
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: SJR 8 **Hearing Date:** June 5, 2019
Author: Wilk
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Urgency: **Fiscal:** No
Consultant: Ian Johnson

Subject: Special education funding.

SUMMARY

This resolution memorializes the Congress and the President of the United States to enact H.R. 2902 pending before Congress that would fully fund the federal Individuals with Disabilities Education Act (IDEA).

BACKGROUND

The IDEA is the primary federal program that authorizes state and local aid for special education and related services for children with disabilities. On December 3, 2004, President Bush signed the Individuals with Disabilities Education Improvement Act, a major reauthorization and revision of IDEA. The new law preserves the basic structure and civil rights guarantees of IDEA but also makes significant changes in the law.

ANALYSIS

This resolution makes the following legislative findings:

- 1) The federal Education for All Handicapped Children Act of 1975 (1975 Act) was enacted by Congress and signed into law by the President as Public Law 94-142 to address the failure of states to meet the educational needs of children with disabilities. This act, known as the federal IDEA since 1990 with the enactment of Public Law 101-476, remains the cornerstone of federal statutory mandates governing special education.
- 2) The purpose of the 1975 Act, as declared by Congress, was to ensure that all children with disabilities have available to them, within specified time periods, “a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.”
- 3) The 1975 Act authorized a maximum state funding entitlement of 40 percent, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per-pupil expenditure in public elementary and secondary schools in the United States.

- 4) Since 1975, including in the most recent amendments to Individuals with Disabilities Education Act (IDEA), Public Law 108-446, the federal Individuals with Disabilities Education Improvement Act of 2004, Congress has maintained the funding authorization at “40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States”.
- 5) The federal government has never paid its promised 40-percent share of the IDEA mandate. For many years, Congress paid less than 8 percent of the excess cost of educating children with disabilities, which forced the states and local educational agencies to cover the remaining costs. The California student population requiring special education and related services continues to grow each year.
- 6) School, disability, and parent groups have been trying for years to bring IDEA appropriations up to the authorized 40 percent of average per-pupil expenditures, the maximum any state can receive per student with disability. This effort has come to be known as “full funding,” but the effort has never succeeded.
- 7) The California Legislature, since the early 1990s, has approved a number of joint resolutions memorializing the President and the United States Congress to provide the full federal share of funding for special education programs to the states so that this state and other states will not be required to take funding from other vital state and local programs to fund this underfunded federal mandate.
- 8) In 2016, federal funding only represented 16.3 percent of its share, well short of the promised 40-percent level.
- 9) Because the promised federal funding level is not being met, the burden has fallen on states and local school districts, which leads to cuts in programs, tax increases, or both.
- 10) Federal legislation is pending on the floor of the United States Senate, S. 866, known as the IDEA Full Funding Act, that aims to reach the 40-percent “full funding” level by the 2029 fiscal year through incremental increases in the federal share of funding each fiscal year.

The resolution states that the Legislature respectfully memorializes the Congress and the President of the United States to enact S. 866, pending before Congress, that would fully fund IDEA.

The resolution also states that Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Committee on Budget, to the Chair of the House Committee on the Budget, to the Senate Committee on Appropriations, to the Chair of the House Committee on Appropriations, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of Education.

STAFF COMMENTS

- 1) ***Need for the bill.*** As indicated in the resolution, federal government has never paid its promised 40-percent share of the IDEA mandate. For many years, Congress paid less than 8 percent of the excess cost of educating children with disabilities, which forced the states and local educational agencies to cover the remaining costs. The California student population requiring special education and related services continues to grow each year.
- 2) ***Funding for Individuals with Disabilities Education Act (IDEA).*** In 1975, when Congress passed the first iteration of IDEA mandating that all children with disabilities be provided a free appropriate public education in the least restrictive environment, it also indicated to states the Federal Government would provide 40 percent of the average per pupil expenditure to help offset the cost of educating eligible students. In the nearly 43 years since the law's passage, that level of funding has never been realized, leaving states in the position to find their own resources required to meet their IDEA obligations.
- 3) ***Effects of IDEA not being fully funded.*** A 2018 report by the National Council on Disability, "Broken Promises: The Underfunding of IDEA" stated that lack of fully funding IDEA has had the following impacts nationwide:

"... lack of federal support places considerable pressure on state and local budgets, resulting in a range of actions including one state placing an illegal cap on IDEA identification, districts and schools limiting hiring of personnel and providers, districts and schools restricting service hours, and districts and schools reducing or eliminating other general programs.

There is unanimous support to increase annual federal IDEA funds and agreement that increases would allow districts to improve outcomes and use freed-up local funds to support all students. Finally, no large-scale national study has been conducted since the early 2000s, which limits researchers and policymakers' ability to understand the true costs of special education, and maintenance of effort (MOE) requirements can serve as a disincentive to districts piloting innovative or expanded services."

SUPPORT

California Retired Teachers Association
 California School Boards Association
 Coalition for Adequate Funding for Special Education

OPPOSITION

None received

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