

1 **POLICY:** **Federal Funding for Special Education**

2 **COMMITTEE:** **Education**

3 **TYPE:** **Draft**

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5 The nation's legislators support equal opportunity for all citizens and support the purposes and
6 spirit of the Education for All Handicapped Children Act of 1975. This law and its subsequent
7 amendments, including the Individuals with Disabilities Education Act (IDEA) of 1990 and
8 subsequent reauthorizations in 1997 and 2004 mandates that states provide a free and appropriate
9 education (FAPE) and procedural safeguards for all children with disabilities without regard to
10 costs incurred by the states and local school districts.

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12 States have enacted their own statutes and regulations to comply with federal laws and, in many
13 cases have gone beyond what is mandated by the federal government in providing services. State
14 and federal laws and regulations, combined with the extensive and increasingly complex case
15 law that has developed around this act, have made the practice of delivering services to students
16 with disabilities complex and costly for states and communities.

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18 The original federal special education law and its subsequent amendments include a provision
19 that authorizes the federal government to fund 40 percent of the average per pupil expenditures
20 (APPE) in K-12 nationwide, an estimate at the time of the excess cost for educating a special
21 education student that the federal government would bear. Since its enactment, the federal
22 government has appropriated funds at levels between 8 and 17% of APPE. The U.S. Department
23 of Education Budget Service estimates that FY 2010 appropriations of \$11 billion leave states

24 and localities \$16 billion under the 40% mark. Cumulative federal funding gaps since 1977 have
25 left states and localities with a \$261 billion unfunded federal mandate.

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27 Recent reports indicate that *actual spending* for special education services is 95% above APPE –
28 not 40%. In effect, this means that the federal government is paying less than half of what was
29 promised (17 % of the 40% of APPE promised), which is half of what it costs states and
30 localities to comply with the law (95% of APPE).

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32 In a system already strapped for funds, federal statutory and regulatory changes further erode
33 support for special education services by passing procedural and compliance costs to the states.

34 The latest IDEA reauthorization enacted in 2005 added 20 “performance indicators” of which
35 nearly half –according to the Department of Education--are indicators of compliance with federal
36 law-not measures of student achievement.

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38 For 32 years the Congress has put off meeting its commitments to special education funding. In
39 the 2004 reauthorization, the Congress attempted to address this issue by setting voluntary
40 spending targets in a glide path to full funding by 2011. The targets were ignored in the first
41 cycle of appropriations after the reauthorization and in subsequent budget cycles.

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43 NCSL strongly urges the Congress to honor its original commitment and fully fund 40 percent
44 of the Average Per Pupil expenditures (APPE) for Part B services as authorized by the Act and to
45 move Part B allotments for special education from the discretionary side to the mandatory side of
46 the federal budget.