

## **The Politics of Education: The 1999-2000 Efforts to Reauthorize the Elementary and Secondary Education Act**

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When President Lyndon B. Johnson signed into law the Elementary and Secondary Education Act (ESEA) on April 11, 1965, he authorized the most significant education bill of the Twentieth Century. By 1999, the bill, a key part of Johnson's larger "War on Poverty," allocated more than \$13 billion to America's education system every year.<sup>1</sup> Title I of the ESEA—the most well-known and contentious section of the bill—provided funding to low-income schools in an effort to ensure equal and excellent educational quality for all children in America, regardless of their socio-economic background. The ESEA was set up to be reauthorized by Congress every five years and through most of its history has seen a considerable legacy of bipartisan support.

By the 1990s, though, the disparity between educational quality in low and higher income areas remained glaring. Despite the massive amounts of funding Title I provided for low-income schools, the education gap only seemed to be widening. The ESEA struck critics as throwing money at the problem, but not offering a viable way to revive perennially under-performing schools. According to the Progressive Policy Institute, a centrist Democratic group, the ESEA had become "more reflective of symbolic attention to the issue than substantive solutions."<sup>2</sup> The ESEA had long been reauthorized by Congress without any real analysis; it was admired for its intentions, but not monitored for its effectiveness. This continuing trend in the educational system sparked both concern among voters and a political debate regarding the best way to address the issue.

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<sup>1</sup> Andrew, Rotherham, "Toward Performance Based Federal Education Funding," *Progressive Policy Institute*, April 1, 1999.

<sup>2</sup> *Ibid.*

By the mid 1990s it was clear that the ESEA was in need of considerable reform and that Congress would not reauthorize it without a serious evaluation of its successes and shortcomings.

With the ESEA up for reauthorization in 1994, the Clinton administration saw an opportunity to overhaul Title I and make it a more effective piece of legislation for fostering improvement in the educational system. Clinton had campaigned in 1992 with a promise of improving educational quality and the reauthorization was an opportunity to give some attention to this issue. The White House proposed a reformed ESEA to Congress in 1994 that looked vastly different from previous incarnations of the legislation. The Clinton administration noted a crucial aspect of effective public policy that was absent from the ESEA: accountability. As Clinton and his staff saw it, failing schools were not improving largely because they were not required to by the ESEA. According to one White House document, “our education system had for too long condoned low expectations.”<sup>3</sup> Providing funding without standards or accountability essentially wasted federal dollars on under-performing schools.

Under the 1994 reauthorization proposed by the White House, in order to receive federal funding states were required to set goals for under-performing schools; if the schools did not meet their goals, the state was obligated to intervene.<sup>4</sup> By introducing this accountability requirement to the legislation, the Clinton administration attempted to transform the ESEA into a law that would require schools to show measurable results from the funding they were given. Additionally, the 1994 reauthorization introduced a

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<sup>3</sup> “Educational Excellence for All Children Act of 1999: Fact Sheet,” William J. Clinton Presidential Library. Though found in a 1999 White House document, in its original context, this particular quote describes the American educational system prior to 1994 reauthorization.

<sup>4</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

new feature to the legislation demanding that low-income students face the same expectations and standards as their more affluent peers.<sup>5</sup> Clinton had noticed, for example, that often “children from disadvantaged backgrounds were put into special education classes, not because they lacked normal learning capacity, but because they had fallen behind in poor schools.”<sup>6</sup> The 1994 reauthorization, called the Improving America’s Schools Act, passed the Democratic Congress with bipartisan support.

Although the 1994 reauthorization was ground-breaking in the degree of accountability to federal requirements that it demanded of schools, the legislation did not bring about any real results for low-income students. Accountability measures spelled out on paper were not uniformly adopted by or enforced against schools across the country. Nearing the next scheduled reauthorization in 1999, countless schools were still lagging behind. Clinton’s Domestic Policy Staff traced these failures to the state level. According to a memorandum prepared for President Clinton by Bruce Reed and Mike Cohen, “some states have evaded the full extent of their responsibility to set goals for ‘adequate yearly progress’ for schools and students.”<sup>7</sup> Reed and Cohen continued, “many [states] have shown themselves unable or unwilling to take the actions necessary to turn around these schools so they provide an acceptable education.”<sup>8</sup> Ultimately, it was clear to voters, legislators, and the White House that the steps taken in 1994 needed further reform.

Politically, the 1999 reauthorization of the ESEA came at a difficult time for President Clinton and his administration. Clinton was faced with the challenge of

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<sup>5</sup> Ibid.

<sup>6</sup> Bill Clinton, *My Life*, (New York: Random House, 2004), 623.

<sup>7</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

<sup>8</sup> Ibid.

producing a reauthorization proposal that would pass through a Republican Congress (The GOP had taken control of both the House and Senate in the 1994 mid-term elections), with which relations were tense. The 1999 reauthorization came on the heels of the 1998-1999 impeachment campaign, during which the president was impeached by the House of Representatives and tried by the Senate. After the failed impeachment, congressional Republicans remained generally unreceptive to Clinton's proposed legislation, blocking most of the bills that the president endorsed.<sup>9</sup> But, despite the impeachment trial and frustrated legislative efforts, Clinton maintained remarkably high job approval ratings as a result of the peace and prosperity that prevailed during his second term. The combination of his public approval with this hostile relationship with Congress created an interesting political context for the 1999 reauthorization of the ESEA.

Clinton felt an obligation to respond to increasing public concerns about the state of education in America and "build on the framework" of the 1994 reauthorization.<sup>10</sup> But the recent history of failed legislation in Congress made this a formidable task. Additionally, Clinton owed a debt to his party for standing by him through the impeachment crisis. Education reform had long been on the Democratic agenda in Congress and this was still the case in 1999. With education quality near the forefront of their concerns, Democrats hoped the president would back increased federal funding and involvement. After a series of federal spending cuts by the Republican Congress after 1994, Democrats worried that the ESEA might receive a similar treatment. Also, Clinton

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<sup>9</sup> Sidney M. Milkis and Michael Nelson. *The American Presidency: Origins and Development, 1776-2002*. (CQ Press: Washington, DC, 2003), 399.

<sup>10</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

had angered many Democrats in 1996 when he authorized a Republican-backed welfare reform bill reducing spending on entitlement programs that had long been part of the New Deal Democratic tradition.<sup>11</sup> Continuing the ESEA reform started in 1994 offered Clinton a chance to restore his liberal credentials within his own party.

With public approval and support within the Democratic Party, Clinton and his administration moved ahead in 1999 with the education agenda they began in 1994. But, in order to gain support for their version of the 1999 ESEA reauthorization President Clinton was forced to navigate a Republican Congress that had proven impervious to most of his legislative efforts. Moreover, many Congressional Republicans had opinions about education policy that often differed drastically from those of Clinton and the Democratic Party. Generally, Republicans favored an approach focused on state and local flexibility, rather than accountability to federal standards and guidelines. In 1995, Congressional Republicans had even tried, albeit half-heartedly, to eliminate the federal Department of Education in an attempt to reduce bureaucratic restrictions on state spending.<sup>12</sup> Regardless of the seriousness of this effort, it symbolized the Republicans' disdain for federal regulation over education—or at least for the kind favored by Democrats.

Adding to this challenge, in 1999, with Clinton serving his last two years in office, Republicans felt little pressure to compromise their own agenda to suit his. The question, though, was never whether the ESEA would be reauthorized. Education is an area that traditionally receives support from both Democrats and Republicans, and it was obvious that some kind of reform would be necessary. The real questions were what kind

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<sup>11</sup> Milkis and Nelson, *The American Presidency: Origins and Development, 1776- 2002*, 396.

<sup>12</sup> “GOP Leaders Push to Convert Aid into Block Grants to States,” *Congressional Quarterly Almanac*, 1999, 10-4.

of ESEA would emerge from the Congressional reauthorization and whether the reauthorization would occur before Clinton left office. The ensuing arguments and debates established markedly different positions on the way in which to solve educational problems in America.

### **“Closing the Gap”: The ESEA inside the Clinton White House**

Although the reforms made to the ESEA in 1994 had not resulted in dramatic improvements for America’s schools, Clinton and his staff felt that they were moving in the right direction. Many Republicans in Congress argued that the Improving America’s Schools Act, the 1994 ESEA reauthorization, had failed because it did not allow schools flexibility to individually assess how to best use their Title I funding. The Clinton administration, though, remained steadfast in its belief that it was accountability, more than flexibility, which was needed to turn around failing schools. It claimed early results suggested that the steps taken in 1994 showed great promise and that increased accountability for schools would prove “a powerful tool for closing the education gap.”<sup>13</sup>

In late 1998, Clinton and Domestic Policy Staff members Bruce Reed and Mike Cohen worked to produce an ESEA reauthorization proposal that would stress school accountability even more than the 1994 version of the Act had. The official White House proposal that was sent to Congress certainly justified Republican fears of an ESEA that increased federal involvement and funding. The White House’s 1999 proposal, titled the Educational Excellence for All Children Act, called for an unprecedented amount of federal spending on Title I. This additional funding would be used to provide states with

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<sup>13</sup> “Educational Excellence for All Children Act of 1999: Fact Sheet,” William J. Clinton Presidential Library.

the financial means to intervene in failing schools.<sup>14</sup> Some members of Congress had complained that the accountability requirements of the 1994 ESEA were unreasonable because they amounted to an unfunded mandate; the law made demands without providing the funding to meet them. Clinton felt that providing increased funding for this specific purpose would leave states with no excuses if they failed to meet national accountability requirements.

The 1999 proposal's greatest departure from previous forms of the ESEA was a provision that gave the federal government the right to revoke states' ESEA funding. If a state failed to meet the federal requirements set forth in the 1999 ESEA, it would lose its ESEA funding until it made the necessary adjustments.<sup>15</sup> For states, losing ESEA funding would drastically increase the challenges of funding their educational system. This uncompromising approach was a definite break from the past; previous forms of the ESEA had never threatened to revoke funding altogether as a punishment for states' failure to comply with guidelines.

One of the main accountability measures in the White House proposal was a requirement that states either improve failing schools or shut them down. Schools could make staff changes; allow students to attend other public schools in order to reduce class sizes; or, as a last resort, shut the school down completely, reopening it as a charter school.<sup>16</sup> President Clinton announced in 1999 that in the federal budget for fiscal year 2000, as much as \$200 million per state would be set aside to fund this national effort to

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> "President Clinton: Education Accountability and Excellence," Press Release, May 19, 1999, William J. Clinton Presidential Library.

revive under-performing schools.<sup>17</sup> Clinton felt that anything less than a no-tolerance policy for failing schools would be a waste of valuable federal funding.

Another measure endorsed by the president in his ESEA proposal to Congress was an initiative requiring states to provide parents and taxpayers with school report cards. Such report cards would evaluate student performance, school performance, and the state's educational progress. Clinton felt that this was a necessary step to "empower parents" and provide them with the knowledge they need regarding their children's education.<sup>18</sup> Clinton regarded parental involvement in education as an essential tool for successfully educating America's youth, and school report cards gave parents the ability to personally assess the quality of education that their children received.

A final area targeted by the Clinton White House in the 1999 ESEA proposal was the practice of social promotion. Social promotion occurs when a student, despite failing at his or her current grade level, is graduated to the next grade. Throughout the 1990s, social promotion had become increasingly more frequent. Educational quality had become so poor that if schools were to hold back all the students who needed to repeat a grade, they would graduate students in shockingly low numbers. President Clinton adamantly opposed this trend in America's schools in his 1999 State of the Union

Address:

Now, no child should graduate from high school with a diploma he or she can't read. We do our children no favors when we allow them to pass from grade to grade without mastering the material.<sup>19</sup>

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<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> CNN transcripts, January 19, 1999.

Clinton also acknowledged that “we can't just hold students back because the system fails them.”<sup>20</sup> To help end social promotion the White House included an initiative in the ESEA proposal to increase funding for after-school help and summer school for students.<sup>21</sup> Clinton had tripled funding for such programs in the recently balanced federal budget and he asked Congress to complement this effort by including an emphasis on ending social promotion in the 1999 reauthorization of the ESEA.

The White House was so intent on improving failing schools that there was serious discussion among President Clinton’s staff as to whether or not the measures spelled out in the 1999 Educational Excellence for all Children Act should be even stricter. Chris Edley, Jr., an advisor to Clinton’s One America Initiative for racial reconciliation, sent a memorandum to the president arguing that the measures taken to increase accountability and end social promotion in the 1999 reauthorization proposal were “too soft.”<sup>22</sup> Ultimately, Bruce Reed and President Clinton decided that their approach was strict enough and agreed to move ahead with the reauthorization proposal as planned.<sup>23</sup> But, the fact that Clinton and his staff entertained the idea of accountability measures even stricter than the already-included threat to revoke ESEA funds shows just how serious the White House was about holding states and schools accountable for their performance.

Even without the stricter measures advocated by Edley, the White House was well aware of the difficulty inherent in persuading the Republican-controlled Congress to

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<sup>20</sup> Ibid.

<sup>21</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

<sup>22</sup> Memorandum for President Clinton, January 5, 1999, William J. Clinton Presidential Library.

<sup>23</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, January 12, 1999, William J. Clinton Presidential Library.

renew ESEA with increased federal requirements, guidelines, and spending. In fact, one White House staff member admitted, “With this Congress, we may not be able to enact every ESEA reform we want—indeed, we may not be able to get ESEA done at all this year.”<sup>24</sup> But, at least initially, Clinton and his staff decided to stand by their ideal version of the 1999 ESEA reauthorization. Before making any concessions to Congress, they wanted to establish their stance on the best way in which to go about education reform. This, they felt, would “frame the debate in the right way by putting forward a bold vision of the future of education in America.”<sup>25</sup>

#### **Accountability—With an “Escape Valve”: The Reauthorization in the House**

In Washington, there was a sense of anticipation surrounding the White House’s release of the ESEA reauthorization proposal and the ensuing Congressional debate. The philosophical differences between Democrats and Republicans on education were well known and one *U.S. News* report predicted a “knockdown battle” over Democrats’ demand for accountability and Republicans’ call for more flexibility in the ESEA.<sup>26</sup> When the White House ESEA reauthorization proposal was delivered to Congress on May 19, 1999, these expectations of partisan politics were largely justified, with Democrats and Republicans showing markedly different reactions to the president’s bill.

The House of Representatives took up the issue of ESEA reauthorization before the Senate, beginning discussions of the White House proposal nearly a week after its release. The White House anticipated a partisan divide in the House over the bill and

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<sup>24</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

<sup>25</sup> *Ibid.*

<sup>26</sup> Ben Wildavsky, “School Daze, Budget Frays,” *U.S. News*, April 19, 1999.

took immediate steps to generate support for the president’s proposal among some Republicans. When the White House delivered the ESEA proposal to the House of Representatives, attached to it was a letter to the Speaker of the House, Dennis J. Hastert, from Clinton’s Secretary of Education, Richard Riley. Riley asked the Republican leader and the rest of the House to act “favorably and expeditiously” on the administration’s ESEA reauthorization proposal and to reaffirm and strengthen the changes made to the ESEA in 1994.<sup>27</sup> Most importantly, Riley reminded the Speaker that the 1994 Act was the product of bipartisan effort to improve educational quality and expressed his hope that the 1999 proposal would receive support from Republicans as well as Democrats.<sup>28</sup>

But before the House even had a chance to begin to debate the substance of the ESEA, Democrats and Republicans locked horns over the way in which to approach the reauthorization process. Republicans favored splitting the ESEA into a series of smaller bills and discussing them individually.<sup>29</sup> They preferred this approach because it would allow them to claim credit for votes on specific areas of education improvement—a hot issue for voters and an area where they traditionally lagged behind Democrats in public approval ratings.<sup>30</sup> Conversely, Democrats felt that the ESEA should be discussed and voted on as a single piece of legislation so lawmakers could better picture how all the pieces of the ESEA fit together. Ultimately, the House voted to move ahead with the Republican strategy, but the disagreement over this seemingly minor procedural issue signaled the beginning of a series of contentious debates.

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<sup>27</sup> Richard Riley, Letter to Dennis J. Hastert, April 6, 1999, William J. Clinton Presidential Library.

<sup>28</sup> *Ibid.*

<sup>29</sup> “House Passes Bills to Reauthorize Elementary and Secondary Education Act,” *Congressional Quarterly Almanac*, 1999, 10-3.

<sup>30</sup> “Democrats Decry Lack of Guidelines in House Bill,” *Congressional Quarterly Almanac*, 1999, 10-4.

When the House began discussing the actual substance of the White House's proposal, the immediate response from Republicans was the expected one: the bill gave too little flexibility to state and local governments. House Republicans complained that the proposed Educational Excellence for All Children Act was too prescriptive in how it allowed states to use Title I funding. Republicans feared that the sweeping federal guidelines contained in the White House proposal would inhibit schools from deciding on which areas they should focus the most attention and federal dollars. Bill Goodling, a House Republican from Pennsylvania, claimed that "the administration's proposals trample on our nation's long and proven traditions of local control of education."<sup>31</sup> He added, "Republicans who value flexibility and local initiative have a better approach."<sup>32</sup>

On June 22, 1999, Republican Congressional leaders officially announced their "Straight A's" bill, the first installment of their own proposal for the reauthorization of the ESEA.<sup>33</sup> As most House Democrats expected, the focus of "Straight A's" was on increased flexibility for state and local governments. The bill would permit states to convert a majority of their \$13 billion of ESEA funding into block grants.<sup>34</sup> These grants would remove much of what GOP members of the House regarded as federal bureaucratic restrictions from the education aid process. Where as the White House's proposal outlined specific areas on which states would spend ESEA funding, the "Straight A's" bill reduced spending regulations and allowed state governments to allocate their federal funding in any way they deemed necessary. The only requirement

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<sup>31</sup> Andrea Billups, "Education Act Touted As Standards Booster; Would Require Reforms, Clinton Says." *The Washington Times*, May 20, 1999, A4.

<sup>32</sup> *Ibid.*

<sup>33</sup> "GOP Leaders Push to Convert Aid into Block grants For States," *Congressional Quarterly Almanac*, 1999, 10-5.

<sup>34</sup> *Ibid.*

under the Republican-backed legislation was that states improve overall student performance.<sup>35</sup>

Another Republican-backed bill, also part of the GOP reauthorization package, addressed the issue of teacher training and certification. Like “Straight A’s,” the teacher training bill contrasted greatly with the White House’s ESEA proposal. In addition to the accountability measures included in the president’s 1999 proposal, Clinton had also asked Congress to continue funding Goals 2000, a bill passed his first term that, among other things, set national certification standards for teachers and funded teacher training programs.<sup>36</sup> The Republican bill removed many of the federal requirements for hiring and training teachers outlined in Goals 2000 and converted much of its teacher training funding into block grants. Essentially, schools would be allowed to use much of their “teacher training” money in other areas of school improvement. Furthermore, the bill abolished requirements that teachers meet any kind of national standard, putting the entire teacher certification process in the hands of the states.<sup>37</sup>

In the House, the initial response among Democrats was frustration and disapproval. Democrats, who almost unanimously supported the White House reauthorization proposal, felt that the Republican bills undermined the president’s educational goals. Regarding the teacher training bill, Rep. George Miller of California remarked, “It’s pretty soft...They’re handing more money over to the same people who are hiring unqualified teachers.”<sup>38</sup> The “Straight A’s” bill elicited a similar reaction from Democrats, who insisted that tighter regulation of states and school districts was

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<sup>35</sup> Ibid.

<sup>36</sup> Bruce Reed and Mike Cohen, Memorandum for President Clinton, December 28, 1999, William J. Clinton Presidential Library.

<sup>37</sup> “House Passes Block Grant Plan Despite Veto Threat,” *Congressional Quarterly Almanac*, 2000, 10-6.

<sup>38</sup> “Democrats Decry Lack of Guidelines in House Bill,” *Congressional Quarterly Almanac*, 2000, 10-4

necessary. But Democrats seemed unable to muster any support for the White House proposal among Republicans. Democrats were further demoralized on July 20, when the House passed the Republican-backed teacher training bill. House Democrats feared that the ESEA would hardly resemble the president's proposal and that Republicans' call for flexibility would replace any efforts to hold states and schools accountable.

In October 1999, though, with Democrats fighting for Clinton's proposal, many Republicans agreed to support a version of Title I that would enforce many of the accountability measures advocated by the White House. On October 21, this piece of legislation, HR 2, passed with broad bipartisan support.<sup>39</sup> Many House Democrats and the White House were left thinking that Republicans had finally been persuaded by the president's continued call for accountability in the school system.

But, on the very same day, House Republicans brought up the "Straight A's" bill, which passed strictly along party lines. Essentially, "Straight A's" offered states and school districts a way to waive the accountability requirements of HR 2. One Republican representative called "Straight A's" a much needed "safety valve" for states, which he felt would otherwise be too restricted in their spending on education.<sup>40</sup> Democrats, on the other hand, complained that the bill undermined any efforts to hold schools accountable. Democratic Rep. Tim Roemer of Indiana voiced Democrats' frustration over the consecutive passing of what many considered to be two contradictory bills, stating simply, "there's no moral to this story."<sup>41</sup> Some Democrats even felt that Republicans had deceived them by feigning support for accountability-based legislation,

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<sup>39</sup> "House Panel OK's Tighter Regulations For Public Schools," *Congressional Quarterly Almanac*, 1999, 10-9.

<sup>40</sup> Ibid

<sup>41</sup> Ibid.

only to counteract it with “Straight A’s” hours later. But, Republicans insisted that the passing of the two bills was not simply a tactical political move, but that “Straight A’s” complemented the accountability of HR 2 with a necessary degree of flexibility.

Ultimately, the combined effect of these pieces of legislation left many Democrats dumbfounded and set the stage for what was certain to be a contentious reauthorization process in the Senate.

### **Fighting a “Real Uphill Battle”: The White House Involvement in the Senate**

While the House of Representatives moved quickly to consider an ESEA reauthorization package, the Senate did not take up the issue of reauthorization until March 1, 2000. This delay, however, did not keep the White House from immediately soliciting some bipartisan support for its ESEA reauthorization proposal in the Senate, where it felt the bill would face a “real uphill battle.”<sup>42</sup> From the start, Clinton and his staff devoted much more attention to the Senate reauthorization than they had given to the process in the House of Representatives, because the Senate would ultimately consider any legislation passed by the House. With a Republican-controlled Senate, Clinton and his Domestic Policy Staff felt a sense of urgency and realized that they needed to take an active role in the reauthorization process in order to shape an ESEA that closely resembled the president’s proposal.

Upon the release of its ESEA proposal on May 19, 1999, the White House had sent a letter to Democratic Senator Edward Kennedy of Massachusetts and Republican Senator James Jeffords of Vermont regarding the White House’s stance on the ESEA

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<sup>42</sup> “Jeffords Bill Falls Short on the Administration’s ESEA Principles,” William J. Clinton Presidential Library.

renewal. The letter urged the two senators, both ranking members of the Health, Education, Labor and Pensions Committee, to “leave divisive partisan politics at the schoolhouse door” and to work with the White House throughout the legislative process.<sup>43</sup> Much like the letter from Secretary Riley to House Majority Leader Hastert, this letter also stressed the importance of building upon the accountability-based legislation passed under the 1994 ESEA. The letter reminded the senators that the federal government spends more than \$13 billion a year on education and that failing to demand accountability would be unfair to taxpayers and students alike.<sup>44</sup>

Although the letter was certainly an attempt to foster an attitude of cooperation with the two senators, it was more likely directed at Senator Jeffords, who chaired the Health, Education, Labor, and Pensions Committee, which would handle the ESEA reauthorization. Because, as chairman, Jeffords would have considerable control over the early stages of the Senate bill, the White House felt it necessary to appeal to the Republican senator for support. In addition to encouraging GOP votes for the president’s bill, the letter also outlined three features that the White House insisted must be emphasized in the Senate’s reauthorization bill: national standards for students, accountability requirements, and teacher qualification requirements.<sup>45</sup> This sort of letter was customary: Bruce Lindsey, the president’s closest aide, noted that the White House would often send a letter to Congress laying out the president’s “bottom line” on a piece of legislation.<sup>46</sup> In this case, the letter essentially informed Jeffords that Clinton was not

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<sup>43</sup> Letter to Chairman Jeffords and Senator Kennedy, William J. Clinton Presidential Library.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> Bruce Lindsey (Deputy White House Counsel during the Clinton administration), in discussion with the author, July 2007.

willing to compromise in the key areas of national standards, accountability, or teacher qualification.

The White House letter had the desired, albeit expected, effect on Senator Kennedy. On May 27, Kennedy released a statement assuring his full support for President Clinton's Educational Excellence for All Children Act. Kennedy's statement read as if it were a White House press release, reminding other members of Congress of the successes of the 1994 Act and lauding the president's efforts to make accountability the "heart of this year's reauthorization bill."<sup>47</sup> Kennedy also noted that several other influential Democratic senators supported the president's reauthorization proposal, including Senators Christopher Dodd of Connecticut, Tom Daschle of South Dakota, Charles Schumer of New York, Carl Levin of Michigan, and Byron Dorgan of North Dakota.<sup>48</sup> This signaled to the White House that its reauthorization proposal looked exactly how most Senate Democrats hoped and expected it would. The administration could focus its attention on generating Republican support in the Senate.

The president's letter, though, did not have the same effect on Chairman Jeffords. In fact, on October 15, 1999 Jeffords released an alternative ESEA reauthorization proposal that he hoped would appeal to Senate Republicans. In many ways, Jeffords' bill resembled the "Straight A's" bill passed in the House. Jeffords proposed turning a considerable portion of Title I funds into broad block grants instead of using the federal dollars to target specific areas of school improvement.<sup>49</sup> President Clinton and his staff had hoped that Jeffords might be a voice of compromise among Republicans, but, after

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<sup>47</sup> Edward M. Kennedy, *Press Release*, May 27, 1999, William J. Clinton Presidential Library.

<sup>48</sup> *Ibid.*

<sup>49</sup> "Senate Markup Off to a Rancorous Start over Issue of Block Grants," *Congressional Quarterly Almanac*, 2000, 9-4.

evaluating his proposal, found that “the Jeffords bill does not reflect any of the Administration’s principles.”<sup>50</sup> The Jeffords Bill differed from the White House proposal on nearly every major provision, including school accountability, teacher certification, and ending social promotion. One White House document lambasted the Jeffords bill, condemning its block grant strategy as an “unfocused, unaccountable, and untargeted” attempt at educational aid.<sup>51</sup>

Despite their disappointment over Jeffords’ bill, the White House staff did not give up hope of convincing Senator Jeffords to endorse more accountability-based legislation. Jeffords had shown a history of bipartisanship in the Senate and was particularly useful to the White House in 1997 when he backed several key pieces of Clinton’s Balanced Budget Act.<sup>52</sup> A memo prepared by Bruce Reed for Chief of Staff John Podesta outlined a strategy for persuading Jeffords to include accountability measures in his bill that mirrored the ones in Clinton’s proposal. Reed suggested reminding Jeffords that he would not be turning his back on his party by supporting accountability measures.<sup>53</sup> Reed pointed out that several Republican governors, including leading presidential candidate George W. Bush of Texas, supported programs to hold failing schools accountable. In this way, the White House continued its outreach to Jeffords, hoping that he eventually would play an instrumental role in generating Republican support for the Educational Excellence for All Children Act.

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<sup>50</sup> “Jeffords Bill Falls Short on the Administration’s ESEA Principles,” William J. Clinton Presidential Library.

<sup>51</sup> Ibid.

<sup>52</sup> Bruce Reed, Memorandum for Chief of Staff John Podesta, November 15, 1999, William J. Clinton Presidential Library.

<sup>53</sup> Ibid.

Around the same time that Jeffords introduced his bill, senior Senator Joseph Lieberman, a moderate Democrat from Connecticut, announced his own reauthorization proposal. Lieberman was one of the few Democrats in the Senate who did not express his full support of the president's proposal. But, the Lieberman bill, while packaged as more centrist than Clinton's, closely resembled the White House proposal. Title I of Lieberman's bill nearly matched that of the White House proposal and included identical accountability provisions, the matter most important to the president.<sup>54</sup> Lieberman's bill only differed from Clinton's in that it authorized \$2.7 billion to be distributed among the states in the form of block grants.<sup>55</sup> Lieberman considered these to be focused block grants, as they would only be awarded to states that showed measurable progress.<sup>56</sup>

The White House initially decided not to take a stance on Lieberman's bill. Andy Rotherham, Special Assistant to the President on Domestic Policy, wrote in an email to Bruce Reed, "I don't think we should rush out to praise it," but also suggested that it would be unwise to "criticize a bill that...includes our best pieces."<sup>57</sup> Understanding the difficulty of generating Republican support for Clinton's 1999 proposal, the Domestic Policy Staff recommended that the president reserve Lieberman's bill as a fallback—a second accountability-oriented bill to endorse if the president's proposal failed to receive enough support in the Senate.

While passing its proposal certainly meant reaching out to Senate Republicans, the White House never underestimated the importance of continuing to talk with Senate Democrats about the ESEA reauthorization. As early as April 1999, and throughout

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<sup>54</sup> Andy Rotherham, Email to Bruce Reed, November 15, 1999, William J. Clinton Presidential Library.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

much of that year, the Legislative Affairs office of the White House solicited Democratic senators, asking them to endorse specific pieces of Clinton's proposal. For example, Democratic Senator Jeff Bingaman of New Mexico agreed to sponsor the president's \$200 million state accountability fund for failing schools and Senator Christopher Dodd of Connecticut sponsored the proposed after-school learning programs.<sup>58</sup> Through this outreach to Democrats, the White House built a network of support in the Senate that covered nearly every aspect of Clinton's proposal. Essentially, each piece of the White House proposal had a Democratic senator assigned to fight for it in the ESEA debates. Even if they could not persuade many Republicans to fully support the proposal, Clinton's staff hoped that Senate Democrats would put up enough of a fight to at least force a compromise.

### **Pure Partisanship: An Attempt at Reauthorization in the Senate**

On March 1, 2000, when the Senate Health, Education, Labor, and Pensions Committee began discussing the ESEA, it was immediately evident that the outreach efforts of the White House had done little to foster a sense of bipartisanship over the legislation. Senators on the committee soon fell into the same arguments that had plagued the House debates, with Democrats demanding more federal accountability than Republicans were willing to permit. It became clear to Democratic senators and Clinton's Domestic Policy Staff that passing an ESEA that resembled the president's proposal was becoming increasingly difficult and unlikely. But, with education becoming a focus of campaigns for the nearing 2000 elections, Democrats felt that they

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<sup>58</sup> Tanya Martin, Memorandum for Bruce Reed and Elena Kagan, William J. Clinton Presidential Library.

could not give up on ESEA and allow Republicans to “claim the education issue as their own.”<sup>59</sup>

Bruce Reed and Chief of Staff John Podesta were wholly unsuccessful in their attempts to persuade Senator Jeffords to accommodate the president’s call for accountability in his bill. Although the senator did feel a certain pressure to modify his bill, this pressure came not from the White House, but from conservative Republicans, who felt that it did not go far enough to ensure state and local flexibility. When the committee started working on the reauthorization, Jeffords offered a revised version of his bill that appealed more to conservative Republicans than his first proposal had. The new version combined several teacher development programs, including the training programs outlined in Clinton’s Goals 2000, into a \$2 billion annual block grant.<sup>60</sup> Also, the bill discarded an initiative to provide child care programs at high schools, one of the few aspects of the initial Jeffords bill that drew Democratic support.<sup>61</sup>

The Republican-backed bill also contained a voucher system that would help students in failing public schools transfer to private institutions. The Voucher plan was added to the Jeffords bill in an amendment by Senator Judd Gregg of New Hampshire.<sup>62</sup> The voucher initiative, termed a “portability program” by Republicans, promised to fuel disagreement over an already contentious bill.<sup>63</sup> Vouchers were traditionally opposed by Democrats, who felt that a voucher option avoided the real issue: improving the public school system. The House had not even taken up the issue, fearing that entire ESEA

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<sup>59</sup> “Senate Markup off to a Rancorous Start over Issue of Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-4.

<sup>60</sup> “Senate Panel’s ESEA Rewrite Allows Vouchers, Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-5.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

debate would become an argument over vouchers. But Senate Republicans decided to risk a heated debate on vouchers and the Jeffords bill passed the Health, Education, Labor, and Pensions committee with a 10-8 vote along party lines.

When the Jeffords bill, titled S 2, reached the Senate floor on May 1, 2000, Democrats immediately offered intense opposition to the bill, which they considered a “blank check” for states and school districts. Senator minority leader Tom Daschle charged that “what they [Republicans] are proposing is not reform. It is retreat.”<sup>64</sup> Democrats felt that, by passing a bill with few accountability measures and a voucher option, Republicans were showing no willingness to compromise and create a bipartisan bill. Senator Paul Wellstone, a Democrat from Minnesota, felt that the “philosophical divide” over education needed to be bridged and said, “I just don’t want to go straight to block grants.”<sup>65</sup> Senate Democrats promised to fight S 2 by offering as many as seventy amendments that would include the accountability requirements advocated by the president.

Democratic Senators were not alone in their dislike of the Senate bill to reauthorize the ESEA. In fact, as soon as the committee passed S 2, Secretary of Education Richard Riley promised the Senate that the bill would be vetoed if it passed.<sup>66</sup> On May 1, 2000, in a detailed public statement, President Clinton reminded Senate Republicans that unless the lawmakers included national accountability requirements in S 2 and abandoned the “unfocused” block grant strategy, he would veto the bill.<sup>67</sup>

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<sup>64</sup> “Senate Debates Dozens of Amendments,” *Congressional Quarterly Almanac*, 2000, 9-7

<sup>65</sup> “Senate Markup Off to a Rancorous Start over Issue of Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-4.

<sup>66</sup> June Kronholtz, “Education Bill May Be Too Hot for Senate Republicans,” May 15, 2000, *The Wall Street Journal*.

<sup>67</sup> “Senate Panel’s ESEA Rewrite Allows Vouchers, Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-5.

Additionally, the National Education Association (NEA), a powerful 2.5 million member union comprised largely of public school teachers and administrators, sided with Senate Democrats and the president on the issue. On November 2, 1999, soon after the House had passed its reauthorization package, NEA President Bob Chase criticized the Republican approach to education reform, calling it “false flexibility.”<sup>68</sup> Then, in March 2000, when the Senate committee passed S 2, Joel Packer, an NEA specialist on ESEA policy, criticized Republican efforts to shift control to states, noting, “The whole reason the federal government got involved was because states were not targeting money to disadvantaged students.”<sup>69</sup>

Despite these pressures, the Republicans in Congress continued to express their full support of S 2, telling the public that federal guidelines and bureaucracy would only inhibit the efforts of state and local governments to solve education problems in innovative ways. When it became clear that Republicans would not budge on their support of S 2, Democrats proposed adding amendments to the bill on the Senate floor. One amendment, authored by Patty Murray, a Democrat from Washington, added funds to continue some of President Clinton’s Goals 2000 teacher improvement programs.<sup>70</sup> Another, by Senator Kennedy, proposed a \$2 billion teacher improvement program that could not be part of a block grant.<sup>71</sup> Democrats offered dozens of amendments, though only the Murray and Kennedy amendments came to a vote, with both being defeated.

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<sup>68</sup> Bob Chase, *National Education Association*, Press Release, November 2, 1999.

<sup>69</sup> “Senate Panel’s ESEA Rewrite Allows Vouchers, Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-5.

<sup>70</sup> *Ibid.*

<sup>71</sup> “Senate Markup off to a Rancorous Start over Issue of Block Grants,” *Congressional Quarterly Almanac*, 2000, 9-4.

The most significant amendment, though, never even came to a vote. Throughout the ESEA debates in the Senate, Democrat Frank Lautenberg of New Jersey had mentioned the possibility of a gun control amendment that would require stricter background checks on gun sales. While Democrats claimed that the amendment would improve school safety, Republicans felt that the move was purely political and called the amendment an “extraneous” issue.<sup>72</sup> The gun control amendment was politically dangerous for Republicans. Democrats could easily frame Republican opposition to the amendment as opposition to school safety—a political spin that could prove dangerous for Republicans in an election year.

On May 9, 2000, with Senator Lautenberg still promising to offer his gun control amendment, Senate Majority Leader Trent Lott of Mississippi put the ESEA reauthorization bill aside.<sup>73</sup> According to Lott, the daily debates over amendments to S 2 were preventing other pieces of legislation from being considered, including an important appropriations bill. Although Lott suggested that the Senate would reconsider the bill before the 2000 elections in November, Democrats and Republicans alike doubted that the bill—or any bill to reauthorize the ESEA—would be seen by that Senate again. These suspicions were correct. May 9 was the last time the 106<sup>th</sup> Congress considered the ESEA reauthorization. For the first time in since President Lyndon Johnson enacted the bill in 1965, Congress failed to reauthorize the ESEA.<sup>74</sup>

### **Conclusion: The ESEA after the 1999-2000 Debates**

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<sup>72</sup>“ESEA Pulled From the Floor to Make Way For Spending Bills,” *Congressional Quarterly Almanac*, 2000, 9-8

<sup>73</sup> *Ibid.*

<sup>74</sup> “Lawmakers Extend Some ESEA Programs as Part of Omnibus Spending Package,” *Congressional Quarterly Almanac*, 2000, 9-3.

While Congress failed to produce a new, reauthorized ESEA in 1999-2000, it did not allow the historic piece of legislation to simply expire. Both parties in Congress agreed to continue funding the 1994 ESEA programs as part of the fiscal year 2001 Labor, Health and Human Services, and Education appropriations bill.<sup>75</sup> This appropriations bill, HR 4577, gave Congress one more year to come to an agreement over how to reauthorize the ESEA. It was a short term solution to a divisive issue, but Democrats and Republicans alike hoped the 107<sup>th</sup> Congress would agree upon an ESEA to their liking.

Congressional Republicans favored this approach because the temporary extension of the Act allowed them to put aside the ESEA reauthorization until after Clinton left office. Republicans knew all along that even if they overcame the onslaught of Democratic amendments and passed S 2, President Clinton would almost certainly veto the bill. Lacking the votes to override a presidential veto, Republicans likely saw the upcoming presidential election as the best way to win the debate over education. Under a Republican administration in 2001, passing a Republican-backed bill like S2 would become considerably easier.<sup>76</sup>

After Congress' failure to reauthorize the ESEA, Governor George W. Bush of Texas, the Republican nominee for president, made education the focus of his campaign. Bush promised to overhaul and renew the ESEA in the first year of his presidency.<sup>77</sup> After defeating Vice President Al Gore in 2000, Bush fulfilled his campaign promise and worked with Congress throughout 2001 to create a reauthorization proposal that would

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<sup>75</sup> Ibid.

<sup>76</sup> June Kronholtz, "Education Bill May Be Too Hot for Senate Republicans," May 15, 2000, *The Wall Street Journal*.

<sup>77</sup> "Lawmakers Extend Some ESEA Programs as Part of Omnibus Spending Package, *Congressional Quarterly Almanac*, 2000, 9-3.

draw bipartisan support. Foremost among supporters for President Bush's plan, titled "No Child Left Behind," was Democratic Senator Edward Kennedy. "No Child Left Behind" passed the Senate with broad bipartisan and was signed into law by President Bush on January 8, 2002.<sup>78</sup>

Congressional Republicans rallied around "No Child Left Behind," considering it a Republican victory in the debate over education. Interestingly, "No Child Left Behind" was quite similar to President Clinton's 1999 reauthorization proposal. As Governor of Texas, Bush had enacted accountability-based education reforms and applied this philosophy to his education policy as president. "No Child Left Behind" required state and school district report cards, national testing, and revoked federal funding from perennially failing schools.<sup>79</sup> While "No Child Left Behind" did provide states with block grants for "innovative approaches to helping students learn," all Title I funds were exempt from block grants and targeted specific areas of education improvement for disadvantaged students.<sup>80</sup>

Ironically, Republicans willingly accepted these accountability requirements backed by President Bush in "No Child Left behind," despite the fact that, only a year before, they had rejected Clinton's reauthorization proposal because it contained many of the same provisions. Thus, it seems that 1999 White House reauthorization proposal was rejected, not because of its content, but simply because it was endorsed by President Clinton and backed congressional Democrats.

At the center of the 1999-2000 efforts to reauthorize the ESEA was intense political partisanship. While definite philosophical differences existed between

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<sup>78</sup> "Provisions of ESEA Reauthorization," *Congressional Quarterly Almanac*, 2000, 8-10

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

Democrats and Republicans on education, the partisan politics of the debates magnified and exaggerated these differences, making compromise unlikely. The issue of education became a battleground on which Democrats and Republicans further engrained party differences, instead of a forum in which the two parties could work in a bipartisan fashion to solve a serious problem. Ultimately, during the 1999-2000 efforts to reauthorize the ESEA, Congress fell into a debate that put partisanship before educating America's youth.