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FISCAL IMPACT REPORT

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| SPONSOR <u>Reps. Cates and Anaya/Sen. Pope</u> | LAST UPDATED <u>1/22/2025</u> | ORIGINAL DATE <u>1/22/2025</u> |
| SHORT TITLE <u>Librarian Protection Act</u> | BILL NUMBER <u>House Bill 27</u> | |
| | ANALYST <u>Rodriguez/Chilton</u> | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|-------------------------------|---------------------------|---------------------------|---------------------------|-------------------|---------------------------|---------------------|
| State-Funded Libraries | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | | Recurring | General Fund |
| Total | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | | Recurring | General Fund |

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

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

SUMMARY

Synopsis of House Bill 27

House Bill 27 (HB27) creates the Librarian Protection Act, which prohibits public libraries from receiving state funding unless they adopt a policy prohibiting the practice of removing or restricting books based on partisan or doctrinal disapproval. Alternatively, the library can also adopt policy that complies with the American Library Association’s Library Bill of Rights. The bill also stipulates that a public library’s funding cannot be reduced for complying with the act. The bill clarifies that it is not intended to curtail the right of individuals to challenge library materials. ‘Ban’ means the removal of library materials. ‘Challenge’ means the attempt to remove said materials.

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

FISCAL IMPLICATIONS

HB27’s fiscal impact is difficult to determine but appears to be minimal, relating to libraries developing and adopting policies conforming to the provisions of the bill.

SIGNIFICANT ISSUES

State Funding for Public Libraries. The New Mexico State Library administers four funding programs to public and tribal libraries: state grants-in-aid (SGIA), tribal library program grants, rural library endowment fund, and general obligation (GO) bonds. Most, if not all, public libraries in the state receive funds from one or more of these programs.

Library Bill of Rights. The American Library Association, a nonprofit that promotes libraries and library education, adopted the Library Bill of Rights in 1939. The Library Bill of Rights indicates that reading materials should not be proscribed, removed, or restricted because of partisan or personal disapproval.

Censorship Attempts. The American Library Association also tracks attempts to censor books and materials in public, school, and academic libraries. Across the United States, the association tracked 1,247 attempts to censor 4,240 unique book titles in school and libraries in 2023. In New Mexico, and in that same time frame, the association tracked two attempts to restrict access to books and seven unique titles challenged during those attempts.

Similar Legislation. HB27 follows similar legislation recently passed in Illinois, the first state to outlaw book bans. Legislation enacted in Illinois tasks their state librarian with adopting the American Library Association's Library Bill of Rights statewide and requiring libraries to adopt the bill of rights to be eligible for state-funded grants.

Possible First Amendment Issues. The New Mexico Attorney General (NMAG) notes that the act may receive first amendment challenges. The agency states:

. . . it is noteworthy that the Act is likely consistent with Supreme Court case *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 with ideas within them.

This case is relevant to HB27 as it parallels the *Pico* case's emphasis on protecting access to a diversity of ideas and intellectual freedom.

NMAG also notes that HB27 may face challenges due to varied interpretation and application of the language "partisan or doctrinal approval."

ADMINISTRATIVE IMPLICATIONS

The Department of Cultural Affairs (DCA) notes that New Mexico Administrative Code 4.5.2 requires state-funded libraries to submit collection development policies every five years. HB27 would require the state librarian to amend NMAC to adopt the American Library Association's Library Bill of Rights or a policy prohibiting banning of library materials as well as a process for individuals to challenge library materials.

Similarly, the Higher Education Department notes libraries at public colleges and universities may need to adjust current policies to comply with this bill.

TECHNICAL ISSUES

DCA notes that the bills current definition of a public library, which is a “New Mexico organization that offers basic library services that are available to the general public”, could apply to organizations not funded by the state library, such as academic libraries that are open to the public. DCA notes:

This could cause confusion because the state librarian only has rulemaking authority over funding to libraries that complete and submit an annual New Mexico public library survey.

DCA suggests the following amendment to HB27:

Page 1, line 25, amend to read: “‘public library’ means a library that completes and submits an annual New Mexico public library survey that is accepted by the state librarian.”

NMAG notes that the bill could benefit from defining “partisan or doctrinal disapproval” that may help clarify the line between the type of unlawful removal contemplated in Section 3(A), and the type of lawful challenge recognized in Section 3(C).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Public Education Department notes that if the bill is not passed, public libraries in New Mexico may be subject to increasing numbers of challenges to books and other library materials, based upon partisan, political, or religious views, hampering their general mission of provision of information, books, and other resources to the public.

JR/rl/SL2