

LFC Requester:	
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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}

Date Prepared: 2/18/2025 *Check all that apply:*
Bill Number: S401-341 Original Correction
 Amendment Substitute

Sponsor:	Sen. Padilla	Agency Name and Code	DFA-341
	Rep. Sariñana		Number:
Short Title:	<u>BROADBAND FOR EDUCATION</u>	Person Writing	<u>Ashley Leach, Director, SBOF</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$10,000.0	Recurring	Severance Tax Bonds

(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
Total						

(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

Senate Bill 401 (SB401) aims to enhance broadband access and education technology infrastructure in New Mexico. SB401 focuses on improving broadband access and education technology infrastructure in New Mexico through the issuance of bonds, the creation of a dedicated fund, and the transfer of relevant programs to a centralized office. Here is a detailed summary of the bill:

- **Amendments to Severance Tax Bonding Act:**
 - SB401 allows the issuance of supplemental severance tax bonds for education technology infrastructure projects under the Broadband Access and Expansion Act.
 - SB401 amends the Severance Tax Bonding Act to allow up to \$10 million in supplemental severance tax bonds upon certification of need by the Office of Broadband Access and Expansion (OBAE) each fiscal year for expenditures on education technology infrastructure projects.
- **Creation of Education Technology Infrastructure Fund:**
 - A new fund is established to support education technology infrastructure projects.
 - The fund will consist of appropriations, gifts, grants, donations, and proceeds from supplemental severance tax bonds.
- **Transfer of Broadband Deployment and Connectivity Program:**
 - The Public School Facilities Authority's broadband deployment and connectivity program and the statewide education network will be transferred to the Office of Broadband Access and Expansion.
- **Rulemaking and Grant Authorization:**
 - SB401 authorizes OBAE to promulgate rules and provide grants for education technology infrastructure projects.
- **Definitions and Standards:**
 - New definitions are added, including "education technology infrastructure" and "school district population density."
 - SB401 mandates the development of minimum adequacy standards for education technology infrastructure and methodologies for determining reasonable costs and prioritizing projects.

- **Project Funding and Prioritization:**
 - OBAE will establish project funding requirements and priority standards based on factors like school district size, population density, and local property tax base.
 - Emergency criteria are included for immediate risks to health or safety.
- **Reporting and Accountability:**
 - OBAE must prepare an annual report summarizing its activities, including funded projects, progress, and prioritization criteria.
- **Repeal and Effective Date:**
 - Section 22-24-4.5 NMSA 1978 is repealed.
 - The provisions of the act will take effect on July 1, 2025.

FISCAL IMPLICATIONS

Overall, SB401 will result in increased state expenditures and debt obligations in the short term, but it aims to improve education technology infrastructure, which could have positive long-term economic and educational benefits for the state.

- **Creation of the Education Technology Infrastructure Fund:**
 - Establishing this fund will require appropriations from the proceeds of the supplemental severance tax bonds and any gifts, grants, and donations received.
 - The fund will be used to finance education technology infrastructure projects and grants to school districts.
- **Administrative Costs:**
 - OBAE will incur administrative costs related to managing and disbursing the fund, rulemaking, and developing standards and guidelines.
 - The fund will cover these costs, with a cap of 5% of the project grant for management expenses.
- **Transfer of Functions and Resources:**
 - The transfer of the Public School Facilities Authority's broadband deployment and connectivity program to the Office of Broadband Access and Expansion will involve the transfer of personnel, money, appropriations, records, furniture, equipment, supplies, and other property.
 - This may have budgetary implications for both entities.

- **Potential Savings and Efficiency Gains:**

- By centralizing broadband deployment and connectivity efforts under OBAE, the state may achieve long-term efficiencies and cost savings through more coordinated and effective management of broadband infrastructure projects.

- **Issuance of Supplemental Severance Tax Bonds:**

- SB401 authorizes the issuance of up to \$10 million in supplemental severance tax bonds per fiscal year for education technology infrastructure projects.
- This will shift a portion of supplemental severance tax bond capacity to education technology infrastructure. The State Board of Finance (SBOF) issues supplemental severance tax bonds, almost exclusively as taxable short-term notes, one to two times a year.
 - Historically, the entirety of supplemental severance tax bonding capacity has been allocated to the Public School Capital Outlay Council (PSCOC) for public school capital projects, with some exceptions for funding to the Public Education Department (PED).
 - SB401 would divert \$10 million annually in capacity to OBAE for the fund; \$10 million is currently already committed to education technology.
 - Thus, SB401 moves the funding from PSCOC certification, oversight, and administration to OBAE.
- SB401 contains supportive administrative amendments.
 - SB401 allows for bonds to be issued for education technology infrastructure projects pursuant to the Broadband Access and Expansion Act.
 - SB401 will ensure that the director of the OBAE certifies the \$10 million in supplemental severance tax bond proceeds.
 - The new Section 7-27-12.6 provides the authority for the director of the OBAE to certify the need and further provides the SBOF the authority to issue and sell supplemental severance tax bonds for education technology infrastructure, within the requirements of the severance tax bonding act.

SIGNIFICANT ISSUES

N/A.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

SB401 creates administrative responsibilities for the OBAE and SBOF, which will require the allocation of resources and personnel to effectively manage the new functions and ensure compliance with its provisions.

- **Rulemaking:**

- OBAE is tasked with promulgating rules necessary to administer the Education Technology Infrastructure Fund. This includes establishing project funding requirements, priority standards, and insurance requirements for education technology infrastructure.

- **Development of Standards and Guidelines:**

- OBAE, in collaboration with the Public School Capital Outlay Council and the Public School Facilities Authority, will define and develop minimum adequacy standards for education technology infrastructure, methodologies for determining reasonable costs, and guidelines for a statewide education technology infrastructure network.

- **Grant Application and Approval Process:**

- OBAE is tasked with establishing and managing the process for grant applications, approval, project prioritization, and award for education technology infrastructure. This includes evaluating applications based on established criteria and ensuring compliance with reporting requirements.

- **Transfer of Functions and Resources:**

- SB401 transfers the Public School Facilities Authority's broadband deployment and connectivity program to OBAE. This involves the transfer of functions, personnel, money, appropriations, records, furniture, equipment, supplies, and other property. OBAE will assume all contractual obligations of the transferred program.

- **Reporting Requirements:**

- OBAE is required to prepare an annual report summarizing its education technology infrastructure activities, including details of funded projects, progress of ongoing projects, criteria used for prioritization, and other actions.
- This report must be submitted to the Public Education Commission, the Governor, the Legislative Finance Committee, the Legislative Education Study Committee, and the Legislature by November 1 each year.

- **Certifications:**

- OBAE will need to identify specific uses of the funds in the certification provided to the SBOF. Prior to the issuance of severance tax bonds, SBOF will require a

review of projects expected to be funded with the proceeds to ensure compliance with state and, when necessary, federal tax law.

- For example, SBOF would need to review and understand the education technology infrastructure projects to be funded and how they comply with the constitutional provision on anti-donation (such as enabling legislation for exemptions to anti-donation).
 - This is standard practice for the SBOF but will require coordination and communication between the OBAE and SBOF prior to funding.
- **Bonding Program Reviews:**
 - Should revenues into the severance tax bonding fund decline significantly, SB401 may require SBOF to fund projects with long-term severance tax bonds.
 - In the event that occurs, the SBOF would either need to complete a greater due diligence review of the use of the proceeds to ensure compliance with federal tax requirements for tax-exempt bond issuances or issue a taxable bond to fund the projects.
 - Should the use of bond proceeds ever change, it will require recertification to the SBOF by the OBAE to identify the new use(s).
- **Bond Reimbursements:**
 - Since the OBAE will administer the proceeds of bonds for education technology infrastructure, the OBAE will need to submit bond proceeds draw requests for reimbursement following SBOF requirements.
 - Bond proceeds are only provided on a reimbursement basis and will be provided at the request of the OBAE through SBOF's bond tracking system.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A.

TECHNICAL ISSUES

- SB401 does not specify what happens with bond proceeds once an education technology infrastructure project is completed.
 - As written, SB401 may unwittingly create a potential pot of funding without an identified purpose and use.
 - SB401 should address the use of bond proceeds once a project is complete.
 - For example, most earmark programs that receive severance tax bond proceeds revert unspent funds to the severance tax bonding fund upon

completion of a project.

- The Public School Capital Outlay Act requires that proceeds for other public school capital projects overseen and administered by Public School Facilities Authority (PSFA) revert to the public school capital outlay fund once a project is complete.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Education technology infrastructure will continue to be funded through the PSFA and administered by the OBAE through a memorandum of understanding. This will maintain a comparatively inefficient process given the OBAE has the expertise and is best suited to administer funds for education technology infrastructure, particularly as such infrastructure ties to larger broadband infrastructure projects and initiatives within the state.

AMENDMENTS

N/A.