`PART B--ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

`SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

`(a) GRANTS TO STATES-

`(1) PURPOSE OF GRANTS- The Secretary shall make grants to States, outlying areas, and freely associated States, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

`(2) MAXIMUM AMOUNT- The maximum amount of the grant a State may receive under this section--

`(A) for fiscal years 2005 and 2006 is--

`(i) the number of children with disabilities in the State who are receiving special education and related services--

`(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

`(II) aged 6 through 21; multiplied by

`(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; and

`(B) for fiscal year 2007 and subsequent fiscal years is--

`(i) the number of children with disabilities in the 2004-2005 school year in the State who received special education and related services--

`(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

`(II) aged 6 through 21; multiplied by

`(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by

`(iii) the rate of annual change in the sum of--

`(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

`(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III).

`(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES; SECRETARY OF THE INTERIOR-

`(1) OUTLYING AREAS AND FREELY ASSOCIATED STATES-

`(A) FUNDS RESERVED- From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used--

`(i) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

`(ii) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this part, but only if the freely associated State meets the applicable requirements of this part, as well as the requirements of section 611(b)(2)(C) as such section was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

`(B) SPECIAL RULE- The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

`(C) DEFINITION- In this paragraph, the term `freely associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

`(2) SECRETARY OF THE INTERIOR- From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

`(c) TECHNICAL ASSISTANCE-

`(1) IN GENERAL- The Secretary may reserve not more than 1/2 of 1 percent of the amounts appropriated under this part for each fiscal year to provide technical assistance activities authorized under section 616(i).

`(2) MAXIMUM AMOUNT- The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

`(d) ALLOCATIONS TO STATES-

`(1) IN GENERAL- After reserving funds for technical assistance, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

`(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT- If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by

subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

`(3) INCREASE IN FUNDS- If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

`(A) ALLOCATION OF INCREASE-

`(i) IN GENERAL- Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year--

`(I) to each State the amount the State received under this section for fiscal year 1999;

`(II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

`(III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty.

`(ii) DATA- For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

`(B) LIMITATIONS- Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

`(i) PRECEDING YEAR ALLOCATION- No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

`(ii) MINIMUM- No State's allocation shall be less than the greatest of--

`(I) the sum of--

`(aa) the amount the State received under this section for fiscal year 1999; and

`(bb) 1/3 of 1 percent of the amount by which the amount appropriated under subsection (i) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1999;

`(II) the sum of--

`(aa) the amount the State received under this section for the preceding fiscal year; and

`(bb) that amount multiplied by the percentage by which the increase in the funds appropriated for this section from the preceding fiscal year exceeds 1.5 percent; or

`(III) the sum of--

`(aa) the amount the State received under this section for the preceding fiscal year; and

`(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated for this section from the preceding fiscal year.

`(iii) MAXIMUM- Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of--

`(I) the amount the State received under this section for the preceding fiscal year; and

`(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

`(C) RATABLE REDUCTION- If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

`(4) DECREASE IN FUNDS- If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

`(A) AMOUNTS GREATER THAN FISCAL YEAR 1999 ALLOCATIONS- If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of--

`(i) the amount the State received under this section for fiscal year 1999; and

`(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

`(B) AMOUNTS EQUAL TO OR LESS THAN FISCAL YEAR 1999 ALLOCATIONS-

`(i) IN GENERAL- If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount the State received for fiscal year 1999.

`(ii) RATABLE REDUCTION- If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

`(e) STATE-LEVEL ACTIVITIES-

`(1) STATE ADMINISTRATION-

`(A) IN GENERAL- For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities--

`(i) each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with subparagraph (B)), whichever is greater; and

`(ii) each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under subsection (b)(1) for the fiscal year or $35,000, whichever is greater.

`(B) CUMULATIVE ANNUAL ADJUSTMENTS- For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust--

`(i) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and

`(ii) $800,000,

by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

`(C) CERTIFICATION- Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current.

`(D) PART C- Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under such part.

`(2) OTHER STATE-LEVEL ACTIVITIES-

`(A) STATE-LEVEL ACTIVITIES-

`(i) IN GENERAL- Except as provided in clause (iii), for the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2005 and 2006 not more than 10 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers,

published by the Bureau of Labor Statistics of the Department of Labor).

`(ii) SMALL STATE ADJUSTMENT- Notwithstanding clause (i) and except as provided in clause (iii), in the case of a State for which the maximum amount reserved for State administration is not greater than $850,000, the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, such State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

`(iii) EXCEPTION- If a State does not reserve funds under paragraph (3) for a fiscal year, then--

`(I) in the case of a State that is not described in clause (ii), for fiscal year 2005 or 2006, clause (i) shall be applied by substituting `9.0 percent' for `10 percent'; and

`(II) in the case of a State that is described in clause (ii), for fiscal year 2005 or 2006, clause (ii) shall be applied by substituting `9.5 percent' for `10.5 percent'.

`(B) REQUIRED ACTIVITIES- Funds reserved under subparagraph (A) shall be used to carry out the following activities:

`(i) For monitoring, enforcement, and complaint investigation.

`(ii) To establish and implement the mediation process required by section 615(e), including providing for the cost of mediators and support personnel.

`(C) AUTHORIZED ACTIVITIES- Funds reserved under subparagraph (A) may be used to carry out the following activities:

`(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.

`(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.

`(iii) To assist local educational agencies in providing positive behavioral interventions and supports and

appropriate mental health services for children with disabilities.

`(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.

`(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.

`(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.

`(vii) To assist local educational agencies in meeting personnel shortages.

`(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

`(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.

`(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.

`(xi) To provide technical assistance to schools and local educational agencies, and direct services, including supplemental educational services as defined in 1116(e) of the Elementary and Secondary Education Act of 1965 to children with disabilities, in schools or local educational agencies identified for improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under section 1111(b)(2)(G) the Elementary and Secondary Education Act of 1965.

`(3) LOCAL EDUCATIONAL AGENCY RISK POOL-

`(A) IN GENERAL-

`(i) RESERVATION OF FUNDS- For the purpose of assisting local educational agencies (including a charter school that is a local educational agency or a consortium of local educational agencies) in addressing the needs of high need children with disabilities, each State shall have the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for State-level activities under paragraph (2)(A)--

`(I) to establish and make disbursements from the high cost fund to local educational agencies in accordance with this paragraph during the first and succeeding fiscal years of the high cost fund; and

`(II) to support innovative and effective ways of cost sharing by the State, by a local educational agency, or among a consortium of local educational agencies, as determined by the State in coordination with representatives from local educational agencies, subject to subparagraph (B)(ii).

`(ii) DEFINITION OF LOCAL EDUCATIONAL AGENCY- In this paragraph the term `local educational agency' includes a charter school that is a local educational agency, or a consortium of local educational agencies.

`(B) LIMITATION ON USES OF FUNDS-

`(i) ESTABLISHMENT OF HIGH COST FUND- A State shall not use any of the funds the State reserves pursuant to subparagraph (A)(i), but may use the funds the State reserves under paragraph (1), to establish and support the high cost fund.

`(ii) INNOVATIVE AND EFFECTIVE COST SHARING- A State shall not use more than 5 percent of the funds the State reserves pursuant to subparagraph (A)(i) for each fiscal year to support innovative and effective ways of cost sharing among consortia of local educational agencies.

`(C) STATE PLAN FOR HIGH COST FUND-

`(i) DEFINITION- The State educational agency shall establish the State's definition of a high need child with a disability, which definition shall be developed in consultation with local educational agencies.

`(ii) STATE PLAN- The State educational agency shall develop, not later than 90 days after the State reserves funds under this paragraph, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan shall--

`(I) establish, in coordination with representatives from local educational agencies, a definition of a

high need child with a disability that, at a minimum--

`(aa) addresses the financial impact a high need child with a disability has on the budget of the child's local educational agency; and

`(bb) ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965) in that State;

`(II) establish eligibility criteria for the participation of a local educational agency that, at a minimum, takes into account the number and percentage of high need children with disabilities served by a local educational agency;

`(III) develop a funding mechanism that provides distributions each fiscal year to local educational agencies that meet the criteria developed by the State under subclause (II); and

`(IV) establish an annual schedule by which the State educational agency shall make its distributions from the high cost fund each fiscal year.

`(iii) PUBLIC AVAILABILITY- The State shall make its final State plan publicly available not less than 30 days before the beginning of the school year, including dissemination of such information on the State website.

`(D) DISBURSEMENTS FROM THE HIGH COST FUND-

`(i) IN GENERAL- Each State educational agency shall make all annual disbursements from the high cost fund established under subparagraph (A)(i) in accordance with the State plan published pursuant to subparagraph (C).

`(ii) USE OF DISBURSEMENTS- Each State educational agency shall make annual disbursements to eligible local educational agencies in accordance with its State plan under subparagraph (C)(ii).

`(iii) APPROPRIATE COSTS- The costs associated with educating a high need child with a disability under subparagraph (C)(i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's IEP.

`(E) LEGAL FEES- The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure a free appropriate public education for such child.

`(F) ASSURANCE OF A FREE APPROPRIATE PUBLIC EDUCATION- Nothing in this paragraph shall be construed--

`(i) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in the least restrictive environment pursuant to section 612(a)(5); or

`(ii) to authorize a State educational agency or local educational agency to establish a limit on what may be spent on the education of a child with a disability.

`(G) SPECIAL RULE FOR RISK POOL AND HIGH NEED ASSISTANCE PROGRAMS IN EFFECT AS OF JANUARY 1, 2004- Notwithstanding the provisions of subparagraphs (A) through (F), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to local educational agencies that provides services to high need students based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in subparagraph (C)(ii)(I).

`(H) MEDICAID SERVICES NOT AFFECTED- Disbursements provided under this paragraph shall not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

`(I) REMAINING FUNDS- Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) shall be allocated to local educational agencies for the succeeding fiscal year in the same manner as funds are allocated to local educational agencies under subsection (f) for the succeeding fiscal year.

`(4) INAPPLICABILITY OF CERTAIN PROHIBITIONS- A State may use funds the State reserves under paragraphs (1) and (2) without regard to--

`(A) the prohibition on commingling of funds in section 612(a)(17)(B); and

`(B) the prohibition on supplanting other funds in section 612(a)(17)(C).

`(5) REPORT ON USE OF FUNDS- As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe how amounts under this section--

`(A) will be used to meet the requirements of this title; and

`(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.

`(6) SPECIAL RULE FOR INCREASED FUNDS- A State may use funds the State reserves under paragraph (1)(A) as a result of inflationary

increases under paragraph (1)(B) to carry out activities authorized under clause (i), (iii), (vii), or (viii) of paragraph (2)(C).

`(7) FLEXIBILITY IN USING FUNDS FOR PART C- Any State eligible to receive a grant under section 619 may use funds made available under paragraph (1)(A), subsection (f)(3), or section 619(f)(5) to develop and implement a State policy jointly with the lead agency under part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under section 619 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

`(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES-

`(1) SUBGRANTS REQUIRED- Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part.

`(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES- For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:

`(A) BASE PAYMENTS- The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) as section 611(d) was then in effect.

`(B) ALLOCATION OF REMAINING FUNDS- After making allocations under subparagraph (A), the State shall--

`(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

`(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

`(3) REALLOCATION OF FUNDS- If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under

this part that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.

`(g) DEFINITIONS- In this section:

`(1) AVERAGE PER-PUPIL EXPENDITURE IN PUBLIC ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS IN THE UNITED STATES- The term `average per-pupil expenditure in public elementary schools and secondary schools in the United States' means--

`(A) without regard to the source of funds--

`(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus

`(ii) any direct expenditures by the State for the operation of those agencies; divided by

`(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

`(2) STATE- The term `State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

`(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR-

`(1) PROVISION OF AMOUNTS FOR ASSISTANCE-

`(A) IN GENERAL- The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (b)(2) for that fiscal year. Of the amount described in the preceding sentence--

`(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and

`(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

`(B) CALCULATION OF NUMBER OF CHILDREN- In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (referred to in this subsection as the `BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to

the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for those children, in accordance with paragraph (2).

`(C) ADDITIONAL REQUIREMENT- With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

`(2) SUBMISSION OF INFORMATION- The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that--

`(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

`(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

`(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in subparagraph (A);

`(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

`(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

`(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

`(3) APPLICABILITY- The Secretary shall withhold payments under this subsection with respect to the information described in paragraph (2) in the same manner as the Secretary withholds payments under section 616(e)(6).

`(4) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5-

`(A) IN GENERAL- With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (b)(2).

`(B) DISTRIBUTION OF FUNDS- The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

`(C) SUBMISSION OF INFORMATION- To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

`(D) USE OF FUNDS- The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The tribe or tribal organization shall, as appropriate, make referrals to local,

State, or Federal entities for the provision of services or further diagnosis.

`(E) BIENNIAL REPORT- To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

`(F) PROHIBITIONS- None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

`(5) PLAN FOR COORDINATION OF SERVICES- The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this title. Such plan shall provide for the coordination of services benefiting those children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. The plan shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State educational agencies and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

`(6) ESTABLISHMENT OF ADVISORY BOARD- To meet the requirements of section 612(a)(21), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall--

`(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

`(B) advise and assist the Secretary of the Interior in the performance of the Secretary of the Interior's responsibilities described in this subsection;

`(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

`(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and

`(E) provide assistance in the preparation of information required under paragraph (2)(D).

`(7) ANNUAL REPORTS-

`(A) IN GENERAL- The advisory board established under paragraph (6) shall prepare and submit to the Secretary of the Interior and to Congress an annual report containing a description of the activities of the advisory board for the preceding year.

`(B) AVAILABILITY- The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

`(i) AUTHORIZATION OF APPROPRIATIONS- For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated--

`(1) $12,358,376,571 for fiscal year 2005;

`(2) $14,648,647,143 for fiscal year 2006;

`(3) $16,938,917,714 for fiscal year 2007;

`(4) $19,229,188,286 for fiscal year 2008;

`(5) $21,519,458,857 for fiscal year 2009;

`(6) $23,809,729,429 for fiscal year 2010;

`(7) $26,100,000,000 for fiscal year 2011; and

`(8) such sums as may be necessary for fiscal year 2012 and each succeeding fiscal year.