

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2018 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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: Date 01/25/18  
**Original**     **Amendment**        **Bill No:** HB95  
**Correction**     **Substitute**   

**Sponsor:** Representative Bill McCamley    **Agency Code:** 924  
**Short**    BROADBAND ACCESS    **Person Writing**    Marian Rael  
**Title:**    UNFAIR TRADE PRACTICES    **Phone:** 827-6519    **Email** marian.rael@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
None noted			

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates : SB 39

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 95 enacts a new section of the Unfair Practices Act to prohibit certain activities that may limit broadband internet access.

The bill makes subject to penalty certain acts in providing broadband internet access but does not specifically detail the penalties.

#### **FISCAL IMPLICATIONS**

There is no fiscal impact on the agency with this bill. The bill attempts to ensure Net Neutrality principles in code. There is no consensus among state E-Rate coordinators or state educational technology directors regarding the fiscal impact of the FCC repeal of Net Neutrality rules on K-12 education.

#### **SIGNIFICANT ISSUES**

On December 14, 2017, the Federal Communications Commission (FCC) repealed the Net Neutrality rules put in place during the previous administration. This has raised concerns that Internet Service Providers (ISPs) may favor some internet content over other content leading to a tiered service to end users. The new rules effectively preempt state and local laws governing Net Neutrality. [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2018/db0105/FCC-17-166A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0105/FCC-17-166A1.pdf) (pages 117-118)

The last attempt to preempt state and local laws governing broadband failed in court; it is unclear how this action will be received by the courts now.

This bill would establish consumer protections for transparency for consumers from ISPs as outlined on page 3 of the new rules. It is unclear if this bill would withstand a legal challenge since the transparency provisions are now the responsibility of the consumer and not on the individual states as detailed by the new FCC rule.

New Mexico's Attorney General is one of 22 state attorneys general suing the FCC over the recently adopted Net Neutrality rules. The legal fallout from the repeal of the Net Neutrality rules may take years to work through the court system.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicate of SB39

### **OTHER SUBSTANTIVE ISSUES**

From a K-12 Educational Technology perspective, it is unclear how the recently adopted FCC Net Neutrality rules would impact digital content and online learning opportunities. There is no consensus among the State E-Rate Coordinators Alliance (SECA) or the State Educational Technology Directors Association (SETDA) about the impact of the repeal of Net Neutrality by the FCC, although SETDA did file a comment urging the FCC to protect schools from any harm that may come from the new rules.

<http://www.setda.org/2017/11/30/setda-urges-fcc-to-protect-school-broadband-access/>

From the SETDA statement: “Students and teachers – especially vulnerable learners in rural and low-income communities – must not be disenfranchised by this proposed change in federal policy. SETDA urges the commission to take the steps required to deliver a level telecommunications and digital learning playing field for the nation’s schools.”

It is unclear if the prioritization of content, or the favoring of some content over other content, would impact the costs of broadband for schools and libraries since their internet is delivered differently than internet to the home.

Where the new FCC rules may have a negative impact on education is on students who must access the Internet to complete homework assignments. The FCC sees tiered access and pricing as favorable to small ISPs (page 80). Tiered access and pricing has the potential to drive up the price of internet access for our rural students who are already struggling with higher costs and slower speeds than students in our urban areas.

This bill would ensure service transparency that would help consumers make informed decisions when choosing an ISP and prohibit practices that opponents of the recent FCC Net Neutrality rules fear may happen. This legislation may help ensure equitable access to the Internet in our rural and low-income communities.

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

Again, the impact of the new FCC rules is unknown, although the FCC expects small ISPs to thrive by being able to prioritize traffic and offer tiered service. This has the potential of impacting internet access for students at home and for our rural libraries that use DSL from small, local ISPs. Pricing for internet access may increase in our rural areas impacting education and business development that rely on affordable and unfiltered access to the Internet.