

113TH CONGRESS
2D SESSION

S. 2451

To support the local decisionmaking 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 SENATE OF THE UNITED STATES

JUNE 10, 2014

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To support the local decisionmaking 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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

1 (1) the responsibility for education resides with
2 the States, which have delegated to local school
3 boards the power and authority to adopt policies, es-
4 tablish priorities, and provide accountability to direct
5 the operation of neighborhood schools;

6 (2) local school boards are held accountable by
7 local voters to represent the interests of students,
8 parents, local businesses, civic organizations, tax-
9 payers, and the community at large in determining,
10 subject to State laws and policies, the direction, val-
11 ues, climate, and financial support of the schools in
12 their community;

13 (3) the vital national interest in local self-gov-
14 ernance of local educational agencies has been weak-
15 ened through Department of Education require-
16 ments that are either unnecessary to achieve the
17 specific direction of legislation enacted by Congress,
18 or that impose unnecessary limits on the flexibility
19 needed by local educational agencies in order to
20 meet local, State, and Federal goals in education;
21 and

22 (4) to support the local decisionmaking function
23 of local educational agencies, the Secretary of Edu-
24 cation should engage only in issuing regulations,
25 rules, grant conditions, guidance materials, and

1 other requirements under the jurisdiction of the De-
 2 partment that are—

3 (A) specifically required to implement Fed-
 4 eral legislation; and

5 (B) demonstrated to be educationally,
 6 operationally, and financially within the capac-
 7 ity of local educational agencies to implement.

8 **SEC. 3. AUTHORITY OF THE SECRETARY.**

9 Unless specifically authorized by Federal law, the
 10 Secretary may not issue a Federal regulation, rule, grant
 11 condition, guidance material, or other requirement per-
 12 taining to a State educational agency or a local edu-
 13 cational agency that—

14 (1) conflicts with the power and authority of
 15 the local educational agency delegated by the State
 16 regarding the operation of the schools (including the
 17 school system's mission and goals, organization,
 18 local budget and budget priorities, education pro-
 19 gram, curriculum, or extra-curricular activities), stu-
 20 dent health services and safety, transportation and
 21 school boundaries, procurement policies, staffing and
 22 personnel policies, capital construction, authority to
 23 levy taxes, issue bonds, and acquire land, and other
 24 functions essential to the daily operation of the

1 schools within the jurisdiction of the local edu-
2 cational agency;

3 (2) results in additional costs to the local edu-
4 cational agency for reporting, grant administration,
5 and general operations, unless fully funded from
6 Federal funds;

7 (3) conflicts with the power and authority of
8 the local educational agency to determine how to en-
9 gage or act upon community participation and ad-
10 vice;

11 (4) imposes requirements on a local educational
12 agency or State educational agency that would limit
13 or adversely affect the authority of the local edu-
14 cational agency or State educational agency to func-
15 tion as a legislative, executive, or quasi-judicial
16 agency;

17 (5) conflicts with the authority of—

18 (A) a State to determine the appropriate
19 governance structure of—

20 (i) the State educational agency; or

21 (ii) the State's local educational agen-
22 cies; or

23 (B) a State educational agency or local
24 educational agency to determine the appropriate
25 governance and management of the schools that

1 the State educational agency or local edu-
2 cational agency serve;

3 (6) establishes reporting requirements for State
4 educational agencies or local educational agencies
5 that duplicate existing Federal requirements or that
6 are issued without first conducting a fiscal impact
7 statement related to the costs to State educational
8 agencies or local educational agencies, as the case
9 may be, including requests for data and rec-
10 ommendations from State educational agencies or
11 local educational agencies and national education or-
12 ganizations consistent with the provisions of section
13 4(a); or

14 (7) places conditions or requirements on a
15 grant to a State or local educational agency that are
16 not directly related to, or that do not directly sup-
17 port, the intent of the specific purpose of the grant
18 or the legislation authorizing such grant.

19 **SEC. 4. OPPORTUNITY FOR COMMENT REGARDING LOCAL**
20 **IMPACT.**

21 (a) IN GENERAL.—During each fiscal year (begin-
22 ning with the fiscal year following the fiscal year in which
23 this Act is enacted), the Secretary of Education shall pro-
24 vide local educational agencies and the major national edu-
25 cation organizations, including those representing local

1 school boards, local school superintendents, principals, and
2 teachers, a minimum of 60 days in order to provide writ-
3 ten comments regarding the local impact of implementing
4 Federal regulations, rules, grant conditions, guidance ma-
5 terials, or other requirements for any applicable program
6 or activity of the Secretary.

7 (b) REPORT.—The Secretary of Education shall pre-
8 pare and publish a report based on the comments received
9 pursuant to subsection (a), which shall be forwarded to
10 the chairs and ranking members of the Education and
11 Workforce Committee of the House of Representatives and
12 the Health, Education, Labor and Pensions Committee of
13 the Senate not later than July 1 of each year and shall
14 be simultaneously posted on the Department of Edu-
15 cation’s website.

16 **SEC. 5. EFFICIENCY IN IMPLEMENTING FEDERAL PRO-**
17 **GRAMS.**

18 (a) ELIMINATING REPORTING DUPLICATIONS.—Not
19 later than 180 days after the date of enactment of this
20 Act, the Secretary of Education shall conduct a review of
21 existing reporting requirements applicable to local edu-
22 cational agencies resulting from programs and activities
23 under the jurisdiction of the Department of Education to
24 determine duplications and make modifications as nec-
25 essary to eliminate such reporting duplications.

1 (b) PROHIBITION.—The Secretary may not promul-
2 gate any regulation, rule, guidance material, grant condi-
3 tion, or other requirement pertaining to a State edu-
4 cational agency or a local educational agency, without first
5 taking the following actions:

6 (1) Requesting data and recommendations from
7 State educational agencies, local educational agen-
8 cies, and the major national education organizations
9 representing chief State school officers, local school
10 boards, local school superintendents, principals, and
11 teachers regarding the educational, financial, and
12 operational costs involved for implementation, and
13 publishing the data and recommendations provided
14 upon issuance of such regulation, rule, guidance ma-
15 terial, grant condition, or other requirement and
16 posting that information on the Department of Edu-
17 cation’s website.

18 (2) Verifying, based on the data set forth in
19 paragraph (1), that local educational agencies will
20 have the financial resources and the technical assist-
21 ance such agencies may need to successfully imple-
22 ment the regulation, rule, guidance material, grant
23 condition, or other requirement, including any Fed-
24 eral requirement that would extend beyond the time
25 that Federal assistance is available for that purpose.

1 (3) Providing State educational agencies, local
2 educational agencies, and the national education or-
3 ganizations identified in paragraph (1) with not less
4 than 60 days notice following the Secretary's publi-
5 cation of a notice of intent to issue any regulation,
6 rule, guidance material, grant condition, or other re-
7 quirement to respond, unless a shorter time period
8 is needed to meet an emergency such as a declared
9 natural disaster.

10 (4) Ensuring that maximum flexibility is pro-
11 vided to State educational agencies and local edu-
12 cational agencies in implementing any regulation,
13 rule, guidance material, grant condition, or other re-
14 quirement.

15 (c) REVIEW AND RESPONSE.—If a local educational
16 agency or an organization identified in subsection (b) pro-
17 vides the Secretary of Education with a written statement
18 demonstrating that a regulation, rule, guidance material,
19 grant condition, or other requirement does not meet the
20 substantive or procedural requirements of this Act, the
21 Secretary, or the Secretary's designee, shall review the
22 merits of that statement, provide a written response within
23 60 days, and post that response on the Department of
24 Education's website, including a description of what ac-

- 1 tion, if any, the Secretary will take to correct any defi-
- 2 ciency that the Secretary determines exists.

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