

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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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 Amendment
Correction Substitute

Date 1/12/2024

Bill No: SB 45

Sponsor: Padilla
Short
Title:

Agency Name
and Code BoF/DFA—341
Number: _____
Person Writing Ashley Leach
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$10,000	\$10,000	Recurring	Public School Capital Outlay Fund via Supplemental Severance Tax Bond Proceeds

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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

Synopsis:

Senate Bill 226452.4 amends Section 7-27-12 NMSA 1978, the Severance Tax Bonding Act, to allow up to \$10 million in supplemental severance tax bonds, upon certification of need by OBAE, each fiscal year for expenditure by the Office of Broadband Access and Expansion (OBAE) for education technology infrastructure projects. The bill also amends Section 22-24-4 NMSA 1978 of the Public School Capital Outlay Act to remove education technology infrastructure from the funding under that act. This essentially transfers the oversight of this funding for education technology infrastructure from the Public School Capital Outlay Council (PSCOC) to the OBAE.

The bill amends Section 63-9J-2 NMSA 1978, the Broadband Access and Expansion Act, to create the Education Technology Infrastructure Fund, which will be funded by the proceeds of supplemental severance tax bonds, sold by the State Board of Finance, and will be used to fund education technology infrastructure projects statewide. The fund will be managed by the OBAE, with funds being expended annually. A maximum of 5 percent of the annual expenditures can be used for project management.

Within Section 63-9J-2 NMSA 1978, the bill expands and defines the responsibilities of OBAE as they relate to technology infrastructure in public schools. The bill requires the OBAE to establish minimum adequacy standards for an education technology infrastructure deficiency corrections initiative, a methodology for prioritizing projects to correct education technology infrastructure deficiencies, and a methodology for determining a school district's share of project costs. It requires OBAE to develop guidelines for a statewide education technology infrastructure network that integrates regional hub locations for network services and the installation and maintenance of equipment. It requires OBAE to operate a grant assistance program, including the establishment of project funding requirements and priority standards for school districts and the issuance, review, and approval of grant applications.

The bill amends Section 63-9K-1, the Connect New Mexico Act, to create the Connect New Mexico Fund, which, through legislative appropriation, would be used by the OBAE for the purpose of administering the broadband grant program.

The bill amends the procurement code to include professional service contracts for broadband infrastructure within the exceptions to the four-year limitation on multi-term professional services contracts.

The bill, through amendments to 22-24-5 NMSA 1978 and new temporary provisions, transfers the Public School Facilities Authority's deployment and connectivity program to OBAE, including staff, records, contracts, money, furniture, equipment, and supplies

The bill transfers any broadband infrastructure owned, leased, or operated by the Department of Information Technology to the OBAE.

The bill includes a new provision to Chapter 62 NMSA 1978 to regulate utility pole attachments.

FISCAL IMPLICATIONS

There are no fiscal implications of the bill as it relates to the State Board of Finance. The bill moves the oversight authority, program management, and funding of education technology infrastructure, that currently resides with the PSCOC, from the PSCOC to the OBAE.

SIGNIFICANT ISSUES

The bill effectively moves responsibility and funding of education technology infrastructure from the PSCOC to the OBAE. Regarding the funding, Section 7-27-12 NMSA 1978 is appropriately amended to allow for bonds to be issued for education technology infrastructure projects pursuant to the Broadband Access and Expansion Act. It also is appropriately amended to ensure the need for the \$10 million in supplemental severance tax bond proceeds is certified by the director of the OBAE. This follows the current process for certification of need made by the PSCOC. The new Section 7-27-12.6 provides the authority for the director of the OBAE to certify the need and further provides the state board of finance the authority to issue and sell supplemental severance tax bonds for education technology infrastructure, within the requirements of the severance tax bonding act.

The OBAE is currently overseeing some aspects of education technology infrastructure project expenditures, under the oversight of the PSCOC. The OBAE should be positioned to take over functions relating to certification of needed and funding. That said, it will require the state board of finance to coordinate with the OBAE on the certification, what it must entail, how the OBAE must comply with state, and if necessary federal tax, laws, and how expenditures will be reimbursed. This will be a new process for the OBAE, but it is not a new process generally for capital project expenditures. The funding will flow in the same manner as the current process for PSCOC and other capital outlay earmarks.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS