

114TH CONGRESS
1ST SESSION

S. 182

To amend the Elementary and Secondary Education Act of 1965 to prohibit Federal education mandates, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2015

Mr. ROBERTS (for himself, Mr. GRASSLEY, Mr. INHOFE, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to prohibit Federal education mandates, 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 “Learning Opportuni-
5 ties Created At Local Level Act” or the “LOCAL Level
6 Act”.

7 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress finds the following:

1 (1) Section 9527 of the Elementary and Sec-
2 ondary Education Act of 1965 (20 U.S.C. 7907), as
3 in effect on the day before the date of enactment of
4 this Act, prohibits the Federal Government from
5 mandating, directing, or controlling a State, local
6 educational agency, or school's curriculum, program
7 of instruction, or allocation of State and local re-
8 sources, and from mandating a State or any subdivi-
9 sion thereof to spend any funds or incur any costs
10 not paid for under such Act.

11 (2) Section 9529 of the Elementary and Sec-
12 ondary Education Act of 1965 (20 U.S.C. 7909), as
13 in effect on the day before the date of enactment of
14 this Act, prohibits the Federal Government from
15 funding the development, pilot testing, field testing,
16 implementation, administration, or distribution of
17 any federally sponsored national test in reading,
18 mathematics, or any other subject, unless specifically
19 and explicitly authorized by law.

20 (3) Despite these prohibitions, the Secretary of
21 Education, through 3 separate initiatives, has cre-
22 ated a system of waivers and grants that influence,
23 incentivize, and coerce State educational agencies
24 into implementing common national elementary and

1 secondary school standards and assessments en-
2 dored by the Secretary.

3 (4) The Race to the Top Fund, as established
4 by the Secretary of Education under sections 14005
5 and 14006 of the American Recovery and Reinvest-
6 ment Act of 2009 (Public Law 111–5, 123 Stat.
7 282), encouraged and incentivized States to adopt
8 the Common Core State Standards developed by the
9 National Governors Association Center for Best
10 Practices and the Council of Chief State School Offi-
11 cers.

12 (5) The Race to the Top assessment grants
13 awarded to the Partnership for Assessment of Read-
14 iness for College and Careers (PARCC) and Smarter
15 Balanced Assessment Consortium (SMARTER Bal-
16 ance) initiated the development of assessments
17 aligned with the Common Core State Standards that
18 will, in turn, inform and ultimately influence kinder-
19 garten through grade 12 curriculum and instruc-
20 tional materials.

21 (6) The conditions imposed by the Secretary of
22 Education through the flexibility waiver authority
23 provided to the Secretary pursuant to section 9401
24 of the Elementary and Secondary Education Act of
25 1965 (20 U.S.C. 7861) have coerced States into ac-

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

(1) States and local educational agencies should maintain the rights and responsibilities of determining educational curricula, programs of instruction, and assessments for elementary and secondary education; and

(2) States are sovereign entities that deserve deep and abiding respect from the Federal Government, and State legislatures have a responsibility to their citizens to resist Federal encroachment on the constitutional autonomy of States regarding education.

16 SEC. 3. PROHIBITIONS ON FEDERAL GOVERNMENT AND
17 USE OF FEDERAL FUNDS.

Section 9527 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7907) is amended to read as follows:

21 “SEC. 9527. PROHIBITION AGAINST FEDERAL MANDATES,
22 DIRECTION, OR CONTROL.

23 “(a) IN GENERAL.—An officer or employee of the
24 Federal Government shall not directly or indirectly,
25 through grants, contracts, or other cooperative agreements

1 under this Act (including through any waiver provided
2 under the Secretary's authority pursuant to section
3 9401)—

4 “(1) mandate, direct, or control a State, local
5 educational agency, or school's specific instructional
6 content, academic standards, assessments, cur-
7 riculum, or program of instruction (including
8 through any requirement, direction, or mandate to
9 adopt the Common Core State Standards developed
10 under the Common Core State Standards Initiative
11 or any other academic standards common to a sig-
12 nificant number of States);

13 “(2) incentivize a State, local educational agen-
14 cy, or school to adopt any specific instructional con-
15 tent, academic standards, assessments, curriculum,
16 or program of instruction as described in paragraph
17 (1), which shall include providing any priority, pref-
18 erence, or special consideration during the applica-
19 tion process based on any specific content, stand-
20 ards, assessments, curriculum, or program;

21 “(3) mandate a State or any subdivision thereof
22 to spend any funds or incur any costs not paid for
23 under this Act; or

24 “(4) make financial support available in a man-
25 ner that is conditioned upon a State, local edu-

1 cational agency, or school’s adoption of specific in-
2 structional content, academic standards, assess-
3 ments, curriculum, or program of instruction, (in-
4 cluding any requirement, direction, or mandate to
5 adopt the Common Core State Standards developed
6 under the Common Core State Standards Initiative,
7 any other academic standards common to a signifi-
8 cant number of States, or any assessment, instruc-
9 tional content, or curriculum aligned to such stand-
10 ards), even if such requirements are specified in sec-
11 tion 14006 or 14007 of the American Recovery and
12 Reinvestment Act of 2009 (Public Law 111–5; 123
13 Stat. 283) or any other Act.

14 “(b) RULE OF CONSTRUCTION.—Nothing in this Act
15 shall be construed to authorize an officer or employee of
16 the Federal Government directly or indirectly, whether
17 through a grant, contract, or cooperative agreement (in-
18 cluding through any waiver provided under the Secretary’s
19 authority pursuant to section 9401), to do any activity
20 prohibited under subsection (a).

21 “(c) PROHIBITION ON ENDORSEMENT OF CUR-
22 RICULUM.—Notwithstanding any other prohibition of Fed-
23 eral law, no funds provided to the Department under this
24 Act may be used by the Department directly or indirectly,
25 through grants, contracts, or cooperative agreements (in-

cluding through any waiver provided under the Secretary’s authority pursuant to section 9401), to endorse, approve, develop, require, or sanction any curriculum designed to be used in an elementary school or secondary school, including any curriculum aligned to the Common Core State Standards developed under the Common Core State Standards Initiative, or any other academic standards common to a significant number of States, designed to be used in an elementary school or secondary school.

“(d) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—Notwithstanding title I, part A of title VI, or any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(e) RULE OF CONSTRUCTION ON BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.”.

SEC. 4. PROHIBITION ON FEDERALLY SPONSORED TESTING AND TESTING MATERIALS.

Section 9529 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7909) is amended to read as follows:

1 **“SEC. 9529. PROHIBITION ON FEDERALLY SPONSORED**
 2 **TESTING AND TESTING MATERIALS.**

3 “(a) GENERAL PROHIBITION.—Notwithstanding any
 4 other provision of Federal law and except as provided in
 5 subsections (b) and (c), no funds provided under this Act
 6 to the Secretary or to the recipient of any award may be
 7 used to develop, pilot test, field test, implement, admin-
 8 ister, or distribute—

9 “(1) any Federally sponsored national test or
 10 testing materials in reading, mathematics, or any
 11 other subject, unless specifically and explicitly au-
 12 thorized by law; or

13 “(2) any assessment or testing materials
 14 aligned to the Common Core State Standards devel-
 15 oped under the Common Core State Standards Ini-
 16 tiative or any other academic standards common to
 17 a significant number of States.

18 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
 19 international comparative assessments developed under
 20 the authority of section 153(a)(5) of the Education
 21 Sciences Reform Act of 2002 and administered to only a
 22 representative sample of pupils in the United States and
 23 in foreign nations.

24 “(c) RULE OF CONSTRUCTION.—Nothing in sub-
 25 section (a) shall be construed to prohibit a State or local
 26 educational agency from using funds provided under this

1 Act for the development, testing, implementation, adminis-
 2 tration, or distribution of any assessment or testing mate-
 3 rial that the State or local educational agency chooses, in-
 4 cluding any assessment or material described in subsection
 5 (a)(2), as long as the use is for a purpose consistent with
 6 the terms of the grant, contract, or cooperative agreement
 7 providing the funds.”.

8 **SEC. 5. PROHIBITION ON THE USE OF RACE TO THE TOP**
 9 **FUNDS FOR COMMON CORE STATE STAND-**
 10 **ARDS ASSESSMENTS.**

11 Notwithstanding any other provision of law, no funds
 12 provided under section 14006 of the American Recovery
 13 and Reinvestment Act of 2009 (Public Law 111–5, 123
 14 Stat. 283) shall be used to develop, pilot test, field test,
 15 implement, administer, or distribute any assessment or
 16 testing materials aligned to the Common Core State
 17 Standards developed under the Common Core State
 18 Standards Initiative or any other academic standards com-
 19 mon to a significant number of States.

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