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October 17, 2006

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Frances R. Maestas

**RE: STAFF BRIEF: EDUCATIONAL TECHNOLOGY: INFRASTRUCTURE  
DEFICIENCIES AND REPLACEMENT OF EQUIPMENT**

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The 2006 Interim Workplan of the Legislative Education Study Committee (LESC) includes a progress report from the Council on Technology in Education (CTE) on developing and implementing a standards-based process for funding educational technology needs based on the provisions of LESC-endorsed legislation enacted in 2005 for correcting deficiencies in educational technology.

**Issues:**

- In response to testimony to the Public School Capital Outlay Oversight Task Force (PSCOOTF) and the LESC regarding the disparity among schools and school districts in providing for educational technology, 2005 legislation was enacted to amend the *Technology for Education Act* (see Attachment) to develop a standards-based process for educational technology needs based on the standards-based capital outlay model in the *Public School Capital Outlay Act*.
- More specifically, the amendments required the Public Education Department (PED), in collaboration with CTE, to:
  - define minimum educational technology standards;
  - identify educational technology deficiencies in public schools statewide;
  - develop a methodology for prioritizing and funding deficiencies from the Educational Technology Deficiency Correction Fund when money becomes available; and
  - by December 1, 2005, to provide a report to the Legislature and the Governor, including a cost estimate for correcting educational technology deficiencies statewide.

- In testimony to the LESC during the interim and in response to the 2005 legislation, the CTE and PED reported that the infrastructure minimum adequacy standards for educational technology include:
  - one T1 internet connection per school building;
  - four network connections per classroom;
  - a 100 megabyte connection for each computer/printer for labs, libraries, and offices;
  - wireless access points or network connection for cafeterias, auditoriums, and gymnasiums;
  - fiber connection with high speed switches/routers for network distribution facilities; and
  - an anti-virus, filtering, firewall for security measures.
  
- At the same LESC meeting, CTE made the following two recommendations for funding in the amount of \$118.5 million:
  - approximately \$94.3 million would be needed to correct deficiencies in educational technology infrastructure in public schools statewide; and
  - approximately \$24.2 million would be required to replace obsolete computers and network devices statewide over a five-year period based on a ratio of three students to one computer. This estimate was based on a survey conducted by CTE and sent to school districts who self-reported their costs in meeting the minimum educational technology standards.
  
- Additional testimony indicated that the following requirements in the 2005 legislation would be completed by June 2006:
  - the development of a model, based upon the public school capital outlay standards-based process, to identify, prioritize, and correct any educational technology deficiencies; and
  - a public hearing would be conducted to solicit additional input on the educational technology standards for New Mexico's public schools.
  
- In 2006, the LESC endorsed legislation that included the recommendations of the PSCOOTF to appropriate approximately \$118.5 million as recommended by CTE. The legislation did not pass; however, the Legislature appropriated \$1.5 million from the General Fund to PED for expenditure in FY 06 through FY 10 to purchase and install educational technology, including related equipment and furniture, in public schools statewide.

**Presenters:**

For this presentation, Mr. Tom Ryan, Chair-elect, CTE, and Dr. Carmen Gonzales, Chair, CTE, will discuss the activities of CTE and PED that were not completed prior to the 2006 legislative session, including an updated cost projection based on the completion of the review of educational technology infrastructure needs in public schools statewide.

**Questions the committee may wish to consider:**

1. If dollars are appropriated for educational technology infrastructure deficiencies and replacement of computer equipment, who will be responsible for validating the “self-reported” deficiencies of school districts prior to allocation of dollars?
2. As required in current law, how have school districts been assisted in developing and implementing a strategic, long-term plan for utilizing educational technology in the school system?
3. How will future construction of public school facilities be accommodated to ensure that the minimum standards for educational technology conform to the Public School Capital Outlay Council adequacy standards?
4. How will distributions from the Educational Technology Deficiency Correction Fund, when dollars are appropriated, differ from the allocations currently being provided to school districts from the Educational Technology Fund?
5. Once educational technology deficiencies have been identified and corrected, how will CTE and PED ensure that minimum standards for educational technology are maintained?

**~~22-15-31. Private right of action.~~**

~~A student who contends that there has been a violation of the Braille Access Act [22-15-26 NMSA 1978] has the right to pursue a private right of action in the district court if the student has exhausted the administrative complaint process. Organizations representing the interests of persons who are blind or who have other disabilities shall have standing to assert any right afforded in the Braille Access Act and shall be subject to the same requirements and terms as a student. Should the student or organization prevail in a lawsuit, the student or organization shall be entitled to injunctive relief and reasonable attorney fees and costs. No other type of monetary damages shall be available.~~

~~History: Laws 2003, ch. 313, § 6.~~

**ARTICLE 15A****Technology for Education**

Sec.

- 22-15A-1. Short title.  
 22-15A-2. Definitions.  
 22-15A-3. Bureau established; chief appointed.  
 22-15A-4. Bureau duties.  
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Sec.

- 22-15A-8. Educational technology fund; created.  
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**22-15A-1. Short title.**

Chapter 22, Article 15A NMSA 1978 may be cited as the "Technology for Education Act".

**History:** Laws 1994, ch. 96, § 1; 2005, ch. 222, § 1.

**The 2005 amendment**, effective June 17, 2005, adds the statutory reference of the act.

**22-15A-2. Definitions.**

As used in the Technology for Education Act [22-15A-1 NMSA 1978]:

- A. "bureau" means the education technology bureau in the department of education [public education department];  
 B. "chief" means the chief of the bureau;  
 C. "council" means the council on technology in education; and  
 D. "educational technology" means tools used in the educational process that constitute learning resources and may include closed circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD ROM [CD-ROM] discs, video and audio tapes or other technologies and the training, maintenance, equipment and computer infrastructure information, techniques and tools, used to implement technology in classrooms and library and media centers.

**History:** Laws 1994, ch. 96, § 2.

**Cross references.** — For the transfer of powers and duties of the former department of education, see 9-24-15 NMSA 1978.

**Bracketed material.** — The bracketed word "CD-ROM" was inserted by the compiler. It was not enacted by the legislature and is not a part of the law.

**22-15A-3. Bureau established; chief appointed.**

- A. The "education technology bureau" is created within the department of education.  
 B. With the approval of the state board [department], the state superintendent [secretary] shall appoint a chief of the bureau.

**History:** Laws 1994, ch. 96, § 3.

**Cross references.** — For the transfer of powers and duties of the former state board of education and

the former state superintendent of public instruction, see 9-24-15 NMSA 1978.

#### **22-15A-4. Bureau duties.**

In accordance with the policies and regulations of the state board [department], the bureau shall:

- A. administer the provisions of the Technology for Education Act [22-15A-1 NMSA 1978];
- B. develop a statewide plan for the integration of educational technology into the public schools and coordinate technology-related education activities with other state agencies, the federal government, business consortia and public or private agencies or individuals;
- C. assist school districts to develop and implement a strategic, long-term plan for utilizing educational technology in the school system;
- D. upon approval of a school district's technology plan, make distributions to school districts from the educational technology fund;
- E. recommend funding mechanisms that will support the development and maintenance of an effective educational technology infrastructure in the state;
- F. promote collaboration among government, business, educational organizations and telecommunications entities to expand and improve the use of technology in education;
- G. assess and determine the educational technology needs of school districts; and
- H. provide staff support for and coordinate the activities of the council.

**History:** Laws 1994, ch. 96, § 4.

**Cross references.** — For the transfer of powers and duties of the former state board of education, see 9-24-15 NMSA 1978.

#### **22-15A-5. Council on technology in education; created; purpose.**

The "council on technology in education" is created. The council shall advise the bureau, the state board [department] and the legislature regarding the establishment of appropriate educational technology standards, technology-enhanced curricula, instruction, appropriations for educational technology and administrative resources and services for the public schools.

**History:** Laws 1994, ch. 96, § 5.

**Cross references.** — For the transfer of powers and duties of the former state board of education, see 9-24-15 NMSA 1978.

#### **22-15A-6. Council membership.**

A. The council shall be composed of seventeen members. Members shall be appointed by the state board [department] for terms of four years. As designated by the state board at the time of initial appointment, the terms of five members shall expire at the end of two years, the terms of five members shall expire at the end of three years and the terms of seven members shall expire at the end of four years.

- B. When appointing members, the state board [department] shall appoint:
  - (1) one member who shall have expertise in state government;
  - (2) three members who shall have expertise in school district administration;
  - (3) two members who shall have expertise in providing instructional services in post-secondary, technical-vocational or adult education;
  - (4) three members who shall have expertise in providing instructional services in elementary or secondary schools;
  - (5) two members who shall be parents of school-age children;
  - (6) one member who shall be a public school secondary student;

- (7) three members who shall have expertise in educational technology; and
- (8) two members at large.

C. In making appointments to the council, the state board [department] shall give due consideration to gender and ethnicity to achieve a membership representative of the geographic and cultural diversity of New Mexico.

D. Members of the council shall elect a chairman from among the membership. The council shall meet at the call of the chairman not less than quarterly.

E. Members of the council shall receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act [10-8-1 NMSA 1978] but shall receive no other compensation, perquisite or allowance.

**History:** Laws 1994, ch. 96, § 6.

**Cross references.** — For the transfer of powers and duties of the former state board of education, see 9-24-15 NMSA 1978.

### **22-15A-7. Council duties.**

The council shall:

A. advise the bureau on implementation of the provisions of the Technology for Education Act [22-15A-1 NMSA 1978];

B. work with the bureau to conduct periodic assessments of the need for educational technology in the public school system and make recommendations to the state board [department] on how to meet those needs;

C. promote the collaborative development and implementation of educational technologies, projects and practices to enhance instruction capabilities;

D. develop and recommend to the state board [department], a statewide plan to infuse educational technology into the public school system in support of state and national education goals; and

E. provide assistance to the bureau in review of school district technology plans.

**History:** Laws 1994, ch. 96, § 7.

**Cross references.** — For the transfer of powers and duties of the former state board of education, see 9-24-15 NMSA 1978.

### **22-15A-8. Educational technology fund; created.**

The "educational technology fund" is created in the state treasury. Money in the fund is appropriated to the department of education for the purpose of implementing the provisions of the Technology for Education Act [22-15A-1 NMSA 1978]. Money in the fund shall be distributed in the manner provided in the Technology for Education Act. Money in the fund shall only be expended pursuant to warrants issued by the department of finance and administration pursuant to vouchers signed by the chief or the state superintendent [secretary]. Money in the fund shall not revert at the end of the fiscal year but shall remain to the credit of the fund.

**History:** Laws 1994, ch. 96, § 8.

**Cross references.** — For the transfer of powers and duties of the former superintendent of public instruction, see 9-24-15 NMSA 1978.

### **22-15A-9. Educational technology fund; distribution.**

A. Upon annual review and approval of a school district's educational technology plan, the bureau shall determine a separate distribution from the educational technology fund for each school district.

B. On or before July 31 of each year, the bureau shall distribute money in the educational technology fund directly to each school district in an amount equal to ninety percent of the school district's estimated adjusted entitlement calculated pursuant to Subsection C of this

section. A school district's unadjusted entitlement is that portion of the total amount of the annual appropriation that the projected membership bears to the projected membership of the state. Kindergarten membership shall be calculated on a one-half full-time-equivalent basis.

C. A school district's estimated adjusted entitlement shall be calculated by the bureau using the following procedure:

(1) a base allocation is calculated by multiplying the total annual appropriation by seventy-five thousandths percent;

(2) the estimated adjusted entitlement amount for a school district whose unadjusted entitlement is at or below the base allocation shall be equal to the base allocation. For a school district whose unadjusted entitlement is higher than the base allocation, the estimated adjusted entitlement shall be calculated pursuant to Paragraphs (3) through (6) of this subsection;

(3) the total projected membership in those school districts that will receive the base allocation pursuant to Paragraph (2) of this subsection is subtracted from the total projected state membership;

(4) the total of the estimated adjusted entitlement amounts that will be distributed to those school districts receiving the base allocation pursuant to Paragraph (2) of this subsection is subtracted from the total appropriation;

(5) the projected membership for the district is divided by the result calculated pursuant to Paragraph (3) of this subsection; and

(6) the estimated adjusted entitlement amount for the school district equals the number calculated pursuant to Paragraph (5) of this subsection multiplied by the value calculated pursuant to Paragraph (4) of this subsection.

D. On or before January 30 of each year, the bureau shall recompute each adjusted entitlement using the final funded membership for that year and, without making any additional reductions, shall allocate the balance of the annual appropriation adjusting for any over- or under-projection of membership.

E. A school district receiving funding pursuant to the Technology for Education Act [22-15A-1 NMSA 1978] is responsible for the purchase, distribution, use and maintenance of educational technology.

F. As used in this section, "membership" means the total enrollment of qualified students, as defined in the Public School Finance Act [22-8-1 NMSA 1978], on the current roll of class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawal of students, in addition to students formally withdrawn from the public school, includes students absent from the public school for as many as ten consecutive school days.

**History:** Laws 1994, ch. 96, § 9; 2000, ch. 89, § 1; 2003, ch. 147, § 11; 2004, ch. 125, § 5; 2005, ch. 274, § 3.

**The 2000 amendment**, effective May 17, 2000, in Subsection B, inserted "adjusted" following "district's estimated", substituted "calculated pursuant to Subsection C of this section" for "as determined by the projected membership for the school year" in the first sentence and inserted "unadjusted" following "school district's" in the second sentence; added present Subsection C and redesignated the remaining subsections accordingly; and inserted "adjusted" preceding "entitlement" in present Subsection D.

**The 2003 amendment**, effective April 4, 2003, rewrote Subsection C and inserted "without making any additional reductions" preceding "shall allocate" in Subsection D.

**The 2004 amendment**, effective May 19, 2004, amended Subsection C to rewrite Paragraph (7) to

substitute for "legislative council service" the "department of finance and administration" and to add at the end of the paragraph "An appropriation made in a fiscal year shall be deemed to be accepted by a school district unless, prior to July 15 of the fiscal year following the appropriation, the district notifies the department of finance and administration and the public education department that the district is rejecting the appropriation" and to amend Paragraph (10) to substitute "the immediately two preceding" for "prior" preceding "fiscal years".

**The 2005 amendment**, effective April 6, 2005, provides in Subsection C(6) that the estimated adjusted entitlement amount for the school district equals the number calculated pursuant to Subsection C(5) multiplied by the value calculated pursuant to Subsection C(6) and deletes former Subsections C(7) through (13).

### 22-15A-10. Annual report.

Annually, at a time specified by the department of education, each school district receiving distributions from the educational technology fund shall file a report with the department of education regarding distributions received, direct legislative appropriations for educational technology made and not rejected, expenditures made and educational technology obtained by the district and such other related information as may be required by the department of education [public education department].

**History:** Laws 1994, ch. 96, § 10; 2003, ch. 147, § 12.

**Cross references.** — For the transfer of powers and duties of the former department of education, see 9-24-15 NMSA 1978.

**The 2003 amendment,** effective April 4, 2003, substituted "each school district" for "each local school district" and inserted "direct legislative appropriations for educational technology made and not rejected" following "distributions received".

### 22-15A-11. Educational technology deficiencies; correction.

A. No later than September 1, 2005, the bureau, with the advice of the council and the office of the chief information officer, shall define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the public school capital outlay council, for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

B. A school district shall use the standards to complete a self-assessment of the outstanding educational technology deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The bureau shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the educational technology deficiency correction fund, the bureau shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code [13-1-28 NMSA 1978], enter into contracts to correct the deficiencies.

E. In entering into contracts to correct deficiencies pursuant to this section, the bureau shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible consistent with the original purpose.

**History:** Laws 2005, ch. 222, § 2.

**Effective dates.** — Laws 2005, ch. 222 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

**Temporary provision.** — Laws 2005, ch. 222, § 4, adds a temporary provision which provides that no later than December 1, 2005, the education technology

bureau of the public education department shall prepare a report summarizing the educational technology adequacy standard, describing the outstanding educational technology deficiencies and estimating the cost of correcting the deficiencies and that the report shall be submitted to the governor, the legislature and appropriate interim legislative committees.

### 22-15A-12. Educational technology deficiency correction fund

The "educational technology deficiency correction fund" is created in the state treasury. The fund shall consist of money appropriated, distributed or transferred to the fund by law. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the education technology bureau for the purpose of making allocations to correct educational technology deficiencies pursuant to Section 22-15A-11 NMSA 1978. Except as otherwise provided, any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chief of the education technology bureau.

**History:** Laws 2005, ch. 222, § 3.

**Effective dates.** — Laws 2005, ch. 222 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.