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Individuals with Disabilities Education Act (IDEA): State Grant Formulas

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Summary

Congress is considering revisions to the Individuals with Disabilities Education Act (IDEA), which is the major federal statute guaranteeing free appropriate public education (FAPE) for children with disabilities and authorizing state grants to help fund special education and related services for these children. Among the areas that could be considered is the funding of the state grants programs — especially the "full funding" of the Part B grants-to-states program. This report examines the formulas for the three IDEA state grants programs: the grants-to-states program, which serves mostly school-aged children with disabilities, the preschool program (Section 619), which serves children with disabilities ages 3 to 5, and the infants and toddlers program (Part C), which serves children from birth to age 2.

The report concentrates on the formula provisions of the Part B grants-to-states program, which accounts for most of the funds appropriated for IDEA. After providing for various set-asides amounting to about 2% of the total appropriations for this program, the Secretary of Education allocates a base-year grant to each state, which is the amount a state received for FY1999. Of the remaining amount ($3.3 billion for FY2002), 85% is initially allocated based on states' shares of the preschool- and school-age population, and 15% is allocated based on states' shares of children in the above age group living in poverty. Finally, when appropriations are growing (as they have been in recent years) state allotments are adjusted so that the growth rate of each state's grant closely follows the growth in the overall appropriations for the grants-to-states program. For example, total FY2002 appropriations for the grants-to-states program grew by 18.8%. The state formula limited state grant growth rates to a range between 17.3% and 20.3%. The substate formula for the grants-to-states program is based on similar principles, as are the state and substate formulas for the IDEA preschool state grants program. The Part C formula differs from and is less complex than the Part B formulas. Funds for Part C grants are distributed based on states' share of infants and toddlers — i.e., total population below the age of 3. There is a one-half percent minimum state grant amount for the Part C formula.

In recent years, Congress has been particularly concerned about funding for special education, which has resulted in substantial increases in funding of the grants to states program, from $2.3 billion in FY1996 to $7.5 billion in FY2002. Despite recent increases, some Members of Congress have also been concerned that appropriations are still far from providing full funding, i.e., maximum state grants authorized by the statute. The Senate version of the No Child Left Behind Act would have appropriated estimated full-funding amounts by FY2007. The final bill did not contain this proposal, in part because some Members argued that IDEA needs to be significantly revised before full funding could be justified. Those revisions are now being considered. The report concludes with a discussion of possible unanticipated and unintended consequences of providing full funding for grants to states. This report will not be updated.

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Overview

Congress is considering whether to make revisions to the Individuals with Disabilities Education Act (IDEA), which is the major federal statute guaranteeing free appropriate public education (FAPE) for children with disabilities and authorizing state grants to help fund special education and related services for these children.[1] Among the areas that could be considered is the funding of the state grants programs — especially the "full funding" of the Part B grants-to-states program.

This report examines the formulas for the three IDEA state grants programs: the grants-to-states program, which serves mostly school-aged children with disabilities, the preschool program (Section 619), which serves children with disabilities ages 3 to 5, and the infants and toddlers program (Part C), which serves children from birth to age 2. As background to the discussion of specific IDEA formulas, the report begins with an overview of the basic characteristics of federal state grant formulas. The report then outlines the three IDEA state grant formulas. It concentrates on the Part B grants-to-states formula (funding programs mostly for school-age children with disabilities) because it is the most complicated and deals with the most money. The report concludes with a discussion and current status of the debate over "full funding" of the grants-to-states formula, i.e., the provision of maximum state grants under this formula.

Overview of Characteristics of State Formula Grants

Formula Factors. In general, federal grant formulas have one or more factors that are used to make initial allocations. (As discussed below, these initial grants are then usually adjusted before making final allocations.) These factors usually reflect the grant's target population or populations and might include, for example, population and poverty for a targeted age group. Initial allocations are made to states based on their shares of each formula factor. For example, suppose a state formula allocated $1 billion based on total population, with no other requirements. If California has 12% of total population, California would receive 12% of the funds or $120 million. If Vermont has 0.2% of total population, Vermont would receive 0.2% of the funds or $2 million.

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[1] For an overview of IDEA, see CRS Report RL31259, *Individuals with Disabilities Education Act: Statutory Provisions and Selected Issues*, by Nancy L. Jones and Richard N. Apling.

Minimum Grants or Stop Loss. Formulas often specify minimum grant provisions so that, assuming funds are sufficient, no grantee receives less than a certain amount. These minimums tend to range from 0.25% to 0.5% of the total allocation. If the above example included a minimum grant of 0.25%, Vermont, Wyoming, and a few other states would have their grants boosted to $2.5 million. If the minimum were at 0.5%, other, somewhat larger, states (for example, New Hampshire, which has about 0.45% of total population) would see higher grants (in New Hampshire's case going from $4.5 million to $5 million).

Another reason for minimum grants in formulas is to prevent sudden program dislocations and accompanying political controversies when a new formula goes into effect or when formula factors are updated, e.g., when new census figures become available. Sometimes this is a guarantee (if funds are sufficient) of a prior year grant amount or a percentage of a prior grant. In other cases, it is tied to the overall percentage change in appropriations. These minimum grants are sometimes called hold harmless provisions, because they hold grant recipients harmless at some previous grant level.

Because money to raise states to minimum grant levels almost always comes from the states' grants that are above the minimum,[2] Congress sometimes puts constraints on minimums so that the full minimum grant is not received. This is illustrated in the example discussed below.

Maximum Grants or Stop Gain. Less often except with respect to minimum grants, formulas constrain how much states' grants can grow from year to year. The main reason for such provisions is to further dampen the impacts of a new formula going into effect. One approach is to limit the percentage gain from one year to the next, which is discussed in the following example.

A Hypothetical Example. **Table 1** shows a simple hypothetical example of how a state formula (based on total population) might be constrained by a small state minimum (0.25%), a hold harmless (95%) of a prior grant, and a maximum grant (110% of a prior grant). To illustrate the effects of these formula alternatives, **Table 1** presents states' percentage shares of total appropriation, rather than dollar amounts. A state share can be translated into dollars by multiplying the share by the total allocation. For example, California's population accounts for about 12.036% of total U.S. population, as determined by the 2000 census. If total population were the only formula factor with no adjustments and $1 billion were allocated, California would receive 12.036% of $1 billion or $120.36 million. Wyoming's share of 2000 total population is 0.175%. From a $1 billion allocation with no minimum grant, Wyoming would receive $1.75 million.

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[2] Specifically the total amount needed to bring states up to the minimum grant level is determined. Then that amount is obtained by reducing all other states' allocations proportionally.

Column 1 of **Table 1** shows each state's share of the total allocation based on its share of total 1990 population. Column 2 shows the 2000 shares.[3] The next column (column 3) shows the result when a minimum grant of 0.25% of the total allocation is required. That is, no state would receive a share of the total allocation that was less than 0.25% of the total allocated amount. In the case of a $1 billion total allocation, this would result in no state receiving less than $2.5 million. This can be seen in the box at the bottom of the table in which the five smallest states, which originally had shares ranging from 0.175% to 0.228%, now have shares of 0.25%. The funds to raise these five states to the minimum are taken proportionally from the other states. Note that other states have slightly lower shares. For example, California's share is reduced from 12.036% to 12.011%.[4]

In addition to minimum grants to ensure that grants to smaller states are large enough to be effective, federal formulas often have minimum state grant amounts (i.e., hold harmless levels) to ensure that no state loses an unacceptable amount when a new formula takes effect or when updated data (for example, when more recent census data) become available. Column 4 of **Table 1** shows one such example. Here the minimum share a state can receive is the greater of the 0.25% minimum or 95% of the state's share of total population in 1990. The data for New York illustrate the impact of the latter provision. In column 3, New York's share is 6.729%. In column 4, its share is increased to 6.872%, which is 95% of its 1990 share of 7.234%. Again funds to raise New York and other states to this 'hold harmless' level come from all other states, except from those at the 0.25% minimum. Notice, for example, that California's share again is slightly reduced while Wyoming's share remains at 0.25%.[5]

Besides the minimum grants discussed above, column 5 shows the impact of a formula provision that restricts a state's growth. In this case, no state receives a percentage share that is more than 110% of its 1990 share. This restricts increases for states experiencing high population growth, such as Georgia, Arizona, Nevada, and Colorado. For example, Georgia's 2000 share under the previous formulas ranged between 2.91% and 2.875%. However, these shares are more than 110% of Georgia's 1990 share of 2.6%. So under the formula shown in column 5, Georgia's share is reduced to 2.865%, which is 110% of its 1990 share. In addition to constraining increases for high growth states, a cap, ceiling, or maximum grant can reduce the impact of a small state minimum requirement. This effect can be seen for some of the states that would receive 0.25% of total appropriations without any restriction on growth of a state grant (see the box at the bottom of column 5). If a

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[3] These state shares are based on total population from the 1990 and 2000 census and were obtained from the Census Bureau web site at [http://www.census.gov/population/cen2000/phc-t2/tab01.pdf].

[4] The states that are slightly larger than these five smaller states appear to have the same shares in columns 2 and 3. In fact, their shares are lower in column 3, but these reductions do not show up because only 3 decimal places are shown. For example, South Dakota's share is reduced from 0.26823% to 0.26767%.

[5] The states held harmless are the slowest growing states West Virginia, Pennsylvania, Connecticut, Maine, Rhode Island, Ohio, Iowa, New York, Massachusetts, Louisiana, and Michigan.

0.25% share is greater than 110% of the 1990 share, a state's final share is reduced to the 110% cap (as it is for Alaska, Vermont, and Wyoming). If the 110% cap is greater than 0.25% share, the state retains that share (see North Dakota and the District of Columbia).

Table 1. Illustrative State Formula Based on 1990 and 2000 Total Population

(States are sorted according their shares of total 2000 population)
(Numbers in boxes illustrate points made in the text)

State	Percentage share of total population (1990)	Percentage share of total population (2000)	Percentage share based on 2000 population with 0.25% minimum	Percentage share based on 2000 population with minimums of either 0.25% or 95% of the 1990 share	Percentage share based on 2000 population with minimums of either 0.25% or 95% of the 1990 share but no share greater than 110% of the 1990 share
column numbers					
	1	2	3	4	5
California	11.966%	12.036%	12.011%	11.896%	11.992%
Texas	6.830%	7.410%	7.394%	7.323%	7.382%
New York	7.234%	6.743%	6.729%	6.872%	6.872%
Florida	5.202%	5.679%	5.667%	5.613%	5.658%
Illinois	4.596%	4.413%	4.404%	4.366%	4.397%
Pennsylvania	4.777%	4.364%	4.355%	4.538%	4.538%
Ohio	4.361%	4.034%	4.026%	4.143%	4.143%
Michigan	3.737%	3.532%	3.524%	3.551%	3.551%
New Jersey	3.108%	2.990%	2.984%	2.955%	2.979%
Georgia	2.605%	2.909%	2.903%	2.875%	2.865%
North Carolina	2.665%	2.860%	2.854%	2.827%	2.850%
Virginia	2.488%	2.515%	2.510%	2.486%	2.506%
Massachusetts	2.419%	2.256%	2.251%	2.298%	2.298%
Indiana	2.229%	2.161%	2.156%	2.136%	2.153%
Washington	1.957%	2.094%	2.090%	2.070%	2.087%
Tennessee	1.961%	2.022%	2.018%	1.998%	2.014%
Missouri	2.057%	1.988%	1.984%	1.965%	1.981%
Wisconsin	1.967%	1.906%	1.902%	1.884%	1.899%
Maryland	1.923%	1.882%	1.878%	1.860%	1.875%
Arizona	1.474%	1.823%	1.819%	1.802%	1.621%
Minnesota	1.759%	1.748%	1.745%	1.728%	1.742%
Louisiana	1.697%	1.588%	1.585%	1.612%	1.612%
Alabama	1.625%	1.580%	1.577%	1.562%	1.574%
Colorado	1.325%	1.528%	1.525%	1.511%	1.457%
Kentucky	1.482%	1.436%	1.433%	1.420%	1.431%

State	Percentage share of total population (1990)	Percentage share of total population (2000)	Percentage share based on 2000 population with 0.25% minimum	Percentage share based on 2000 population with minimums of either 0.25% or 95% of the 1990 share	Percentage share based on 2000 population with minimums of either 0.25% or 95% of the 1990 share but no share greater than 110% of the 1990 share
column numbers					
	1	2	3	4	5
South Carolina	1.402%	1.426%	1.423%	1.409%	1.420%
Oklahoma	1.265%	1.226%	1.224%	1.212%	1.222%
Oregon	1.143%	1.216%	1.213%	1.202%	1.211%
Connecticut	1.322%	1.210%	1.208%	1.256%	1.256%
Iowa	1.117%	1.040%	1.038%	1.061%	1.061%
Mississippi	1.035%	1.011%	1.009%	0.999%	1.007%
Kansas	0.996%	0.955%	0.953%	0.946%	0.952%
Arkansas	0.945%	0.950%	0.948%	0.939%	0.947%
Utah	0.693%	0.794%	0.792%	0.784%	0.762%
Nevada	0.483%	0.710%	0.709%	0.702%	0.532%
New Mexico	0.609%	0.646%	0.645%	0.639%	0.644%
West Virginia	0.721%	0.643%	0.641%	0.685%	0.685%
Nebraska	0.635%	0.608%	0.607%	0.603%	0.606%
Idaho	0.405%	0.460%	0.459%	0.454%	0.445%
Maine	0.494%	0.453%	0.452%	0.469%	0.469%
New Hampshire	0.446%	0.439%	0.438%	0.434%	0.438%
Hawaii	0.446%	0.431%	0.430%	0.426%	0.429%
Rhode Island	0.403%	0.373%	0.372%	0.383%	0.383%
Montana	0.321%	0.321%	0.320%	0.317%	0.319%
Delaware	0.268%	0.278%	0.278%	0.275%	0.277%
South Dakota	0.280%	0.268%	0.268%	0.266%	0.267%
North Dakota	0.257%	0.228%	0.250%	0.250%	0.250%
Alaska	0.221%	0.223%	0.250%	0.250%	0.243%
Vermont	0.226%	0.216%	0.250%	0.250%	0.249%
District of Columbia	0.244%	0.203%	0.250%	0.250%	0.250%
Wyoming	0.182%	0.175%	0.250%	0.250%	0.201%
Totals	100%	100%	100%	100%	100%

The IDEA State Grants Formulas

This section deals with the three IDEA state formulas: the Part B grants-to-states formula, which funds special education mostly for school-age children with disabilities, the Part B preschool state grants (Section 619), and the infants and

toddlers program (Part C). The Part B grants-to-states formula is the focus here because it allocates by far the largest share of the IDEA appropriation ($7.5 billion of an $8.7 billion appropriation for FY2002) and is the most complex of the three IDEA formulas.

Part B Grants-to-States Formula. Prior to the 1997 Amendments,[6] Part B funds were distributed to states essentially based on state shares of children with disabilities served. Testimony during reauthorization by the Inspector General of the U.S. Department of Education (ED) raised concerns that the formula created incentives to over-identify children with disabilities.[7] The solution to this problem was to change to a "census-based" formula. The decision was to base the formula mostly on population (and to a lesser extent on poverty, because there is at least some relationship between poverty and the incidence of disabilities). However, switching completely to such a formula would have significantly redistributed IDEA funds. So the Congress decided to delay implementation of the permanent formula until overall Part B funds surpassed $4.9 billion, which happened in FY2000. Congress also included various provisions to dampen the impact of the formula change, once it went into effect.

Table 2 illustrates how the IDEA "permanent" formula works under current conditions when appropriations are growing. The left-hand column shows the formula provision; the right-hand column shows the resulting amount or percentage for FY2002. The overall FY2002 appropriations for Part B grants to states is about $7.5 billion — an 18.8% increase over the FY2001 amount. This percentage increase is important to keep in mind for purposes of the formula.

Prior to allocating funds to the states, the Secretary first reserves funds from total appropriations for the outlying areas,[8] for the Secretary of the Interior for services for children with disabilities attending Bureau of Indian Affairs (BIA) schools, and for studies and evaluation. The combination of these set-asides currently amounts to less than 2% of the total appropriation for the grants to states program or about $132 million.

After accounting for these set-asides, the Secretary allocates for each state the amount it received in FY1999. This is the base-year part of the grant because FY1999 was the last year before the permanent formula went into effect. These amounts will not change unless appropriations drop drastically but will account for less and less of the total grant if appropriations grow significantly. The total amount is about $4.2 billion, which is about 57% of the amount allocated to states for FY2002. Of the remaining amount ($3.3 billion for FY2002), 85% is initially allocated based on states' shares of total population within the age range in which the state provides FAPE to children with disabilities. Thus the age range for the population (and for poverty) vary from state to state depending on the age at which

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[6] P.L. 105-17.

[7] This was a concern in 1975, and Congress put a limit on the number of children who could be counted for purposes of the formula — but not regarding who must be served.

[8] The outlying areas are American Samoa, Guam, Northern Mariana Islands, Virgin Islands.

services cease (all states begin services at 3).[9] The remaining 15% is allocated based on states' shares of children in the above age group living in poverty. The initial allocation then is the base grant plus the 85% allocation based on population plus the 15% allocation based on poverty.

There are several minimum grant constraints — not all of which come into play under current conditions when appropriations are growing significantly. Assuming sufficient funds are appropriated, no state shall receive a grant less than the greater of the following amounts (that is, the minimum grant amount — subject to further formula provisions discussed below — is the largest of these values):

1. A state's prior year grant — with current large increases, this minimum will be less than other minimums and will not have an impact.

2. A state's base year grant plus one-third percent of the increase between the current year (FY2002, for this example) and the base year (FY1999). This adds about $10.7 million to the base grant for FY2002. This would increase grants of the smallest states by as much as 50%, but these increases are capped by the maximum gain discussed below.

3. An increase not less than the overall percentage increase minus 1.5 percentage points (for FY2002 this is 18.8% - 1.5% = 17.3%)

4. An increase that is not less than 90% of the overall percentage increase. For FY2002 this is 18.8% times 90% = 16.9%, which is less than the 17.3%; so this minimum grant is superseded under FY2002 appropriations. However, if the Bush Administration's proposed increase of $1 billion over the FY2002 amount were adopted for FY2003, this would be about 13.3% increase, and this minimum would come into play (that is, a minimum growth rate of 11.95% rather than 11.8%, which would be the minimum increase under number 3 above).

[9] Two states have a maximum age of 18, two states have 19 as the maximum age, 26 states have a maximum age of 20, and 22 states have a maximum age of 21.

Table 2. Provisions of IDEA Part B Grants to States Permanent Formula

Formula provision	Relevant data for FY2002
From amounts appropriated under Section 611(j)	$7,528,533,000 (18.8% increase over FY2001 total)
Secretary to reserve certain amounts for outlying areas, Indians, and studies and evaluations	$132,767,773
Allocate the remainder to the states as follows:	$7,395,765,227
1. Allocate to each state its FY1999 grant (base grant)	$4,212,274,136
2. Of the remainder, allocate 85% based on each state's share of total population within the age group 3 to 21 for which the state provides free appropriate public education (FAPE)	$2,705,967,427
3. Of the remainder, allocate 15% based on each state's share of population living in poverty within the age group 3 to 21 for which the state provides FAPE	$477,523,664
4. Ensure that no state receives a grant which is less than the **largest** of these amounts:	
a. Its prior year grant	With large increases, this is unlikely to have an effect
b. Its base year grant plus one-third percent of the increase in total appropriations between the current year and the base year	In FY02 this is the base grant + $10.7 million. Is likely to be reduced by the maximum grant discussed below
c. A grant amount that increases not less than the increase in overall appropriations **minus 1.5 percentage points**	Not less than a 17.3% increase (18.8% -1.5%)
d. A grant amount that increases not less than **90% of the increase in overall appropriations**	Not less than a 16.9% increase (18.8% times 90%). Only comes into effect when percentage growth of appropriations is less than 15%. Would be particularly important if appropriations were to grow by only 2% or 3%
5. Ensure that no state receives a grant which is more than the **lesser** of these amounts:	
a. A grant amount that increased not less than the increase in overall appropriations plus 1.5 percentage points	No more than a 20.3% increase (18.8% +1.5%)
b. A state's maximum grant may not be more than 40% of the national average per pupil expenditure (APPE) times the number of children with disabilities served ages 3 to 21.	The national total level for this ceiling for FY2002 is estimated to be $18,203,992,000. This provision has no effect for FY2002.

There are two maximum grant constraints:

1. No state may receive an increase that is more than the overall percentage increase in total appropriations plus 1.5 percentage points (18.8% + 1.5% = 20.3% for FY2002) and

2. The ultimate maximum grant for a state, which is 40% of the national APPE times the number of children with disabilities served.

Only the first maximum is currently in effect. The ultimate maximum state grant amount is discussed further below.

Table 3 shows final allocations for FY2000 based on appropriations of nearly $5 billion, FY2001 allocations based on appropriations of $6.3 billion, and preliminary allocations[10] calculated by ED for FY2002 based on appropriations of $7.5 billion. The column at the right shows the percentage change from FY2001 to FY2002. Notice that many states received a 20.3% increase (about one-half of all states). About one-quarter received a 17.3% increase. And the remaining states received percentage increases between these two percentages. These changes reflect the minimum and maximum grant provisions discussed above: the maximum percentage change over the total change in appropriations (18.8%) plus 1.5 percentage points (20.3%) and the minimum percentage change of 18.8% minus 1.5 percentage points (17.3%).

Table 3. Recent IDEA Part B Grants to States Allocations

State	2000 Allocations	2001 Allocations	2002 Preliminary allocations	% Change from 2001
Alabama	$79,372,913	$100,426,123	$119,993,708	19.5%
Alaska	14,360,167	18,460,830	22,199,605	20.3%
Arizona	71,831,645	92,343,757	111,045,656	20.3%
Arkansas	46,925,276	59,842,674	71,962,298	20.3%
California	505,630,798	650,017,799	781,662,507	20.3%
Colorado	60,836,940	78,209,425	94,048,771	20.3%
Connecticut	60,621,805	76,114,202	89,245,788	17.3%
Delaware	13,161,054	16,919,300	20,345,877	20.3%
District of Columbia	6,617,417	8,507,074	10,229,967	20.3%
Florida	274,310,784	344,413,144	405,996,094	17.9%
Georgia	126,278,991	162,338,988	195,216,655	20.3%
Hawaii	16,598,674	21,338,561	25,660,148	20.3%
Idaho	22,338,848	28,717,888	34,533,972	20.3%
Illinois	222,970,401	283,066,424	336,544,669	18.9%
Indiana	115,783,816	145,373,315	170,908,661	17.6%
Iowa	56,057,887	70,383,938	82,526,911	17.3%

[10] Some states will not get these exact amounts — most likely those not at the floor or ceiling amounts.

State	2000 Allocations	2001 Allocations	2002 Preliminary allocations	% Change from 2001
Kansas	46,805,142	60,170,732	70,916,463	17.9%
Kentucky	69,988,093	88,537,364	104,534,421	18.1%
Louisiana	77,220,761	99,271,780	119,376,775	20.3%
Maine	25,125,639	31,546,701	36,989,288	17.3%
Maryland	88,552,235	111,365,477	131,488,699	18.1%
Massachusetts	130,345,374	163,656,198	191,890,947	17.3%
Michigan	168,624,335	216,776,390	260,222,966	20.0%
Minnesota	85,579,363	109,440,436	128,321,623	17.3%
Mississippi	49,937,502	64,197,563	77,199,160	20.3%
Missouri	103,938,330	130,959,742	153,553,541	17.3%
Montana	15,239,841	19,591,702	23,559,507	20.3%
Nebraska	34,286,654	43,048,888	50,475,888	17.3%
Nevada	27,013,687	34,727,666	41,760,879	20.3%
New Hampshire	21,791,090	27,359,981	32,080,256	17.3%
New Jersey	165,972,682	208,388,355	244,340,509	17.3%
New Mexico	41,240,344	52,531,899	61,594,953	17.3%
New York	342,212,717	429,667,970	509,444,136	18.6%
North Carolina	132,570,043	169,440,174	202,782,236	19.7%
North Dakota	10,686,617	13,738,268	16,520,608	20.3%
Ohio	186,600,288	239,885,523	288,468,284	20.3%
Oklahoma	64,473,544	81,913,464	98,502,970	20.3%
Oregon	56,238,461	72,297,813	86,419,290	19.5%
Pennsylvania	183,436,695	235,280,772	281,605,665	19.7%
Rhode Island	20,079,813	25,211,373	29,560,959	17.3%
South Carolina	78,237,560	98,231,807	115,463,825	17.5%
South Dakota	12,730,542	16,365,852	19,680,342	20.3%
Tennessee	101,635,101	128,733,463	154,805,179	20.3%
Texas	393,361,010	505,688,457	608,102,898	20.3%
Utah	44,372,041	57,042,839	68,595,427	20.3%
Vermont	10,303,939	13,246,313	15,929,020	20.3%
Virginia	121,999,520	153,996,278	181,315,881	17.7%
Washington	92,258,094	118,603,146	142,623,221	20.3%
West Virginia	34,872,055	43,783,893	51,337,699	17.3%
Wisconsin	92,662,516	117,131,369	140,642,706	20.1%
Wyoming	10,809,853	13,896,695	16,711,120	20.3%
American Samoa	4,956,510	5,127,424	5,286,455	3.1%
Guam	11,974,852	12,387,778	12,651,196	3.1%
Northern Mariana Islands	3,056,556	3,161,954	3,229,191	3.1%
Puerto Rico	43,909,097	56,447,698	67,879,755	20.3%
Virgin Islands	9,078,705	9,391,764	9,591,474	3.1%
Palau	0	0	0	—
Marshall Islands	0	0	0	—
Micronesia	0	0	0	—

State	2000 Allocations	2001 Allocations	2002 Preliminary allocations	% Change from 2001
Indian Tribe Set Aside	61,173,538	77,724,538	79,377,301	2.1%
Other[a]	20,636,845	23,244,059	21,629,000	-6.9%
Total	**$4,989,685,000**	**$6,339,685,000**	**$7,528,533,000**	**18.8%**

Source: ED Budget Service.

[a]Includes funding for Studies and Evaluations and a competition for Pacific Basin Entities.

Impact of Changes in the IDEA Grants-to-State Formula. As noted above, the new "permanent" formula for the grants-to-states program went into effect in FY2000. Because overall appropriations for this program have been growing significantly in recent years and because the formula constrains growth rates of individual states' grants, little notice apparently has been taken of changes resulting from the formula change. FY2002 appropriations represent about a 51% increase over the FY2000 amount and about a 75% increase over the FY1999 amount. Because of constraints on growth rates under the new formula, increases in state grants over the last 2 years have ranged from about 48% to about 54%.

At the same time, some states' allocations could have been significantly different under other formula alternatives. **Table 4** shows estimated percentage changes under three alternatives to the current formula. The first alternative shows changes if the previous formula had been maintained, that is, if funds were distributed based on states' shares of number of children with disabilities served. Under that approach several states, for example, a number of New England states, would have received significantly larger grants. Some other states, such as Alaska, Louisiana, Montana, and Texas, do better under the current formula than they would under the pre-FY2000 formula.

The second alternative shows changes if the new formula were implemented with no constraints on growth rates. That is, each state would receive its FY1999 grant amount plus 85% of the remainder distributed based on population and 15% based on poverty. No constraints would be placed on how much or how little a state's grant could grow. This approach would benefit certain states, such as Arizona and Colorado. Other states that do not benefit from a population-poverty formula would have lower grant amounts — for example, Massachusetts and New Jersey.

The third alternative distributes 85% of *all* funds based on population and 15% of *all* funds based on poverty, with no minimum or maximum grants. This approach benefits states, such as California and Nevada but is less advantageous for states such as Connecticut, Missouri, and Nebraska.

Table 4. Percentage Change in State Grants Based on Three Alternatives to the Current Grants-to-States Formula

State	FY2002 preliminary allocations	Formula based on share of children with disabilities	Formula based on current formula without min. & max. grants	Formula based 85% on population, 15% on poverty
		% Change with respect to FY2002 allocation		
Alabama	$119,993,70	-3.4%	-0.9%	-3.5%
Alaska	22,199,605	-7.4%	-9.0%	-16.8%
Arizona	111,045,656	0.9%	11.2%	30.0%
Arkansas	71,962,298	0.5%	0.9%	2.3%
California	781,662,507	-4.1%	1.4%	7.3%
Colorado	94,048,771	-2.7%	3.3%	11.8%
Connecticut	89,245,788	-3.8%	-3.8%	-14.6%
Delaware	20,345,877	-4.3%	-3.7%	-4.5%
District of Columbia	10,229,967	19.9%	14.6%	38.1%
Florida	405,996,094	5.2%	-0.9%	-6.4%
Georgia	195,216,655	1.9%	4.9%	15.5%
Hawaii	25,660,148	8.4%	1.1%	6.6%
Idaho	34,533,972	-1.9%	2.3%	9.6%
Illinois	336,544,669	2.2%	-0.9%	-4.1%
Indiana	170,908,661	6.3%	-0.9%	-7.6%
Iowa	82,526,911	2.0%	-3.8%	-14.7%
Kansas	70,916,463	0.4%	-1.0%	-2.3%
Kentucky	104,534,421	5.1%	-0.9%	-5.1%
Louisiana	119,376,775	-4.7%	5.3%	16.4%
Maine	36,989,288	11.9%	-9.5%	-28.0%
Maryland	131,488,699	-1.0%	-0.9%	-6.3%
Massachusetts	191,890,947	-1.8%	-5.4%	-18.3%
Michigan	260,222,966	-1.1%	-1.0%	1.5%
Minnesota	128,321,623	-0.5%	-2.1%	-5.4%
Mississippi	77,199,160	-6.5%	-0.8%	2.1%
Missouri	153,553,541	3.9%	-2.9%	-12.0%
Montana	23,559,507	-5.7%	-4.3%	-6.0%
Nebraska	50,475,888	-1.5%	-3.0%	-12.8%
Nevada	41,760,879	6.2%	6.5%	19.2%
New Hampshire	32,080,256	7.4%	-2.0%	-10.0%
New Jersey	244,340,509	5.4%	-5.1%	-17.8%
New Mexico	61,594,953	-1.4%	-1.8%	-7.9%
New York	509,444,136	0.2%	-0.9%	-6.1%
North Carolina	202,782,236	3.2%	-1.0%	-0.9%
North Dakota	16,520,608	-4.0%	-2.1%	-0.6%
Ohio	288,468,284	-4.3%	-0.5%	3.0%
Oklahoma	98,502,970	0.9%	-0.7%	-0.2%

State	FY2002 preliminary allocations	Formula based on share of children with disabilities	Formula based on current formula without min. & max. grants	Formula based 85% on population, 15% on poverty
Oregon	86,419,290	-0.4%	-1.0%	0.1%
Pennsylvania	281,605,665	-1.1%	-1.0%	0.9%
Puerto Rico	67,879,755	12.1%	57.3%	137.2%
Rhode Island	29,560,959	20.7%	-4.7%	-16.7%
South Carolina	115,463,825	6.6%	-0.9%	-7.6%
South Dakota	19,680,342	-0.7%	-0.5%	3.0%
Tennessee	154,805,179	-5.6%	-0.8%	-2.6%
Texas	608,102,898	-6.1%	0.0%	3.8%
Utah	68,595,427	-8.7%	0.6%	5.6%
Vermont	15,929,020	8.6%	-1.4%	0.8%
Virginia	181,315,881	7.4%	-0.9%	-6.0%
Washington	142,623,221	-3.2%	-0.9%	1.5%
West Virginia	51,337,699	13.9%	-4.4%	-16.1%
Wisconsin	140,642,706	3.4%	-1.0%	-2.7%
Wyoming	16,711,120	-8.5%	-10.6%	-20.6%
State Total	**$ 7,396,818,383**	—	—	—

State Set-asides and Capacity Building Grants. States are permitted to reserve funds from their Part B grants for administration and statewide activities, which include funds for state monitoring, for meeting personnel needs, and for providing technical assistance and training and development. Prior to the 1997 Amendments, the state set-aside for these activities had been 25% of the grant. The 1997 amendments altered this by requiring the amount for these state activities to be calculated by increasing the prior year reserve by the percentage increase in the state grant or the rate of inflation, whichever is less. In recent years, the increases have been based on inflation because grants are growing considerably faster than inflation. The effect of this in recent years has been to ensure state reserves have kept up with inflation but that higher percentages go to the local level — closer to 85% rather than 75% under prior law. Of the total state set-aside, states may reserve up to 20% or an adjusted dollar amount,[11] whichever is greater, for administration.

Table 5 illustrates how the state set-asides are calculated, using Alabama as an example. The increase over the FY2000 set-aside is based on the rate of inflation (3.4%) because the overall growth in the state grant (26.5%) was larger. Increasing the FY2000 set-aside of $13.7 million by 3.4% results in a total FY2001 state set-aside of $14.2 million. Of this amount, Alabama may use up to 20% or $2.8 million for administration. The remainder of Alabama's FY2001 grant of $100.4 million ($86.2 million or 85.8%) is distributed to the local level.

[11] This amount was $500,000 for FY1998 and has been adjusted for inflation each year since.

Table 5. Example of Calculating State Set-Asides (for Alabama for FY2001)

Amount of set-aside for administration and other statewide activities for FY2000	$13.7 million
For FY2001, increase by the lesser of rate of inflation (3.4%) or percentage increase in grant (26.5%)	$14.2 million ($13.7 increased by 3.4%)
Up to 20% of state set-aside for administration	$2.8 million (20% of $14.2 million)
Amount for other statewide activities	$11.4 million (80% of $14.2 million)

When Part B grants to states increase from one year to the next by more than the rate of inflation, states are required to set-aside funds for local capacity building grants (sometimes known as "sliver" grants). These grants are aimed at improving LEAs' special education programs. Specific uses include:

- Direct services for children with disabilities, including alternative programs for those expelled from school,
- Addressing needs (such as personnel shortages) identified in the state's improvement plan, and
- Adopting effective technology, instructional practices, and materials.

The amount for a state's capacity building grants is calculated by taking a percentage of the state's set aside for the previous year. The percentage is the growth rate of the grant minus the inflation rate. If this amount is less than $100,000, then the grants would not be made. Moreover, these grants only are made with increases above inflation. If overall grants are not keeping up with inflation, no capacity building grants are made. The logic behind this provision is that rather than providing the full increase for state activities, funds for those activities (as discussed above) are guaranteed at least an inflationary increase. But anything over inflation in the overall increase in the state grant goes to the local level — in this case, as capacity building grants. **Table 6** illustrates this calculation for Alabama.

Table 6. Example of Calculating State Capacity Building Grants (for Alabama)

FY2000 state set-aside	$13.7 million
Inflation rate	3.4%
Growth rate of state grant from FY2000 to FY2001	26.5%
Capacity building grants total based on prior year state set-side times growth rate of overall grant minus inflation (26.5% – 3.4% = 23.1%)	$3.2 million (23.1% of $13.7 million)

Substate Formula

After the state set asides and the amount (if any) for capacity building grants are removed, the remainder of the state grant is distributed to LEAs based on a formula similar to the state formula. Once the trigger for the permanent formula went into effect with FY2000 funding, states were required to use a similar substate formula.

The base grant is calculated for the year prior to the year in which the permanent formula became effective (i.e., FY1999). These are not the actual FY99 LEA grants but grant amounts that would have been made if the state allocated 75% of its total grant that year. Thus these base grants will be somewhat higher than the actual FY99 LEA grants. Of the remainder, 85% is distributed based on LEAs shares of total public and private school enrollments. The remaining 15% is distributed based on shares of their "numbers of children living in poverty, as determined by the SEA." Unlike the state formula there are no minimum or maximum grant amounts for LEAs.

Preschool State Grant Formula

Section 619 of IDEA authorizes state grants for services to children with disabilities ages 3 to 5. Since the Part B grants to states program also permits funding services for preschool children with disabilities, Section 619 is not so much a separate IDEA program as a source of additional funds for this age group.[12]

The preschool formula (in Section 619) is similar to the grants to states formula except:

- It went into effect immediately in FY1998 after the 1997 Amendments became effective. No appropriations trigger had to be reached, as was the case with the grants to states formula.
- The base grant for each state is the FY1997 grant.

[12] For further information on the IDEA preschool program, see CRS Report RL31273, *Individuals with Disabilities Education Act (IDEA): Early Childhood Programs (Section 619 and Part C)*, by Richard N. Apling.

- The remaining funds are distributed based 85% on states' shares of total population ages 3 to 5 and 15% on shares of those in that age group living in poverty.
- The minimum and maximum grant provisions are similar to the grants to states formula, except that the 40% maximum grant does not apply.
- State reserves and the substate formula are similar except there is no capacity building grant provision.

In practice, as **Table 7** shows, the formula does not make much difference, because appropriations have changed very little since 1997 (when funding was $360.4 million) and not at all for the last 3 fiscal years (which have been level funded at $390 million). So most of the grant is based on what was received in FY1997 — amounts that are not adjusted for changes in children with disabilities or changes in population.

Table 7. Recent State Allocations for the IDEA Preschool Program (Section 619)

State	2000 Allocations	2001 Allocations	2002 Allocations	% Change from 2001
Alabama	$5,730,375	$5,730,375	$5,730,375	0.0%
Alaska	1,294,380	1,294,380	1,294,380	0.0%
Arizona	5,545,066	5,545,066	5,545,066	0.0%
Arkansas	5,479,110	5,479,110	5,479,110	0.0%
California	39,848,701	39,848,701	39,848,701	0.0%
Colorado	5,073,769	5,073,769	5,073,769	0.0%
Connecticut	5,009,888	5,009,888	5,009,888	0.0%
Delaware	1,287,906	1,287,906	1,287,906	0.0%
District of Columbia	253,905	253,905	253,905	0.0%
Florida	18,917,454	18,917,454	18,917,454	0.0%
Georgia	10,077,250	10,077,250	10,077,250	0.0%
Hawaii	1,036,577	1,036,577	1,036,577	0.0%
Idaho	2,233,491	2,233,491	2,233,491	0.0%
Illinois	18,041,307	18,041,307	18,041,307	0.0%
Indiana	9,088,983	9,088,983	9,088,983	0.0%
Iowa	4,077,008	4,077,008	4,077,008	0.0%
Kansas	4,426,665	4,426,665	4,426,665	0.0%
Kentucky	10,431,998	10,431,998	10,431,998	0.0%
Louisiana	6,628,385	6,628,385	6,628,385	0.0%
Maine	2,567,159	2,567,159	2,567,159	0.0%
Maryland	6,824,190	6,824,190	6,824,190	0.0%
Massachusetts	10,103,890	10,103,890	10,103,890	0.0%
Michigan	12,853,643	12,853,643	12,853,643	0.0%
Minnesota	7,587,477	7,587,477	7,587,477	0.0%
Mississippi	4,321,339	4,321,339	4,321,339	0.0%

State	2000 Allocations	2001 Allocations	2002 Allocations	% Change from 2001
Missouri	6,171,495	6,171,495	6,171,495	0.0%
Montana	1,215,398	1,215,398	1,215,398	0.0%
Nebraska	2,306,907	2,306,907	2,306,907	0.0%
Nevada	2,312,229	2,312,229	2,312,229	0.0%
New Hampshire	1,591,180	1,591,180	1,591,180	0.0%
New Jersey	11,621,386	11,621,386	11,621,386	0.0%
New Mexico	3,256,045	3,256,045	3,256,045	0.0%
New York	34,473,989	34,473,989	34,473,989	0.0%
North Carolina	11,554,652	11,554,652	11,554,652	0.0%
North Dakota	839,536	839,536	839,536	0.0%
Ohio	12,874,725	12,874,725	12,874,725	0.0%
Oklahoma	3,760,076	3,760,076	3,760,076	0.0%
Oregon	3,960,512	3,960,512	3,960,512	0.0%
Pennsylvania	14,293,994	14,293,994	14,293,994	0.0%
Rhode Island	1,707,269	1,707,269	1,707,269	0.0%
South Carolina	7,293,431	7,293,431	7,293,431	0.0%
South Dakota	1,496,640	1,496,640	1,496,640	0.0%
Tennessee	7,049,034	7,049,034	7,049,034	0.0%
Texas	23,676,158	23,676,158	23,676,158	0.0%
Utah	3,647,879	3,647,879	3,647,879	0.0%
Vermont	892,952	892,952	892,952	0.0%
Virginia	9,323,245	9,323,245	9,323,245	0.0%
Washington	8,343,791	8,343,791	8,343,791	0.0%
West Virginia	3,558,432	3,558,432	3,558,432	0.0%
Wisconsin	9,674,989	9,674,989	9,674,989	0.0%
Wyoming	1,090,450	1,090,450	1,090,450	0.0%
American Samoa	0	0	0	0.0%
Guam	0	0	0	0.0%
Northern Mariana Islands	0	0	0	0.0%
Puerto Rico	3,273,690	3,273,690	3,273,690	0.0%
Virgin Islands	0	0	0	0.0%
Palau	0	0	0	0.0%
Marshall Islands	0	0	0	0.0%
Micronesia	0	0	0	0.0%
Indian Tribe Set Aside	0	0	0	0.0%
Other	0	0	0	0.0%
Total	**$390,000,000**	**$390,000,000**	**$390,000,000**	**0.0%**

Source: ED Budget Service.

Infants and Toddlers State Grant (Part C) Formula

The general purpose of Part C is to aid each state to create and maintain "a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families."[13] The Part C formula differs from and is less complex than the Part B formulas. After setting aside funds for outlying areas and Indian tribes, remaining funds appropriated for Part C are distributed based on states' share of infants and toddlers — i.e., total population below the age of 3. There is a one-half percent minimum state grant amount. **Table 8** shows recent state allocations.

Table 8. Recent State Allocations for the IDEA Infants and Toddlers Program (Part C)

State	2000 Allocations	2001 Allocations	2002 Allocations	% Change from 2001
Alabama	$5,442,925	$5,567,271	$6,063,339	8.9%
Alaska	1,836,562	1,878,520	2,043,288	8.8%
Arizona	7,163,113	7,326,758	7,868,896	7.4%
Arkansas	3,300,402	3,375,801	3,716,598	10.1%
California	45,929,796	46,979,082	49,954,044	6.3%
Colorado	5,377,332	5,500,179	6,132,874	11.5%
Connecticut	3,992,165	4,083,368	4,478,645	9.7%
Delaware	1,836,562	1,878,520	2,043,288	8.8%
District of Columbia	1,836,562	1,878,520	2,043,288	8.8%
Florida	17,645,688	18,048,811	19,235,683	6.6%
Georgia	10,918,523	11,167,962	12,265,577	9.8%
Hawaii	1,836,562	1,878,520	2,043,288	8.8%
Idaho	1,836,562	1,878,520	2,043,288	8.8%
Illinois	16,151,859	16,520,855	17,822,071	7.9%
Indiana	7,655,126	7,830,010	8,666,617	10.7%
Iowa	3,369,461	3,446,438	3,851,252	11.7%
Kansas	3,433,291	3,511,726	3,884,393	10.6%
Kentucky	4,812,022	4,921,954	5,461,452	11.0%
Louisiana	5,894,220	6,028,876	6,549,059	8.6%
Maine	1,836,562	1,878,520	2,043,288	8.8%
Maryland	6,413,677	6,560,200	7,162,997	9.2%
Massachusetts	7,269,022	7,435,086	8,078,494	8.7%
Michigan	12,028,661	12,303,461	13,646,869	10.9%
Minnesota	5,931,008	6,066,505	6,710,076	10.6%
Mississippi	3,786,753	3,873,263	4,213,822	8.8%
Missouri	6,722,152	6,875,722	7,568,706	10.1%
Montana	1,836,562	1,878,520	2,043,288	8.8%
Nebraska	2,120,927	2,169,380	2,400,219	10.6%

[13] Section 631(b)(1).

State	2000 Allocations	2001 Allocations	2002 Allocations	% Change from 2001
Nevada	2,652,976	2,713,585	2,970,642	9.5%
New Hampshire	1,836,562	1,878,520	2,043,288	8.8%
New Jersey	9,965,995	10,193,673	11,405,544	11.9%
New Mexico	2,442,953	2,498,764	2,682,058	7.3%
New York	22,320,520	22,830,440	25,063,710	9.8%
North Carolina	9,991,552	10,219,813	11,179,579	9.4%
North Dakota	1,836,562	1,878,520	2,043,288	8.8%
Ohio	13,648,077	13,959,873	15,361,800	10.0%
Oklahoma	4,398,814	4,499,306	4,901,951	8.9%
Oregon	4,068,712	4,161,663	4,544,414	9.2%
Pennsylvania	13,016,152	13,313,512	14,662,818	10.1%
Rhode Island	1,836,562	1,878,520	2,043,288	8.8%
South Carolina	4,752,400	4,860,970	5,456,933	12.3%
South Dakota	1,836,562	1,878,520	2,043,288	8.8%
Tennessee	6,863,518	7,020,318	7,697,334	9.6%
Texas	30,671,586	31,372,291	33,464,547	6.7%
Utah	3,997,116	4,088,432	4,423,421	8.2%
Vermont	1,836,562	1,878,520	2,043,288	8.8%
Virginia	8,373,127	8,564,414	9,470,434	10.6%
Washington	7,217,290	7,382,172	8,061,958	9.2%
West Virginia	1,836,562	1,878,520	2,068,052	10.1%
Wisconsin	6,078,934	6,217,810	6,961,718	12.0%
Wyoming	1,836,562	1,878,520	2,043,288	8.8%
American Samoa	589,812	603,278	616,106	2.1%
Guam	1,306,168	1,335,989	1,364,398	2.1%
Northern Mariana Islands	392,577	401,540	410,078	2.1%
Puerto Rico	5,782,773	5,914,883	5,986,306	1.2%
Virgin Islands	769,327	786,891	803,624	2.1%
Palau	0	0	0	0.0%
Marshall Islands	0	0	0	0.0%
Micronesia	0	0	0	0.0%
Indian Tribe Set Aside	4,629,630	4,735,395	5,148,148	8.7%
Other	0	0	0	0.0%
Total	**$375,000,000**	**$383,567,000**	**$417,000,000**	**8.7%**

Source: ED Budget Service.

Maximum Funding Under Part B Grants to States

Background, History, and Rationale. In 1975 when the current version of federal involvement in special education began,[14] Congress wanted to guarantee the rights of children with disabilities to a free appropriate public education and to help pay for the additional cost of this education. At that time, it was thought that on average these children were twice as expensive to educate as were other children. Congress wanted to pay some of this additional or excess cost — not the cost associated with educating all children but the additional cost of educating children with disabilities. The national average per pupil expenditure (APPE) was taken as the measure of total excess cost. The final compromise in 1975 was for the federal government to pay up to 40% of this excess cost or 40% of the national APPE. Specifically the Act stipulates that a state's maximum grant is 40% of the national APPE times the number of children with disabilities served. Full funding of IDEA Part B grants to states is determined by summing up all the states' maximum grants.[15] For FY2002 that amount was about $18.2 billion. It is important to note that these estimates change — usually they go up, because the estimate of APPE and of the child count are revised from time to time to reflect estimates of increased costs and estimated increases in number of children served.[16]

Recent Full-Funding Proposals. In recent years, Congress has been concerned about funding for special education. This concern can be seen in the substantial increase in funding of the grants to states program, from $2.3 billion in FY1996 to $7.5 billion in FY2002 (more than a 200% increase). Despite recent increases, some Members of Congress have also been concerned that appropriations are still far from providing full funding, i.e., maximum state grants authorized by the statute. As a result, Congress has taken various actions. For example, resolutions have been passed calling for full funding.[17] Bills have been introduced to specify authorization levels linked to full funding.[18] Floor amendments have been offered to shift appropriations from other education programs into IDEA funding.[19]

The Senate-passed version of H.R.1, which became the No Child Left Behind Act, reauthorizing the Elementary and Secondary Education Act (ESEA), contained

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[14] For a discussion of congressional intent with respect to the 1975 Act, see CRS Report 95-669, *The Individuals with Disabilities Education Act: Congressional Intent*, by Nancy L. Jones.

[15] It is important to remember that the maximum funding provision is relevant only to Part B grants to states. There is no 'full funding' amount for the two other block grants.

[16] For additional information on IDEA full funding, see CRS Report RL30810, *Individuals with Disabilities Education Act (IDEA): Issues Regarding "Full Funding" of Part B Grants to States*, and CRS Report 97-433, *Individuals with Disabilities Education Act (IDEA): Full Funding of State Formula*, both by Richard N. Apling.

[17] For example, see H.Con.Res. 84 in the 106th Congress.

[18] For example, see S. 496 and H.R. 214 in the 107th Congress. Note that Section 611(j) of current law would permit full funding to be appropriated at any time.

[19] For example, see H.Amdt. 758 to H.R. 4577 The Consolidation Appropriations Act of 2001.

an amendment to IDEA that would not only have authorized estimated full funding but would have appropriated specific amounts. The so-called Harkin-Hagel amendment would have increased grants to states funding by $2.5 billion per year beginning in FY2002 until estimated full funding was reached in FY2007. For the next 4 years (through FY2011), the amendment would have appropriated estimated full funding amounts. Beginning in FY2012, the bill would have authorized such sums as may be necessary without appropriating funds.

The final conference report (H.Rept. 107-334), which was agreed to by both the House and the Senate and signed by the President (P.L. 107-110) did not contain this amendment to IDEA. Debate in the House and Senate outlined reasons for dropping the amendment, with the intent to revisit the issue in the context of reauthorizing IDEA. For example, Representative Roukema noted the following:

> One of the major hurdles in this Conference was the issue of full funding of the Individuals with Disabilities Act (IDEA). Everyone agrees that the federal government is failing to pay its fair share of the costs of special education and all sides agree on the need for more money for students with disabilities. The problem is that this bill is not the appropriate vehicle to address the IDEA funding problem because funding and reform must be linked.[20]

In the Senate, Senator Gregg maintained:

> There has been some discussion — and I alluded to not agreeing with my colleague on some of his opening statement — there has been some discussion on the issue of IDEA. This is another area that needs significant attention. But the bill we are dealing with today deals with the low-income child and the Title I program, which is the most significant Federal program in the area of elementary and secondary school education.
>
> IDEA and special education is a separate issue and should be dealt with as a separate issue because the IDEA issues are equally complex, maybe narrower, maybe not as many, but certainly equally as complex and intensely felt as the title I issues — in fact, more intensely felt in many instances. To merge the two and try to solve both of those issues at the same time would have been a mistake.
>
> We have put off the IDEA funding issue and the other major questions dealing with IDEA such as overidentification, especially of minority groups, issues involving discipline, issues involving excessive attorneys fees, issues involving excessive bureaucracy being forced on the school systems, issues involving whether or not a special education child has a right to move out of a public school and into a private school and the payment for those activities. All those programmatic issues which are very intricate and very difficult to address should be brought up in the context of a full IDEA reform and reauthorization which will occur next year.[21]

Some Members listed the dropping of IDEA funding as a reason for voting against the bill. The 2nd session of the 107th Congress considered "reforming and

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[20] *Congressional Record Daily Version*, no.173, December 13, 2001. p. H10090.

[21] *Congressional Record Daily Version*, no.175, December 17, 2001. p. S13327.

reauthorizing" IDEA. Both the House and the Senate held hearings, and a presidential commission made recommendations.[22] No other action was completed during the 107th Congress. Although some Members disagree on how much IDEA needs to be changed,[23] Congress is likely to continue considering IDEA funding and other issues.

Possible Unintended Consequences of Full Funding. As Congress debates IDEA funding issues, it is important to realize that providing funds for maximum allowable state grants (i.e., fully funding IDEA Part B grants to states) may have some unanticipated and unintended consequences. What follows is a discussion of some possible results of full funding.

Determining Full-Funding Amounts in Future Years. As noted above, the Senate amendment in H.R. 1 would have appropriated specific funds under Section 611(j). The amendment would have increased IDEA Part B grants-to-states appropriations by $2.5 billion per year until an estimated full-funding amount was reached in FY2007. Beginning in that fiscal year through FY2011, the Senate amendment would have appropriated specified amounts that were estimated to be full funding for those fiscal years. Those amounts apparently were based on estimates made by the U.S. Department of Education (ED) in late 2000 or early 2001. By the end of 2001, new ED estimates were available for those fiscal years, which indicated that the H.R. 1 appropriations would have been slightly short of full funding (approximately 38% of APPE rather than 40%). If a future bill followed the same strategy of appropriating specific amounts based on estimated full-funding totals, similar results could occur.

Set-Asides from Total Appropriations. If funds are appropriated under Subsection 611(j) (as the Senate version of H.R. 1 would have done), set asides for outlying areas, BIA, and evaluation would come 'off the top.' This could raise two problems. First, slightly less than the full-funding amount would be distributed to states. Thus states would receive slightly less than their maximum grants. Second, if current percentages were applied, very large amounts would go to BIA and could go to outlying areas. Some, including ED, argue that these funds could not be absorbed and could result in excessive amounts per pupil being provided. For example, if the FY2001 full funding amount of $17.8 billion had been provided, application of the statutory percentage would have allotted nearly $226 million to the Department of the Interior for the BIA. Based on a child count of approximately 13,000 children with disabilities attending BIA schools,[24] this would have amounted to more than $17,000 per child; whereas the per child amount provided to states would have been about $2,800 (40% of the national APPE of $7,006). Based on a similar concern given the FY2002 increase in appropriations, ED apparently

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[22] For further information on the President's Commission on Excellence in Special Education (PCESE) see the Commission's web site at [http://www.ed.gov/inits/commissionsboards/whspecialeducation/index.html].

[23] See Kildee Castle, "Split on Scope of IDEA Changes," *Education Daily*, v. 35, no. 84, May 3, 2002, p.1.

[24] ED's 23rd Annual Report to Congress on the Implementation of IDEA, Table AA1; data for school year 1999-2000.

persuaded the Congress to override this required percentage through appropriations language and determine the FY2002 amount for BIA by increasing the FY2001 by the rate of inflation.

Incentive to Over-Identify Children with Disabilities. Full funding is based on providing each state with its maximum allowable grant, which, as noted above, the Act specifies as 40% of the national average per pupil expenditures times the number of children with disabilities served. When funds were distributed based on numbers of children with disabilities (the 'interim' formula in effect until FY2000 when the 'permanent' formula based on population and poverty went into effect), there was a limit on how many children could be counted for the purpose of the formula (but not on how many are served). Prior to the 1997 amendments, the Act required that, for the purposes of allocations, children with disabilities ages 3 to 17 could represent no more than 12% of a state's total population in that age group. In 1997, this provision was not included; however cross-reference to the prior law was made with respect to the 'interim' formula. Apparently this reference does not apply to the maximum grant provision. Thus there is currently no limit on how many children with disabilities states could count for the purpose of determining full funding. This could encourage 'over identification,' which both the previous Act (under the 12% requirement) and current law (under the 'census' based 'permanent' formula) seek to avoid.

Constraints on Growth Rates. As appropriations for the grants-to-states program grow, the 'permanent' formula constrains the growth rate for all states. If the overall appropriation grows by more than 15%, state growth rates will fall within a band between 1.5 percentage points below the overall growth rate[25] and 1.5% percentage points above the overall growth rate. These constraints are likely to cause problems if (a) appropriations were to grow at a high rate from one year to the next (for example, if Congress were to appropriate the estimated full funding amount all in one year, rather than moving toward full funding in increments, as the Senate version of H.R. 1 would have done), and (b) in the year in which full funding is reached, even under an incremental approach (such as, increases of $2.5 billion per year, as under the Senate version of H.R. 1).

For example, suppose total appropriations were required to grow by 10% to reach full funding, even after several years of significant increases. Some states would be very close (or even at) full funding in the prior year because, over time, they had been receiving the higher growth rate (the 1.5 percentage points above the total growth rate of the appropriations). Thus these states might need to increase by only 2% or 3% to reach their maximum grants. But the minimum they could increase would be 9.0% (10% times 90% = 9.0%), which would provide a grant higher than the maximum grant provision would permit. Other states (those that had been perennially receiving the lowest growth rate — the 1.5% percentage points below the overall growth rate in appropriations) would have to increase by considerably more than 10% to reach their maximum grants. However, the current formula limits their growth rate to 11.5% (10% + 1.5%). One result of these problems would be that ED

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[25] If overall growth is less than 15%, the minimum growth rate for a state's grant is 90% of the overall growth rate.

would be unable legally to distribute all of the funds appropriated. In addition, although sufficient funds would have been appropriated to provide maximum grants (i.e., full funding) for all states, some could not receive the full amount because of formula constraints.

Differential Benefits Among States. The full-funding provision reflects congressional intent to provide up to 40% of the additional or excess cost of providing special education and related services to children with disabilities. The proxy for excess cost is the national APPE. However, state APPEs (and presumably the excess costs of special education) vary widely. Thus provision of full funding could result in providing substantially more than 40% of the excess cost in some (lower cost) states and substantially less than 40% of the excess cost in other (higher cost) states.

Diminishing Sliver Grants. Once full funding is reached, the local improvement grants (the sliver grants–described above) could become modest or disappear for some states because these grants are based on the difference between the growth rate of the overall state grant and the rate of inflation. In the years prior to reaching full funding, Part B appropriations presumably would be growing rapidly — outpacing inflation and ensuring relatively large amounts for sliver grants. Once full funding is reached, appropriations (if based on full funding) would grow more slowly, because full funding is partially based on APPE, which in turn grows at rates related to inflation. In some smaller states, the state could opt not to provide any sliver grants at all if the total available is less than $100,000. In other states, the amount available could be relatively modest.

Possible LEA-Level Consequences. Even when full funding for state grants is reached, grants to LEAs will continue to be determined by the current substate formula described above. The resulting substate distributions could have several consequences at the local level. First of all, there is no maximum grant provision for the substate formula. Thus some LEAs could receive amounts that are greater than 40% of APPE; others could receive grants that amount to less than 40% of APPE. Since the substate formula is based mainly on overall enrollment and does not reflect local expenditures, some LEAs with lower incidences of children with disabilities or lower costs could receive more funding than they can spend — for example, more than the excess cost of providing FAPE might be covered. Since there is a reallocation procedure in the Act (Section 611(g)(4)), which allows states to redistribute funds if an LEA does not need all the IDEA money to ensure FAPE for all children with disabilities, this may not become a problem if states exercise this provision properly.

In addition, current law has state and local fiscal requirements to ensure that maintenance of effort (MOE) for special education is preserved from year to year and that the federal funds supplement, not supplant, state and local special education funding. If the intent of Congress in providing full funding is to ‘free up’ state and local special education funding for other purposes, these fiscal provisions could prevent this from happening.