

**IOWA DEPARTMENT OF EDUCATION**

26 D.o.E. App. Dec. 87

***In re Petition for Declaratory Order***

Auditor of State of Iowa,	:	
Petitioner,	:	DECLARATORY ORDER
for a Declaratory Order as to	:	
Iowa Code § 298.3(1)(c)	:	[Adm. Doc. #4727]

On or about March 1, 2011, the Auditor of the State of Iowa filed a petition for declaratory order with the Iowa Department of Education (Department). The Petitioner poses several specific questions regarding the propriety of paying certain computer lease expenditures from the General Fund and/or Physical Plant and Equipment Levy (PPEL).

Pursuant to rule 281—Iowa Administrative Code (IAC) 3.2, notice of the petition was provided to stakeholder groups and to all public school superintendents in Iowa. A public hearing was held on March 24, 2011, and public comments were allowed until the close of business on April 1, 2011. Sixteen persons attended the public hearing; approximately 25 written public comments were received by the Department. Those comments will be available on the Department’s Web site at [http://www.iowa.gov/educate/index.php?option=com\\_content&view=article&id=1572&Itemid=2349](http://www.iowa.gov/educate/index.php?option=com_content&view=article&id=1572&Itemid=2349).

One commenter stated that the matter would be better handled through formal rulemaking rather than the declaratory order process.<sup>1</sup> Iowa Code section 17A.9 requires only that a petition for a declaratory order be directed to “the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency.” That is what AOS has done. The Department has authority to issue this declaratory order.

***Factual Background***

The impetus for the request from AOS is the growing interest by school districts in the “1:1 laptop initiative.” This initiative necessitates the acquisition by an interested district in enough laptop computers to enable each student in the identified class or classes to have a laptop available for the student’s personal school use; hence, the “1:1” (one-to-one) label. For instance, if the board of directors of the Acme School District decides that every 6<sup>th</sup> grade student is to be issued a laptop computer, and there are 60 students in that identified grade, Acme must acquire no less than 60 laptop computers.

<sup>1</sup> Comment on behalf of Iowa Farm Bureau Federation.

### *The Questions Posed by AOS*

While the 1:1 laptops are the subject at issue for the current initiative, this declaratory order will soon be obsolete if it does not address the issues in a more global way. Therefore, the Department will set forth the questions asked by AOS, but will provide a response designed to outlive the present technology.

The primary question posed to the Department by AOS is essentially this:

1. *What is encompassed within the term “technology” as it is used in Iowa Code section 298.3(1)(c)?* AOS asks the Department to specifically address the following components:
  - a. A single unit of hardware which in and of itself does not cost more than \$500.
  - b. Wireless presenters, bags and shoulder straps.
  - c. Initial licensing to make the laptop computers operational.
  - d. Subsequent licenses of software.
  - e. Software that is included in the definition of “educational” software per Iowa Code sections 301.1 and 301.4.
  - f. Software used for the server, such as system for monitoring devices on the network.
  - g. Software related to the web filter system.
  - h. Software, not operating system, which is pre-installed.
  - i. Staff training or professional development.
  - j. Professional services purchased to install software onto computers.
  - k. Post-implementation support.
  - l. Maintenance.
  - m. Project management, including project planning meeting, web site setup, and scheduled project calls from start to rollout.
  - n. Asset/infrastructure assistance.
  - o. Subscriptions.
  - p. Warranties if required by the vendor as a condition of purchase.
  - q. Warranties not required by the vendor as a condition of purchase.

The other questions asked by AOS are paraphrased by the Department as follows:

2. To what extent is “bundling” allowable?
3. To what extent must a school district have detailed invoices that segregate allowable costs from PPEL vs. allowable costs from the General Fund?
4. If a school district allows any student to purchase a laptop computer from the district at the student’s graduation, must the district comply with Iowa Code section 297.22(1)(d)<sup>2</sup>?

---

<sup>2</sup> [P]roperty having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district.”

### *Summary of Applicable Statutory Law*

As entities that must comply with “Dillon’s Rule,” Iowa school districts may exercise only those powers expressly granted by the legislature; or those powers necessarily or fairly implied in the powers expressly granted; or those powers indispensably essential (not merely convenient) to the declared objects and purposes of a school district.<sup>3</sup> Iowa school districts thus look to the school finance laws of Iowa. The fund in question, PPEL, is a creation of statute first enacted in 1989 to replace the old “schoolhouse fund;” its name – physical plant and equipment – provides a gross but adequate description of the purpose of the levy.

The lawful expenditures of the PPEL funds are enumerated in Iowa Code section 298.3. Paragraph “c” of subsection 1 of section 298.3 states as follows:

1. The revenue from the regular and voter-approved physical plant and equipment levies shall be placed in the physical plant and equipment levy fund and expended only for the following purposes:

...

c. The purchase, lease, or lease-purchase of a single unit of equipment or technology exceeding five hundred dollars in value per unit.

The statutory history of section 298.3 as it relates to technology is pertinent. The Department first notes that there is no definition in statute or rules of either “technology” or “single unit of technology.” It was in 1992 that the Iowa Legislature first permitted the use of PPEL funds for the purchase of “a technology system exceeding five thousand dollars in value.” “Technology” has remained part of section 298.3 since 1992, but the value limitation has been lowered over time from \$5000 to \$1500 (1994) and then to its present \$500 (2002). Also in 2002, “technology system” was changed to the present “single unit of technology.”

### *The Arguments*

School districts hire independent auditors to perform annual audits of the districts’ finances. AOS has provided the following guidance to these independent auditors regarding laptop purchases from PPEL:

[P]roducts (including software), loaded on and/or required to make the computer functional (placed into operation) would appear to be allowable from PPEL as long as the \$500 per unit threshold is met... . However, the professional development/staff training, subscriptions and maintenance appear to be purchase of services. As such, these services (professional development/staff training and maintenance) should be paid from the General Fund. [Emphasis in original.]

---

<sup>3</sup> *Merriam v. Morrissey’s Executor*, 25 Iowa 163 (1868), authored by Chief Justice John Dillon.

Although AOS has provided the above guidance, AOS has been clear that it is not advocating for any specific position, and that it will comply with the Department's declaratory order.

In addition to receiving written comments on behalf of roughly 20 school districts, the Department heard from major education stakeholder groups in Iowa, specifically, the Iowa Association of School Boards, School Administrators of Iowa, the Urban Education Network of Iowa, and the Iowa Association of School Business Officers (IASBO). IASBO took no position on the underlying questions. The other education stakeholder groups urge the Department to be expansive in its interpretation of section 298.3 as it relates to "a single unit of technology exceeding \$500 in value per unit." Where the stakeholder groups argue that carrying cases, maintenance, and staff training are appropriate expenditures from PPEL, the districts from whom the Department heard are split on those items. However, there was near unanimity in the comments that appropriate expenditures from PPEL should include the laptops themselves, operational licensing, and installation costs.

Several comments were made, orally and in writing, that speak to matters solely within the province of the Legislature. For example, the Department reminds districts that the \$500 threshold in section 298.3(1)(c) is statutory. As delivery of instruction continues to evolve and become less expensive, changing the value threshold lies solely with our Legislature. Likewise, the issue of the equitable nature of PPEL (which is funded nearly exclusively by property taxes<sup>4</sup>) is beyond the Department's authority. Whether there are inequities in PPEL and, if so, how to rectify the same, are policy issues for the Legislature.

### ***The Department's Analysis***

We note first that the Iowa Supreme Court recently discussed this agency's authority to interpret education statutes in general and Iowa Code chapter 298 in specific. In *Iowa Ass'n of School Boards v. Iowa Dept. of Educ.*, 739 N.W.2d 303 (Iowa 2007), the Court stated as follows regarding this agency's authority to interpret education law:

Iowa Code section 256.1 establishes the Department of Education "to act in a policymaking and advisory capacity and to exercise general supervision over the state system of education including ... [p]ublic elementary and secondary schools." The director of the department has numerous specified duties. See Iowa Code § 256.9. Section 256.9(16) provides that the director "shall ... [i]nterpret the school laws and rules relating to the school laws." *Id.* § 256.9(16). It is undeniable that this statute clearly vests the director with discretion to interpret "school laws." Although the association acknowledges the director's

---

<sup>4</sup> The regular PPEL (voted on by the school board only) shall not exceed 33 cents per thousand dollars of assessed valuation of real estate in the district. The voter-approved PPEL shall not exceed \$1.34 per thousand dollars of assessed valuation in the district. The primary source of revenue in PPEL being property taxes, the amount of the levy available to school districts varies.

duty and authority to interpret school laws, it argues sections 298.4 and 296.7 are not school laws. According to the association, these provisions are taxing statutes. We disagree.

... While sections 298.4 and 296.7 certainly deal with taxation, we think their primary purpose is to delineate and control school spending. The principal focus of these statutes is not on the assessment and collection of the tax, but on the expenditure of the tax revenues. Moreover, both provisions are located in Title VII, "Education and Cultural Affairs" subtitle 6, "School Districts," rather than in Title X, "Financial Resources," which encompasses various taxing laws. Chapter 256, in which the director is charged with the interpretation of "school laws," is also in Title VII governing education. Thus, the context of sections 298.4 and 296.7 supports the district court's conclusion the department, acting through its director, has been vested with discretion to interpret these provisions.

In addition to the purpose and context of these laws, the practical considerations involved also support our conclusion. Because school financing is so complex, there are practical reasons the legislature would want all laws affecting school finances subject to the interpretive authority of the agency charged with oversight of those finances--the Department of Education. ...

For the foregoing reasons, we are convinced the legislature intended to vest the department's director with the discretion to interpret sections 298.4 and 296.7. Accordingly, we give appropriate deference to the agency's interpretation of these statutes by reviewing its interpretation under the standard set forth in section 17A.19(10)(I). Under that standard, we will not reverse the agency's interpretation unless it is "irrational, illogical, or wholly unjustifiable." Iowa Code § 17A.19(10)(I).

739 N.W.2d 303,307-308.

As noted earlier, the Legislature has defined neither "technology" nor "unit of technology." Absent a statutory definition, we are to give words their ordinary and common meaning by considering the context within which they are used. *Midwest Auto, III LLC, v. Iowa Dept. of Transp.*, 646 N.W.2d 417, 426 (Iowa 2002).

Technology is defined in the Merriam-Webster Dictionary as both *the practical application of knowledge* and *a manner of accomplishing a task especially using technical processes, methods, or knowledge*. As demonstrated at the public hearing on March 24, technology as it exists today and as it has evolved, is more than a laptop computer. It is also the means of delivery of an educational product and may vary significantly as to what components are utilized for that delivery. It is a given that individual schools vary in the way they use technology. Those variances must be respected in this order.

As for “unit of technology,” the Department acknowledges that a single laptop computer may be a self-contained, “turnkey” unit. However, the laptops that comprise the 1:1 laptop initiative are part of a larger system in order for the initiative to be a viable educational tool for a school district. The laptop itself in the 1:1 initiative is nothing more than a paperweight if viewed in isolation. The Department concludes that “unit of technology” is not to be viewed narrowly.

This conclusion is based also on the Department’s observation that in 1996 Iowa Code chapter 295 (“School Improvement Technology Program”) was enacted with a stated purpose to “develop and equitably fund instructional technology within the public schools of this state to ensure that school students, teachers, and administrators are equipped and prepared to excel in the twenty-first century.” Iowa Code section 295.1 (2001).

Chapter 295 included an automatic repeal date of July 1, 2001. A fair reading of the repeal of chapter 295 and the concurrent change in section 298.3’s language from “technology system” to “single unit of technology” is that the Legislature did not intend to limit means of funding instructional technology in the classroom. Rather, it appears that the Legislature transferred the authority to fund acquisition of technology from chapter 295 to the PPEL fund.

The transplantation of this authority to section 298.3 includes the explicit uses stated in former section 295.4 to, not just the acquisition of instructional technology equipment, but for the “installation[,] and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology... .”

Thus, as the Department issues this declaratory order, we assume that most of the expenditures associated with the 1:1 laptop initiative are appropriate from PPEL unless it appears that a more appropriate fund exists from which to pay an expenditure. For instance, Iowa Code section 301.4 directs that payment for textbooks come from the General Fund. Instructional software has been included in the definition of “textbook” since 1993. The Department understands that not all software is instructional software; but that which does supplement or supplant traditional textbooks must be paid for from the General Fund.

Finally, as a public agency, the Department is also mindful that school districts must be allowed to determine what technology acquisitions best suit the needs of their students, and that districts must be allowed to make those determinations with fidelity to the taxpayer. An order that unnecessarily limits a district’s ability to strike the best bargain when acquiring the tools of technology ultimately harms the taxpayer. Likewise, an order that fails to recognize that proper asset protection is also part of technology could result in districts inefficiently spending the public’s funds.

*The Department's Responses to the Questions Posed*

1. Technology, as the term is used in section 298.3(1)(c) includes all of the components listed on page 88 herein as (a) through (q) except for the following, both of which are likely to be expenditures not associated with the initial acquisition of the laptop computers associated with the 1:1 initiative:
  - Software that is educational or instructional software
  - Professional development of staff that does not train staff in the operation of the computers
2. Because our response to the first question includes all of the expenditures associated with the initial acquisition of technology, “bundling”<sup>5</sup> is allowable to the extent that all expenditures are within the meaning of technology as discussed in this declaratory order, are allowable from a single fund, and provide sufficient information to account for the expenditures properly. If items are more appropriately expended from another fund, they must be accounted for in that other fund.
3. The extent to which a district must have detailed invoices that segregate allowable costs from PPEL vs. allowable costs from the General Fund parallels our response to the second question. Nothing about this declaratory order relieves a school district of its obligation to account for all items appropriately and in more contexts than just the fund from which the expenditure was appropriate.
4. When disposing of the laptops, a school district must comply with Iowa Code section 297.22(1)(d).

Two final notes:

1. Revenues from the one cent increase in the state sales, services, and use taxes under Iowa Code chapter 423F are to be used solely for school infrastructure purposes. Section 423F.3(6)(a) states, “‘School infrastructure’ means those activities authorized in section 423E.1, subsection 3, Code 2007.” That former law permits the “statewide penny” to be spent on “activities for which revenues under section 298.3 ... may be spent.”

Accordingly, any expenditure appropriate from PPEL is appropriate under chapter 423F. However, a district may not include an inappropriate expenditure in its revenue purpose statement. The revenue purpose statement may not include any expenditures not otherwise permitted under chapter 423F.

2. Nothing about this Declaratory Order is intended to address tax-exempt financing issues relating to technology or any aspect of the federal income tax treatment to be accorded the expenditures discussed herein. The federal Internal Revenue Code and its regulations were not a part of the Department’s analysis. If a school district purchases technology via a form of tax-exempt debt, including a lease

---

<sup>5</sup> For purposes of this order, “bundling” is a collection of items from a single vendor related to a specific purchase.

purchase, the district is urged by the Department to seek legal counsel from the district's bond counsel.

This declaratory order has the same status and binding effect as a final order issued in a contested case proceeding.

Issued this \_\_\_\_\_ day of April, 2011.

---

Jason E. Glass, Director



RECEIVED

BEFORE THE IOWA DEPARTMENT OF EDUCATION APR 01 2011

<p><i>In re Petition for Declaratory Order</i></p> <p>Auditor of State of Iowa,  Petitioner,  For a Declaratory Order as to  Iowa Code § 298.3(1)(c)</p>	<p style="text-align: right;">DEPARTMENT OF  EDUCATION</p> <p><b>WRITTEN COMMENTS AND  BRIEF OF THE  IOWA ASSOCIATION OF  SCHOOL BOARDS</b>  [Adm. Doc. #4727]</p>
--	--

The Iowa Association of School Boards (IASB) is an Iowa nonprofit organization whose members include 362 Iowa public school districts, 10 area education agencies, and 15 community colleges. IASB supports its members' efforts in the effective governance of Iowa's public schools. On behalf of its members, IASB offers the following comments concerning the above-captioned Petition for Declaratory Order.

**Table of Contents**

- I. Introduction..... 2**
- II. Rules of Statutory Construction..... 3**
- III. Iowa Code Section 298.3..... 4**
  - A. The meaning of "technology" includes more than just the device..... 5**
    - 1. "Technology" must be different than "equipment." ..... 5**
    - 2. "Technology" includes both tangible tools as well as intangible knowledge and methods. .... 6**
    - 3. Legislative history supports a broad interpretation of "technology." ..... 7**
    - 4. Iowa Code Chapter 8A broadly defines "information technology." ..... 9**
    - 5. "Technology" must be interpreted broadly so as to remain flexible to meet the changing nature of technology..... 13**
  - B. Meaning of "unit" includes more than a single object. .... 14**
    - 1. The dictionary definition of "unit" is broad and includes an item considered a whole in calculation and serving a particular function..... 14**
    - 2. Iowa law, under the UCC, defines "unit" broadly..... 15**
- IV. The Proper Interpretation of Section Iowa Code 298.3(1)(c) ..... 17**
  - A. The phrase "single unit of technology" includes devices, programs, and services intended to function together as a technology system. .... 17**
  - B. "Single unit of technology" is further defined by the marketplace and the purchase of purposeful units of technology by school districts.....19**

<b>C</b>	<b>Market conditions and specific facts should be examined on a case-by-case basis to determine what is and what is not a single unit if technolog .....</b>	<b>22</b>
<b>V.</b>	<b>Any tax-exempt financing issues under the federal Internal Revenue Code relating to technology are separate and distinct from interpreting Iowa Code section 298.3(1).....</b>	<b>24</b>
<b>VI.</b>	<b>Conclusion .....</b>	<b>27</b>

**I. Introduction**

This matter involves a Petition by the Iowa State Auditor (Auditor) for a Declaratory Order by the Iowa Department of Education (Department) as to the proper interpretation of Iowa Code section 298.3(1)(c). The statute relates to the authority of school districts to use Physical Plant and Equipment Levy (PPEL) funds to purchase and/or lease technology for student and teacher programs, including technology in the form of computer hardware, software, accessories, services and support.

The stakes in this matter could not be higher. General fund resources are scarce and are stretched to the limit in most school districts just to maintain existing programs and personnel. If schools wish to expand their academic offerings to students to include computer technology, the only feasible way for many districts is to finance the effort is through PPEL funds. Without this resource, there will be very limited technology education for many of Iowa's students.

IASB believes that the statute , as written and as properly interpreted in light of other current statutes, authorizes the use of PPEL funds to purchase and/lease information technology for students and teachers. The only fair and reasonable interpretation of the statute is to authorize the use of PPEL funds for such purchases and leases.

## II. Rules of Statutory Construction

The matter before the Department requires interpretation of the Iowa Code. When engaging in statutory interpretation, the Iowa Supreme Court has stated:

The goal of statutory construction is to determine legislative intent. We determine legislative intent from the words chosen by the legislature, not what it should or might have said. Absent a statutory definition or an established meaning in the law, words in the statute are given their ordinary and common meaning by considering the context within which they are used.

*Auen v. Alcoholic Beverages Div.*, 679 N.W.2d 586, 590 (Iowa 2004) (citations omitted).

An interpreting body may not change the intended meaning of a statute. *Id.*

The Supreme Court has also noted that “interpretation of a statute requires an assessment of the statute in its entirety, not just isolated words or phrases.” *State v. Gonzalez*, 718 N.W.2d 304, 308 (Iowa 2006). Statutes should not be interpreted “in such a way that portions of it become redundant or irrelevant.” *Id.*

Where there is no statutory definition of a word used in a statute, a dictionary is often consulted to determine the ordinary meanings of words used by the legislature. *State v. Evans*, 671 N.W.2d 720, 724 (Iowa 2003). “The legislature is presumed to know the usual meaning ascribed by the courts to language and to intend that meaning unless the context shows otherwise.” *State v. Shafranek*, 576 N.W.2d 115, 118 (Iowa 1998) (citing cases); 73 Am.Jur.2d Statutes § 124, at 334 (stating “words in a statute are assumed to bear their ordinary, contemporary, common meaning”).

Similarly, the legislature has specifically provided that a court, in interpreting ambiguous statutory provisions, should consider “[t]he common law or former statutory provisions, including laws upon the same or similar subjects.” Iowa Code § 4.1(4) (2003). These resources are important for the present declaratory ruling action because “[i]t is assumed that whenever the legislature enacts a provision it has in mind previous statutes relating to the same subject matter.” 2B Statutes and Statutory Construction § 51:02, at 176; accord *State v. Kellogg*, 542 N.W.2d 514, 516 (Iowa 1996) (in interpreting statutory language court may consider similar statutes). In addition, “the interpretation of a doubtful statute may be influenced by language of other statutes which are not specifically related, but which apply to similar persons, things, or relationships.” 2B Statutes and Statutory Construction § 53:03, at 327–38; accord *Hagen v. Texaco Ref. & Mktng., Inc.*, 526 N.W.2d 531, 536 (Iowa 1995); (applying case law under other unrelated statutes when interpretation of same language used in the other, unrelated statutes).

Having established that other laws may be useful aid in interpreting a given statute, these resources reveal that the meaning the words “technology” and “unit” requires that these terms be interpreted broadly.

### **III. Iowa Code Section 298.3**

Iowa Code section 298.3, entitled “Revenues from the levies,” provides in part:

1. The revenue from the regular and voter-approved physical plant and equipment levies shall be placed in the physical plant and equipment levy fund and expended only for the following purposes:

....

c. The purchase, lease, or lease-purchase of a single unit of equipment or technology exceeding five hundred dollars in value per unit.

Iowa Code § 298.3(1)(c) (emphasis added). The questions presented to the Department by the Petition for Declaratory Order relate to the interpretation and construction of the words used by the legislature in Section 298.3(1)(c). Specifically, resolution of the questions posed by the State Auditor will turn on the meaning of the phrase “single unit of equipment or technology.”

**A. The Meaning of “Technology” Includes More Than a Device**

The first task of the Department is to determine the meaning of the term “technology.” This is no small assignment.

**1. “Technology” must be different than “equipment”**

As discussed above, statutes may not be interpreted in such a way that portions of them become redundant. *Gonzalez*, 718 N.W.2d at 308. This principle means that, with respect to the phrase “single unit of equipment or technology” in Iowa Code Section 298.3(1)(c), the meaning of “technology” must necessarily be different than the meaning of “equipment.” “Equipment” is not defined in Chapter 298, but the dictionary defines the term to mean:

- 1a : the set of articles or physical resources serving to equip a person or thing: as
  - (1) : the implements used in an operation or activity : apparatus <sports equipment>
  - (2) : all the fixed assets other than land and buildings of a business enterprise
  - (3) : the rolling stock of a railway
- b : a piece of such equipment

<http://www.merriam-webster.com/dictionary/equipment?show=0&t=1301602135>.

In order to avoid a redundancy in the statute, the Department must interpret the meaning of “technology” to include more than just the articles or physical resources – the tangible products or devices - that would already be included within the meaning of “equipment.” “Technology” as that term is used in the statute must mean something more than what otherwise is also considered equipment.

**2. “Technology” includes both the tangible tools as well as intangible knowledge and methods**

There is no definition of “single unit of technology” in either Iowa Code Section 298.3 or in the administrative rules. As discussed above, where there is no statutory definition of a word used in a statute, a dictionary should be consulted to determine the ordinary meanings of the words used by the legislature. *Evans*, 671 N.W.2d at 724.

“Technology” as used in the common English language is defined by one dictionary to include:

- 1 a : the practical application of knowledge especially in a particular area
- b : a capability given by the practical application of knowledge
- 2: a manner of accomplishing a task especially using technical processes, methods, or knowledge

Merriam-Webster Online Dictionary, at <http://www.merriam-webster.com/dictionary/technology> (last visited March 30, 2011). Another dictionary defines “technology” as “(the study and knowledge of) the practical, especially industrial, use of scientific discoveries.” Cambridge Dictionaries Online, at <http://dictionary.cambridge.org/dictionary/british/technology> (last visited March 30, 2011). Still another dictionary defines “technology” to include:

1. application of tools and methods: the study, development, and application of devices, machines, and techniques for manufacturing and productive processes
2. method of applying technical knowledge: a method or methodology that applies technical knowledge or tools
3. machines and systems: machines, equipment, and systems considered as a unit

MSN Encarta Online Dictionary, at <http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?lextype=3&search=technology> (last visited March 30, 2011).

Under these definitions, it is clear that “technology” is both a tangible thing, such as a machine or other tools, as well as an intangible thing, such as application of knowledge and methods and other resources to make the tools work. By definition, then, “technology” as used in Iowa Code Section 298.3(1)(c) must include the collective combination of the tangible articles and the intangible resources related to the proper functioning of the technology purchase. The Department simply cannot limit the meaning of “technology” to merely tangible products or devices. To do so would not only create a redundancy in the use of the term “equipment” in the statute as discussed above, but would also defy the ordinary and common meaning of the words chosen by the legislature.

### **3. Legislative history supports a broad interpretation of “technology.”**

It has been nearly twenty years since the language allowing the use of PPEL funds to purchase technology first appeared in Iowa Code section 298.3. That language provided for “[t]he purchase of buildings and the purchase of a single unit of equipment or a technology system exceeding five thousand dollars in value.” Iowa Code § 298.3(3) (1992) (emphasis added). Since that time, there have been several modifications in the

statutory language, but the basic authorization to use PPEL funds to acquire technology has remained unchanged.

In 1994, the legislature expanded the authority of school districts to use PPEL funds to acquire technology when the five thousand dollar limitation was lowered to one thousand five hundred dollars. Iowa Code § 298.3(3) (1994). In 2002, the legislature again expanded the authorization to use PPEL funds when it lowered the one thousand five hundred dollar limitation to five hundred dollars. Iowa Code § 298.3(3) (2002). At the same time, the legislature also amended the statute to allow the “lease, or lease-purchase” of a single unit of equipment or technology and, importantly, deleted the requirement that the technology be tied to a “system.” *Id.* “Technology system” was abandoned in favor of the broader, more universal “technology.” In 2003, the section was amended to read in its current form. Iowa Code § 298.3(3) (2003).

These modifications to the statute including the steady reduction of the dollar thresholds and the deletion of the requirement that “technology” be tied to a “system,” indicate the legislature’s intent that the meaning of “technology” is broad. This is in keeping with the undeniable fact that technology has become a ubiquitous element of everyday life and an essential element of a basic education. The Department must therefore broadly interpret the meaning of “technology.”

Other legislative history is also instructive. Prior to 2002, the lease or lease-purchase of technology was addressed in Iowa Code Chapter 295. This chapter of the Code, entitled “School Improvement Technology Program,” was passed in 1996 with a provision that it would be repealed effective July 1, 2001. Under this law, school districts



and area education agencies were to develop a plan that focused on the use of technology to impact student achievement. Iowa Code § 295.3(1)-(2) (2001). Under Iowa Code Chapter 295, the money appropriated by the state for technology could be used:

... for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology... .

Iowa Code § 295.4(1) (2001). In this section the legislature recognized that, in order to be functional, technology must be acquired, installed, and maintained; must include hardware and software and related items; and must be used by people with adequate training.

The sun set on Chapter 295 as planned. However, the intent of the legislature in adopting this program should not be overlooked, as it was after the repeal of Chapter 295 that Iowa Code Section 298.3 was amended to allow the use of PPEL funds for the lease or lease-purchase of technology. In Iowa Code Chapter 295, the legislature wrote:

The general assembly finds that it is in the public interest to develop and equitably fund instructional technology within the public schools of this state to ensure that school students, teachers, and administrators are equipped and prepared to excel in the twenty-first century.

Iowa Code § 295.1 (2001). Surely, the legislature did not abandon the state initiative to fund instructional technology when it acted to transplant the authority to lease or lease-purchase technology from Chapter 295 to Section 298.3. This legislative history also indicates that the Department must interpret “technology” in Iowa Code Section 298.3(1)(c) broadly.

#### **4. Iowa Code Chapter 8A broadly defines “information technology”**

The term "technology" is used in more than one hundred sections of the Iowa Code. One particularly telling area of the Iowa Code that uses the term "technology" is the "Information Technology" portion of the chapter relating to the Iowa Department of Administrative Services. In that part, the legislature adopted the following definitions:

As used in this subchapter, unless the context otherwise requires:

1. "Information technology" means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, information technology services, infrastructure services, and value-added services.
2. "Information technology device" means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. "Information technology device" includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.
3. "Information technology services" means services designed to do any of the following:
  - a. Provide functions, maintenance, and support of information technology devices.
  - b. Provide services including, but not limited to, any of the following:
    - (1) Computer systems application development and maintenance.
    - (2) Systems integration and interoperability.
    - (3) Operating systems maintenance and design.
    - (4) Computer systems programming.
    - (5) Computer systems software support.
    - (6) Planning and security relating to information technology devices.
    - (7) Data management consultation.
    - (8) Information technology education and consulting.
    - (9) Information technology planning and standards.
    - (10) Establishment of local area network and workstation management standards.

4. “Infrastructure services” includes all of the following:

- a. Data centers used to support mainframe and other computers and their associated components including servers, information networks, storage systems, redundant or backup power systems, redundant data communications connections, environmental controls, and security devices.
- b. Servers, mainframes, or other centralized processing systems.
- c. Storage systems, including but not limited to disk, tape, optical, and other structured repositories for storing digital information.
- d. Computer networks commonly referred to as local area networks.
- e. Network services, including equipment and software which support local area networks, campus area networks, wide area networks, and metro area networks. Network services also include data network services such as routers, switches, firewalls, virtual private networks, intrusion detection systems, access control, internet protocol load balancers, event logging and correlation, and content caching. Network services do not include services provided by the Iowa communications network pursuant to chapter 8D or by the public broadcasting division of the department of education.
- f. Groupware applications used to facilitate collaboration, communication, and workflow, including electronic mail, directory services, calendaring and scheduling, and imaging systems.
- g. Information technology help desk services.
- h. Cyber security functions and equipment.
- i. Digital printing and printing procurement services.
- j. Data warehouses, including services that assist in managing and locating digital information.
- k. Disaster recovery technology and services.
- l. Other similar or related services as determined by the chief information officer.

...

7. “Value-added services” means services that offer or provide unique, special, or enhanced value, benefits, or features to the customer or user including, but not limited to, services in which information technology is specially designed, modified, or adapted to meet the special or requested needs of the user or customer; services involving the delivery, provision, or transmission of information or data that require or involve additional processing, formatting, enhancement, compilation or security; services that

provide the customer or user with enhanced accessibility, security or convenience; research and development services; and services that are provided to support technological or statutory requirements imposed on participating agencies and other governmental entities, businesses, and the public.

Iowa Code § 8A.201(1)-(4), (7) (emphasis added).

The legislature's definition of "information technology" in this part of the Iowa Code is very broad. The statute includes both products and services, or, more specifically, "information technology devices," "information technology services," "infrastructure services," and "value-added services," within the umbrella of the term "information technology." This broad definition is consistent with the common meaning of the term "technology" that includes the tangible tools and the intangible knowledge and methods used to properly utilize the tools.

Section 298.3(1) includes the broad term "technology" as opposed to the narrower phrase "information technology" which is used in Section 8A.201. Section 298.3(1)(c) is not limited to just "information technology" but rather includes all technology purchased by a school district for any other purpose (such as telephone and communication technology, building environmental technology, business services technology, food service technology, student transportation technology, assistive technology for individuals with disabilities, and the like). Information technology is a subset of technology in general. It makes no sense to interpret the broader term more narrowly than the subset. At a minimum, the Department must interpret "technology" as that term is used in section 298.3 as including all the parts of "information technology" in section 8A.201. Therefore, section 298.3(1) must authorize the expenditure of PPEL funds for

“technology devices,” “technology services,” “infrastructure services,” and “value-added services.”

**5. Technology” must be interpreted broadly so as to remain flexible to meet the changing nature of technology.**

In the last twenty years, the concept of “technology” as an educational and business tool has undergone an ever-expanding revolution. Technology is no longer limited to large, immovable boxes that must be hard-wired to a central system for access to power, software, and memory. Technology is moving from the machine to “the cloud.” Instructional technology is no longer limited to certain educational programs for advanced students in the last years of high school. Today, technology is ubiquitous. Technology is now unplugged and wireless, portable, and more interconnected than ever. Technology comes in the form of devices, services, and systems that are big or small, fixed or movable, and capable of running multiple complex software and communication programs simultaneously, independently, and invisibly.

“Technology” is now an indispensable tool and, indeed, is a subject of study in and of itself. *See* Iowa Code §§ 256.7(26)(a) (including technology literacy in the core curriculum); 258.4(8) (requiring the director of the department of education to include new and emerging technologies in the curriculum of approved vocational programs); 272.25(6) (requiring that educator preparation programs include instruction in the use of electronic technology for classroom and instructional purposes).

Attempting to determine a narrow, static definition of “technology” is a fool’s errand. By its very nature, “technology” is a dynamic, moving target that escapes precise

definition. Therefore, the Department must interpret the meaning of “technology” in Iowa Code section 298.3(1)(c) in such a way that it will be flexible enough to meet the changing nature of technology. Any other interpretation will become obsolete the day it is rendered.

**B. The meaning of “unit” includes more than a single object.**

The next task of the Department is to determine the meaning of the term “unit.”

As with “technology,” the Department must give the term “unit” its full definition.

**1. The dictionary definition of “unit” includes an item considered a whole in calculation and serving a particular function.**

As discussed above, there is no definition of “single unit of technology” in either Iowa Code Section 298.3 or in the administrative rules.

Where there is no statutory definition of a word used in a statute, a dictionary should be consulted to determine the ordinary meanings of the words used by the legislature. *Evans*, 671 N.W.2d at 724. “Unit” as used in the common English language is defined by one dictionary to include “a single quantity regarded as a whole in calculation” and “a piece or complex of apparatus serving to perform one particular function.” Merriam-Webster Online Dictionary, at <http://www.merriam-webster.com/dictionary/unit> (last visited Mar. 30, 2011). Another dictionary defines “unit” to include “a single complete product of the type that a business sells.” Cambridge Dictionaries Online, at [http://dictionary.cambridge.org/dictionary/british/unit\\_1](http://dictionary.cambridge.org/dictionary/british/unit_1) (last visited March 30, 2011). Still another dictionary defines “unit” to include “component or assembly of components: a component or assembly of components that performs a

specific function.” MSN Encarta Online Dictionary, at <http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?lextype=3&search=unit> (last visited March 30, 2011).

Under these definitions, it is clear that a “unit” is more than small part or fragment, but something that is considered to be a whole in calculation and with respect to a particular function. By definition then, “unit” as used in Iowa Code section 298.3(1)(c) must be determined by reference to the particular technology purchase or lease at hand and the elements necessary to make the technology as a whole deliver the performance expected and for which it was designed.

**2. Iowa law, under the UCC, defines “unit” broadly.**

A broad interpretation of “unit” is reinforced by Iowa law. The Iowa Uniform Commercial Code defines “commercial unit” as

“such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole.”

Iowa Code § 554.2105(6). There is also a similar definition relating to leases, which states a “commercial unit” is

“such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.”

Iowa Code § 554.13103(1)(c).

The legislature's definitions of "commercial unit" are conclusive as to how the Department must interpret "unit" in Iowa Code section 298.3(1)(c). The purchase, lease, or lease-purchase of a "single unit of technology" by a school district is, of course, a commercial transaction. A computer technology vendor may design and sell to a school district a turnkey program for implementing a 1:1 laptop initiative. In doing so, the vendor will be engaged in a commercial transaction with the school district under the law in the form of the Uniform Commercial Code. The UCC will consider the transaction as one involving a single commercial unit. It makes no sense for the Department or the State Auditor to consider that same transaction as involving something other than one single unit for purposes of section 298.3(1). Such a contradiction would be absurd.

Specifically, when school districts plan to implement a 1:1 laptop initiative for all students and teachers, the "unit" includes all those components that make the initiative successful including not only the laptop computers themselves, but also the peripherals and accessories that allow for optimal use of the computers by students and teachers; the training and support of the vendor or manufacturer that allow students and teachers to make the most use of the products; the installation of infrastructure, such as wiring and wireless routers necessary to support the equipment; and the sustained protection in the form of warranties and technical support to ensure the system remains functional during the life expectancy of the program.

The definitions of "commercial unit" are broad, and allow for the reality of the marketplace to determine what is a unit and what is not. Technology purchases which are regarded as a single whole for purposes of sale or lease and which are designed to go



together are a “unit.” The Department simply cannot impose any further restrictions on this meaning of “unit” – to do so would arbitrarily ignore the meaning of the term as determined by the legislature and ignore the reality of the commercial transaction taking place.

#### **IV. The Proper Interpretation of Iowa Code Section 298.3(1)(c)**

The above analyses of the meaning of the terms “technology” and “unit” are critical to determining the meaning of the phrase “single unit of technology” as used in Iowa Code Section 298.3(1)(c).

##### **A. The phrase “single unit of equipment or technology” includes devices, programs, and services intended to function together as a technology system**

As discussed above, the Department is required to interpret the meaning of “technology” to include both the tangible components and intangible components related to the proper functioning of a technology purchase. In addition, the Department is required to interpret the meaning of “unit” to include a technology purchase which is regarded as a single whole and is designed to function as a unit. Therefore, the Department must interpret the meaning of the phrase “single unit of technology” as used in Iowa Code Section 298.3(1)(c) to include a technology purchase which is regarded as a single whole and is designed and intended to function as a unit and which consists of both tangible and intangible components related to the proper functioning of the technology purchase.

This definition of a “single unit of technology” must encompass any given technology or technology system purchased by a school district. If the Department and

the State Auditor artificially reduced technology purchases to their most basic elements, judging a product to be a unit when it is merely “operational,” the purposes of the law and the efforts of School District’s will be frustrated to the point of elimination. To be of value to a school district, the elements must perform together in the systemic way intended by the district.

With respect to the acquisition of a computer system by a school district, such as a 1:1 laptop initiative system, a “single unit of technology” must include the hardware components and peripherals necessary for them to effectively perform the tasks for which they are purchased. For example, if a district intends for its laptop computers to be used as an educational communication device involving video recording and exchange (such as through use of electronic meeting tools such as Skype, or through creation of video projects for class), then video recording capability should be considered a part of the “single unit of technology.” If the technology is intended to function as a portable device, such as a laptop, then the “single unit of technology” should include those items reasonably necessary to make the laptop transportable in a safe manner. A laptop computer that cannot be safely transported or is damaged in transit is of no value to the student, the district, or the taxpayers. A protective case or sleeve would thus be a reasonable part of the “single unit of technology.”

In addition, a “single unit of technology” in the acquisition of a computer system must not only include the primary operating system for the computer, but also the software and other programs that will allow the computer to interact with the district’s server/other computers, software that has functional use in the various education

programs offered by the district, software that has functional use for district accounting and other business practices, and software that allows for communications, recording of images and sounds, and publishing, all as necessary for the effective performance of the intended functions for which the computer is purchased.

Finally, a “single unit of technology” in the acquisition of a computer system must include other items related to the proper operation and functioning of the system, such as installation services, reasonable warranties or other asset protection features to protect the district’s technology purchase, and sufficient training to put the technology purchase into effective service.

The Department must, in view of the meaning of a “single unit of equipment or technology” as outlined above, construe such statutory phrase to include devices, programs, and services intended to function together as a technology system, including computer systems like the 1:1 laptop initiative system.

**B. “Single unit of technology” is further defined by the marketplace and the purchase of purposeful units of technology by school districts**

As noted above, the meaning of the phrase “single unit of technology” as used in Iowa Code Section 298.3(1)(c) is guided by the marketplace. The marketplace related to technology continually evolves based on the most recent developments. The meanings of the terms “technology” and “unit” are updated on a day-by-day basis by reference to the marketplace. The Department’s interpretation of a “single unit of equipment or technology” must not only be informed by the current definitions of these terms as outlined above, but also must be sufficiently flexible so as to accommodate the ever-

changing technology market and not unduly restrict a school district's authority to obtain a functional "single unit of technology" using PPEL funds.

Technology has an undisputable, absolutely necessary place in even a minimally adequate education. Technology enhances classroom instruction by displaying content through presentations that blend both the visual and auditory styles of learning.

Technology allows access to research resources that could never be duplicated in a school library – technology replaces or enhances other printed materials and is used to retrieve photos and graphics, as well as produce photos or graphics. Technology in the form of a laptop computer may be an electronic textbook, or it may be a virtual printing press and publishing company if it is also part of a larger network or communications system.

Technology in the form of a laptop computer not only puts a personal movie theater in a student's hands, for example, but also provides the student with a personal movie studio for the production of films. If it is part of a larger system, the laptop may also connect the same student to a movie archive and a library of resources on film history, the film industry, and a fuller understanding of the "motion pictures arts and sciences."

Technology is a business tool and an educational tool that helps students and staff to be more organized, and therefore more productive. It allows communication among staff, parents, and students for a more collaborative educational environment. It can be used to allow instant access and direct audio and visual communication between students and persons anywhere on Earth (and sometimes between students and persons traveling in Earth's orbit).

The role of technology in students' and teachers' everyday lives has become more embedded and more complex. Iowa Code section 298.3(1)(c) should be interpreted in light of the growing role that technology plays in education. This means that a "single unit of technology" must be more than merely "operational," in that it can be turned on and used to perform the most basic functions. Technology is not desirable because of the minimum things that it can do – it is desirable because of the multitude of tasks that it can perform. The role of technology and the fast pace of technology change dictates that school districts invest in technology that is capable of performing the widest variety of tasks and that is capable of adaptation as advances are made.

IASB is aware of a January 27, 2011 guidance letter from the Department to Stephen Avery, which addresses the expenditure of PPEL funds on software as part of a technology acquisition. In that letter, the Department advised that while the initial license for the computer's operating system is an appropriate PPEL expense, the initial license for all other software must come out of the General Fund. Respectfully, IASB views this advice as an overly restrictive interpretation of Iowa Code § 298.3(1)(c), to the point of defeating the intentions of the law and causing harm to educational programs and activities in the state. The Department's initial interpretation makes no sense from either a statutory or educational standpoint.

History in other industries proves the folly of a narrow construction of Iowa Code Section 298.3(1)(c). For example, in the automobile industry, manufacturers who originally offered very limited options and warranties have increased their offerings and their standard warranties on their products in order to keep up with and hopefully capture

a greater share of the market. Items such as radios, once only a luxury accessory, are now standard equipment. Such features now are not only accessible, they are the norm and considered to be fundamental to the design and function of the automobile.

Applied to this situation, these principles demonstrate that any ruling which would effectively lock school districts into a set definition as to what constitutes a “single unit of technology,” such as by attempting to define what elements are sufficiently related to hardware or hardware accessories, what software licenses are permissible, and what training or warranties are allowed to accompany a product in order to be a valid expenditure of PPEL funds, would not allow for the marketplace to determine what is provided as a part of the technology purchase. In addition, such restrictions would serve to unduly confine school districts’ authority to obtain a functional “single unit of technology” using PPEL funds. As the legislature recognized in former Chapter 295, the local school district is in the best position to determine what technology is needed and how it should be configured in order to meets those needs.

**C. Market conditions and specific facts should be examined on a case-by-case basis to determine what is and what is not a “single unit of technology”**

The State Auditor is obviously concerned about controlling for purchases or leases of technology or equipment that do not conform with the requirements of Section 298.3(1). This is a noble concern, but simplistic controls in the form of an overly restrictive, and easy to apply interpretation should not be implemented at the expense of the legislature’s intentions and the plain meaning of the law. Adequate controls can be

established by examining the specific facts and circumstances of each transaction, in light of the ends to be achieved and the market conditions at the time.

The concerns of the State Auditor in this matter resemble the concerns of the Auditor's office in judging compliance with the state competitive bid laws. In those cases, municipalities are required to adhere to competitive bid laws when public improvement projects exceed a certain dollar value. *See generally* Iowa Code Chapter 26 (2009). It is a violation of the competitive bid law to "unbundle" a project in order to drop below the dollar thresholds and avoid compliance with the law. *See e.g. Kunkle Water & Elec., Inc. v. City of Prescott*, 347 N.W.2d 648 (Iowa 1984) (section requiring competitive bidding requires an estimate of the total cost of a project, and statute may not be avoided by fragmenting an open account that exceeds the bidding limitation in order to produce a number of smaller contracts, each of which would be below the bidding limitation); *see also Horrabin Paving Co. v. City of Creston*, 262 N.W. 480, 221 Iowa 1237 (1935). Each case of possible noncompliance under the competitive bid law must be evaluated on its own merits.

A similar process can and should be used for evaluating compliance with the thresholds and conditions under Section 298.3(1). Each case is fact specific. If specific circumstances and market conditions at the time indicate a school district may be "bundling" (as opposed to "unbundling") products and services or otherwise manipulating a lease or purchase in order to avoid compliance with Section 298.3(1), then enforcement action may be necessary. Each case will depend on the technology or equipment involved, and each case will depend on the nature of the "unit" being

purchased or leased, as that term is defined in the uniform commercial code. Any given technology purchase or lease by a school district may be covered by the statute, but those items which are not reasonably considered part of the unit may not be included. Such assessments are not subject to any general rule but instead must be made on a case-by-case basis.

**V. Any tax-exempt financing issues under the federal Internal Revenue Code relating to technology are separate and distinct from interpreting Iowa Code section 298.3(1).**

The discussion above relates to the use of PPEL funds to purchase or lease technology or equipment and the discussion assumes, for purposes of the questions presented to the Department that PPEL funds would be used in cash transactions as opposed to debt. IASB recognizes school districts may issue various forms of tax-exempt debt to finance the purchase of technology, not just lease-purchase agreements.<sup>1</sup> Even though some of the items may be considered "single unit of technology" under Section 298.3(1) of the Iowa Code and payable from PPEL revenues, IASB does not advocate that this conclusion under the state Code automatically means that those same items may be financed on a tax-exempt basis under the Internal Revenue Code. That is another matter.

Under the Internal Revenue Code, 95% of tax-exempt bond proceeds must be used for "capital expenditures". Defining what is and what is not a "capital expenditure" for purposes of the Internal Revenue Code is not easy to summarize. Currently, the

---

<sup>1</sup> School district may issue a lease-purchase agreement pursuant to Iowa Code section 298.3, a PPEL Capital Loan Note pursuant to Iowa Code sections 298.2 and 297.36, a school infrastructure sales, services and use tax revenue bond pursuant to Iowa Code section 423E.5, or an equipment purchase note pursuant to Iowa Code section 279.48.



regulations provide that an amount must be capitalized if it adds to the value or substantially prolongs the useful life of the property, or if it adapts the property to a new or different use. Federal Regulation §1.150-1(b) defines capital expenditure as “any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under §1.150-2(c)) under general federal income tax principles. For example, costs incurred to acquire, construct, or improve land, buildings, and equipment are generally capital expenditures. Whether an expenditure is a capital expenditure is determined at the time the expenditure is paid with respect to the property. Future changes in law do not affect whether an expenditure is a capital expenditure.” Any cost that is not a capital expenditure, such as a current operating cost, is considered a “working capital expenditure”. *Treas. Reg. § 1.150-1(b)*.

The Regulation references "general federal income tax principles" in defining capital expenditures. This is challenging because most general principles of federal income tax law do not apply directly to school districts. For most taxpayers, the question is whether a particular expense is deductible from income or must instead be capitalized, and most of the guidance comes from IRS rulings and cases arising in that context.

This guidance suggests that any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate are capital expenditures. Additionally, amounts paid to add to the value, or substantially prolong the useful life of property owned by the taxpayer, such as plants or equipment, or to adapt property to a new or different use, *but not for incidental repairs*

*and maintenance of property*, are also capital expenditures. Examples provided in the Regulations as capital expenditures also include "the cost of acquisition, construction, or erection of buildings, machinery and equipment, furniture and fixtures, and similar property having a useful life substantially beyond the taxable year, and amounts expended for architectural services (emphasis added)." Case law provides that if improvements were made to 'put' the particular capital asset in efficient operating condition, then they usually are capital in nature. If, however, they were made to 'keep' the asset in efficient operating condition, then they may instead be repairs and thus deductible. Also, if costs are incurred as part of a 'general plan' to rehabilitate, improve, alter, or modernize property, they ordinarily must be capitalized.<sup>2</sup>

The tax implications discussed above are subject to federal tax law and policy. These issues only arise relative to tax exempt debt. The purchase of technology using PPEL funds may occur in cash transactions that are separate and distinct from debt-financed transactions. Therefore, the Department's interpretation of Section 298.3(1) is an important matter of state law, and should not necessarily be influenced by these federal tax issues.

---

<sup>2</sup> Proposed regulations issued in 2006 would modify the current regulations which govern capitalizing the cost of tangible property. New rules are set forth to determine whether there has been a material increase in value (including adapting property to a new or different use) and to determine whether there has been a restoration of property (the useful life rules).

The proposed regulations provide that the aggregate of related amounts paid to improve property must be capitalized and also provide a distinction between capital improvements and deductible repairs as whether amounts were paid to put the property in ordinarily efficient operating condition or to keep the property in ordinarily efficient operating condition, which is the concept currently applied in case law. The proposed regulations take the position that otherwise deductible repair costs shall be capitalized if they are made as part of an improvement and the repair costs directly benefit or are incurred by reason of the improvement. On the other hand, if those repairs do not directly benefit or are not incurred by reason of the improvement, those repairs are not required to be capitalized.

## **VI. Conclusion**

IASB urges the Department to interpret the phrase “single unit of equipment or technology” in Iowa Code Section 298.3(1)(c) in a broad and flexible manner. The interpretation should allow school districts to use PPEL funds to obtain technology that is not just operational, but is capable of performing all of the educational and business functions for which it is intended. The Department must, in view of the meaning of a “single unit of equipment or technology” as outlined above, construe the statutory phrase to include tangible devices and intangible information, programs, and services intended to function together as technology.

IASB recognizes that such a standard is not subject to precise and permanent definition, but the nature of technology itself is not subject to precise and permanent definitions. Technology is advancing at an astounding rate, and Iowa Code Section 298.3(1)(c) should be interpreted in light of that constant change. Districts should be allowed to define what they would like their technology purchases to do, and obtain technology that is configured in a way perform those functions effectively.

IASB cautions against any narrow interpretation of the statute that covers only the tangible device or looks only at the most basic elements necessary for operation of the technology, thereby unnecessarily limiting a district’s ability to negotiate for and receive educational and business tools that serve students and teachers and the interests of

education. "In the end, the object of . . . inquiry is to seek a result that will advance, rather than defeat, the statute's purpose." *Rolfe State Bank*, \_\_\_ N.W.2d at \_\_, WL 480685 (Iowa 2011).



Ronald L. Peeler  
Andrew J. Bracken  
Elizabeth A. Grob  
Kristy M. Latta

AHLERS & COONEY, P.C.  
100 Court Avenue, Suite 600  
Des Moines, Iowa 50309

Telephone: (515) 243-7611

Facsimile: (515) 243-2149

E-mail: [rpeeler@ahlerslaw.com](mailto:rpeeler@ahlerslaw.com)

[dbracken@ahlerslaw.com](mailto:dbracken@ahlerslaw.com)

[bgrob@ahlerslaw.com](mailto:bgrob@ahlerslaw.com)

[klatta@ahlerslaw.com](mailto:klatta@ahlerslaw.com)

ATTORNEYS FOR IASB

Original to:  
Carol Greta, Attorney  
Iowa Department of Education  
Grimes State Office Building  
Des Moines, IA 50319-0146

# 688735.1



*UEN Statement March 24, 2011*

## **Declaratory Ruling Request: PPEL and Technology**

The UEN is dedicated to the needs of students, in preparing them for success in 21<sup>st</sup> Century work and life. As such, the UEN encourages the Iowa Department of Education to go beyond the thinking of a physical computer or 1:1 laptop initiative in defining allowable use of PPEL funding for technology procurement; the concept of “technology” in *Iowa Code 298.3* is broader than a computer and addresses what’s necessary for a computer to function in the instructional environment, including installation, software (initially installed and later procured, purchased or lease-purchased, including software licenses), warranties (initial and renewed), and hosted services.


- The original physical plant and equipment levy language was written at a time when the computer was a standalone, physical entity. Without the warranty, software and hosted services, a computer today is non-functional. New software or procurement of a software license is akin to reconstruction of a building when considering the facilities theory of the Physical Plant and Equipment Levy.
- As technology advances, the cost of hardware decreases and becomes less integral while the cost for software and cloud computing services increases and becomes more integral. These types of services are the norm and necessary for technology operations. The software and cloud computing services do not decrease the amount of teachers needed in the classroom, so funds must be made available outside the General Fund to pay for them.
- Iowa Code 298.3(1)(c) specifies a "unit of technology" but the statute itself does not define “unit”. The DE should consider the definition of “unit” reasonably to include a piece or a classroom or a system. All three are valid interpretations, each subject to the spending limitation. The \$500 limitation per unit further modifies the definition and in our belief, would apply to software and warranties subsequently purchased, leased or licensed from PPEL.
- The paragraph on property acquisition in the PPEL statute specifically includes the costs incidental to property acquisition. Since the word "technology" is broader than the concept of a computer, it could reasonably be construed to include the costs incidental to making the technology workable to be consistent with the rest of the statute, including the costs of installation, wiring, routers, and set up.


Two issues remain critical for legislative discussion. They are related to, but distinct from the issues that will be addressed by the DE in this request for declaratory ruling.

- 1) The issue of PPEL and property tax or income surtax equity is significant for some districts. It is worthy of additional consideration by the Legislature and must be rectified so all students may reap the benefits of access to and engagement in 21st century technology that propels learning. However, we do not believe that the DE's role is to narrowly interpret the meaning of technology in the PPEL statute as a way to prevent inequities. The urgency to rectify these inequities is larger than this discussion and must be addressed by the Legislature.
- 2) The statutory \$500 minimum completely rules out using these funds for newer technology, such as netbooks and some tablets, for instance. In the absence of other funds, this minimum perversely encourages districts to purchase equipment with more features than needed in order to get the cost up to \$500. The law should encourage rational efficiencies rather than a more expensive intellectual purchasing calculation.

**Dr. Lew Finch, Executive Director**  
1543 Bilgarie Ct NE  
Cedar Rapids, IA 52402  
[lfinch@mchsi.com](mailto:lfinch@mchsi.com)  
319.329.0547 Cell

**Margaret Buckton, Buckton Consulting**  
4685 Merle Hay Road, Suite 209  
Des Moines, IA 50322  
[Margaret.m.buckton@gmail.com](mailto:Margaret.m.buckton@gmail.com)  
515-201-3755 Cell


	<b>General Technics Industrial Rackmount Computers</b>						
	<b>1-800-GT-Sale-8</b>	<a href="#">Accessories</a>	<a href="#">Power Supply</a>	<a href="#">What's New</a>	<a href="#">About GT</a>	<a href="#">Search</a>	<a href="#">Configurator</a>
	<a href="#">Rack Chassis</a>	<a href="#">Chassis Matrix</a>	<a href="#">Custom PCs</a>	<a href="#">Contact</a>	<a href="#">Prices</a>	<a href="#">Shopping Cart</a>	



General Technics  
**RhinoBook**

- ▶ **Drop Resistant**  
Magnesium alloy case 20 times stronger than ABS plastic
- ▶ **Spill Resistant**  
Sealed membrane keeps liquids and dust out
- ▶ **Shock Resistant**  
Impact absorbing design protects LED and hard drive

**Built to survive the unexpected.**



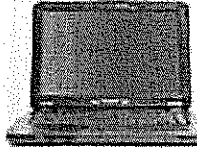
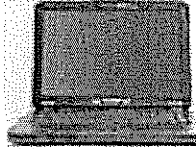

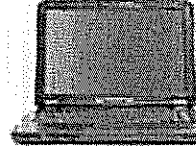
[Overview](#)
[Specifications](#)
[Why RhinoBook?](#)
[Lab Tests](#)
[Images](#)
[Downloads](#)

**Buy**

## Choose Your RhinoBook™

### Custom Built and Tested:

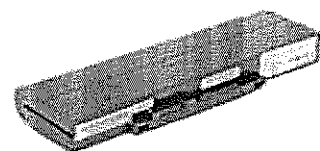
All RhinoBooks™ are shipped fully assembled and tested with OS installed. RhinoBooks™ also include a sturdy, lightweight, padded carrying bag at no additional cost. Choose your configuration of CPU, memory, and hard drive below. All parts and repairs are covered by a limited warranty for 1 year. Extended warranties and additional accessories are available below. For more information or to customize your configuration, please give us a call, and we'd be happy to help you.

RhinoBook™ Model Number:				
	<b>RB300</b>	<b>RB310</b>	<b>RB320</b>	<b>RB330</b>
Drop Protection:	Yes	Yes	Yes	Yes
Shock and Vibration Protection:	Yes	Yes	Yes	Yes
Spill Protection:	Yes	Yes	Yes	Yes
Dust Resistant:	Yes	Yes	Yes	Yes
Screen Size:	14.1"	14.1"	14.1"	14.1"
Optical Drive:	Super-Multi DVD-RW Dual Layer	Super-Multi DVD-RW Dual Layer	Super-Multi DVD-RW Dual Layer	Super-Multi DVD-RW Dual Layer

CPU Type:	Intel® Core™2 Duo Mobile Processor	Intel® Core™2 Duo Mobile Processor	Intel® Core™2 Duo Mobile Processor	Intel® Core™2 Duo Mobile Processor
Processor Number:	Intel® T9400	Intel® T9600	Intel® T9600	Intel® T9600
CPU Speed:	2.53GHz	2.8GHz	2.8GHz	2.8GHz
L2 Cache:	6MB	6MB	6MB	6MB
Memory:	4GB DDR2-800	4GB DDR2-800	4GB DDR2-800	4GB DDR2-800
Hard Drive, 2.5in SATA:	WD Scorpio Black 7200 RPM	WD Scorpio Black 7200 RPM	Intel® X25-M SSD Gen2	Intel® X25-M SSD Gen2 <sup>1</sup>
Hard Drive Capacity:	250GB	320GB	80GB <sup>1</sup>	160GB <sup>1</sup>
Installed Operating System:	Microsoft Windows 7 Home Premium, 64-Bit	Microsoft Windows 7 Home Premium, 64-Bit	Microsoft Windows 7 Home Premium, 64-Bit	Microsoft Windows 7 Home Premium, 64-Bit
Accessories Included:	15.4" Padded Carrying Bag	15.4" Padded Carrying Bag	15.4" Padded Carrying Bag	15.4" Padded Carrying Bag
Limited Warranty on Parts and Labor:	1 Year	1 Year	1 Year	1 Year
Price:	\$1,749.00	\$1,899.00	\$2,075.00	\$2,349.00
Add to Cart:	<a href="#">Buy</a>	<a href="#">Buy</a>	<a href="#">Buy</a>	<a href="#">Buy</a>

<sup>1</sup> Intel® Solid State Drives (SSDs) offer unmatched speed and reliability. Because SSDs have no moving parts, they can endure much higher shock and vibration abuse before failure. Higher capacity SSDs are available. Please give us a call for more information.

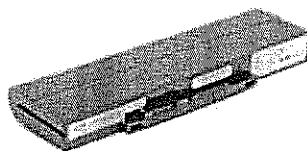
## RhinoBook™ Accessories and Software:



### MC600 6-Cell Replacement Battery Pack

This is the same 6-cell lithium ion battery pack that comes with the RhinoBook™. It has a 4.4Ah capacity for a typical life of about 5 hours in the RhinoBook™ RB300 series. Actual life will vary depending upon usage and power settings.

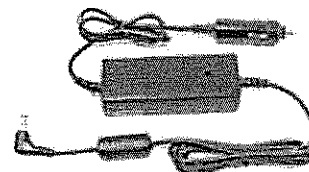
\$97.00 [Buy](#)



### MC601 9-Cell Replacement Battery Pack

For a longer battery life of about 8 hours, you can upgrade to this 9-cell, 6.6Ah battery pack. Note: This photo shows the 6-cell battery. The 9-cell version is slightly deeper, and will protrude out the back of the RhinoBook™ about 1".

\$133.00 [Buy](#)



### MC602 Automobile Power Adapter

For power on-the-go, be sure to get one of these mobile power adapters. It plugs into any standard 12-Volt "cigarette lighter" style outlet to power or recharge your RhinoBook™ when away from the home or office.

\$55.00 [Buy](#)

## Technology & Declaratory Order FAQs

**1. Question:** What is a bundle?

**Answer:** A bundle, as defined for the Declaratory Order on page 93, means a collection of items from the same vendor related to a specific purchase. A district may purchase components of technology from multiple vendors, but may only bundle those items purchased from the same vendor.

**2. Question:** Is a bundle the same thing as a group purchase?

**Answer:** No. A group purchase is multiple items/units of the same or substantially similar items; i.e., 50 desks or 50 desks and 50 chairs, or 50 desk and chair combinations. A bundle consists of relatively dissimilar items that function together as a unit. “Bundle” is a term used with technology purchasing, but is actually used in similar ways for other costs such as remodeling—remodeling could include labor, supplies, purchased services, and equipment within the meaning of “remodeling.” Within technology, a bundle probably will include supplies, equipment, and purchased services.

**3. Question:** How do school districts or AEAs account for, insure, or have audited a bundled technology unit?

**Answer:** School finance experts were involved in writing the Declaratory Order to ensure that districts (or AEAs) would be able to continue to meet all of their fiscal obligations while being able to expand purchasing opportunities and funding opportunities by bundling costs for purchasing purposes. The Declaratory Order on page 93 states that *“bundling is allowed to the extent that all expenditures are within the meaning of technology as discussed in this declaratory order, are allowed from a single fund, and provide sufficient information to account for the expenditures properly...Nothing about this declaratory order relieves a school district of its obligation to account for all items appropriately and in more contexts than just the fund from which the expenditure was appropriate.”*

Bundling is a purchasing concept. For accounting purposes, the district will continue to follow the correct Uniform Financial Accounting coding; for example, functions and objects for accounting and for reporting; will continue to tag/identify each unit of equipment for inventory purposes; and will continue to handle insuring equipment and supplies in the same way it has negotiated with its agent for other equipment and supplies.

**4. Question:** How can an AEA bundle technology for purchasing when it does not have a PPEL Fund/Levy?

**Answer:** Bundling is a purchasing concept and is not limited to the PPEL fund. Each “bundle” must be appropriate to the single fund from which it will be purchased, but AEAs could bundle technology in the General Fund. Districts could bundle technology in the General Fund, in the PPEL fund, or possibly in the SAVE/SILO fund or PERL as long as technology is an allowable expenditure



from that fund and each bundle is separated by the fund that is paying for the purchase.

- 5. Question:** When the district records the asset, does it bundle the entire 1:1 purchase as a single asset or does it divide the total cost by the number of units?  
**Answer:** Recall that a bundle consists of relatively dissimilar items that function together as a unit purchased from the same vendor. Dividing the total cost by the number of functioning units might not be appropriate; for example, multiple laptops or electronic tablets might jointly use a single server, but the server is much more costly than the individual laptops or tablets. Dividing the cost evenly over the various items that made up the functioning unit would cause the server to be undervalued and the laptops/tablets to be overvalued. This would not work well for insurance purposes if the server were destroyed by a lightning strike, but all the laptops/tablets were unharmed.

Because the district would have disaggregated the bundle for recording the items in the accounting system by correct UFA coding, the district would have a more accurate basis for determining the unit cost working from the accounting side rather than the purchasing side. At that disaggregated level, it would be possible for the district to divide the cost of like items by the total cost that was disaggregated to those items. So the cost of the server would be different than the cost of the laptops/tablets, but the cost of each laptop/tablet might be identical to the cost of another laptop/tablet in the same bundle.

Each laptop/tablet will have a distinct serial number even if they have the same model number. Some districts will tag the laptops/tablets by that serial number with an individual cost in the inventory and/or insurance records and will also use that unique serial number to determine which laptop/tablet was assigned to each student/individual. Other districts will record the laptops/tablets as a group of a specific number of laptops/tablets purchased in a single bundle that are the same model and purchase date while keeping the serial numbers and student assignments in a separate subsidiary record. The method used by districts would be determined locally to meet the district's needs.

- 6. Question:** Is bundling the same thing as capitalization allowed by generally accepted accounting principles (GAAP)?  
**Answer:** No. Bundling is a purchasing concept that may include items that are not appropriate for capitalization under GAAP. Capitalization under GAAP is allowed for purposes of recording capital assets in a governmental fixed asset inventory or for the entity-wide statements in the audits or for recording capital assets in a proprietary fund and certain trust funds that use full accrual accounting. The latter (proprietary and certain trust funds) records depreciation expense annually on equipment, but governmental funds such as General Fund, PPEL fund, PERL fund, and SAVE/SILO fund record equipment expenditures by function and object.

7. **Question:** Some of the individual items that could be included in the purchase of bundled technology, such as the warranties, shoulder straps, and bags, would not meet the cost and criteria for capitalization as described in question 6. If the district included some of these otherwise non-capitalized items in the bundled price, does that violate GAAP regarding capitalized assets?

**Answer:** No. The fact that the district bundled costs for purchasing purposes does not change how the district will record assets. GAAP requires that capital/fixed assets be reported at historical cost including ancillary charges necessary to place the asset into its intended location and condition for use. Therefore, the cost of the capitalized asset could include warranties as well as shoulder straps and bags under GAAP, but would not include costs such as contracted technical services, for example. The Declaratory Order has not changed this GAAP guidance.

8. **Question:** The Declaratory Order states that *“we assume that most of the expenditures associated with the 1:1 laptop initiative are appropriate from PPEL unless it appears that a more appropriate fund exists from which to pay an expenditure.”* How does the Declaratory Order reconcile with Iowa Code and Iowa Administrative Code? For example, Iowa Code states that maintenance is not a PPEL expenditure in 298.3(1), paragraph “f” and in 298.3(4) states that PPEL shall not be expended for employee salaries or travel expenses, supplies, printing costs, or media services, etc. Iowa Administrative Code subrule 281--98.64(3) repeats these disallowed uses:

“Inappropriate expenditures in the PPEL fund include the following:

- a. Student construction.
- b. Salaries and benefits.
- c. Travel.
- d. Supplies.
- e. Facility, vehicle, or equipment maintenance.
- f. Printing costs or media services.
- g. Any other purpose not expressly authorized in the Iowa Code.”

**Answer:** The response is two-fold. One portion deals with the disallowed costs in 298.3(4) and the other portion deals with the definition of maintenance as used in 298.3(1).

A. Previous guidance given to districts regarding this issue in PPEL in 298.3(4) has stated that stand-alone costs included in the list of disallowed items (employee salaries or travel expenses, supplies, printing costs, or media services) would not be appropriate from PPEL. That same paragraph in Iowa Code goes on to state “or for any other purpose not expressly authorized in this section.” The guidance given to districts has said that those same items that are an integral part of an expressly allowed expenditure from PPEL were not intended to be disallowed by that paragraph. For example, general supplies would not be appropriate from PPEL, but supplies that are necessary for the purchase and improvement of grounds, construction of facilities, repairing, remodeling, energy conservation, and demolition would be

allowable from PPEL because those activities are specifically and expressly authorized in the Iowa Code section. The Declaratory Order has added “technology” to the list of activities where those costs from paragraph (4) are allowable when they are an integral part of technology.

- B. The term “maintenance” is used loosely to describe various activities. However, the law and court cases have a narrower definition of what is meant by that term. “Maintenance” and “repair” are separated, and each definition excludes the other. “Maintenance” in those cases means to cause to remain in a state of good repair; it includes cleaning, upkeep, preventative maintenance, keeping equipment in effective working condition and ready for daily use, minor repairs, replacing parts, inspecting for needed maintenance, preserving the existing state or condition, preventing a decline in the existing state or condition. Repair means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction. This is the definition intended in section 298.3(1).

What is commonly called “maintenance” related to technology is not what the definition in law or court cases has meant; instead, districts are actually referring to a license renewal fee; technical assistance support contract; Internet subscriptions, licenses and fees; or cable or satellite services, etc. That is the meaning of maintenance from the laundry list in the Declaratory Order of potential items that fit within the definition of “technology.”

- 9. Question:** Would technology be a qualifying expenditure from SAVE/SILO?  
**Answer:** The law states that SAVE/SILO may be used for any purposes allowed in 298.3 (PPEL). Therefore, if the expenditure is allowable from PPEL and is allowed by the district's revenue purpose statement, it is allowable from SAVE/SILO (statewide sales tax).

- 10. Question:** Which items included in a technology bundle cannot be purchased from PPEL?  
**Answer:** Excluded items would include software that is educational or instructional and professional development of staff that does not train staff in the operation of the computers/technology (Declaratory Order, page 93).

Bundling is optional. The reason a district might consider bundling is to meet the \$500 threshold in the PPEL statute. Thus, all items in the bundle must be allowable under PPEL (meaning you can't include non-PPEL-covered items in a bundle being funded by PPEL).

- 11. Question:** Can a district pay for contracted technology services from PPEL?  
**Answer:** Yes, as long as the cost, whether stand alone or part of a bundle, meets the definition of technology in this Declaratory Order, meets the \$500 per unit (stand-alone unit or bundled technology unit, as applicable) cost threshold in

PPEL, and is in reality a license renewal fee; a technical assistance support contract; an Internet subscription, license, or fee; or a cable or satellite service.

**12. Question:** Can a district pay for subsequent or discrete contracted technology services or for extended warranties from PPEL?

**Answer:** Even if the contracted technology service or the extended warranty is not part of the initial bundled technology purchase, it may still qualify as a technology cost in its own standing if it meets the criteria listed in the answer to question 11.

**13. Question:** Does the answer to question 11 mean that a district must terminate its employee and then contract the services with an outside provider in order to pay from PPEL?

**Answer:** Although the Declaratory Order intended to expand purchasing and funding opportunities for districts, the question related to employee salary and benefits was not submitted, and therefore, the Declaratory Order did not contemplate nor deal with this question—it neither specifically included nor excluded employees from providing the technology services to his/her employing district.

There are concerns in terminating an employee such as reduced availability to students and staff members, potential union issues, loss of IPERS, benefits, etc. If a district wishes to pursue this, they would be well-advised to first consult legal counsel.

In addition, the individual would need to meet the IRS requirements for an independent contractor determined through an IRS form SS-8 ruling. It is the Department's understanding that the IRS intends to take a close and careful look at these (high risk) situations due to abuse.

Costs associated with contracted technology services should be expensed, not capitalized unless, of course, the costs meet the capitalization criteria of GASB 51 (intangible assets) and the district's capitalization threshold for entity-wide statements.

**14. Question:** Software is a supply. Can it be expensed from PPEL?

**Answer:** Even though a supply, software meets the definition of technology in the Declaratory Order. Software can be either a stand-alone technology purchase or part of the bundled cost with the acquisition of a technology unit. On page 93 of the Declaratory Order, the Department stated that the only software not eligible to be purchased from PPEL is software that is educational or instructional.

The costs associated with the software package will be coded as a supply; however, if the costs meet the capitalization criteria of GASB 51 (intangible assets) and the district's capitalization threshold, the costs may be capitalized for the entity-wide statement in the audit.

**15. Question:** Does the subject of the Declaratory Order and this FAQ apply to electronic tablets as well as laptops?

**Answer:** Smartphones, electronic tablets, and other personal computing devices are not significantly different than laptops for the purposes of the Declaratory Order or this FAQ. Smartphones and electronic tablets are designed to sync with and be backed upon other electronic devices; transferring files and printing is accomplished by some type of networking system or virtual storage that all devices can access, and additional applications may be necessary to perform functions needed by the district and its students, etc.; therefore, bundling and other discussions would apply.

**16. Question:** Our district uses a technology system/software to maintain our HVAC system. This purchased service/software monitors our building temperatures and functioning of our systems. Is this a technology cost that we can pay using PPEL funds? Can the HVAC system be considered “technology” so that maintenance is allowable from PPEL?

**Answer:** The HVAC system itself would be purchased under 298.3(1), paragraphs “b”, “f” or “g” but not under paragraph “c.” The Declaratory Order does not re-characterize expenditures. HVAC, without regard to cost, would be expended from PPEL under 298.3(1)”b” if a new facility or under 298.3(1)”f” if a replacement or major repair to the HVAC system. The latter expressly states that repair “does not include maintenance.”

Maintenance on the HVAC system would be payable from General Fund rather than PPEL; repair of the HVAC system could be expended from PPEL.

The purchase cost of the monitoring technology may be paid from PPEL if it qualifies as technology separate from the HVAC system itself and to the extent it meets the criteria listed in the answer to question 11.

**17. Question:** What procedures must the district follow to sell/dispose of laptops purchased from PPEL? Where are the proceeds deposited from the sale?

**Answer:** The district will follow the procedures required by Iowa Code section 297.22. This section requires that proceeds from the sale of personal property be receipted into the General Fund—it does not matter that the original cost was accounted for in the PPEL fund.

**18. Question:** When does this Declaratory Order go into effect?

**Answer:** This Declaratory Order was effective on the date it was issued, April 14, 2011, for the fiscal year 2010-2011.

**19. Question:** May a district change previous entries in its accounting records based on the broader definition of technology in the Declaratory Order?

**Answer:** Districts may make adjustments to fiscal year 2010-2011, but not to prior periods that are before July 1, 2010.

If districts make adjustments for previous transactions on or after July 1, 2010, and within the fiscal year, be sure that the entries are correcting general journal entries (reverse previous entries and enter again correctly) rather than recording them as transfers. Recording the adjustments as transfers improperly results in inflated revenues and inflated expenditures. Please check with Janice Evans ([janice.evans@iowa.gov](mailto:janice.evans@iowa.gov); 515/281-4740) on how to record the adjustments if you are not sure.

**20. Question:** Is Microsoft Office considered educational software that by Iowa Code must be purchased only from the General Fund?

**Answer:** If the district has determined that the students need the software to participate in class or to do homework for a class, then it is educational software and consequently not covered by PPEL. (If the district would allow the nonpublic school to use its nonpublic textbook money to purchase the software, then it is educational software. It is the same definition for purposes of Iowa Code.)

**21. Question:** May a district charge a technology fee to students? Are there limits on fees? Are waivers required? What about deposits? Do deposits have to be returned?

**Answer:** A technology fee is allowable as a textbook rental fee and would follow the same requirements. Fees must be based on actual costs. If a technology fee is charged to students, the district is saying that the technology is a textbook substitute; in which case the technology can only be purchased from the General Fund and not from PPEL. If a technology fee is charged, the waiver provisions must be honored.

If a deposit is charged to students, it must be a reasonable amount. The district should deposit the check, but hold the deposits in that account and not use the deposits to pay any expenditure, such as repair or maintenance. The amount of the deposit would be returned to the student when the computer/technology is returned to the district; however, the district may reduce the amount of the deposit that it returns to the student by the actual costs of damage inflicted by the student while the computer/technology was in his/her possession (or should have been in his/her possession). Refundable deposits are not subject to the free/reduced waiver provisions.

If the computer/technology is actually stolen and the theft reported, it is a theft of school property and is handled in the same way the district handles a theft from its computer lab.

The district should have a policy approved by its board on appropriate use, responsibilities, deposits, fees/fines, damage, and theft.

**22. Question:** What types of specific technology are permissive under PPEL or SAVE/SILO?

**Answer:** Although the Department appreciates that the list of potential items that might qualify as technology is very long, it believes that the districts can make these determinations locally using the guidance provided in the Declaratory Order and this FAQ. The district administrative team, with or without its auditor, can make this determination by considering the following basic questions provided throughout this FAQ:

- Does the cost meet the definition of “technology” within the Declaratory Order? (*See question 11*).
- Is the technology a stand-alone unit or does it qualify to be considered a bundled technology unit? (*See questions 1 and 2*).
- Is the cost limited to the General Fund by Iowa Code? (*See question 10*.)
- Is the cost otherwise excluded from PPEL? (*See question 8*.)
- Does the cost meet the \$500 threshold required in PPEL, for the stand-alone technology unit or the bundled technology unit, as appropriate? (*See question 11*.)
- Is the cost considered “maintenance” as defined in Iowa Code/court cases, and therefore, disallowed from PPEL? (*See question 8 “B”*.)