

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

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

Check all that apply:

Original  Amendment \_\_\_\_\_  
Correction \_\_\_\_\_ Substitute \_\_\_\_\_

Date 1/19/2024

Bill No: HB123

Sponsor: Kathleen Cates Agency Name and Code: Department of Cultural Affairs – 505  
Short Title: Prohibit Library Book Banning Person Writing: Jessie Greenspan  
Phone: 505-490-7347 Email: Jessie.Greenspan@dca.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	0	0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

The bill impacts public libraries, defined as a library that submits an annual library survey to the state librarian. It requires libraries to:

- a) Adopt the [American Library Association's \(ALA\) Library Bill of Rights](#); or
- b) Adopt a written policy that prohibits banning library materials.

Public libraries failing to do so are ineligible to receive state funds.

The bill prohibits political subdivisions of the state from reducing funding to a public library for complying with these requirements.

It does not prohibit the right of individuals to challenge library materials as may be established in individual library collection policies.

**FISCAL IMPLICATIONS**

None identified.

**SIGNIFICANT ISSUES**

None identified.

**PERFORMANCE IMPLICATIONS**

None identified.

**ADMINISTRATIVE IMPLICATIONS**

NM Administrative Code (NMAC) requires state-funded libraries to submit collection development policies every five years. Passage of this bill will require the state library to amend the NMAC related to such policies 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 will be required to submit updated compliant policies within 1 year of the law taking effect.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None identified.

**TECHNICAL ISSUES**

None identified.

## **OTHER SUBSTANTIVE ISSUES**

Section 1A(1) provides for public libraries to adopt the [ALA's Library Bill of Rights](#) (LBR) to comply with the bill. As an independent organization, ALA is at liberty to change the LBR at its sole discretion. Therefore, possible future changes to the LBR could affect the legislative intent of the bill going forward. Removing adoption of the LBR in favor of the individual library policy allowed under section 1A(2) will ensure future legislative intent.

Section 1(A)2 may contain ambiguous language. Clarification should be considered to ensure legislative intent is captured correctly. The LBR is clear in its two-fold prohibition against the banning of books based on 1) partisan or doctrinal disapproval of the content of the library material; **and** 2) the author's race, nationality, gender identity, sexual orientation or political or religious views. As drafted, this same distinction is unclear in Section 1(A)2.

The bill's definition of "ban" could cause confusion as there are several legitimate reasons for a book to be removed from a library, including due to condition, age, and outdated content.

## **ALTERNATIVES**

None identified.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Public libraries subject to the banning of books will continue to receive state funding.

## **AMENDMENTS**

Page 1, lines 17 to 25 and page 2 lines 1 to 5 amend to read:

“A. A public library shall not be eligible to receive state funds unless the library:  
(1) ~~adopts and complies with the American library association's library bill of rights, including the requirement that library materials not be proscribed or removed because of partisan or doctrinal disapproval or the author's race, nationality, gender identity, sexual orientation or political or religious views; or~~  
(2) adopts a written policy prohibiting the practice of banning books or other library materials within the library or library system on the basis of partisan or doctrinal disapproval of the material's content or the author's race, nationality, gender identity, sexual orientation or political or religious views pursuant to rules promulgated by the state librarian.”

Page 2, lines 15 to 16, amend to read:

“‘ban’ means the act of removing or prohibiting the addition of materials from a public library on the basis of partisan or doctrinal disapproval of the material's content or the author's race, nationality, gender identity, sexual orientation or political or religious views.”