

1 **POLICY: FEDERAL FUNDING FOR SPECIAL EDUCATION**

2 **COMMITTEE: EDUCATION**

3 **TYPE: POLICY DIRECTIVE DRAFT**

4 The nation's legislators support equal opportunity for all citizens and support the  
5 purposes and spirit of the Education for All Handicapped Children Act of 1975. This law  
6 and its subsequent amendments mandate that states provide a free and appropriate  
7 education (FAPE) and procedural safeguards for all children with disabilities without  
8 regard to costs incurred by the states and local school districts.

9 The original federal special education law and its subsequent amendments include a  
10 provision that authorizes the federal government to fund 40 percent of the average per  
11 pupil expenditures (APPE) in K-12 nationwide, an estimate at the time of the excess  
12 cost for educating a special education student that the federal government would bear.  
13 Since its enactment, the federal government has appropriated funds at levels between 8  
14 and 17 percent of APPE. Congress attempted to address this issue in the  
15 reauthorization of the Individuals with Disabilities Education Act in 2004 by setting  
16 voluntary spending targets in a "glide path" to full funding by 2011. However, Congress  
17 failed to appropriate the authorized level of funds, and states received \$57.1 billion less  
18 than they would have had if Congress had kept its commitment.

19 Federal support for special education is critical. State and federal laws and regulation,  
20 combine with the extensive and increasingly complex case law that has developed  
21 around special education, have made the practice of delivering services to students with

22 disabilities complex and costly for states and communities. In fact, recent reports  
23 indicate that actual spending for special education services is 95 percent above APPE –  
24 not 40 percent.

25 Given these circumstances, NCSL strongly urges Congress to appropriate the moneys  
26 to fully fund the 40 percent of Average Per Pupil expenditures (APPE) statutorily  
27 authorized in Part B of IDEA. One way for Congress to strengthen its commitment to  
28 special education would be to move the Part B allotments for special education from the  
29 discretionary to the mandatory side of the federal budget.

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