

LFC Requester:

Sunny Liu

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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 [X] Amendment []
Correction [] Substitute []

Date 1/19/2024

Bill No: SB 45

Agency Name and Code Number:

Dept. of Information Technology, 36100

Sponsor: Senator Michael Padilla

Person Writing

Eve Banner

Broadband Infrastructure

Short Title:

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with 4 columns: Appropriation (FY24, FY25), Recurring or Nonrecurring, Fund Affected. Values: 0, 0.

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

Table with 7 columns: FY24, FY25, FY26, 3 Year Total Cost, Recurring or Nonrecurring, Fund Affected. Values: 403.8, 415.9, 819.7, Recurring, General Fund.

(Parenthesis () Indicate Expenditure Decreases)

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

Relates:

The General Appropriation Act (House Bill 2)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 45 (SB45) makes several changes and additions to existing law to include:

- Transferring full-time equivalent (FTE) and related assets from the (Public School Facilities Authority) PSFA to the Office of Broadband Access and Expansion (OBAAE).
- Transferring leased broadband infrastructure, owned or operated by the Department of Information Technology (DoIT) to OBAAE.
- Amending the Broadband Expansion Act to create the Education Technology Infrastructure Fund as a new non-reverting fund consisting of severance tax bond distributions, gifts, grants and donations.
- Amending the Procurement Code to include contracts for broadband infrastructure within the exceptions to the four-year limitation on multi-year professional services contracts.
- Amending the provisions related to the Connect New Mexico Fund to transfer authority for appropriations to and disbursement of the fund from the Connect New Mexico Council to OBAAE for the administration of the Broadband Grant Program.
- Adding a section to the Public Utility Act to provide for utility pole attachments for broadband internet and communications services.

In addition, SB45:

Authorizes the director of OBAAE to certify issuance and sale of supplemental severance tax bonds up to \$10 million in bond proceeds per fiscal year to the newly created non-reverting fund. The Education Technology Infrastructure Fund is to be expended annually by OBAAE for education technology infrastructure projects, including grants to school districts for education technology projects.

The effective date of the bill is July 1, 2024: all functions, personnel, assets, records, and other property pertaining to the Broadband Deployment and Connectivity Program within PSFA is transferred to OBAAE; all broadband infrastructure leased, owned, or operated by DoIT pursuant to the Broadband Access and Expansion Act is transferred to OBAAE.

Amendments to the Broadband Access and Expansion Act also defines the uses of the Education Technology Infrastructure Fund, requires definition and development of education technology infrastructure deficiency corrections, including minimum adequacy standards and guidelines for a statewide education technology infrastructure network. The bill requires OBAAE to establish criteria for award and use of funds and annual reporting to the Public Education Commission, Governor, Legislative Finance Committee, Legislative Education Study Committee, and the Legislature on its education technology infrastructure activities and funded projects.

The Public Regulation Commission is directed to establish reasonable rates, terms, and conditions for attachments and establishes conditions for those terms. These include a requirement that the contract for attachments to utility poles include all poles within a given municipality.

FISCAL IMPLICATIONS

All functions, personnel, money, appropriations, records, furniture, equipment, supplies and

other property pertaining to PSFA's broadband deployment and connectivity program (BDCP) are proposed to be transferred to OBAE.

DoIT Program Support (P771) anticipates the need for additional resources to include at least four FTEs and associated administrative costs to support the expansion of OBAE's mission and responsibilities under this bill. DoIT's additional staffing needs will support human resources, procurement, budget, and accounting for increased recurring costs of \$403,800 in FY25 and \$415,900 in FY26.

SIGNIFICANT ISSUES

Without additional staff, DoIT's other programs and continued support of OBAE may be impacted.

Moving the PSFA BDCP will likely require reclassifying some employees from exempt positions to classified positions and may require appropriate placement of existing OBAE staff to avoid alignment issues.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Transfer of the PSFA BDCP program and temporary provisions of ownership are included in the executive recommendation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Resource constraints may continue to impact OBAE, PSFA, and DoIT.

Procurement contracts will not align with industry practice.

Broadband infrastructure leased, owned or operated by will remain with DoIT.