

SB 523-FN - AS AMENDED BY THE SENATE

04/05/2024 1337s

2024 SESSION

24-2869

02/06

SENATE BILL

523-FN

AN ACT

relative to the regulation of public school materials.

SPONSORS:

Sen. Avar, Dist 12; Sen. Gendreau, Dist 1; Rep. Cushman, Hills. 28; Rep. Kofalt, Hills. 32; Rep. Notter, Hills. 12; Rep. Pauer, Hills. 36

COMMITTEE:

Education

AMENDED ANALYSIS

This bill requires local school districts to adopt and publicly post policies describing materials authorized for use by students in the district and outlining procedures to address complaints alleging that material is harmful or age-inappropriate for use in the district's schools.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the regulation of public school materials.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Prohibition of Materials Harmful to Minors in Schools. Amend RSA 189 by
2 inserting after section 74 the following new section:

3 189:75 Prohibition of Materials Harmful to Minors in Schools.

4 I. For purposes of this section, “material” shall mean any printed matter, visual
5 presentation, web-based content, live performance, or sound recording, including, but not limited to,
6 books, magazines, motion picture films or videos, pamphlets, phonographic records, pictures,
7 drawings, photographs, figures, statues, plays, dances, or other representations that are provided by
8 the school district or by school employees, volunteers, guests, or speakers.

9 II. No later than November 1, 2025, each local school board shall adopt a policy describing
10 the materials that are authorized to be used by, circulated to, and/or accessed by, students in the
11 local school district. The policy shall be posted on the district website.

12 III. No later than November 1, 2025, each local school board shall adopt a procedure to be
13 used to address complaints submitted by parents or guardians alleging that material that is harmful
14 to minors, age-inappropriate, or otherwise offensive or inappropriate for use in the child’s school.
15 The policy shall be posted on the district website. The complaint resolution process shall, at a
16 minimum, provide that:

17 (a) Complaints be submitted in writing to the principal of the school where the student
18 is enrolled, contain a reasonably detailed description of the material that is alleged to be harmful to
19 minors, and propose an action to be taken by the school district relative to the material.

20 (b) The school principal or designee take reasonable steps to investigate the allegations
21 in the complaint, including, but not limited to, reviewing the material complained of, meeting with
22 the parent or guardian who submitted the complaint in person, or communicating with the parent or
23 guardian by email or telephone, within 10 school days of receipt of the complaint.

24 (c) The school principal or designee determine whether the material that is the subject of
25 the complaint is harmful to minors, age-inappropriate, or otherwise offensive or inappropriate for
26 use in the child’s school or for use in the context in which the material is being used.

27 (d) The school principal or designee, within 15 school days of receipt of the complaint,
28 determine whether student access to, or use of, the material that is the subject of the complaint will
29 remain in place without change, be removed, be restricted, be modified, or have other action taken
30 with respect to the material.

1 (e) The school principal or designee, within 5 calendar days making the determination
2 required in subparagraph (d), provide a written response to the complainant explaining his or her
3 decision, which includes: (1) whether the material has been determined to be harmful to minors, age-
4 inappropriate, or otherwise offensive or inappropriate for use in the child's school; (2) a description of
5 why the principal or designee reached his or her conclusions; and (3) an explanation of the value the
6 principal or designee finds the material provides.

7 (f) The complainant may appeal the determination of the principal or designee to the
8 school board within 20 calendar days of receipt of the determination of the principal or designee, or
9 at the next regularly scheduled meeting of the school board, whichever comes first.

10 (g) The local school board shall permit the parent or guardian to be heard as part of the
11 agenda at a regularly scheduled board meeting.

12 (h) The school board shall make the challenged material available to the public by
13 placing a copy of the work, instructions describing how to access the work, at the front reception
14 desk of the school building where the work was found.

15 (i) Within 15 calendar days of the meeting at which the appeal is heard, the local school
16 board issue a written decision that: (1) is signed by all school board members voting in the majority
17 to affirm, reverse or modify the decision of the principal; (2) contains a certification signed by each
18 school board member affirming that before voting on the matter, the school board member has
19 personally familiarized himself or herself with the with the material in question; and (3) describes
20 the reason(s) for the school board's decision with reference to: (1) whether the material has been
21 determined to be harmful to minors, age-inappropriate, or otherwise offensive or inappropriate for
22 use in the child's school; (2) a description of why the school board reached its conclusions; and (3) an
23 explanation of the value the school board finds the material provides.

24 IV. All decisions of the principal or designee and the school board, and any communications
25 relating thereto, shall be considered public records pursuant to RSA 91-A.

26 2 Effective Date. This act shall take effect upon its passage.

SB 523-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the regulation of public school library materials.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures	\$0	DOE New Positions - \$186K in FY25, \$192K in FY26, and \$198K in FY27 Potential DOJ Costs - Unknown		
Funding Source(s)	General Fund			
Appropriations	\$0	\$0	\$0	\$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable		

The Department of Justice was initially contacted on 11/29/23 for a fiscal note worksheet. If information is received, a revised fiscal note will be forward to the Senate Clerk's Office.

METHODOLOGY:

This bill prohibits material that is obscene or harmful to minors in schools, requires vendors of school library materials to develop appropriate ratings, and creates a procedure for removal and cause of action. The Department of Education states this bill requires all library vendors to issue ratings of all material both going forward and retroactively (if a vendor does not adopt a ratings standard, they are prohibited from conducting business with any districts) and it would be required to review and "correct" the ratings. The Department states it currently does not have staff available to meet its requirements as contained in this bill and states it would need two (2) new program specialist IV (labor grade 25) positions, that with a start date of July 1,

2024, would have a total cost of \$186,000 in FY 2025, \$192,000 in FY 2026, and \$198,000 in FY 2027. It should be noted this bill includes neither appropriation nor authorization for new personnel.

It is assumed this bill may impact local school district costs as there are several provisions included in this bill to which school districts will need to comply with. Any costs to local school districts are indeterminable and would vary from district to district.

AGENCIES CONTACTED:

Department of Education and Department of Justice