



N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	N/A

(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) amends the Severance Tax Bonding Act to allow proceeds from supplemental severance tax bonds to be used for education technology infrastructure projects, transfers the Public School Facilities Authority's (PSFA) Broadband Deployment and Connectivity Program and statewide education network to the Office of Broadband Access and Expansion (OBAE) in the Department of Information Technology (DoIT), grants OBAE rulemaking authority related to education technology infrastructure funding, creates the Education Technology Infrastructure Fund (EITF), grants OBAE administration of the EITF, and authorizes grants for education technology infrastructure projects.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

#### **FISCAL IMPLICATIONS**

SB401 states that it makes an appropriation, but the text of the bill does not have an appropriation amount. SB401 does create the EITF, consisting of appropriations, gifts, grants, donations, and the proceeds of supplemental severance tax bonds appropriated to the fund. OBAE may expend the EITF annually for education technology infrastructure projects, including up to five percent (5%) of each project grant's funding going towards project management.

The director of OBAE can certify up to ten million dollars (\$10,000,000) of proceeds from supplemental severance tax bonds per fiscal year for expenditures related to education technology infrastructure.

## SIGNIFICANT ISSUES

SB401 amends the Severance Tax Bonding Act to allow proceeds from supplemental severance tax bonds to be used for education technology infrastructure projects pursuant to the Broadband Access and Expansion Act. The director of OBAE can certify up to ten million dollars (\$10,000,000) of proceeds from those supplemental severance tax bonds per fiscal year for expenditures related to education technology infrastructure.

SB401 defines education technology infrastructure as "the physical hardware and services used to interconnect students, teachers, school districts, and school buildings necessary to support broadband connectivity and remote learning as determined by [OBAE]."

SB401 requires that, by January 1, 2026, OBAE define and develop minimum adequacy standards for education technology infrastructure, a methodology to determine reasonable costs for correcting education technology infrastructure deficiencies, and a methodology for prioritizing projects to correct education technology infrastructure deficiencies. Further, OBAE will develop guidelines for a statewide education technology infrastructure network. OBAE may also fund education technology infrastructure projects or items that the department determines are in accordance with the guidelines and are necessary to education for: students, school buses, internet connectivity within a school district, a multi-district regional education network, and a statewide education network.

SB401 includes public post-secondary institutions, tribal schools, and agencies that provide administrative, funding, or technical support to public post-secondary educational institutions in its definition of "public educational institution."

Public and tribal higher education institutions (HEIs) oversee information technology (IT) networking infrastructure that falls under SB401's definition of education technology infrastructure. This means HEIs would be subject to OBAE's minimum adequacy standards for such infrastructure. Each HEI will have different levels of IT infrastructure and maturity, so the requirement to meet minimum standards may place greater or lesser demand on different HEIs. For those whose infrastructure is far under minimum standards, the demands of meeting such standards may be significant.

HEIs may be eligible for grant funding from the EITF, offsetting some of the costs and, possibly, allowing additional staffing to work towards bringing HEI infrastructure up to minimum standards. Since HEIs would be one group applying for EITF grant funding, it is possible that HEIs would not receive sufficient funding to meet minimum standards. SB401 stipulates that approval for grant assistance is dependent on, among other requirements, that an education technology infrastructure project is needed and included in an HEI's five-year facilities plan among its top priorities and that an HEI is willing and able to pay any portion of the total cost of the project that is not funded by the grant. If the difference between the total cost of the

infrastructure project needed to bring the HEI up to minimum standards and the amount covered by the grant is too much, then HEIs may not be eligible to apply for grants when they are in need of them. Further, while improving this infrastructure may be a priority for HEIs, it may not be a high-enough priority to meet the grant requirements, possibly putting HEIs in a position to raise the priority of these projects beyond what is accurate in order to become eligible for grant funding.

It is possible that HEIs with the most in-need infrastructure are also the HEIs with the least available funding to put towards that infrastructure. Since these HEIs may not be eligible for grant funding, this raises equity concerns that institutions needing the most support are less likely to qualify compared to more well-funded HEIs.

That said, OBAE will have authority to create rules related to grants, and it could define rules such that more rural and in-need HEIs are prioritized for grant funding--the issues in the previous two paragraphs still standing.

There is also a need to ensure that any external networks from internet service providers (ISPs) that HEIs connect to are able to provide broadband connectivity.

Despite potential issues with the requirements in SB401, improvements to broadband network connectivity could have positive benefits for HEIs and higher education students. Better access to the internet opens up the opportunity for remote classes, remote tutoring, and general research that may not be feasible with slower internet connections. Further, students with little or no experience with the internet could suffer when trying to keep up in a world that heavily relies on the internet and the funding in SB401 could help to address such issues.

## PERFORMANCE IMPLICATIONS

OBAE will submit an annual report by November 1 to the public education commissions, governor, legislative finance committee, legislative education study committee, and legislature. The report will include a list of all funded projects, progress updates on previously funded but incomplete projects, criteria for project prioritization and funding decisions, and a summary of all other broadband office activities.

## ADMINISTRATIVE IMPLICATIONS

HEIs may need additional staff or funding to meet minimum standards as defined by OBAE, acknowledging that SB401's funding could apply to those HEIs.

It is possible that NMHED may need to assist HEIs or OBAE in determining the status of current infrastructure and plans to attain minimum standards.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There have been a number of bills related to broadband in previous legislative sessions, some examples being 2023 Senate Bill 452, 2023 Senate Bill 155, and 2023 House Bill 160, all

passing into law. There have also been bills and memorials that did not pass into law, some examples being 2024 Senate Bill 43, 2024 Senate Memorial 15, and 2024 Senate Bill 45.

#### TECHNICAL ISSUES

SB401 states that it makes an appropriation, but it does not make a new appropriation amount in the text of the bill.

#### OTHER SUBSTANTIVE ISSUES

N/A

#### ALTERNATIVES

Each HEI could plan and implement IT networking infrastructure upgrades.

If applicable, HEIs could submit research and public service projects (RPSPs) or capital project requests to seek funding to support IT infrastructure upgrades.

#### WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will not be the EITF funded as stated above or grants funded through the EITF, and OBAE will not receive the authority granted to it in SB401.

#### AMENDMENTS

N/A