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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>HB123</u>	Sponsor	<u>Cates/Pope/Sedillo Lopez/Parajón/Figueroa</u>
Tracking Number	<u>.226490.2</u>	Committee Referrals	<u>HCPAC/HEC</u>
Short Title	<u>Prohibit Library Book Banning</u>		
Analyst	<u>Armatage</u>	Original Date	<u>1/31/2024</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 123 (HB123) proposes to withhold state funding from libraries unless they adopt and comply with the American Library Association's Library Bill of Rights and adopt a written policy prohibiting the practice of banning books or other library materials on the basis of author's race, nationality, gender identity, sexual orientation, or political or religious views. The effective date of this bill is July 1, 2024.

FISCAL IMPACT

This bill does not include an appropriation.

HB123 could lead to administrative expenses for state-funded libraries. Additionally, the Department of Justice notes the bill could result in potential legal costs due to policy disputes. However, these costs are indeterminate.

SUBSTANTIVE ISSUES

Limitations. HB123 prohibits political subdivisions of the state from reducing funding to a public library for complying with the requirements of the bill. HB123 is not intended to curtail the right of individuals to challenge library materials as part of an approved library collection development policy following established library materials challenge procedures.

American Library Association's Bill of Rights. The [American Library Association](#) is a nonprofit organization that promotes libraries and library education. The Department of Cultural Affairs (DCA) notes that the American Library Association may change its [Library Bill of Rights](#) at any time. DCA notes that such potential future changes could impact the legislative intent of the bill.

National Context. Illinois passed a very similar [law](#), which took effect on January 1, 2024. Illinois' bill also withheld state funding from libraries that did not either adopt the American Library Association's Library Bill of Rights or develop a written statement prohibiting book

banning. Similar bills have been introduced in several other states this year including [New York](#) and [Pennsylvania](#). According to the American Library Association, in the first eight months of 2023, the association received reports of 695 attempts to censor library materials for nearly 2,000 unique titles. This represents a 20 percent increase from the same reporting period last year. The majority of the challenges targeted books written by, or about, a person of color or a member of the LGBTQ+ community. It is unclear what degree of book banning currently occurs in New Mexico's public libraries.

Related Supreme Court Case. The Justice Department notes the Supreme Court case *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853 (1982), addressed the removal of books from school libraries. The Court's plurality opinion suggested school boards may not remove books from libraries simply due to disapproval of the ideas within them.

ADMINISTRATIVE IMPLICATIONS

DCA notes SB123 would require state libraries to amend administrative code to include adoption of the American Library Association's Library Bill of Rights, or a policy prohibiting banning of library materials, and a process for individuals to challenge library materials. Affected public libraries would be required to submit updated policies within one year of the law taking effect.

SOURCES OF INFORMATION

- LESC Files
- Department of Cultural Affairs (DCA)
- Department of Justice (DOJ)

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