

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.

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## 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

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## 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-

1       cepting Common Core State Standards and assess-  
2       ments aligned with such Standards.

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

5           (1) States and local educational agencies should  
6       maintain the rights and responsibilities of deter-  
7       mining educational curricula, programs of instruc-  
8       tion, and assessments for elementary and secondary  
9       education; and

10          (2) States are sovereign entities that deserve  
11       deep and abiding respect from the Federal Govern-  
12       ment, and State legislatures have a responsibility to  
13       their citizens to resist Federal encroachment on the  
14       constitutional autonomy of States regarding edu-  
15       cation.

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

18       Section 9527 of the Elementary and Secondary Edu-  
19       cation Act of 1965 (20 U.S.C. 7907) is amended to read  
20       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-

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

10 “(d) PROHIBITION ON REQUIRING FEDERAL AP-  
 11 PROVAL OR CERTIFICATION OF STANDARDS.—Notwith-  
 12 standing title I, part A of title VI, or any other provision  
 13 of Federal law, no State shall be required to have aca-  
 14 demic standards approved or certified by the Federal Gov-  
 15 ernment, in order to receive assistance under this Act.

16 “(e) RULE OF CONSTRUCTION ON BUILDING STAND-  
 17 ARDS.—Nothing in this Act shall be construed to mandate  
 18 national school building standards for a State, local edu-  
 19 cational agency, or school.”.

20 **SEC. 4. PROHIBITION ON FEDERALLY SPONSORED TESTING**  
 21 **AND TESTING MATERIALS.**

22 Section 9529 of the Elementary and Secondary Edu-  
 23 cation Act of 1965 (20 U.S.C. 7909) is amended to read  
 24 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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