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Individuals with Disabilities Education Act (IDEA): Issues Regarding "Full Funding" of Part B Grants to States

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Individuals with Disabilities Education Act (IDEA): Issues Regarding "Full Funding" of Part B Grants to States

Summary

The Individuals with Disabilities Education Act (IDEA) is the major federal statute that supports special education and related services for children with disabilities. As a condition of accepting IDEA funding, the Act requires that states and local educational agencies (LEAs) provide a free appropriate public education (FAPE) to each eligible child with a disability. Providing special education and related services can be expensive. When Congress enacted the predecessor legislation to IDEA in 1975, the assumption was that education for children with disabilities was, on average, twice as costly as education for nondisabled children. At that time, Congress authorized the federal government to pay up to 40% of each state's "excess cost" of educating children with disabilities. The federal share of the excess cost — sometimes termed the IDEA "full-funding" amount — is calculated by taking 40% of the national average per pupil expenditure (APPE) times the number of children served under the program in each state.

Although Congress in recent years has substantially increased IDEA funding (funding for Part B grants to states has more than doubled since FY1996), the current full-funding amount has never been achieved. As a result, some Members of Congress have pressed for the federal government to pay its "full share" of the costs of educating children with disabilities. Resolutions to this effect have been passed. Legislation has been proposed that would set specific authorization targets for achieving full funding in future years. Legislation has also been proposed that would make full funding mandatory.

This reports discusses some of the issues that could arise if full funding of IDEA were to be reached. For example, achieving full funding will require approximately $10 billion more than current Part B appropriations, and this amount is likely to grow substantially over time. Moreover, full funding could provide states and LEAs with incentives to "over identify" children with disabilities to maximize funding, which is an issue of congressional concern, although state and local administrators claim that increased funding is never an incentive for identifying disabilities.

In addition, full funding may produce funding inequities among states and LEAs. A reason for this is that full funding is based on a national average cost estimate while state costs are assumed to differ substantially. Similarly, an average cost estimate does not recognize that some types of disabilities are much more expensive to address than others, and the distribution of children with severe (and more expensive) disabilities may cluster in some areas that have outstanding medical facilities or exemplary programs for specific disabilities. The determination and distribution of a full funding amount is likely to under-compensate states and LEAs with higher costs and over-compensate those with lower costs. The report, which will not be updated, concludes with possible additions or alternatives to full funding, that might address congressional concerns.

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Overview

The Individuals with Disabilities Education Act (IDEA) is the major federal statute that supports special education and related services for children with disabilities. The IDEA statute has four parts:

- Part A contains general provisions.
- Part B authorizes two state grants programs: the so called "grants to states" program, which deals with special education for school-age children, and the preschool grants program.
- Part C authorizes a third state grants program for infants and toddlers.
- Part D authorizes various national programs, such as research, technical assistance, and dissemination.

Unless otherwise noted, this report deals with the Part B grants to states program, which is by far the largest part of IDEA, and any reference to IDEA or to Part B is meant to refer to that program.

As a condition of accepting IDEA Part B funding, the Act requires that states and local educational agencies (LEAs) provide a free appropriate public education (FAPE) to each eligible child with a disability. Providing special education and related services can be expensive. When Congress enacted the predecessor legislation to IDEA in 1975, the assumption was that education for children with disabilities was, on average, twice as costly as education for other children. At that time, Congress authorized the federal government to pay up to 40% of each state's "excess cost" of educating children with disabilities. That amount–sometimes termed the IDEA "full-funding" amount–is calculated by taking 40% of the national average per pupil expenditure (APPE) times the number of children served under the program in each state.

Although Congress in recent years has substantially increased IDEA funding (funding for Part B grants to states has more than doubled since FY1996), the current full-funding amount has never been approached.[1] As a result, some Members of Congress have pressed for the federal government to pay its "full share" of the costs

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[1]As noted later in this report, the authorized full-funding amount began at 5% of APPE and was raised in steps to 40% of APPE over several years. In the first 2 years of the authorization, full funding was achieved, but funding has never been close to 40% of APPE.

of educating children with disabilities. Resolutions to this effect have been passed. Legislation has been proposed that would set specific authorization targets for achieving full funding in future years. Legislation has also been proposed that would make full funding mandatory.

This report discusses some of the issues that would arise if full funding of IDEA were to be approached or achieved. This first section of the report provides general background on IDEA and on the "full funding" discussion. The report next describes how funds are currently distributed. The third section briefly reviews recent legislation aimed at providing increased or full funding. Following that, the report outlines possible policy issues if full funding were provided. The report concludes with some possible alternative legislative strategies that could be considered in lieu of full funding or as interim steps until full funding is provided.

Background on IDEA and "Full Funding"

As a condition of accepting IDEA funding, the Act requires that states and LEAs provide FAPE to each eligible child with a disability. The Act also requires the provision of related services (such as, transportation, physical therapy, psychological services, and counseling) that are necessary for children with disabilities to participate in and benefit from their public education experience. In addition, IDEA guarantees various rights to children and their parents. For example, parents must be members of the planning team for the individual educational program (IEP), which IDEA requires for each eligible child.

When Congress enacted the predecessor legislation to IDEA[2] in 1975, the assumption was that education for children with disabilities was, on average, twice as costly as education for other children. The report accompanying the House bill (H.R 7217), which became P.L. 94-142, illuminates congressional thinking at the time:

> It is well established that the average cost of educating handicapped children is well above the national per pupil average for all children as evidenced by the findings of the National Educational Finance Project ... which reported an average cost index among the various diagnostic categories of handicapping conditions of 1.9 above the average cost for nonhandicapped children. (H.Rept. 94-332, p. 12)

This average cost factor of 1.9 times the cost of educating nondisabled children apparently was rounded to 2.0 or twice as expensive. This is evidenced by a statement on the House floor by Representative Brademas during the debate on the House bill:

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[2]Federal special education legislation existed prior to 1975 — most notably the Education of the Handicapped Act (EHA). P.L. 94-142 (the Education for All Handicapped Children Act of 1975) substantially amended the EHA, creating the essential structure and principles of federal assistance to special education that are still reflected in current law. In 1990, the name of the Act was changed to Individuals with Disabilities Education Act (IDEA) by P.L. 101-476. Congress made extensive amendments to IDEA in 1997 (P.L. 105-17); however the basic characteristics of the Act resemble those first enacted in 1975.

> ...it costs more money to educate handicapped children. The best estimate we have is that generally speaking it costs twice as much to educate a handicapped child as it does a nonhandicapped child. (*Congressional Record*, House July 29, 1975, p. 25534)

As we shall see, this assumption is still reflected in current law.

The House report (H.Rept. 94-332) points out that federal funds are only for excess costs:

> ...monies must be directed toward those "excess cost" factors.... A local school district must determine its average annual per pupil expenditure for all children being served, and then apply the Federal dollars only to those additional cost factors for handicapped children beyond the average annual per pupil expenditure.[3] (p. 13)

Given an estimate of the average excess cost for educating children with disabilities, the Congress determined that the federal government should pay some share of this excess cost. The House-passed bill called for a maximum funding level that would pay 50% of the average excess cost. However, concern was expressed, both in report language and in floor debate on the bill, that aiming to pay a substantial proportion of the excess cost for educating these children was unrealistic and probably unattainable. For example, Representative Ashbrook contrasted FY1975 funding for special education of $100 million with estimates of $2.4 billion for FY1975 and $3.8 billion for FY1978 that full funding might cost (H.Rept 94-332, p. 23). Calling these funding levels "totally unrealistic," he went on to charge that the legislation represented an "empty promise" and "a giant shell game." (*Congressional Record*, House July 29, 1975, p. 25534-25535)

Presumably as a result of these and other concerns, the final Act reduced the federal maximum payment to 40% of the national APPE and phased in the maximum over a period of 5 years. A state's maximum authorized grant was the number of children ages 3 to 21 receiving special education in the state times:

- 5% of the national APPE for FY1977,
- 10% of APPE for FY1978,
- 20% of APPE for FY1979,
- 30% of APPE for FY1980, and

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[3]This may be the source of some confusion about the application of federal funds to the "excess cost" of educating children with disabilities. While LEAs may apply federal funds only to their excess costs for educating these children, the maximum federal share of 40% of the national average excess costs (i.e., 40% of the national APPE) is referenced only in the state funding formula provisions of the Act. Thus there would appear to be no intent, even at maximum funding levels, to fund any particular proportion of each individual LEA's excess costs for educating children with disabilities. Thus even if a state received its maximum authorized IDEA grant, there is no assurance that this would represent 40% of the excess cost for each LEA in that state.

- 40% of APPE for FY1981 and succeeding fiscal years.[4]

There continues to be a debate about whether Congress at that time meant the 40% funding level as a federal promise or commitment to fund this portion of special education costs or whether the 40% level was a goal to be worked toward. Debate in 1975 does not provide a clear answer to this question. Some advocates for the bill (such as Representative Brademas and Senator Williams) did use words such as "commitment" and "promise." For example, in the Senate debate on the conference report Senator Williams noted that the final compromise legislation would

> assure that our **promises** to handicapped children are realistic and that those **promises** can be kept. (*Congressional Record*, November 19, 1975. Senate page 37413, emphasis added)

Representative Brademas, during the House debate on the conference report, maintained that the federal government by means of the compromise formula in the final bill

> makes a **commitment** to pay a gradually increasing percentage of the national average expenditure per pupil times the number of handicapped children receiving special education and related services. (*Congressional Record*, November 18, 1975. House page 37024, emphasis added)

At the same time, advocates appeared to view the authorized federal share as a goal, with actual funding decisions left to the Appropriations and Budget Committees. Representative Perkins — chairman of the House Education and Labor Committee — pointed out

> that we are not voting on a spending measure. We are voting on an authorization bill which proposes a **goal** of providing a certain level of Federal support for the education of handicapped children ... (*Congressional Record*, July 29, 1975. House page 25536, emphasis added).

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[4] See Section 611(a)(1) of P.L. 94-142. During the House debate on the final bill, Representative Ashbrook indicated that this approach was "more realistic."

> I voted against the bill ... when it came to the House floor. I was deeply concerned about the irresponsible and unrealistic authorization levels in the bill. ... Although I still have some doubts about the level of funding, this bill is vastly improved over both the House and Senate version. I commend the conferees for taking a more realistic approach and therefore I will vote for the adoption of the conference report. (*Congressional Record*, November 18, 1975. House page 37028)

The final House vote was 404 yeas, 7 nays, and 22 not voting. (Forty-four Members had voted against the original House bill.)

Representative Brademas, referring to the House report on the bill, noted that

> it is not anticipated that that much money would actually be appropriated. The report also makes clear that the committee anticipates that the Committee on the Budget and the Committee on Appropriations would make their own judgments on how much money to recommend for this program in light of revenues available and in light of other competing priorities. (*Congressional Record*, July 29, 1975. House page 25535)

The Full-Funding Provision Under Current Law

Current law still pegs a state's maximum IDEA Part B grant[5] to the product of the number of children with disabilities served and 40% of the national APPE:[6]

> Maximum amounts — The amount of the grant a State may receive under this section for any fiscal year is—
>
> (1) the number of children with disabilities in the State who are receiving special education and related services—
>
> (a) aged 3 through 5 if the State is eligible for a grant under Section 619 [preschool grants, which all states currently receive]; and
>
> (b) aged 6 through 21; multiplied by
>
> (2) 40% of the average per-pupil expenditure in public elementary and secondary schools in the United States. (Section 611(a)(2)).

This maximum grant calculation is still based on the assumption that the average cost of educating children with disabilities is twice the average cost of educating other

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[5]The maximum grant provision applies only to the Part B grants to states provisions of IDEA. These grants represent most of the funding for IDEA and help fund services for school-aged children with disabilities. IDEA authorizes two other state grants programs (the preschool grants and grants for infants and toddlers with disabilities) as well as various national programs.

[6]The APPE is for all K-12 public school students in the most recent preceding year for which data are available.

children (i.e., two times the national APPE).[7] That is, the total average cost for educating a child with a disability is equal to:

> *the national APPE (the average cost of educating other children) + the national APPE (the excess or additional average cost of educating children with disabilities)*.

Congress has determined that the maximum that will be available under IDEA Part B grants to states is 40% of the **excess cost**, i.e., 40% of the national APPE.

Figures 1 and 2 below illustrate this excess-cost concept. In **Figure 1**, the chart represents the total average cost of educating children with disabilities. The left half of the chart represents the national APPE — the average cost of educating children in public school. The right half of the pie chart is the excess cost for educating children with disabilities — i.e., the average cost over and above the average cost of educating all students. Again, the assumption underlying IDEA "full funding" is that, on average, the total cost of educating children with disabilities is twice the average cost (national APPE) of educating other children. The upper right wedge in the **Figure 1** chart represents "full federal funding," i.e., 40% of the national APPE. **Figure 2** represents the same concept, except that it represents the actual FY2001 federal share of the excess cost (14.9%).

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[7] By some estimations, special education is **more than twice as expensive** as education for other children. For example, the U.S. Department of Education, based on Kakalike, J.S., W.S. Furry, M.A. Thomas, and M.F. Carney. *The Cost of Special Education*. Santa Monica, CA: Rand Corp, 1981. (Hereafter cited as Kakalike, Furry, Thomas, and Carney, *Cost of Special Education*.), estimates that special education is about 2.17 times more expensive. In addition, for some children special education can be much more than twice as expensive. For example, in a recent U.S. Supreme Court case (*Cedar Rapids Community School District v. Garret F.*, 526 U.S. 66 (1999)) the court ruled that the school district was obliged under IDEA to provide extensive health services to the student. Justice Thomas, in his dissenting opinion in *Garret F.*, noted that the school district would have to hire an additional employee to provide the one-to-one care *Garret F.* requires, which "will cost a minimum of $18,000 per year." (p. 8) This is nearly 2½ times what the U.S. Department of Education (ED) estimates is the national average additional cost for serving children with disabilities in public schools and apparently only accounts for the salary of a health-care attendant, not for additional special education and related services that *Garret F.* might require to ensure he receives FAPE.

Figure 1. Estimated Components of Special Education Funding (Assuming Full Federal Funding of 40% of APPE)

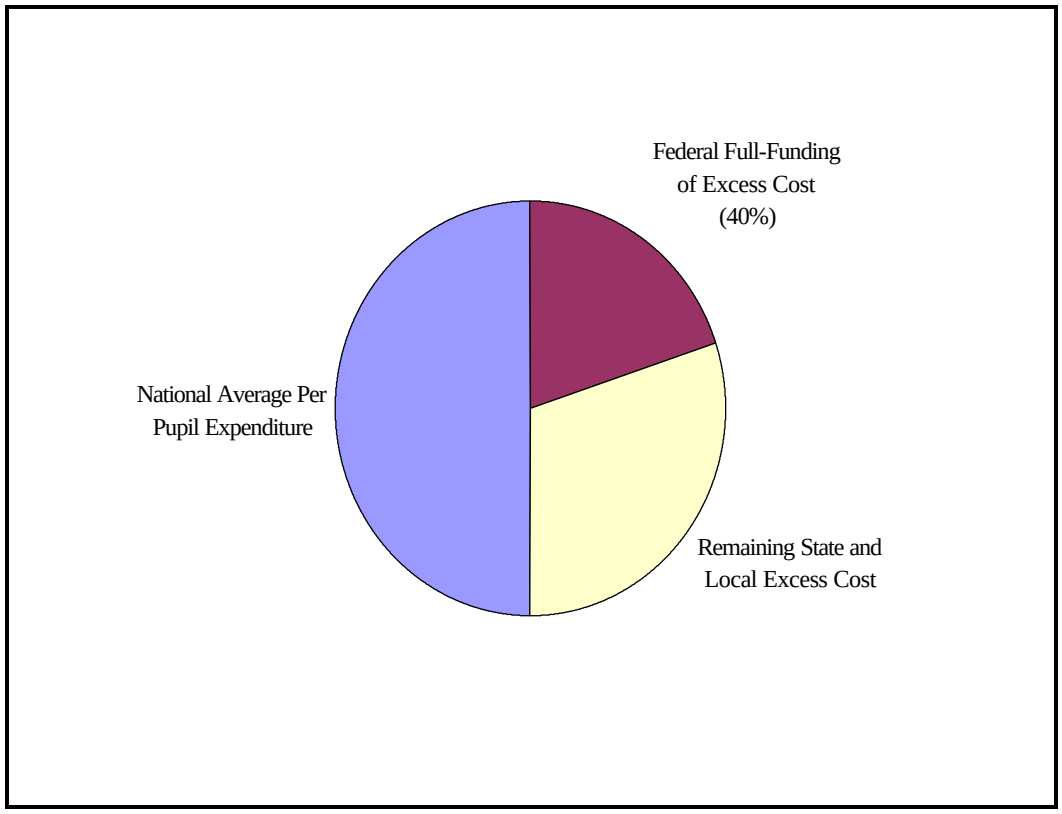
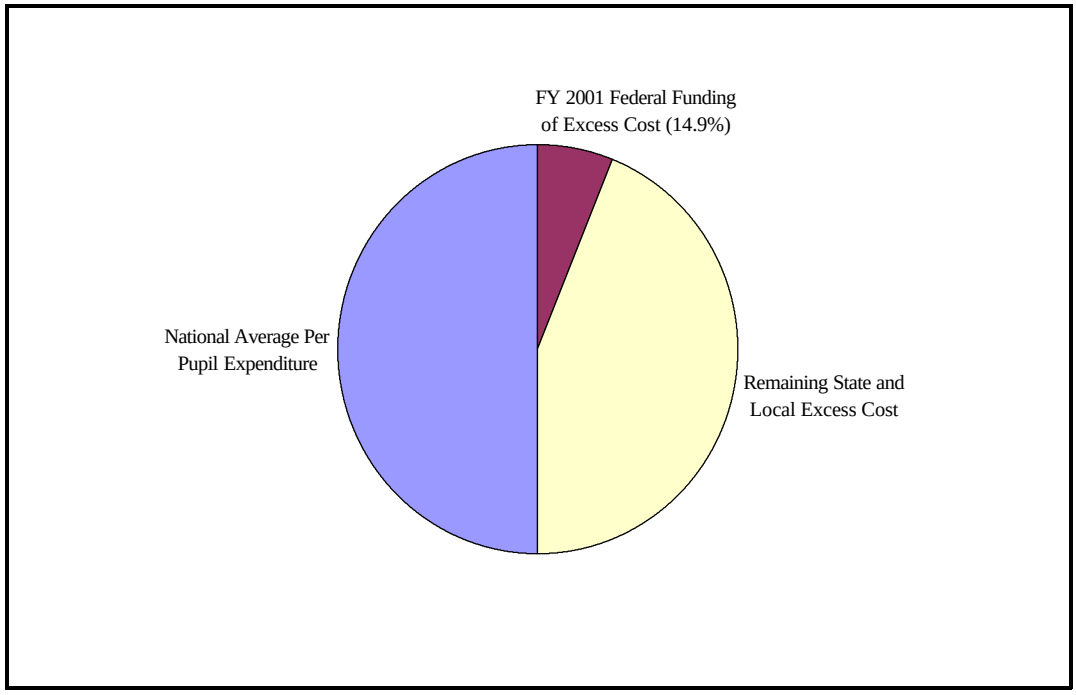


Figure 2. Estimated Components of Special Education Funding (at FY2001 Funding Levels)



The 40% of the national APPE times the number of children with disabilities served is the so-called federal "full funding" amount under the Act.[8] This amount is not constant but changes at least annually as the number of children with disabilities and the APPE change. Both of these factors have increased significantly since P.L. 94-142 went into effect. For example, the national APPE for FY1981 was $2,168 compared with $6,660 for FY2001, and the number of children with disabilities for FY1981was 3.94 million versus 6.27 million for FY2001. Thus, as **Table 1** shows, the amount necessary for full funding has also increased substantially and is likely to increase further in the future. For example, the estimated full funding amount for FY1981 (the first year for which full funding was 40% of APPE) was about $3.4 billion. The estimated full funding amount for FY2001 is nearly $17 billion (about five times as much as the FY1981 amount).

Table 1. Funding History for IDEA Part B Grants to States

FY	Appropriations for IDEA Part B grants to states (in $000)	Authorized % of estimated excess cost	Actual appropriations as % of estimated excess cost	Estimated federal full funding (in $000)
1977	$251,770	5%	5.1%	$249,178
1978	566,030	10%	10.2%	555,516
1979	804,000	20%	12.5%	1,284,640
1980	874,500	30%	12.0%	2,189,387
1981	874,500	40%	10.2%	3,417,635
1982	931,008	40%	9.9%	3,756,984
1983	1,017,900	40%	9.5%	4,279,968
1984	1,068,875	40%	9.1%	4,687,462
1985	1,135,145	40%	8.9%	5,090,666
1986	1,163,282	40%	8.4%	5,532,030
1987	1,338,000	40%	9.1%	5,850,468
1988	1,431,737	40%	8.7%	6,559,022
1989	1,475,449	40%	8.2%	7,181,244
1990	1,542,610	40%	7.9%	7,782,743
1991	1,854,186	40%	8.6%	8,593,267
1992	1,976,095	40%	8.4%	9,393,494
1993	2,052,728	40%	8.2%	10,003,507
1994	2,149,686	40%	8.0%	10,732,504
1995	2,322,915	40%	7.8%	11,872,137

[8]It is important to note that the formula only specifies the maximum award a state can possibly receive. The actual size of state awards is contingent on annual appropriations for the program. Section 611(a)(2) of IDEA states: "... the ***maximum amount of the grant*** a state may receive under this section for any fiscal year is ...." (emphasis added). In other words, the formula does not guarantee 40% of national APPE per disabled child served; rather, it caps IDEA allotments at 40% of national APPE per disabled child served.

FY	Appropriations for IDEA Part B grants to states (in $000)	Authorized % of estimated excess cost	Actual appropriations as % of estimated excess cost	Estimated federal full funding (in $000)
1996	2,323,837	40%	7.3%	12,699,024
1997	3,107,522	40%	9.2%	13,460,630
1998	3,801,000	40%	10.5%	14,457,195
1999	4,301,000	40%	11.1%	15,445,347
2000	4,976,685	40%	12.3%	16,194,156
2001	6,323,685	40%	14.9%	16,988,328

Note: FY1998-FY2001 appropriations exclude funds for studies and evaluations of $6.7 million, $9.7 million, $13 million, and $16 million respectively. Estimates of full funding amounts and percentages of APPE will change for any fiscal year for which ED revises data to calculate these estimates.

Source: Table prepared by Congressional Research Service (CRS) from U.S. Department of Education (ED) data.

Current Funding Formula

To understand how fully funding IDEA Part B grants to states would impact state IDEA funding, it is important to understand how these funds are currently allocated under the Act. Until the enactment of the 1997 amendments to IDEA, Part B grants to states were allocated essentially based on each state's share of the total children with disabilities served. The 1997 amendments made important changes in this formula. Until a "trigger" appropriation of slightly more than $4.9 billion was reached, funds continued to be distributed under the prior formula, i.e., based on shares of children with disabilities. When the trigger was exceeded for FY2000, each state received a "base grant" equal to the amount it received from funds appropriated in the year prior to the year in which the trigger was surpassed. Of the remaining funds, 85% were allocated based on states' shares of **total** population ages 3 to 21[9] and 15% were allocated based on shares of **poor** children in that age group.

To prevent massive changes from year to year resulting from the formula change, the 1997 amendments placed certain restrictions on how much states could gain or lose. No state can receive a grant that is more than 1.5 percentage points above the percentage increase in the overall appropriation. Thus if the overall increase from one year to the next is 10%, no state's allocation could be more than 11.5% greater than its grant the previous year. The 1997 amendments also provided certain minimum state amounts. No state can receive a grant **less** than the greatest of:

[9]The actual age range varies from state to state depending on the years for which the state provides free appropriate public education for children with disabilities.

- the amount a state received in the year prior to the institution of the "new" formula (the base year) and one-third percent of the difference between appropriations for the current year and appropriations for the base year (the latter amount is about $6.7 million for FY2001),
- the percentage increase from the prior year less 1.5% (based on the above example: 10%-1.5% = 8.5% increase above the previous year's grant),
- 90% of the percentage increase (90% of 10% = 9% increase in the above example), and
- the grant amount the state received in the prior year.

Finally no state may receive a grant that is **more** than its "full funding" amount (that is, the "40% amount").

The House and Senate reports provide the rationale for these changes:

> The Committee developed the change in formula to address the problem of over-identification of children with disabilities ....
>
> The Committee has squarely faced this problem by shifting, once the targeted threshold is reached, to a formula of which 85 percent of additional funds is based on the total school age population and 15 percent is based on the poverty statistic for children in a State. This system was encouraged in the 1994 report of the Department of Education's Inspector General. The Inspector General noted: ''Because [a population-based] method [of allocating funds] uses objective data derived for other purposes, [this method] eliminates the financial incentives for manipulating student counts [that exist in the current formula], including retaining students in special education just to continue receiving Federal funds.'' The Committee added a poverty factor to the formula because there is a link between poverty and certain forms of disability. This concept was also encouraged by the Inspector General's report.[10]

When the "trigger" was surpassed for the first time in FY2000, the amount above the "trigger" (about $670 million of nearly $5 billion or 14% of total Part B grants to states) was allocated under the new formula. As appropriations approach full funding amounts, the percentage allocated under the new formula will grow, while the base amounts (originally determined by the numbers of students receiving special education) will remain the same. For example, at an appropriations level of $12

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[10]H.Rept. 105-95, p. 88-89; S.Rept. 105-17, p. 8-9. The House and Senate reports acknowledge that "it is unlikely that individual educators ever identify children for the additional funding that such identification brings." In the aggregate, however, financial incentives may reduce the scrutiny that children for special education referral may receive. The reports observe that "over-identification" is most prevalent for African-American males. On the other hand, the reports admit that **under identification** may remain a problem in some areas.

billion, about 65% or more than $7 billion would be allocated based on population and poverty.

Recent Legislative Action

Because of concerns about the state and local burden of funding special education and related services, Congress in recent years has become increasingly concerned that federal funding for IDEA Part B grants to states is inadequate. As a result, funding for these grants has recently grown substantially. (See Column 2 of **Table 1** above.) For example, funding for FY2001 is more than 2½ times the FY1996 amount.[11]

To further relieve state and local funding burden, some Members of Congress have called for even greater funding increases in IDEA funding to achieve "full funding" or maximum funding of IDEA. Congressional proposals during the 106th Congress took several forms:

- Resolutions: For example, H.Con.Res 84 "urges full funding of federal special education programs and recognizes that it should be the top funding priority at the K-12 level, which was agreed to by a vote of 413-2, 1 present. "
- Modifications to IDEA Part B authorization of appropriations: H.R. 4055/S. 2341 would have specified authorization amounts for the grants to states program and increased the authorization level $2 billion each year through FY2010.[12]
- Changes to the status of IDEA funding: For example, H.R. 5180 would have changed the maximum grants states could receive to the **minimum** states could receive and would have phased in the minimum grant as a percentage of APPE from 20% in FY2002 to 40% in FY2006, increasing the minimum percentage by 5 percentage points each of the years in between.

Possible Issues If "Full Funding" Were Provided

Although appropriations for IDEA Part B grants to states have increased substantially over the last few years, the current amount is not even half way to providing full funding. The current estimate is that nearly $17 billion would be required to fully fund Part B grants. This is more that $10 billion above the FY2001 appropriation for the program. Full funding would require either that appropriations for the Department of Education overall would have to increase by about 25% or that

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[11]Most of the increased funding for IDEA over the last few years has gone for Part B grants to states. The total appropriations for IDEA minus the grants to states appropriation rose less than 20% between FY1996 and FY2001.

[12]Current law authorizes "such sums as may be necessary" to carry out the grants to states programs (Section 611(j)).

funding for other programs would have to be cut significantly. For example, if all FY2001 Title I of Elementary and Secondary Education Act (ESEA) appropriations were transferred to Part B grants, full funding would still not be achieved. In addition to the significant increase in funding required, reaching a full-funding level for IDEA Part B grants raises several other issues, which this section discusses.

Determining Total Appropriations. One issue in "fully funding" IDEA is determining exactly how much funding is necessary. As noted above, this amount is based on the product of the number of children with disabilities and 40% of the national APPE. The guidance for determining the number of children appears to come from Section 611(d)(2) related to the "interim formula" for the program, which states in part:

> the determination of the number of children with disabilities receiving special education and related services ... may, at the State's discretion, be calculated as of the last Friday in October or December 1 of the fiscal year for which the funds are appropriated.

Under appropriations levels below the trigger amount for the new formula, this provision did not cause any difficulty. Funds could be appropriated as of October 1 (the beginning of the fiscal year); ED would begin receiving data from the states at the end of October; and ED would distribute the appropriated funds on July 1 of the next calendar year because IDEA is a "forward funded" program. For example, funds appropriated in October 1998 for FY1999 were distributed beginning on July 1, 1999. There was ample time for ED to obtain final child counts to distribute IDEA grants to states funds under the "interim formula." Nor does the availability of data on numbers of children with disabilities create particular difficulties now that the "permanent" formula is in effect, because the base amount under the formula for each state is derived from each state's FY1999 grant. However, if the Congress decided to "fully fund" the grants to states program, the data necessary to determine full funding for a given fiscal year would not be available on or before October 1, since states would not begin collecting those counts until the end of October and some would wait until December 1. Presumably prior year data or a projection for the current fiscal year could be used. To avoid confusion, any legislation appropriating a full funding amount should specify which child count data ED should use. These data, of course, would need to be the same as those determining the full-funding appropriations.

The full funding calculation also depends on the national APPE, and estimates of this factor can vary. Section 611(a)(1)(B)(4) of IDEA before it was amended by the 1997 IDEA amendments defined APPE to mean:

> the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available).

ED appears to continue to follow this definition. For example, ED appears to use the national APPE for 1998-1999 for its estimate of full funding for funds distributed for 2000-2001. But estimates of APPE can vary, even for the same or similar time periods, depending on the source of the estimate. The ED FY2000 full funding estimate uses an APPE of $6,457. The National Center for Education Statistics reported a preliminary national APPE for 1998-1999 as $6,408. Even this small difference results in determinations of total full-funding amounts that differ by more than $120 million.

Once the full-funding amount for grants to states is determined it must be adjusted upward slightly to take into account various set asides (if funds are to be appropriated and allocated under the authority provided in Section 611 of IDEA). Section 611 provides that certain amounts be set aside for the Outlying Areas and Freely Associated States (Section 611(b)), for the Secretary of the Interior (Section 611(c) — for Bureau of Indian Affairs (BIA) schools), and for studies and evaluations (Section 674(e)). The first and third of these set asides provide some flexibility for the Secretary of Education to determine the percentage allotted, and the Secretary has tended to allocate less than the maximum allowable percentages for these activities. However, IDEA specifies an exact percentage of 1.226% of the total appropriation for the grants to states programs for the Secretary of the Interior. In FY2000 this amount was about $61.2 million. If the Congress were to decide to continue total set asides at the current overall percentage, then the full-funding amount for the states would have to be increased by about 2% to determine the overall full-funding appropriation.[13]

Distributional Issues. Once a full funding amount is determined, other issues could arise, in part, because the method of distributing IDEA funds to states would change abruptly. As noted above, as appropriations increase above the trigger amount of approximately $4.9 billion, increasing shares of the total appropriations are distributed based on population shares and poverty shares. However, when full funding is reached, the distribution mechanism for most states[14] shifts back to one solely based on states' shares of children with disabilities, because a state's full-funding amount is based on the national APPE times numbers of children with disabilities served in the state. For example, assume that full funding for FY1998 was

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[13]In the FY2001 request for IDEA funding, ED recommended that the BIA amount be increased by the rate of inflation over the FY2000 amount — thus overriding and reducing the statutory requirement of 1.226%. Thus ED recommended that the BIA set aside for FY2001 be about 1.19%. If this approach were adopted by Congress and followed from year to year, IDEA funding for BIA schools would grow by the rate of inflation each year but would not increase in proportion to the increase in overall IDEA Part B grants to states funding. On the other hand, if the statutory percentage continues to be followed and a full funding amount is reached, IDEA funding for BIA schools would exceed $200 million dollars.

[14]See the discussion below for possible exceptions.

about $14.4 billion.[15] If $14 billion had been appropriated for FY1998, approximately three-quarters of those funds would have been distributed under the new formula (i.e., based on states' shares of population and poverty). On the other hand, if the full funding amount had been provided, all of the funds would have been distributed according to the proportional share of children with disabilities in each state. Some states do better under the population-poverty distribution; others do better under shares of children with disabilities. For example, Alabama's share of weighted population-poverty is about 1.5% of the national total, and its share of children with disabilities is in about 1.7%. On the other hand, Arizona has a larger share of population-poverty (1.9%) than children with disabilities (1.4%).

Because some states do better than others under the population-poverty formula, issues could arise if funding approached the full-funding amount or reached full funding one year but fell below full funding in subsequent years because of increases in either the national APPE or child counts. Again using our hypothetical FY1998 example in which full funding is approximately $14.4 billion, if $14.0 billion were appropriated (that is, a total appropriation slightly less than the amount to fully fund all states) some states could receive full funding while others do not. Those receiving full funding are those that benefit most under the population-poverty formula, which would be used to distribute most of the $14 billion. Those below full funding would be those states that benefit more from a formula based on shares of children with disabilities. (See **Table 2**.)

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[15]Data for FY1998 are used for illustrative purposes. The appropriate national APPE for that year is assumed to be $6,046. All examples are hypothetical. Actual full-funding amounts presumably would be higher than those presented here, in part, because the estimated national APPE has increased since FY1998.

Table 2. States At and Below Hypothetical "Full Funding" Based on Allocating $14 Billion Using FY1998 Data

States at full funding	States within 1% of full funding	States at 85% to 98% of full funding		
Arizona	California	Alabama	Maryland	Ohio
District of Columbia	Colorado	Alaska	Massachusetts	Pennsylvania
Georgia	North Carolina	Arkansas	Minnesota	Rhode Island
Hawaii	Oklahoma	Connecticut	Mississippi	South Carolina
Idaho	Oregon	Delaware	Missouri	South Dakota
Michigan	Washington	Florida	Montana	Tennessee
Nevada		Illinois	Nebraska	Texas
Puerto Rico		Indiana	New Hampshire	Utah
Vermont		Iowa	New Jersey	Virginia
		Kansas	New Mexico	West Virginia
		Kentucky	New York	Wisconsin
		Louisiana	North Dakota	Wyoming
		Maine		

A technical problem that could result because of differential benefits from the two formulas is the inability to allocate all funds if full funding were provided. This would result because of the 1.5% percentage point cap on how much states can gain from one year to the next. Since some states might have to receive gains of more than 1.5% percentage points above the overall percentage increase in funding in order to receive their full-funding amount, they would be capped at amounts below full funding and some money would not be distributed if the current formula were literally applied. In the example we are considering (using FY1998 data), Maine, Rhode Island, and West Virginia would not receive full funding under the current formula but would receive their 1.5% point cap amounts, and about $8 million dollars could not be allocated. Of course, fixing this problem would not be difficult. To avoid any confusion, however, legislation that appropriated full funding for Part B grants to states could override the current formula and instruct ED to distribute funds to states based on shares of children with disabilities for the most recent year for which data are available.

Increased Incentive to "Over-Identify" Children With Disabilities. As noted above, Congress chose to change the IDEA Part B grants to state formula to reduce financial incentives to "over-identify" children with disabilities. This is accomplished by distributing money appropriated above the $4.9 billion trigger in proportion to population and poverty rather than in proportion to numbers of children with disabilities. However at the full-funding amount each state would receive its maximum grant, which is based on each state's share of children with disabilities. Under prior law (prior to the 1997 IDEA amendments) there was a cap on the percentage of children with disabilities that could be counted for the purposes of the funding formula. The Secretary of Education was not required to count children with

disabilities for the purposes of the formula to the extent that the number of these children exceeded 12% of the total number of children in the appropriate age range.[16] Prior to appropriations exceeding the $4.9 billion trigger, the 12% cap was still in effect because the "interim formula" references the formula "as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997"[17] The maximum grant (i.e., "full-funding" provision) is in another subsection of Section 611 and makes no reference directly or by reference to the 12% limit on the child count. The provision merely states in part: "the number of children with disabilities in the State who are receiving special education and related services."

Depending on ED's interpretation, states might not be limited in the number of children they report for the purposes of determining "full-funding" amounts, and the financial incentives to "over-identify," which had been curbed by the 12% cap and removed by the new population-poverty based formula, would be greater than ever. One option mentioned for addressing this problem would be to amend IDEA to explicitly tie the 12% cap to the reporting of child counts for the purposes of determining maximum grants. Unless this change is made well in advance of reaching full funding, states might perceive incentives to maximize child counts as appropriations grow. Even if Congress eventually limited child counts to the 12% limit, "over identification" may have been taking place in anticipation of full funding being reached and funds being determined based on these counts.

Allocations to LEAs and Intermediate Units. It is important to note that the 40% maximum grant/"full-funding" amount applies only to state grants, not to the allocation of state grants to the intermediate and local levels.[18] Prior to reaching the "trigger" amount that initiated the new IDEA formula provisions, states allocated local portions of their grants to substate levels in proportion to numbers of children with disabilities served. When the state formula changed with the FY2000

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[16]See Section 611(a)(5)(A) as the Act was in effect prior to the enactment of of P.L. 105-17 (the Individuals with Disabilities Education Act Amendments of 1997). The age range was 3 to 17 if the state served all children with disabilities ages 3 to 5. Otherwise the range was 5 to 17. A similar provision has been part of the state-grants formula since the enactment of P.L. 94-142. According to the House report:

> It has been noted previously that the prevalence of children with handicapping conditions is generally agreed to represent approximately 12 percent of the total child population in the Nation. H.R. 7217 stipulates that in the reporting of the number of handicapped children being served for purposes of the formula for allocation, no State may report more than 12 percent of its total population of children aged 5 to 17 (H.Rept. 94-332, p. 12).

[17]Section 611(d)(2).

[18]In some states, intermediate educational units (IEUs) provide special education services for groups of (usually smaller) LEAs. IDEA Part B funds might be allocated by the state to these intermediate units, or funds allocated to the LEAs they serve might flow through to the IEUs.

appropriation, the substate formula also changed. Like the state grants, recipients at the substate level receive a base grant derived from their grant in the fiscal year prior to the initiation of the new formula. Like the state grant, 85% of the remaining funds are distributed based on population, 15% based on children in poverty. There is no maximum grant provision analogous to the 40% maximum for the state. Thus even if a state were to receive its maximum grant amount (based on number of children with disabilities served), distribution at the substate level would continue to follow the new substate formula: base grant + (85% of remainder distributed on population and 15% of the remainder distributed based on poverty.) This has the advantage of continuing to dampen any financial incentive at the substate level to "over-identify" children with disabilities. At the same time, it is important to remember that "fully funding" IDEA will not necessarily mean that LEAs and intermediate units will receive comparable "full-funding" amounts under the current substate formula.

The Cost of Special Education. As noted above, the underlying premise of IDEA full funding is the assumption that educating children with disabilities is, on average, twice as expensive as educating other children. The estimate of this excess costs is the national APPE of which the federal government can pay up to 40%. Is the assumption of twice the cost as valid as it was in 1975 when the current provision for "full funding" was introduced? The short answer is that available evidence is out of date. The last national study of special education cost was based on data from the mid-1980s;[19] and, although a new study is underway, final results from that study may not be available until late in 2001.[20] If the "twice-as-expensive" assumption is inaccurate, we might find that "fully funding" IDEA may not eliminate or even significantly reduce funding problems for some states and some LEAs. The following are some considerations regarding the cost of special education which might influence the impact of achieving "full funding."

The Cost of Special Education May Have Grown Faster than the Cost of Elementary and Secondary Education in General. There is some historical evidence that special education costs have been rising relative to public education costs overall. House report language for P.L. 94-142 indicates that Congress was using special education cost data from the early 1970s. By school year 1977-1978, a Rand study was reporting that "the total cost of special education and related services per handicapped child was an estimated 2.17 times larger than the ... total cost of regular education per nonhandicapped child."[21] Based on data from school year 1985-1986, the Decision Resources Corp. (DRC) study reported that the

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[19]Moore, Mary T., E. William Strang, Myron Schwartz, and Mark Braddock. *Patterns in Special Education Service Delivery and Cost*. Decision Resources Corp. Washington, D.C., 1988. (Hereafter cited as Moore, *Patterns in Cost*.)

[20]The study is being conducted for ED by the Center for Special Education Finance (CSEF) at the American Institutes for Research (AIR) in Palo Alto, CA.

[21] Kakalike, Furry, Thomas, and Carney, *Cost of Special Education*, p. 32.

national average cost for educating a child with a disability was 2.3 time the average cost for other children.[22] The DRC report noted that, while the cost of "regular" education had increased 4% in constant dollars (i.e., costs adjusted for inflation) since the time of the Rand study, the average cost of special education and related services had increased 10% in constant dollars.[23] Should the national "full funding" calculation take into account the possibility that children with disabilities may be more than twice as expensive? One possible consequence of not examining the original premise of the 1975 Act, is that "full funding," if achieved might actually fund significantly less than 40% of the excess cost.

The APPE Is a National Average. As previously discussed, IDEA "full funding" is based on a national APPE. However, average costs (as **Table 3** shows) vary substantially from state to state. For example, the New Jersey APPE is almost 2.5 times the Utah APPE. Thus if it is assumed that special education is about twice as expensive as "regular" education and that the federal share should be 40% of a **national** average cost, some states might receive much less than 40% of their average cost, and other states might receive substantially more than 40% if the 40% level were reached nationally. **Table 3** shows that, if state APPEs (instead of the national average APPE) were used to determine the "full funding" for each state, the total allocated would be similar ($15.6 billion vs. $15.4 billion) but the distribution among states would be quite different. Some states, such as Ohio and Wyoming (with APPEs near the national average) would receive approximately 40% of their estimated costs. However, other states, such as New Jersey and Connecticut, would receive amounts significantly short of 40% of "full funding." A third set of states, such as Utah and Mississippi, would receive amounts much greater than 40% of their estimated total excess costs.[24]

Children with Severe Disabilities Often Are Expensive to Serve. Congress acknowledged in 1975 that even though the average cost for a child with a disability was about twice that of the average cost of educating other children, costs were seen as ranging from "1.18 for a child with a speech handicap to 3.69 for a child with a physical handicap."[25] That is, a child with a speech impairment was estimated to be 18% more expensive to educate than a nondisabled child while a child with a physical disability was estimated to be 269% more expensive. A wide range in costs

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[22]Moore, *Patterns of Cost*, p. iv.

[23]*Ibid.*, p. 67.

[24]For example, New Jersey would receive about 25% of its estimated excess cost based on State APPE calculations while Utah would receive more than 60%.

[25]H.Rept. No. 94-332, p. 12. The Rand study based on 1977-1978 data found a range in cost of 1.36 times the average cost per child for children with speech impairments to costs nearly six times the cost for functionally blind children (Kalkalike, Furry, Thomas, and Carney, *Cost of Special Education*, p. vii). The DRC study also found substantial cost differences across disability categories. (See Moore, *Patterns of Cost*, p. 85-91.)

certainly is still true today. Moreover these higher cost students may not be randomly distributed among school districts. For example, parents of severely disabled children may relocate to be near state-of-the-art medical facilities or to enroll their children in school districts with good reputations for serving particular disabilities. This means, again, that an average cost factor (even within a state) may not represent a good estimate of the real excess costs that some school districts face. Thus a funding level of 40% of a national or state average excess cost may still leave some school districts strapped for funds. On the other hand, school districts serving lower cost children might find that the IDEA grant pays substantially more than 40% of the excess cost for educating their children.

Table 3. Estimated Idea "Full Funding" Amounts Based on State and National Average per Pupil Expenditures (APPE)

State	Special ed. students 1998-1999	State APPE	Estimated funding at 40% of state APPE (in $000)	Estimated funding at 40% of national APPE (in $000)	Difference between state and national APPE
New Jersey	210,114	$9,838	$826,841,000	$529,151,000	-36%
New York	432,119	9,598	1,658,991,000	1,088,248,000	-34%
Connecticut	76,740	8,827	270,954,000	193,262,000	-29%
District of Columbia	8,162	8,685	28,355,000	20,555,000	-28%
Alaska	17,712	8,601	60,936,000	44,606,000	-27%
Rhode Island	27,911	8,325	92,944,000	70,291,000	-24%
Massachusetts	168,964	8,064	545,010,000	425,519,000	-22%
Delaware	16,233	7,656	49,712,000	40,881,000	-18%
Maryland	111,688	7,412	331,133,000	281,275,000	-15%
Pennsylvania	226,378	7,409	670,894,000	570,110,000	-15%
Michigan	208,403	7,330	611,038,000	524,842,000	-14%
Wisconsin	116,328	7,318	340,515,000	292,960,000	-14%
Vermont	12,709	7,166	36,429,000	32,006,000	-12%
Maine	34,294	6,975	95,680,000	86,366,000	-10%
Oregon	69,919	6,920	193,536,000	176,084,000	-9%
Illinois	283,698	6,481	735,459,000	714,465,000	-3%
Indiana	146,559	6,420	376,364,000	369,094,000	-2%
West Virginia	49,934	6,412	128,071,000	125,754,000	-2%
Wyoming	13,333	6,386	34,058,000	33,578,000	-1%
Minnesota	106,194	6,365	270,370,000	267,439,000	-1%
Ohio	230,155	6,275	577,689,000	579,622,000	0%
New Hampshire	27,502	6,240	68,645,000	69,261,000	1%
Washington	114,144	6,155	281,023,000	287,460,000	2%
Hawaii	20,551	6,146	50,523,000	51,756,000	2%
Kansas	58,425	6,069	141,833,000	147,138,000	4%
Nebraska	43,400	6,043	104,906,000	109,299,000	4%
Montana	18,797	5,847	43,962,000	47,338,000	8%
Iowa	70,958	5,806	164,793,000	178,701,000	8%
Kentucky	87,973	5,746	202,197,000	221,551,000	10%
Florida	345,171	5,731	791,270,000	869,279,000	10%

State	Special ed. students 1998-1999	State APPE	Estimated funding at 40% of state APPE (in $000)	Estimated funding at 40% of national APPE (in $000)	Difference between state and national APPE
Colorado	75,134	5,713	171,696,000	189,217,000	10%
Georgia	155,754	5,665	352,939,000	392,251,000	11%
Missouri	131,565	5,663	298,021,000	331,333,000	11%
Virginia	153,716	5,623	345,738,000	387,118,000	12%
Texas	486,749	5,567	1,083,893,000	1,225,829,000	13%
California	623,651	5,565	1,388,247,000	1,570,603,000	13%
Nevada	33,319	5,429	72,356,000	83,911,000	16%
North Carolina	165,333	5,367	354,937,000	416,375,000	17%
Louisiana	95,245	5,209	198,452,000	239,865,000	21%
South Carolina	99,033	5,204	206,147,000	249,405,000	21%
South Dakota	15,702	4,929	30,958,000	39,544,000	28%
Oklahoma	80,289	4,928	158,266,000	202,200,000	28%
North Dakota	13,181	4,841	25,524,000	33,195,000	30%
Arizona	88,598	4,819	170,782,000	223,125,000	31%
Idaho	27,553	4,808	52,990,000	69,389,000	31%
Alabama	99,813	4,681	186,890,000	251,369,000	35%
Tennessee	128,273	4,672	239,717,000	323,043,000	35%
New Mexico	52,113	4,662	97,180,000	131,241,000	35%
Arkansas	59,110	4,497	106,327,000	148,863,000	40%
Mississippi	61,778	4,129	102,033,000	155,582,000	52%
Utah	55,252	4,049	89,486,000	139,147,000	55%
Puerto Rico	54,158	3,105	67,264,000	136,392,000	103%
U.S. Totals	**6,109,787**	**$6,296**	**$15,583,969,000**	**$15,386,888,000**	—

Source: CRS calculations based on unpublished data from NCES and Table AA1 from the *Twenty-second Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*.

Possible Interim Steps or Alternatives to "Full Funding"

As Congress debates the level of funding for IDEA, there are various policy options for providing interim steps to full funding or alternatives to full funding. Although it is beyond the scope of this report to examine all policy alternatives in depth, the following are brief overviews of possible alternatives.

Increase Funding for Prevention. Virtually all the increase in IDEA funding over the last few years has gone to Part B grants to states. Funding for preschool programs for children with disabilities and for infants and toddlers with disabilities has grown at a much slower pace. Most recently, FY2001 funding for the Part B grants to states programs rose 27% over the FY2000 funding while funding for the preschool program remained level (at $390 million) and the infants and toddlers funding increased by about 2% (to $384 million). Increased funding for the these programs could arguably decrease incidences of some disabilities. For example, Lyon and others argue that early intervention, if properly implemented, could

ameliorate, if not prevent, reading learning disabilities.[26] Reducing the numbers of children entering school needing special education could significantly reduce the costs to states and LEAs.

Of course simply increasing funding for early intervention will not ensure that the incidence of certain disabilities will decrease. Funding has to support effective programs for this to happen. In addition, the full impact of early intervention on reducing the costs of special education (by reducing the numbers of children requiring special education) will take years to achieve. In the meantime, states and LEAs would continue to need to fund and provide special education for those older children who did not benefit from more intense early intervention.

Supplement Funding for Expensive Disabilities. As noted above, the costs of providing special education and related services vary greatly depending on the nature of the disability. In some cases the requirements under IDEA to provide a free appropriate public education (FAPE) can be met at a cost only somewhat above the cost of educating a nondisabled child. In other cases, providing special education and related services can be several times the average per pupil expenditure. In small or medium size school districts, the presence of even one severely disabled child can strain the district's budget because the district is legally obligated to provide a free appropriate public education for that child. Supplementing funding to LEAs with extremely high special education costs could lessen the burden on these districts.

One difficulty noted in this approach is determining which children's costs would be considered and how much payments would be. One approach that Congress has considered and enacted deals with certain LEAs educating children of parents in the military. As a supplement to funding under the Impact Aid Program, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398, Section 363) authorizes the Secretary of Defense to make payments on behalf of certain children with severe disabilities. The determination of severity is based on the cost of a child's educational and related services. If the LEA is paying for services by another provider (for example, a private school placement), the cost must be "five times the national or State average per pupil expenditure (whichever is lower)." If the LEA serves the child, the cost must be at least "three times the State average per pupil expenditure." Payments would be determined after taking into account state, IDEA, and other funds for the child's education and related services.[27] It is worth noting that this approach could provide incentives to classify children with disabilities as more severely disabled.

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[26]See, for example, Fletcher, Jack M., and Reid G. Lyon. Reading: A Research-Based Approach in *What's Gone Wrong in America's Classrooms*, edited by Williamson M. Evers. Hoover Institution Press, 1998, p. 70.

[27]While authorizing these supplementary payments, the Act does not appear to provide funding for these payments.

Change the Calculation of "Full Funding". As discussed above, the appropriation and distribution of a 'full-funding' amount based on the assumption that special education is, on average, twice as expensive as education for nondisabled children might not solve the funding problems in all the states and in all the LEAs. Other discussed policy options include:

- Change the full-funding premise by taking into account possible increases in the costs of special education since 1975. Such a change would, of course, make achieving "full funding" even more difficult because it would raise the necessary amount from nearly $17 billion for FY2001 to $20 billion or more depending on what assumptions were used to adjust for cost increases.
- Continue calculating the full funding total based on the national APPE but distribute funds to states based mostly on population and poverty (as the current formula does) even when the full funding level is reached. This would avoid any incentive to over-identify children with disabilities and target funds, to some extent, based on a measure (share of school-age population in poverty) of need and perhaps incidence of disability.
- Determine and distribute full funding based on state APPEs rather than a national average. This probably would not significantly change the overall cost of full funding but would greatly change how funds are distributed among the states — a potential political concern for Members of Congress.[28]

[28]Formulas authorized under Title I, Part A of the Elementary and Secondary Education Act (ESEA) for grants for disadvantaged children use modified state APPEs. For a discussion of the Title I formulas, see CRS Report RL30491, *Education for the Disadvantaged: ESEA Title I Allocation Formula Provisions*, by Wayne Riddle.