To support the local decision-making functions of local educational agencies by limiting the authority of the Secretary of Education to issue regulations, rules, grant conditions, and guidance materials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2013

Mr. Schock (for himself, Mr. Meehan, Mr. Valadao, Mr. Rodney Davis of Illinois, and Mr. Kind) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To support the local decision-making functions of local educational agencies by limiting the authority of the Secretary of Education to issue regulations, rules, grant conditions, and guidance materials, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Local School Board Governance and Flexibility Act”.

4 SEC. 2. SENSE OF CONGRESS.

5 It is the sense of the Congress that—
(1) the responsibility for education resides with the States, which have delegated to local school boards the power and authority to adopt policies, establish priorities, and provide accountability to direct the operation of neighborhood schools;

(2) local school boards are held accountable by local voters to represent the interests of students, parents, local businesses, civic organizations, taxpayers, and the community at large in determining, subject to State laws and policies, the direction, values, climate, and financial support of the schools in their community;

(3) the vital national interest in local self-governance of local educational agencies has been weakened through Department of Education requirements that are either unnecessary to achieve the specific direction of legislation enacted by the Congress, or that impose unnecessary limits on the flexibility needed by local educational agencies in order to meet local, State, and Federal goals in education; and

(4) to support the local decisionmaking function of local educational agencies, the Secretary of Education should engage only in issuing regulations, rules, grant conditions, guidance materials, and
other requirements under the jurisdiction of the Department that are—

(A) specifically required to implement Federal legislation, and

(B) demonstrated to be educationally, operationally, and financially within the capacity of local educational agencies to implement.

SEC. 3. AUTHORITY OF THE SECRETARY.

Unless specifically authorized by Federal law, the Secretary may not issue a Federal regulation, rule, grant condition, guidance material, or other requirement pertaining to a State educational agency or a local educational agency that—

(1) conflicts with the power and authority of the local educational agency delegated by the State regarding the operation of the schools (including the school system’s mission and goals, organization, local budget and budget priorities, education program, curriculum, or extra-curricular activities), student health services and safety, transportation and school boundaries, procurement policies, staffing and personnel policies, capital construction, authority to levy taxes, issue bonds, acquire land, and other functions essential to the daily operation of the schools
within the jurisdiction of the local educational agency;

(2) results in additional costs to the local educational agency for reporting, grant administration, and general operations unless fully funded from Federal funds;

(3) conflicts with the power and authority of the local educational agency to determine how to engage or act upon community participation and advice;

(4) imposes requirements on a local educational agency that would limit or adversely affect its authority to function as a legislative, executive or quasi-judicial agency;

(5) conflicts with the authority of a State to determine the appropriate governance structure of its local educational agencies, or the authority of a local educational agency to determine the appropriate governance and management of its schools;

(6) establishes reporting requirements for local educational agencies that duplicate existing Federal requirements or that are issued without first conducting a fiscal impact statement related to the costs to local educational agencies, including requests for data and recommendations from local
educational agencies and national education organizations consistent with the provisions of section 4(a); or

(7) places conditions or requirements on a grant to a State or local educational agency that are not directly related to or support the intent of the specific purpose of the grant or the legislation authorizing such grant.

SEC. 4. OPPORTUNITY FOR COMMENT REGARDING LOCAL IMPACT.

(a) In General.—During each fiscal year (beginning with the fiscal year following the fiscal year in which this Act is enacted), the Secretary of Education shall provide local educational agencies and the major national education organizations, including those representing local school boards, local school superintendents, principals, and teachers, a minimum of 60 days in order to provide written comments regarding the local impact of implementing Federal regulations, rules, grant conditions, guidance materials, or other requirements for any applicable program or activity of the Secretary.

(b) Report.—The Secretary of Education shall prepare and publish a report based on the comments received pursuant to subsection (a), which shall be forwarded to the chairs and ranking members of the Education and
Workforce Committee of the House of Representatives and the Health, Education, Labor and Pensions Committee of the Senate not later than July 1 of each year and shall be simultaneously posted on the Department of Education’s website.

SEC. 5. EFFICIENCY IN IMPLEMENTING FEDERAL PROGRAMS.

(a) ELIMINATING REPORTING DUPLICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Education shall conduct a review of existing reporting requirements applicable to local educational agencies resulting from programs and activities under the jurisdiction of the Department of Education to determine duplications and make modifications as necessary to eliminate such reporting duplications.

(b) PROHIBITION.—The Secretary may not promulgate any regulation, rule, guidance material, grant condition, or other requirement pertaining to a State educational agency or a local educational agency, without first taking the following actions:

(1) Requesting data and recommendations from local educational agencies and the major national education organizations representing local school boards, local school superintendents, principals, and teachers regarding the educational, financial, and
operational costs involved for implementation, and publishing the data and recommendations provided upon issuance of such regulation, rule, guidance material, grant condition, or other requirement and posting that information on the Department of Education’s website.

(2) Verifying, based on the data set forth in paragraph (1), that local educational agencies will have the financial resources and the technical assistance they may need to successfully implement the regulation, rule, guidance material, grant condition, or other requirement including any Federal requirement that would extend beyond the time that Federal assistance is available for that purpose.

(3) Providing local educational agencies and the national education organizations identified in paragraph (1) with not less than 60 days notice following the Secretary’s publication of a notice of intent to issue any regulation, rule, guidance material, grant condition, or other requirement to respond, unless a shorter time period is needed to meet an emergency such as a declared natural disaster.

(4) Ensuring that maximum flexibility is provided to local educational agencies in implementing
any regulation, rule, guidance material, grant condition, or other requirement.

(c) REVIEW AND RESPONSE.—If a local educational agency or an organization identified in subsection (b) provides the Secretary of Education with a written statement demonstrating that a regulation, rule, guidance material, grant condition, or other requirement does not meet the substantive or procedural requirements of this Act, the Secretary, or the Secretary’s designee, shall review the merits of that statement, provide a written response within 60 days, and post that response on the Department of Education’s website, including what action, if any, the Secretary will take to correct any deficiency that the Secretary determines exists.