
THIRD READING

Bill No: AB 101
Author: Medina (D), Chiu (D), Cristina Garcia (D), Kalra (D), Low (D),
Ramos (D), Robert Rivas (D) and Weber (), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 4-2, 7/14/21
AYES: Leyva, Cortese, McGuire, Pan
NOES: Ochoa Bogh, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-9, 5/27/21 - See last page for vote

SUBJECT: Pupil instruction: high school graduation requirements: ethnic studies

SOURCE: Author

DIGEST: This bill: (1) requires local educational agencies (LEAs) serving grades 9-12, commencing with the 2024-25 school year, to offer at least a one-semester course in ethnic studies; and, (2) adds, commencing with the 2029-30 school year, a semester-long course in ethnic studies to the list of statewide graduation requirements.

ANALYSIS:

Existing law:

- 1) Establishes statewide high school graduation requirements, which include, among other requirements, three courses in English and three courses in social

studies, and authorizes school districts to establish additional requirements for graduation. (Education Code § 51225.3)

- 2) Requires the Instructional Quality Commission (IQC) to develop, and the State Board of Education (SBE) to adopt, modify, or revise, a model curriculum in ethnic studies. (EC § 51226.7)
- 3) Requires the IQC to submit the model curriculum by December 31, 2020 to the SBE for adoption, and the SBE to adopt the model curriculum by March 31, 2021. (EC § 51226.7)
- 4) Requires the model curriculum to be developed with participation from faculty of ethnic studies programs at universities and colleges with ethnic studies programs and a group of representatives of LEAs. (EC § 51226.7)
- 5) Requires that the model curriculum be written as a guide to allow school districts to adapt their courses to reflect the student demographics in their communities, and include examples of courses offered by LEAs that have been approved as meeting A-G admissions requirements including, to the extent possible, course outlines for those courses. (EC § 51226.7)
- 6) Encourages each school district or charter school maintaining any of grades 9 to 12, inclusive, that does not otherwise offer a standards-based ethnic studies curriculum, beginning in the school year following the adoption of the model curriculum, to offer to all otherwise qualified pupils a course of study in ethnic studies based on the model curriculum. (EC § 51226.7)
- 7) Requires a school district or charter school that elects to offer a course of study in ethnic studies pursuant to the model curriculum to offer the course as an elective in the social sciences or English language arts and to make the course available in at least one year during a pupil's enrollment in grades 9 to 12, inclusive. (EC § 51226.7)
- 8) Prohibits the governing board of a school districts from adopting any instructional materials for use in the schools that, in its determination, contain:
 - a) Any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, occupation, or because of a protected characteristic listed in the Education Code.
 - b) Any sectarian or denominational doctrine or propaganda contrary to law. (EC § 60044)

- 9) Requires the CSU, commencing with the 2021-22 academic year, to (1) provide courses in ethnic studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies. (EC § 89032)

This bill:

- 1) Adds, commencing with the 2029–30 school year, a one-semester course in ethnic studies, based on the model curriculum, to the list of statewide graduation requirements.
- 2) Authorizes a pupil, subject to the course offerings of an LEA, to fulfill the requirement above through the completion of either of the following types of courses:
 - a) A course based on the ethnic studies model curriculum adopted by the SBE.
 - b) An existing ethnic studies course.
 - c) An ethnic studies course taught as a part of a course that has been approved as meeting the A-G requirements of the UC/CSU.
 - d) A locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school.
- 3) Prohibits a course that does not use ethnic studies content as the primary content through which the subject is taught from being used to satisfy the ethnic studies graduation requirement.
- 4) Provides that a pupil completing an ethnic studies course taught as a course in another subject shall also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school.
- 5) Requires curriculum, instruction, instructional materials, and lesson plans for such an ethnic studies course to meet all of the following requirements:
 - a) Be appropriate for use with pupils of all races, religions, nationalities, genders, sexual orientations, and diverse ethnic and cultural backgrounds, pupils with disabilities, and English learners.

- b) Not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected the Education Code.
 - c) Not teach or promote religious doctrine.
- 6) Requires a school district to use the uniform complaint process it has adopted to identify and resolve any complaints that the ethnic studies course does not meet the requirements in # 5.
 - 7) States legislative intent that LEAs that develop an ethnic studies program not use the draft model curriculum that was not adopted by the IQC due to concerns related to actual or perceived bias, bigotry, and discrimination.
 - 8) Authorizes LEAs to require a full-year course in ethnic studies at its discretion.
 - 9) Deletes language encouraging LEAs to offer an ethnic studies course after the adoption of the ethnic studies model curriculum and instead requires LEAs, commencing with the 2025-26 school year, to offer at least a one-semester course in ethnic studies.

Comments

Ethnic studies model curriculum recently adopted. As noted above and as referenced by Governor Newsom's veto of AB 331, existing law requires the development of an ethnic studies model curriculum and it was finally adopted by the SBE on March 18, 2021. The development process elicited controversy, as there were concerns over which groups the ethnic studies model curriculum would ultimately include, and on some of the specifics within the initial draft. After public comment periods and a revision, the California Department of Education (CDE) ultimately recommended that the model curriculum increase the breadth and depth of the four foundational disciplines of ethnic studies—African American Studies, Asian American Studies, Chicana/o/x Latina/o/x Studies, and Native American Studies. Additionally, the CDE proposed updating and expanding an existing set of resources—where all sample lessons are housed—to further reflect California's diversity by offering instructional materials that raise the voices of many identities whose experiences intersect with the core disciplines of ethnic studies, such as Arab Americans, Armenian Americans, Jewish Americans, and Sikh Americans.

Guardrails or detour? This bill requires ethnic studies instruction and the associated instructional materials to not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the

basis of any category protected by the Education Code, such as disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, among others. These provisions go further than similar anti-discrimination guardrails in existing law for all other programs, activities, and instructional materials.

As it relates to ethnic studies only, those requirements would now include a requirement that instructional materials not reflect any indirect bias against any group of people. More pressingly, the requirements would also apply to the instruction itself. “Indirect” is a standard as vague as it is broad. It is not difficult to see how these provisions could provide an opportunity for some to force a chilling effect on any version of ethnic studies instruction that attempts to dive below the surface.

Funding for resources in the budget. As noted above, the state does not adopt instruction materials at the high school level; each school district, county office of education, and charter school adopts their own, so long as those materials comply with specified requirements, including existing anti-discrimination provisions. AB 130 (Committee on Budget, Chapter 44, Statutes of 2021) includes:

- 1) \$5 million for the CDE to provide professional development and resources to support LEAs offering new and expanded ethnic studies course.
- 2) \$50 million to the Superintendent of Public Instruction for allocation to LEAs to support the creation or expansion of ethnic studies course offerings.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- 1) The CDE estimates that adding a new graduation requirement in ethnic studies on top of other existing requirements, rather than replacing an existing course, this bill could result in ongoing General Fund costs of approximately \$276 million each year for school districts to comply. This estimate assumes that 1,686 additional teachers would need to be hired at an average salary of \$83,000 (plus benefits). This estimate also assumes indirect costs of about \$37 million and an additional \$54.3 million for instructional materials.
- 2) The bill’s provisions utilizing the Uniform Complaint Procedure (UCP) process to resolve complaints could result in additional, unknown Proposition 98 General Fund costs for the existing UCP mandate.

SUPPORT: (Verified 8/27/21)

State Superintendent of Public Instruction Tony Thurmond
California Association for Bilingual Education
California Association of Black School Educators
California Association of Student Councils
California Department of Insurance
California Federation of Teachers
California Latino Legislative Caucus
California Teachers Association
Californians Together
Compton Unified School District
Dolores Huerta Foundation
Fresno Unified School District
Generation Up
Hispanic Association of Colleges and Universities
Improve Your Tomorrow
Latino Policy & Politics Initiative
League of Women Voters of California
Monterey County
National Association of Social Workers, California Chapter
NextGen California
Payactiv
Peace and Freedom Party of California
Riverside County Superintendent of Schools
San Diego Unified School District
San Francisco Unified School District
Simi Valley Unified School District
Student Senate for California Community Colleges
The Education Trust - West
Unidosus
Individuals

OPPOSITION: (Verified 8/27/21)

Amcha Initiative
American Association of Jewish Lawyers and Jurists
American Council of Trustees and Alumni
American Truth Project
Americans for Peace and Tolerance
Black Americans for Inclusive Ethnic Studies

B'nai B'rith International
Bulldogs for Israel (Brooklyn College)
California Association of Scholars
California Family Council
California Right to Life Committee, Inc.
Californians for Equal Rights
CAMERA on Campus
Campus Anti-Semitism Task Force of the North Shore
Capitol Resource Institute
Chinese American Citizens Alliance Orange County
Christians and Jews United for Israel
Club Z
Coalition for Jewish Values
Committee for Accuracy in Middle East Reporting and Analysis (CAMERA)
Concerned Women for America
Creative Community for Peace
CUFI on Campus
Davis Faculty for Israel
Eagles Wings
Education Without Indoctrination
Educators for Quality and Equality
Endowment for Middle East Truth
Facts and Logic About the Middle East
Fuel for Truth
Herut North America, U.S. Division
Hillel of Silicon Valley
Institute for Black Solidarity with Israel
Iranian American Jewish Federation
Iranian Jewish Women's Organization
Israel Peace Initiative
Jewish American Affairs Committee of Indiana
Jewish War Veterans of the USA
Latinx for Quality Education
Magshimey Herut
Michigan Jewish Action Council
Middle East Forum
Middle East Political and Information Network
National Christian Leadership Conference for Israel
National Jewish Advocacy Center
North Carolina Coalition for Israel

Pacific Justice Institute
Parents Defending Education
Proclaiming Justice to the Nations
Rabbinical Alliance of America
Real Impact
Rhode Island Coalition for Israel
Russian Jewish Community Foundation
San Diego Asian Americans for Equality
Scholars for Peace in the Middle East
Students and Parents Against Campus Anti-Semitism
Students Supporting Israel National 4
The Israel Christian Nexus
The Israel Group
The Lawfare Project
World Jewish Congress North America
Young Jewish Conservatives
Zachor Legal Institute
Zionist Organization of America
Numerous individuals

ASSEMBLY FLOOR: 58-9, 5/27/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner
Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley,
Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia,
Gipson, Lorena Gonzalez, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee,
Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian,
O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert
Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua,
Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Megan Dahle, Davies, Fong, Gallagher, Kiley, Patterson,
Seyarto, Smith

NO VOTE RECORDED: Chen, Cunningham, Flora, Grayson, Lackey, Mathis,
Mayes, Nguyen, Valladares, Voepel, Waldron

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8/31/21 9:25:25

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