EDWARD M. KENNEDY ORAL HISTORY PROJECT

FINAL TRANSCRIPT

INTERVIEW WITH JOEL PACKER

May 20, 2008
Washington, D.C.

Interviewer

University of Virginia

Janet Heininger

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Janet Heininger: This is an interview with Joel Packer, at the National Education Association, on May 20, 2008, in Washington, D.C. Why don't we start at the beginning? Tell me about how you first met Edward Kennedy. What were your impressions of him?

Joel Packer: I probably met the Senator back in the late '70s. My first job in Washington was as a lobbyist for what's now called the United States Student Association. We were doing work on college-student financial-aid programs, the Higher Education Act. I don't believe that Kennedy was chair of the committee then. I guess Claiborne Pell chaired the Education Committee. But Kennedy was active, so I had interactions with him and his staff probably in '78 and '79. I came to town in late '77. There was a lot of activity on higher education then, on higher education reauthorization in 1980, and on what was called the Middle Income Student Assistance Act. My initial impressions of him were that he was a very active, energetic, and somewhat domineering figure. He's always had a very smart and active staff to represent him.

Heininger: To what extent were your views taken into consideration by them?

Packer: With that group, our main focus was very much in sync with what the Senator wanted to do. At that time, the fight was around expanding eligibility for Pell Grants to more middle-income families. It was more of an elementary/secondary issue, which I wasn't as much a part of. We were fighting against tax-credit alternatives, trying to get more money into the college student-aid system, and trying to raise the Pell grant maximum award. The Senator was very much in sync with that.

Heininger: Before we turned the tape on, you said that you had worked with him on other issues besides education. Tell us about those.

Packer: I've worked on a range of issues. Since I've been in NEA [National Education Association], my earlier responsibilities were to be our lead lobbyist on civil rights issues, Family and Medical Leave Act, those kinds of things.

The Family and Medical Leave Act went through the Labor and Public Welfare Committee, I think it was. Kennedy played a big role in that, although interestingly, on the Family and Medical Leave Act, he and his staff were not as big on that initially. Chris Dodd was the leader on that. Kennedy's staff had some questions. As it moved along, they became more engaged in it. For a while, there was a smaller band of people. Originally it was former Congresswoman Pat Schroeder in the House. Dodd was definitely the driving force behind that in the Senate.

Kennedy ended up playing a big role, because it ended up being vetoed twice by the former President [George H. W.] Bush, and then it became the first significant bill signed into law under President [William J.] Clinton. It was the third bill he signed. The first two were resolutions. That took a lot of negotiation and various compromises. The business community was vehemently opposed to it. Kennedy was active on that. Dodd played a big role, but then it took Kennedy to help move the bill over the finish line.

I also did a lot of work on various pieces of civil rights legislation, particularly, again, when the first Bush was President. For instance, there were a couple of Supreme Court cases that had narrowed the scope of coverage of civil rights laws, particularly as they affected institutions of higher education, saying that they only applied to the part of the institution that received federal aid, which essentially would be the financial aid office and not all of the academic programs. There was a bill—I think it was called the Civil Rights Restoration Act—that Kennedy was the leader of.

Heininger: In 1991?

Packer: Yes. I did a lot of work with the Leadership Conference on Civil Rights, and he was very active in that. Kennedy took the lead on all of those issues. There was another bill, the Civil Rights Act, and there was the Civil Rights Restoration Act. There were a couple of different ones at the time.

Heininger: Did you work with [John] Danforth's staff too?

Packer: A little bit, yes.

Heininger: Did you find that Kennedy was more in sync with NEA's interests?

Packer: Oh, yes, very much so. Kennedy was personally engaged in a lot of the strategy. I think it was on one of the civil rights bills; I can't remember now.

One of my favorite stories about him came from around that time. He was chair of the committee. He was having trouble getting the Republicans to show up to get a quorum, and the Senate was in late one night. Kennedy called the markup on one of these civil rights bills. It started at 11:00 or midnight. Because the Senate was in session, they all showed up. I remember that Strom Thurmond was on the committee at the time. It might have been a Judiciary Committee markup. I can't remember now. But Kennedy called a markup, and everyone showed up. Thurmond was already relatively old, but he had relatively young kids. I remember him objecting to calling the markup so late. He said, "Mr. Chairman, some of us have young children and would rather be at home with them." [*laughter*] I can't remember the exact year.

Heininger: It was about in there because that bill was vetoed too.

Packer: Yes. It was probably early or mid-'80s, somewhere in that range. Kennedy, at one point, was chair or the second ranking of Judiciary, so between the role on—I'll just call it the HELP [Health, Education, Labor, and Pensions] Committee—the HELP Committee and his role on Judiciary, he was always the leader. The civil rights community always looked to him as the leader on those issues.

Heininger: How does he deal with lobbying groups? Does he deal with them personally? Did you have meetings with him? Did you deal principally with his staff? What did he look for from you?

Packer: On No Child Left Behind, we had lots of meetings with him directly. Kennedy would do different things. As that bill was moving through the Senate, he would call people in multiple times—not gigantic groups, but more than one or two people, key groups, for combination update, strategy discussion, and assignments. He would say, "We need your help talking to these Senators. We need your help doing this. We need you to—" He was very good, first of all, at keeping the groups informed of what was going on, bringing them in when he needed the help, sometimes rallying the troops, like, "We're on the verge of victory, but we need you to do A, B, and C."

I remember lots of meetings in different rooms right off the Senate Chamber. He'd bring us in. On the civil rights stuff, we had lots of key meetings with him, sometimes late at night, with some of the key civil rights folks. I was part of some of those meetings. We met regularly, obviously, with his staff. On the No Child Left Behind Act, we had daily conversations. He's very active personally, compared to some other offices where I think the Senator or the House member is not as immersed in the details.

Heininger: Are there other members who get as immersed as he does?

Packer: On some of the issues I've worked on in the Senate, yes, depending on the issue. For instance, Chris Dodd, with whom we've worked very closely on a lot of issues, on the Family and Medical Leave Act, he was the leader on that more than Kennedy, to be honest. Tom Harkin has either chaired or been the ranking member on the Education Appropriations Subcommittee of Labor, Health, and Education. Similar level of activity, bringing groups in personally, rallying the troops, asking for help, those kinds of things. [James] Jeffords, who as you know switched parties, was like that as well. Jeffords personally was sometimes not as knowledgeable about the details—and I think he had some health issues toward the end. On the House side, I think Bill Ford, who was the longtime chairman of the Higher Education Subcommittee, called us in multiple times. Dave Obey usually would call you in to yell at you. [*laughter*] Obey was more likely to call you in when he was mad about something.

Here is a good example of something I've always admired about Kennedy. My wife had some health issues several years ago. The Senator knew me fairly well, met her, and personally called me at home to see how she was doing. I know he's a very busy guy, because he's a Senator. I appreciated that personal touch, because I don't think most Senators would do that.

Heininger: Have you found other Senators who would do something like that?

Packer: Not really.

Heininger: So this singles him out?

Packer: Yes. I'll give another example. For my 50th birthday, my wife had a party for me, and she asked people to write letters about me. I don't know exactly who she asked, but again, the Senator sent a personal note about me. I'm sure his staff helped write the note.

Heininger: Not necessarily.

Packer: Yes, but she worked for the staff to get the letters. The fact that he took the time to send a little note and to call my wife to see how she was doing, those are nice little touches.

Heininger: To what extent, when Kennedy deals with lobbying groups, is he looking for your views, wanting to know what the NEA wants and needs on a certain bill? To what extent does he come to lobbying groups, as you say, to rally the troops, to keep you on board, and to get you, as part of the process, to rally other members' votes?

Packer: We're usually in sync with him, certainly on the broad areas. A lot of the meetings have been, "I need your help. Let's get together," those kinds of things. But also listening. Post–No Child Left Behind, my current president, Reg Weaver, has had several meetings with the Senator where they've not been in agreement. Reg has said, "Here are our concerns," and has tried to figure out where we can go together. We've said to him on this No Child Left Behind reauthorization, "If you produce a bill that we can't support, we will have to publicly oppose it. We don't want to have a big public fight with you, but we want to be clear: we're willing to do that if necessary." So we've had some blunt meetings with him as well. Again, on No Child Left Behind, we've had several meetings. In fact, there was a meeting last November. Reg Weaver was there, as was Ted Kennedy, George Miller, and the president of AFT [American Federation of Teachers]. The four of them met. All of the staff are told to go out of the room, which always makes me nervous. But we've had several follow-up meetings with him since then.

I'll give you another great Kennedy story about No Child Left Behind, of him lobbying us, essentially. Right at the end, when No Child Left Behind was getting ready to go to the floor for the conference report—this was early December 2001, because it was passed right around then—we were relatively unhappy. We were deciding whether to oppose the bill. What do we do? We got some stuff we wanted. We wanted some stuff we didn't get. There was some stuff that we weren't happy about. And NEA has a very large board of directors. It's about 150 people. They met four times a year. They were meeting not because of that, but because it was their regular meeting in early December. Kennedy's staff had heard that they were meeting. He asked to come speak. Of course we said, "Sure."

The Senator came and gave a rousing speech about why we should support this, how he had fought his best fight, how NEA was so helpful, how we blocked vouchers, and, "We're getting more money, and we didn't get everything we want, but this is the best we're going to get. If we don't get this, it's going to be worse." As a quick aside, he brought both of his dogs with him, Sunny and Splash. This was in the morning, and it was a big auditorium. The dogs were running all over the place. People had eaten breakfast, so the dogs were eating off of people's plates. [*laughter*]

He gave a pretty impassioned speech and thanked us. "This is a good bill. This is the best we're going to get," and so on. I think that had an effect. Our final position—again, we didn't love it—in the last sentence of our last letter: "Therefore NEA does not oppose final passage of the bill." What was ironic, or interesting, was that literally right before he came to speak to us, I was getting calls from Sandy [Barnett] Kress, saying, "We hope you guys don't oppose this bill." Everyone was worried where we were. But it was odd to have both Kennedy and the White

House calling us, essentially lobbying us with the same request.

Heininger: But it clearly was very important to Kennedy, or else he wouldn't have brought his dogs. That's a sign that this was important to him.

Packer: I think he was worried, though I don't want to overinflate. NEA, I think, has some influence, and to be honest, I don't think we could have blocked the bill. Things at some point take on lives of their own. But I think it would have been awkward politically for him to promote something that we were opposing.

Heininger: I'd like to talk about how we get to No Child Left Behind. When Bush I came in, in the wake of the *A Nation at Risk* report, he wanted to be the education President. What was his approach to education reform, and how does that lead into Clinton, which leads into No Child Left Behind?

Packer: At the time, I was doing more of our civil rights stuff. There were fights more around funding for education, which has always been our ongoing issue. Funding always becomes an issue; it happens every year. It has to happen in some form or fashion. George H. W. Bush talked a lot about education, but not that much happened.

Heininger: Was the country not ready? Was Congress not ready?

Packer: Well, I think the Republicans and George [W.] Bush, the current president, totally changed the paradigm. The Republicans' position historically was, "The federal government shouldn't be involved in education, or very little. We support private-school vouchers. We hate the Department of Education. We hate teachers' unions generally. We want school prayer." It was those kinds of things. There was not much interest on the Republican side.

I would say generally, though, that things were way more bipartisan in the Congress in education at the time than certainly now, and there were way more moderate Republicans, certainly on the education committees. There were people like Jeffords, and if you go back to even earlier, on the House side, people like John Buchanan from Alabama. There were a lot more. Even Bill Goodling would be fairly moderate now. Debates were not as nasty. There were periodic fights about vouchers, and they had their predictable outcomes. They were defeated. I'm trying to think of the time before the '93 authorization. There were fights over block grants. I can't, off the top of my head, recall any significant changes. There were national goals, but there were fewer federal directives. You had the summit that Bush called, and the national goals came out of that. There was some controversy, and it became more controversial with Goals 2000 when Clinton became President.

Heininger: But a lot of the movement was at the state level with the Governors.

Packer: Yes, exactly, and it was relatively bipartisan.

Heininger: Then in comes Clinton, and things change.

Packer: Yes. Clinton was very active on education. Clinton, first, promoted Goals 2000. It's ironic how controversial that was compared to now, because Goals 2000 was totally voluntary. It

was basically, “Here’s money for states to develop standards and to assess progress in some way, totally voluntary.” The conservative groups went absolutely nuts over that. Federal control. It was nasty. There was an article. After it passed, the Clinton administration made huge efforts to get states to come into the program.

Mike Cohen went all around the country trying to get states to buy into the program. Eventually almost all of them did. Virginia, I think, was one of the last holdouts. But there was an article, and the headline was, “I was a Goals 2000 Sex Slave.” Some woman who—I can’t remember the state—had claimed that she was forced to have sex with someone over their taking a position in support of Goals 2000. It was crazy, super controversial. Clinton started it in a lot of ways toward a federal role in standards and assessments. Goals 2000 was the first piece.

Clinton didn’t have great relations at the beginning, and probably throughout, with a lot of the Democrats. I was particularly focused on the House. People like Bill Ford and some of the more liberal members on the House Education and Labor Committee had a lot of problems with some of the proposals. There was a big fight around what became known as Opportunity to Learn Standards, which the Clinton folks were originally supportive of. The opposition said, “If you say that we should have standards, essentially outcome standards—what students should learn, what they should know—you should also have standards of what resources are available to them to be able to achieve those learning standards.” That became super controversial, and those ended up getting knocked out. The Republicans totally hated those. That became a source of a lot of friction with some of the more liberal members on the Education and Labor Committee, particularly some of the Black folks, like Major Owens and other members of the Congressional Black Caucus.

Heininger: Where was Kennedy on the issue of standards?

Packer: Kennedy is obviously liberal, and as you well know, he’s painted by the right as a wild-eyed ideologue zealot. He, more than most members, wants to get things done. He’s a very practical politician. He likes cutting deals, and he likes trying to be bipartisan. There are certain principles he obviously will fight against. My recollection was that the fight was much more on the House side on the Opportunity to Learn Standards. Kennedy was supportive of them.

In terms of national standards, Kennedy was a supporter of Goals 2000. I can’t remember the specifics now. I remember that there was a lot more fighting about it in the House, which I think took the lead on it. Kennedy was a big supporter and very helpful, though, around Clinton’s initiatives with class-size reduction and school construction. Those were two big Clinton education initiatives. Kennedy wasn’t the lead sponsor on either of those bills. Tom Harkin was the lead on the school-construction stuff, Patty Murray on class-size reduction. Kennedy was very active in supporting both of those, both as part of the No Child Left Behind bill, in terms of trying to get funding for those. But a good example of Kennedy is that in neither case did he say, “If we don’t get those, we’re not going to support the bill.”

Heininger: So under Clinton, basically, there was the movement, the beginnings of the process of setting standards and of states buying into the process, with federal money, to develop standards.

Packer: Right. Then they became mandatory, because in the ’93 reauthorization, which built on Goals 2000, there was the requirement that every state have content standards. It was pretty open-ended on what happened if schools—it actually put in place the term “adequate yearly progress.” But it was totally open-ended, and states could pretty much define that however they wanted—what that meant, and what the consequences were for schools not meeting it. But it required that states have within X number of years—I forget the exact number of years—both content standards and performance standards—in other words, what kids should know and what level of achievement you have to reach to be proficient.

There was a lot of criticism—which then helped lead to No Child Left Behind—that the Clinton administration didn’t do an aggressive job of enforcing that or of getting states to establish those standards. But I think at the time they were navigating, again, a road between more of the conservative groups who still were opposed to federal mandates, who wanted block grants, and vouchers and programs eliminated. It was the first time, in a lot of ways, that the federal government was forcing states to do something—as opposed to just fiscal compliance—on an academic content. The Clinton administration was trying to navigate a middle road, to keep a balance between moving things forward in the direction they wanted without making states angry, and without getting involved in all the debates around curriculum.

Clinton’s next step was to try to get voluntary national tests. It was toward the end of the Clinton administration. They were pushing funds to develop what they were saying would be voluntary—states could decide to use them or not—national tests in reading and math at fourth and eighth grade, I think it was. They ended up not winning. I mean, the Republicans fought them. Some of the Congressional Black Caucus members, in particular, opposed it because they were concerned about how national tests might impact minority students. The conservatives went even more bonkers. It became like World War I, this back-and-forth trench warfare where Clinton got only a little bit of what he wanted. The Republicans kept denying funding to things, or you could use money for development but not for piloting. Then the whole thing ended up going away.

Again, my recollection was that Kennedy was supportive, but there was much more fighting in the House, because a lot of it was fought out on the appropriations front, and the House, as you know, always goes first on that. But the reason why Clinton elevated education politically was because of the funding when the government shut down. When you had the fight over funding, Clinton was saying, “I want more money for class size. I want money for school construction. I want more money for afterschool programs.” As you know, the government shut down. Clinton made that one of the big issues. At the time, we called it $E^2 M^2$: environment, education, Medicare, and Medicaid. Those were the big issues.

So education was raised, and it became a big, partisan, political issue. Clinton was saying, “You need more money for education.” Clinton was very personally involved in terms of personal lobbying, as was Vice President [Albert] Gore [Jr.]. It was a big deal. In terms of the government shutdown, the Republicans completely lost that fight, particularly on a political basis. That’s when they started realizing that they needed something more proactive on education than just vouchers and cutting funding and eliminating the Department of Education. At the time, the Republicans latched onto more funding for special education. IDEA [Individuals with Disabilities Education Act] was one of their big things.

Kennedy also has always been active in the education-funding fight. He often was the leader, even though he doesn't chair the Appropriations Committee or Subcommittee, on offering amendments to the budget resolution and even amendments on appropriations. We did a lot of work with Kennedy. Almost every year on the budget resolution, he would offer one or more amendments on increasing funding for Pell Grants, Title I, things like that. Even this year, as an example, he organized—which ended up being bipartisan later—in support of more money for Title I. He's always been very active on that front, particularly in the era after the Republicans took over in '95, when they were trying to slash and cut everything.

Kennedy was probably one of the biggest leaders, if not the biggest leader, on fighting back against those education funding cuts. His staff brought a lot—pretty much everyone does them now—of those big charts that you bring onto Senate floor. They weren't quite as popular then, is my recollection, but his staff did a lot of them, particularly before Senator [Kent] Conrad's endless charts. Kennedy did a lot of charts on education funding and different things, with apples.

Heininger: The bite of the apple.

Packer: Yes. We worked closely with him and his staff on all those education-funding fights, class-size fights, school-construction fights, all those things.

All that stuff led to Bush changing the paradigm, because Bush ran on a platform that was generally the opposite of where Republicans had been. Bush said he supported vouchers, but Bush supported a much more robust role, which became the case under No Child Left Behind. I always say, if Bill Clinton had proposed No Child Left Behind, the Republicans probably would have moved to impeach him over that. The Republicans would have pilloried that as federal control, control of the curriculum, states' rights, and so on. Bush turned things upside down.

This is where I'm going to get specifically into where Ted Kennedy got involved in this. The ESEA [Elementary and Secondary Education Act] was supposed to have been reauthorized in '99, and it got very bogged down. The House, which was under Republican control, decided that they were going to do it in pieces, which, leaving aside partisan politics, made no sense. They moved some pieces, and some pieces were bipartisan, and some pieces were partisan. But a lot of it, again, was that the Republicans were trying to get block grants, flexibility for states, vouchers, things like that. They were trying very hard at the time to eliminate class size and school construction as separate programs. Goodling hated both of those.

On the Senate side, there was a bill reported out of committee, and it never got through the Senate. It ended up getting bogged down in completely peripheral issues. But the key thing that happened was Senator [Joseph] Lieberman and other more moderate, conservative Democrats—Lieberman, [Herbert] Kohl, [Evan] Bayh, and Representative [Charles] Rangel in the House might have been part; there were 10 to 12 of them—put together a bill that they called the Three R's bill: reinvestment, reinvention, and responsibility. We strongly opposed it. Kennedy strongly opposed it. It would have created more accountability, some block granting, consolidation of programs, some provisions around teacher quality. I can't remember all the specifics. It came up as an amendment on the Senate floor to the ESEA reauthorization. And again, it garnered 12 or 13 votes. The Republicans opposed it because from their perspective, it didn't go far enough. It

was a DLC-ish [Democratic Leadership Council] kind of thing. The Clinton administration opposed it.

After Bush proposed No Child Left Behind, which was in a lot of ways very similar to the Three R's bill, Kennedy, I think, scanned the politics. He had George Bush, who was making this one of his top-two and one of his first-two priorities—that and his tax cuts—as President. Bush released his No Child Left Behind outline the second day he was in office. You have a group of 10 or 12 or so Democrats who had already had a bill last year that was somewhat similar in structure or thrust. It was 50-50 at the time in the Senate, and I think Kennedy was worried, *If Bush holds the Republicans and cuts a deal with most of these 12 Democrats, that's a filibuster margin.* Kennedy was worried that he and all the Democrats on the HELP Committee would have been completely cut out of everything and been rendered irrelevant.

He also had George Miller, who in my opinion was always more open substantively to some of the No Child Left Behind policies than Kennedy was. I think Kennedy decided that he would be at the table and that he would not let Bush go around the committee, because the committee Democrats were generally much more liberal than this other group of Democrats. I think Kennedy decided, *I'll fight those things I truly oppose, such as private-school vouchers, but I'm willing to cut deals on a lot of these issues.*

Heininger: Substantively, how was No Child Left Behind different from what Clinton did and was trying to do?

Packer: First, it put in place a requirement, more than a goal, that 100 percent of students should be proficient in reading and math. It put in place very complex, specific ways to measure progress and to determine what schools had to do to show that they were making progress each year to get to 100 percent. It put in place very detailed, specific, year-by-year consequences for schools that failed to make adequate yearly progress, or AYP, as it's called. Whereas with Clinton, in the previous ESEA, yes, you have to have standards, and yes, it said that schools were supposed to make adequate yearly progress, but the states pretty much controlled or decided what that meant. Under No Child Left Behind, the state still set the standards, but now they had a specific federal goals and requirements. Year by year, how do you measure that? Who's included? What are the consequences? Lots of detailed, prescriptive accountabilities. That was the biggest change.

You had, for the first time—this was not something the Bush administration pushed hard for; it was much more George Miller—a federal definition of "highly qualified teachers." The federal government had never been involved in what's a qualified, or highly qualified, or good, or bad teacher. They had money for professional development, but not at all for knowing what's working or for measurement. That was a huge change. Also, for the first time, the Elementary and Secondary Education Act was opened up so that private entities and religious entities could directly or indirectly get money through this supplemental educational-services program. It's an afterschool tutoring program. It was a compromise, to some extent, about private-school vouchers. The federal government was much more in control over focusing on achievement, as opposed to targeting money to certain populations of schools or students.

Heininger: This is a sea change.

Packer: Yes. Some would argue—and to some extent it's true—that it built on the Clinton standards thrust, but it went well beyond that. In fact, if you have talked to Mike [Marshall] Smith, he gives a great talk about how No Child Left Behind turned a lot of what they were doing on its head and how it is a failed policy. I heard him speak just last week. Yes, it was a sea change in lots of areas.

Plus, U.S. Education Secretary [Roderick] Paige was always very negative, surly, rarely smiled. He always seemed mad or unhappy about stuff. That's how he came across. They came in very focused on enforcement and on meeting deadlines. I was astonished. Paige, early on, put out a letter to chief state school officers that belittled them. Like, "If you try to undermine this, you'll be harming children." As opposed to, "We look forward to working with you. We know this is complicated, and we'll provide you support." It was like, "We're going to come in and tell you what to do, and if you dare not, you'll be harming children." So the department did a terrible job of administering these issues, in my opinion.

Packer: Bit of a change from Dick Riley.

Heininger: Yes. Riley was, I would say, beloved. I put myself in that camp. Riley, in some ways, reminds me of Kennedy because he has that personal touch. Riley comes across as a down-to-earth guy—Kennedy probably a little less so—even though he was Secretary of Education. Part of it is policies, politics. Riley had great relations with NEA and our leaders, and he had been a former Governor. Riley was very politically astute. Paige had no sense whatsoever of politics. Paige was bad for the administration. I don't think he was a good spokesperson or salesperson for their policies, so Kennedy very much became a player. No Child Left Behind had so many different areas, it became complicated. Kennedy, I guess you could say, was to the right of Miller and the House folks.

One of the fights was about block grants, which became known as Straight A's, which essentially would allow states to consolidate a lot of the money and have a lot more flexibility in what they did with it. It was one of the Bush priorities, and it was priority to a lot of the conservative groups, because again, a lot of them were leery of a lot of the Bush stuff anyhow, this No Child Left Behind stuff. Kennedy ended up, I think, cutting a deal around that. There was a version included in the Senate bill, which Miller strongly opposed. On the House side, I remember that when they were having their markup, a lot of the Republicans were berating Miller, saying, "You're opposing the Kennedy block-grant proposal!" That was one where we were fighting Kennedy, because we didn't like it. We were much more in sync with Miller.

The highly qualified teacher issue, for instance, was not as much a Bush priority as it was George Miller's. NEA fought very strongly against some of the specifics of that with Miller, and Kennedy was a major ally of ours behind the scenes, working with us to try to smooth some of the edges we were most opposed to. Kennedy also took—and this is classic Kennedy—a leadership role in what became one of the very last issues to be settled, which was, because the bill was opened up to these supplemental service providers, we and others had to make sure that they were fully covered by civil rights laws.

One of the very last provisions of the bill—it's in the general provisions section—we thought made things clear, although I'll explain how it didn't work out that way. It basically said,

"Anyone getting funds under this act is covered by all applicable federal civil rights laws." Kennedy led that fight. That was somewhat more through his Judiciary Committee staff than his education staff. Well, the administration has interpreted that in a convoluted way, so it actually hasn't totally worked out that way. But that's a good example of how Kennedy was the leader on that issue. Kennedy was committed.

The other thing I remember very distinctly, because a lot of the groups were leery and nervous about the bill—as you know, the Senate flipped when Jeffords switched parties. The bill was on the floor, so this was in the middle of that.

Heininger: The bill manager changed too.

Packer: Right. I remember a meeting that Kennedy had. This was an unusual meeting, because it was with Kennedy and several of the other Senators on the committee. Jack Reed, Paul Wellstone, and Chris Dodd were there, and several of the groups were also there. That, by itself, was somewhat unusual. I remember that several of the other Senators were urging Kennedy, "Now we're in charge. We can slow this down, maybe take it off the floor, and see if we want to make some changes." Kennedy said, "Absolutely not. We're not going to be accused of being weak on accountability as soon as we take charge." That was a big point: who's weak on accountability? That was, I think, a key thing, because Kennedy had an opportunity to slow stuff down there, but he was committed to getting this bill done.

Heininger: How do you think he personally felt about No Child Left Behind?

Packer: He bought into it. I think he thought—and George Miller, again, probably a little bit more strongly—that there are too many schools that are doing a bad job educating fill-in-the-blank—poor kids, minority kids, kids with disabilities, ELL [English Language Learners] kids, and so on. He thought that this was a way to put some pressure on them.

The other key thing for Kennedy—which I think he got snookered on, and I think he would admit this, as would Miller—was that they thought, *If we agree to some of these reforms, we're going to get Bush to commit to gigantic increases in funding for Title I and other programs, not just for this year but over time.* There was a big fight about the funding levels throughout the whole debate, and the appropriations bill was going on at the same time. If you were to ask Kennedy, I think he would say that he thought he had a promise from Bush and that Bush broke his promise. That is, I think, one of the reasons why he's somewhat bitter about how that all worked out. Because that was one of the deals: "We'll support these reforms, and you"—the Republicans and Bush—"will support all these resources."

Heininger: Have the resources been adequate to implement No Child Left Behind?

Packer: No. There are different ways to look at it. As you know, the bill is called a "discretionary authorization bill," so it doesn't provide, by itself, any money. It sets the authorization levels, and every year there have been gigantic gaps between the actual appropriations and authorizations. Since the bill has been passed, the cumulative gap is now $76 billion. Under Bush's '09 budget, it would go up by another $10 billion.

That first year, essentially the year the appropriation was going through, it set up a parallel track.

Kennedy and Miller, the Democrats, were able to get Bush that year to support a relatively substantial increase in funding, so for the first year of No Child Left Behind, for all of the programs, funding increased about 19 percent, compared to the predecessor programs the year before. That was pretty good. But the next year there was an increase of about 7 percent, and the next year it was about 2 percent, and then it was cut, so I think Kennedy believes—and we certainly believe, and he's said this multiple times—that it's been a broken promise, and that it shortchanges children, public education, and so on.

After the bill passed, Kennedy very quickly criticized the funding, because the bill was signed into law on January 8, 2002. Bush's budget came out in February 2002, and he proposed basically no increase for any of these programs. We ended up getting an increase, but that was over Bush's objections. Kennedy, I think, felt broken promises from that, and that's been an ongoing fight every year, so Kennedy has been critical of funding literally since the bill was signed into law, and of how the administration has implemented the law. We've worked with them on that. Up until a year or so ago, he would not have criticized the law itself. He's now been doing that.

Heininger: To be cynical about it, given the Republicans' traditional stance that education is a local and state responsibility and not a federal one, and given that there has been a sea change in that all of a sudden you have a Republican President proposing sweeping federal mandates that have to be met by states and localities, was there ever any intention to provide the resources necessary to implement this, or to retain for the federal government the enforcement hammer, forcing the states and localities to cough up the money to meet the federal standards? Or was the money simply not there in the budget?

Packer: I think, again, strategically and politically, Bush made a major mistake because, to be honest, in the context of the whole federal budget, this is small potatoes. I always find this ironic, but literally for just a few billion dollars more, particularly in the Title I program, which is the biggest program, they could have defused a lot of that fighting about the money, which was Kennedy and Miller's major criticism for several years: not enough money. If they had put money in, then they would have taken that argument off the table, and then they would have been dealing with the policy issues. I never understood why Bush did that. He was undermining his own program. I never figured that out.

Some would argue—certainly this wouldn't be Kennedy's belief—that this whole thing was a setup to demonstrate that most public schools are failures so that the Republicans could then get money for private-school vouchers. Every year since No Child Left Behind, Bush has asked for money for private-school vouchers. For instance, his budget this year says that for students who go to schools that don't make adequate yearly progress after a number of years, the students would be able to get money from the federal government for private-school vouchers in order to go to a private school. That somewhat reaffirms what we thought some of the motivation was for Bush and for maybe some of the Republicans. It certainly wasn't Kennedy's motivation. Different people had different motivations. Some said, "This is going to help get more resources for poor schools and give them the help they need to do better." I think some thought that this was a way to undermine public schools, to show that they were not doing well, and to get money for vouchers.

No Child Left Behind has had some of the more bizarre politics. Some of the civil rights groups still like it. Some of the special-education groups like it. The business community likes it. You have more Republicans, particularly on the right, particularly as Bush is waning, reverting back to form and opposing it. There's a bill in the House that has 70 Republican cosponsors that would more or less repeal the whole thing. It's very convoluted politics around this law.

Heininger: What has been the response by the states and localities on implementing it?

Packer: Generally negative. Both Kennedy and Miller, I'll give them the credit. They both spent a lot of time going around listening and meeting with educators, teachers, and administrators. They both will now agree, though these are subjective terms, that the law itself, not just the Bush implementation, has fundamental problems. Kennedy said last November, "No Child Left Behind is a symbol of flawed and failed education policy." Now, he's one of the four people who wrote the law at the end. George Miller has said recently, "No Child Left Behind is the most negative brand of America." They both have been saying, since about a year or so ago, that there needs to be some significant changes to the law, that there are some significant flaws in the law, which, since it's their bill as much as Bush's in a lot of ways, takes some admitting that you made a mistake to some degree.

Heininger: What has the NEA's stance been?

Packer: The NEA's stance has been critical from the beginning. As I said, we didn't oppose it, but I go back to what I said: we didn't support it; we said, "We don't oppose final passage." We ended up getting a lot of pushback from our members and our leaders and our state and local affiliates. It was like, "Oh, my God. How did you let this happen?"

Heininger: Sometimes a train is moving, and you can't stop it.

Packer: Right. This bill passed the Senate. The final vote was 88 to 10, and in the House it was 385 to 40-something. It was overwhelming. Of the small number of people who voted against it, most of those were from the far right. There were a few from the very far left, such as Paul Wellstone, but most of them were the hardcore conservatives. As I said, even if we had opposed it, I don't think we would have stopped it.

Heininger: Sometimes that train is barreling in.

Packer: Right. Again, Bush—I'll give Bush credit—made it one of his first-two and top-two priorities, and he worked it—not Paige, but Sandy Kress, and Margaret [Spellings], then [Margaret] La Montagne, her name was, the White House Domestic Policy chief. You had that, and it was a confluence of things. The Democrats were somewhat demoralized after losing the Presidential election: "Everyone wants accountability. We can't be against accountability," and so on. People looked at it as different leverage things.

The law passed in January of 2002. Within about a year we said, "This law isn't working." We proposed a package of legislative changes in early 2003. To be honest, neither Kennedy nor Miller was with us on that at the time. They were pretty unhappy with us, to be honest about it.

Heininger: So you spotted problems quite early on?

Packer: Yes.

Heininger: You brought them to both Miller and Kennedy, and they weren't receptive at that point.

Packer: No, and our people generally became very negative about both Kennedy and Miller.

Heininger: Was it because they felt that the law needed to be given more time, pride of ownership?

Packer: Pride of ownership, pride of authorship, that it needed to be given more time, that it was a good idea. For both Miller and Kennedy, some of the civil rights groups were pretty supportive, and some of them still are. It's a complicated issue because it's not as if it's us versus them. This is not just us versus Bush, us versus Republicans. It's one of the more complex political things that we've ever dealt with.

I think Kennedy and Miller were both taken aback by the level of anger of educators and of state and local officials. The NCSL, the National Conference of State Legislatures, in maybe 2004 or '05, came out with a report that was highly critical of No Child Left Behind. NCSL opposed the bill when it was moving through Congress. There were not many groups that opposed the bill. NCSL did; the school administrators did.

Heininger: Did AFT?

Packer: No. I would say that AFT was somewhat more supportive than we were.

Heininger: So what were the problems that you started seeing? Or rather, what were the states and the localities saying were the problems, aside from inadequate resources?

Packer: Right. Too much focus on testing; holding schools accountable based on just two statewide test scores; unfair, unrealistic methods of testing students with disabilities and English Language Learner students—

Heininger: Because, in fact, this new system held everyone to the same standard, including students who didn't speak much English, including special-education students. I'm assuming that whereas you would assume that that goal is laudable, there are lots of problems in how you get those students to the point where they can be held to the same standards.

Packer: Right.

Heininger: And that was the argument over Opportunity to Learn?

Packer: Yes, exactly. Also that the law was focused more on punishments, consequences, sanctions, whatever you want to call them, that if you didn't make AYP [adequate yearly progress], eventually it said to replace the staff, turn the school over to the state, turn it over to a for-profit company, turn it into a charter school, things like that.

Heininger: Are there specific proscriptions as to what must be done?

Packer: Yes. In other words, the way it works is after two years of not making adequate yearly progress, the first thing that happens is that you have to spend a portion of your federal money on public-school choice. Kids in the school that didn't make AYP, as it's called, can transfer to another public school that *did* make AYP, but you have to use part of your federal funds to pay their transportation. Then what happens is you have a year to improve, and if you don't, you move down the chain.

Heininger: But in the meantime, you're diluting the resources you need to increase to be able to make adequate yearly progress.

Packer: Exactly. Again, that might have made some sense based on what I think Kennedy would have said was the premise, that we're going to get these gigantic increases every year in Title I, so if you get a big increase and you have to spend a part of your increase, well, you're still going to have more money. But the funding has not worked out that way.

For instance, as an example, in the current school year, close to 60 percent—I forget the exact number—of all school districts have less Title I money this year than they had last year. Last year, 63 percent had less than they had the year before; the year before that, 67 percent had less than they had the year before that. Most school districts have gotten, again, an initial bump from that first year, but since then, the biggest urban school districts are still getting more money, while most other districts are getting less money. Out of that smaller pot of money, they have to take a part of that to pay for this transportation.

The next piece was the next year: if you fail, then you also have to spend part of your money on what's called supplemental educational services, afterschool tutoring. Some always viewed that as the compromise to vouchers. There are no vouchers in the bill, but these afterschool tutoring companies can be anybody. They can be faith-based groups, which the administration promotes; for-profit companies, such as Sylvan Learning Centers; Voyager Learning; community groups such as the Boys Club; private schools; public schools. The administration is a gigantic promoter of supplemental services. Kennedy, if you were to ask him or his staff, probably would say now that supplemental services has been a complete failure and is a bad program.

Heininger: At the same time, out of a fixed pool of money for a school that has not made adequate yearly progress, they have to pay, for the first year, the transportation costs for kids who want to go to another school. In the second year, they have to pay for supplemental services. In the meantime, what's left for them to pay for improving their school in order to make adequate yearly progress?

Packer: Exactly. There also was supposed to be a pot of money, which is something we worked hard on—and Kennedy and Miller were very supportive of this—that was going to be separate on top of Title I for schools that were, as the term in the law says, "in need of improvement." The law doesn't actually say, "failing schools." It says, "in need of improvement," "corrective action," and, "schools subject to restructuring." If you were in that category, you were supposed to get extra money to put programs in place that would help you improve—maybe an afterschool learning program, a new curriculum, professional development for teachers, smaller classes, or whatever. For the first five years, zero was appropriated for that program. Bush never asked for money, and we never got money through Congress. Two years ago, I guess it now is, Bush

finally asked for some initial money. This school year is the first time there has been any money, and it's fairly limited.

The money thing might have made some difference. The perception, again, from a lot of folks around the country was that this was overly prescriptive, overly punitive, what we called, "test, label, punish." Unrealistic expectations. One hundred percent proficiency, that's not going to happen. Schools that were making progress but not reaching these absolute yearly thresholds were still being penalized. Not enough resources. Also it asked for lots of changes all at the same time. You had to put new tests in place, complicated adequate yearly progress calculations, school choice, supplemental services, highly qualified teacher rules, and there was another set of rules for what are called paraprofessionals.

All of these things were happening at roughly the same time, so I think it became overwhelming for a lot of states, particularly for smaller states. A lot of states' departments of education are relatively small. They couldn't do it. It became a capacity issue—the same thing at a lot of the school-district levels. Most school districts are not big school districts like New York. They're small. They don't have a huge amount of capacity. In the department, there were so many plans and deadlines and reports that it was somewhat collapsing under its own weight—and I think it happened.

It flipped a lot of the politics on its head. At NEA, my people generally hate No Child Left Behind. If anything, now the content is the complete opposite. It's going to have great wariness about the federal role in education at all. Some of my folks would say, "Just get the federal government out of education. It's not worth it," because they only provide 8 percent of the funding nationally. But the Bush Republicans say, "No, we want it!" So a lot of the politics has been turned almost on its head, but not completely.

State and local government groups, particularly state legislators more than Governors, hate No Child Left Behind. School administrators hate No Child Left Behind. Most teachers, I would say, hate No Child Left Behind. It's not just, "We don't like it." It's a visceral, negative reaction to it. That's why I think both of them have said that they've heard the reactions. When George Miller says, "No Child Left Behind is the most negative brand in America," and Kennedy says, "It's a symbol of flawed and failed policy," I think they've heard what educators are telling them.

Heininger: Where does it go from here?

Packer: Last year it was due to be reauthorized. We were saying, "We need to reopen this law. It's not working. There are too many problems." Kennedy and Miller said, "No. We agree with you. Not enough funding. The administration's done a bad job of implementing it, but the law itself is basically fine." They fought us on changing the law, and we were working to get other members of Congress to introduce bills.

I'll tell you a Kennedy story. Chris Dodd put in a bill that we were working on that provided flexibility in testing, and it allowed what's called "growth models" and so on. I remember that I was at a reception, and I saw Kennedy. I said, "We're working with Senator Dodd on this bill, and we hope you can support it." He actually poked me in the chest and became angry, and he said, "I am not going to support that bill," and he walked away. That's the other thing: he can get

angry and red-faced. He and Dodd are pretty close. There's been a lot of tension between the two of them—much more so with their staff. There's a lot of tension, if not animosity, between some of the Dodd staff and the Kennedy staff. Some of it goes back to that meeting I mentioned with Dodd and Jack Reed, and "Ted, we have a chance. We can slow this down." "No, we're moving ahead."

The other reason why I think there was some animosity at the end was that when they were working on No Child Left Behind, in 2001, Kennedy; Miller; Representative [John] Boehner, who was the Republican chairman of the House; and Senator [Judd] Gregg, who at that time was the ranking Republican on the Senate HELP Committee, cut everybody else out. It was very hard to get any information. First off, if you were one of the groups opposing the bill, you were completely blackballed. You could forget about finding anything out. We were not in that camp, because we didn't oppose it. We would get little bits of stuff from them.

Danica Petroshius was Kennedy's lead staff person. I love Danica, but she could get *very* angry if she thought you were trying to undermine what they were doing, so we had a good amount of tension going on there. I remember very distinctly, when I was at another reception, that I saw Jack Reed. At one point I said, "Kennedy's staff said that they're going to have a briefing for the involved groups about what's in the conference report," and Reed said, "That would be great, because maybe I can go find out myself." And he was a conferee.

I think what was happening at that point—this is December; this had gone on for a year—was that they were starting to have more doubts about it. The right wing was very unhappy. It took a lot of effort on Bush's part to keep the right wing from completely going against it. Some of the right-wing groups, such as the Eagle Forum and so on, had already come out against the bill because vouchers had been dropped. The four of them became known as the Big Four. I don't know if others have told you that term, but they're still called the Big Four. They locked themselves away in Kennedy's Senate hideaway office, and it was difficult to find out what was going on.

Heininger: That's a change from how you've seen him operate with groups before?

Packer: Oh, yes. At that point, he was clearly invested in getting this bill done. The four of them were, as was Bush. There was, for differing reasons, a confluence of, "We have to get this done." In a perverse way, 9/11 [September 11, 2001] helped get No Child Left Behind done, because the conference on the bill started in July or August. Over that August recess, there were huge amounts of staff work. It's a massive bill. There were conference committee meetings, lots of issues. The right-wing groups were starting to get more and more worked up and unhappy, and it was getting bogged down in a range of issues.

Then 9/11 happened, and they were saying, "We have to show that Congress is still functioning, that the government is still working. What do we have that's ready to go?" No Child Left Behind passed the House, passed the Senate. It was bipartisan. Bush liked it. Democrats liked it. It was a commitment: "We're getting this done this year." [The terrorist attack on] 9/11 obviously took some time away, because there was obviously disruption. Then there were the anthrax attacks. It then became hard for me to talk to anybody. But afterward, Kennedy was very protective of it. The Dodd incident is one example.

I'll give you another example of a big fight we had with Kennedy. We were working on a proposal that said, essentially, "Unless Title I is funded at its full authorized level, for any year it's not, these sanctions for schools that don't do it would be suspended." It was not eliminating the law, but it said that if you don't give us the money, we're not going to penalize you. On the House floor, a couple of Democrats offered an education appropriations bill as an amendment—[Nancy] Pelosi, in 2004 maybe, somewhere in that range. The Democrats were in the minority, but Pelosi was the leader, and she told Democrats to vote for it. All of the Democrats, other than two or three, voted for it. We got a few Republicans, but the administration opposed it. Republicans opposed it. We lost.

On the Senate side, Dick Durbin, who is, I think, close with Kennedy, offered the Senate amendment. Kennedy actively opposed it. He worked the civil rights groups to oppose it, and it went down in flames. Half the Democrats voted for it, half voted against it, and all the Republicans voted against it. Kennedy was very supportive of the bill for several years afterward. Part of our argument was, if you're arguing that we need more money, but you're also saying, "Even if we don't get the money, you still have to do everything," to us, that undermines the argument that you need the money, because it seems like it doesn't matter whether you get the money; you still have to do it.

Again, part of this was that the civil rights issues made the politics complicated, because Kennedy is very close to the civil rights groups as well. Also, AFT's now, I'd say, 99.9 percent in sync with us, but in the earlier years, they were *much* more supportive of the law than we were. AFT's strategy was to cozy up to the Bush administration, I have to say. They were pretty close. They were not supportive of all of these efforts we were engineering to get amendments and the bills introduced, to get stuff through the appropriations bill.

Heininger: Is there somebody in the civil rights coalition we ought to talk to about this?

Packer: Sure. There's not uniformity in the civil rights coalition, but one of the people who's been most supportive of No Child Left Behind is Bill Taylor. Bill's been working in civil rights stuff for probably about 55 years now. He worked for Thurgood Marshall back on *Brown v. Board of Education*. He's probably the most—and I'm purposely using this term—rabid supporter of No Child Left Behind. Bill heads up a very small organization called the Citizens Commission on Civil Rights. It doesn't have members. It has clout because of who Bill is, because he's, again, somewhat of an icon. I'd say as an aside, I think he's hurt himself. I think he's out of sync with most folks on this. But he certainly has had a lot of influence.

The Education Trust, which is not a civil rights group but is a liberal group that works on behalf of poor kids, they were also gigantic supporters of No Child Left Behind. Kati Haycock is the head of that group, or Amy Wilkins, who works there. Kennedy's close with some of the special-education groups. The ones who work with students with disabilities have been generally supportive. Some of them are not necessarily education groups, but the Easter Seals have a woman named Katy [Katherine Beh] Neas. There's the range of special-education groups. That's been an issue with Kennedy, I think. I also should have mentioned that the National Council of La Raza, one of the big civil rights groups, has probably been the most supportive. A guy named Raul Gonzalez is their lead government-relations person.

Heininger: What about right-wing groups that have been opponents?

Packer: Well, not necessarily right wing. The Cato Institute has been pretty consistently negative about it.

Heininger: Anybody there we should talk to?

Packer: I don't know. I used to know someone there, but they've changed. Heritage has become increasingly negative. A good one to talk to, because he's switched his position at different times, is the Thomas Fordham Foundation. It's headed by [Chester] "Checker" Finn. Checker was in the first Bush administration. Checker and his folks have been pretty negative about No Child Left Behind.

Heininger: Was he fairly supportive of the Clinton reforms?

Packer: Checker's a big supporter of standards. He thinks there should be national standards. He's written that No Child Left Behind has failed largely because there has been too much federal micromanaging of things that he thinks are less important and not enough of what he thinks is important. Checker would say that you should have national standards and force states to have certain minimum standards, but then allow them flexibility in how they go about meeting those standards, as opposed to letting states decide the standards but having incredible minutiae of how they have to go about meeting their own standards.

Heininger: Sounds rather rational to me.

Packer: Yes, but national standards is never going to happen. Kennedy is actually more supportive now, I'd say, of national standards. He put in a bill at the beginning of this Congress, a year and a half ago, somewhat around national standards, which we had some concerns with. We didn't oppose it. It's not going anywhere. The Congress is not doing national standards. It's not going to happen. It's been a fascinating, interesting piece of legislation. NEA has been attacked from, I guess you could say, the far left for not supporting repealing the law, which has not been our position.

Sometimes it's hard to say who's left and who's right on this bill. There are some groups who say, "Repeal the whole thing! It's horrible. It's not fixable," and you say, "No. What does that mean? Repeal all of ESEA?" Because No Child Left Behind is a current version of it. "Roll back the clock to '94?" That's not going to happen. We need to fix the bad and keep what's good and add whatever we think needs to be added. We've been attacked by the right; we've been attacked by the left. It's the same for Kennedy.

Last year George Miller took the lead in reauthorization. He put out a draft bill, 1,060 pages. I think what Miller was trying to do, as politicians often do, was to say, "I'll give everybody a little bit of what they want, and no one will love it, but it'll be the middle ground." It turned out that he was right. Nobody loved it, but nobody supported it. Miller got pilloried from all sides. Bush and Spellings and Boehner criticized it, essentially, as watering down accountability. Spellings said, "I wouldn't buy a watered-down No Child Left Behind." Bush said, "I will veto any bill that weakens accountability."

So I used my Goldilocks analogy. It's like Goldilocks and the Three Bears. Miller puts out his draft, and I think Miller thought it would be right. He had the Bush/Boehner crowd, some of the business groups, some of these civil rights groups saying, "Too weak! This bill is too soft, too weak. You're weak on testing. You're weak on accountability." Then you have others, NEA among them, saying, "This bill is too tough! This bill is too focused on tests. This bill is not flexible enough!" Miller thought he had it right, but nobody liked it.

The other dynamic, not that I'm cynical, is that I always say that both Kennedy and Miller have changed their tune and their tone on how they talk about No Child Left Behind. Some of it is because of what they're hearing, but the other factor, more so in the House than the Senate, is the large number of freshman Democrats. If you look at the Education and Labor Committee, there are 27 Democrats. Ten or 12 of them are freshman Democrats. I'll quote Dale Kildee, who's a senior member. He says, "Freshman Democrats ran on two things: their opposition to the war in Iraq and their opposition to No Child Left Behind." The freshman Democrats absolutely are, as a group, much more critical of No Child Left Behind. Some of that might be because of us, because we helped elect a lot of these people, but they're definitely much more critical.

On the Senate side, there were not as many freshmen, but there were some, and I think that changed the dynamic because none of them have pride of ownership. They weren't here. They didn't vote for it. They've heard much more negative stuff. Some of them ran on, not necessarily their top issue, but on opposition to No Child Left Behind or radical changes to No Child Left Behind. Part of the reason why Miller and Kennedy have changed their positioning on it is, if you look down, where are your votes? Well, hmm, I have to move that way if I possibly want to—

Heininger: A problem, yes.

Packer: What happened was you have, as I said, a group of the most conservative Republicans, who are voting no. It doesn't matter what it is. They now say, "I'm voting against whatever comes out." You have a whole group. Then you have a smaller group of Republicans who are more like some of the Democrats on the left. They don't want to repeal the thing, but they don't go around saying, like Bush, "It's working." They've actually been working with us on a bunch of these bills to make changes. You have a lot of Democrats, not just on the left, who want changes, so I think Miller's realizing, *Okay, there are a bunch of Republicans who are looking right off on that side. I have to move that to the left to get where my votes are.* That was a factor. A lot of these freshman Democrats opposed Miller's draft, and he didn't have the votes. Boehner came out against it; Bush came out against it; Spellings came out against it; and we came out against it. A lot of these freshman Democrats were opposed.

So Kennedy—again, this is a good example of Kennedy being a smart politician—never put out a whole bill. He saw what happened to Miller. Miller got his head kicked in. Kennedy said, "That's not going to happen to me," so Kennedy quietly put out drafts of some of the—I call them the "smaller pieces," because there are about nine titles and 50 programs in it—smaller, less controversial pieces. Miller did a big splash. He put out a bill; he put it on his Web site; and he had hearings. Kennedy very quietly released these less controversial titles. They were not publicly on his Web site. They were sent to individuals—They obviously became public, but it was different: no hearings, no hoopla. He never put out the major pieces publicly.

Partly because—again, I'll claim some credit—in meetings we had, including my president with Kennedy, we said, "Look, we opposed Miller's thing. We don't want to have a fight with you, Senator. We're prepared to do so if necessary, so let's try to avoid that and see if we can come up with something we agree with." We spent a lot of time, particularly early this year, trying to reach agreement, and we were not able to. In fact the last thing—and this is based on all of this being confidential—is, my president directed me to go back to Kennedy's staff and say, "We can't support where you're hitting." That's where it's been left, so it's petering away.

Heininger: Well, all ESEAs take one, two, three, or more years to reauthorize.

Packer: Yes, right.

Heininger: They're at how many years at this stage?

Packer: Well, it should have been reauthorized last year, so—

Heininger: You're only in year two.

Packer: Exactly.

Heininger: So there's time.

Packer: Right. How this all plays out next year depends on who's President, obviously.

Heininger: Yes, and on who gets elected in the districts, since the whole House is up.

Packer: Right.

Heininger: This is fascinating. Any last words on Kennedy?

Packer: To me he's a great fighter for what he believes in, and he's a great champion, has great passionate rhetoric, and he's good at rallying the troops. But he is willing to cut deals, make compromises. He likes getting things done.

Heininger: And change course when need be.

Packer: Yes.

Heininger: Is that where you see this heading for No Child Left Behind?

Packer: Yes. The debate has definitely shifted. Even the administration has put out lots of changes that have tried to take some of the edge off, a lot of which we've been somewhat supportive of. But the debate has shifted. Particularly once Bush is gone, because he's a last mean defender, if [Barack] Obama's President and the Democrats increase their majorities, which I think they will, again, it's not going to get repealed, but I think there will probably be significant, fundamental changes.

[John] McCain, it's a little harder to say, because he hasn't said much about it. It will be interesting, because if McCain is President, a lot of the Republicans, and their caucus, will be

even more conservative than now, because a lot of the moderates are retiring or might lose. There will be even more of a pushback from their side against No Child Left Behind, because they don't have to worry about having to defend Bush because he likes it, and he's still their President. It could become more partisan in some ways because I think they'll revert back. McCain's a big supporter of vouchers and those kinds of things, fighting on funding. Under Obama, it could possibly be more bipartisan, depending on what he does.

The other thing is that this will be another change for Kennedy and Miller. For the last eight years, they've been the leaders among Democrats on education. Whereas if Obama's President, he and the next Secretary of Education will be driving the agenda on education. Kennedy and Miller's job will be to deliver, to a large extent, what the new administration wants. That's partly why last year, Miller, a little more so than Kennedy, was so anxious to try to get a bill done. I think Miller realized that his height of control is now, and it's certainly going to diminish under a Democratic administration, and even somewhat under a new Republican one that might have more capital.

The other thing I'll say about Kennedy is—and this why we had trouble—he absolutely dominates the other Democrats on education, so it becomes very difficult for other Democrats to go up against him. That's why when you look at some of these bills we've been promoting, Chris Dodd's bill is a good example. He's put it in three Congresses in a row now. He has three cosponsors. A lot of the other Democrats have a combination of respect for Kennedy, because he's a longtime leader, and fear, because he is the chairman and he does get angry about things; he clearly dominates the debate. It's very hard to position yourself, in a way, to the left of Kennedy. The Dodd bill is a great example, because Dodd's a senior member. He's pushed hard for this bill, and he has three cosponsors, I think.

Heininger: We'll see what happens in November with No Child Left Behind.

Packer: I hope this was helpful.

[END OF TRANSCRIPT]