteria, but DPI doesn't, is there any reason that they couldn't sue under the same legal basis argument and have to meet the same standard as any of the other 50 some.

[00:41:27] (Legislative Counsel Emily Hicks) Curriculums could sue under, um, they probably also could sue. Uh, it would likely be a different claim, but yeah, so they could sue and make an argument that the expert panel said they met the standards of the law.

Representative Mark Born ([R-Beaver Dam](#)) Some DPI bureaucrat said they didn't. Wow. Another lawsuit or possible was, um, it's just, it's silly to focus everything on that argument.

[00:41:56] I wanna also clarify something that we heard earlier when, when one of the [00:42:00] representatives claimed that this is a mandate, um, this is certainly not a mandate before this committee in any way today. Q was referring to changes in the law that occurred under the bill that have already been signed by the governor that are Act 20.

[00:42:11] That is act 20. That is the law in the state of Wisconsin. Um, so yes, it's, it's a mandate and a current law that you can't do things that are unlawful in teaching kids to read. Yeah, but nothing before this committee and this grant process is a mandate in any way. It's simply recognizing the expert opinions of the panel members in choosing the best curriculum that meet the standard under the law in Act 20, and allowing a grant to be applied for by schools that choose to purchase that curriculum.

[00:42:41] Um, in Wisconsin, we continue to have local control for schools, nothing in Act 20, um, or this grant. Request before the committee day changes that in any way schools can still choose to use different curriculum as long as it complies with the law. They simply, uh, if it's not one of these four, won't be able to [00:43:00] apply for a grant for it.

[00:43:02] So there's certainly no mandate. Um, before the committee today. Another question that was asked is probably rhetorical, but I'm gonna take it anyway, um, is how many of these, um, did we read and how many of 'em are we qualified or could we evaluate? Well, I read everything that was sent to me. Um, part of me wishes that I hadn't.

[00:43:24] Um, but I did, 'cause this is important. I think Senator Strobel, um, did a good job of laying out why it was important. I mean, I didn't, I didn't necessarily have Senator Strobel using almost his 10, whole 10 minutes on my Bingo card today, but it recognizes the importance of this to him and to the state of Wisconsin.

[00:43:41] And, uh, so I did read it all, but I recognize that I am not. An expert in curriculum. I am not an expert in education. That's why in the bill we created a panel of experts to be brought together and a panel of experts, including people from DPI [00:44:00] said, these are the best that meet the standards. So why would I not even though I read all this stuff and maybe had some different opinions or some different thoughts, but I'm not an expert in this.

[00:44:12] So why would I not respect the experts? It's obvious from the minority party comments say that they don't respect the experts calling it foolishness and bad judgment. Um, remarks started out by thanking the council, but it kind of like you were saying, you were thanking them and then bashing them. I, if that's a true thanks.

[00:44:33] Um, I'll certainly thank the council will respect their expert opinions that they've brought here. And, um, I think it's important to do that. And when we hear

from the other side about DPI, this DPI, that, why won't you listen to DPI? And depending on which grade you choose or which specific data you [00:45:00] choose, somewhere between 60 and 70% of our kids can't read at the proper level.

[00:45:07] Who runs that system now, folks? Who's the ones providing the, the council and the guidance to all of our school districts on that Now, D-P-I-D-P-I is part of the failure of our kids to read folks. What are we doing? We had to create legislation, thank goodness for the leadership of Senator Strobel and Representative Kitchens, and then working in a bipartisan way to bring that kind of leadership so our kids can read and we'd rather take.

[00:45:39] The folks that are responsible, partially responsible for the fact that they can't read, rather than the expert panel, to choose the most important curriculum to receive a state grant. That just sounds ridiculous when I just said there. What are we doing? What? This is easy. We had a bipartisan bill [00:46:00] to create a panel of experts to choose the most important curriculum We did that they made recommendations.

[00:46:05] We have money set aside in that bipartisan bill and in the budget. All we gotta do is execute it. Stop making crazy legal arguments and stop insulting the expert panel. This is an easy yes vote. The clerk can call the roll representative Bourne. Aye. Kama Aye, Rodriguez? Aye. Kurtz. Aye. Dalman. Aye. McGuire.

[00:46:34] Andraka. Senator Markle. Aye. Strobel Aye. Kowski. Teston Berger Johnson. Roys

[00:46:47] motion carries 10 to four. Um, that concludes the business before the committee today so that a joint finance adjourned.

via Wisconsin Eye.

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