

CHAPTER 16—CONTROL OF THE ARMED FORCES IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS

“Sec.

“341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities.

§ 341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities

“(a) IN GENERAL.—The Secretary of Defense shall prescribe in regulations policies and procedures to assure that tactical control of the armed forces on active duty within a State or possession is vested in the governor of the State or possession, as the case may be, when such forces are engaged in a domestic operation, including emergency response, within such State or possession.

“(b) DISCHARGE THROUGH JOINT FORCE HEADQUARTERS.—The policies and procedures required under subsection (a) shall provide for the discharge of tactical control by the governor of a State or possession as described in that subsection through the Joint Force Headquarters of the National Guard in the State or possession, as the case may be, acting through the officer of the National Guard in command of the Headquarters.

“(c) POSSESSIONS DEFINED.—Notwithstanding any provision of section 101(a) of this title, in this section, the term ‘possessions’ means the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.’.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 10, United States Code, and at the beginning of part I of subtitle A of such title, are each amended by inserting after the item relating to chapter 15 the following new item:

“16. Control of the Armed Forces in Activities Within the States and Possessions 341”.

SEC. 6. FISCAL YEAR 2010 FUNDING FOR THE NATIONAL GUARD FOR CERTAIN DOMESTIC ACTIVITIES.

(a) CONTINUITY OF OPERATIONS, CONTINUITY OF GOVERNMENT, AND CONSEQUENCE MANAGEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, \$11,000,000.

(B) For National Guard Personnel, Air Force, \$3,500,000.

(C) For Operation and Maintenance, Army National Guard, \$11,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in training and operations with respect to continuity of operations, continuity of government, and consequence management in connection with response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(b) DOMESTIC OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense, \$300,000,000 for Operation and Maintenance, Defense-wide.

(2) AVAILABILITY.—The amount authorized to be appropriated by paragraph (1) shall be available for the Army National Guard and the Air National Guard for emergency preparedness and response activities of the National Guard while in State status under title 32, United States Code.

(3) TRANSFER.—Amounts under the amount authorized to be appropriated by paragraph (1) shall be available for transfer to accounts

for National Guard Personnel, Army, and National Guard Personnel, Air Force, for purposes of the pay and allowances of members of the National Guard in conducting activities described in paragraph (2).

(c) JOINT OPERATIONS COORDINATION CENTERS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, \$28,000,000.

(B) For National Guard Personnel, Air Force, \$7,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in continuously staffing a Joint Operations Coordination Center (JOCC) in the Joint Forces Headquarters of the National Guard in each State and Territory for command and control and activation of forces in response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(d) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by subsections (a), (b), and (c) for the purposes set forth in such subsections are in addition to any other amounts authorized to be appropriated for fiscal year 2010 for the Department of Defense for such purposes.

SEC. 7. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Com-

mand, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SEC. 8. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

By Mr. REED (for himself, Ms. KLOBUCHAR, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. LAUTENBERG):

S. 1362. A bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in high school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle grades models for struggling students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I am introducing the Success in the Middle Act, which will help provide new support for raising student achievement in the middle grades. I thank Senators KLOBUCHAR, STABENOW, WHITEHOUSE, and LAUTENBERG for joining me as original cosponsors.

We know that the middle grades are an important and unique transition period for young people, and a critical

time in a student's educational and social development. The middle grades are the key to ensuring students remain on track to college and career-readiness. International comparisons indicate that students in the United States do not start out behind other nations in math and science, but they fall significantly behind in these subjects by the end of the middle grades. According to the 2007 National Assessment on Educational Progress, only one-third of eighth grade students in the United States can read at proficiency or above. For math proficiency, this number falls to 31 percent of all American eighth grade students.

There has been significant focus during K-12 reform discussions regarding high school reform, and while there is no doubt that this is an essential component of improving our education system, addressing dropout prevention must begin earlier. It must begin at the middle schools that feed into the thousands of "dropout factories" across the country. Dropout factories are high schools in which fewer than 60 percent of students graduate. As one of the leading experts in the area of middle and high school reform, Robert Balfanz, has stated, middle schools are the "first line of defense" in identifying at-risk students and then effectively intervening to prevent them from dropping out. Balfanz's research has shown that sixth-graders who failed math or English, attended school less than 80 percent of the time, or received an unsatisfactory behavior grade in a core course had only a 10 to 20 percent chance of graduating on time. Without successful intervention, these behaviors lead students to course failure, non-promotion, and eventually dropping out.

That is why I am reintroducing the Success in the Middle Act. This bill will help strengthen that first line of defense by authorizing grants to states and school districts to improve and turnaround low-performing middle schools. It would concentrate new resources on the middle grades by requiring districts to develop an early warning indicator system for indentifying students at risk of dropping out, and tailoring research-based interventions to get these students back on track to graduating college and career-ready. These interventions would include high-quality professional development for teachers; personal academic plans such as the Individual Learning Plans required in Rhode Island; mentoring and counseling; and extended learning time.

When he was in the Senate, President Obama was the lead sponsor of this legislation. I am pleased that the President has continued to recognize the need for increased investment in middle and high school reform, including earlier this year, his action to encourage states and school districts to spend a significant portion of their American Recovery and Reinvestment Act education funds on improving student

achievement in the middle and high school grades.

I was pleased to work with the Rhode Island Middle Level Educators, Rhode Island Association of School Principals, ACT, Alliance for Excellent Education, The College Board, International Reading Association, National Association of Secondary School Principals, National Council of Teachers of English, National Forum to Accelerate Middle Grades Reform, and National Middle Schools Association, and a host of other education organizations on this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Success in the Middle Act of 2009".

SEC. 2. FINDINGS.

In this Act:

(1) International comparisons indicate that students in the United States do not start out behind students of other nations in mathematics and science, but that they fall behind by the end of the middle grades.

(2) Only 1/3 of eighth grade students in the United States, and only 4 percent of such students who are English language learners, can read with proficiency, according to the 2007 National Assessment on Educational Progress (NAEP). The percentage of eighth grade students proficient at reading has not increased since 1998, and the NAEP average reading score for eighth grade students has remained static. In contrast, NAEP reading scores and achievement levels for fourth grade students have increased significantly.

(3) In mathematics, less than 1/3 of students in eighth grade show skills at the NAEP proficient level, and nearly 30 percent score below the basic level. The percentage of eighth grade students scoring above the basic level was 8 points higher in 2007 than in 2000, but for fourth grade students, the percentage increased 17 points, more than double the increase for middle grades students. In eighth grade, the gaps between the average mathematics scores of white and black students and between white and Hispanic students were as wide in 2007 as in 1990.

(4) Fewer than 2 in 10 of the students who graduated from high school in 2005 or 2006 met, as eighth graders, all 4 of ACT's EXPLORE College Readiness Benchmarks, the minimum level of achievement that ACT has shown is necessary if students are to be college- and career-ready upon their high school graduation.

(5) Lack of basic skills at the end of middle grades has serious implications for students. Students who enter high school 2 or more years behind grade level in mathematics and literacy have only a 50 percent chance of progressing on time to the tenth grade; those not progressing are at significant risk of dropping out of high school.

(6) Middle grades students are hopeful about their future, with 93 percent believing that they will complete high school and 92 percent anticipating that they will attend college.

(7) Sixth grade students who do not attend school regularly, who are subjected to frequent disciplinary actions, or who fail math-

ematics or English have less than a 15 percent chance of graduating high school on time and a 20 percent chance of graduating 1 year late. Without effective interventions and proper supports, these students are at risk of subsequent failure in high school, or of dropping out.

(8) Student transitions from elementary school to the middle grades and to high school are often complicated by poor curriculum alignment, inadequate counseling services, and unsatisfactory sharing of student performance and academic achievement data between grades.

(9) According to ACT, the level of academic achievement that students attain by eighth grade has a larger impact on the students' college and career readiness upon graduation from high school than anything that happens academically in high school.

(10) Middle schools are almost twice as likely as elementary schools to be identified for improvement, corrective action, or restructuring (22 percent as compared to 13 percent) under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 63116).

(11) Middle grades improvement strategies should be tailored based on a variety of performance indicators and data, so that educators can create and implement successful school improvement strategies to address the needs of the middle grades, and so that teachers can provide effective instruction and adequate assistance to meet the needs of at-risk students.

(12) To stem a dropout rate nearly twice that of students without disabilities, students with disabilities in the critical middle grades must receive appropriate academic accommodations and access to assistive technology, high-risk behaviors such as absenteeism and course failure must be monitored, and problem-solving skills with broad application must be taught.

(13) Local educational agencies and State educational agencies often do not have the capacity to provide support for school improvement strategies. Successful models do exist for turning around low-performing middle grades, and Federal support should be provided to increase the capacity to apply promising practices based on evidence from successful schools.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ESEA DEFINITIONS.**—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **ELIGIBLE ENTITY.**—The term "eligible entity" means a partnership that includes—

(A) not less than 1 eligible local educational agency; and

(B)(i) an institution of higher education; (ii) an educational service agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)); or

(iii) a nonprofit organization with demonstrated expertise in high quality middle grades intervention.

(3) **ELIGIBLE LOCAL EDUCATIONAL AGENCY.**—The term "eligible local educational agency" means a local educational agency that serves not less than 1 eligible school.

(4) **ELIGIBLE SCHOOL.**—The term "eligible school" means an elementary or secondary school that contains not less than 2 or more successive grades beginning with grade 5 and ending with grade 8 and for which—

(A) a high proportion of the middle grades students attending such school go on to attend a high school with a graduation rate of less than 65 percent;

(B) more than 25 percent of the students who finish grade 6 at such school, or the earliest middle grade level at the school, exhibit 1 or more of the key risk factors and early risk identification signs, including—

- (i) student attendance below 90 percent;
- (ii) a failing grade in a mathematics or reading or language arts course;
- (iii) 2 failing grades in any courses; and
- (iv) out-of-school suspension or other evidence of at-risk behavior; or

(C) more than 50 percent of the middle grades students attending such school do not perform at a proficient level on State student academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) in mathematics or reading or language arts.

(5) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) MIDDLE GRADES.—The term “middle grades” means any of grades 5 through 8.

(7) SCIENTIFICALLY VALID.—The term “scientifically valid” means the rationale, design, and interpretation are soundly developed in accordance with accepted principles of scientific research.

(8) SECRETARY.—The term “Secretary” means the Secretary of Education.

(9) STATE.—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(10) STUDENT WITH A DISABILITY.—The term “student with a disability” means a student who is a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

TITLE I—MIDDLE GRADES IMPROVEMENT

SEC. 101. PURPOSES.

The purposes of this title are to—

(1) improve middle grades student academic achievement and prepare students for rigorous high school course work, postsecondary education, independent living, and employment;

(2) ensure that curricula and student supports for middle grades education align with the curricula and student supports provided for elementary and high school grades;

(3) provide resources to State educational agencies and local educational agencies to collaboratively develop school improvement plans in order to deliver support and technical assistance to schools serving students in the middle grades; and

(4) increase the capacity of States and local educational agencies to develop effective, sustainable, and replicable school improvement programs and models and evidence-based or, when available, scientifically valid student interventions for implementation by schools serving students in the middle grades.

SEC. 102. FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES FOR MIDDLE GRADES IMPROVEMENT.

(a) IN GENERAL.—From amounts appropriated under section 107, the Secretary shall make grants under this title for a fiscal year to each State educational agency for which the Secretary has approved an application under subsection (f) in an amount equal to the allotment determined for such agency under subsection (c) for such fiscal year.

(b) RESERVATIONS.—From the total amount made available to carry out this title for a fiscal year, the Secretary—

(1) shall reserve not more than 1 percent for the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities carried out in accordance with this section;

(2) shall reserve 1 percent to evaluate the effectiveness of this title in achieving the

purposes of this title and ensuring that results are peer-reviewed and widely disseminated, which may include hiring an outside evaluator; and

(3) shall reserve 5 percent for technical assistance and dissemination of best practices in middle grades education to States and local educational agencies.

(c) AMOUNT OF STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the total amount made available to carry out this title for a fiscal year and not reserved under subsection (b), the Secretary shall allot such amount among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year, determined in accordance with section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)).

(2) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this subsection for a fiscal year that is less than ½ of 1 percent of the amount made available to carry out this title for such fiscal year.

(d) SPECIAL RULE.—For any fiscal year for which the funds appropriated to carry out this title are less than \$500,000,000, the Secretary is authorized to award grants to State educational agencies, on a competitive basis, rather than as allotments described in this section, to enable such agencies to award subgrants under section 104 on a competitive basis.

(e) REALLOTMENT.—

(1) FAILURE TO APPLY; APPLICATION NOT APPROVED.—If any State educational agency does not apply for an allotment under this title for a fiscal year, or if the application from the State educational agency is not approved, the Secretary shall reallocate the amount of the State's allotment to the remaining States in accordance with this section.

(2) UNUSED FUNDS.—The Secretary may reallocate any amount of an allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallocations shall be made on the same basis as allotments are made under subsection (c).

(f) APPLICATION.—In order to receive a grant under this title, a State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including a State middle grades improvement plan described in section 103(a)(4).

(g) PEER REVIEW AND SELECTION.—The Secretary—

(1) shall establish a peer-review process to assist in the review and approval of proposed State applications;

(2) shall appoint individuals to participate in the peer-review process who are educators and experts in identifying, evaluating, and implementing effective education programs and practices (including the areas of teaching and learning, educational standards and assessments, school improvement, and academic and behavioral supports for middle grades students), which individuals may include recognized exemplary middle grades teachers and middle grades principals who have been recognized at the State or national level for exemplary work or contributions to the field;

(3) shall ensure that States are given the opportunity to receive timely feedback, and to interact with peer-review panels, in person or via electronic communication, on

issues that need clarification during the peer-review process;

(4) shall approve a State application submitted under this title not later than 120 days after the date of submission of the application unless the Secretary determines that the application does not meet the requirements of this title;

(5) may not decline to approve a State's application before—

(A) offering the State an opportunity to revise the State's application;

(B) providing the State with technical assistance in order to submit a successful application; and

(C) providing a hearing to the State; and

(6) shall direct the Inspector General of the Department of Education to—

(A) review final determinations reached by the Secretary to approve or deny State applications;

(B) analyze the consistency of the process used by peer-review panels in reviewing and recommending to the Secretary approval or denial of such State applications; and

(C) report the findings of this review and analysis to Congress.

SEC. 103. STATE PLAN; AUTHORIZED ACTIVITIES.

(a) MANDATORY ACTIVITIES.—

(1) IN GENERAL.—A State educational agency that receives a grant under this title shall use the grant funds—

(A) to prepare and implement the needs analysis and middle grades improvement plan, as described in paragraphs (3) and (4), of such agency;

(B) to make subgrants to eligible local educational agencies or eligible entities under section 104; and

(C) to assist eligible local educational agencies and eligible entities, when determined necessary by the State educational agency or at the request of an eligible local educational agency or eligible entity, in designing a comprehensive schoolwide improvement plan and carrying out the activities under section 104.

(2) FUNDS FOR SUBGRANTS.—A State educational agency that receives a grant under this title shall use not less than 80 percent of the grant funds to make subgrants to eligible local educational agencies or eligible entities under section 104.

(3) MIDDLE GRADES NEEDS ANALYSIS.—

(A) IN GENERAL.—A State educational agency that receives a grant under this title shall enter into a contract, or similar formal agreement, to work with entities such as national and regional comprehensive centers (as described in section 203 of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9602)), institutions of higher education, or nonprofit organizations with demonstrated expertise in high-quality middle grades reform, to prepare a plan that analyzes how to strengthen the programs, practices, and policies of the State in supporting students in the middle grades, including the factors, such as local implementation, that influence variation in the effectiveness of such programs, practices, and policies.

(B) PREPARATION OF PLAN.—In preparing the plan under subparagraph (A), the State educational agency shall examine policies and practices of the State, and of local educational agencies within the State, affecting—

(i) middle grades curriculum instruction and assessment;

(ii) education accountability and data systems;

(iii) teacher quality and equitable distribution; and

(iv) interventions that support learning in school.

(4) MIDDLE GRADES IMPROVEMENT PLAN.—

(A) IN GENERAL.—A State educational agency that receives a grant under this title

shall develop a middle grades improvement plan that—

(i) shall be a statewide plan to improve student academic achievement in the middle grades, based on the needs analysis described in paragraph (3); and

(ii) describes what students are required to know and do to successfully—

(I) complete the middle grades; and

(II) make the transition to succeed in academically rigorous high school coursework that prepares students for college, independent living, and employment.

(B) **PLAN COMPONENTS.**—A middle grades improvement plan described in subparagraph (A) shall also describe how the State educational agency will do each of the following:

(i)(I) Ensure that the curricula and assessments for middle grades education are aligned with high school curricula and assessments and prepare students to take challenging high school courses and successfully engage in postsecondary education; and

(II) ensure coordination, where applicable, with the activities carried out through grants for P-16 education alignment under section 6401(c)(1) of the America COMPETES Act (20 U.S.C. 9871(c)(1)).

(ii) Ensure that professional development is provided to school leaders, teachers, and other school personnel in—

(I) addressing the needs of diverse learners, including students with disabilities and English language learners;

(II) using challenging and relevant research-based best practices and curricula; and

(III) using data to inform instruction.

(iii) Identify and disseminate information on effective schools and instructional strategies for middle grades students based on high-quality research.

(iv) Include specific provisions for students most at risk of not graduating from secondary school, including English language learners and students with disabilities.

(v) Provide technical assistance to eligible entities to develop and implement their early warning indicator and intervention systems, as described in section 104(d)(2)(D).

(vi) Define a set of comprehensive school performance indicators that shall be used, in addition to the indicators used to determine adequate yearly progress, as defined in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)), to evaluate school performance, and guide the school improvement process, such as—

(I) student attendance and absenteeism;

(II) earned on-time promotion rates from grade to grade;

(III) percentage of students failing a mathematics, reading or language arts, or science course, or failing 2 or more of any courses;

(IV) teacher quality and attendance measures;

(V) in-school and out-of-school suspension or other measurable evidence of at-risk behavior; and

(VI) additional indicators proposed by the State educational agency, and approved by the Secretary pursuant to the peer-review process described in section 102(g).

(vii) Ensure that such plan is coordinated with State activities to turn around other schools in need of improvement, including State activities to improve high schools and elementary schools.

(b) **PERMISSIBLE ACTIVITIES.**—A State educational agency that receives a grant under this title may use the grant funds to—

(1) develop and encourage collaborations among researchers at institutions of higher education, State educational agencies, educational service agencies (as defined in section 9101 of the Elementary and Secondary

Education Act of 1965 (20 U.S.C. 7801)), local educational agencies, and nonprofit organizations with demonstrated expertise in high quality middle grades interventions, to expand the use of effective practices in the middle grades and to improve middle grades education;

(2) support local educational agencies in implementing effective middle grades practices, models, and programs that—

(A) are evidence-based or, when available, scientifically valid; and

(B) lead to improved student academic achievement;

(3) support collaborative communities of middle grades teachers, administrators, and researchers in creating and sustaining informational databases to disseminate results from rigorous research on effective practices and programs for middle grades education; and

(4) increase middle grades student support services, such as school counseling on the transition to high school and planning for entry into postsecondary education and the workforce.

SEC. 104. COMPETITIVE SUBGRANTS TO IMPROVE LOW-PERFORMING MIDDLE GRADES.

(a) **IN GENERAL.**—A State educational agency that receives a grant under this title shall make competitive subgrants to eligible local educational agencies and eligible entities to enable the eligible local educational agencies and eligible entities to improve low-performing middle grades in schools served by the agencies or entities.

(b) **PRIORITIES.**—In making subgrants under subsection (a), a State educational agency shall give priority to eligible local educational agencies or eligible entities based on—

(1) the respective populations of children described in section 102(c)(1) served by the eligible local educational agencies participating in the subgrant application process; and

(2) the respective populations of children served by the participating eligible local educational agencies who attend eligible schools.

(c) **APPLICATION.**—An eligible local educational agency or eligible entity that desires to receive a subgrant under subsection (a) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require, including—

(1) a comprehensive schoolwide improvement plan described in subsection (d);

(2) a description of how activities described in such plan will be coordinated with activities specified in plans for schoolwide programs under section 1114 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314) and school improvement plans required under section 1116(b)(3) of such Act (20 U.S.C. 6316(b)(3)); and

(3) a description of how activities described in such plan will be complementary to, and coordinated with, school improvement activities for elementary schools and high schools in need of improvement that serve the same students within the participating local educational agency.

(d) **COMPREHENSIVE SCHOOLWIDE IMPROVEMENT PLAN.**—An eligible local educational agency or eligible entity that desires to receive a subgrant under subsection (a) shall develop a comprehensive schoolwide improvement plan for the middle grades that shall—

(1) include the information described in subsection (c)(2);

(2) describe how the eligible local educational agency or eligible entity will—

(A) identify eligible schools;

(B) ensure that funds go to the highest priority eligible schools first, based on the eligible schools' populations of children described in section 102(c)(1);

(C) use funds to improve the academic achievement of all students, including English language learners and students with disabilities, in eligible schools;

(D) implement an early warning indicator and intervention system to alert schools when students begin to exhibit outcomes or behaviors that indicate the student is at increased risk for low academic achievement or is unlikely to progress to secondary school graduation, and to create a system of evidence-based interventions to be used by schools to effectively intervene, by—

(i) identifying and analyzing, such as through the use of longitudinal data of past cohorts of students, the academic and behavioral indicators in the middle grades that most reliably predict dropping out of high school, such as attendance, behavior measures (including suspensions, officer referrals, or conduct marks), academic performance in core courses, and earned on-time promotion from grade-to-grade;

(ii) analyzing student progress and performance on the indicators identified under clause (i) to guide decisionmaking;

(iii) analyzing academic indicators to determine whether students are on track to graduate on time, and developing appropriate evidence-based intervention; and

(iv) identifying or developing a mechanism for regularly collecting and reporting—

(I) student-level data on the indicators identified under clause (i);

(II) student-level progress and performance, as described in clause (ii);

(III) student-level data on the indicators described in clause (iii); and

(IV) information about the impact of interventions on student outcomes and progress;

(E) increase academic rigor and foster student engagement to ensure students are entering high school prepared for success in a rigorous college-ready curriculum, including a description of how such readiness will be measured;

(F) implement a systemic transition plan for all students and encourage collaboration among elementary grades, middle grades, and high school grades; and

(G) provide evidence that the strategies, programs, supports, and instructional practices proposed under the schoolwide improvement plan are new and have not been implemented before by the eligible local educational agency or eligible entity; and

(3) provide evidence of an ongoing commitment to sustain the plan for a period of not less than 4 years.

(e) **REVIEW AND SELECTION OF SUBGRANTS.**—In making subgrants under subsection (a), the State educational agency shall—

(1) establish a peer-review process to assist in the review and approval of applications under subsection (c); and

(2) appoint individuals to participate in the peer-review process who are educators and experts in identifying, evaluating, and implementing effective education programs and practices, including areas of teaching and learning, educational standards and assessments, school improvement, and academic and behavioral supports for middle grades students, including recognized exemplary middle grades teachers and principals who have been recognized at the State or national level for exemplary work or contributions to the field.

(f) **REVISION OF SUBGRANTS.**—If a State educational agency, using the peer-review process described in subsection (e), determines that an application for a grant under subsection (a) does not meet the requirements of this title, the State educational agency shall

notify the eligible local educational agency or eligible entity of such determination and the reasons for such determination, and offer—

(1) the eligible local educational agency or eligible entity an opportunity to revise and resubmit the application; and

(2) technical assistance to the eligible local educational agency or eligible entity, by the State educational agency or a nonprofit organization with demonstrated expertise in high quality middle grades interventions, to revise the application.

(g) **MANDATORY USES OF FUNDS.**—An eligible local educational agency or eligible entity that receives a subgrant under subsection (a) shall carry out the following:

(1) Align the curricula for grades kindergarten through 12 for schools within the local educational agency to improve transitions from elementary grades to middle grades to high school grades.

(2) In each eligible school served by the eligible local educational agency receiving or participating in the subgrant:

(A) Align the curricula for all grade levels within eligible schools to improve grade to grade transitions.

(B) Implement evidence-based or, when available, scientifically valid instructional strategies, programs, and learning environments that meet the needs of all students and ensure that school leaders and teachers receive professional development on the use of these strategies.

(C) Ensure that school leaders, teachers, pupil service personnel, and other school staff understand the developmental stages of adolescents in the middle grades and how to deal with those stages appropriately in an educational setting.

(D) Implement organizational practices and school schedules that allow for effective leadership, collaborative staff participation, effective teacher teaming, and parent and community involvement.

(E) Create a more personalized and engaging learning environment for middle grades students by developing a personal academic plan for each student and assigning not less than 1 adult to help monitor student progress.

(F) Provide all students with information and assistance about the requirements for high school graduation, college admission, and career success.

(G) Utilize data from an early warning indicator and intervention system described in subsection (d)(2)(D) to identify struggling students and assist the students as the students transition from elementary school to middle grades to high school.

(H) Implement academic supports and effective and coordinated additional assistance programs to ensure that students have a strong foundation in reading, writing, mathematics, and science skills.

(I) Implement evidence-based or, when available, scientifically valid schoolwide programs and targeted supports to promote positive academic outcomes, such as increased attendance rates and the promotion of physical, personal, and social development.

(J) Develop and use effective formative assessments to inform instruction.

(h) **PERMISSIBLE USES OF FUNDS.**—An eligible local educational agency or eligible entity that receives a subgrant under subsection (a) may use the subgrant funds to carry out the following:

(1) Implement extended learning opportunities in core academic areas including more instructional time in literacy, mathematics, science, history, and civics in addition to opportunities for language instruction and understanding other cultures and the arts.

(2) Provide evidence-based professional development activities with specific benchmarks to enable teachers and other school staff to appropriately monitor academic and behavioral progress of, and modify curricula and implement accommodations and assistive technology services for, students with disabilities, consistent with the students' individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)).

(3) Employ and use instructional coaches, including literacy, mathematics, and English language learner coaches.

(4) Provide professional development for content-area teachers on working effectively with English language learners and students with disabilities, as well as professional development for English as a second language educators, bilingual educators, and special education personnel.

(5) Encourage and facilitate the sharing of data among elementary grades, middle grades, high school grades, and postsecondary educational institutions.

(6) Create collaborative study groups composed of principals or middle grades teachers, or both, among eligible schools within the eligible local educational agency receiving or participating in the subgrant, or between such eligible local educational agency and another local educational agency, with a focus on developing and sharing methods to increase student learning and academic achievement.

(i) **PLANNING SUBGRANTS.**—

(1) **IN GENERAL.**—In addition to the subgrants described in subsection (a), a State educational agency may (without regard to the preceding provisions of this section) make planning subgrants, and provide technical assistance, to eligible local educational agencies and eligible entities that have not received a subgrant under subsection (a) to assist the local educational agencies and eligible entities in meeting the requirements of subsections (c) and (d).

(2) **AMOUNT AND DURATION.**—Each subgrant under this subsection shall be in an amount of not more than \$100,000 and shall be for a period of not more than 1 year in duration.

SEC. 105. DURATION OF GRANTS; SUPPLEMENT NOT SUPPLANT.

(a) **DURATION OF GRANTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), grants under this title and subgrants under section 104(a) may not exceed 3 years in duration.

(2) **RENEWALS.**—

(A) **IN GENERAL.**—Grants and subgrants under this title may be renewed in 2-year increments.

(B) **CONDITIONS.**—In order to be eligible to have a grant or subgrant renewed under this paragraph, the grant or subgrant recipient shall demonstrate, to the satisfaction of the granting entity, that—

(i) the recipient has complied with the terms of the grant or subgrant, including by undertaking all required activities; and

(ii) during the period of the grant or subgrant, there has been significant progress in—

(I) student academic achievement, as measured by the annual measurable objectives established pursuant to section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act (20 U.S.C. 6311(b)(2)(C)(v)); and

(II) other key risk factors such as attendance and on-time promotion.

(b) **FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.**—

(1) **IN GENERAL.**—A State educational agency, eligible local educational agency, or eligible entity shall use Federal funds received under this title only to supplement the funds that would, in the absence of such Federal

funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this title, and not to supplant such funds.

(2) **SPECIAL RULE.**—Nothing in this title shall be construed to authorize an officer, employee, or contractor of the Federal Government to mandate, direct, limit, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

SEC. 106. EVALUATION AND REPORTING.

(a) **EVALUATION.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter for the period of the grant, each State receiving a grant under this title shall—

(1) conduct an evaluation of the State's progress regarding the impact of the changes made to the policies and practices of the State in accordance with this title, including—

(A) a description of the specific changes made, or in the process of being made, to policies and practices as a result of the grant;

(B) a discussion of any barriers hindering the identified changes in policies and practices, and implementations strategies to overcome such barriers;

(C) evidence of the impact of changes to policies and practices on behavior and actions at the local educational agency and school level; and

(D) evidence of the impact of the changes to State and local policies and practices on improving measurable learning gains by middle grades students;

(2) use the results of the evaluation conducted under paragraph (1) to adjust the policies and practices of the State as necessary to achieve the purposes of this title; and

(3) submit the results of the evaluation to the Secretary.

(b) **AVAILABILITY.**—The Secretary shall make the results of each State's evaluation under subsection (a) available to other States and local educational agencies.

(c) **LOCAL EDUCATIONAL AGENCY REPORTING.**—On an annual basis, each eligible local educational agency and eligible entity receiving a subgrant under section 104(a) shall report to the State educational agency and to the public on—

(1) the performance on the school performance indicators (as described in section 103(a)(4)(B)(vi)) for each eligible school served by the eligible local educational agency or eligible entity, in the aggregate and disaggregated by the subgroups described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)); and

(2) the use of funds by the eligible local educational agency or eligible entity and each such school.

(d) **STATE EDUCATIONAL AGENCY REPORTING.**—On an annual basis, each State educational agency receiving grant funds under this title shall report to the Secretary and to the public on—

(1) the performance of eligible schools in the State, based on the school performance indicators described in section 103(a)(4)(B)(vi), in the aggregate and disaggregated by the subgroups described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)); and

(2) the use of the funds by each eligible local educational agency in the State and by each eligible school.

(e) **REPORT TO CONGRESS.**—Every 2 years, the Secretary shall report to the public and to Congress—

(1) a summary of the State reports under subsection (d); and

(2) the use of funds by each State under this title.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$1,000,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 5 succeeding fiscal years.

TITLE II—RESEARCH RECOMMENDATIONS

SEC. 201. PURPOSE.

The purpose of this title is to facilitate the generation, dissemination, and application of research needed to identify and implement effective practices that lead to continual student learning and high academic achievement in the middle grades.

SEC. 202. RESEARCH RECOMMENDATIONS.

(a) **STUDY ON PROMISING PRACTICES.—**

(1) **IN GENERAL.—**Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into a contract with the Center for Education of the National Academies to study and identify promising practices for the improvement of middle grades education.

(2) **CONTENT OF STUDY.—**The study described in paragraph (1) shall identify promising practices currently being implemented for the improvement of middle grades education. The study shall be conducted in an open and transparent way that provides interim information to the public about criteria being used to identify—

(A) promising practices;

(B) the practices that are being considered; and

(C) the kind of evidence needed to document effectiveness.

(3) **REPORT.—**The contract entered into pursuant to this subsection shall require that the Center for Education of the National Academies submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor of the House of Representatives a final report regarding the study conducted under this subsection not later than 1 year after the date of the commencement of the contract.

(4) **PUBLICATION.—**The Secretary shall make public and post on the website of the Department of Education the findings of the study conducted under this subsection.

(b) **SYNTHESIS STUDY OF EFFECTIVE TEACHING AND LEARNING IN MIDDLE GRADES.—**

(1) **IN GENERAL.—**Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into a contract with the Center for Education of the National Academies to review existing research on middle grades education, and on factors that might lead to increased effectiveness and enhanced innovation in middle grades education.

(2) **CONTENT OF STUDY.—**The study described in paragraph (1) shall review research on education programs, practices, and policies, as well as research on the cognitive, social, and emotional development of children in the middle grades age range, in order to provide an enriched understanding of the factors that might lead to the development of innovative and effective middle grades programs, practices, and policies. The study shall focus on—

(A) the areas of curriculum, instruction, and assessment (including additional supports for students who are below grade level in reading, writing, mathematics, and science, and the identification of students with disabilities) to better prepare all students for subsequent success in high school, college, and cognitively challenging employment;

(B) the quality of, and supports for, the teacher workforce;

(C) aspects of student behavioral and social development, and of social interactions within schools that affect the learning of academic content;

(D) the ways in which schools and local educational agencies are organized and operated that may be linked to student outcomes;

(E) how development and use of early warning indicator and intervention systems can reduce risk factors for dropping out of school and low academic achievement; and

(F) identification of areas where further research and evaluation may be needed on these topics to further the development of effective middle grades practices.

(3) **REPORT.—**The contract entered into pursuant to this subsection shall require that the Center for Education of the National Academies submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor of the House of Representatives a final report regarding the study conducted under this subsection not later than 2 years after the date of commencement of the contract.

(4) **PUBLICATION.—**The Secretary shall make public and post on the website of the Department of Education the findings of the study conducted under this subsection.

(c) **OTHER ACTIVITIES.—**The Secretary shall carry out each of the following:

(1) Create a national clearinghouse, in coordination with entities such as What Works and the Doing What Works Clearinghouses, for research in best practices in the middle grades and in the approaches that successfully take those best practices to scale in schools and local educational agencies.

(2) Create a national middle grades database accessible to educational researchers, practitioners, and policymakers that identifies school, classroom, and system-level factors that facilitate or impede student academic achievement in the middle grades.

(3) Require the Institute of Education Sciences to develop a strand of field-initiated and scientifically valid research designed to enhance performance of schools serving middle grades students, and of middle grades students who are most at risk of educational failure, which may be coordinated with the regional educational laboratories established under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564), institutions of higher education, agencies recognized for their research work that has been published in peer-reviewed journals, and organizations that have such regional educational laboratories. Such research shall target specific issues such as—

(A) effective practices for instruction and assessment in mathematics, science, technology, and literacy;

(B) academic interventions for adolescent English language learners;

(C) school improvement programs and strategies for closing the academic achievement gap;

(D) evidence-based or, when available, scientifically valid professional development planning targeted to improve pedagogy and student academic achievement;

(E) the effects of increased learning or extended school time in the middle grades; and

(F) the effects of decreased class size or increased instructional and support staff.

(4) Strengthen the work of the existing national research and development centers under section 133(c) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9533(c)), as of the date of enactment of this Act, by adding an educational research and development center dedicated to addressing—

(A) curricular, instructional, and assessment issues pertinent to the middle grades

(such as mathematics, science, technological fluency, the needs of English language learners, and students with disabilities);

(B) comprehensive reforms for low-performing middle grades; and

(C) other topics pertinent to improving the academic achievement of middle grades students.

(5) Provide grants to nonprofit organizations, for-profit organizations, institutions of higher education, and others to partner with State educational agencies and local educational agencies to develop, adapt, or replicate effective models for turning around low-performing middle grades.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

(a) **AUTHORIZATION.—**There are authorized to be appropriated to carry out this title \$100,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) **RESERVATIONS.—**From the total amount made available to carry out this title, the Secretary shall reserve—

(1) 2.5 percent for the studies described in subsections (a) and (b) of section 202;

(2) 5 percent for the clearinghouse described in section 202(c)(1);

(3) 5 percent for the database described in section 202(c)(2);

(4) 42.5 percent for the activities described in section 202(c)(3);

(5) 15 percent for the activities described in section 202(c)(4); and

(6) 30 percent for the activities described in section 202(c)(5).

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 1369. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in the State of Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am introducing a bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River as Wild and Scenic. I am pleased to be introducing this legislation with my colleague from Oregon, Senator MERKLEY. This legislation has already been introduced by Representative SCHRADER in the House, who is a champion for protecting the river. The Molalla River Wild and Scenic Rivers Act of 2009 will designate an approximately 15.1-mile segment of the Molalla River, and an approximately 6.2-mile segment of Table Rock Fork Molalla River as a recreational river under the Wild and Scenic Rivers Act.

The Molalla River Wild and Scenic Rivers Act protects a popular Oregon destination that provides abundant recreational activities all of which take place among the abundant wildlife that call this area home. The scenic beauty of the Molalla River provides a backdrop for hiking, mountain biking, camping, and horseback riding, while the waters of the river are a popular destination for fishing, kayaking, and whitewater rafting enthusiasts. My bill would not only preserve this area as a recreation destination, but would also protect the river habitat of the Chinook salmon and Steelhead trout,