EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW WITH BARNETT ALEXANDER "SANDY" KRESS

July 2, 2008
Austin, Texas

Interviewer

Janet Heininger

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TRANSCRIPT

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Heininger: This is an interview with Sandy Kress, on July 2, 2008, in Austin, Texas. Why don't we start at the beginning, and tell me when you first met Kennedy, and what were your first impressions of him?

Kress: I think I first met him in the Oval Office, at a meeting that President [George Walker] Bush called, the first week he was President. He was rolling out his recommendations for No Child Left Behind, a very high priority issue for him. We spent a lot of time on it during the transition, and he was ready. I think it was Tuesday or Wednesday after the inauguration the previous week. He was rolling out the scheme that he thought the legislation ought to follow.

He brought the four ranking members of the committees, the senior Democrats and Republicans from the House and Senate, to the Oval Office, to talk about what it was, and to encourage them to be supportive. Of course, Senator Kennedy was in the room, and I think was a central part of that conversation. I was there as the President's Senior Education Advisor, Margaret [Spellings] was there, several others were there, kind of around the chairs. That's when I first met Senator Kennedy.

Heininger: Now this was after the meeting that the President had with George Miller, without Kennedy.

Kress: Yes. That meeting took place here in Austin, during the transition period. I didn't know much about that. I was busy in D.C. on the transition team, putting some of the substance together. But I've heard a lot of stories about that; who was invited, who wasn't and so forth. I would say that the exchange between the President and Senator Kennedy was the central feature of that meeting, the second or third day of his term.

Heininger: What were your impressions of Kennedy?

Kress: My impressions of both of them were extremely positive, and the encounter itself was something I loved watching. It's one of those moments. I've been in government all my life and seen government from the most local level to the Presidential level, and it was one of the special encounters I've seen.

Heininger: Really?

Kress: I think it was the first time either one of them had seen the other, and I suspect each of them wasn't expecting much of the other, but I think they both surprised each other. The President was extremely passionate, knowledgeable, caring, interested in Senator Kennedy and his reaction and views, which I think was surprising to Senator Kennedy. Senator Kennedy was respectful, interested, giving off the feeling of wanting to be a partner, very committed to the issue, and respectful of the President and the office, all of which I think was somewhat surprising to the President.

You know, I'm giving you my reaction. If you had the two of them here, they might react differently. I don't think so though. It was a very positive, constructive discussion, at the end of which the President showed some leadership that I thought was very impressive. Knowing that vouchers were going to be a point of contention and knowing that Senator Kennedy was going to be going out to see the press as soon as the meeting was over, the President said to Senator Kennedy, "It's really important that we work together on this. We both care about it. We can really advance the ball. We have some differences, but let's not let the differences stand in the way of where we agree." I thought that was a really astute political comment to make to him then, after they had had a good encounter.

Kennedy, I think, was impressed by that overture and made the decision to say, "We won't. We will work together and we won't let those things stand in the way." And you can see the fruit of that discussion in the public comments that he made to the press after that meeting. They found a lot to agree on; they might have some differences, but he felt confident they could work together. It was a very warm meeting, a very touching meeting, one that I remember vividly and will forever.

Heininger: Which was interesting because in fact, Kennedy's nose was a bit out of joint from not having been included in that meeting in Austin.

Kress: Right, right. Well, it was a good recovery I think, and one that was improved even more by the next time I was with Senator Kennedy, which was the next time the President was with Senator Kennedy later that week. We went to an all African-American, low-income school in the district, because the President had word that this was a school that was using the principles of accountability effectively, and that students were doing well despite poverty, despite other obstacles and challenges. So we went on a tour of the school. I think they came to the White House, and [James] Jeffords was there, and [John] Boehner and Miller and Kennedy, and we all went trooping over to this school, in a motorcade.

We went to the school, and I'll never forget this. Again, these are some of the most impressive moments in my memory of President Bush, as well. I'll never forget sitting in the teachers' lounge I think it was, and the President was sitting on a table because there weren't that many chairs, and I remember Kennedy and Miller were sitting together. I don't know where the rest of them were—I was just sort of in the back watching. The principal was there, the superintendent of the D.C. schools was there, and Mrs. [Laura] Bush was there, and the President was sitting with his legs dangling from the table. He was at his best. He was grilling the principal on what she was doing, and he knew this stuff. I mean, he had been such a good Governor in Texas on education issues, and he knew this stuff backwards and forwards. You know, do you do this, do you do that? How do you use the diagnosis? He just was unbelievable, and the principal was

terrific, and they went back and forth, back and forth. And I remember watching Kennedy and Miller, and thinking, *What must they be thinking?* Here was this guy, they probably didn't think highly of him, didn't like Florida, the election results, a conservative Republican. What in the world is going on here?

Kennedy and I had a conversation on the way out of the school, back to the motorcade, in which he said, "Sandy, I don't think we're going to need too many more hearings. I think we might be able to move this bill." Very impressive. That was very important to us, because Kennedy had a lot of influence on Jeffords, Kennedy had a lot of influence on everybody. And one way to slow a bill down or to stall it—with a new President, new proposals—would have been to go through a whole round of hearings and so forth. I thought that was kind of confirmation that he liked what he was hearing, he liked the direction that this was taking, and I think he was saying, "We need to get to work and make some things happen." That meant a lot to all of us. So in that one week, in my judgment, a lot of progress was made from the miscue of not having discussions with him in the beginning.

Now, we'll get into it if you want to. There still were discussions and a game plan that worried Kennedy, and we worried about whether he'd play ball, and we continued to play those out a little bit, for a bit longer. But we were on a much better track after those encounters, I think.

Heininger: Now how did you get to the point where you were his senior advisor on education? What had your education background been?

Kress: Long story, I'll make as short as I can. I was a very active Democrat in Dallas County; chairman of the party. I had been a very active Democrat, been involved with Lloyd Bentsen, been involved with Ralph Yarborough actually—

Heininger: Oh, wow!

Kress: I actually helped prepare—this is a separate point, but when I was an intern as a college student, I prepared his opening statement on universal healthcare, when Senator Kennedy was a fairly young member on the committee.

Heininger: Back in about 1970, '69 or '70.

Kress: It was in '70, right before he left office. He had lost to Bentsen. Anyway, I remember those experiences fondly, of Ralph Yarborough. I later worked in the Carter Administration, and in the formation stages of the Democratic Leadership Council [DLC].

In 1990, while in Dallas, I turned away from partisan politics. I just had this notion that I ought to turn my attention to education issues, and did. I got involved in a reform group in town. We came up with a plan to change the Dallas schools, and one thing led to another. I got involved with the Lieutenant Governor here.

We came up with a plan; we were pushing these reforms, somewhat controversial, had accountability in them. We started pioneering these ideas about accountability broadly, in these reforms in Dallas. The Lieutenant Governor put me on a statewide panel, and we started pushing them statewide. And a very aspiring businessman in Dallas named George W. Bush saw all this

and wanted to know more about it. I wanted his support to draw bipartisan support both to me and the cause. We had a great set of meetings, two hours, two and a half hours.

So we got to know each other. He liked it a lot. Somehow I convinced him to back me up. He called me several months later, to advise him when he was thinking about running against Ann Richards. I told him, "You were so helpful for me and I appreciate your calling me in here to get my advice, but I can't back you." And he said—and this is the thing about Bush I'll never forget—"I didn't call you in here to back me. I just want your ideas." I'd never seen a politician do that, real impressive. We sat for another couple of hours, and he took names, ideas, and he was very serious about it.

They stayed in touch with me and Margaret, whom I knew from before. She was helping him on the campaign, and we just got to know each other. I moved from Dallas to Austin. I helped him from the private side and all through his term as Governor, on education issues. Every single year he had a major initiative in education I was wrapped up in, helping him make it happen. Then they asked me to help craft positions in the 2000 campaign. And one thing led to another. I got involved in the transition, and then Margaret said, "They're asking me to be the domestic policy chief. I want you running the education matters." So that's how it happened.

Heininger: Do you think that your Democratic credentials made it easier for you when you started working in Washington, on things like No Child Left Behind?

Kress: I do, I do, and I think they did. I met with the Democratic Senators frequently, to knock down obstacles, to build trust, to put their stuff in the bill if we could, or at least to try—all the things he does so well. But I think it helped. They knew I was a Democrat.

Heininger: They knew you were a Democrat.

Kress: Some did. I had campaigned in California for Bobby Kennedy. I worked for Yarborough. They knew that I was involved early on in the DLC. People like [Joseph] Lieberman and [Evan] Bayh and Mary Landrieu loved to tweak the President about it—"You know, you've got one of our people on your staff." So I felt it helped me. I knew where they were coming from. I had these aspirations for low-income kids and cared about it, and I think it helped me, and I'd like to think it helped the President a little bit, in making this happen.

Heininger: Let's go back to the first—just so we go through the chronology here—the first [George Herbert Walker] Bush Administration. When he came in, what was his approach to education policy, and how did it link up with *A Nation at Risk*? The first Bush.

Kress: The first Bush. I didn't know the first Bush that well, so I'm not really the best to ask. I think that he certainly—in the Charlottesville [Education] Summit—he certainly had aspirations. I think he wanted to set goals, he wanted to work with the Governors.

Heininger: This was at the point at which the action was really taking place on the state level.

Kress: I think so. I mean, you had *A Nation at Risk*, you had the federal government sort of feeling its way around, you had Bill Bennett. You had things that happened after *A Nation at Risk*, on both the Republican side and the Democratic side.

I don't know whether Jim Hunt plays into these interviews or not, but he and I are really close. I think we were doing some stuff in Texas, much the same stuff that he was doing in North Carolina. It's interesting how ideas are invented, not only in literature, in science, but I think also in politics, policy making.

Heininger: Issues ripen.

Kress: They ripen and they're born, and they're born in different places. It was 1991/'92/'93. That's when the real action started, and it happened in little pockets in Texas, in Massachusetts, in North Carolina, and it was happening at the state level. Now, *A Nation at Risk* had something to do with it, the Charlottesville conference had something to do with it, but it was inventiveness at the state level.

Heininger: Right.

Kress: So that's really how the thing got kicked off.

Heininger: Which in some ways is not surprising, because in fact education traditionally is not a federal issue the way certain other things are.

Kress: Right.

Heininger: It's always been a local issue that then gets—There's a state dimension and then eventually federal. It's a ground up.

Kress: It is a ground up, and the constructive role of the Feds is to be an irritant.

Heininger: Right. (*laughs*)

Kress: For better or worse, we do not have a federal or national system of education. Thus the federal government must stimulate and support. But it must also irritate the status quo.

I love the fact that NCLB irritates people, because that's what Bobby Kennedy wanted ESEA [Elementary and Secondary Education Act] to be. Lyndon Johnson's people tended to focus almost entirely on sending money. But Kennedy wanted more. I enjoyed talking to Senator Ted Kennedy about his brother's role in this.

Heininger: That must have given you a lot of credibility with him, that you campaigned for Bobby.

Kress: I campaigned for him, but I also knew what he said in the debates when the ESEA was invented, because it was Bobby Kennedy who kept saying, "But are the children learning?" It's great. He'd say to the Johnson Health, Education and Welfare people (I guess it was at the time), "God bless you for having these programs. How are we going to know whether they're working?"

So, of course, we shared this with Senator Ted Kennedy as part of our case for testing and he—I didn't have to lobby him—he got it. He understood that. But that was what was happening in

Massachusetts, that was what was happening in Texas and North Carolina, and these states, interestingly enough, were the ones that started doing the best on the NAEP [National Assessment of Educational Progress] and started making the most progress.

The work in the ’80s was more of a waking up to the problem.

Heininger: Well, the traditional function of ESEA had been to throw the money at it.

Kress: Yes.

Heininger: Which made a certain degree of sense, because from the federal standpoint, the role was then not to manage how they spent the money, but to simply make the money available.

Kress: Right.

Heininger: But then that ceased to be enough, as the issue ripened.

Kress: Ceased to be enough, that’s a good way to put it.

Heininger: So talk to me a little bit about the Clinton years and what Clinton and Dick Riley’s approach was.

Kress: Again, I look at their time as the next step. I know and respect what the Clintons did, both in Arkansas—I knew Clinton through the DLC connection, and Texas was his backyard, was his big state. So I knew them in their work in education in Arkansas, and I followed what they did in Washington, and it had its limitations but it was good for its time. Clinton was the bridge between the earlier period of shining the light and the time when we really began to respond to Bobby Kennedy’s call. The Improving America’s Schools Act was the natural step in that direction. It said we have to have standards in all the states. It said we have to have tests. It said we have to have accountability. It was a good but modest step.

Heininger: Could they have gotten through any more?

Kress: I’m not sure they could have gotten through any more at that time.

Heininger: This was a sea change.

Kress: It was a sea change, and it was hard to pass and it was hard to implement. My good friend Mike Cohen, I think, did his dead level best, but these states put up a lot of resistance to change. They didn’t like it then, they don’t like it now, and they’re not going to like it tomorrow. I guess I get bothered about Bill Clinton going out during this most recent Presidential campaign getting applause lines, beating up on NCLB. You could have gotten the same applause lines on Goals 2000, you could have gotten the same applause lines on Improving America’s Schools Act. So I thought it was cheap shot.

Yet, I applaud Clinton. The Improving America’s Schools Act pushed it, and I think for its time, it helped. But I think we got to the view, in the late ’90s in Texas and elsewhere, that what we were doing pointed in a more aggressive direction. The country wasn’t moving fast or far

enough. That's really what Bush wanted to say in the campaign. I enjoyed Bush, who happened to be a Republican, pressing [Albert] Gore on this: you're not moving fast enough, you're not moving hard enough, you don't have real accountability. And that's what the 2000 campaign was about, a wonderful campaign. If you were to go back and read their speeches, you'd see that it was probably the best debate on education ever, in Presidential campaign history.

But that's really where I think it kicked it up, in the 2000 campaign, and that's really what that budding relationship with Senator Kennedy was about. How can we step this thing up? And he enjoyed that, he looked forward to that. He seemed ready to move to the next level, both in terms of funding and in terms of the standards and the accountability, and how we made it stick better. Not just throw the money out, not just set the goals and set the standards, but to really push the states and the districts harder than we had before.

Heininger: So why were the states having problems with this?

Kress: I liken it to having crooked teeth in the mouth, so you go to the orthodontist. Everybody wants to have better education, but nobody wants the pain and nobody wants the change, and I think that's really what it is. There's a profound resistance to change. It manifested itself in very negative reactions. But, happily, the tension also led to constructive change. It's all too slow, but good things are happening. I only hope that the momentum continues. The task is daunting, and the pace is too slow.

Heininger: Well, by the time 2000 comes around, the states at that point had begun to ramp up their bureaucracies so that they could handle these new requirements. But there was clearly dissatisfaction that things weren't moving fast enough. But why do you get Kennedy, a progressive liberal Democrat, willing to work with Bush? What was Kennedy's view on how far the Clinton reforms have gone?

Kress: That's an easier question to answer with respect to Miller, which may have been why Miller was invited.

Heininger: We'll start with Miller.

Kress: Let's start with Miller, because Miller was openly critical of Clinton, openly critical of Clinton on just these issues, and open to Bush. He said, "We need more of the reforms such as the ones in Texas." He said this publicly. And he'd criticized the Clinton people for all the waivers. You know, he was obviously close to Ed Trust [Education Trust], and so there was kind of a natural affinity there with him.

But Kennedy's position in 2000 was less clear. There were discussions in the Senate between Trent Lott and some Republicans, and the new Democrats, to evade the HELP [Health, Education, Labor and Pensions] Committee altogether and try to move a bill, some reform bills, when the ESEA was up for reauthorization before 2000.

Heininger: They'd had a couple of years where they hadn't been able to get it through.

Kress: They couldn't get it through, and they were talking, and they had a partnership. But there was also a sense that getting a bill around the chairman and the ranking member was unrealistic.

Heininger: Yes.

Kress: We didn't know where Senator Kennedy was at this time. Was he sticking with a conventional view that it's mostly more money and problems? Where was he vis-à-vis the teachers' unions and other groups within the party? The Democratic Party was and still is—and maybe even more so—split on these issues. Where was Senator Kennedy going to be? That was the sixty-four thousand dollar question.

Heininger: Probably split even more so, I'd say.

Kress: I think it's going to be more split here in the future.

Heininger: And it's even more split than it was in 2000.

Kress: I think so, because the unions got pricked and are now asserting themselves. It's interesting, the new leadership opportunities for the AFT [American Federation of Teachers] and the NEA [National Education Association]. But there are also "civil rights Democrats" and new leaders who are very pro-reform. I don't know where it's headed. That's a huge open issue. But back then, it was unclear how Kennedy would handle it all. Plus there was the matter of the Austin meeting and all the discussions outside the committee.

Now part of the problem was Jeffords. He was very slow to move. We weren't sure he'd move a bill, and if Kennedy wasn't interested in moving a bill, we were worried, very worried, about making progress in the Senate, in those first few months of 2001. So I think at the end of the day, history will have to say it really was Kennedy's decision. I think Kennedy decided that the time was right to move on this. I think he just made the decision: *I see all this, it doesn't bother me, but nor is it going to be the way it's going to happen*, and he just flat out made the decision one day, *let's get going, let's get to work*. All the action then came to him.

This was maybe a month after the President was in, after those nice encounters, and we were getting a little nervous. Maybe he saw that we were getting a little nervous, because Jeffords wasn't in any particular hurry. His staff was saying, "This could take a year, a year and a half." The President wanted it done in six months. We were meeting away and crafting up with the Republicans. Kennedy knew all that and he just said, "Let's get started."

Heininger: So, did he have you start working with Danica [Petroshius]?

Kress: Oh, Danica, Michael Myers. Townsend [Lange McNitt] was in the room. She had been Judd Gregg's person for the longest time, and the White House hired her to be the liaison to the Senate. We laugh to this day about how she was assigned to keep control of me basically, because I'm sure there were people in the White House—they probably thought Ted Kennedy and I were going to do some big deal, and who knows what it would be. Anyway, she was my keeper, and so she and I would come up and we would meet.

I've been able to work with Bentsen, and I had some experience with Russell Long. I've seen some really fine legislating, but this was the best I'd ever seen in the Senate. Kennedy had the best staff, but he didn't rely just on them. He was in it. It was the best combination I've ever seen of an incredibly able staff—motivated, working on its own, adding value, but not just under his

guidance, with his active involvement. It was really something. There were frequent meetings with him, and we'd go through a list. He'd have a list and I'd have a list, and, "Have we made progress on this?" and "We need some more on that." We would have meetings with him frequently.

There was work with Danica and there was work with Michael Myers and the young Roberto Rodriguez and the other staffers. We would do things separately with them, but there were numerous meetings with him as well. Of course, some of the stuff we saw, some we didn't see. Danica and the staff had all the various machinations, all the work that they were doing with the other Senators and their staffs and the committee staffs, and then ultimately, relations with the House staff and members too. So it was a very intricate process, but the part that I'll never forget is how involved he was personally, not just in the decisions but in the discussions about the policy.

Heininger: And where was Jeffords during all this?

Kress: Kennedy had a lot of influence with Jeffords, and Jeffords was having problems with the Republican leadership, obviously. But we felt at the time, and I think we were right, that Kennedy could help us with Jeffords more than we could help ourselves with Jeffords, and that's kind of where it was, until Jeffords switched.

Heininger: Did you have any sense that that was in the works?

Kress: No. We knew that Jeffords was unhappy with things. He did not really get the substance of what we wanted to do. We got much closer to a meeting of the minds with Kennedy than we did with Jeffords.

Heininger: This just wasn't his bag.

Kress: Well, he wanted more money for IDEA; everybody did. I mean, he wanted to just blow it out, double the money. Jeffords had two or three things he was for, and it was very narrow. As I say, I think we had more confidence that Kennedy could move the process, as the ranking member, than we could with Jeffords.

I think we were cubby-holed enough to where we didn't fully appreciate the other problems that Jeffords and the Republican majority and the White House were having. I don't remember being as clued into that, but I think some of the bitterness was probably a surprise to everybody, some of it was not. But candidly—and we told David Broder this when he did some reporting on it after the fact; we told him that, for us in the education arena, life became easier when Kennedy became Chairman.

Heininger: Well, frankly, it's very awkward when in fact you have to get the bulk of your work done through the ranking minority and not the chair.

Kress: Right. And you had to worry, you were relying on the good relationship between the ranking member and the chair.

Heininger: To carry it.

Kress: To carry it, when we weren't altogether sure where Kennedy was. And we kept trying to put pressure on Jeffords, from Lott, and that wasn't—

Heininger: That wasn't the way to go.

Kress: Well, we didn't have any choice—I mean what could we do?

Heininger: There's no other way you could go.

Kress: So we were thinking—that's interesting. I never even really thought about that. And this is really true, I just had forgotten this. Part of the method to the madness of our working with Lott and Lieberman and Bayh and all those was as much about Jeffords as it was about Kennedy, and I think the history ought to be clear on that. We weren't sure where Kennedy wanted to go, but we were certainly not sure where Jeffords wanted to go. We were worried about the committee, and we didn't know what we were going to do. It was very fruitful to us, that we began the direct work with Kennedy, and that Kennedy grew into greater power. He had a lot already, but it grew with his assuming the chairmanship. Those were very important developments in terms of this law getting passed.

Heininger: Now substantively, in terms of feeling that the Clinton reforms and Improving America's Schools hadn't gone far enough, what was it that Bush came in wanting eventually, what No Child Left Behind did? What did accountability mean for Bush?

Kress: He liked the emphasis on standards, and wanted to continue that. He wanted annual tests in reading and math, and this was very important to him. He did not understand how teachers, how parents, how schools, could be held accountable or could even do a good job, if they didn't know where a student was from year to year. It just baffled him, and I think that was huge to him. If you look at the speeches that he gave, even I think in some of his State of the Union speeches, he actually talked about testing. It bothered him that many states had a test in the fourth grade and a test in the eighth grade. If there's a slip from the fourth grade to the eighth grade, where did it happen? Who would have known about it? Would anything have been done? He just thought that was awful, so annual testing was a big thing to him.

Heininger: Was he taking it, therefore, on an individual child basis?

Kress: Yes.

Heininger: Rather than a school basis, because the focus of fourth and eighth grade was a snapshot sampling for the school.

Kress: Right. He thought that was operationally foolish. First, he didn't think testing in one grade was a very good measure of the whole school. But second, he really did see it as a child specific thing, he really did. He grew to have a very keen appreciation of each child; each child's in a different place, we should know where each child is and be able to expect to move each and every one of them ahead. And it grew from that. You could have a kid in the sixth grade who was working at the eighth grade level or you could have a kid in the sixth grade who was working at a fourth grade level, but we needed to know where the child was, and we needed to

be able to push him or her ahead. The system needed to know, the parents needed to know, and the teachers needed to know exactly.

That's what he was talking to that principal about, at that school in D.C., because they did that. And he was saying, "How do you know?" and "What do you do?" That was what that discussion was about, and that's what Kennedy, I think, was impressed with, that Bush was coming in with the idea that we need to know where each and every child is, and we need to respond to that knowledge with the best, research-based strategy. Bush wanted there to be a response. It stunned him that we didn't know, that the Department of Education couldn't tell him, we couldn't tell him, from the Department of Education data, which schools were making progress and which ones weren't. He thought that was incredible, that the records weren't there, that there was no data. So if we didn't even know which ones they were, he thought that this lack of data, transparency, and real accountability was a serious problem.

Heininger: Well, the data wasn't disaggregated either.

Kress: Yes, the next issue was disaggregated data. He thought that if you aggregated the data and you had AYP [Adequate Yearly Progress], if you had AYP and the school was OK, but the poor performance for the Hispanic kids, for example, was being hidden—that was an issue that really bothered him. We pressed that hard in the campaign against Gore, and Bush raised it. And I thought Senator Kennedy responded very well. He thought that was interesting.

Then of course Bush wanted to have clear consequences. He thought the federal law ought to be much more specific about what happened when a school was doing poorly, and he wanted there to be parental choice. He didn't want the Feds waiving everything—I mean, under pressure. He wanted there to be very few situations in which the department would waive these new, more rigorous expectations. Further, he wanted there to be less paperwork, and he wanted there to be fewer programs. He was for more money, but he wanted fewer programs. He thought that these categorical programs from Washington were a waste of time, a waste of money. It was just paperwork, a little bit of money, and people would grab the money, get off track, off task, and go for the money. So he didn't like all the programs and he wanted to winnow them down. Those were pretty much the specific reforms he was pushing for.

Heininger: OK. But if he comes in with an attitude that Kennedy responded to, of focusing on annual tests—because then you know where each individual child is—when you get to the accountability, the accountability is on a school basis, it's not on a child basis. So how does he jump from the one to the other, and how did Kennedy react to jumping from one to the other?

Kress: We had child-based accountability in Texas, in that he had pushed this while he was Governor. You had to pass the exit exam to get a diploma, and he pushed a social promotion initiative here. He was one of the first to do it. Clinton talked about it, but Texas was one of the first states. Chicago did it, a few districts did. Texas developed, with the help of the AFT actually, an effort to stem social promotion; that is, at certain grades you had to be proficient to go on. Now, he had to compromise; there are safety valves. So there was significant student responsibility. We didn't think we could pass it or should, federally. We thought that was really a local matter, a state matter, to say you can't get a diploma, for example, if you don't meet

graduation standards. I don't think we were ready for federal requirements of that sort. I don't think he was ready for it.

Heininger: OK.

Kress: I don't think he thought the federal government should necessarily do that, but we saw No Child Left Behind as an outgrowth of all the state experiments that had worked. So we looked at Texas and Massachusetts, and we looked at the common elements of accountability, and these states were labeling schools as low performing or acceptable or exemplary. There were consequences for that performance in these states. Now that was the aggregation of student results, but all students, not just those tested in the fourth and eighth grade, and on a disaggregated basis. So we thought that the foundation was there in the states, and in the Improving America's Schools Act. In other words, we saw No Child Left Behind as an outgrowth of both current state practice, and an extension—a greater rigor, but an extension—of federal law. So that's where we thought we could go. Measuring schools, holding them accountable, and helping them on the basis of how each and every child was doing.

Heininger: What was Kennedy's reaction?

Kress: My sense is that Kennedy saw that positively, and I think he's a master craftsman. He saw where we were headed and I think he generally liked it, and there were things he wanted. I think he wanted to do a deal, and he had things he wanted.

Heininger: So there was kind of a consensus that the farthest you could go on accountability was school based?

Kress: I think so, I think so.

Heininger: And what about discussions about consequences? Because here's where you get into punitive versus assistive approaches.

Kress: Yes. We had an agreement that it ought to be both, and we pushed both together. We had a carrot provision for example, in our proposals, that the states that made the greatest gains on the NAEP would get rewards. I think in our policy, those rewards would be spread out by the state to those who had contributed to it.

Heininger: So the money would go to the state to then be—

Kress: Right. That was the Bush policy that we proposed. That didn't make it. It was one of the elements. It was interesting. Bush was trying to bring along Republicans who earlier wanted to get rid of the Department of Education.

Heininger: Yes, and not too many years earlier.

Kress: Not too many years earlier. We wanted to expand the use of NAEP. We wanted NAEP to be every two years, in both reading and math. We wanted to move it into science further, and so we were expanding NAEP, which smelled a lot like expanding national standards. The more

influence the NAEP had, there were standards underlying that NAEP, and the right wing got—the conservative side of the Republican—

Heininger: And God forbid you should try history.

Kress: We were very slow to social studies. [*laughter*] We had some pressure from some members on the House side to push science. Kennedy was interested in that too, and so we started testing more in science, but we didn't put science in the AYP. There were the states, the districts—they still didn't appreciate, until we passed the law, what we did, completely. But they were watching all that and the conservatives were watching all that, and I think that carrots would have been good, but it was almost like that's just too much. You're putting too much weight on these national results. We didn't want to do it on state results; you couldn't compare them. So we kept trying to push. It's interesting now that you've got all these groups saying, "Why don't we have national standards?" We couldn't even get carrots to be distributed in the states and districts based on the NAEP.

Heininger: But then you can argue that in fact, given that national standards were taken off the table very early on, because there was just no way, and now you've got an evolution to people saying, "Well, why aren't there national standards?"

Kress: This is good.

Heininger: Maybe this is part of the process of the issue ripening.

Kress: I feel that way, absolutely. I think there's an arc. I mean, I see this and I think Senator Kennedy sees this. I think there's an arc from ESEA in '65 to now, and it's a good arc. It's slow, it's painfully slow, but all this is good. People today think NCLB is too rough and tough, but I'm going to enjoy the fact that somebody's going to talk with somebody like you in ten years and say, "That No Child Left Behind was just so weak." [*laughter*] But we tried to have more carrots. We wanted to believe that the states and districts would better utilize all available resources to help schools. That's another thing where it was just rudimentary, and it still is rudimentary. What do you do when there's poor performance? What does scientific research say? What's proven practice? How can we fix problems?

Back then we all had the thought that if you did the measurement and you had the rating, people would rise to the occasion. They would look to the local college or they would look to a proven practice, and they would adopt it because they had a problem, the problem was X, they'd look for a solution. Again, it's the modesty of the federal role. I mean, what are the Feds going to do, prescribe things? You know—when you get this kind of thing, you do this? No.

Now what we did do collectively on the assistive side—and Kennedy was involved in this, as was [Michael] Castle on the House side particularly—is reforming the old OERI [Office of Educational Research and Improvement], which became the Institute of Education Sciences. That bill passed right after No Child Left Behind, and I think that was a real step up in trying to get better research, better proven practice, reform of the labs and the centers. That was a design to try to provide better help to schools—not just be punitive, but provide better help. I think that was serious, and I think there's tremendous work being done, much better work being done from

IES [Institute of Education Sciences] and from the labs than we had before. And Kennedy was involved in passing that bill.

Someone argued that that's not fast enough either, and then people don't want to point to that. They'd rather say it's punitive. But I think that that's help. It's the use of federal resources to help, and I think it's slowly helping schools with solutions: how do we get kids from arithmetic to algebra? How do we educate English language learners? How do we deal with students with disabilities? I think there's some awfully good research that's coming out that will, over time, be helpful.

So I guess the question still comes down to: How do we speed that up? How do we have more carrots in this, not just sticks, but how do we convince people that measuring and calling something for what it is, is per se, not punitive? That's a fundamental problem that I think we've got, because the law really isn't that punitive. The punitive part of it is it gives a label to a school.

Heininger: Well, it's public shame.

Kress: It's public shame, in part. But, much more, it's honesty and transparency about real problems that exist and must be fixed, and data to be used in the fixing process.

Heininger: People view it as punitive.

Kress: If people feel shame about African-American kids doing poorly and having no prospect, that's a good thing. That's what we believed and still believe, and we'll fight to the death for.

Heininger: Did Kennedy?

Kress: More and more, more and more. I think this is a place where his own thinking began to evolve. I felt that way. I don't think he would say it the way I just said it, but he became more and more supportive of a policy that called it for what it was and expected something to be done.

Heininger: OK, but then there is the next step. If it makes sense to bring attention to the plight—through in essence what can be defined as public shame—then it's only useful if in fact the resources are there to rectify the problem.

Kress: That was a very strong view of his, absolutely, and that would be the way he would finish out the sentence.

Heininger: Right. He'd finish it that way. Would Bush have finished it that way?

Kress: Well, this is a place where I find the failure to continue the dialogue so deeply troubling, because I wish I was still talking with Kennedy about these things. I wish Bush was still talking to Kennedy about these things, because that's where the conversation should have gone. It would have been terrific had these two very caring people, knowledgeable about this—I wish this dialogue had continued. I think one of the saddest parts of the story is that it really didn't. I mean it did to some extent, in the form of continuing conversations with Margaret, but the President went off into the war on terror, Iraq, other issues.

Heininger: But it's a part of the story, it's part of the relationship.

Kress: It is. You know, it's just pure speculation on my part. I'll just say this. I'm sad the President didn't continue to give this more focus, knowing that it was going to have to be less than he gave in 2001. But I wish he had given more creative thought and energy to this. And I wish that Kennedy had continued to, more than he did. I wish they had found a way to keep this going, because I think that was the next question. How do we make this happen? We passed this law, how do we implement it? What are our next steps? Kennedy clearly felt that more money was important. I suspect Bush would have been concerned about resistance to the reforms which did, after all, come with a lot of additional money.

I think Kennedy thought that there would be more money. Now the fiscal situation was very different in the spring and summer of 2001 than it was after 9/11 and in 2002. The Democrats are in charge now, for example, and they're not spending more. It's odd the Democrats continue to beat Bush up on this, yet their own budget resolutions and appropriations bills don't fund at authorized levels.

But Kennedy wanted more money, and I would have loved to have had the dialogue go on to an encounter where Bush would have said, "Now, how should that money be spent? How would you spend it? Would you just add it to the total? I don't want to just add it to the total." I mean, let's play that out a little. I think Bush would have said, "I don't want to add it to the total, because I think they're not spending it effectively. Now, how can we spend it more effectively?"

Kennedy would have said, "Well, I'll talk to you about that." You know the way he is. "How much can we really spend? You know, we've got a war going on. We don't agree about this, but I feel I need to do this," Kennedy would say. "I don't agree with the war, I want the money on education and other things." What if Bush had said to Kennedy, "I don't like the fact that the NEA is crapping on our deal. They're trying to stop our deal from being implemented. They're going to court. They're going to state legislators. They're creating a stink. Now I want you and other Democrats to put an end to that, because that's part of implementation."

It's hard to support more money when the administrators and the school boards don't want to do it. Why would I put more money or more gas into an engine that won't work? I don't know what Kennedy would have said to that. What if Bush had said, "I want you and your fellow Democrats to go get more support, and then let's talk about more money." These conversations didn't take place, and I think it's a great loss. We could have been that much further down the path. I wish the partnership would have continued more constructively.

As to the negotiation in 2001, I think we started at $400 million, and I think the Democrats started at $17 billion. (*laughs*) I felt like I was at a little shop across the border in Mexico.

Heininger: Where you hear there's no money.

Kress: No, it was a big negotiation.

Heininger: That's what it always is.

Kress: What I'm talking about is the bartering thing. So we ended up getting to $4 billion dollars. It was the biggest increase in history, and I'll never forget Kennedy. We didn't know we were there. He called me one day. We talked a lot on the phone, and he called me and said, "Well, I think we got a deal."

Heininger: But there's a whole package there, and it seems to me that from Kennedy's perspective, only part of it was implemented. If you're going to say we need to have accountability on an individual basis for kids and we're going to do it this way, and this is the mechanism we're going to put in place, and the mechanism involves bringing awareness to what schools are performing well and what schools are not performing well—And then you get to the question of, "How do you make those non-performing schools perform better?" Uh oh. We stopped at that point and we haven't dealt with that point. I think Kennedy would look at this and say, "There's more yet that still has to be done, but the money has to be there."

Kress: Yes, he would.

Heininger: And then you'd also get: "OK, if it brings public shame to poorly performing, low-income black kids in urban centers." Bush didn't like programs, but maybe the program is tailored to meet those needs. And Kennedy would say, "We need programs."

Kress: Yes, they would. And I think had the conversation gone on, Kennedy would have said, "We need more resources. We need more effort. We need more help. We need more technical assistance. We need more professional development." I know what Kennedy would say, and he's right. Bush would say, "Yes, but let me show you the increases in spending we're getting now, the local, state and federal." Because we had this debate during—in fact, that was the chart that the President was going to point to in that library, in that school in Florida on 9/11. I had worked on that chart.

Heininger: Oh, really?

Kress: I was with him. He had a chart, because we were debating the money. We didn't have a deal yet. It was an old fashioned chart, which he was going to use in that school, that showed the increases in spending over time in education, in America, on an inflation-adjusted and student population-adjusted basis, that had gone on from the '70s to 2000. It was huge, huge increases, and yet the NAEP scores were flat. And the point the President was going to make was, "I'm for spending more money, but this is not just about spending money. We've got to get the practices right, the policies"—not just the shame, by the way. The President wasn't just saying we should shame people and have accountability and ratings. "I want the money spent effectively. I want it to be used for programs that work."

There are so many areas in English language learning, for example, or math teaching, or Title I, the biggest pot, the use of Title I money. When I was on the school board in Dallas, we gave money, Title I money, to schools that had 75 percent poverty or more. We didn't give it at all to schools with less than 75 percent poverty, because we really wanted to load it up, and we had some discretion back then under Title I. We found that schools that were on the poor side of 75 percent, just barely on the poor side, were getting far worse results than schools that were actually barely ineligible and didn't get any Title funding. And we asked the question, "How can

that be? They're getting all this money!" Do you know what the schools were doing with their sizeable extra money?

Heininger: What?

Kress: They were hiring politically chosen teacher assistants.

Heininger: Yes, that's a problem right there.

Kress: Paraprofessionals. And instead of the kids all having a qualified and effective teacher, they would have smaller ratios with teacher assistants. In the not quite poor enough school, they would have a fully capable teacher. This is a reform, by the way, we deal with a little bit in No Child Left Behind. But the use of Title I money—I mean Bush would just say, "Do you want to just add more money?" If that conversation had gone on, he would say, "If all you want to do, Ted, is add more money to Title I, I'm not for it. Now can we talk?"

I find the demise of Reading First to be a horrible thing. For [David] Obey now to demand, because one vendor didn't get money, to kill Reading First. Reading First is exactly the kind of program that should be endorsed. We should have a better program in middle school math. We should have a better program in English language learning. That is to say, research based, where it's a cooperative effort between the states and the Feds, and you have peer review plans, that was the model.

I think if they had continued to talk, and they had sat down the way we did in these negotiations, and said "OK, I need more money." "OK. What are the problems?" That was the way we used to talk. "What problems do we want to solve? How do we best solve them? What's the best program to do it?" Those conversations really didn't continue, in my judgment, and they should have, and as a result, Kennedy began to feel distant, and then they were having arguments on other issues. Again, though the relationship between Margaret and Kennedy was, I think, a warm one, I just don't think there was this—you know, day to day, "Let's work on it, where do we go from here, what's the next step?" "I need more resources. I need to see us build more capacity. What can you support?" I don't think that went on.

Heininger: Maybe they need you back in Washington.

Kress: I love his—Michael [Myers] would call me sometimes and say that Kennedy had suggested a role for me to the President, and I would laugh back to Michael—I don't think I ever said this to Kennedy himself—but I said, "I think that was the kiss of death." They were partisan Republicans, what can I tell you, and they had their own crew.

Heininger: Tell us about the discussions over money. Aside from just the numbers, were there differences in approaches to how to target the money and how to funnel the money? Because what that ultimately comes down to is, when you're going to increase money for a program like this that's going to be nationwide, statewide, how do you funnel it into the states?

Kress: Right, right. Several different components of it. The President liked the Reading First model, and Senator Kennedy had been involved in the Reading Excellence Act, I think was the previous program. But he listened to Reid Lyon and he listened to these people. That's one of the

things that I loved about Kennedy in that process, that he was never fixed on anything. He was always learning, always listening, and he listened to that research, he was impressed by it, and as a result, he wasn't wedded to the old. He wanted to consider the new, and I think he was convinced that that research was solid, the National Reading Panel, and so he agreed. And so part of the money—new money, additional money—would go into funding that reading program. He heard the President say over and over again, and other Republicans say, "We have too many programs." Kennedy kind of agreed, although a lot of Democrats created a lot of programs and a lot of Republicans create a lot of programs. He would constantly say, "Well, give me the list, show me the list. I'll go talk to [Thad] Cochran or I'll go talk to—"

He'd always mention a Republican who would love to have programs. [Robert] Byrd and everybody had their own programs. He would try and work at it because the idea we had was OK, let's support more money, but let's try to put it into fewer pots so that people know they're getting it, and they're using it to meet the big goals. If the federal government was actually going to be assistive sprinkling money around in dozens, if not hundreds, of programs was not a very effective way to help. It should be focused.

Heininger: On the central issues.

Kress: On the central issues. And so he got that, and he worked with us a little bit on that. And then we really decided at the time that we ought to put a big, substantial sum of the new money into more Title I money. The idea there was, you're going to be district—district in schools—you're going to be responsible for getting gains here. We're going to trust you by giving you more money—significant increases in money—and to have some freedom in how you spend it. So that's where we came to an agreement on the way the money would be distributed.

One of the things I liked about the Reading First money was that it gave more money to the state agency. The House didn't like that. Kennedy sort of saw that, and then I convinced them and Miller that having the state agency as a partner had been critical to the recent reading initiative in Texas. We developed a model program for training kindergarten and first grade teachers in how to teach reading. They agreed that maybe the state could play an effective role.

That was a big flaw, in my judgment, in No Child Left Behind, that we didn't give enough capacity to the states. We spent a lot of the new money, but most of it went straight to the districts. I wish, in retrospect—we had an authorized amount to go to the states, for technical assistance, particularly to help low performing schools. We put that in the bill. It never got off, it never got appropriated. It didn't get appropriated for six years. It finally just got appropriated a year or two ago.

Heininger: But you see, there's a disconnect here, because they were state standards.

Kress: Yes.

Heininger: And accountability on the state level, and yet the Title I money flows directly to the districts.

Kress: But the consequences were district-applied. If you look at [Section] 1116, the district has to fix the school. It does say the district is going to have to provide this corrective action. Section

1116 is district oriented, but accountability—fundamentally, you're right. The state has the accountability, the state submits the plan, the state has to buy in. I mean that's really the organizing principle here, and there ought to have been more money for constructive state action.

Heininger: In part, because then as an incentive for the districts, to see that there is another pot of money they can draw on if they do things that are innovative.

Kress: Right.

Heininger: That state is looked at on a statewide—

Kress: Now they could have used the increase—you know, there was a big increase in Title I money. They could have used it for that. And I think the thought was, let them have the freedom.

But, while giving more money to districts was important, building a stronger federal/state partnership was key, too. The reason I'm harping on this is that I think Reading First was the right model for a federal/state partnership. That's what I'm trying to say. I think that was one of the ways we got an agreement among the parties to spend more. I think they should have had a similar program for college readiness standards, for middle school math. But you had the America Competes Act, and no money for it. We even got Bush to support a Math Now program, but no one's driving it. That would have been a place for more money, more capacity. A lot of schools are not making AYP because of math. A lot of middle schools aren't making AYP because of math, and many of our teachers don't understand the math. They don't know how effectively to teach it, particularly the teachers in disadvantaged schools. This is a place where, had there continued to be a dialogue, I think they could have talked about more money, with the states playing a leadership role in driving improved practice to their districts and schools.

Now the other issue on money distribution that was interesting was trying to target the Title I money better, so that it went to the poorest schools. And that's a place where it was interesting to watch Kennedy deal with that, because Boehner took the position that, "I don't want any money," and he got a lot of other Republicans to take the position: "This is not just cash we're distributing. Let's just send the money where it's needed." So the administration got caught up in that and when you have a federal program, it's supposed to be distributed pretty widely. Everybody gets a piece, and they all compare the runs and are we getting more or less. The New Democrats were pressing hard to do more targeting, and we made a partnership with them. It was interesting to watch Kennedy watch all this, because I'm not sure Massachusetts would get more money.

Heininger: Probably not.

Kress: Probably not.

Heininger: They're doing very well.

Kress: So he was under pressure from the home folks, and several colleagues would get less money, and they were really under the gun. It was interesting to watch the dynamics of all that. And Kennedy did his usual masterful job of facilitating more targeting while holding support for

the bill. So those were some of the issues on the funding side, in addition to the overall amount, and it was a good negotiation. It was a good negotiation about the amount, it was a good negotiation about where the money would go, and I think the theory of action in the money decisions was solid and set a pretty good framework for further discussions.

Heininger: Well, let's talk parental choice, because this was another issue on which they were not on the same side. Where was Kennedy?

Kress: The best way to describe this is—I used to go into him, and I'd try any way I could. I remember laughing with him. I said "Come on, we can fry it, we can broil it, we can bake it—help me." And he used to laugh and he'd say, "I can't help you on this one." He was very careful about it but very straightforward, "We just can't do it." And we'd laugh about it. I mean I tried, and people on the right accused me of selling out on that pretty quickly and Bush selling out on that pretty quickly, but that's not true. The bottom line is there never were the votes. They didn't have the Republican votes, and Kennedy wasn't going to help. I mean, this is just something he didn't believe in, and he was straightforward about it and decent about it.

And that's another point I want to make about Kennedy. He was a superb person to negotiate with, because he worked very hard to get to a deal, but he *never* led you astray; *never* led you astray, and he didn't on this. I mean he was friendly, non-combative, not argumentative. We had a list. We had the things we could work on and we had the things we couldn't work on. Now, even better than that was what he did—and this is something he was also really good at—he saw that [John] Breaux and some of the New Democrats, and some of the Republicans like [William] Frist, were putting a lot of energy into supplemental services, and light bulbs are clicking in his head—

Heininger: Yes, right. [*laughter*]

Kress: And he starts thinking, *Hmmm….* And we did too. I'll never forget, you know Breaux is so plain spoken. He just described it very clearly and I remember coming back to Kennedy—because there was that group of Democrats and Republicans who would meet—and Breaux brought it up in one of those meetings as an alternative to vouchers. That if the school was poorly performing—and no, we can't send them to a private school, but what if we made public funds available for tutoring, either public or private, as the tutor, and let the parents have some say in the tutoring? I could just see Kennedy's mind working on this, and he made it pretty clear we could do a deal on that. So that was kind of an outlet that helped everybody get to yes."

Heininger: But it's a logical extension in some ways for him, because supplemental services are assistive, not punitive.

Kress: Right.

Heininger: They're a way of rectifying the problem.

Kress: Right.

Heininger: From his standpoint, aren't vouchers the kind of thing that say, "Well, OK, this may be what's best for that individual student, but that doesn't do anything for rectifying the school"?

Kress: Well, and Bush would come back—

Heininger: What we want is to rectify the child.

Kress: Bush would come back and say, "Look, in my world, I'm taking a very modest step here. I'm saying"—and this was the argument we made back to Kennedy—"we're not asking for money to go out in vouchers generally. We're not asking for kids to have choice generally. We're saying that the district has failed to make the school work, with these additional resources we're talking about spending, for X number of years." We're giving them four years or five years, just to get the school above barely acceptable. When do we get to a place—I'm not talking about on day one, I'm not talking about for everybody. I'm not talking about on day two, I'm not talking about in year two, but after four years, if the system can't get itself together to provide an adequate education to low-income kids, when do we say to Mom and Dad they get another choice? I thought he made a pretty good argument, and I kept making it on his behalf.

Heininger: What was Kennedy's response to that?

Kress: Well, Kennedy was sympathetic. Kennedy understands Catholic schools and is a supporter of Catholic schools, I mean privately. I think we made a case and he listened, and I think it's probably what got him to play the active role he did, he and Danica, on at least getting a deal on supplemental services.

I want to tell a good story on Kennedy in this area. He's the consummate dealmaker. He recognizes the doable, and I think he was at the forefront of trying to move these reforms as best he could, given the limitations on both sides. And one of the limitations was that the Democrats could not say yes to that.

But what he did do—he would and his staff would actually help the other side craft what they wanted to do. Danica did more work on supplemental services than anybody else; partly I think—I mean, there's always a method to Kennedy's madness—partly because he wanted to make sure it was done right. He wanted to make sure it met his interests, and no better way to do it than to have your smart staff person do it. But it was actually helpful to the other legislator, because Kennedy's staff was so good. And of course it never hurt us to say that Kennedy's staff put it together, if some liberal group was complaining, and Kennedy was willing to take the responsibility for that.

But I just find it amazing that you not only have a person who can agree to a deal that has stuff in it that he doesn't want, he didn't ask for, but he's willing to use his staff time to do it, to write it, to craft it.

Heininger: As long as it's written the right way.

Kress: I think that was a side benefit of helping out like that. I think Bush knew we weren't going to get it—vouchers. We couldn't win a vote in the House Committee. Forget the Senate. We had only so many votes on the floor of either side, even in the modest one we had, and to Bush's credit—and he got a lot of criticism from the right on this—he said, as Kennedy did, "We're going to get the best deal we can get, and it probably won't have that idea in there."

Heininger: What interaction did you see between Kennedy and Miller, or Kennedy working with the House on this legislation? Was there much?

Kress: There was some. A lot of it was Sally [Lovejoy] and Danica. We used to say it was like Godzilla against King Kong.

Heininger: Who wins? I don't know.

Kress: I mean these were two tough people, and we always enjoyed them going after each other. God, I miss them both. I love the people who are involved now, but Danica and Sally were pros, absolute pros, and a lot of the work between Kennedy and Boehner and Miller was done by those two people, Charlie Barone, and their staffs. I'm not intimate with their conversations. I knew they talked. We always knew when they were talking, we knew what they were talking about, but I just had the impression that it was respectful and fruitful, and they knew each other's strengths. Kennedy was always respectful of Miller, where Miller was coming from. Miller was pushing a lot of things, the same with Boehner.

Heininger: Right.

Kress: That's another interesting part of the history of this. The administration, while it was wanting to have choice at the end of the day, we didn't want to have quite as many schools identified as missing AYP. We didn't really want to have quite the general shame that a lot of people accuse this law of creating, and I would refer you to this wonderful piece that Nick Lehman wrote in the *New Yorker*, in the summer of 2001. Ironically the President and I were criticized in the article by Miller and others as being too soft. That hardly comports with this later stuff that we were using NCLB to try to shame a lot of schools!

This is a piece of work we did with Sandy [Sandra] Feldman, and Senator Kennedy watched over this with interest and was interested in our coming up with a formula. We were getting a lot of pushback in the Senate—Jeffords' people and some of the others. Now Kennedy was chairman, but people were worried—as the conference was beginning to get underway—how AYP would tag schools and how many schools would get tagged. I don't want to say we were soft, but we were amenable to having a bottom ten percent, not quite as rigid about—you know, any one subgroup brings the school down kind of rule—and we got in a lot of trouble for it. But Kennedy was interested—because Feldman went to Kennedy and a lot of other people went to Kennedy, and Kennedy saw the problems and Kennedy's staff saw the problems.

At the end of the day, the New Democrats and Ed Trust were very tough on this, and Miller was very tough on this. That was one of the topics that was discussed between Kennedy and Miller, and Miller felt very strongly about it. Sally gave up with Miller, and ultimately we all gave up and Miller had his way. But a lot of people who blame Bush for the law being punitive don't know that piece of history. Miller was a very aggressive player, and I think the administration and Kennedy both wanted to honor the passion that Miller brought to some of these issues.

Heininger: It probably worked to Kennedy's benefit to have somebody left of him tougher.

Kress: Tougher, yes.

Heininger: That also increases his role as a power broker.

Kress: Yes, I think that's right. And Kennedy was constantly leveraging the players. The thing I love the most about it, which I remember the most, is that part we talked about a moment ago, where Kennedy would bring his committee members, Democrats together. He'd call me frequently and say, "So and so wants this, what can you do?" Or, "I want you to meet with these people, show up tomorrow at such and such." But he was constantly working with—mostly on the Senate side. I mean again, Danica and Sally, but Kennedy took greatest interest in his own nest, in terms of where he put a lot of his tremendous amount of energy.

Heininger: Until it got to the conference.

Kress: Well, until it got to the conference. But again, he would often use Senators on those issues too, and he'd put in people and position people. He had different avenues into House members, different avenues into the administration, and some of them were his own colleagues. He played all that.

Heininger: What were the other issues on which he and Bush disagreed? The money clearly was one, parental choice and vouchers, but were there other big issues?

Kress: Most of the rest of them were on the table to discuss. The number of programs was an issue. I don't think we ever got as much help from him, but nor did we from Republicans on that.

Heininger: It's pork. On the other hand, it's what they have an individual bug about. Not necessarily pork, but I mean distance learning is a greater concern for people who are in widely scattered states that need that.

Kress: Of course, our view was, "Let us increase the pot for you and use your money for that." We were pretty big on that, too; letting states have greater flexibility within the language of the act, of the title, whatever the title was. Let the states have greater freedom to spend more money on distance learning or spend more money for this. That was another issue, trying to deregulate and give more flexibility. So while we were asking more, and we thought that was a form of building capacity, it was not just the volume of money and it was not just the money for specific purposes, but it was also letting states have readier access to the money, without feeling constrained to spend it for this or that.

Heininger: But states or districts?

Kress: Both. It just depended upon the title. In some cases it would have given greater flexibility to states. In some cases it would have allowed the states to use that greater flexibility to give their districts greater flexibility. There was a Straight As program, I think, and they called it State Flex. I don't know how it ended up, but then there was Local Flex. Locals could move money from pot to pot or have greater flexibility. So we wanted to try to help in those areas, and Kennedy went along with a lot of that.

I think the administration, some of the conservatives, before we got into office, had the Straight As proposal, which Checker [Chester] Finn was for and some of these other people were for. The Democrats didn't really want to do that, because I think they thought that it would deregulate and

allow money to go for other kids and not just poor kids, that it would go to a bunch of things that were maybe not envisioned by this. So we had a little bit of a fight on that. We were trying to get more state and local flexibility, but Kennedy worked with us on that. At the end of the day, it probably wasn't quite as rich as we wanted it or the conservative Republicans wanted, but that law showed real improvement in moving in that direction, and I thought we had a satisfactory negotiation on that.

Heininger: What was Bill Taylor's role in all this?

Kress: Well, I love Bill Taylor. [*chuckles*] Bill Taylor is a behind the scenes guy, who I felt had a good relationship with Senator Kennedy. I would feel like he was talking with him or talking with the staff. I thought he was just a wonderful person who really cared about civil rights, who cared about the rights of these children, a classic liberal in that it wasn't about the adults, it wasn't about the unions, it wasn't about Democratic Party interest groups. It was about the kids and it was about poor kids and about minority kids. And I thought he exuded that. I thought he had that deep passion and I thought Senator Kennedy respected him for that. I did, we did, and so he was often a thought leader, he was an emissary. I think he would go around to other liberals and say, "We really need to be open to this. It doesn't matter who they are. Let's try to work on it." A very important person, and he has been, and continued to be in my judgment, a very important person in this. I may have been mistaken about it. I never talked with Kennedy about Bill Taylor, but I always trusted that—I always assumed he was a trusted source for Senator Kennedy and many of the other liberals who really care. That's what I thought.

Heininger: So where is No Child Left Behind now, and where are the individual players on it? We're still ready for another ESEA.

Kress: We are, we are.

Heininger: A couple of years into the process.

Kress: You know, half of me is really worried and half of me is optimistic.

Heininger: That's politics as usual.

Kress: It is politics as usual. I just scratch my head and get so angry that Bill Richardson and Hillary Clinton said what they said in the campaign about it. It makes me angry. In fact, I was just in New Mexico with Richardson's Secretary of Education, and in as nice a way as I could, I made my views known. I took it personally and I called Michael. I really didn't like what Hillary Clinton hinted at or Bill Clinton hinted at, in terms of Senator Kennedy. I feel very supportive of him and grateful to him, and so I don't know what those instincts are within the party that caused that.

The NEA—we have fought the NEA tooth and nail. I do not understand them. You want to talk about disappointment that one side feels about the money. I mean, NCLB has been delivered body blow after body blow, and these blows have been intended not to fix the problems but rather to kill the whole thrust of the reforms. I'm just talking about the idea of measuring, knowing, and the NEA has just been awful, and I hope they'll get some new leadership and

move in a more constructive direction. But this sort of, "We're going to fight to the death over this," almost whether there's more money or not, that worries me a lot.

I think Obama—if you were to trace the arc of his comments on No Child Left Behind and these issues, from the beginning to the end, it's improved a lot. I think some of that has to do with Kennedy and Bill Taylor and some other people. I hope it continues to improve, because he could very well be President. I think if he is, there's a war going on in the Democratic Party, and I don't know how it's going to play out. I love the fact that the civil rights groups came out—in their letter on this amendment—to suspend the accountability until NCLB is reauthorized. Those letters are beautiful, and Bill was involved in them. The NAACP [National Association for the Advancement of Colored People] signed it, MALDEF [Mexican American Legal Defense and Educational Fund] signed it. Our firm has done pro bono work for the NAACP and Bill, in Connecticut and in Michigan, on these cases, and we've won them. So you know, somehow I think the good Lord is watching over this, and that's what makes me hopeful.

I think [John] McCain is supportive. I don't think he thinks about all this stuff very much. I don't know how much a matter of priority it would be. We've gotten to two candidates who actually—it could have been a whole lot worse in either party. I think [Mitt] Romney was pretty supportive of NCLB. So I think the politics—somehow or another again, I feel as if the good Lord is watching over us and protecting us a little bit, in that we keep getting hit, hit, hit, and nobody's out there. The business community seems weary; that worries me. The civil rights community has gotten a little bit better; that makes me feel good. The Celinda Lake poll has NCLB even, and minorities like it. That makes me hopeful. There was this incredible trashing through the primaries, and yet it's 31-31, and if you look at African-American/Hispanics, it's 40-28, with the rest saying they're neutral on it.

I worry a hell of a lot about Senator Kennedy's health. But for that—I think that is a huge piece of the puzzle, because if he were healthy, under either Obama or McCain, I think we could move to the next level. And the next level is fixes, more help, more focus on college and good job readiness, more astute help, where we talk about how money could really be used, or getting better research. We're ready to take the next step, but if we abandon accountability, there will be little assurance that the money will be spent effectively, however much money is spent.

Then there are opponents to all of it. You've got the Republicans, who would rather not have done this, but came on because of Bush's leadership. They could very easily go in their corner. If the Democrats take control of the Congress and the White House, the Republicans go back in their corner and then the Democrats just have a civil war over the issue. That is what we're seeing. Some Republicans have got to stay in play, and the Democrats have got to find a way to resolve these issues within the party, between the unions and the civil rights groups.

Ted Kennedy could help referee that. Who else could? Miller has been disappointing. You know, the Democrats took over the House, with a very liberal Speaker, conventional thinkers. It's hard. I don't know who could have done better, but I worry a lot about the House.

The Senate, you feel a little bit better about the Senate, but you've got the one giant who's made it all happen and cares about it and knows all about it and has the best staff. So what's the falloff from number one to number two? It's huge.

Heininger: Yes.

Kress: It's huge. So I worry a lot about that, and I think I'll close out my answer to that question by saying one day I feel good, one day I feel bad, one minute I feel good, the next— But at the end of the day, I know we'll need to press forward, because the Chinese and the Indians and people in Finland and Singapore and other places could care less about whether we get this right. They're getting it right every day, and far better than ever before, and we are going to lose ground every day that we don't get this right. And one day, our people will wake up to this incredible challenge and what it means to our children and our future. I think that the issue is whether we waste ten more years going to the next level.

Heininger: Your favorite Kennedy story.

Kress: I have two of them.

Heininger: Two is fine.

Kress: He called me. He used to call sometimes on Saturdays and I kept thinking, *Why is this guy calling me?* At bottom, it really was that despite his fame and prominence, he took the time and the interest to care about the people with whom he worked. That fall he knew I loved sports, and he knew I was a big Texas Longhorn fan. Texas was in the top five in football in 2001. Boston College was playing Miami, and Miami was ahead of Texas in the polls. One Saturday he was watching the Boston College and Miami game, and, of course, he's for Boston College. And he knows that if Boston College wins, it's good for me too. Boston College was driving to win this game, and he was excited about it.

So he called me on the phone, on my cell phone—I'm in Austin—and he said, "Are you watching this game?" I said, "Mr. Chairman, what game are you talking about?" And he said, "The game, the Boston College/Miami game. Boston College is—*Oh, no!*" I said, "Mr. Chairman, what's wrong?"

And he said, "They were driving and about to win, and they lost, they lost." And he went on like this, and of course I wasn't watching it because it wasn't shown in our region. Boston College was about to score at the end of the game, and they either fumbled or threw an interception in the end zone, and Miami ran it back for a touchdown. So I had to commiserate with him, and he had to commiserate with me. But just the whole—everything about that story. I know you've interviewed 150 people; you've got 150 stories like that. It's terrific.

The other story was that Karl Rove let Margaret and me tell Senator Kennedy that the President was going to name the Justice Department Building after Bobby Kennedy.

Heininger: Oh, my.

Kress: I don't know how much of this story I want to tell. Margaret and I were going into the meeting, and I told Margaret, "I'm going to give you one tip. Just say it very slowly, because this is a big thing, and don't just run over this thing," because your inclination when you're telling something like that is to say, "Oh, the President said, 'da da da.'" I said, "This is something that you need to relish and he needs to relish, so just say it slowly."

Kennedy is so wonderfully in charge of himself, I think, in terms of the way he handles himself and the way he speaks and the control, and you count on it when you're negotiating and you're working. Even when you're having fun. He's so pleasantly, beautifully, powerfully in charge of himself, and I think that's the one moment where I saw him— He didn't break down, he didn't lose control, but it was one moment where something penetrated, to where he came close, he came close. I don't want to tell all of this story because I don't feel I should, but I will tell one part of it, where Margaret said, "The President has decided this. It hasn't been announced. No one knows, but we wanted to tell you."

In the midst of a very lovely answer, he said, "Would I be able to tell Ethel [Skakel Kennedy]?" And Margaret said, "Absolutely." It was a very touching personal moment that I'm glad I got to be there for.

Heininger: That was a lucky moment to be there for.

Kress: Yes, it was.

Heininger: A real treat.

Kress: It was.

Heininger: Well, this has been terrific. Thank you.

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