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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>SB401/aSFC</u>	Sponsor	<u>Padilla/Sariñana/Lujan/Garratt/Tobiassen</u>
Tracking Number	<u>.230058.2</u>	Committee Referrals	<u>STBTC/SFC</u>
Short Title	<u>Broadband for Education</u>		
Analyst	<u>Montoya</u>	Original Date	<u>3/3/2025</u>
		Last Updated	<u>3/15/2025</u>

BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 401 (SB401/aSFC) adds a sunset date of the bill's provisions. SB401/aSFC would repeal the section of the bill which authorizes the Office of Broadband and Expansion (OBAE) to certify and authorize the issuance of supplemental severance tax bonds (SSTBs) and the appropriation of these funds to the education technology infrastructure fund. The effective date of the repeal would be July 1, 2030.

Synopsis of Original Bill

Senate Bill 401 (SB401) would make multiple amendments to the Severance Tax Bonding Act (Section 7-27-12 NMSA 1978), the Public School Capital Outlay Act (Section 22-24 NMSA 1978), and the Broadband Access and Expansion Act (Section 63-9J NMSA 1978) to transfer the Broadband Deployment and Connectivity Program (BDCP) from the oversight of the Public School Capital Outlay Council (PSCOC) to the OBAE. The transfer would include all related functions, personnel, funds, appropriations, records, furniture, equipment, supplies, contractual obligations, references in rules and laws, orders, official acts, and any other property associated with the BDCP.

SB401 would also create new sections of the Broadband Access and Expansion Act to create the education technology infrastructure fund and add education technology infrastructure as an allowable use of SSTB proceeds. SB401 would require OBAE, in collaboration with PSCOC, to develop education technology infrastructure standards aligned with the Broadband Access and Expansion Act to be incorporated into statewide adequacy standards. SB401 would establish guidelines for a statewide education technology network and provide grant assistance to school districts, including charter and constitutional schools, in partnership with PSCOC.

SB401 would authorize the director of OBAE to certify the sale of up to \$10 million in SSTBs per fiscal year, to be issued by the State Board of Finance. Bond proceeds would be for expenditures relating to education technology infrastructure.

SB401 contains an effective date of July 1, 2025.

FISCAL IMPACT

SB401/aSFC does not contain an appropriation.

SB401/aSFC would shift the BDCP program from PSCOC to OBAE. This change would result in the PSCOC no longer allocating \$10 million annually from the public school capital outlay fund (PSCOF) for education technology. Instead, OBAE would be authorized to issue up to \$10 million in SSTBs per year for this purpose. These changes appear to be fiscally neutral and would likely not affect PSCOC’s ability to fund public school construction projects.

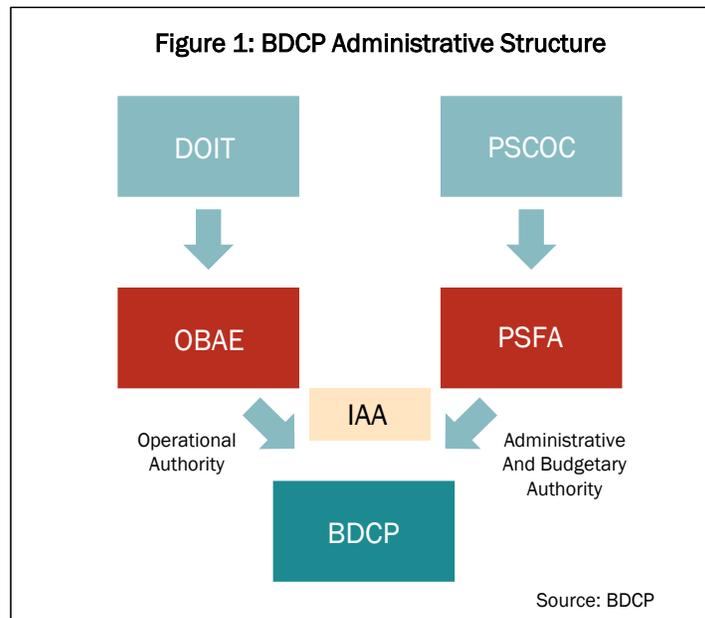
SB401/aSFC proposes the creation of the education technology infrastructure fund, which may be financed by supplemental severance tax bonds, grants, and donations to support infrastructure projects and school district grants. SB401/aSFC includes a sunset date for the proposed education technology infrastructure fund of July 1, 2030, at which point, the remaining unused and unencumbered balance of the fund would revert to the severance tax bonding fund pursuant to Section 7-27-49-C NMSA 1978.

SUBSTANTIVE ISSUES

Statewide Education Network. New Mexico’s Statewide Education Network (SEN) connects kindergarten through 12th grade (K-12) schools to secure, high-capacity internet through existing infrastructure provided by Internet Service Providers (ISPs). This network allows schools to benefit from reliable, high-speed internet, cybersecurity monitoring, distributed denial-of-service mitigation, and technical support—helping districts with limited resources maintain secure communication networks. BDCP staff has emphasized the need for additional administrative and technical support to fully realize the potential of the SEN, including the allocation of the necessary staff to meet the goals of its initiatives.

During the 2024 interim, LESC staff presented a [brief](#) on New Mexico's SEN and the broadband landscape for education in the state.

Broadband Development and Connectivity Program Structure. BDCP is responsible for supporting the implementation and ongoing maintenance of the SEN. The program currently operates under the Department of Information Technology’s OBAE. An Interagency Agreement (IAA) places BDCP and its staff under OBAE’s operational authority, while the program remains administratively and budgetarily connected to the Public School Facility Authority (PSFA)—staff to PSCOC—which funds BDCP through the PSCOF. For more details on BDCP’s administrative structure, refer to **Figure 1: BDCP Administrative Structure**.



SB401/aSFC proposes transferring broadband deployment responsibilities from the PSFA to OBAE, potentially consolidating resources and improving efficiency. The bill also allows for the issuance of up to \$10 million in SSTBs annually for education technology, which would shift oversight from the PSCOC. While PSFA staff supports BDCP with administrative tasks such as negotiating contracts, the technical complexities of broadband network infrastructure often fall outside PSFA’s focus and expertise.

ADMINISTRATIVE IMPLICATIONS

BDCP staff are currently working under OBAE’s oversight through an active IAA, which may help minimize the transition of operational responsibilities. However, BDCP will need to establish policies and procedures to certify and track SSTB issuance, manage the proposed education technology infrastructure fund, and implement the grant assistance application process. This will require collaboration with SBOF and potentially PSFA staff. Additionally, SB401/aSFC would require OBAE, in collaboration with PSCOC, to develop education technology infrastructure standards aligned with the Broadband Access and Expansion Act.

OTHER SIGNIFICANT ISSUES

Interagency Agreement According to analysis provided by PSFA, on March 1, 2023, PSCOC, PSFA, the Department of Information Technology (DoIT), and OBAE signed an IAA. The IAA assigns OBAE to manage the PSCOC’s education technology correction program. For FY24, \$650 thousand was allocated to OBAE for personnel services from the Public School Capital Outlay Fund by the PSCOC. Three BDCP staff positions were transferred from PSFA to OBAE.

Transfer of Broadband Roles. PSFA staff notes they are in support of transferring BDCP functions to OBAE, aiming to expand broadband access in underserved school districts. PSFA staff considers OBAE better suited to manage the SEN and PSFA’s broadband projects.

The Zuni Lawsuit. The Zuni lawsuit was filed in 1998. The plaintiffs of the lawsuit included Zuni Public Schools, Gallup-McKinley County Schools, and Grants-Cibola County Schools. The plaintiffs argued the state's school funding system was inequitable, particularly for districts with

federal Indian reservation lands that lack taxable revenue for construction projects. The court case focused on the state’s methodology for providing capital outlay funding for school facilities, highlighting how rural and low-income districts were disproportionately burdened due to limited local tax bases.

The case led to a court ruling declaring the funding system unconstitutional, prompting reforms under the Public School Capital Outlay Act to equalize funding for school construction and repair. The 11th Judicial District Court agreed in 1999, ruling that New Mexico’s funding system violated constitutional requirements. This led to the creation of the PSCOC and a standards-based funding system emphasizing equity and adequacy. Despite legislative reforms, including eliminating the Impact Aid credit and directing more funding to affected districts, the *Zuni* lawsuit persisted.

Since 1999 the state of New Mexico has implemented a public school capital outlay system that has focused on providing equitable and uniform access to state funding for the construction and maintenance of school facilities. A court ruling in 2020 dismissed state efforts to address funding inequities, prompting an appeal to the New Mexico Supreme Court in 2021. On December 2, 2024, the New Mexico Supreme Court remanded the *Zuni* lawsuit to the 6th District Court for further review. This action was based on the opinion of New Mexico Supreme Court justices, in which they found the lawsuit to be “moot” since the “statutory scheme declared to be unconstitutional no longer exists.” The ramifications of this most recent ruling remain unclear, but with the lawsuit still open in the Sixth Judicial District Court, policymakers should continue to study the equity implications of any proposed changes to the Public School Capital Outlay Act.

RELATED BILLS

Relates to Senate Bill 254 (SB254), Cybersecurity Act & Office Changes, which would amend the Cybersecurity Act by revising the structure of the cyber security advisory board and clarifying the role Cybersecurity Office, which would be called the “Office of Cybersecurity.”

SOURCES OF INFORMATION

- LESC Files
- Office of Broadband Access and Expansion (OBAAE-DOIT)
- Public School Facilities Authority (PSFA)
- State Board of Finance (SBOF-DFA)

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