

LFC Requester:

Sunny Liu

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** March 7, 2025

*Check all that apply:*

**Bill Number:** SB 552

Original       Correction   
Amendment       Substitute

**Sponsor:** Senator Antoinette Sedillo-Lopez

**Agency Name and Code Number:** 305 – New Mexico Department of Justice

**Short Title:** Public Peace, Health, Safety, and Welfare

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: – N/A

Duplicates/Relates to Appropriation in the General Appropriation Act – N/A

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis: SB 552 proposes the Protection of School Library Materials Act. This Act would add a new section to Chapter 22 NMSA 1978, known as the Public School Code. Each section of the proposed Protection of School Library Materials Act is summarized below.

**Section 1** provides the title of this proposed legislation, which would be cited as the “Protection of School Library Materials Act.”

**Section 2** provides two definitions for the Protection of School Library Materials Act. The first is “library resource”, which includes: magazines, newspapers, or pamphlets; online reference and periodical databases, streaming resources or computer software; microfiche or microfilm; films, filmstrips, audiotapes, video tapes, disc records, compact discs or slides; library programs or exhibits; and other printed or unprinted material related to speech. The second definition is “library staff member”, defined as a public-school librarian, teacher librarian, library media specialist or school employee assigned to library duties.

**Section 3** mandates that each local school board and charter school governing body create written policies that comply with the requirements found in Section 4 and Section 5 (discussed below). The deadline to create and submit these written policies to the Public Education Department is September 1, 2025.

**Section 4** outlines the requirements for public and charter school policies under the Protection of School Library Materials Act. Subsection 4(A) requires that such policies comply with the first amendment of the U.S. Constitution or Article 2 Section 17 of the New Mexico Constitution, whichever is more protective of speech. Subsection 4(B) requires that these policies prohibit harassment and discrimination with respect to the author, content, and intended audience of a library resource. Harassment and discrimination based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, or national origin or ancestry are prohibited.

**Section 5** requires that each local school board and charter school governing body create a written library resource reconsideration policy. This policy is separate from the school’s existing collection maintenance and development systems, which are exempt from Section 5’s requirements. Through the reconsideration policy a parent of a student enrolled at the school may request that a library resource be reconsidered. The school’s reconsideration policy must be made available to the public. A library resource cannot be subject to

reconsideration more than once in a two-year period. Anyone who requests reconsideration of a library resource is to be provided a final determination on their request, which must include the standards used to make the determination. The school cannot remove, restrict, or discontinue a library resource because of a reconsideration request until the determination regarding the library resource is made publicly available. Finally, a written request for reconsideration of a library resource is subject to the Inspection of Public Records Act.

**Section 6** prohibits retaliation against library staff. It protects a library staff member who refuses to remove a library resource prior to its review pursuant to the reconsideration policy or who makes good faith decisions in accordance with the policy. Such actions are not subject to termination, demotion, discipline or retaliation.

**Section 7** makes the Protection of School Library Materials Act effective on July 1, 2025.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented. – N/A

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section. – N/A

## **SIGNIFICANT ISSUES**

The Protection of School Library Materials Act 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.

## **PERFORMANCE IMPLICATIONS – N/A**

## **ADMINISTRATIVE IMPLICATIONS – N/A**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**Relates to** HB 27 Librarian Protection Act. HB 27 requires libraries to establish or adopt written policies consistent with either the American Library Association’s Library Bill of Rights or the State Librarian to be eligible to receive state funds. Like SB 552, HB 27 prohibits restricting library content due to disapproval with the content or the author, if that disapproval is based on association with, or membership in, a protected class.

**Conflicts with** HB 558 No Sexually Explicit Material in Schools. HB 558 would limit the availability and accessibility of school library resources if they are deemed “sexually explicit” according to its broad definition.

## **TECHNICAL ISSUES**

- 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.

**OTHER SUBSTANTIVE ISSUES – N/A**

**ALTERNATIVES – N/A**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL – Status quo.**

**AMENDMENTS – N/A**