INTRODUCTION: The Guilford County Board of Education recognizes the extreme current state budget constraints, which also exist at the local level. The Board is appreciative of considerations made thus far to enable school systems to meet mandated goals for improving student achievement. Fearing negative consequences for the future of our state if those goals are not met, the Board urges the General Assembly to seek all possible options to ensure adequate funding for supporting schools in meeting the measures of accountability required by the new and necessary North Carolina standards. Recognizing the strong mandates for school systems in the federal No Child Left Behind legislation, the Board of Education also requests the flexibility and/or realignment of state funding to meet these new requirements. The Board also asks your partnership with us to influence our members of Congress to provide the necessary federal dollars to assure that No Child Left Behind will not become another major unfunded or under funded federal mandate as has been the case for so long with the Individual with Disabilities Education Act (IDEA).

The Board has identified below, issues of particular significance for the Guilford County Schools and our community and in many cases our state and nation. Staff members specifically designated to work with each issue are identified. In addition, legislators are encouraged to contact with the Board’s designated administrative legislative liaison, John Wright (phone 336-819-2763) on every issue related to education. John will be happy to provide pertinent information.

1. UNFUNDED MANDATES

The Guilford County Board of Education recognizes the efforts of individual members of the Congress and General Assembly to fully fund proposed or already existing programs, but respectfully opposes any federal and/or state mandate that does not include funds to pay for those mandates, and believes that unfunded or under funded mandates may be compared to a direct tax on local school districts. Some primary examples are the following:

a. FUNDING FOR ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)
The Guilford County Board of Education appreciates the previous work of the General Assembly in this area, which increased funding for services for limited English proficient (LEP) students. However, given the continuing increase in the number of LEP students, this remains an under funded need. In 2001-02, $1.22 million dollars in local funds were budgeted, and in 2002-03 $1.65 million will be required to fund ESOL teacher positions and ESOL teacher assistant positions in the Guilford County Schools. The Board does hereby request that the Legislature of the State of North Carolina continue to support increased funding for services for LEP students in the budget for the 2003-2005 Biennium.

Contact: Delores Fogg
Phone: 336-370-2305
Fax: 336-370-2320
b. EXCEPTIONAL CHILDREN FUNDING
Existing state legislation prevents the allocation of funds to school districts for identified students with disabilities that exceed the state cap of 12.5% of the district’s ADM [average daily membership]. The December 1, 2002 headcount of students with identified disabilities, excluding preschoolers, is approximately 10,262. With a general enrollment of 64,615 students, the Guilford County schools would be capped and receive funds for only 8,077 students. This means that 2,185 identified students would be unfunded at a cost of approximately $5,900,000 of local dollars and increase of about $1,000,000 over last year. It is easy to see that because the district enrollment is anticipated to grow by over 1,250 students again next year, the exceptional population enrollment will also grow as it has in the past, and the funding gap will widen even further.

There are two continuing initiatives to address the funding issue:

- The 80 plus school districts currently “over” caps will again approach the issue with the State Superintendent, State Board Chair, Governor, and state advocacy groups.
- We will continue to work closely with statewide educational organizations to develop legislative priorities, which include increased funding for students with disabilities. The State Board of Education has included within its Public School Expansion Request for the 2003-2005 Biennium $25,000,000 for the first year, and 50,000,000 for the second year of the biennium for students with disabilities. This is viewed as bringing the average per pupil allocation up to the national average of 2.3 times that of a regular education student. Raising the limits of the state funding “cap” or its removal along with the full funding of the Biennium request will go far in meeting our resource needs. Currently, technical language and policy changes are being made to bring state statutory language in line with federal language.

IDEA is up for reauthorization and it is still our position that any changes at the federal or state levels will continue to demand additional resources. Immediately, our federal legislators need to actively support a full entitlement status of IDEA and a funding level of 40%, which the federal government has failed to achieve, even though it was promised by Congress when the initial landmark legislation was passed 28 years ago. We call upon our County Commissioners and state legislators and public officials to join us in urging our federal representatives to keep the federal promise.

Contact: Betty Anne Chandler
Phone: 336-370-2323
Fax: 336-370-2326

c. STUDENT TRANSPORTATION
Immediate attention is needed to the funding situation in this arena. Beyond not advising local districts of actual funding until late November 2002 for the 2002-2003 year, the small increase received was insufficient to meet actual transportation needs. Additionally, the unilateral legislative decision to reduce school bus parts money for the 2001-2002 school year by $4 million and then, to automatically extend
and increase that reduction to $5+ million in 2002-2003 to assist in addressing the budget shortfall, meant that districts either were unable to handle repairs or had to cover the states unfunded amount with local dollars, which are also in short supply. In our case, our inventory reductions amounted to over $186,000 in 2001-2002; to over $284,000 in 2002-2003. To understand the impact of these reductions, our total parts expenditure for 2001-2002 was $543,000, and for 2002-2003, we expect to spend over $585,000. Further, funds cut over the last two years need to be restored to purchase replacement buses for our aging, inefficient fleet.

Contact:  Jim Moen
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Fax:         336-370-8930

d.   NO CHILD LEFT BEHIND
The Board is concerned that the high stakes accountability with parallel consequences mandated by this federal legislation is not being realistically supported by sufficient funding to meet the challenging requirements which this district team is focused upon exceeding.

Contact:  Delores Fogg
Phone:    336-370-2305
Fax:        336-370-2320

2. OPPORTUNITIES TO IMPROVE TEACHING AND LEARNING

a. TEACHER SUPPLY AND RECRUITMENT
The Guilford County Board of Education calls upon the General Assembly, the State Board of Education, and the Federal Government to recognize the critical shortage of highly qualified staff. It is essential that these bodies, along with our state universities, join local districts to develop means to increase our teacher supply and deal with root causes of the shortages. Among other possible solutions, funding should be authorized or increased for programs such as Teacher Cadets, incentives, and additional scholarship moneys. We gratefully acknowledge steps in this direction by the Assembly and the work of the State Board; however more effort is needed, and needed immediately. Other specific legislative action, which would assist includes:

• the reinstatement of previous North Carolina earned sick leave when one returns to North Carolina service regardless of the intervening time since last North Carolina service;
• the immediate waiver of the waiting period for short and long-term disability benefits, if a person returning to North Carolina service has served the prescribed waiting period in North Carolina previously;
• the ability for present North Carolina employees to purchase retirement years credit for like service in other states on a basis of two years for every three years served elsewhere, after only five years of North Carolina service. This could be exercised at any time after five years and the cost to the employee would be determined on the actuarially sound basis as calculated by the state
retirement system. The purchase should be available to all active employees regardless of membership in another state’s retirement system.

- The creation of a state funded recruitment incentive allocation on a per pupil basis to be administered by local districts- possibly requiring a local match.

Contact: Mike Harris  
Phone: 336-370-8340  
Fax: 336-370-8398

b. FUNDING FOR SALARY INCREASE FOR SUBSTITUTE TEACHERS  
The Guilford County Board of Education gratefully acknowledges that teacher substitute rates were established as a percentage of the minimum State Salary Schedule for a Bachelor’s degree teacher by the 1998 General Assembly. This now ensures that teacher substitute rates are adjusted along with the State Teachers’ Salary Schedule. The Board now requests that the percentage rates be readjusted to better reflect the skill level needed for good substitutes and to provide equitable and competitive pay rates. At a minimum, licensed substitute teachers should receive 75% (presently 65%) of the beginning teacher’s salary (A-O). Similarly, non-licensed substitute teachers should receive 60% (presently 50%). Additionally, regardless of the leave status of the absent teacher, after 10 days of substitute service, a substitute should receive the daily pay rate of a beginning teacher (A-O). Further, the state is encouraged to examine other ways used in other states to bolster the number and availability of subs, including the allocation of permanent substitute positions and/or the creation of a substitute benefits package.

We also believe that in addition to raising substitute teacher pay we need to look into ways to keep our regular teachers in the classrooms so that fewer substitutes are needed. Having examined this issue ourselves locally, we propose a change later in this agenda under funding flexibility which will allow us to implement strategies to reward model teacher attendance, thus reducing absentees and increasing student achievement.

Contact: Alan Hooker  
Phone: 336-370-8055  
Fax: 336-370-8398

c. PROPOSAL TO GIVE TEACHERS CREDIT FOR EXCESS PERSONAL LEAVE DAYS  
Currently, teachers can earn approximately two personal leave days each year and are allowed to accumulate up to five of those days each year. If they do not use these days, they lose any over five that they have accumulated or that might be earned. The Guilford County Board of Education recommends that the state allow local boards of education to convert excess personal leave days into sick leave days rather than making teachers use them or lose them. This would be similar to the way excess vacation days over 30 are converted and would give teachers incentive to save their personal leave days when possible, allowing them to remain in the classroom to benefit children. We wish to thank members of our delegation who previously introduced such legislation in the House and encourage all members of our delegation to see that such legislation is passed.

Contact: Patty Kinkade  
Phone: 336-370-8092  
Fax: 336-370-8924
d. FUNDING FOR INTERNATIONAL BACCALAUREATE/ADVANCED PLACEMENT
The Guilford County Board of Education believes that State-level support for advanced study in our high schools is essential. Recognized programs with well-defined standards and external assessments provide a means for ensuring both rigor and quality. To foster this type of environment, the Legislature of the State of North Carolina should provide monetary support to the districts or schools for Advanced Placement and International Baccalaureate programs that have demonstrable results in terms of student performance on the external assessments. This kind of support would provide the necessary resources for the required training, materials and testing.

Contact: Beth Copenhaver
Phone: 370-8107
Fax: 370-8326

e. LINKAGES BETWEEN PUBLIC SCHOOL AND TEACHER TRAINING INSTITUTION
The Guilford County Board of Education calls upon the General Assembly to create a task force comprised of members of the university system and the State Board of Education to make recommendations on how to incorporate more courses on teaching reading into the curriculum for our college students in our university system's education course of study.

Contact: Mike Harris
Phone: 336-370-8340
Fax: 336-370-8398

3. LOCAL CONTROL INCLUDING LOCAL BOARD OPERATION AND AUTHORITY

a. TAXING AUTHORITY
The Guilford County Board of Education believes it has the responsibility to identify, raise and stand accountable for the use of sufficient levels of funding necessary to successfully serve the academic needs of all public school students within its jurisdiction. The Board finds it incongruous that representatives elected by the people to produce effective, excellent public schools have no authority to directly seek the local funding required for this critical task. Therefore, the Guilford County Board of Education respectfully requests that the North Carolina General Assembly grant local boards of education the authority to levy taxes to provide for the local educational needs of the children they serve.

Contact: John Wright
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b. ABC INCENTIVE PLANS
When the ABC legislation was originally passed, local school sites could submit unique plans that varied from the state plan. This could include awarding shares to various staff members who were seen as contributing to the school’s success, or using some or all of the money allotted for non-salary purposes such as purchases for school needs. The General Assembly by legislation later removed site decision making opportunities from schools by mandating set payments, for those schools which qualify, to licensed staff and teacher assistants only. The Guilford County
Board of Education respectfully requests the General Assembly amend the applicable statute to return this flexibility to school staffs who can best determine how to spend the award.

The Board also requests that the State Board of Education and the General Assembly study the larger question of the intended impact of the ABC awards and the actual outcomes, and also consider the award program’s congruency with the No Child Left Behind Act.

Contact:  Shirley Morrison
Phone:    336-370-8340
Fax:        336-370-8398

c.  FUNDING FLEXIBILITY
The Guilford County Board of Education respectfully requests that the General Assembly not seek to direct allocations of how state funds should be used, but rather allow the local Boards that degree of flexibility to make decisions on such allocations so as to best assess and meet the needs of the respective school districts unless otherwise required by law. Further, to encourage innovations and efficiencies, we request that substitute teacher funding be allotted on a per pupil or per staff member basis, and that any savings derived from successful programs to cut substitute usage and costs be available for other uses as designated by the district.

Contact:  Sharon Ozment
Phone:     336-370-8343
Fax:         336-370-8306

4.  OTHER PRIMARY AREAS OF CONCERN

a.  ADDITIONAL FUNDING FOR SAFETY AND CHARACTER/CITIZENSHIP EDUCATION
Noting the importance of school safety and character education, 1) the Board believes it and other districts should not need to depend totally upon local resources to provide School Resource Officer positions and requests the General Assembly to expand support for these valuable positions by funding a minimum of one officer for every middle or high school in the state. The U.S. Congress is also requested to include funding for officers in schools in any program to assist local jurisdictions in providing more police officers on the street. 2) Because a safe community is best rooted in good character and citizenship, the state needs to realign resources as necessary to assure a stable program of character/citizenship education available to all children throughout the state, and to provide additional funding for staff development for teachers and other staff for training and the upgrading of skills for positive classroom management and disciplinary techniques, and understanding the cultural values of a diverse student population.

Contact:  Beth Copenhaver
Phone:    370-8107
Fax:         370-8326
b. CHARTER PUBLIC SCHOOLS
The Guilford County Board of Education believes in the concept of alternative
delivery systems of public schooling when a clear need is being met. Standards
for all schools endorsed by the legislature should include the same high
expectations for curriculum, instruction, management and evaluation which are
required of traditional public schools in order to ensure that all students are well
served, and public dollars appropriately spent.

Given the insufficiency of resources for raising student achievement to the highest
possible levels in public schools, including closing long standing academic gaps
between educationally advantaged and disadvantaged students, and given the
mixed accountability results of Charter Schools, this Board respectfully requests
that the cap on the number of Charter Schools not be lifted at this time; however,
the Board requests that the enabling legislation be amended to allow a local Board
of Education to apply for any available vacant charter. It further requests that the
same flexibility and exemptions from state regulations which apply to Charter
Schools be extended to traditional public schools.

Contact: Sharon Ozment
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Fax: 336-370-8306


c. TIMELY STATE BUDGET ADOPTION
Existing state legislative requirements mandate that each Board of Education
adopt proposed budgets and submit them annually to their County
Commissioners by May 15, who must adopt budgets by June 30. Boards of
Education are legislatively required to adopt a budget resolution before July 1.
Because education is a state function, state funding is essential to local school
budgets, as the driving force behind school operations, programs, and the rest of
the budget. It is time for the General Assembly to construct a budget timeline that
recognizes the needs of school boards and county commissioners to know the
adopted levels of state funding in order to develop workable local budgets. If all
dates in the budgetary process need to be changed, the Legislature should take
the leadership to implement that change. The current “cart before the horse”
timing is counterproductive.

Contact: Sharon Ozment
Phone: 336-370-8343
Fax: 336-370-8306

d. DEFERRING IMPACT OF LEGISLATIVE ACTION AFTER JULY 1
Related in part to the timely budget adoption position above, and noting the length
of recent sessions of the General Assembly, the Guilford County Board of
Education, regrets the difficulty imposed on all school districts, employees, and
students and families when laws are not adopted in a timely fashion, well in
advance of the opening of the school session annually, to provide smooth
implementation. The Board therefore requests that any legislation passed after
July 1 of any Assembly session, that impacts preK-12 education, not become
effective until July 1 of the following year, absent the finding that truly exigent
circumstances exist that have to be addressed immediately.
e. EARLY CHILDHOOD EDUCATION

The Guilford County Board of Education has made the educational enrichment for four year olds who demonstrate developmental delays a high priority since 1993. Our goal has been to serve every child in preschool classrooms whose scores are below the 60th percentile on the nationally normed DIAL-R assessment scale. Through the collaborative use of Title I funds, Head Start, Smart Start dollars, More-at-Four, plus help from the private Cemala Foundation, most of the at risk four year olds in the county are now receiving pre-kindergarten services.

Evaluations of the pre-kindergarten programs and their continued benefits to children through the third grade, as evidenced by a longitudinal follow through of the same children each year, demonstrate the usefulness of this early educational preparedness.

With this direct local experience as background, we request that the North Carolina Legislature continue to provide funds for children 0-4 years of age through both Smart Start and More-at-Four. It is essential that the at risk child from 0-3 be served through continued use of Smart Start dollars designed to improve and sustain higher quality child care centers and homes; and, that More-at-Four allocations provide that “last-chance” educational help to qualifying four-year olds before they enter kindergarten. We believe that over the long term, implementation of both these programs will result in higher achievement in the public school experiences of eligible children.

f. SCHOOL FACILITY NEEDS AND FUNDING

Guilford County, like many others throughout the state, is experiencing significant overcrowding and facility obsolescence in our schools. Our county passed a 200 million dollar bond referendum in 2000, which coupled with the state referendum for the Public School Building Bond Act of 1996, provided funds which have greatly helped; however, given the growth of the student population over the last several years, we still have over 450 mobile units as we near completion of most of our projects which is about where we were before the bond referendum.

We are asking the County Commissioners to fund our next facilities construction phase. We have already identified over 600 million dollars in our most immediate critical capital needs. We hereby ask the General Assembly to endorse another statewide bond referendum. We are also asking for your advocacy to request our representatives in
Congress to provide tax credits for purchasers of school bonds, and any other federal assistance for capital needs.

We shall appreciate attention to critical school facility needs. Our county, in order to meet state and federal mandates must use a high level of local dollars for operational purposes and therefore is limited in local funding available to meet capital needs.

STATE AND NATIONAL ORGANIZATION AGENDAS:

The Guilford County Board of Education supports the NCSBA Legislative Agenda-2003-2004 which appears on pages nine through eleven of this agenda with special importance placed by our Board on the following issues: Salaries, with particular attention to the teacher salary issue; School Facilities; Early Childhood/Pre-Kindergarten; and Tuition Tax Credits/Vouchers. The Board will also be in support of positions of the National School Boards Association and the Council of Great City Schools, which are reflective of the Board’s Mission and Goals and not inconsistent with items in this Legislative Agenda. The active NSBA Agenda for 2003 and four issue briefs are also attached.

NCSBA LEGISLATIVE AGENDA - 2003-2004
AS ENDORSED BY THE
GUILFORD COUNTY BOARD OF EDUCATION

Guiding Principles

During each legislative session there are always unanticipated bills introduced that affect public schools. The following are three of the guiding principles that NCSBA will use to evaluate legislation that is introduced during the legislative session.

1. **Unfunded Mandates**: NCSBA opposes any legislation that would require school systems to expend additional financial resources without the state providing those necessary resources. NCSBA also will continue to advocate for funding for those mandates that currently exist.

2. **Local Control**: One of the three components of the ABCs program is the “C,” which stands for local control. In order for the ABCs to be successful in the long term, local control at the school system level must be preserved and expanded. NCSBA opposes any legislation that attempts to diminish or take away local control and supports legislation that provides additional local control and decision making.

3. **Funding Formulas**: The General Assembly should provide sufficient funds to guarantee that all funding formulas are fully funded. For those formulas that are not currently fully funded (e.g. low wealth schools supplemental funding) additional allocations should be appropriated to fully fund the programs.

Formal Agenda
The remainder of the agenda is a list of priority legislative issues. These issues are either new positions, a modification of previously held positions or highest priority positions. NCSBA maintains all previously held positions and will work on other pieces of legislation on an as needed basis.

Appropriations

There are many pressing financial needs for the 117 school districts across North Carolina. At the same time, the State faces one of the worst financial crises in the State’s history. In light of the State’s financial situation, school board members have identified their top funding needs over the next two years. These needs have been divided into two levels. The first level is the most critical and the second level is the next most critical.

Level 1

❖ Increase Teacher Salaries
   *North Carolina made substantial gains in providing competitive salaries for teachers in the late 1990s. However, in the last several years, the State has begun to lose those gains. While facing a critical teacher shortage and competing with other States and private industry, it is imperative that North Carolina recapture the gains it had made in the 1990s and continue to move ahead to compete on a national basis.*

❖ Funds for School Construction
   *Over the next few years, North Carolina is facing over $6 billion in school construction needs. Coupled with the additional classroom space that will be required to reduce class size and implement More-at-Four in the schools, the State must make a significant contribution for school construction and not just leave schools relying on funding from county commissioners.*

❖ Reduce Class Size
   *North Carolina should continue to reduce class size in K-3. School systems should be provided the flexibility to determine whether class size is reduced across the board or in a more targeted approach as the local board deems appropriate.*

Level 2

❖ Increase Funding for Supplies and Textbooks
❖ Expand the More-At-Four Pre-Kindergarten Program
❖ Provide Increases in Salaries and Benefits for Non-Certified Personnel
❖ Provide Increased Funding for Technology
❖ Fully Fund the Low Wealth Supplemental Funding Formula

Substantive Issues

1. *Local Effort:* NCSBA supports requiring county commissioners to make a maximum effort to provide local funds for public schools. Many county commissioners are providing minimal local funding to their public schools. Public schools do not have the ability to raise their own revenue and are completely reliant upon the federal, state, and county governments.
2. *Election Procedure Changes:* NCSBA supports granting school boards the authority to make changes to their election procedures similar to that which cities and counties have. This authority would allow school boards to make certain changes to their election procedures without securing local legislation.

3. *Exit Exam:* The exit exam should only be required if it is needed to fulfill requirements mandated by No Child Left Behind (NCLB). Under the ABCs and NCLB, children take a number of tests throughout their public education experience. With the passage of NCLB, additional State tests will have to be developed and taken beyond that which students currently take. NCSBA opposes any additional tests beyond that which is required by NCLB.

4. *Lottery:* If North Carolina is going to institute a lottery, all of the proceeds should go towards K-12 funding without supplanting current funding streams. As the local board deems appropriate, a significant portion of the proceeds should go towards technology or school construction.

5. *Fiscal Accountability:* NCSBA supports giving school boards fiscal accountability. Over 80 percent of local boards of education in the country do not rely upon another local government for local funding. North Carolina should grant its local boards of education fiscal autonomy. This would make local boards of education more accountable to the electorate for all aspects of public education within their service area.

6. *Appointed Superintendent:* NCSBA supports a constitutional amendment that would allow the State Superintendent to be appointed. This appointment should be made by the State Board of Education.

7. *Sales Tax Exemption:* NCSBA supports the conversion from a sales tax refund to a sales tax exemption for public schools. In 1998, the General Assembly granted school systems the authority to request refunds of state sales taxes. School systems across the state have enjoyed this additional source of revenue. However, filings for these refunds are an unnecessary administrative burden to school districts’ finance departments. This conversion would provide administrative relief for school districts while providing additional resources.

8. *Purchasing Flexibility:* NCSBA supports granting school boards additional flexibility to purchase off of state contract. Under the current system, school boards are allowed to purchase off of state contract if the item is cheaper. However, the paperwork involved has discouraged most, if not all, school systems from using this flexibility. School systems are often unable to do business with their local merchants, who many times are extremely supportive of the school system.


10. *Tuition Tax Credits and Vouchers:* NCSBA opposes any tuition tax credit or voucher program. Implementation of a tuition tax credit or voucher program would divert needed resources from public schools.
NSBA’s Legislative Agenda

For the first session of the 108th Congress NSBA’s objectives include:

- Increasing the federal investment in public education.

- Reauthorizing the Individuals with Disabilities Education Act (IDEA), including provisions to do the following:
  - Fully fund the federal share of IDEA as a mandatory program.
  - Fix the due process provisions to be workable for school districts without compromising the rights of children.
  - Eliminate the unnecessary administrative process requirements.
  - Designate appropriate state and local agencies to have primary financial responsibility for providing select “related services” and/or reimbursing local school districts.
  - Create safe learning environments for all students and staff.
  - Create incentives to improve recruitment and retention of teachers.
  - Clarify standards for determining private placements.
  - Clarify the eligibility definition for special education services.

- Defeating all voucher and tuition tax subsidy proposals that result in public funds supporting private K-12 institutions.

- Addressing the unintended consequences resulting from passage of the No Child Left Behind Act (NCLBA), particularly those provisions related to adequate yearly progress (AYP) and the operation/costs of several specific mandates.
Individuals with Disabilities Education Act

The Issue
The Individuals with Disabilities Act (IDEA) was originally enacted in 1975 due to the fact that children with disabilities often failed to receive an education or received an inappropriate education. IDEA mandates the provision of a free, appropriate public education for children with disabilities and provides for federal funding to assist states and localities in meeting this goal. The legislation was reauthorized in 1997 and expired on September 30, 2002. However, the requirements of IDEA continue as long as Congress continues its appropriations.

An examination of the legislative history and the original act indicates that there were four main reasons advanced for its enactment. These reasons were:
1. an increased awareness of the needs of children with disabilities;
2. judicial decisions that found constitutional requirements for the education of children with disabilities;
3. the inability of states and localities to fund education for children with disabilities; and
4. the theory that educating children with disabilities will result in these children becoming more productive members of society and thus lessening the burden on taxpayers to support nonproductive persons.

In 1997, the House and Senate simultaneously passed legislation to reauthorize IDEA. This legislation had not been revised since its original enactment in 1975. President Clinton signed the bill into law on June 4, 1997.

Although provisions have been added or amended in order to expand the quality of the services to younger groups of children with disabilities, or to improve the quality of the services provided under the law, the four purposes of IDEA have remained essentially the same: “to ensure that children with disabilities have available to them a free, appropriate public education that emphasizes special education and related services designed to meet their particular needs; to ensure 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 ensure the effectiveness of efforts to educate children with disabilities.”

The IDEA statute is comprised of four parts: Part A General Provisions section, Part B Grants to States Program, Part C Infants and Toddlers Program, and Part D Support Programs. Part A must be revised to reflect new provisions, definitions, and requirements for prescribing regulations. Parts C and D must be periodically reviewed and reauthorized by Congress to ensure continuation of the activities included in these parts. However, Part B Grants to States Program is permanently authorized. Thus only Parts C and D of IDEA are subject to reauthorization.
The Facts
The number of children with disabilities receiving special education and related services has steadily grown since passage of the Education for All Handicapped Children Act in 1975. In the past decade, the number of students served grew 30.1 percent, from 4,761,000 in 1990-1991 to 6,195,000 in 1999-2000. This represents approximately 13.22 percent of public school enrollment.

The increase in students served varies by disability category, with the largest increase occurring among students with other health impairments. Orthopedic impairments, traumatic brain injury, and autism have shown the greatest increase among the low-incidence disabilities. Reasons for the continued increase in students served include better diagnosis and identification. Reclassification of students in the newer disability categories accounts for large increases in those categories.

NSBA Priorities for the IDEA Reauthorization

Local school districts across the nation remain committed to improving educational services for students with disabilities and to implement both the spirit and intent of the federal law to improve educational results. However, if local school districts are to be held accountable for improving student achievement, many of the operational challenges associated with program implementation facing our local school districts must be addressed with the next reauthorization of IDEA.

Therefore, NSBA, in collaboration with local school board members, school district administrators, and other major stakeholders, have identified eight major priority areas:

- Fully fund the federal share of IDEA as a mandatory program.
- Strengthen the quality and integrity of the due process provisions.
- Eliminate unnecessary administrative process requirements.
- Designate appropriate primary financial responsibility for non-education “related services” and reimbursements.
- Create safe learning environments for all students and staff.
- Create incentives to improve recruitment and retention of teachers.
- Clarify standards for determining private placements.
- Clarify eligibility for special education services.

Fully fund the federal share of IDEA as a mandatory program.

More than 25 years ago the federal government committed to paying 40 percent of the costs of eliminating children with disabilities. Even with increasing appropriations, the federal government is only contributing less
than 20 percent of the costs. This means that our local school districts have been short-changed by more than $300 billion since the law was created.

To meet the increasing demand, and to provide local school and taxpayers relief, funding for the program must be mandatory at the federal level as it is at the local level. That is, federal funding should be automatic and set at a commitment level (e.g., what is done with multi-year defense contracts). This would ensure that federal revenues would be set aside to meet the cost of the program. By contrast, funding for this program currently comes from the discretionary side of the budget and, as such, is subject to the annual decisions and trade-offs of federal lawmakers. By funding the program as a mandatory federal expense, IDEA funding levels would be set and would not be subject to the political pressures of discretionary funding, which result in continual under-funding of IDEA.

**Strengthen the quality and integrity of the due process provisions (e.g., early full disclosure of issues, limitations for reciprocal rights of discovery, required mediation, shifting of burden of proof, elimination of unnecessary notifications, higher qualification standards for hearing officers and non-attorney advocates, new criteria for decisions, limitations on due processing costs to local school districts).**

Generally, IDEA has evolved into a legal process that is driven by forms, rulings by hearing officers based on harmless error in paperwork or other non-substantive findings, and pre-hearing and hearing procedures that are inconsistent with the principles of common sense, efficiency, truth finding, and compromise. Not only do aspects of the current system waste time and resources for the cases that are pursued, but more importantly the current system forces the local school district not to challenge many other service requests out of concern over the costs and loss of employee time in litigating the issue. Further, too often hearing officers rule against local school districts simply because of procedural defects in the school system’s paperwork or other omission without considering the merits of the school district’s recommendation for the child.

**Eliminate unnecessary administrative process requirements that are overly burdensome on families and local school districts and have little, if any, direct relationship to improving education outcomes.**

IDEA has evolved from a program designed to educate students with disabilities to a complex paper trail aimed at documenting compliance and preventing litigation. The toll the paperwork regulations take on teachers is particularly troublesome. Special education teachers must understand legal compliance issues; learn to deal with a variety of forms; juggle the duties of being a case manager and a teacher; and deal with an adversarial climate with parents and attorneys. Special education teachers feel the threat of litigation on a daily basis.
To alleviate the pressure on teachers, local school districts are under pressure to add more administrative staff positions. But hiring more people is costly, and the presence of additional administrative staff reinforces the compliance-driven culture of the program. These requirements result in consuming substantial hours per child and cumulatively are having a negative impact on teachers and their duties.

**Designate appropriate primary financial responsibility for non-education “related services” and reimbursements to local school districts.**

Currently, local school districts are responsible for the costs of “related services.” Many of these services are far beyond what we normally expect to be provided by our local school districts. Further, many of these services are related to “life skills” rather than academic skills. Of significance to local school districts is the report from the literature that “related services” has become one of the most expensive and fastest growing areas of expenditures in addressing the needs of students with disabilities.

NSBA does not question the need for such services for students. NSBA does question why local school budgets – already under-funded – should have to pay for these non-education services, given the demand and cost of such services. NSBA wants legislation that transfers the financial responsibilities for non-education “related services” from local school districts to the city, county, and state agencies that generally have the responsibility for providing these services to the general population. Additionally, NSBA believes private insurance and Medicaid should be accessed prior to local school districts assuming financial responsibility.

**Create safe learning environments by not requiring local school districts to operate dual discipline systems and by identifying additional agencies with financial responsibility for alternative settings.**

Creating a safe learning environment is critical to improving academic performance. When students are not in what they perceive to be a safe environment they cannot focus on their work. Students are easily distracted, and they sometimes question their own self worth.

NSBA seeks authority for local school districts to discipline students with disabilities the same as students without disabilities. Simply stated, if two students bring a gun or dangerous weapon to school – should we have to follow separate discipline systems because one student has a disability and the other student does not have a disability?

Additionally, local school districts need to have a single and clear message about weapons and explosives in schools. Superintendents and principals should have the authority without interference from the federal government.
Having a disability should not be an exemption from the local school district’s discipline policies. When students with disabilities are involved in actions that threaten the safety of all children and/or teachers, school officials should have the discretion to remove them to the responsibilities of alternative programs for education services OUTSIDE the public school system as we do for adults and for students who are incarcerated. The rights of victims of dangerous behavior and the safety of innocent students and staff must be protected as well. In a time of increasing bombings, shootings and threats to our local schools, NSBA believes local school districts should have the authority without federal interference.

Create incentives to improve the recruitment and retention of highly qualified special education teachers, as well as incentives for institutions of higher education to develop and offer alternative certification programs.

Local school districts across the nation are finding it increasingly difficult to hire sufficient numbers of qualified special education teachers to meet their needs. Additionally, very few alternative certification programs are available for special education teachers. Further, the qualifications and performance requirements of special education teachers appear to far exceed the current range of compensation available to special education teachers.

Clarify standards for determining private placements under FAPE (free, appropriate education) (e.g., burden of proof, “appropriate” services), and criteria for determining financial responsibility (e.g., full/partial reimbursements, private insurance). Maintain authority of local school districts to participate in the student placement process.

It is not unusual for parents of children with disabilities to unilaterally place their child in a private school and legally compel reimbursement for the public schools, regardless of the program that the public school can offer. IDEA enables this outcome to occur if parents attend an IEP meeting, and subsequently make a unilateral decision to place their child in a private school and then seek reimbursement. Additionally, private placements are frequently necessitated by the high-cost medical needs of the students.

Further, voucher programs should not be expanded to the federal level. Vouchers would remove local school districts from the student placement process yet directly drain dollars from their budgets, adversely impacting education programs for all students. With no school district oversight of the process, special education costs could increase unchecked – without accountability regarding the efficacy of the expenditures. A voucher program is unnecessary, especially in the context of IDEA. Local school districts – in conjunction with parents – can and do place children with disabilities in private schools if the local school district is unable to meet the child’s IEP.
Clarify the definition of students eligible for special education services to eliminate the misidentification and disproportional representation by restructuring categories and authorizing access to portions of IDEA funds to support school readiness prior to formal designation as a special education student.

Although some members of Congress believe disproportionality exists, particularly among African-American males, the fact remains that many of these students do meet the eligibility definitions provided by the current legislation. The current criteria for determining eligibility should be re-assessed to ensure that the original intent of the law is preserved. Additionally, there is a relatively small percentage of students enrolled in special education who are misidentified on the basis of their academic readiness. These students are unable to demonstrate their ability to perform basic tasks or are unable to keep pace with their fellow students and consequently are referred for special education evaluations. Hence it can happen that due to nonexistent or inadequately funded reading or compensatory education programs, the local school district places the child in special education to receive some specialized programming rather than not providing special services at all. In these instances, local school districts need resources to provide a wide range of programming.

NSBA Position
NSBA encourages Congress, in its reauthorization of IDEA, to build on those provisions that strengthen the capacity of local school districts to provide academic rigor and education services for all students. Current requirements and mandates that restrict local school district flexibility in the delivery of education services, result in overly burdensome administrative processes, and costly litigation must be eliminated in this reauthorization.

Federal Funding for Education
The Issue
Overall, the federal government’s financial contribution to local school districts averages about 7% of the school district’s annual budget. The federal role is more accurately defined as one of leverage; federal funds are provided upon compliance with federally dictated requirements, (e.g., requiring the states to meet a federal framework for academic progress in reading and math in grades 3-8). However, the funding levels provided as a condition of meeting those mandates often fall far below the amount needed to implement such requirements. In fiscal year 2002, which expired October 1, the federal government provided roughly $31 billion for those elementary and secondary education programs administered by the United States Department of Education. As a percentage of the federal budget, this amounts to roughly 1.5%. In other words, the federal government is spending about one and one-
half cents of every dollar for education from grades kindergarten through twelve.

Across the country, state and local budgets are facing difficult financial situations. According to the National Governor’s Association (NGA), states were confronted with budgetary shortfalls last year that totaled over $50 billion in budget deficits nationwide. Further findings by the NGA determined the total state budgetary gap this year would total at least $49 billion. Currently, about 23 states plan to reduce their enacted budgets (FY03) by more than $8.3 billion. Given this difficulty, state governments are not in a position to provide significant funding increases for education. In previous years, state funding increases for education have been used to offset federal funding shortfalls for programs like IDEA (special education) and other federally mandated programs that do not come with the appropriate federal support. As a result of the state budget shortfalls and the current economic climate, schools will be forced to make up the difference between the federal underfunding of these mandated programs through either local tax increases or education program reductions.

**NSBA’S Position**

NSBA urges Congress to help secure the future of our nation’s children by adequately investing in our public schools. This means that all students, including those with special educational needs (disabled, impoverished, limited English proficient, etc.) should be supported through appropriate funding necessary to succeed. Congress must also recognize the cost of the new requirements it has imposed on school districts resulting from the No Child Left Behind Act. The government has an obligation to fund the levels that were authorized for Title I and other programs in the former ESEA, and newly titled No Child Left Behind Act during final passage.

In FY02, NCLB (formerly ESEA) programs were authorized to receive a total of $26.4 billion for these programs when NCLB was enacted. Yet within weeks of final passage, the House and Senate Appropriations Conference Committee reduced the combined funding for the total funding in No Child Left Behind programs below the authorized level and provided funding of only $22 billion. Before the President signed either bill into law, the amount of funding needed to support the new law was reduced by more than $4 billion. NSBA will be seeking greater federal funding to more realistically reflect the costs associated with the new requirements under No Child Left Behind, as well as other unfunded programs like IDEA.

For example, schools are required to administer mandatory math and reading tests and then make sure that students are making progress based on these tests. However, without adequate funding, schools may be set up to fail in meeting these requirements. While state and local funds are the primary funding source, federal funding should be used to meet federal mandates such as IDEA. Furthermore, the declining economic condition in the states
exacerbates the federal funding shortfall in such programs as IDEA and Title I. Estimates of total state budget deficits range from $40-$50 billion nationwide for the second straight year. This situation illustrates the need for more funding from the federal government, and will put pressure on local taxpayers.

Following are two of the major education funding priorities that NSBA will be working on during the 108th Congress. These are the largest federal education programs impacting almost every school in the country. As such we are highlighting these programs. Other programs are included in the appendix.

**Special Education**—Under the Individuals with Disabilities Education Act (IDEA), the federal government agreed to pay for 40 percent of the average per-pupil expenditure (APPE) incurred by school districts for the education of children with disabilities. Congress renewed this commitment as recently as 1997, during the last reauthorization of IDEA. Despite funding increases over the last few years, total federal funding only amounts to about 17 percent instead of the 40 percent federal commitment. Given this funding shortfall, local schools and taxpayers were forced to make up $11 billion in FY 2001, and despite a federal funding increase of $1.2 billion in FY02, schools still face a funding shortfall of $10.5 billion in FY02. This situation is no better for FY03. Proposals to increase IDEA by $1 billion for FY03 would leave a federal funding shortfall of roughly $10.1 billion (due to increased enrollment and increased costs) for FY03. For 28 years Congress has continually under funded its commitment to children with disabilities, and forced local schools and taxpayers to make up the difference.

To meet the increasing demand, and to provide local schools and taxpayers’ relief, funding for this program must be mandatory at the federal level (as it is at the local level). That is, federal funding should be automatic and set at a committed level (e.g., what is done with multi-year defense contracts). This would ensure that federal revenues would be set aside to meet the cost of this program so that IDEA will reach the full funding commitment over a specific period of time. By contrast, funding for this program currently comes from the discretionary side of the budget and, as such, is subject to the annual decisions and trade-offs of federal lawmakers. By funding the program as a mandatory federal expense, IDEA funding levels will be set and will not be subject to the political pressures of discretionary funding.

**Title I**—The “Title I Improving the Academic Achievement of the Disadvantaged” (the largest education program contained in No Child Left Behind) program provides funds to local education agencies to help disadvantaged students improve performance and achieve high standards in core subject areas. While the goal is laudable, the program does not receive adequate federal support to help all eligible children achieve these standards. Title I received an increase of 24 percent totaling $10.3 billion in FY02. For
FY03, Title I is authorized to receive $16 billion, however various proposals would only provide $11.3 to $11.8 billion. Congress must invest in this program to provide extra assistance for those children with special educational needs. The new accountability standards included in No Child Left Behind, a large portion of which are contained in Title I, demand a greater federal role. The Congress needs to understand that the funding increases are not a one-time expense, rather, a first step in a commitment to help all children achieve. Without increased federal support, the No Child Left Behind Act has set up schools to fail. Federal investment in programs for the disadvantaged is responsible for two-thirds of the increase in National Assessment of Educational Progress test scores among minority students over the past twenty years. This success illustrates the potential for greater success with greater federal support. Nationally, the Title I program funds about one-third of the need for the nation’s 11 million eligible disadvantaged children. Significant increases in this program will result in disadvantaged children receiving substantial assistance to perform at higher levels.

APPENDIX

Listed below are some of the other critical education programs and initiatives which NSBA is supporting and trying to achieve funding increases for in the current fiscal year and for the 2004 Fiscal Year. Once again, these are not second tier programs, rather programs that are more limited in scope and size. Programs like IDEA and Title I provide funding to almost every school district in the country. Some of the programs listed below, while still critical, may not be as widespread in focus and funding.

• School Construction and Renovation–Congress must help local communities and taxpayers meet the growing demand for school construction and modernization. Various studies have put school construction needs between $112 billion (Government Accounting Office) and $125 billion (the National Center for Education Statistics). In addition to deteriorating facilities, schools are struggling with increasing student enrollment. Projections estimate that enrollment will increase by three to four million children before leveling off over the next few years. Approximately $73 billion is needed to build new schools in order to meet the surge in enrollment, which brings the total burden on local school districts to nearly $200 billion. Rapid student growth, coupled with the construction needs in existing facilities, illustrates the need for a federal role to help our schools.

There are several proposals that have been considered during the previous Congress and we anticipate the reintroduction in this Congress. Proposals supported by NSBA last year would provide roughly $2.5 billion in tax credits for school construction to support about $25 billion in interest-free bonds for school construction and renovation. Given the enormity of the
facilities crisis facing our schools, significant federal support is warranted to assist local school districts and taxpayers meet the demand for safe, modern school facilities.

• **Teacher Training**—As part of No Child Left Behind, Congress consolidated several teacher programs into the new Teacher Quality State Grants. This new program replaces the class-size reduction program, Eisenhower Professional Development programs, and several smaller programs. The funding for this program is $2.85 billion. The hiring and training of teachers has received greater federal support over the past few years; however, greater flexibility and funding are necessary to meet the teacher shortage and to reduce the number of non-certified teachers as required by No Child Left Behind. Like many aspects of NCLB, federal funds need to accompany the requirements.

• **Education Technology**—As part of No Child Left Behind, Congress consolidated several education technology programs into the new Education Technology State Grants. Consolidated are the Technology Literacy Challenge Fund, Technology Innovation Challenge Grants, and portions of Teacher Training in Technology. Congress must increase federal support to purchase, implement, and use the latest technology. This will allow our students to better compete in the rapidly changing world economy. Congress must continue to provide assistance and funding for the latest in modern technology for all schools. Under current proposals, both the President and the Senate are proposing level funding this program, and several of the smaller programs funded under the Fund for Education Improvement would be eliminated in the President's budget.

• **Innovative Education Block Grants (Former Title VI)**—Congress level-funded this program, providing $385 million in FY02, and proposed the same for FY03. This program provides money to support local priorities. With 15,000 school districts, the specific needs of individual districts vary. Greater federal support for Innovative Educational Block Grants ensures that each local school district will receive some money to help fund important locally determined priorities.

• **Bilingual and Immigrant Education State Grants**—This is the consolidation of bilingual and immigrant education programs as well as the professional development and support services from these programs. As the diversity of this country continues to grow, we need to ensure that our newest citizens are able to learn and communicate effectively in a language that may not be their primary language. These programs support that end, and receive about $665 million in FY02.

• **Impact Aid**—This is a federal reimbursement in lieu of taxes for more than 1,600 school districts where the federal government has large portions of tax-exempt land and buildings within the local school district. These funds are provided directly to the local district for general operating expenses of the
school. There are 1.4 million children connected to this program in these school districts.

- **Safe and Drug-free Schools**—This program provides $654 million for age-appropriate, locally developed strategies to make schools safe and drug free. Money is sent to the states for locally initiated programs to prevent and identify drug use and violence in schools. Examples of funded programs include DARE (Drug Abuse Resistance Education) and peer remediation programs.

- **21st Century Community Learning Centers**—Originally a pilot, this program targets resources to inner city and rural schools. These resources ($1 billion, nationally) are used to fund school-community partnerships to keep schools open after regular hours. These centers provide learning activities before and after school in a safe environment with adult supervision. As part of the reauthorization of NCLB, the allowable use of funds has been expanded to entitle faith-based and community organizations to apply and receive grants directly, rather than in consultation and cooperation with the schools.

### New Programs

- **Reading First**—This program is part of No Child Left Behind and will provide grants to help students learn to read. This program includes funding from the former Reading Excellence Act as well as substantial new money to help states and local educational agencies use scientifically based reading research to implement comprehensive reading instruction for children in kindergarten through third grade.

- **State Assessments**—This funding is provided for the new mandatory reading and math tests which schools are required to administer to children in grades 3-8.

- **Rural Schools Initiatives**—These two new programs (The Rural Education Achievement Program and the Small Rural School Achievement Program) provide additional flexibility in the use of federal funds for schools, as well as providing $162 million for approximately 6,000 small and rural school districts. Under the President's budget proposal, this program would be eliminated.

### Vouchers and Tuition Tax Subsidies

**The Issue**

Although the 107th Congress repeatedly rejected vouchers by sizeable bipartisan margins, NSBA expects vouchers and tuition tax subsidies will remain a contentious issue receiving more consideration in the 108th Congress. NSBA strongly opposes these proposals that siphon scarce resources, time and attention from our nation’s public schools, which educate
90 percent of America’s students. NSBA also opposes vouchers as part of the IDEA reauthorization because they would eliminate local school districts from the student placement process yet directly drain dollars from their budgets, adversely impacting the education programs of all students.

**Expected Proposals**

A variety of voucher and “voucher-like” proposals may surface in the 108th Congress. Among those that seem particularly likely is a resurrection of an unsuccessful bill from the 107th Congress to impose a voucher pilot program on the District of Columbia. Following the June 2002 U.S. Supreme Court ruling in favor of Cleveland’s voucher program, then-House Majority Leader Dick Armey (R-TX) introduced a bill to divert $45 million in public funds over five years to pay for private school tuition of about 1,600 D.C. students a year. In contrast, D.C. public schools enroll 67,500 students. Although Rep. Armey has since retired, voucher advocates are expected to revive the legislation. While limited to the District of Columbia, this legislation, if passed, would establish precedent to fuel future national proposals.

NSBA also expects vouchers to factor into the upcoming debate over the reauthorization of the Individuals with Disabilities Education Act (IDEA). In its report issued last summer, the President’s Commission on Excellence in Special Education recommended the inclusion of vouchers in the IDEA reauthorization. Some voucher advocates have touted Florida’s voucher program for children with disabilities as a model for a federal program. However, evidence indicates the state has no oversight into how tax dollars dedicated to students with disabilities have even been spent – a far cry from the high public accountability standards included in the No Child Left Behind Act. While millions of tax dollars have been diverted from Florida’s public schools, some private schools have not even provided the special services needed by students with disabilities.

Other potential legislative proposals include granting tax credits or tax deductions for parents who pay private school tuition or to offset money donated by individuals or businesses to organizations that provide students with vouchers for private schools. NSBA believes that tuition tax subsidies drain dollars from the treasury that should instead be invested in our public schools to help them meet rising standards and the needs of the nation’s 47 million public schoolchildren.

**The Trouble With Any Voucher Plan**

- **Vouchers abandon neighborhood public schools and drain away critical dollars**—Vouchers divert attention, commitment and millions of dollars from public schools to pay private school tuition for a few thousand students, including many who already are in private school. Even proposals that would purportedly create a new funding stream to pay for vouchers miss the mark: if new public money is available for education it
should be invested in strengthening the schools that educate the vast majority of our students – our public schools.

- **Vouchers leave behind many students, including those with the greatest needs**—Vouchers leave behind many disadvantaged students because private schools may not accept them or do not offer the special services they need. Students with disabilities “were actively counseled out of the (voucher) program,” in Cleveland, a state official acknowledged.

- **Vouchers are a U-turn on the road to public accountability in education**—Public accountability is the hallmark of the nation’s new education law, the No Child Left Behind Act. Yet in stark contrast to the rising accountability for public schools, vouchers shift millions of dollars to private schools that are not accountable to taxpayers. Voucher schools *do not* have to participate in state assessments, *do not* have to publicly report on students’ achievement, *do not* have to employ “highly qualified” teachers, *do not* have to reveal how they spend tax dollars, and *do not* have to comply with open meetings and records laws.

- **The public, which must pay for vouchers, opposes them**—Voters have rejected every voucher proposal put before them in the last 30 years. The U.S. House, Senate, and 37 state legislatures have rejected vouchers in the past decade. Polls show the more that people learn about vouchers, the less they like them.

- **Vouchers waste taxpayer money**—Vouchers force taxpayers to support two school systems: one public and one private. Existing private school students usually are eligible to receive vouchers, creating a new cost to taxpayers.

- **Vouchers are no way to raise student achievement for all**—A GAO report to Congress noted that official research on the Cleveland and Milwaukee voucher programs found “little or no difference in voucher and public school students’ performance.” The same GAO report also questioned the validity of some studies that claimed vouchers led to student gains.

- **Vouchers give choices to private schools, not parents**—Private schools decide if *they* want to accept vouchers, and then how many students *they* want to admit. And even if a voucher student does gain acceptance into a private school, the school can later reject him or her for numerous reasons, as the evaluator of Milwaukee’s program has documented. The African-American lawmaker who founded the Milwaukee voucher program also has questioned the dismissal of students by private schools, and criticized the ability of private schools to select parents and students instead of parents selecting schools as proponents typically claim.
Specific Troubles with Vouchers for the District of Columbia

- **The people of the District oppose vouchers**— A Zogby International poll conducted in November 2002 found that 76 percent of all D.C. voters and 85 percent of African-American voters oppose vouchers if it results in less money for public school students. The poll also found that 80 percent of D.C. voters want private schools that accept vouchers to play by the same rules of accountability as our public schools – something that does not occur in any existing voucher program. The elected officials of D.C., including the school board and the city’s only congressional representative, also oppose vouchers.

- **D.C. vouchers would open the door to vouchers across the nation**— Any voucher provision passed by Congress, even one initially limited to D.C., will give weight to the issue across the country and simply open the door to more voucher proposals in the future. This already has occurred in states like Florida, where vouchers initially were implemented on a narrow scale and barely used by students, only to see lawmakers soon expand the concept with other voucher programs.

The Trouble with Tuition Tax Subsidies

- **Tuition tax credits and deductions are merely backdoor vouchers**— Even voucher advocates acknowledge that tuition tax subsidy programs are vouchers in disguise. “This has turned into something so close to vouchers, you almost can’t tell the difference,” an Arizona state senator and longtime voucher proponent said of his state’s tuition tax credit program.

- **Tuition tax subsidy programs are no way to improve public education**— With evidence from existing programs proving that existing private school students are the biggest beneficiaries of tuition tax subsidies, these programs are a poor strategy for improving public education. They do little to help public school students, and instead reduce state revenues that could be invested in our public schools.

- **A dollar of lost revenue from tuition tax subsidies is a dollar NOT invested in our public schools**— Tuition tax subsidy programs redirect to private schools dollars that otherwise would be available to invest in our public schools. Florida has foregone approximately $35 million in revenue in 2002 through its new corporate income tax credit program. Illinois’ tuition tax credit program resulted in $65.9 million in lost state revenue in 2001, followed by $64.5 million in state funding cuts to public schools in 2002 – though some state officials have deemed that a coincidence.

- **Tuition tax subsidy programs disproportionately benefit wealthier families, not low-income students**— A detailed study by the non-partisan RAND concluded that tuition tax subsidies rarely benefit poor children and disproportionately serve middle- and upper-income families.
Evidence from the Arizona, Illinois and Pennsylvania tuition tax credit programs reveal that wealthier families and those whose children already attend private schools are the biggest beneficiaries, not low-income public school students as tax subsidy advocates claim.

- **Private schools that receive tuition dollars via government tax subsidy programs can discriminate against certain students** — In contrast to public schools, private schools – even those that receive tuition dollars through a government tax subsidy program – can select which students they want to admit and retain. For example, private schools that benefit from the Arizona tuition tax credit program can discriminate based on a student’s religion, gender or academic abilities. And, the non-profit organizations that distribute tuition grants through the government program also can decide which students receive grants and how much each applicant receives.

- **Tuition tax subsidy programs lack public oversight and are ripe for fraud** — Tuition tax subsidy programs, while depleting state revenues that could be invested in our increasingly accountable public schools, contain little public oversight. For example, private schools, including those benefiting from such a program, do not have to publicly report on student achievement, do not face the same academic standards as public schools, and do not have to publicly disclose budgetary information. In Arizona, organizations that make tuition grants to students – via the government tax subsidies – are not audited and do not even have to register with the state.

**Summary**

- Congress faces a fundamental choice—provide vouchers for a few or improve neighborhood public schools for all.
- Every dollar spent on vouchers and other tax-diversion plans drains a desperately needed dollar from our neighborhood public schools.
- Parents want a good neighborhood public school, well-trained teachers, high standards, and a safe, effective learning environment for their children. Vouchers do nothing to enhance these wishes and benefit all students.

For all these reasons, NSBA urges Congress to echo the voices of the voters and reject vouchers and related privatization experiments, and work with NSBA to improve, not weaken, the educational opportunities of all 47 million children who are enrolled in our nation’s public schools.
No Child Left Behind

The Issue

On January 8, 2002, President Bush signed the No Child Left Behind Act (NCLBA) into law. Unlike other federal programs which are targeted to key segments of student enrollment or for specific needs, this legislation will pervasively impact the education all of the nation’s 50 million public school children. That is, NCLBA directly involves the nature and quality of the programs that each child will receive in language arts and mathematics (and ultimately science)—and as a result, will impact school operations in other basic ways. The core of the program is based on annual state testing in grades 3-8 and high school with accountability for schools and school districts if a given percentage of their students do not meet state standards of proficiency in the above subjects.

NSBA fully supports the goal of the law which is inspiringly embedded within the title—No Child Left Behind. It is a call to the nation at all levels of government, in all sectors of the economy, and to all educators and parents that children and their education count.

However, if the goal of NCLBA is to be realized, it will require more than good intentions. It will require a program structure that will work. This is especially true given 1) the vast scope of the requirements in NCLBA, 2) the basic changes that must be made in a system that enrolls nearly 50 million school children in 80,000 diverse community schools within 14,500 school districts, and 3) the immediacy with which these changes must be brought about.

NCLBA is now in its first year of implementation. Given that the program was designed as a theoretical model for all school systems, it is only realistic that operational concerns will arise and only reasonable to expect that they will be addressed if the legislative intent is going to be successfully implemented.

This brief identifies the immediate need in four issue areas for Congress and/or the Administration to take the following actions:

• Adjust the design of Adequate Yearly Progress (AYP) to set realistic measures for determining success (especially in light of the consequences if those measures are not met at the school and school district level).

• Fully fund the federal role to the levels authorized by NCLBA to help schools and school districts meet the mandates and expectations created by the legislation.
• Correct provisions relating to school choice and supplemental services to avoid the operational and financially counter productive results that they will cause in the improvement of schools and student achievement.

• Enact legislation, based on a market analysis of the teaching force and teacher preparation programs in schools of education, to ensure that existing teachers and the pipeline of new teachers will be adequate in terms of their numbers and preparation, in general, and for specific subjects, locations, and other areas of special need so that school districts can meet the mandate for highly qualified teachers and student achievement of AYP.

### Adequate Yearly Progress (AYP)

As currently designed, the standard for AYP is that 100% of all students must meet their state’s standard of proficiency in reading, math, and science by the 2012-2013 school year. Likewise, over the twelve-year span leading to this goal, schools and school districts must, in equal increments, progressively set a higher percentage of students who meet that standard of proficiency (with the percentage set at 100% in twelve years). Within schools this determination will be made not only on the basis of the school’s enrollment as a whole, but on the basis of the performance of those specific groups of students who are more likely to be associated with lower academic achievement, i.e., children in minority populations, children with limited English proficiency, children living in poverty, and children with disabilities.

Schools and school districts that fail to meet the AYP standard in a given year will be publicly identified as needing improvement and if they receive Title I funds they will also be subject to aggressive interventions if the failure to meet AYP persists for two or more years.

Many state departments of education, especially those with the most challenging standards, are predicting that in the first year, over half of their state’s schools will be identified as not being academically proficient. The reason is that given the number of groups and subgroups of students that are enrolled in many individual schools, the likelihood that those schools will be identified as lacking as a result of the weak performance of just one group or subgroup is substantial. Moreover, since the percentage of children who must be proficient must increase over time, in future years it will even be more challenging for schools to achieve AYP overall, as well as for their special groups of students—especially since many of those students will begin school with challenges no less severe than their predecessors. Ultimately, all schools and school districts will be identified as needing improvement since 100% proficiency is a statistical and societal impossibility.

Whether individual schools or whole school districts fail to make AYP is important because of the rigorous consequences involved. For public schools in general, if they don’t make AYP, those results will be featured in a public report card that will be equated with failure throughout the community.
Additionally, when Title I schools are involved, the inability to meet AYP over a period of years carries with it specific labels identified with failure as well as interventions that will involve significant expenditures of funds and possible governance changes for the school or school district.

The issue involved with AYP is not whether students and groups of students should have a rigorous program, be monitored for progress, or have their needs identified. Nor is the issue whether schools and school districts should be held accountable for student achievement. School boards support all of those achievement strategies. Rather, the issue is whether the current system will over-identify students and schools with the result of undermining the credibility of the nation’s public schools, the federal legislation, or both.

Accordingly, Congress and the U.S. Department of Education should review the AYP program to substitute a more realistic design for its implementation.

**Federal Funding for NCLBA**

The legislation creates an expectation that American education will make dramatic strides in advancing the education of all of the nation’s 50 million public school children. To make the necessary changes in our nation’s vast system of public education to meet the immediate and long term expectations of NCLBA will involve an exercise of will power and intelligent decision-making. It will also require an investment of funds—including federal resources.

In terms of costs, support for testing students is only the tip of the iceberg. For example, if all schools, especially weak schools in poorer communities, are going to attract and retain the best teachers possible, additional resources will be needed for teacher compensation—which is the biggest expense in school districts. The teacher shortage projected for the next ten years underscores and exacerbates this issue. This particular problem will become more acute since NCBLA requires all teachers involved in teaching any of nine core academic subjects to be “highly qualified” within the next four years. Since most of the teachers needed by the 2005-2006 school year are already in place, substantial funding must be committed to the professional development of those who are not currently at the standard of “highly qualified.” In that vein, professional development opportunities must be available for all teachers to continuously improve so that each year more of their students can achieve at higher levels and meet AYP.

Likewise, paraprofessionals who work in Title I schools and have instructionally-related responsibilities must, within four years, meet a standard of highly qualified. Generally, this means they must have two years of post-secondary instruction or the ability to perform at that level in reading and mathematics. The additional amount of funds needed to compensate
these individuals and to support their professional development will be substantial.

To provide a high quality education for all students, with a special focus on traditionally lower achieving groups of students (e.g., ensuring that all children with limited English proficiency or disabilities are receiving the special services needed so that each one of them will meet academic standards) will require a variety of increased resources. The most prominent of those include lower class size; the development and acquisition of curriculum materials (including new technologies that are aligned with state standards); school construction and renovation; hiring experts to design, initiate, and sustain reforms in weak schools; and special services and programs to meet individual student needs. Additional investments will also be needed for early education and school readiness programs so that all students have a realistic chance to meet academic standards when they enter third grade.

With 47 states now experiencing a combined budget short fall of $50 billion, they are not in a position to fund the raised expectations and inherent costs associated with NCLBA—especially if the federal government reneges on its commitment. Further, if this law is going to be taken seriously, as distinguished from being perceived as a political device, the federal level will need to lead by example by appropriating the level of funds which it authorized for its own program.

Accordingly, Congress needs to fully fund the $5 billion increase which NCLBA authorized for FY2003 and the subsequent $2.5 billion increase authorized for FY2004, to raise the pre-existing Title I program to the level that was envisioned when the President signed the legislation just one year ago.

School Choice and Supplemental Services

In addition to basic concerns over the design of AYP and the additional funding needed to make the expectations of NCLBA a reality, school districts are experiencing specific operational concerns. Two prominent areas relate to aspects of provisions which allow parents to transfer their children to other schools or to enroll them in supplemental programs outside the school day if their child’s school fails to meet AYP for two or three years, respectively.

In implementing school choice, NCLBA, for example, prevents the physical capacity of the receiving school from being a factor in not offering enrollment in a particular school—especially if by virtue of school district size or geography choices to other schools are not available. In such cases, financially strapped districts may have to add mobile classrooms and/or hire new teachers in the receiving school. Since students will be transferring to other schools with first priority given to the lowest achieving students, the receiving school can readily become identified as not meeting AYP. As a
result, it will be viewed as failing by the public and potentially lose its eligibility to become a receiving school. And, if that receiving school is a Title I school, then all of its lowest achieving children will be eligible to transfer to yet another school.

Meanwhile, depending on how many students choose the transfer option, the transportation costs involved (up to 20% of the district’s Title I grants) can result in fewer instructional dollars being available where they are needed the most. That is, the sending school and the other Title I schools will have fewer Title I dollars with which to reach an ever-increasing percentage of students needed to meet AYP—including those who remain in the academically weak sending school. Transportation costs also may mean fewer program funds to the Title I school to which they transfer. Especially if the federal appropriations doesn’t increase to accommodate transportation costs, the law will be promoting and funding a transportation system for some students at the expense of meeting the actual instruction needs of all students. Without adequate funds, is the operation of the current choice provisions a viable educational strategy?

In the case of supplemental services, a few examples can illustrate the need to make commonsense adjustments to the operation of this provision. First, supplemental service providers are authorized by the state and then placed on a list from which parents choose. Although school districts enter into contracts with these providers to establish goals and timetables for individual students, the schools do not have the power to select. Meanwhile, the student’s school will be held accountable for whether the group to which that student belongs makes AYP. This is the case even though the school has fewer funds (because of the cost of supplemental services) and, at best, only has partial control over the appropriateness of the provider selected (e.g., the district may try to persuade parents to select another provider or can terminate the arrangement if the provider doesn’t meet goals—which may be too late).

This problem is especially serious since it may make the difference as to whether a school makes AYP (a positive step) or falls into a more aggressive category of intervention if it does not (i.e., corrective action). Therefore, school districts and schools must have the option of having a stronger role in the approval and selection process of supplemental service providers or not be held accountable for the subsequent sanctions for not meeting AYP requirements as a result of the performance of students enrolled in those programs.

There are just plain efficiency issues as well. For example, under the current program, if a Title I school is in improvement status and has teachers who can effectively provide supplemental services to a group or grade level of students that school is prohibited from providing those services even though
the performance of an entirely different group of students caused the school to be identified for school improvement.

Therefore, the U.S. Department of Education and the Congress (if necessary) should review the operational defects of the student choice and supplemental service provisions to ensure that, especially as a federally mandated activity, they operate in a manner that can be educationally and financially justified.

Highly Qualified Teachers
There is no question that if all students—especially those who are among the most academically challenged groups—are going to meet high standards, highly qualified teachers must be present in each classroom and for every academic subject. As indicated in the section dealing with funding, basic free market economics between a commodity that is in short supply (i.e., highly qualified teachers) in relation to what will now be a universally mandated created demand for that commodity means that prices must rise.

If the demand for highly qualified teachers, and, in turn, the goals of NCLBA are going to be met, all within a few short years, an analysis of the teacher supply needs to be undertaken. In addition to the general national and state numbers, special problems should be identified, such as the projected availability of highly qualified teachers in mathematics and science, as well as special educators who teach in academic areas. Likewise, regardless of qualifications, the magnitude of the problem in rural and urban areas needs to be identified (especially in the above specialty areas), as well as the number of middle school teachers who may not have the credentials in the subjects which they teach.

Additionally, the pre-service programs offered by schools of education should be aligned with the academic knowledge and the pedagogical skills that the classroom teachers will need so that all students will be proficient or advanced in meeting AYP and other measures of student achievement.

Therefore, Congress should immediately study issues involving highly qualified teachers and determine how NCLBA, the Higher Education Act, and other federal laws can be designed and funded to make sure that provisions relating to “highly qualified” teachers will be achieved—and more importantly, that student learning will benefit to meet AYP and the other expectations that the law holds for school children and the public schools.

Conclusion
The No Child Left Behind Act provides an inspiring goal and a promising framework for raising the achievement of millions of students. The challenge will be in converting the promise into reality. If the federal government
wants to lead—which after all, is what the law is about—it must do so with practical intelligence and a responsible commitment.

To be effective, NCLBA will need to evolve and respond to conditions and trends in the real world. To that end, this issue brief has identified the big areas that will need to be addressed immediately if NCLBA is going to fulfill its mission.