



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H. 4799    Introduced on January 13, 2022  
**Author:** May  
**Subject:** Critical Race Theory  
**Requestor:** House Education and Public Works  
**RFA Analyst(s):** Coomer, Tipton, and Wren  
**Impact Date:** January 26, 2022

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### **Fiscal Impact Summary**

This bill provides for the definition of critical race theory and prohibits its utilization by the State, all political subdivisions, any entities receiving public funds, and all public school districts, public schools, and public institutions of higher learning. The bill also prohibits the State, including all political subdivisions, from offering tax incentives to the any entity that utilizes the tenets of critical race theory.

The expenditure impact on the State Department of Education (SCDE) is pending, contingent upon a response from the agency.

The expenditure impact on state institutions of higher learning (IHLs) is pending, contingent upon a response from the IHLs.

The bill will have no expenditure impact on the State Board for Technical and Comprehensive Education or the institutions within the S.C. technical college system as any removal of prohibited content would be replaced with other existing content.

The expenditure impact on the Department of Revenue (DOR) and Department of Commerce (Commerce) to implement the restriction on providing tax incentives to entities that utilize the tenants of critical race theory is pending, contingent upon a response from the agencies.

The overall expenditure impact on the state agency schools is pending, contingent upon a response from the Governor's School for Agriculture at John de la Howe. Additionally, the School for the Deaf and Blind is not included in the definition of a public school, but we have requested a response from the agency on the potential expenditure impact. Further, the bill will have no expenditure impact on the Governor's School for the Arts and Humanities and the Wil Lou Gray Opportunity School since they can adhere to the provisions of the bill within existing appropriations. The Governor's School for Science and Mathematics indicates that the expenditure impact is undetermined since it is unknown how many inquiries the agency may receive regarding curriculum. If the agency experiences a large volume of inquiries, it may need to hire 0.5 FTE to handle the workload.

The expenditure impact on local school districts is pending, contingent upon a response from the districts.

The expenditure impact on local governments to implement the restriction on providing tax incentives to entities that utilize the tenets of critical race theory is pending, contingent upon a response.

The revenue impact on General Funds of the state agency schools is undetermined as it is unknown how many agencies will not comply with the provisions of the bill. Also, the revenue impact on entities that receive funds appropriated by the General Assembly is undetermined as it is unknown how many entities will violate the provisions of the bill.

Further, the potential impact on revenue due to the loss of tax incentives is pending, contingent upon a response from DOR, Commerce, and local governments regarding the potential impact on state and local revenue.

The revenue impact on local school districts for the withholding of one percent of Education Finance Act funds due to noncompliance is undetermined as it is unknown how many districts will not comply with the provisions of the bill. Additionally, the base student cost amounts that may transfer from one district to another or to a private school is undetermined as it is unknown how many districts will not comply with the provisions of the bill.

## **Explanation of Fiscal Impact**

### **Introduced on January 13, 2022**

#### **State Expenditure**

This bill provides for the definition of critical race theory and prohibits the State, all political subdivisions, any entities receiving public funds, and all public school districts, public schools, and public institutions of higher learning from adopting, adhering to, or instructing any of the tenets of critical race theory. This prohibition of the utilization of the tenets of critical race theory for the above entities extends to employment considerations, the spending of public money, the adoption of policy and procedures, and the offering of tax incentives to entities. Additionally, the bill prohibits the utilization of the tenets of critical race theory and the 1619 Project in public school curricula or instruction.

The bill also requires public schools to make available a detailed list of instruction materials and curricula used in the school, to review the list of materials, and to maintain a system for the submission of complaints by parents and the public regarding instructional materials and curricula. School districts must report any complaints to SCDE. SCDE must report the number of such complaints to the General Assembly annually. The bill also requires a public school that is awarded a grant from the U.S. Department of Education after March 1, 2021, for history or civics education to provide detailed information to SCDE no later than thirty days after the grant is awarded. SCDE must then provide a report to the General Assembly annually, and schools must inform parents and guardians of the instructional materials to be used with the grant funds.

Each public school must provide SCDE with a list of externally created surveys purchased with state funds that do not directly measure the efficacy of tests and exams. SCDE must then provide an annual report to the General Assembly on such surveys. Furthermore, the bill prohibits public school districts from flying flags and banners intended to promote unauthorized social or political causes.

**State Department of Education.** The expenditure impact of this bill on SCDE is pending, contingent upon a response from the agency.

**State Institutions of Higher Learning.** The expenditure impact of this bill on state IHLs is pending, contingent upon a response from the agency.

**State Board for Technical and Comprehensive Education.** The State Board for Technical and Comprehensive Education indicates that the bill will have no expenditure impact on the agency. Any removal of the prohibited content would not cause a significant disruption to academic programs. Course content would be substituted with other existing content.

**State Agency Schools.** The Governor's School for Science and Mathematics indicates that the expenditure impact is undetermined since it is unknown how many inquiries the agency may receive regarding curriculum. If the agency experiences a large volume of inquiries, it may need to hire 0.5 FTE to handle the workload. The Governor's School for the Arts and Humanities reports that this bill will have no expenditure impact on the agency since the school can adhere to the provisions of the bill within existing appropriations. The Wil Lou Gray Opportunity School reports that this bill will have no expenditure impact on the agency since the school's curriculum does not include the tenets of critical race theory. The expenditure impact on the Governor's School for Agriculture at John de la Howe is pending, contingent upon a response from the agency. Additionally, the School for the Deaf and Blind is not mentioned in the definition of a public school. However, we are awaiting a response from the School for the Deaf and Blind on the potential expenditure impact of the bill.

**Department of Revenue.** The expenditure impact on the agency to implement the restriction on providing tax incentives to entities that utilize the tenants of critical race theory is pending, contingent upon a response.

**Department of Commerce.** The expenditure impact on the agency to implement the restriction on providing tax incentives to entities that utilize the tenants of critical race theory is pending, contingent upon a response.

### **State Revenue**

This bill requires state agency school districts to surrender one percent of their state General Fund appropriations to the State Treasurer for noncompliance of the provisions of the bill. For FY 2021-22, one percent of General Fund appropriations to all state agency schools totaled \$519,312. The revenue impact on state General Fund appropriations that must be surrendered to the State Treasurer's Office is undetermined as the number of state agency special school districts that will not comply with the provisions of the bill is unknown

Also, the bill requires any entity that receives funds appropriated by the General Assembly to return funding to the Office of the State Treasurer if the entity engages in activities prohibited by the provisions of the bill. Additionally, the entity will be precluded from receiving additional funds for that fiscal year and the following ten fiscal years. The potential impact on revenue related to incentives is undetermined as the number of entities that will not comply with provisions of the bill is unknown.

Lastly, the bill prohibits the State, including all political subdivisions, from offering tax incentives to the any entity that utilizes the tenets of critical race theory. The potential impact on state revenue due to the loss of tax incentives is pending, contingent upon a response from DOR and Commerce.

### **Local Expenditure**

As noted above, this bill prohibits public school districts from providing instruction on certain topics, and requires public school districts to include certain information on its website regarding instructional materials and curriculum. Districts must review materials for each course offered and update the website before the course may be offered. The bill also requires additional reporting from districts.

While these requirements may increase expenditures, the overall expenditure impact on the regular school districts and the charter districts is pending, contingent upon a response from the districts.

The expenditure impact on local governments to implement the restriction on providing tax incentives to entities that utilize the tenets of critical race theory is pending, contingent upon a response.

### **Local Revenue**

The revenue impact on local school districts for the withholding of one percent of Education Finance Act funds due to noncompliance with the bill's requirements is undetermined as it is unknown how many districts will not comply with the provisions of the bill. Additionally, students in any public school are entitled to attend any public or private school in the state if their school violates any provision of this bill. The home district must transfer an amount equal to the base student cost to the school the student chooses to attend. As previously stated, it is unknown how many districts will not comply with the provisions of the bill. Therefore, the local revenue impact is undetermined.

Further, the potential impact on local revenue due to restriction on providing tax incentives to entities that utilize the tenets of critical race theory is pending, contingent upon a response from DOR, Commerce, and local governments regarding the potential impact on state and local revenue.



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