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# **SPECIAL EDUCATION IN NEVADA**



**February 2003**

**Nevada Department of Education  
Office of Special Education, Elementary and Secondary  
Education, & School Improvement Programs**

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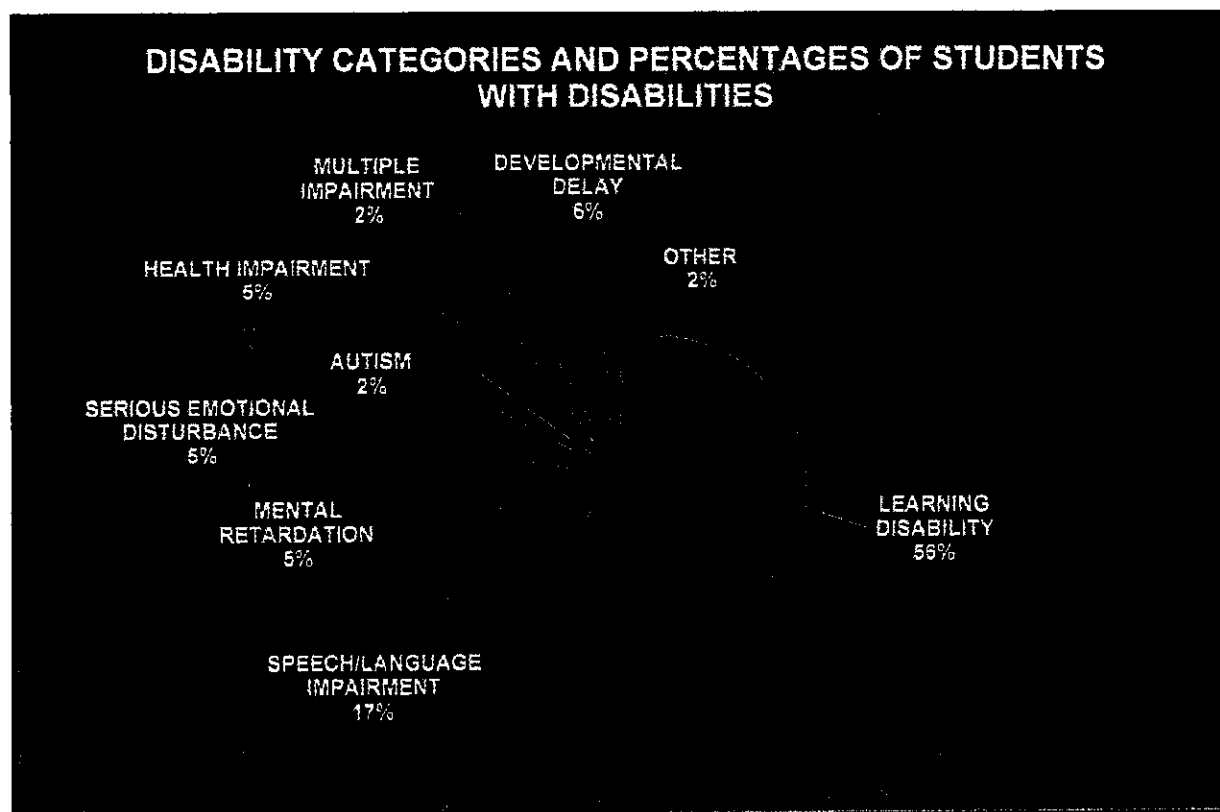
## SPECIAL EDUCATION IN NEVADA

### INTRODUCTION

This paper explores special education services in Nevada's local school districts. It explains the populations of students served, the nature of the services provided, the mechanisms used to fund those services, and the challenges ahead. Finally, the paper describes the Nevada State Board of Education's legislative proposal to enhance state funding for programs serving students with disabilities.

### SPECIAL EDUCATION DISABILITY CATEGORIES

Under federal and state law, each student with a disability is entitled to receive a free appropriate public education (FAPE). Special education programs in the state serve students with identified disabilities in one of the twelve categories established in Nevada Revised Statutes, Chapter 388. School districts must provide the services necessary to assure FAPE for all students with disabilities, without regard to the adequacy of state revenues to support the costs. The relative percentage of students in various categories is depicted in the chart below:



#### KEY POINTS:

- Students with learning disabilities, speech/language impairments, and health impairments comprise 78% of Nevada's students with disabilities; more than half of these students spend more than 80% of their school day in regular classrooms.
- Students in the "Other" category include those with visual and hearing impairments, orthopedic impairments, and traumatic brain injuries.
- The relative percentage among disability categories has remained stable over time.
- Parents, teachers, school psychologists, and other specialists comprise the teams that make eligibility decisions.

### **SPECIAL EDUCATION PROGRAMS**

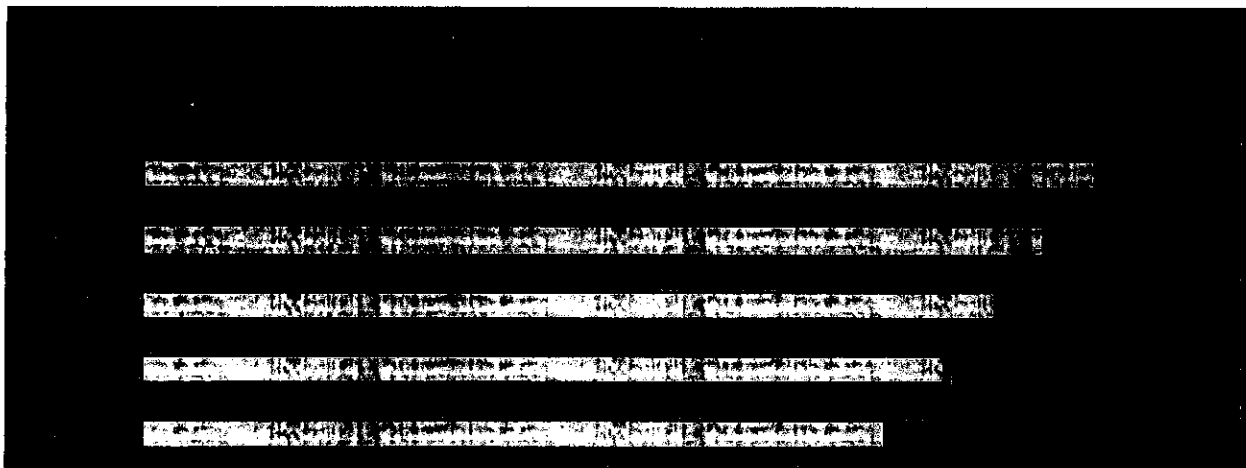
According to law, "special education" means "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability." The instruction can be provided in many locations including the general education classroom in a consultative or team teaching model; a resource room in a "pull out" model; a self-contained program; a special school; a hospital or home setting; or a residential school. Regardless of the location, the program must be provided in accordance with an annual Individualized Educational Program (IEP) developed by parents and educators. The law requires that students with disabilities be served in the "least restrictive environment" which means that removal of the student from the regular educational environment must be based upon the student's unique needs and justified through the IEP process.

Students are entitled to receive "related services" if those services are necessary to assist the student to benefit from special education. Related services are defined in federal regulations as "transportation, and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training."

Parents have access to an extensive and complex bundle of rights conferred by law, generally referred to as "procedural safeguards." Procedural safeguards include the right to notice and consent regarding specific educational decisions. In addition, when disagreements arise between parents and school districts about the special education services offered to students, parents may access informal mediation, formal due process hearings, and judicial proceedings.

### **STUDENT POPULATIONS**

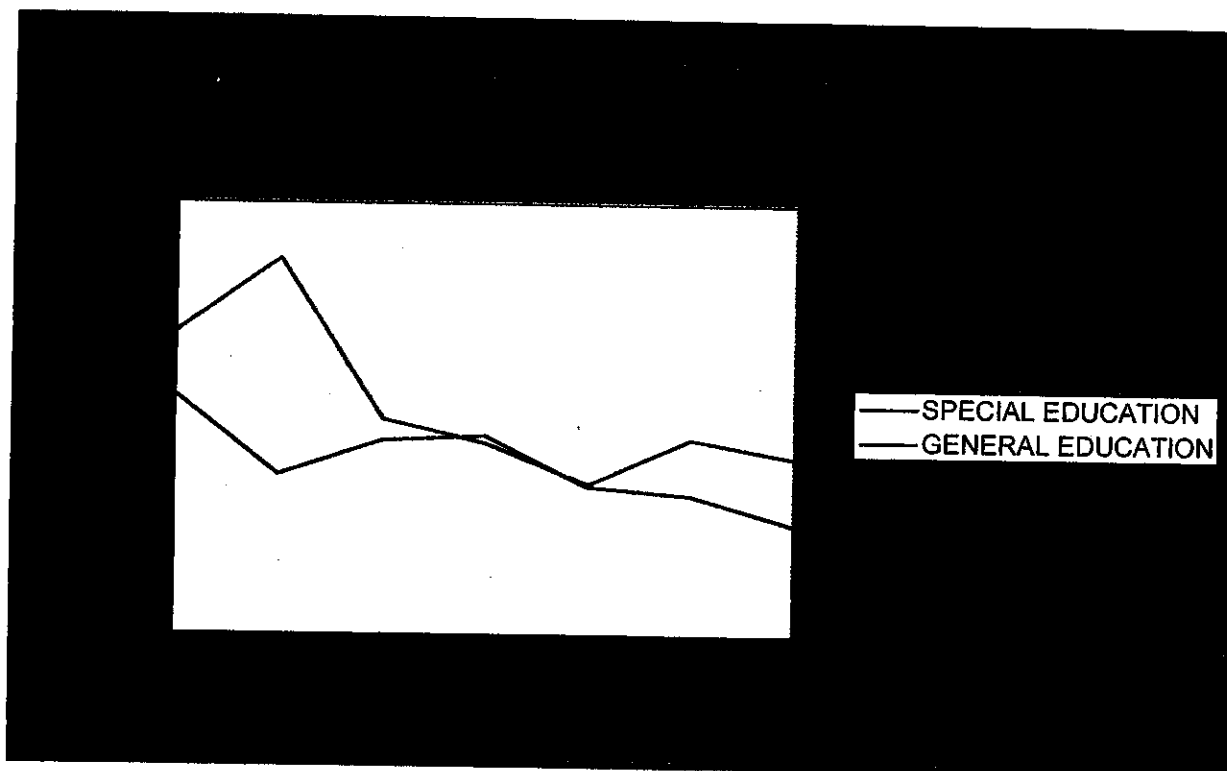
Nevada's count of students with disabilities on December 1, 2002, was 42,532; growth over the past five years is shown below:



#### **KEY POINTS:**

- Nevada special education population as a percentage of total school enrollment consistently ranks in the lowest quartile among the 50 states.
- Nevada consistently identifies about 1.5% fewer students than the national average.

The rate of growth in special education populations has generally been higher than the rate of growth in general education populations. These trends are shown below:



**KEY POINTS:**

- The special education growth rate in the early 1990s was elevated as the result of the new mandate to serve students with disabilities at the age of three.
- Between 1997 and 1999, growth rates in special education and general education populations were nearly identical (approximately 6% in 1997 and 5% in 1999).
- During the last four years, special education populations have been increasing at a slightly higher rate than general education populations (3.6% compared to 5.8% in school year 2002-2003).
- The Center for Special Education Finance<sup>1</sup> has speculated about the trends toward increasing special education enrollments:

To understand why special education is growing, we need a better understanding of why growing numbers of children are not finding success within general education.

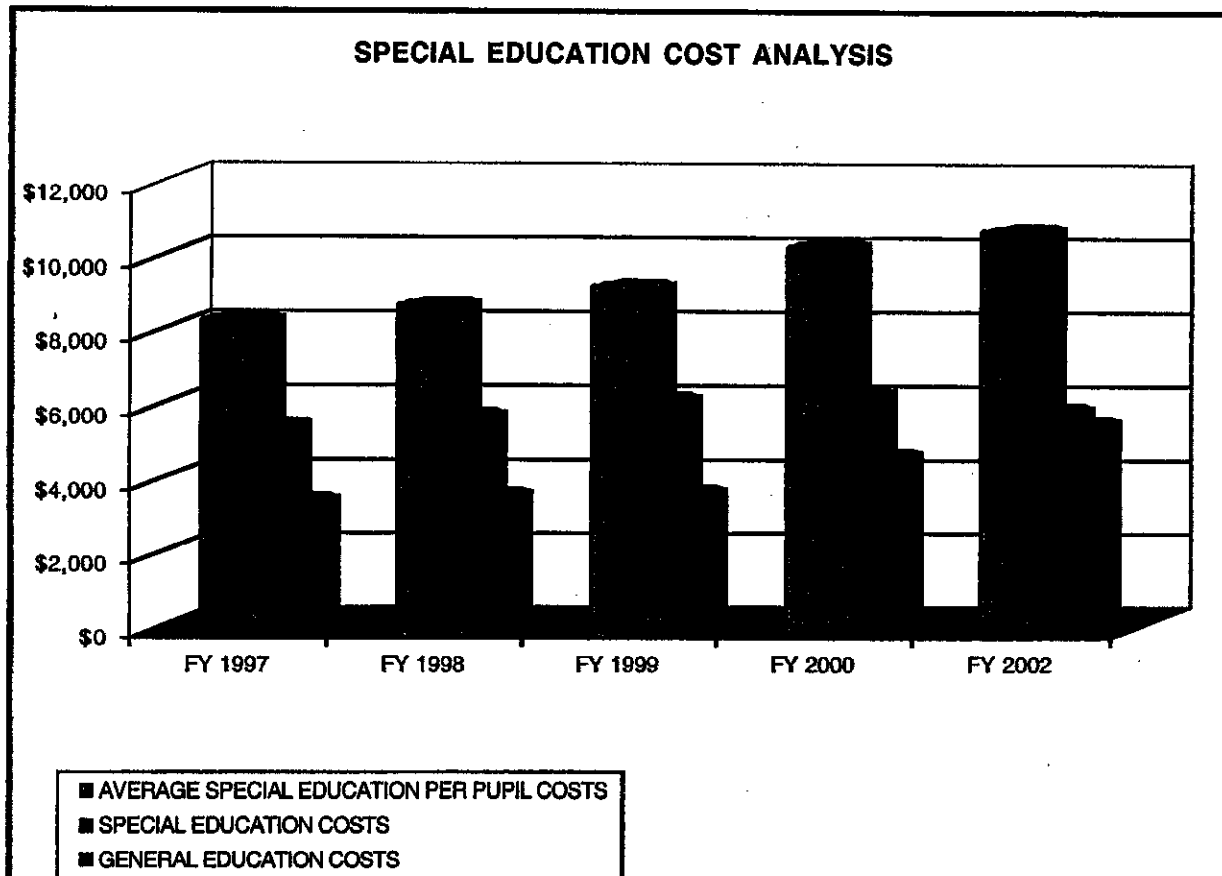
To the extent that state and local officials continue to raise the bar for student achievement and heighten the sanctions for school failure, the more tempting it becomes for general educators to refer students for individualized treatment through special education.

(The CSEF Resource, Winter 1999-2000)

<sup>1</sup> The Center for Special Education Finance was established in October 1992 to address fiscal policy questions related to the delivery and support of special education services throughout the United States.

### **SPECIAL EDUCATION COSTS**

The cost of educating students with disabilities is approximately 2.5 times the cost of educating students in the general population. This includes both the general education as well as specialized program costs for students with disabilities. Costs associated with providing mandated special education and related services include the following expenses: salaries and benefits, student evaluations, speech therapy, physical therapy, counseling, specialized equipment, regular and specialized transportation, costs associated with general classroom participation, materials, supplies, and the educational costs not unique to special education, such as utilities, maintenance, and administration.



#### **KEY POINTS:**

- 82% of Nevada's students with disabilities spend more than 40% of their school day in the regular education environments; as a result, costs associated with general education programs are included in the average special education expenditure per student.
- Although the dollar amounts have grown over time, the average per pupil expenditure for special education students is approximately 2.5 times the average expenditure for a general education student—a ratio consistent with national data.<sup>2</sup>

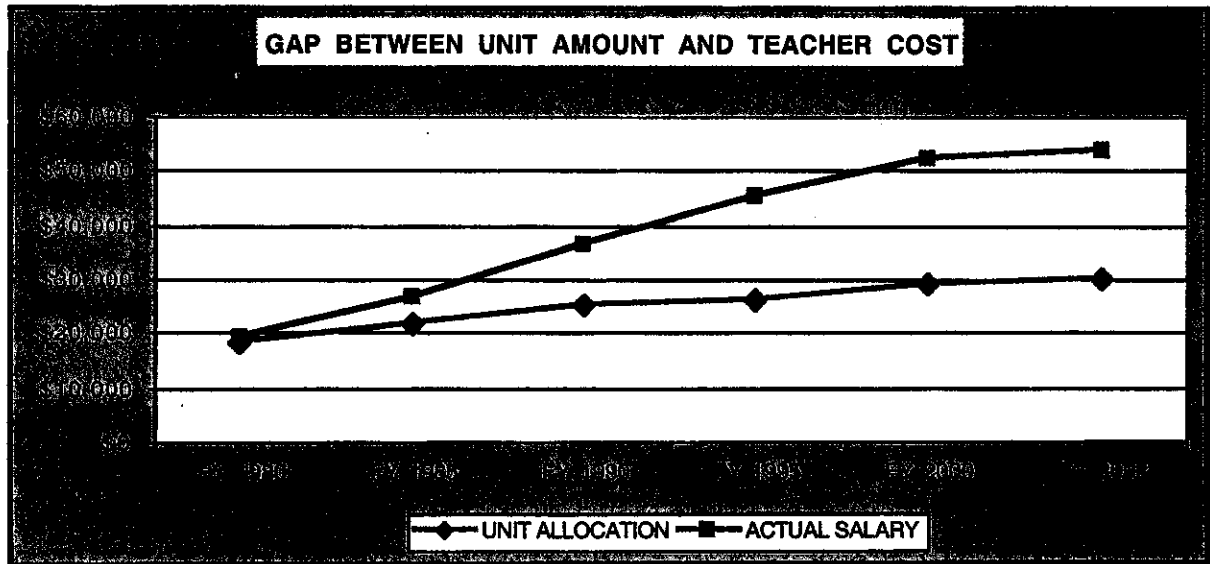
### **SPECIAL EDUCATION FUNDING**

Since 1973, state law has provided a "unit" funding mechanism to enable school districts to operate specialized educational programs for students with disabilities. NRS 387.1221 defines a unit as "an organized unit of special education and related services which includes full-time services of persons licensed by the superintendent of public instruction or other appropriate licensing body, providing a program of instruction in accordance with minimum standards prescribed by the state board."

<sup>2</sup> The CSEF Brief No. 8, February 1998.

In the early 1970s, units were funded in a number and for an amount per unit that approximately equaled the average teacher's salary and benefits. At that time, state units covered the salaries and benefits of special education teachers, and additional expenses for related services (therapies, transportation, equipment, etc.) were covered by state and local funds in the basic support guarantee, federal funds, and supplemental local funds as necessary.

Over time the unit funding has not kept pace with the actual number of units operating or with the growth in teachers' salaries and benefits. The chart below shows the widening gap between the amount of per unit funding and the average teacher's salary and benefits:



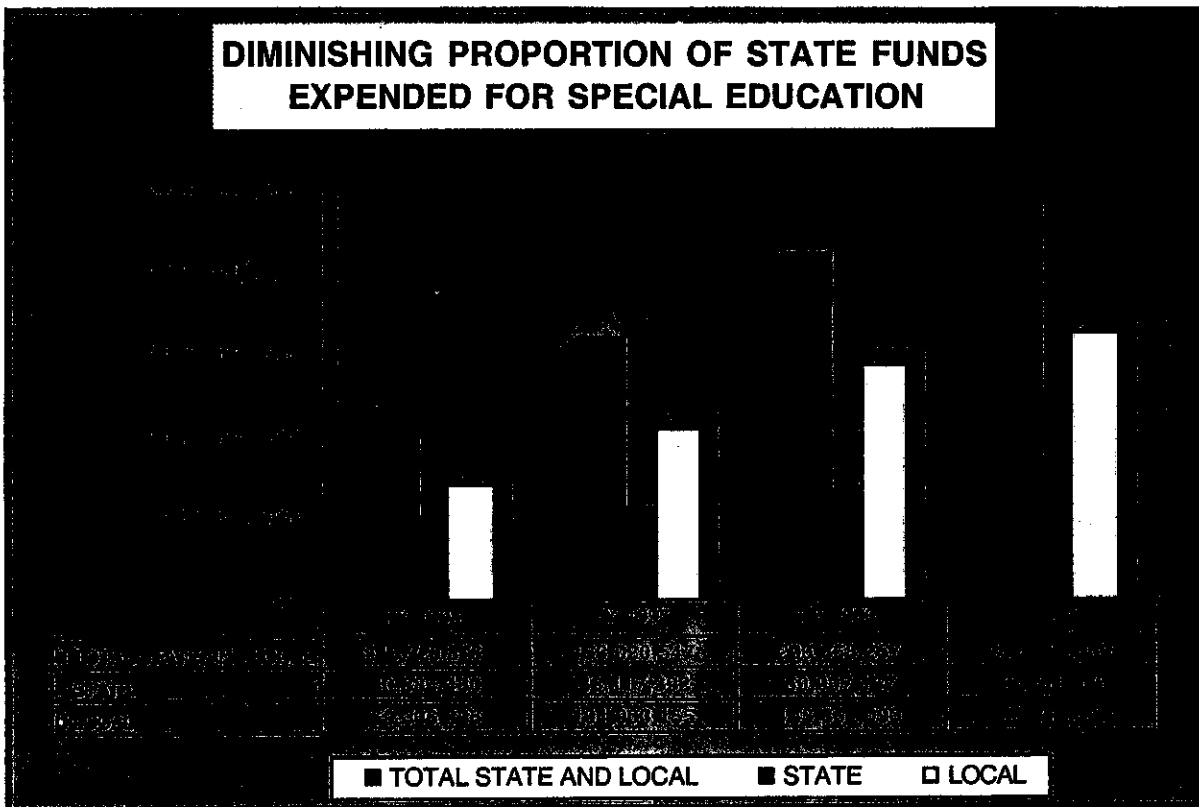
- KEY POINTS:**
- ➔ In 1980, the amount appropriated for each unit covered 95% of an average teacher's salary and fringe benefits; in 2002 the unit covered only 56% of these costs.
  - ➔ For every state unit operated in a local school district in FY 2002, the district used an average of \$23,470 in local funds to supplement the state funding.

The following table presents a summary of special education unit funding:

FISCAL YEAR	LEGISLATIVE APPROVED
FY03	2514 @ \$30576
FY02	2402 @ \$29977
FY00	2186 @ \$28813
FY01	2291 @ \$29389
FY98	1976 @ \$27694
FY99	2088 @ \$28248
FY96	1746 @ \$26739.76
FY97	1857 @ \$27151.22
FY94	1560 @ \$26208
FY95	1645 @ \$26208
FY92	1389 @ \$25956
FY93	1475 @ \$26200



Also, the number of units funded by the state has been less than the number of units which local school districts must operate. As a result, local school districts have used an ever-increasing amount of local funds to support the costs of special education. In 1988, state funds covered about 56% of the cost of special education. In 1991, the state share was 43.5%. Trends during the past eight years are shown below:



**KEY POINTS:**

- By 1994, the state share had lowered to 37%; in fiscal year 2002, the state share was only 29.5%.
- In fourteen years since 1988, the state share of special education funding has diminished one-half.
- In fiscal year 2002, an additional \$36,060,895 in federal funds was available to school districts to support special education programs. This amount represents 13.5% of the total state, local, and federal funds expended.
- Although state special education funds are distributed "equitably" among the local school districts, the diminishing level of support creates a vulnerability to legal challenges on the basis of "adequacy."

## **STATE BOARD OF EDUCATION PROPOSAL**

### **State Special Education Unit Funding**

Funding for special education is a shared responsibility. Even if the number of units and the amount per unit are increased, local funds will continue to support expenditures for related services and therapies, instructional aides, curricula and materials, equipment and assistive technology, and other items necessary to assure FAPE. As described below, the Nevada State Board of Education proposes an increase in the number of units allocated and an increase in the amount of funding per unit for the next biennium.

#### **Special Education Unit Request**

**FY 2004 = 2,615 @ \$31,811 = \$83,185,765**

**FY 2005 = 2,708 @ \$32,447 = \$87,866,476**

### **Special Education Extraordinary Costs (SPEEC) Contingency Program**

Historically, the Governor and Legislature have emphasized reducing the number of students with disabilities who are placed out-of-state for special education needs. In the early 1990s, the out-of-district placement program (NRS 395) was at a high expenditure point in excess of \$1,000,000 for over 30 students. Over the next few years, districts were required to build capacity for these students without significant additional resources to meet this challenge. The current program has two children placed out-of-state, and seven students placed in neighboring school districts, for an anticipated cost of approximately \$300,000 in FY 2003.

Due to medical advances allowing the survival of children with significant disabilities, as well as an unexplained increase nationally of students with autism, the advent of an exceptionally high cost special education student or program is common in Nevada's school districts. On a per-pupil basis, these costs sometimes greatly exceed the revenue provided by the combination of the basic support guarantee, the supplemental special education unit funding, and the approximate \$1,000 per pupil provided under federal IDEA grants. These costs impact the general fund, and school districts have no mechanism to raise additional revenue to counterbalance the impact.

For example, an analysis completed by the Clark County School District revealed that, on average, the district spends \$19,850 more than the basic support per pupil for students with severe disabilities. The cost to serve each child in the early childhood autism program exceeds the basic support by approximately \$62,788. In Clark County alone, the number of students with autism has grown from 89 to 879 in the past five years, which is consistent with national trends. Other school districts have reported similar expenditures for these students and programs, as well as for students with severe hearing impairments.

The Nevada State Board of Education has also proposed a \$20 million Contingency Fund for districts to help meet some of these extraordinary needs. The funds would be administered by the Nevada Department of Education on an application basis. As with other subgrants, criteria will be developed to guide the award process. Passage of this request would provide great relief to districts already overburdened with shortfalls in revenue for special education as well as general education.

### **CHALLENGES AND PRIORITIES**

Since the 1997 Nevada Legislature passed the Nevada Education Reform Act, the state has established rigorous content standards and raised the expectations for student performance. Schools and districts are more accountable for student performance than at any time in the past. The challenges faced by districts reach beyond the resources available to meet the diverse needs of their student populations.

With the passage of the federal *No Child Left Behind* (NCLB) legislation, accountability for the performance of students with disabilities has increased significantly. Students with disabilities must participate in the state's assessment system at a rate not previously required under state law, when exemptions were permitted for students based upon the decisions of IEP committees. Under NCLB, 95% of each school's students as well as of each subgroup, including students with disabilities must participate in statewide assessments, and the performance of these students is incorporated into the analysis of whether a school is making "adequate yearly progress" (AYP) under NCLB. To determine AYP, the performance of the school as a whole is analyzed, as is the performance of each subgroup, including students with disabilities. There are many consequences for Title I schools that do not make AYP, ranging from the need to engage in school improvement planning after the first year of failing to make AYP, to the need to offer school choice after the second year of failing to make AYP, to an eventual school restructuring. Implementation of NCLB may create a situation where one particular group of children, in this case students with disabilities, may be linked to the failure of entire schools to make AYP.

The requirements of NCLB will create additional challenges for school districts as they serve students with disabilities. Attention must be given to safeguarding individualized decision-making, based on the unique needs of students with disabilities, within the NCLB focus on "research-based" programs. In addition, the requirements for school choice after the second year of failing to make AYP may impact the organization of specialized programs for some students with disabilities that are not available within each school building. Finally, the NCLB requirements for highly qualified staff may affect training and licensing for professionals and paraprofessionals who work with students with disabilities. Meeting each of these and other NCLB requirements will create additional expenses and challenges for school districts, above those necessary to provide services to improve the performance of students with disabilities.

### **CONCLUSIONS**

These are challenging times for our public education system. Monetary shortages in states coupled with growing demands for publicly supported human services threatens the availability of funds for education. These shortages further jeopardize the adequacy of finances for specific educational programs competing for limited dollars while districts try to fulfill state and federal mandates.

In spite of these shortages, it is critical in this era of heightened expectations for the achievement of all students, and the elimination of performance gaps in our student population, that we move forward and not lose gains already made. For programs for students with disabilities, this can mean even more acute competition for the same limited educational dollar, potential disincentives to inclusionary programs for students more likely to threaten the accomplishment of AYP in a school, and disregard for individualized programming for students while emphasizing group achievements. We must continue to meet the unique needs of each student with a disability, while maintaining the progress we have made in access and educational opportunity during times of strained budgets and heightened public interest in the success of public education.