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FISCAL IMPACT REPORT

SPONSOR <u>Senate Education Committee</u>	LAST UPDATED	<u>03/11/2025</u>
	ORIGINAL DATE	<u>03/11/2025</u>
	BILL	<u>CS/Senate Bill</u>
SHORT TITLE <u>Protection of School Library Materials Act</u>	NUMBER	<u>552/SECS</u>
		ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relate to House Bill 27
Conflicts with House Bill 558

Sources of Information

LFC Files

Agency Analysis Received From
Public Education Department (PED)
Department of Cultural Affairs (DCA)
New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From
Regional Education Cooperatives (RECA)
Albuquerque Public Schools (APS)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of SEC Substitute for Senate Bill 552

The Senate Education Committee substitute for Senate Bill 552 (SB552) would limit withdrawals of materials from public school and public charter school libraries and would establish procedures to be followed in case of such withdrawals being thought to be necessary. It would give school library staff members immunity from prosecution for refusing to remove materials prior to the procedures being followed.

Section 1 names the act; Section 2 establishes definitions. It defines “library resource” as including not only books, magazines and newspapers, but also databases and other online or video material, microfiche and microfilms, library programs and exhibits.

Section 3 requires that each school board and charter school governing body establish written policies for library resource acquisition, retention, and display and for reconsideration of library resources. The Public Education Department (PED) would approve the policies if they comply with Sections 4 and 5.

Section 4 requires that written policies on acquisition and retention of library resources comply with the First Amendment to the United States Constitution and protect against harassment and discrimination of individuals or groups, especially those of protected classes.

Section 5 would allow removal of materials from a library’s permanent collection only if permitted through the procedures established and reviewed by PED; the reconsideration policies must be available to the public. Reconsideration could be considered regarding a given library resource only once every two years, and only upon the request of a parent of a student at the given school. The public school library could not remove a library resource as a result of a reconsideration request until completion of review of the material.

Section 6 absolves a public school library staff member from any type of retaliation for not removing a library resource item before the review of that material was completed.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 552. No fiscal impact is anticipated, other than PED having to approve policies regarding library resource acquisition and removal.

SIGNIFICANT ISSUES

The American Library Association (ALA) maintains statistics on book-banning efforts around the country. Regarding the first eight months of 2024, ALA states:

Between January 1 and August 31, 2024, ALA’s Office for Intellectual Freedom tracked 414 attempts to censor library materials and services. In those cases, 1,128 unique titles were challenged. In the same reporting period last year, ALA tracked 695 attempts with 1,915 unique titles challenged. Though the number of reports to date has declined in 2024, the number of documented attempts to censor books continues to far exceed the numbers prior to 2020. Additionally, instances of soft censorship, where books are purchased but placed in restricted areas, not used in library displays, or otherwise hidden or kept off limits due to fear of challenges illustrate the impact of organized censorship campaigns on students’ and readers’ freedom to read. In some circumstances, books have been preemptively excluded from library collections, taken off the shelves before they are banned, or not purchased for library collections in the first place.

PED points to a [compilation of studies](#) showing that school libraries can make a “crucial contribution” to student achievement. Further, PED comments that passage of this bill and/or

House Bill 27 would “prevent ideologically based book bans in public libraries....thereby safeguarding against the removal of materials due to partisan or doctrinal disapproval.”

The New Mexico Attorney General notes that:

SB552 may raise First Amendment concerns. However, it is noteworthy that the Act is likely consistent with Supreme Court precedent Board of Education, *Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853 (1982), wherein the Supreme Court’s plurality opinion suggests that school boards may not remove books from libraries simply due to disapproval of ideas within them.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 27, Librarian Protection Act, removing state funding if libraries remove library resources for discriminatory purposes.

Conflicts in part with House Bill 558, No Sexually Explicit Material in Schools.

TECHNICAL ISSUES

NMAG lists two concerns:

- Section 2, part (B), lines 9-13. This is where SB 552 defines “library staff member”. It generally captures any teacher or personnel affiliated with a school library. However, it may be prudent to include approved school library volunteers in the definition.
- Section 5 outlines the requirements for a school’s reconsideration policy. It does not, however, provide any direction as to which personnel are tasked with receiving reconsideration requests (Section 5(C)) or making final determinations of reconsideration reviews (Section 5(E)). Nor does it contain uniform criteria or guidelines for personnel to use in evaluating a library resource reconsideration request. There are also no time frame or deadline requirements for how long a reconsideration request may take to be reviewed.

PED has three additional recommendations:

- The bill contains a circular reference between Sections 3 and 5. Section 3.B of the bill requires a written policy for the reconsideration of a library resource that complies with the provisions of Section 5 of the act. Section 5.A requires that a public school library only remove a resource from its permanent collection if it has been reviewed in accordance with an applicable reconsideration policy established pursuant to Section 3 of the act, when it is this section that establishes the policy. It would be better for Section 5.A. to read, “A public school library may remove a library resource from its permanent collection only if that resource has been reviewed in accordance with the applicable reconsideration policy established “pursuant to this section.”
- While the proposed Protection of School Library Materials Act and the current School Library Material Act address somewhat distinct issues with regard to school library materials, as noted above, it may be better for the two acts to be merged, rather than be created as two separate acts.
- PED would be required to collect and approve school district and charter school library material policies between July 1, 2025, and September 1, 2025. The bill would not provide for the PED to enforce the Protection of School Library Material Act

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As noted by DCA, “School libraries may operate without an established collection development and maintenance policy. Individuals and groups who are not parents of current students will continue to be able to challenge school library materials.”

LAC/hj