

AGENCY BILL ANALYSIS - 2026 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:** 01/21/2026*Check all that apply:***Bill Number:** HB 26Original Correction **Sponsor:** Rep. Kathleen Cates and Sen. Antoinette Sedillo LopezAmendment Substitute **Short Title:** PROHIBITING BOOK BANNING AT PUBLIC LIBRARIES**Agency Name and Code Number:** 305 – New Mexico Department of Justice**Person Writing**
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Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

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: HB 26 prohibits New Mexico public libraries from banning books on the basis of “partisan or doctrinal disapproval,” or the “intended audience’s or the author’s or the creator’s” protected class as provided in NMSA 1978, Section 28-1-7 of the New Mexico Human Rights Act (“NMHRA”).

Section 1 prohibits book banning in New Mexico public libraries operated or funded by the state, a county or municipality. Section 1(A)(1) prohibits book banning on the basis of “partisan or doctrinal disapproval.” Section 1(A)(2) prohibits book banning on the basis of the “intended audience’s or the author’s or the creator’s” race, nationality, religion, sex or gender, sexual orientation, political affiliation or characteristics otherwise protected from unlawful discriminatory practice in public accommodation as provided in Section 28-1-7 of the NMHRA. Section 1(B) requires libraries to establish written procedures for persons to challenge the library’s inclusion of materials or resources believed to be obscene, unlawful or incompatible with the library’s purpose. Section 1(C)(1) prohibits the state, county or a municipality from reducing funding because of a library’s compliance with the legislation. Section 1(C)(2) prohibits the state, county or a municipality from taking adverse action against a public library staff member for complying with the legislation. Section 1(D) provides that a library that bans books contrary to the legislation shall not be eligible to receive state money. Section (1)(E) tasks the library division of the cultural affairs department with enforcement of the legislation.

Section 2 provides that the effective date of HB 26, if passed, would be July 1, 2026.

FISCAL IMPLICATIONS

None for the New Mexico Department of Justice (“NMDOJ”) formerly known as the New Mexico Attorney General’s Office.

SIGNIFICANT ISSUES

Because HB 26 concerns a form of speech (books), it is possible that it receives First Amendment challenges. However, it is noteworthy that HB 26 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 the ideas within them.

HB 26 may face legal challenges due to varied interpretation and application of the language “partisan or doctrinal approval.” Defining “partisan or doctrinal disapproval” may make it easier to distinguish between challenges to books for the unlawful reasons in Section 1(A), and

challenges to books for lawful reasons. This may clarify the line between the type of unlawful challenge contemplated in Section 1(A), and the type of lawful challenge recognized in Section 1(B).

PERFORMANCE IMPLICATIONS

None for NMDOJ.

ADMINISTRATIVE IMPLICATIONS

None for NMDOJ.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP: HB 26 is similar to HB 27 as introduced in the 2025 regular session. HB 27 died (API). HB 26 is also similar to HB 123 as introduced in the 2024 regular session. HB 123 died (API).

TECHNICAL ISSUES

It may be worth considering defining the following terms used in HB 26: “ban,” “challenge,” “public library,” and “partisan or doctrinal disapproval.” Defining “partisan or doctrinal disapproval” may make it easier to distinguish between challenges to books for the unlawful reasons in Section 1(A), and challenges to books for lawful reasons. This may clarify the line between the type of unlawful challenge contemplated in Section 1(A), and the type of lawful challenge recognized in Section 1(B).

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.