

**To: New Jersey Law Revision Commission**  
**From: Samuel M. Silver, Dep. Dir.**  
**Re: Civics Education**  
**Date: April 11, 2022**

## MEMORANDUM

### Project Summary

In his Farewell Address of 1796, George Washington advised American leaders to “[p]romote... institutions for the general diffusion of knowledge. [A]s the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.”<sup>1</sup> The American education system ultimately became the primary means to diffuse knowledge to the citizenry.<sup>2</sup>

On March 25, 2022, the Model Act on Civics Education prepared by the American Legislative Exchange Council (ALEC) was brought to the Commission’s attention for potential consideration.<sup>3</sup> In response, Staff examined information gathered from ALEC<sup>4</sup>, recent articles pertaining to civics education, New Jersey’s statutes, and several bills pending in the 2022-2023 session of the New Jersey Legislature.<sup>5</sup>

### Background

The ALEC website states that, as a country, Americans possess a “political heritage based on the principles of life, liberty, justice and equality of opportunity.”<sup>6</sup> A recent study revealed that, “millions of American students and adults are unfamiliar with how their government works, leading experts to sound the alarm about a crisis in civics education.”<sup>7</sup> The American Federation of Teachers expressed concern that “[w]ithout an understanding of the structure of government, our rights and responsibilities, and the different methods of public engagement, civic literacy and voter apathy will continue to plague American democracy.”<sup>8</sup>

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<sup>1</sup> The Avalon Project, “Washington’s Farewell Address 1796,” Yale Law School: Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/washing.asp](http://avalon.law.yale.edu/18th_century/washing.asp). (last visited Apr. 04, 2022). See Ted Brackemyre, *Education to the Masses, The Rise of Public Education in Early America* (Mar. 2017), <https://ushistoryscene.com/article/rise-of-public-education/>.

<sup>2</sup> Brackemyre, *supra* note 1.

<sup>3</sup> E-mail from Comm’r Andrew O. Bunn to Chairman Vito A. Gagliardi and Laura C. Tharney, Exec. Dir., N.J. Law Revision Comm’n (Mar. 25, 2022) (on file with the NJLRC).

<sup>4</sup> CIVIC LITERACY ACT, §§ 1-5 (2022).

<sup>5</sup> N.J. STAT. ANN. §§ 18A:35-40—35:42 (West 2022) (commonly known as the “Laura Wooten Law”). See discussion *infra* p. 3-4 discussion

<sup>6</sup> ALEC, <https://alec.org/model-policy/the-civic-literacy-act/> (last visited Apr. 04, 2022).

<sup>7</sup> Megan McClure, *Tackling the American Civics Education Crisis*, (Mar. 2017), <https://www.ncsl.org/legislators-staff/legislators/legislators-back-to-school/tackling-the-american-civics-education-crisis.aspx> (noting that less than thirty percent of fourth-, eighth- and twelfth-grade students were proficient in civics and that a significant gap persists among racial and ethnic groups according to the National Assessment of Educational Progress civics report).

<sup>8</sup> Sarah Shapiro & Catherine Brown, *A Look at Civics Education in the United States*, AMERICAN EDUCATOR (Summer 2018), <https://www.aft.org/periodical/american-educator/summer-2018>.

Until the 1960s, New Jersey had a history of civics education that began in upper elementary school and continued throughout high school.<sup>9</sup> Students received instruction in courses that involved civics and government.<sup>10</sup> Thereafter, “social unrest over civil rights, the war in Vietnam and other issues weakened the agreement about core values and put democratic institutions on the defensive”; this contributed to the elimination of civics course in many states, including New Jersey.<sup>11</sup>

To prepare a new generation of skilled workers for the future workplace, the educational focus of the 1980s was on testable subjects, such as math and reading.<sup>12</sup> Math and reading skills improved as a result but, in recent years, less than a quarter of the national student population of the eighth grade demonstrated proficiency in civics.<sup>13</sup>

In 2004, 30 states required their students to complete a civics course.<sup>14</sup> An examination of civics education conducted by the New Jersey Education Association in the fall of 2004 revealed that “only 39% of New Jersey school districts required all of their students to take a civics course in any grade.”<sup>15</sup> By 2012, more than forty states required their students to complete a civics course.<sup>16</sup> New Jersey, however, had no such requirement at any grade level, and civics education “was left to local discretion.”<sup>17</sup> It would be almost a decade before civics was required to be taught in New Jersey schools.<sup>18</sup>

## Civics Education

### • *American Legislative Exchange Council*

ALEC<sup>19</sup> is one organization that offers a model civics literacy act. It proposes that state legislatures enact “The Civic Literacy Act” (Model Act) to ameliorate what it describes as “America[’]s lack of even the most basic knowledge and understanding of the history of [the United States].”<sup>20</sup> The provisions of the Act are set forth in five sections.<sup>21</sup>

### *Section 1 - Title*

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<sup>9</sup> Arlene Gardner, *Civics Education is Back: Helping Students Fulfill Their Role as Citizens in a Democracy*, (Feb. 28, 2022), <https://www.njea.org/civics-education-is-back/>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* citing the Nat’l Assessment of Educ. Progress Civics Assessment for the Eighth Grade, [nces.ed.gov/nationsreportcard/civics](https://nces.ed.gov/nationsreportcard/civics).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See discussion *infra* of Laura Wooten’s Law pp. 4-5.

<sup>19</sup> ALEC, <https://alec.org/about/> (last visited Apr. 04, 2022) (stating that ALEC is “America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism.”).

<sup>20</sup> CIVIC LITERACY ACT, § 2(D) (2022). ALEC, <https://alec.org/model-policy/the-civic-literacy-act/> (last visited Apr. 04, 2022).

<sup>21</sup> *Id.* at §§ 1 - 8 (2022); the Model Act is reproduced in its entirety in the Appendix to this Memorandum.

The title of ALEC’s model act is set forth in section one as “The Civic Literacy Act.”<sup>22</sup>

### *Section 2 - Findings*

The Model Act states that the Declaration of Independence, the United States Constitution, and the Federalist Papers to “stand as the foundation of... [American]... democracy....”<sup>23</sup> It says that many Americans do not have even a basic familiarity with these documents and the history of the United States.<sup>24</sup> The Model Act states that the “survival of the Republic requires that our nation’s children, the future guardians of its heritage and participants in its governance, have a firm knowledge and understandings of its principles and history.”<sup>25</sup>

### *Section 3 - Purpose*

The Model Act mandates that all high school students receive mandatory civics education.<sup>26</sup> The “purpose and intent” of the Model Act are to require that “during the high school years” students are taught about the “nation’s founding and related documents.”<sup>27</sup> This includes mandatory instruction about the Declaration of Independence, the United States Constitution, and the Federalist Papers.<sup>28</sup> The Model Act mandates that to receive a high school diploma, high school students must be tested on their knowledge of each of those documents.<sup>29</sup>

### *Section 4 - Administration*

The fourth section of the Model Act concerns the administration of its provisions.<sup>30</sup> It requires the appropriate state or local entity to “adopt and promulgate rules and regulations for the administration of this Act.”<sup>31</sup> These rules and regulations must, according to the Model Act, require “a passing grade on a test of the Declaration of Independence, the United States Constitution, and the Federalist Papers.”<sup>32</sup> In addition, they are to require questions on each of the three documents “in any standard state testing of high school students.”<sup>33</sup> Finally, the rules and regulations shall “provide for curriculum content and teacher training.”<sup>34</sup>

### *Section 5 – Reporting and Accountability*

The fifth section of the Model Act mandates that the appropriate state or local entity “submit an annual report to the governor and the legislature describing the rules and regulations issued pursuant to this Act and reporting the effectiveness of the rules and regulations as measured by the passage of the courses.”<sup>35</sup>

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<sup>22</sup> *Id.* at § 1 (2022).

<sup>23</sup> *Id.* at § 2(A)-(C) (2022).

<sup>24</sup> *Id.* at § 2(D)-(E) (2022).

<sup>25</sup> *Id.* at § 2(E) (2022).

<sup>26</sup> *Id.* at § 3(A)-(B) (2022).

<sup>27</sup> *Id.* at § 3(A) (2022).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at § 3(B).

<sup>30</sup> *Id.* at § 4.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at § 4(A).

<sup>33</sup> *Id.* at § 4(B).

<sup>34</sup> *Id.* at § 4(C).

<sup>35</sup> *Id.* at § 5.

The ALEC website does not provide information regarding states that have enacted the Model Act.

• *Laura Wooton’s Law*<sup>36</sup>

Staff’s research in this area revealed that, in July of 2021, Governor Phil Murphy signed into law a bill that directs the New Jersey Department of Education to “require at least one course specifically in civics or United States government as part of the social studies credit requirement for middle school graduation.”<sup>37</sup> The bipartisan bill, which was unanimously passed in the Senate and the Assembly,<sup>38</sup> is designed to “giv[e] students the tools they need to be more engaged and informed citizens.”<sup>39</sup> Governor Murphy stated that “[a]n understanding of civics strengthens our democracy by ensuring an understanding of the role that everyone plays in the future of their community, our state, and our nation.”<sup>40</sup> With the enactment of this law, New Jersey joined forty other states that require school districts to provide a specific course in civics to their student population.<sup>41</sup>

There are four fundamental differences between the New Jersey’s civics education statutes and the Model Act. First, the Model Act requires civics education at the high school level,<sup>42</sup> while the New Jersey statute states that “New Jersey law requires school districts to provide a two-year course of United States history in high school, which is supposed to include curriculum on civics, economics, and the history of the State of New Jersey; however, most school districts’ curricula focus solely on a chronology of United States history in meeting this statutory requirement...”<sup>43</sup> The New Jersey law adds that “[b]y age 10, students possess the higher order thinking skills necessary for a rigorous, reflective course in civics,”<sup>44</sup> and mandates civics education for “all students in an appropriate middle school grade.”<sup>45</sup>

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<sup>36</sup> N.J. STAT. ANN. §§ 18A:35-40—35:42 (West 2022). These statutes are commonly referred to as Laura Wooton’s Law. Mrs. Wooton was a volunteer poll worker in Mercer County, New Jersey, for 79 consecutive years until her death in 2019, at the age of 98. She has the distinguished honor of being New Jersey’s, and the nation’s, longest-serving poll worker. See Mary Ann Koruth, *NJ Middle Schools Will Have to Teach Civics Classes Starting in 2022* (Jul. 23, 2021, 6:37 p.m.; updated Jul. 23, 2021, 10:48 p.m.).

<sup>37</sup> N.J. Sch. Bd. Ass’n, *Murphy Signs Laura Wooton’s Law, Strengthening Civics Instruction*, <https://www.njsba.org/news-publications/school-board-notes/july-27-2021-vol-xlv-no-2/murphy-signs-laura-wootens-law-strengthening-civics-instruction/>. See also N.J. STAT. ANN. § 18A:35-40 *et seq.* (West 2022) and S.B. 185, 2020 Leg., 219<sup>th</sup> Sess. (N.J. 2020).

<sup>38</sup> New Jersey Legislature, Bill S854/237 Scs (SCS), Session 2020-2021, <https://www.njleg.state.nj.us/bill-search/2020/S854>.

<sup>39</sup> Koruth, *supra* note 36.

<sup>40</sup> Koruth, *supra* note 36. N.J. STAT. ANN. § 18A:35-40(c) (West 2022) (finding that “[c]ivic literacy and engagement are essential to maintaining a representative democracy); see also N.J. STAT. ANN. § 18A:35-40(f) (finding that civics education fosters an understanding and appreciation of democracy and the skills needed for participation in a democratic society); and see N.J. STAT. ANN. § 18A:35-40(g) (finding that middle school civics education “ensures that all New Jersey students have an opportunity to gain the knowledge and skills for active citizenship.”).

<sup>41</sup> N.J. STAT. ANN. § 18A:35-40(d) (West 2022).

<sup>42</sup> CIVIC LITERACY ACT, § 3(A) (2022).

<sup>43</sup> N.J. STAT. ANN. § 18A:35-40(a) (West 2022). See Appendix B below for the text of N.J.S. 18A:35-2, N.J.S. 18A:35-2.1, and N.J.S. 18A:35-3 concerning New Jersey’s requirements for history and civics before the enactment of Laura Wooton’s Law.

<sup>44</sup> N.J. STAT. ANN. § 18A:35-40(e) (West 2022).

<sup>45</sup> N.J. STAT. ANN. § 18A:35-41 (West 2022).

Next, the Civics Literacy Act mandates teaching about the Declaration of Independence, the Constitution, and the Federalist Papers,<sup>46</sup> while Laura Wooten’s Law requires the mandatory course to address “the values and principles underlying the American system of constitutional democracy; the function and limitations of government; and the role of citizens in a democratic society.”<sup>47</sup> The Model Act requires each state department of education to adopt and promulgate rules and regulations for the administration of the Act.<sup>48</sup> The New Jersey law requires that the Center for Civic Education at Rutgers, the State University, “provide a clearinghouse of materials, and online resource center,” and other support to “encourage the integration of civics” and “to enhance the middle school civics course of study.”<sup>49</sup>

The Model Act also mandates that high school students obtain a passing grade on a test of the Declaration of Independence, the United States Constitution, and the Federalist Papers to graduate from secondary school.<sup>50</sup> It further requires that any standard state testing of high school students include questions on the contents of those three documents.<sup>51</sup> The recently-enacted New Jersey statutes do not contain a requirement for its high school students.<sup>52</sup> Rather, beginning in 2022-2023 school year, each board of education is required to provide a course of study in civics, and ensure that it includes a minimum of two quarters of instruction in middle school.<sup>53</sup>

The final distinction between the Model Act and Laura Wooten’s Law concerns reporting requirements. The Model Act requires a department of education to submit an annual report to the governor and the legislature describing the rules promulgated by the Act and reporting upon its effectiveness.<sup>54</sup> New Jersey does not impose such a requirement. Instead, pursuant to Laura Wooten’s Law, civics education is now compulsory, and must be satisfied by each middle school student before entering high school.

### **Pending Legislation**

There are currently four bills pending in the New Jersey Legislature regarding civics education.<sup>55</sup>

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<sup>46</sup> CIVIC LITERACY ACT, § 2(D) (2022).

<sup>47</sup> N.J. STAT. ANN. § 18A:35-41 (West 2022).

<sup>48</sup> CIVIC LITERACY ACT, § 4 (2022).

<sup>49</sup> N.J. STAT. ANN. § 18A:35-42 (West 2022).

<sup>50</sup> CIVIC LITERACY ACT, § 4(A) (2022).

<sup>51</sup> CIVIC LITERACY ACT, § 4(B) (2022).

<sup>52</sup> Compare N.J. STAT. ANN. § 18A:35-40(g) (West 2022) (requiring students to complete a civics course in middle school).

<sup>53</sup> N.J. STAT. ANN. § 18A:35-41 (West 2022).

<sup>54</sup> CIVIC LITERACY ACT, § 5 (2022).

<sup>55</sup> A.B. 778, 2022 Leg., 220th Sess. (N.J. 2022) (requiring eleventh grade students to complete civics course as part of high school graduation requirements); A.B. 3124, 2022 Leg., 220th Sess. (N.J. 2022) (requiring new civics instruction in middle and high schools; requires school districts to use DOE’s curriculum guidelines for civics; and requires DOE to provide funding to enhance civics instruction); A.B. 3346, 2022 Leg., 220th Sess. (N.J. 2022) (requiring students to pass test identical to United States Citizenship and Immigration Services civics test as part of high school graduation requirements); S.B. 570, 2022 Leg., 220th Sess. (N.J. 2022) (requiring eleventh grade students to complete civics course as part of high school graduation requirements).

**Appendix A**  
**ALEC Model Civic Literacy Act<sup>56</sup>**

Section 1. {Title.} The Civic Literacy Act.

Section 2. {Findings.} The legislature finds and declares that:

(A) The adoption of the Declaration of Independence in 1776 and the signing of the United States Constitution were principal events in the history of the United States, the Declaration of Independence providing the philosophical foundation on which this nation rests and the Constitution of the United States providing its structure of government.

(B) The Federalist Papers embody the most eloquent and forceful argument made in support of the adoption of our republican form of government.

(C) These documents stand as the foundation of our form of democracy providing at the same time the basis of our national identity and the vehicle for orderly growth and change.

(D) Many Americans lack even the most basic knowledge and understanding of the history of our nation and the principles set forth in the Declaration of Independence, codified in the Constitution and defended in the Federalist Papers.

(E) The survival of the Republic requires that our nation's children, the future guardians of its heritage and participants in its governance, have a firm knowledge and understanding of its principles and history.

Section 3. {Purpose.} The purpose and intent of this Act are:

(A) To require during the high school years the teaching of the nation's founding and related documents, which shall include the Declaration of Independence, the United States Constitution and the Federalist Papers.

(B) To require that before receiving a certificate or diploma of graduation from high school students must have been tested on their knowledge of the Declaration of Independence, the United States Constitution, and the Federalist Papers.

Section 4. {Administration.} The state department of education [insert appropriate state/local agency] shall adopt and promulgate rules and regulations for the administration of this Act; said rules and regulations to:

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<sup>56</sup> CIVIC LITERACY ACT (2022); ALEC, <https://alec.org/model-policy/the-civic-literacy-act/> (last visited Apr. 07, 2022).

(A) include among the requirements for secondary school graduation a passing grade on a test of the Declaration of Independence, the United States Constitution, and the Federalist Papers;

(B) include in any standard state testing of high school students questions on the contents of the Declaration of Independence, the United States Constitution, and the Federalist Papers;

(C) specifically provide for curriculum content and teacher training to ensure that the intent of this legislation is satisfied.

Section 5. {Reporting and accountability.}

The state department of education [insert appropriate state/local agency] shall submit an annual report to the governor and the legislature describing the specific rules and regulations issued pursuant to this Act and reporting the effectiveness of these rules and regulations as measured by the passage of these courses involved pursuant to Section 3 of this Act.

Section 6. {Severability clause.}

Section 7. {Repealer clause.}

Section 8. {Effective date.}

## **Appendix B**

New Jersey statutes pertaining to civics education before enactment of Laura Wooten's Law.

### **N.J.S. 18A:35-2. Nature and purpose of United States history course**

Such course of study shall include instruction in

- (1) The principles and ideals of the American form of representative government as expressed in the Declaration of Independence and the Constitution of the United States and particularly in the Bill of Rights; and
- (2) The history of the origin and growth of the social, economic and cultural development of the United States, of American family life and of the high standard of living and other privileges enjoyed by the citizens of the United States; and
- (3) Such other events in the history of the United States as will tend to instill, into every girl and boy, a determination to preserve these principles and ideals as those of citizens of the United States and an appreciation of their solemn duty and obligation to exercise the privilege of the ballot, upon their reaching voting age, to the end that said principles and ideals may be so preserved; and
- (4) The history of the State of New Jersey.

Credits: L.1967, c. 271, § 18A:35-2, eff. Jan. 11, 1968. Amended by L.1987, c. 52, § 2, eff. July 1, 1987.

#### **N.J.S 18A:35-2.1. Curriculum guidelines for teaching of civics**

The New Jersey Center for Civic Education at Rutgers, The State University shall prepare curriculum guidelines and provide professional development for high school social studies teachers to help local school boards in fulfilling the requirements of integrating civics, economics, and the history of New Jersey as part of the required United States history course established pursuant to N.J.S.18A:35-1 and N.J.S.18A:35-2.

Credits: L.1987, c. 425, § 1, eff. Jan. 14, 1988. Amended by L.2021, c. 185, § 2, eff. July 23, 2021.

### **N.J.S. 18A:35-3. Course in civics, geography and history of New Jersey**

Each board of education shall adopt a course of study in community civics, the geography, history and civics of New Jersey, and the privileges and responsibilities of citizenship as they relate to community and national welfare, which course shall be taken by all pupils in the public elementary schools in the grade or grades in which it is given, with the object of producing the highest type of patriotic citizenship.

Credits: L.1967, c. 271, § 18A:35-3, eff. Jan. 11, 1968.