

Brian Kramer

Prof. Reeder

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## **No Child Left Behind: Backfiring Bipartisanship and Compromise in Education Reform**

### **Executive Summary**

This paper provides an analysis of the No Child Left Behind Act of 2001 (NCLB), including the politics behind its introduction, and the Congressional procedures used to amend it and ensure its passage. Specifically, it highlights the unique priority of then President George W. Bush to revitalize public education in the United States, as well as how it conflicts with the image of the Republican Party as not being focused on education and on conservative-backed education policies broadly. In order to pass NCLB through a very divided Congress, Bush had to make many compromises that ultimately weakened the scope of the bill and resulted in small but notable dissent from right-wing members of the Republican Party.

Ultimately, the paper concludes by describing NCLB as failed legislation, both as it made little positive impact on student performance and added onerous requirements onto states and students, and due to the lack of positive political outcomes for either the Republican or Democratic parties. Primarily, Republicans suffered the most political consequences, with an analysis at the end of the paper discussing John Boehner's fall from political grace in 2015 and how it connects to his time as the Chairman of the Education and Workforce Committee during the NCLB bill process. Overall, the bill shows the limitations of bipartisanship in education, especially when considering modern political implications within Congress.

## **Introduction**

President George W. Bush was unique among Republicans for many reasons, but chief among them was his focus on education. The issue was not one that Republicans had centered prior to Bush's 2000 campaign for president, resulting in many being intrigued at Bush's stump speech almost always mentioning his plan to reinvigorate public schools in the United States. As Governor of Texas, he had pushed higher accountability standards in the state and had been known for his focus on public education, regardless of his actual impact on the quality of schooling in Texas. Bush campaigned on bringing some of these accountability standards to the national level, alongside other policy changes he placed under the umbrella of ensuring "no child was left behind."

Bush's positioning on this issue could have been a desperately needed victory for Republicans politically for many reasons. Not only were Republicans behind on opinion polling about their ability to improve schools in the United States, but they had not gotten a chance to implement their federal-level agenda for public schools. These conservative priorities included vouchers for private and religious schools, commonly known as "school choice" in conservative circles, and allowing states to have more freedom over their education systems rather than federal mandates and requirements (Apple 111). However, neither of these large platform planks of the Republican Party made it into the final product of the No Child Left Behind Act of 2001, a bill that in fact massively expanded the scope of the federal government's role in public education and did not provide vouchers for non-public schools. For the sake of seeking bipartisan support for his education agenda, President Bush lost intra-party support and failed to secure a successful and popular piece of legislation that would transform and improve American public education. While Democrats ultimately supported the bill, many would later run for

re-election being fervently against it and seeking further reforms. They too would walk away from the bipartisan agreement in 2001 wondering if they could have secured more for their party's priorities, especially given the power of labor and unions in helping Democrats get elected.

The specifics of the adoption of the No Child Left Behind Act show a fascinating picture of the Republican Party of the early 2000's and the efforts of Republicans to govern with narrow majorities that the Democratic Party finds themselves with in 2021. We can learn a great deal from an examination of the process NCLB went through, including how much of it appears to be orthodox lawmaking until the dots are connected to legislative trends that have fully come to fruition 21 years later.

### **How And Why NCLB Was Introduced**

The No Child Left Behind Act of 2001 (NCLB) was introduced by Republican Rep. John Boehner of Ohio's 8th congressional district, where it was referred to both the Education and the Workforce and the Judiciary committees (All Actions H.R.1.) Boehner was the chairperson of the Education and the Workforce committee at the time and was a rising figure in Republican congressional leadership, making it unsurprising that he was given the responsibility of being the primary sponsor of the bill and of shepherding it through his committee.

NCLB was not a typical education bill, as it was a part of a common legislative process to renew the Elementary and Secondary Education Act that was signed into law under President Lyndon B. Johnson in 1965. The ESEA had created programs such as Title I, which was the first program of its kind to give direct aid to students in poverty in order to lower "achievement gaps" between different groups of students (Lee). Every few years, Congress must renew the ESEA, either choosing to continue its provisions or by amending it to add new programs, standards, and

other mechanisms that they deem necessary (Lee). In this case, the Bush administration and Chairman Boehner decided to choose the latter option, introducing NCLB as a massive reform to the 36-year-old ESEA.

NCLB was given the important distinction of being the first House Resolution of the 107th Congress, which ran from 2001 to 2002. Bills that are given the HR 1 distinction are often ones pushed for by Congressional leadership, including NCLB and including modern examples such as 2021's "For The People Act." In essence, Boehner filing the NCLB bill and the Republican Speaker giving it the HR1 distinction showed that the Republican Congress was willing to push President Bush's priorities in Congress, both through having powerful leaders and committee chairs behind the effort and through symbolic gestures as well.

Before delving into the specifics of NCLB's legislative history, it is important to mention the status of party control during consideration of HR1 and of the 107th Congress broadly. While Republicans had control over the House and had won the presidency in the election prior, they did not have a very wide margin in either chamber of Congress. In fact, party control rested very close to even in the House with about 220 Republicans, 213 Democrats, and 2 Independents, while the Senate had a dead even 50/50 split with a tie-breaking vote from Vice President Dick Cheney from January 2001 to June 2001, and a 50/49/1 split in favor of Democrats thereafter (107th Congress 2001–2003 & Party Division). This created heavy constraints for the Bush agenda in general, but especially for anything pushing an education agenda that Democrats were opposed to and that some more conservative Republicans would oppose. This context is crucial when discussing the path the bill ended up taking, which deviated heavily from the desires of an emerging ultra-conservative flank of the Republican Party that would become all too familiar in future years.

## **Committee Process, Floor Debate, and Amendment**

As a result of these constraints, Chairman Boehner had to work exceptionally hard to create a product that his committee would widely accept, as his committee had 27 Republicans and 22 Democrats, a majority of 5 (Committee Membership). Boehner also had to contend with the process of amendments within the House, including the possibility for conservative Republicans to propose amendments beyond what the Bush administration and House leadership thought was possible. After being introduced in the House on March 22, 2001, Boehner's committee held a committee mark-up session on May 8 and passed the bill out of committee the following day with a vote of 41-7 (All Actions H.R.1). This wide, bipartisan margin could only be achieved after across-the-aisle support from Democrats, including the Ranking Member of the Education and Workforce committee George Miller. This means that Democrats were broadly on board with the reforms, signaling both that massive compromises were reached within the committee process and that conservative amendments would be proposed on the floor of the House.

After a quick procedural approval by the Judiciary Committee involving a few provisions of the law, NCLB was headed to consideration, debate, and amendment on the floor. This first required a few more procedural hurdles, including the approval of the rules for debate. The terms of debate were approved on a party-line vote of 219-201 on May 17, 2001, with standard terms of debate including having an hour of debate controlled by the Chair and Ranking Member of the Education and Workforce Committee, and allowing the body to resolve itself into the Committee of the Whole to expedite debate and the passage of amendments (H.R. 1). On May 22, full debate of the bill was allowed to take place, with Rep. Doc Hastings serving as the Chairman of the Committee of the Whole.

The bill received a substantial amount of amendments, with the House considering 27 in total and passing 22 of them (All Actions H.R.1). Many of these amendments were technical in nature and agreed to through a voice vote or wide vote margins, but others were far more controversial in nature and threatened to upset the bipartisan balance that the Bush administration and Chairman Boehner had crafted with Democrats in the House. Some friendly amendments included an amendment from Rep. Capps to provide CPR training for students that passed 421-2, an amendment from Rep. Graves to ensure 95% of the funding from NCLB was used only for academic achievement and the classroom, and an amendment from Rep. Dunn to allow schools to use NCLB funding to hire school-based police officers (All Actions H.R.1).

More interesting to examine are the various amendments that failed to be adopted, all of which were from conservative lawmakers seeking to make the bill more palatable to their agenda. While Chairman Boehner and President Bush cheered the provisions of NCLB that allowed schools failing for five to six years in a row to potentially be converted to public charter schools and deemed this a strong endorsement of conservative school choice policies, far-right members of the Republican Party such as Rep. Armey of Texas disagreed (Nelson). Armey specifically called for an amendment to strengthen school choice options, pushing for funding private schools through NCLB funding and allowing students going to a “low performing” school for three years to attend a private school. The amendment failed with a vote of 155-273, receiving only two Democratic votes out of 204. 68 of 220 Republicans voted no, meaning that 69% of Republican House members, including Chairman Boehner, voted to potentially upend the bipartisan agreement reached in committee (All Actions H.R.1).

Another failed amendment came from a similar faction of the Republican Party, but was offered by Rep. Hoekstra of Michigan and had to do with the testing requirements imposed by

NCLB. Hoekstra's amendment, which failed 173-255, sought to strike the annual requirement for reading and math for students in grades 3 through 8 and retain the current laws in place for state-based assessments (All Actions H.R.1). It was supported mostly by Democrats, with 119 out of 210 of them voting for the measure and with 166 of 221 Republicans opposing it (All Actions H.R.1). This testing exemption amendment shows an interesting trend that runs counter to the basis of the Republican Party: they were supporting strict measures placed on the states for how their schools would be run, and were opening the doors for country-wide tests rather than the state-based ones they hoped to adopt. Chairman Boehner and Ranking Member Miller both chose to vote against this measure, meaning Boehner went against many of the values of his party and Miller went against the majority of his party caucus, all for the sake of keeping this agreement held together (All Actions H.R.1).

Overall, there were very few substantial amendments passed to the House version of NCLB, besides an almost purely party-line amendment from Rep. Tiberi to allow local school districts to directly sign performance agreements with the Secretary of Education, bypassing state-level agencies that Democrats wanted them to be accountable to (All Actions H.R.1). After all of these amendments were adopted, Democrats rallied to call for a "motion to recommit" the bill with instructions to the Education and Workforce Committee. This maneuver would have allowed amendments to their standards, ensuring they flexed their beliefs on education as much as conservatives who proposed amendments had. This vote was almost entirely party line, failing 207-223, with only two Republican votes in favor, but it was still an important legislative maneuver that showed Democrats were not entirely satisfied with the contents of the bill and could have gained conservative support depending on the specific instructions they recommitted the bill with (All Actions H.R.1).

After the failed motion to recommit with instructions, the House version of NCLB was up for final passage on May 23, 2001. Despite Democrats being willing to rally together for a motion to recommit, more Democrats voted in favor of NCLB than Republicans. The bill passed by a wide margin of 384-45, but 34 of the 45 votes against came from the aforementioned conservative-leaning members of the Republican Party, who viewed NCLB as too big of an expansion of government without the benefits of the conservative education agenda (All Actions H.R.1). In short, a bill that had been a priority of a Republican president and Republican Congressional leadership had garnered more support from the opposing party than the governing party, which would rarely be heard of in the political climate of 2021.

#### **Conference Committee: Bicameralism and Bipartisanship... Mostly**

Despite the process for NCLB going through regular order and being carefully crafted by Republicans in the White House and in Congress and Democrats like Ranking Member Miller, the Senate was keen on moving forward with their own version of the bill. On June 14, 2001, about a month after the House passed NCLB, the Senate passed their own version of the legislation with substantial amendments that included remaining the entire bill to the Better Education for Students and Teachers Act (Congressional Record 147:88, 22 June 2001). Even changing the name of President Bush's signature program alone was cause for friction between the House and Senate, let alone massive changes to the bill itself.

This version of the bill passed the Senate by a massive, bipartisan margin, with 91 Senators voting in favor and 8 against (All Actions H.R.1). It is not unusual for the other chamber to pass their own version of a bill as consequential as the renewal of the ESEA, but it would inevitably lead to a complicated, months-long conference committee process that could risk no legislation being passed at all.



The Conference Committee was appointed after the House voted to reject the Senate's amendments to the bill with a wide margin of 424-5 (All Actions H.R.1). While members of both parties supported the move to create a conference committee for various reasons and for the sake of the passage of the bill as a whole, they did disagree on one key procedural matter: the specific "instructions" given to the conferees. Specifically, Democrats sought to include instructions for the conference committee to "to accept an amendment that would give the Individuals with Disabilities Education Act Title I status," which Republicans objected to on the basis that it was not considered as a part of the bill (Congressional Record 147:100, 18 July 2001). This motion was tabled by a 296-126 vote, where almost every Republican voted yes and about half of Democrats voted no (All Actions H.R.1).

After the tabling and other procedural matters, the Conference Committee chaired by Chairman Boehner met five separate times between July and November 2001 (All Actions H.R.1). They agreed to a final report in late November, which was subsequently agreed to in both the House and the Senate by wide, bipartisan votes of 381-41 and 87-10 respectively (All Actions H.R.1). In the House, the majority of opponents were conservative Republicans, while in the Senate most opponents were liberal Democrats, including Sen. Paul Wellstone. With both the House and Senate agreeing to the final version of the bill, it was finally presented to President Bush's desk and signed in an extravagant ceremony in Chairman Boehner's native Ohio on January 8th, 2002 (All Actions H.R.1). After numerous amendments, a battle between two chambers of Congress, and over 10 months, Bush's signature education policy was finally the law of the land.

## **Analysis & Conclusion**

Despite President Bush passing a bill that had the same name as his campaign's education platform, his policies did not "leave no child behind." In fact, NCLB became notorious among educators, with vast majorities of high school teachers disapproving of the law, and the public was not much more favorable either (Hess 20). Student achievement did not dramatically improve, and outcomes arguably worsened due to schools having attention taken away from students and placed on adhering to new state requirements (Nelson). President Bush proclaimed that NCLB was a bipartisan compromise done right and that accountability and "diagnosing the problem" would lead to better outcomes in education. Neither statement was true, as NCLB had mixed results at best, and many of the Democrats who worked on and voted for NCLB later campaigned directly against it (Hess 13). This group included Senator Ted Kennedy, who had been praised directly by President Bush at the signing ceremony for being a steward of the bill, yet realized within two years time that the bill had serious flaws and would not bolster American public schools (Hess 14).

The legacy of No Child Left Behind is one marred in an unsettling compromise between Republicans and Democrats on education. In exchange for not putting together an unprecedented private school voucher program pushed by Republicans, Democrats agreed to ignore the concerns of teachers and their unions and push through NCLB despite their very forceful objections. While educators were forced to take time to administer grueling tests that stressed students out and arbitrarily determined whether a school was "failing" or not, testing companies began to prosper and grow into the state we find them in today. Both parties sought to reign in unions and institute greater control over an education system they believed to be failing, but in the process only contributed towards the problem and towards greater privatization of public education (Apple 110).

In the end, this “Washington compromise” did not achieve its intended results, both in terms of revitalizing the public education system in the United States and in delivering positive political outcomes for either Republicans or Democrats (Hess 14). In particular, Republicans suffered dire consequences from the need to compromise, passing a bill that left out major priorities in exchange for alienating the growing ultra-conservative members of their conference. John Boehner would eventually feel the consequences of the Washington compromise becoming politically toxic, as he later rose through the ranks of Republican leadership and ended up as the Speaker of the House. His Speakership was marred by the rise of the Tea Party Movement, which later led to his ouster from political life entirely after it became clear members of the movement elected to Congress had no confidence in his leadership. One could directly link Boehner’s actions to shepherd through NCLB in 2001 to his downfall in 2015, especially since many of the members he had angered by leaving out school choice provisions were still alive and still frustrated.

No Child Left Behind was not a successful law, and was replaced by the reauthorization of ESEA in 2015 called the Every Student Succeeds Act. While ESSA incorporated much of the elements of NCLB, it was arguably a more conservative friendly version of the law, giving states far more flexibility and even granting many of them waivers from the testing provisions. Despite its repeal, No Child Left Behind has left an imprint on American politics, showcasing how compromise can fail to achieve results and why many on the far-left and far-right have begun to eschew it in favor of party-centric policy outcomes. Future Congressional leadership can learn lessons from NCLB, including ensuring to not abandon educators as stakeholders, including sufficient funding, sticking to well-kept principles on local control of education, and avoiding angering members of a party conference long-term.

## Works Cited

- “107th Congress (2001–2003).” *History, Art, And Archives: United States House of Representatives*,  
<https://history.house.gov/Congressional-Overview/Profiles/107th/>.
- “All Actions H.R.1.” *Congress.gov*, 2001,  
<https://www.congress.gov/bill/107th-congress/house-bill/1/all-actions>.
- Apple, Michael. “Ideological Success, Educational Failure?: On the Politics of No Child Left Behind.” *Journal of Teacher Education*, vol. 58, no. March 2 2007, p. 108–116.
- “Committee Membership.” *Education & Labor Committee*,  
<https://edlabor.house.gov/about/history>.
- “ELEMENTARY AND SECONDARY EDUCATION ACT AUTHORIZATION.”  
Congressional Record 147:88, 22 June 2001, p. S6672-S6831.
- Hess, Frederick & Petrilli, Michael. “The Politics of No Child Left Behind: Will the Coalition Hold?” *Journal of Education*, vol. 185, no. 3, October 2005, p. 13–25.
- “H.R. 1.” *C-SPAN*, <https://www.c-span.org/congress/bills/bill/?107/hr1>.
- Lee, Andrew. “No Child Left Behind (NCLB): What you need to know.” *Understood*,  
<https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childrens-rights/no-child-left-behind-nclb-what-you-need-to-know>.
- Nelson, Libby. “The scariest lesson of No Child Left Behind.” *Vox*, 27 July 2015,  
<https://www.vox.com/2015/7/27/9045491/no-child-left-behind-accountability>.
- “No Child Left Behind Act of 2001 (H.R 1).” Congressional Record 147:100, 18 July 2001, p. H4121-H4130.
- “Party Division.” *United States Senate*, <https://www.senate.gov/history/partydiv.htm>.