

Leaving No Child Left Behind

States charged with implementing Bush's national education plan balk at the cost of compliance.

By W. James Antle III

GEORGE W. BUSH may go down in history as a war president, but like his father he also envisions himself as an education president. Conservative columnist George Will, pointing out that under Bush the Department of Education's budget has grown faster than defense expenditures, recently wrote, "Had 9/11 not happened, Bush's administration might be defined primarily by its education policy, particularly the No Child Left Behind law." And as state educators increasingly revolt, the Republican Party's education policy ceases to be defined primarily by its commitment to local control.

When No Child Left Behind (NCLB) first passed, it appeared to be a political masterstroke. It stands as one of Bush's few genuinely bipartisan domestic-policy achievements, clearing the House by a 381 to 41 margin with more Democratic than Republican votes. Sen. Ted Kennedy (D-Mass.) partnered with the White House to steer it through the Senate. The measure promised liberals increased spending and focus on minority-student achievement; it offered conservatives enhanced school choice and tougher standards. By the 2002 midterm elections, some polls found that Republicans had virtually erased the Democrats' traditional advantage on education issues.

It was the political equivalent of the lion lying down with the lamb, but it didn't last for long. Conservatives soon balked at NCLB's exorbitant price tag

and federal meddling. Far from being a "universal voucherization program," as one popular Republican blogger described it, the measure offered only very limited public-school choice. Liberals were outraged that it did not cost more, accusing the Bush administration of failing to live up to its commitment to fund the law fully. Senator Kennedy complained, "The tragedy is that these long overdue reforms are finally in place, but the funds are not."

But the biggest challenge to NCLB comes from outside Washington, as state legislatures and education officials resist federal requirements they say they cannot afford. The issue doesn't fit neatly into the normal red-blue lines. Utah gave Bush 72 percent of its vote in 2004, his highest margin in any state. In April, the Republican-controlled legislature voted to assign a higher priority to

sive and that taxpayers "won't learn anything new about our schools by giving these extra tests." Many parents seem to agree. According to the *Washington Post*, "You go, girl," is a representative response.

One of Sternberg's supporters is Connecticut Attorney General Richard Blumenthal, who is moving toward a lawsuit challenging the federal requirement that students be tested annually between grades three and eight and also in 10th grade. State auditors claim this is an unfunded mandate that will cost Connecticut \$8 million more than it is receiving from Washington. Many local school boards have passed resolutions in favor of the potential suit. The Connecticut Association of School Superintendents also backs the attorney general. In late June, the state legislature closed ranks behind Blumenthal,

STATE LEGISLATURES AND EDUCATION OFFICIALS RESIST FEDERAL REQUIREMENTS THEY SAY THEY CANNOT AFFORD.

the state's accountability laws than NCLB; the Republican governor signed the bill, putting at risk Utah's \$76 million in federal education funding. The lower house of the New Jersey legislature recently passed a similar bill.

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sive and that taxpayers "won't learn anything new about our schools by giving these extra tests." Many parents seem to agree. According to the *Washington Post*, "You go, girl," is a representative response.

In all, officials in more than 40 states have proposed significant changes to the implementation of NCLB. The National Education Association (NEA) and three states are already fighting it in court. A standard complaint against

the federal Education Department has long been that it makes some 50 percent of the rules but provides less than 7 percent of national education spending. NCLB was intended to use that 7 percent as leverage to get the states to abide by more rules still. The law creates new proficiency goals and requires regular testing to show results. Schools that are judged to be failing—i.e., leaving children behind—first receive additional funding but

average, inflating the state's black-white performance gap.

The rebellion against NCLB has created some unlikely voices for states' rights. As early as the 2004 presidential campaign, Howard Dean was deploring the idea of distant bureaucrats—along with politicians like Bush and House Majority Leader Tom DeLay (R-Texas)—dictating how states run their schools. The debates in the Connecticut and New Jersey legislatures saw

But Spellings's angry comments belie her department's strategy of co-opting and accommodating NCLB critics through waivers and other inducements. Illinois was granted a waiver that allowed it to count fewer students' test scores toward its goals. School districts in the state will now have to have 45 special-education students in order for the federal government to monitor them as a subgroup under the law; last year it was just 40. This seemingly minor change cut the number of special-needs subgroups in Illinois from 535 to 394, relaxing standards for many districts.

This means that state resistance may elicit greater federal flexibility, but not seriously jeopardize NCLB. Marie Gryphon, an education policy analyst for the Cato Institute, worries "that the state rebellion against NCLB will end with a whimper, not a bang."

"In Utah and elsewhere, waivers and backroom deals will replace the letter of the law and defuse the crisis," Gryphon says. "In the end, I think No Child Left Behind will become just one more expensive federal program that does not do what it was supposed to do."

Jack Jennings, president of the Center on Education Policy, points out that state legislation opting out of NCLB is still largely symbolic. Only when local principals and superintendents act under these laws by specifically refusing to do things mandated by NCLB will there be an impact—and this will likely be followed by bureaucratic negotiations and court wrangling. This takes time, and NCLB will be up for reauthorization in 2007.

Much will depend on the endurance and intensity of public opposition to NCLB. In the 1990s, the Clinton administration tried to head off congressional Republicans' welfare-reform bills by having the Department of Health and Human Services grant waivers to reform-minded governors.

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then are subjected to progressively stiffer penalties if they continue to miss their legal targets.

Not only must states strive toward the proficiency of all students by 2014, they must also provide data showing that designated subgroups of students—mainly minorities, students from low-income families, and the disabled—are making adequate progress. This subgroup category has contributed heavily to the controversy.

In Utah, for instance, Hispanic students test three years behind whites in the same grades. NCLB requires the state to work toward closing this achievement gap or be found leaving Utah's Hispanics behind. Standardized test scores revealed comparable discrepancies between Connecticut's black and white students.

But Connecticut education officials retort that the law doesn't take into consideration the state's demographics. Connecticut is a mainly affluent state dotted with troubled urban areas. Sternberg and others point out that the predominantly white suburban school districts perform above the national

Democrats railing against unfunded mandates and federal encroachments, while many Republicans rose to defend their president's program.

The Bush administration has deployed Education Secretary Margaret Spellings, a former White House aide close to the president, to quell the grassroots revolt. Yet her strenuous defense of NCLB has often inflamed angry feelings rather than calmed them. She has compared recalcitrant education officials to children who need to be disciplined. In an interview with PBS's "NewsHour," Spellings said it was "un-American" for Connecticut to tolerate its achievement gaps between white and minority students.

The Department of Education's motion to have the NEA's lawsuit dismissed also contains some strong wording. The response says the suit is "no more than the use of a federal forum to proclaim an advocacy group's belief that states and school districts should be receiving more federal funds" and argues that "[s]uch advocacy is not an appropriate use of the federal courts."

This approach ultimately failed because the public was willing to go further.

It's not clear that NCLB is as unpopular as unreformed welfare was in the 1990s, but in some quarters it has become a lightning rod for complaints about everything that is wrong with education—even things that have little to do with the policies it mandates. Educators cite anecdotes of parents who falsely believed it mandated social promotion. After all, they reasoned, students must be promoted to the next grade level regardless of performance if the law says they can't be "left behind."

More informed observers say much of the opposition comes from educators themselves. Jennings notes that NCLB didn't originate within the teaching profession and major educational organizations like the NEA had little role in its formulation. Thus, educators don't feel they have a stake in the reform measure.

But they could have a role in the approaching reauthorization debate. What might they ask for? "The basic problem with the law is that the accountability provisions aren't subtle," says Jennings. "It doesn't recognize relative problems." Education-policy experts say the challenge is to preserve accountability while offering flexibility.

For some who object to an expanded federal role in education, this is little cause for optimism. "When NCLB comes up for reauthorization, it will be amended to legitimize the Department of Education's new 'flexible' approach to accountability," argues Gryphon. "This will mean that federal regulators will have a lot of discretion to set and revise standards."

As state policymakers ponder their options—comply with the Bush administration's education dictates, strike a deal with Margaret Spellings, or sue—grumbling about NCLB is sure to continue. Only time will tell whether it actually leads states to leave behind their dependence on federal funds. ■

In Washington it is hardly a secret that the same people in and around the administration who brought you Iraq are preparing to do the same for Iran.

The Pentagon, acting under instructions from Vice President Dick Cheney's office, has tasked the United States Strategic Command (STRATCOM) with drawing up a contingency plan to be employed in response to another 9/11-type terrorist attack on the United States. The plan includes a large-scale air assault on Iran employing both conventional and tactical nuclear weapons. Within Iran there are more than 450 major strategic targets, including numerous suspected nuclear-weapons-program development sites. Many of the targets are hardened or are deep underground and could not be taken out by conventional weapons, hence the nuclear option. As in the case of Iraq, the response is not conditional on Iran actually being involved in the act of terrorism directed against the United States. Several senior Air Force officers involved in the planning are reportedly appalled at the implications of what they are doing—that Iran is being set up for an unprovoked nuclear attack—but no one is prepared to damage his career by posing any objections.



A CIA internal review of the agency's performance prior to 9/11 is harshly critical

of former CIA Director George Tenet, former Director of Operations James Pavitt, and the former chief of the Counterterrorist Center, Cofer Black, for not doing everything possible to confront terrorism. Pavitt, who was reluctant to take on risky missions against bin Laden encouraged by the National Security Council during the second term of President Bill Clinton, is particularly criticized. The report, completed by CIA Inspector General John Helgerson, is especially acerbic regarding the failure of the agency to stop two of the 9/11 hijackers, Nawaf al-Hazmi and Khalid al-Mihdhar, as they entered the United States. Black did not share information on the two men with the FBI agents assigned to the Counterterrorist Center at the CIA and also turned down a request for a formal memorandum to be sent to FBI Headquarters. The report will be finalized and given to Congress after those criticized in it add their own comments. Pavitt, as head of the Operations Directorate, has publicly accepted full responsibility for the agency's failure, but Black has not acknowledged any deficiencies in his performance. Tenet has not yet responded.



There is increasing evidence that the Iraqi police forces, now under Shi'ite control, are carrying out systematic revenge killings against Sunnis in Baghdad.

The bodies now showing up at the morgue have obvious signs of handcuffing and blindfolding and evidence of being tortured before death. U.S. sources indicate that the suspicious killings have reached the rate of almost 700 per month. The police are supervised by the Shi'ite-run Ministry of Interior, which claims that the killings are being carried out by insurgents wearing stolen police uniforms. But American intelligence sources disagree, noting that many of the killers appear to be actual policemen carrying the expensive standard-issue Glock automatics and driving official Toyota Land Cruisers.

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