## State Revenue Shortfalls Pressures Governors and Legislatures to Cut Education Budgets for Technology

As a result of shortfalls in revenues, primarily from sales and manufacturing taxes since December, in some states officials are being forced to cut this year's education budget. According to a National Conference of State Legislatures end-of-year survey, the following states are "below revenue" forecasts: Alabama, Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, and Virginia. Under current projections, the number would increase to 29 states for next year's budge, with an average shortfall of 1%. The projected shortfalls range from $22 million in Arkansas to more than $400 million in North Carolina. In addition to revenue shortfalls, large increases in Medicaid program costs have also contributed to the pressures to cut education budgets. The alternative to budget cuts in education and elsewhere are tax increases which, the NCSL report indicates, is being seriously considered in ten states.

Because teacher salaries are by far the largest district cost item, it should be a primary candidate for cutting. However, in addition to political sensitivities, just the opposite has been occurring over the last year, as legislatures across the country are now requiring class size reduction, and have passed salary increases and tax benefits to help districts retain teachers. As a result the prime candidates for cuts will be "non-essential education activities" including: (a) summer school programs unless they are required as intervention strategies for low-achieving students under state accountability legislation; (b) teacher training and professional development, especially in the 26 states where state

funding is provided; (c) state funding for scholarships covering college tuition for high-achieving students; and (d) funding for state comp-ed programs serving at-risk students.

Some of these likely cuts could affect the demand for technology-based solutions, such as online advanced placement courses, extended learning products and services, and technology-based instructional programs for at-risk students. The future of state funding for "technology initiatives" is very tenuous. In both California and Michigan, over $100 million is being allocated for purchasing computers for students and teachers. As of the middle of March, the Florida legislature cut the State technology discretionary fund from $62 million to $0. In Ohio and Iowa, previous annual state funding for technology investments in computers and infrastructure have been cut or are likely to be cut.

The greatest factor, however, which could contribute quickly to significantly reduced state funding for technology initiatives is the Bush Federal policy proposal to consolidate several technology Federal programs into a flexible grant program which allows states to decide how to spend the money. This would result in many state legislatures "reappropriating" Federal funds so that they would appear to be distributed in the form of state aid. In the approximately 26 states where Federal funds are reappropriated, this would have the effect of allowing state funding to be cut, at least initially, in light of "apparent" increases in reappropriated Federal funding for technology. As has been the experience with previous Federal block grants, over time Federal funding would decline.

Another potential threat could be the Bush Administration's proposal to mandate significant increases in testing of all children in grades 3-8 and mandatory administration of the NAEP. The proposed blueprint budget for FY 2002 did not provide funding to cover such costs. Recently Secretary Paige indicated that states and/or districts may have to cover some of such increased costs. As a result, states could take funds from technology initiatives and reallocate them to state testing. Technology critics could point to several studies that have found that computer-using students performed lower on

NAEP writing tests than their non-computer-using counterparts, especially if the state places a higher priority on NAEP scores than standardized norm-referenced tests (See January TechMIS Special Report),. As noted there, the NAEP tests are not designed to show any effects of computer use; and computer-using students who are required to take the paper/pencil NAEP writing tests are likely to have relatively low proficiency scores.

One of the unintended consequences of the cuts in technology-earmarked state funding, is the ripple effect it will have on Federal funding such as E-Rate and Title III. Currently, under Title III/Technology Literacy Challenge Grants, districts are supposed to provide one-to-one matching as a condition of receiving these grants. However, because so much "in kind" is usually used for matching, the amount of actual dollars is certainly less than the one to one match. For E-Rate the situation is totally different. In many states, such as Florida, Kentucky, Mississippi, Missouri, Indiana, Connecticut, the Carolinas, Virginia, West Virginia and other states which have technology "trust funds" or revolving loan programs, the availability of state funds are critical in a district's decision to apply for E-Rate discounts because the district must certify that adequate state and local funds are budgeted to purchase hardware, staff development, and other noneligible items. To the extent that state funds disappear and district boards are not willing to budget local funds as part of an E-Rate application (because such funding could lapse if the E-Rate notifications are made in the following fiscal year), many districts may elect not to apply for E-Rate discounts. This could result in an "aggregate demand" below the $2.25 billion which could likely result in the E-Rate cap being reduced by the FCC.

The "bellwether" states to monitor with regard to their technology earmarks are North Carolina -- which is now suffering a $400 million shortfall -- and California and Texas, which are likely to be in similar situations within a year.

## Special Education Funding Surfaces in Numerous Quarters in Congress

Early in this Congressional session, special education funding has surfaced as a major issue. Several members are attempting, through proposed bills, to meet the Federal mandate of 40% of the cost of special education being funded by the Federal government, as stated in the 1975 PL 94-142 (now IDEA) mandate. Currently, the Federal share is slightly less than 15% of the total national cost of special education programs -- which is about $65 billion. While Congress over the last few years has taken the lead role in increasing IDEA funding (i.e., a 23% increase for FY 2001 next school year), the Bush Administration, like the Clinton Administration, has not thus far placed a high priority on such funding increases.

A number of bills have been introduced in both the House and the Senate related to IDEA funding. Representative John Tierney (D-MA) has introduced a bill which would require districts to use all of the 20% reduction in state and local funding as Federal IDEA funding increases to allocate such "savings" only for teacher quality, comprehensive reform and other education initiatives. Several years ago Congress' Republican Leadership was successful in obtaining passage of relief from "unfunded mandates" for any IDEA funding increases over $4 billion. The FY 2001 IDEA budget is $7.4 billion. Representative Tom Tancredo (R-CO), a former USED employee, introduced HR 214 ("Keeping our Promises to Special Education Act") which would require the Federal government pay 40% of state special education costs under Part D of IDEA by 2006. A similar Bill was introduced by Representative Lynn Rivers (D-MI). In the Senate, Chairman of the HELP Committee and major proponent of special education funding increases, Senator Jim Jeffords, has already "broken ranks" with his fellow Republicans to oppose President Bush's proposed tax cut and will be supporting major increases in IDEA funding, as well as funding for related programs such as the Child Health Insurance Program (CHIP). Senators Chuck Hagel (R, NE) and Pat Roberts (R, KS) have also called for "full funding" for IDEA, which could be $21-$22 billion annually in five years.

In both the House and Senate, bills have once again been introduced which would allow middle class families to buy into a health plan similar to CHIP which would reduce the financial burdens on families by providing necessary health and related services to children who have disabilities. Over five years, approximately $2 billion of financial assistance would be provided. Currently school districts are reimbursed more than $1 billion annually under the CHIP for the cost of related services which they provide to children with disabilities; this funding in some states such as Maryland, equals the total amount of IDEA funding on a per pupil basis and has had the effect of "freeing up" more IDEA funds for purchases of products to be used for instructional purposes. IDEA pays for approximately 50% of all purchases of technology and related products used in special education programs. Last year strong bipartisan support emerged for very similar legislation which was, at the last moment, killed by Republican leadership.

On another front, House Democrats, under the leadership of Representative George Miller (D-CA), ranking Democrat on the House Education Committee, have sent a letter to President Bush, signed by 144 lawmakers, calling for USED to expedite the process of allocating $1.2 billion to states under the School Renovation initiative included in the FY 2001 appropriation. Under this initiative, $300 million can be used to defray the costs of implementing IDEA and/or for purchasing technology. Many districts will want these funds made available as mandated in the legislation by July 1, to cover special education costs during the Fall, because only 25-30% of IDEA funds will be allocated to districts in July/August, with the remainder not available until after October 1 due to increased "advanced funding" in the FY 2001 appropriation. The Bush proposed budget would allow districts to use all of the $1.2 billion for special education (see Special Report).

On January 25, a White House press conference, attended by numerous disability advocacy groups, addressed the need to ensure greater availability of various assistive technologies which can help adults and students with disabilities access education, as

well as employment, opportunities.  While the White House called for increased funding to ensure the availability of such technologies through loans and other programs (over $50 million), the Administration remained silent on funding levels to be proposed in the President's FY 2002 budget for IDEA.  It would appear that such funding details will not be available until April.

## Achievement Gap Between Students With and Those Without Disabilities Not Likely To Be Reduced Through the Use of Any Model, Research-Based, Proven Approaches

If one takes seriously President Bush's 28-page "Blueprint for Education Reform," this Administration is likely to place a higher priority on mandating that Federal funds be used to purchase only "advanced technology-based solutions that have been proven effective in increasing student academic performance."  Many firms with proven research-based practices are attempting to gather empirical evidence on the effectiveness of their "promising practice" with students with disabilities; a recent report by the National Center for Education Outcomes, University of Minnesota, concludes that the "achievement gap" between students with and without disabilities is _not_ likely to narrow for a variety of reasons.  These reasons should be uppermost in the minds of not only education technology providers but also schools and districts which report student achievement by groups of students, such as those with disabilities.

The NCEO report cites numerous studies from NCEO and other groups which show that passing rates were consistently lower for students with disabilities than those without such disabilities (the differences ranged from 23% to 47%), and that the achievement gap increased from the fourth grade to the eleventh grade level.  The NCEO team conducted a longitudinal study of several cohorts of students, some of which had disabilities, and found that the "disability status is dynamic."  It is not uncommon for a student to be labeled as having a disability for reporting purposes one year but not labeled the

following year. The authors cite speech and language impairments as an example, because such students beyond the fifth grade seldom maintain this designation. Moreover, as students with disabilities become high achievers they are often no longer designated as special education and are replaced by low-achieving students being designated as special education for the first time. By following the achievement levels of individual students, the NCEO found that the achievement gap <u>did decline</u> when they considered special education students' achievement scores regardless of whether or not they continue to receive this designation.

Vendors with programs that have been proven to be effective generally should ensure that any evaluation of the effectiveness of their programs with "special education students" should include students who graduated from a special education status and exclude those that entered special education status too late to be positively affected by the instructional intervention. The same holds true for schools and districts that report student achievements by categories, which is the case in 17 states.

Any vendor that sells technology-based solutions to special education would be well-advised to obtain a copy of this report and provide it to district and school officials who are responsible for reporting test scores. For a copy of "Interpreting Trends in the Performance of Special Education Students" go to education.umn.edu/NCEO.

## Use of Internet for Online Assessments Appears to be Priority Growth Area

In the series of LCS/TURNKEY focus groups a year ago involving superintendents, principals, and curriculum supervisors, use of the Internet for assessment and test preparation received the highest level of consensus across all groups. At that time, online "test prep" services from groups such as Kaplan, Homeroom.com, among others, were expanding. However, a number of recent state initiatives suggest that online assessments

may become even more prevalent than "test prep" in the future. One reason is that students with disabilities are required to take state assessments (but not necessarily test prep, even though they may benefit from it) and, in most cases, it is easier to provide reasonable accommodation through computer based and/or online assessments than with traditional paper and pencil. The decisions and agreements reached in February in the Oregon and ETS cases regarding reasonable accommodation (see related item) will have major impacts upon other states in the immediate future.

Several pilot tests are being conducted which will affect computer and web assessment in their states. In Virginia, three consortia of contractors have been selected to conduct demonstrations of their online assessment and, to some extent, remediation services in three sites each as part of the demonstration phase of a $100 million plus statewide initiative. The Virginia online SOL assessment initiative will be implemented at the high school level first. The College Board is pilot testing in 13 communities computer-based assessment using the Scholastic Achievement Test (SAT) as part of a feasibility study to computerize the tests for all students. Without much fanfare, the Digital Dakota Network recently contracted with EdVision for $500,000 to provide online assessment for Title I students in the areas of reading and math. Such assessments will likely be expanded to other subject areas in the future. Several vendors have announced the availability of online writing assessments, including Harcourt EM, which is part of one of the three Virginia consortia. During FETC, ETS demonstrated an assessment program that had specific rubrics for rating the quality of certain written materials.

In an article in E School News (March 2001), most of the advocates, particularly vendors, argued that the merits of computer-based or online assessments are reduced costs in test scoring and reduced time in getting the results to schools and/or students. What is likely to spur the rapid expansion of online assessment particularly in the areas such as writing, however, are lawsuits similar to the Oregon case, or the enactment of state laws passed

under the threat of future lawsuits to provide reasonable accommodation for students and individuals with disabilities.

## High Stakes Testing of Special Education Students Becoming the Highest Education Political Issue and Challenge --- But Also Opportunities for Education Technology Firms

Inclusion of students with disabilities in state assessments, particularly "high stakes testing," is the number one political issue in many states as state officials and legislators are being pressured to postpone effective dates of exit exams which special education and other students must pass to receive diplomas. Twenty-three states require students to pass a high school exit exam to receive a regular high school diploma, while seven others have plans to adopt exit examinations over the next couple of years. Since July 2000, states are required to include special education students in state assessments or provide validated alternative instruments under the 1997 IDEA reauthorization. However, because a disproportionate number of special education students have failing scores on state assessments (e.g., 95% of special education students failed a recent round of the Oregon state writing assessment), pressures continue to exclude special education students from such assessments or not to include their scores in "school report cards." Indeed, 13 of the 14 state accountability and assessment plans submitted to USED for approval were given "conditional" approvals requiring the states to modify the plan by including students with disabilities in such assessments or otherwise provide reasonable accommodations. A recent report by Disability Rights Advocates entitled "Do No Harm" (January 2001) concluded that state assessment instruments "are often of very questionable validity for students with disabilities and most states have not given sufficient consideration to either appropriate accommodations or alternative assessments for disabled students. In addition, because implementation of high stakes testing is frequently rushed, students are not given enough time to prepare."

On December 21, 2000, final regulations were published on Section 508 of the Rehabilitation Act regarding "accessibility" standards which Federal agencies must meet in purchasing hardware, multimedia, telecommunications, software, and related products. Plans were also announced by USED under the Clinton Administration to issue guidelines mandating that state and local education agencies which benefit from "tech act" funding, will also have to be in compliance. (See Washington Update, January 2001.) On February 1, a lawsuit was settled with parents of students with disabilities who failed the Oregon writing assessments; the state now allows students with disabilities to use electronic spell checkers, dictation, and computer word processing applications when they take the state assessment. Moreover, after the lawsuit was filed in 1999, the state allocated more than $3 million for an online writing assessment system which is currently being pilot-tested in 30 locations throughout the state. Eight days after the Oregon suit was settled, the Education Testing Service announced that it would stop "flagging" results of students with disabilities who take the GRE (and some other ETS tests) with special accommodations as part of a settlement also negotiated by the Disability Rights Advocates who were also involved in the Oregon case. Any vendor that can help school districts come up with solutions to meet the reasonable accommodation mandates and alternative assessments for special education students will have a tremendous advantage over competitors' products which do not have such capabilities on the basis of both education merit and reduced legal liabilities.

Challenges, as well as opportunities, exist in several assessment areas. One is to work with states that are using assistive technology, including software applications and hardware, and which have developed or are planning to develop pilot alternative assessment instruments. Kentucky and Maryland were the first two states with validated alternative measures for students with certain disabilities. Last summer, Indiana announced its use of a technology-based alternative instrument which has various technology components and costs about $3,000 per teacher to conduct portfolio, performance, project-related and other authentic assessments.

Another important opportunity would be to provide or facilitate the use of technology-based accommodations in mastering criterion-referenced and other assessments included as part of a technology-based curriculum or supplemental solution. States will increasingly come under pressure to adopt such systems where they can be validated and are clearly aligned with state content standards. Under IDEA 1997, a special education student's IEP must ensure that the student covers the same curriculum and content objectives that other students cover. An added attractive feature would be the capacity to provide assessments in certain areas such as writing, online, which at least two major testing firms (Harcourt EM and ETS) now provide, not just for special education students but all students (see related item). In December, the Virginia Department of Education announced three vendors which will be participating in the initial demonstration phase of the state's Standard of Learning (SOL) online assessment and remediation initiative which is funded at $114 million. The firms included: (a) BTG Inc., which involves CTB/McGraw Hill, among others; (b) NCS Pearson Inc.; (c) Vantage Learning which includes Harcourt Education Measurement, among others.

For a copy of the "Do No Harm" report by DRA go to www.dralegal.org.

## Highlights of CCSSO 2001 State Education Technology Leadership Conference

On February 22-23, the CCSSO held the 2001 State Education Technology Leadership Conference which was attended by state technology coordinators and associates from over 35 states, several national education technology policy-makers and experts, and 13 sponsors, most of which were technology vendors. The theme of the conference was state programs that have been effective in implementing standards-based reform through e-learning. Some of the effective practices undertaken by states were very insightful; several recent developments certainly have implications for many TechMIS subscribers.

One surfacing trend in the establishment of multistate consortia to facilitate cost sharing on the development side and volume discount purchasing for procurement. The Southern Regional Education Board representative Bill Thomas, announced that SREB, which has 16 Southeastern state members, and three counterparts representing other regions across the country, will announce in mid-April a national consortium focusing on K-12. This consortium, which will involve the Michigan Network, is designed to leverage efficiencies through consortium purchasing of broadband products and services, particularly for rural areas. The Massachusetts SEA is attempting to expand the Virtual Education Space (VES) project beyond state boundaries and is talking with 15 states about collaboration and cost sharing to reduce the cost of implementing materials development (e.g., lesson plans) and access. Interestingly, in that week's issue of Education Week, Paul Houston, Executive Director of AASA, extolled the virtues of E-purchasing in an article entitled "A Reform Both Parties Can Endorse". He noted that AASA is encouraging the school districts and intermediate education units which are members of AASA's sister organization, the Association of Education Services Agencies (AESA), to use the procurement system which they have selected for purchasing collectively, in order to save money. AESA is headed by Brian Talbot who directed an intermediate education unit in Washington State for many years and was involved in volume discount purchasing of hardware, software, and telecommunications services; he is also a member of the E-Rate Advisory Board. The implications for significant expansion in E-procurement for education technology products designed for use in K-12 are significant, ranging from sales strategies to development of products that districts/users can self-customize after mass purchasing.

A second noticeable trend is the increasing number of states that have actually been able to create and are now operating online systems which help teachers align lesson plans and instructional materials to state content standards and to state criterion-referenced tests. The degree to which private firms which have commercial products in these areas are

involved in these states varies considerably.  For example, Massachusetts is attempting "to go it alone" for the most part, even though Classwell and Blackboard have small contracts at least for one year; on the other hand South Dakota has contracted with EdVision, Apex, and other firms for online assessment, advanced placement courses, etc. One interesting revelation during the CCSSO meeting was that many SEAs are using the administrative set-aside of their Title III/TLCF grants to purchase online subscriptions for reference, content, and related materials.

Third, a small but increasing number of states, such as Maryland and Wisconsin among others, are conducting periodic online surveys which describe in some detail what types of materials are covered and how computer software is actually being used by different groups of students (e.g., those in high wealth vs. low wealth schools).  A prime example is Maryland whose January report, which is available online, can provide extremely useful insights into what types of districts to target for what types of products -- e.g., remedial vs. problem solving vs. other (see Maryland update next month).

In hiskeynote address, Dr. Jim Guthrie of Vanderbilt University argued that increased accountability and assessment efforts are creating a "demand" for technology use; as an advisor to the Houston Independent School District and indirectly to new Education Secretary Roderick Paige, he was not aware of the potential "disconnect" between the Bush proposal to have all third through eighth grade students tested using a state-selected test and confirmation of the results through testing a sample of students statewide on the NAEP; as noted in the last TechMIS Report, with the exception of two states, there is no correlation between the two tests even if they are taken by the same groups of students.

**Public Agenda Poll "Reality Check" Finds Students Acceptance of High Stakes Testing and Other Assessments Higher Than Parents and Teachers**

The most recent "reality check" poll by Public Agenda has found that students currently "accept" high stakes and related assessment initiatives more than parents and teachers do, which is somewhat surprising in light of media stories over the last six months. For example, the media covered groups of students in Massachusetts who refused to take the state MCAPS assessments. During that same time, numerous special education students who failed state essay exams and hence could not receive regular high schools diplomas, were so upset that their parents had to sue the state.

Almost three-quarters of students surveyed felt that their school's expectations are "about right." About 90% say that they take tests seriously and 80% say test questions are "fair." Slightly less than 30% feel they "take too many standardized tests." Only 5% say they get so nervous before standardized tests that they can't take them. About two-thirds of students say "fear of being left back, not being promoted or having to go to summer school," motivates them "a lot to work hard" in schools. About two-thirds feel that passing exit exams makes them work harder and increases the probability of their going to college or getting college scholarships.

Regarding computer use in schools, over 90% of the students said they used a computer in school and those using computers "every day in school" increased from 40% to 60% over the last two years. Moreover, 60% of students indicated they used computers mostly "to help them learn" rather than "hacking or playing games," which is a significant increase of twenty-one percentage points since 1998. The percentage of students using the Internet to do schoolwork at least once a week increased from 27% last year to 38% this year. The percent of students who reported they could use the Internet whenever they wanted to in school increased from 20% four years ago to 41% this year.

Teachers' perception of the usefulness of computers in learning and their capabilities in using them are also surprisingly high in light of reports from USED about a year ago that only a quarter of teachers felt they had been provided sufficient professional development

and support to use computers effectively. This survey, conducted in December 2000, found that 50% of teachers use computers regularly for instruction and three-quarters feel computers "really help children learn." Almost 90% feel their schools have provided the necessary staff development and 70% believe they are capable in helping students use computers to learn. Two-thirds of teachers feel their school's computers are "up-to-date and reliable".

Two other groups interviewed -- employers and professors -- rated recent high school graduates in several areas and reported that almost 80% had "poor" or only "fair skills" in writing, grammar, and spelling. Only one quarter of these respondents felt that students' ability to use computers were "poor or fair". A copy of the entire Public Agenda Report was included in the February 21, 2001, issue of Education Week.

## E-Rate Update

Over E-Rate's first three years, $5.85 billion has been provided in the form of discounts to schools and libraries. In Year 4, the estimated aggregate demand was approximately $5.5 billion which is double the current E-Rate cap of $2.25 billion. During a recent service provider conference call, it was estimated that between $1.6 and $1.8 billion would be requested for internal connections. However, only about $450 million would be available for this purpose after approved applicants receive discounts for Internet services and telecommunications which are number one priority services. Hence, the amount of funding for applicants for internal connections would likely have to be prorated much below the amount they requested even if they qualified for a 90% discount. This could have the effect of causing some districts not to apply for any E-Rate funding because of the need to use the discounts to cover some of the costs of internal wiring; or, if they have local funds to pay for telecommunication services at prediscount rates, then more of the BEAR check refunds would be used for internal connections as

opposed to noneligible products such as software and staff development. Most knowledgeable officials believe that there is little chance that the FCC will agree to increase the current cap which is at $2.25 billion.

The future of the E-Rate has been a major topic of interest in several Washington events over the last two months. It was a focus for debriefing and Congressional visits for conference attendees of COSN who met in late February. It was also a topic addressed at the CCSSO State Technology Leadership Conference. In both cases, officials of the organizations were hesitant to discuss the amount of "leveraged" funding under the E-Rate. However, in a subsequent EdLinc (a coalition of associations supporting the E-Rate) meeting with over 40 Congressional committee staff the amount of leveraged E-Rate refunds through the BEAR process for other technology expenditures -- such as software and staff development -- was estimated to be in excess of $1 billion for Year 3. One of the EdLinc talking points was "E-Rate discounts are leveraging significant new investments in technology in schools and libraries --- savings realized and the discounts are being reinvested into other technology needs."

A well-attended meeting of NCTET, whose membership overlaps significantly with EdLinc, addressed a GAO report -- prepared for Senators Judd Gregg (R-NH) and Ernest Hollings (D-SC) -- which indicated that as of August 2000, $1.3 million or approximately 35% of Year 1 and Year 2 E-Rate refunds had not been processed and allocated to districts. While the GAO report hints at some of the reasons why, the SLD and particularly the FCC have not taken a vocal leadership role in explaining this alleged processing problem. The primary reasons relate to purposeful withholding or earmarking of funds to take into account the following pending situations at that time (August 2000):

- pending final decisions on Year 1 and Year 2 appeals, which were estimated to be approximately $200-$300 million;

- Year 2 "out of the window" applications which could have been for $370 million plus carry-over funds from Year 2;

- cancellations by districts who did not file for Form 486 which could have been an additional $200 million;

- pending invoices or filing of BEAR forms by Year 2 applicants whose deadlines were extended for non-reoccurring costs (estimated $200-$300 million) such as wiring, which didn't have to be completed until December 2000. By March 30, over $980 million of the $1.3 billion will be "out the door"; $300 million was carried over from Year 1 to Year 2.

While some of these "processing problems" may have created real problems for the districts involved, it is likely that the vast majority of these late funding notifications will be made to applicants who proceeded as if they would be funded using local and state funds. Hence, most of these funds will be returned to the districts in the form of checks through the BEAR process. Education publishers are likely to benefit more from E-Rate refunds than from all "technology programs" within the Department of Education.

During the recent E-Rate service provider conference call, several other decisions which provide greater flexibility to applicants, and in remote cases to service providers were discussed. One was a previous FCC decision (September 1, 2000) which provided greater flexibility to change products and services through the SPIN process and also to change service providers. Generally, where such changes would be allowed under state and local procurement laws and the contract is negotiated with the service provider, these would override any of the procedures required by the SLD. One of the suggestions made during the conference call was that service providers ensure that the contracts which they have with E-Rate applicants conform to state and local procurement regulations in order to protect the service provider. Procedures are available in the Reference section of the SLD website -- www.sl.universalservice.org --at "Spin Change Guidance".

Recently, the FCC decided in an appeal case involving Los Angeles Unified School District that LAUSD could dramatically change the "overall configuration" of what it was requesting because of advances in new technology as long as the same service provider would be the major vendor and several conditions were met, such as costs

remaining the same for similar products or higher level of service would occur. One suggestion made during the conference call was that the vendors should encourage districts to use generic products in their 471 applications to take into account the probability that by the time the district is notified of E-Rate approval, the product may have changed somewhat or been replaced by another related product. The LAUSD decision, which was made in January, can be found at the FCC website -- www.fee.gov -- under Document number DA-01-387 (dated 2/14/01).

## Most Districts Taking Wait and See Attitude on New Filtering Legislation

Included in the FY 2001 appropriation was the Children's Internet Protection Act (CIPA) which, under most interpretation, would require filtering or blocking technology to be used in any district receiving E-Rate discounts. The FCC is supposed to be issuing final regulations in April regarding the effective date and other guidance. However, most school district and state officials are taking a "wait-and-see" attitude in light of lawsuits being filed by the American Library Association -- charging that the law is a violation of free speech under the First Amendment -- and planned challenges in Federal court by the American Civil Liberties Union. Most technology experts argue that there are technical problems with many filtering systems and not one is 100% effective; most of the vendors of such filtering systems, publicly or otherwise, are aware of such limitations and are concerned about their liability in possible future lawsuits if CIPA is implemented as many interpret it.

As reported in the press, the law itself leaves many questions unanswered and appears contradictory in some areas (e.g., to whom does it apply…school students or school adult staff). During the recent COSN Conference, many state technology coordinators discussed options related to the law. For example, in several states where a state agency

is the ISP, a filtering system or software is already being used.  Some states, however, expressed interest in the possibility of passing state legislation which could be "simpler than CIPA and more limited" arguing that the FCC would likely rule that a state law would override CIPA in much a similar way that state and local procurement laws and regulations override E-Rate discount procurement procedures (See E-Rate Update item above).

Through the end of February, the FCC requested and received comments and briefs from various education groups regarding their position in areas where clarification would be required in the pending final April regulations.  Virtually all education groups opposed CIPA as they interpreted it.  As the effective date of implementation is over a year from now, most state and local education officials are waiting to see what the courts decide.

## ESEA Reauthorization Update

On March 8, the Senate Health, Education, Labor and Pensions Committee (HELP) passed its version of ESEA reauthorization entitled the "Better Education for Students and Teachers" (BEST) Act which in most respects is similar to the 600-page document prepared last year but not acted upon.  Similar to the Bush blueprint proposal, the "teacher quality" block grant would also allow funds for merit pay and implementing teacher testing programs, in addition to hiring and training teachers.  It would also provide funding and greater access for advanced placement courses and drop-out prevention programs and would basically continue the PT³ program for education colleges to include technology training in courses.  Several amendments will likely be considered either on the Senate floor (in May) or elsewhere, including:  (a) a demonstration pilot involving 15 states which would be exempt from most Federal regulations in exchange for entering into a "performance contract" with the USED; (b) an amendment which could provide "portability" allowing Title I funds to follow the child;

and (c) one which would allow public libraries and CBOs, as well as private corporations, to be eligible for 21st Century Community Learning Center grants.

Unlike the Bush blueprint, the BEST authorized funding level would increase about $10 billion over last year and $9 billion over the Bush proposal as briefly outlined. Under BEST, Title I would receive an increase from $8.6 billion to $15 billion and 21st Century Community Learning Center grants would increase from $846 million to $1.5 billion. BEST would also ensure that priority is placed upon poor school districts when education technology funds are allocated.

During the same week, testifying before the Senate Budget Committee, Secretary Rod Paige attempted to justify the proposed FY 2002 budget blueprint in the context of the proposed $1.6 trillion in tax cuts. Several statements and inferences based upon the Secretary's comments are worth noting, including:

- that the E-Rate program is not likely to be proposed for consolidation with other USED technology programs which would provide greater flexibility in terms of allocations at the state level; several groups involved in the initial Bush proposal to include E-Rate felt that many telecommunication carriers "would not be pleased" if so-called E-Rate funding should be used for purchasing software and hardware, as Bush had proposed;

- that the 21st Century Community Learning Centers and Title IV/Safe and Drug Free Schools program would be consolidated; however, the integrity of the separate "funding streams" would be maintained; the Bush proposal would also allow community-based and faith-based organizations to apply directly for such funds; ironically, many conservative Christian groups are opposing this approach because of potential Federal intrusions;

- in response to the concerns of New Democrats that the Bush testing proposal provides for too much testing and that it does not include enough money in the budget for implementation, Secretary Paige indicated that Federal funds would be available to help states develop the test, but it hasn't been decided whether the Federal funds would be made available to help schools implement the testing program, implying that unfunded testing mandates would be funded by school districts.

While many of the New Democrats feel that they can support some of the proposed Bush initiatives, virtually all question whether the proposed budget blueprint has enough money in it to cover the cost of implementing testing and other initiatives. On the other hand, more and more Republicans are beginning to question whether the use of the NAEP to "confirm" the student scores on national norm-referenced and state assessments will force states to align their curriculum around NAEP making it a national curriculum.

On March 8, the House Education Reform Subcommittee addressed numerous testing proposals. Chairman Mike Castle (R-DE), a former Governor, supported the notion of mandated NAEP exams which sampled students across all states to prevent states from "dumbing down" their tests; he called for the use of reliable, scientifically-based assessment instruments. Mark Musick, Chairman of the Governing Board for the NAEP, addressed the intended differences between national norm-referenced standardized tests and the NAEP, and the type of data captured by both tests. Previously, Musick had called for the public release of all NAEP tests so that students, teachers, and publishers would know what content would be covered on such assessments (See November 2000 TechMIS). The President of ETS, which administered and analyzes the NAEP, argued the need to ensure that the resulting testing initiative was valid, fair and aligned with state standards and curriculum. With the annual cost of testing to schools of approximately $400 million, groups such as the American Association of Publishers, which represents test manufacturers and other publishers, felt the President's plan represents "sound measurement practice".

## Expanded Distance Learning and Telemedicine Program Provides Good Opportunities for Service Vendors

The Distance Learning and Telemedicine Program (DLT), operated by the U.S. Department of Agriculture's Rural Utilities Service, is designed to address the educational and health care needs of rural areas, particularly Enterprise Communities and

Empowerment Zones. Intended to provide financial assistance to rural communities in the form of grants and loans, the DLT program provides funds to supplement E-rate discounts.

There are three components to the DLT program:

- Grants – which focus on end-user equipment;

- Loans – which complement E-rate discounts and are not limited to end-user equipment; and

- Combination Loans and Grants – which are treated the same as loans.

Applicants for Grants or Loans must be either education or health care service providers or consortia.

The maximum size of a DLT Grant for FY 2001 is $500,000 and includes a requirement that at least 30 percent of a DLT project's cost (43% of the requested Grant) be matched by the grantee. Loans are generally limited to $10 million for FY 2001 although exceptions are possible. Loans and Combination Loans and Grants have no matching requirement although the ratio of loan to grant must be at least 10 to 1.

DLT Grant funds may be used for "initial capital assets." According to the Grant application this includes – in addition to equipment – training, technical assistance and instructional programming, as long as these services are subcontracted. Specifically not to be funded under the DLT Grant program are salaries, telecommunications transmission facilities, and projects whose "sole objective is to provide links between teachers and students."

DLT Loan and Combination Loan and Grant programs have considerably more flexibility. In addition to the equipment, training, technical assistance, and instructional

programming permitted under Grants, Loan and Combination recipients may use DLT funds for links between teachers and students, telecommunications transmission facilities, and recurring cost (except salaries and administrative expenses).

Application for this year's Grant program were due by March 2, 2001, with funding expected by September 30, 2001. Applications for DLT Loans and Combination Loans and Grants can be submitted at any time during the fiscal year (i.e., before September 30, 2001) and are processed on a first come-first served basis throughout the year.

A listing of grant recipients for FY 2000 is available on the U.S. Department of Agriculture website at www.usda.gov/rus/telecom/dlt/2000win.htm.

The types of recipients of DLT education funds vary considerably, including school districts, community colleges, universities, educational cooperatives, boards of health, and Indian tribal councils, particularly those in ECs and EZs. The key decision-makers depend in large part on the type of organization that receives funds. Within school districts and community colleges, the office responsible for instructional telecommunications is most likely to be the contact.