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001. note	Reed's Notes of Meeting with Elena Kagan re: Ed-Flex, ca. 1999 (partial) (1 page)		P5

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Domestic Policy Council
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FOLDER TITLE:

Ed-Flex

rs33

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process (Letter Report, 11/13/98, GAO/HEHS-99-17).

Ednc -
Ed-Flex

Pursuant to a congressional request, GAO provided information on the Education Flexibility Partnership Demonstration Act (Ed-Flex) in 1994, focusing on: (1) the scope of Ed-Flex and how it works; (2) the criteria states must meet to participate in Ed-Flex and identify the extent to which states not currently participating satisfy these criteria; (3) the number and type of waivers that Ed-Flex states have granted to their local school districts; (4) participating states' views on the usefulness of Ed-Flex; and (5) issues for ensuring accountability if Ed-Flex is continued or expanded.

GAO noted that: (1) under the Ed-Flex project, the state is allowed to make decisions about whether particular school districts should be granted waivers of certain federal requirements; (2) although the federal government has established a large number of education programs, states can waive only certain specific requirements within six programs; (3) in 5 of the 12 Ed-Flex states, the state can grant only individual waivers; (4) in the remaining seven states, the state can grant statewide waivers without the requirement that the district demonstrate its specific need for the waiver; (5) to be eligible for selection as an Ed-Flex state, a state had to meet two criteria related to its ability to implement Ed-Flex in conjunction with overall education reform; (6) states were required to: (a) have a plan for education reform that had been reviewed and approved by the federal Department of Education; and (b) be able to modify any of their own state requirements that were associated with the federal waivers they granted; (7) currently, only 2 of the 38 nonparticipating states clearly satisfy these criteria and would be eligible to participate if the limit of 12 Ed-Flex states was eliminated; (8) states participating in the Ed-Flex project vary in the number of waivers they have granted to local school districts; (9) the waivers granted by Ed-Flex states typically center around Title I of the Elementary and Secondary Education Act; (10) Title I provides funds to many school districts to give special educational assistance to economically and educationally disadvantaged students; (11) school districts seeking waivers have mainly sought to change how Title I funds can be used within a school or to change the distribution of Title I funds across schools; (12) states also vary in the degree to which they view these waivers as helpful; (13) some states told GAO that Ed-Flex is useful for creating a climate that encourages innovation and flexibility, even if few waivers are granted; (14) others reported that because the authority to grant waivers is limited to specific programs and requirements, Ed-Flex is of limited value; (15) the Ed-Flex project creates challenges in holding districts accountable for the results of individual waivers and also in holding states, districts, and the federal Department of Education accountable for the results of federal programs that are affected by these waivers; and (16) while some states have put in place specific goals and established clear and measurable objectives for evaluating the impact of waivers, many Ed-Flex states have not established any goals or have defined only vague objectives.

----- Indexing Terms -----

REPORTNUM: HEHS-99-17
TITLE: Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process
DATE: 11/13/98
SUBJECT: State-administered programs
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Elementary education
Aid for education
School management and organization
Secondary education
Waivers

IDENTIFIER: Dept. of Education Title I Program
Goals 2000
Dept. of Education Drug-Free Schools and Communities Program
Dept. of Education Dwight D. Eisenhower Professional
Development Program
Dept. of Education Emergency Immigrant Education Act Program
Dept. of Education Vocational Education Program
Dept. of Education Innovative Education Program Strategies

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Cover

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Report to the Chairman, Committee on Education and the Workforce,
House of Representatives

November 1998

ELEMENTARY AND SECONDARY EDUCATION
- ED-FLEX STATES VARY IN
IMPLEMENTATION OF WAIVER PROCESS

GAO/HEHS-99-17

Ed-Flex Demonstration Project

(104946)

Abbreviations

===== ABBREV

EDGAR - Education Department General Administrative Regulations
ESEA - Elementary and Secondary Education Act
GED - general equivalency diploma
IDEA - Individuals With Disabilities Education Act

Letter

===== LETTER

B-281282

November 13, 1998

The Honorable William F. Goodling
Chairman
Committee on Education and the Workforce
House of Representatives

Dear Mr. Chairman:

Many Americans see the nation's public elementary and secondary schools as average at best. With large numbers of students graduating from school lacking the skills sought by employers, dissatisfaction with the educational system has fueled calls for widespread reform. Some educators and legislators believe that providing more regulatory flexibility to educators at the state and local levels will enable local school districts to direct more resources to the classroom and to adopt more innovative instructional approaches.

Reflecting this viewpoint, the Congress established the Education Flexibility Partnership Demonstration Act (Ed-Flex) in 1994. Under Ed-Flex, the Department of Education selected 12 states (the maximum number allowed) and authorized these states to grant waivers (temporary exemptions from certain federal requirements) to their local school districts. Recently proposed legislation would increase the number of states allowed to participate in Ed-Flex and expand somewhat the range of federal requirements that Ed-Flex states could waive. Some legislators have supported this proposal because they view Ed-Flex as highly successful. However, some education experts have expressed concern that key federal objectives (such as targeting federal resources to students most in need) could be compromised.

To help inform this debate, you asked us to (1) describe the scope of Ed-Flex and how it works, (2) describe the criteria states must meet to participate in Ed-Flex and identify the extent to which states not currently participating satisfy these criteria, (3) identify the number and type of waivers that Ed-Flex states have granted to their local school districts, (4) discuss participating states' views on the usefulness of Ed-Flex, and (5) identify issues for ensuring accountability if Ed-Flex is continued or expanded. To obtain this information, we interviewed Department of Education officials and reviewed agency documents, including the initial applications and subsequent annual reports from all the Ed-Flex states. We also conducted a survey of all 50 states. From all states (including the 38 states not participating in the Ed-Flex project), we obtained information on waivers of their own requirements that states have granted; from the 12 Ed-Flex states, we also obtained information on the implementation of Ed-Flex. We interviewed officials in four Ed-Flex states to obtain more detailed information. We also reviewed the Internet Web sites for the 50 state education agencies for information on their outreach efforts. We conducted our review between June 1998 and October 1998 in accordance with generally accepted government auditing standards.

RESULTS IN BRIEF

----- Letter :1

Under the Ed-Flex project, the state--rather than the federal Department of Education--is allowed to make decisions about whether particular school districts should be granted waivers of certain federal requirements. Although the federal government has established a large number of education programs, states can waive only certain specific requirements within six programs. In 5 of the 12 Ed-Flex states, the state can grant only individual waivers--that is, the state can grant a waiver only when an individual school district applies to the state for that specific waiver. In the remaining seven states, the state can grant statewide waivers--that is, the state can grant a waiver that can be used by any qualifying district in the state, without the requirement that the district demonstrate its specific need for the waiver.

To be eligible for selection as an Ed-Flex state, a state had to meet two criteria related to its ability to implement Ed-Flex in conjunction with overall education reform. Specifically, states were required to (1) have a plan for education reform that had been reviewed and approved by the federal Department of Education and (2) be able to modify any of their own state requirements that were associated with the federal waivers they granted. Currently, only 2 of the 38 nonparticipating states clearly satisfy these criteria and would be eligible to participate if the limit of 12 Ed-Flex states was eliminated.

States participating in the Ed-Flex project vary in the number of waivers they have granted to local school districts. For example, seven states have granted 10 or fewer individual waivers, while three others have granted 20 or more individual waivers. In addition, two states have granted multiple statewide waivers that have affected large numbers of school districts. The waivers granted by Ed-Flex states typically center around Title I of the Elementary and Secondary Education Act (ESEA), the largest federal education program. Title I provides funds to many school districts to give special educational assistance to economically and educationally disadvantaged students. School districts seeking waivers have mainly sought to change how Title I funds can be used within a school or to change the distribution of Title I funds across schools.

States also vary in the degree to which they view these waivers as helpful. Some states told us that Ed-Flex is useful for creating a climate that encourages innovation and flexibility, even if few waivers are granted. However, others reported that because the authority to grant waivers is limited to specific programs and requirements, Ed-Flex is of limited value.

The Ed-Flex project creates challenges in holding districts accountable for the results of individual waivers and also in holding states, districts, and the federal Department of Education accountable for the results of federal programs (such as Title I) that are affected by these waivers. While some states have put in place specific goals (such as improving student achievement in math and science) and established clear and measurable objectives for evaluating the impact of waivers (such as improving average test scores by a certain number of points), many Ed-Flex states have not established any goals or have defined only vague objectives. In addition, because each state determines when waivers are appropriate, it is unclear how the federal government could address possible conflicts between states' use of the waiver authority and the policy objectives for the underlying federal program.

BACKGROUND

----- Letter :2

The federal government has established a large number of education programs that support the efforts of the 50 states and the approximately 15,000 local school districts nationwide. Many of the federally funded education programs target specific groups of students. For example, the Title I program directs funds to many school districts to provide special educational assistance to educationally and economically disadvantaged students. Programs authorized under the Individuals With Disabilities Education Act (IDEA) ensure that children with disabilities are educated and provide financial assistance to states and school districts to help pay for the cost of educating these children. Other federal programs are targeted not to particular students but to particular subject areas. For example, the programs under the Carl D. Perkins Vocational-Technical Education Act support vocational education; the Eisenhower Professional Development Program provides funding for teacher training, with priority for math and science; the Safe and Drug Free Schools and Communities Program funds activities to prevent violence and substance abuse; and the Goals 2000 program provides financial support to states and school districts for education reform efforts, including updating curriculum frameworks, developing standards and assessments, training teachers, and acquiring new technology.

Each of these federal programs establishes requirements with which states, local school districts, or both must comply in implementing the program. Some of these programs--such as the Safe and Drug-Free Schools and Communities Program--impose relatively few requirements on state and local officials. Other programs are more restrictive. For example, the Title I program limits how districts allocate federal dollars among schools, what services these dollars may fund, and which children may benefit. School districts also face a variety of federal requirements outside the scope of federal education programs. For example, school districts that participate in federal school lunch and breakfast programs receive federal assistance and, in return, must provide free and reduced-price meals to children from low-income families and ensure that the meals meet federal nutrition standards. School districts are also subject to federal worker protection legislation, as are other employers. Finally, school districts must comply with federal accessibility and environmental requirements in managing their buildings and facilities.

In earlier work on the range of federal requirements that affect school districts, we found that state governments often play a key role in administering federal programs and distributing federal dollars.¹ As part of their monitoring and oversight activities, states often impose additional requirements on school districts. For example, some states require school districts to submit more documentation on certain purchases made with federal funds than the federal regulations require. States also impose requirements in areas outside the scope of federal programs, including teacher certification and the length of the school year.

The Department of Education can waive certain federal requirements under specific programs; under Ed-Flex, the Department delegates some of its authority to the Ed-Flex states. Thus, in both Ed-Flex and non-Ed-Flex states, districts or schools may be granted an exemption from certain federal requirements for a given period of time. In Ed-Flex states, the district or school applies to the state for a waiver and the state makes the decision. In non-Ed-Flex states, similar waivers are available, but the district must apply to the federal Department of Education for a decision. Similarly, some state education agencies have the authority to waive statutory or regulatory requirements imposed at the state level. For example, some states have granted waivers allowing exceptions to state-imposed requirements dealing with the length of the school day or year.

\\1 Elementary and Secondary Education: Flexibility Initiatives Do
Not Address Districts' Key Concerns About Federal Requirements
(GAO/HEHS-98-232, Sept. 30, 1998).

ED-FLEX WAIVER AUTHORITY IS
LIMITED IN SCOPE

----- Letter :3

Under Ed-Flex, the Department of Education delegates a portion of its authority to grant waivers to the 12 participating states, allowing each of these states to make decisions about whether particular school districts should be granted waivers of covered federal requirements. According to the Department of Education, the main purpose of Ed-Flex is to assist the states in removing potential regulatory barriers to the successful implementation of comprehensive school reform plans. The Department of Education's Ed-Flex guidance says that because the Department emphasizes holding local school districts accountable for results in administering its waiver authority, Ed-Flex states are expected to do the same.

Although the federal government has established many education programs, Ed-Flex states can waive only certain specific requirements under six major programs: (1) Title I of the ESEA, which provides funding to help local school districts give additional educational assistance to disadvantaged children; (2) Title II of the ESEA, the Eisenhower Professional Development Program, which provides funding to local school districts to provide teacher training and professional development in math and science; (3) Title IV of the ESEA, the Safe and Drug-Free Schools and Communities Program, which provides funding for programs to prevent violence and substance abuse; (4) Title VI of the ESEA, Innovative Education Program Strategies, which provides funding to help school districts develop innovative programs in several areas, including adult education and family literacy; (5) part C of Title VII of the ESEA, Emergency Immigrant Education, which provides funding for the educational needs of immigrant children; and (6) the Carl D. Perkins Vocational-Technical Education Act, which provides support for vocational and technical education programs at the secondary and postsecondary levels. Ed-Flex states may also waive some requirements of the General Education Provisions Act and the Education Department General Administrative Regulations (EDGAR) that apply to these programs. For example, Texas waived one EDGAR provision that requires written approval before transferring training funds to another budget category.

Although these six major programs are included in Ed-Flex, many other key programs--including IDEA and the Bilingual Education Program--are not subject to Ed-Flex waiver authority. Programs and requirements administered outside the Department of Education (such as school lunch and breakfast programs or environmental requirements) are not included in Ed-Flex either. In addition, even for the six programs that are covered by Ed-Flex, states are not authorized to waive any federal regulatory or statutory requirement within these programs relating to (1) health and safety, (2) civil rights, (3) maintenance of effort, (4) comparability of services, (5) equitable participation of students and professional staff in private schools, (6) parental participation and involvement, and (7) distribution of funds to state or local education agencies.

Each state interested in participating in Ed-Flex submitted an application to the Department of Education. These applications

described how the states would exercise their waiver authority, including how they would evaluate waiver applications from districts and how they would ensure accountability. The selection process took place over a 2-1/2-year period. The 1994 legislation authorized six Ed-Flex states. The Department of Education was required to award three of these six designations to states with populations of 3.5 million or greater, and the remaining three to states with populations of less than 3.5 million. The Department selected six state educational agencies--in Kansas, Massachusetts, Ohio, Oregon, Texas, and Vermont--for Ed-Flex status between February 1995 and March 1996. An additional six designations were authorized by the 1996 Omnibus Appropriations Act. However, there is no requirement that these designations be divided evenly between large and small states. The additional six states--Colorado, Illinois, Iowa, Maryland, Michigan, and New Mexico--were awarded Ed-Flex status between May 1996 and July 1997.

Although the same programs and requirements are covered in all Ed-Flex states, some states have the authority to grant waivers that apply more broadly than those in other states. Of the 12 Ed-Flex states, 7--Colorado, Maryland, Michigan, New Mexico, Ohio, Texas, and Vermont--have the authority to grant both statewide waivers (which can be used by any qualifying district in the state) and individual waivers (which can be used by only the district that applied and was approved for the waiver). The remaining five states--Illinois, Iowa, Kansas, Massachusetts, and Oregon--have the authority to grant waivers only to individual school districts. \2 Because statewide waivers are granted as a state policy, rather than in response to specific requests from individual school districts, these waivers can be a more comprehensive tool for states to use in affecting how schools and districts operate.

\2 The decision to grant an Ed-Flex state the authority to grant statewide waivers was made by the Department of Education as part of the application process. Several states did not apply for the authority to grant statewide waivers.

FEW STATES MEET ED-FLEX
ELIGIBILITY CRITERIA

----- Letter :4

Although current law limits the Ed-Flex project to 12 states, recently proposed legislation would lift this restriction and allow any additional qualifying states to participate. However, in practical terms, Ed-Flex cannot be expanded to a significant number of additional states unless current eligibility criteria are loosened or eliminated or unless states make major changes. As table 1 shows, only two non-Ed-Flex states--Utah and Washington--clearly meet current eligibility criteria. An additional eight states may also be eligible, depending on their ability to waive certain state-imposed requirements. However, the remaining 28 states clearly do not meet Ed-Flex eligibility criteria. (For more detailed information on the status of non-Ed-Flex states with respect to specific eligibility criteria, see app. I.)

Table 1

States' Ed-Flex Status, 1998
States

States participating in Ed-Flex	clearly eligible for but not participating in Ed-Flex	States potentially eligible for participation	States clearly ineligible for participation
Colorado	Utah	Alabama	Alaska
Illinois	Washington	Delaware	Arizona
Iowa		Georgia	Arkansas
Kansas		Hawaii	California
Maryland		Kentucky	Connecticut
		Minnesota	Florida
Massachusetts		New Jersey	Idaho
Michigan		West	Indiana
New Mexico		Virginia	Louisiana
Ohio			Maine
Oregon			Mississippi
Texas			Missouri
Vermont			Montana
			Nebraska
			Nevada
			New Hampshire
			New York
			North Carolina
			North Dakota
			Oklahoma
			Pennsylvania
			Rhode Island
			South Carolina
			South Dakota
			Tennessee
			Virginia
			Wisconsin
			Wyoming

Under current law, a state is eligible for the Ed-Flex designation only if it meets two criteria. First, the legislation establishing Ed-Flex stipulates that only states that have an approved state education reform plan under the Goals 2000 program are eligible for Ed-Flex status. Department of Education officials told us that the primary aim of Ed-Flex is to support states' efforts to implement their comprehensive education reform plans. For this reason, these Department officials also believe that it is important for a state to have developed a comprehensive state improvement plan before being designated an Ed-Flex state.

Second, Ed-Flex states must have the ability to modify their own requirements consistent with the federal waivers they grant. Because states often impose their own requirements on school districts, initiatives to loosen federal requirements may not have the desired impact unless related state requirements are also modified. For example, Maryland needed to waive certain state requirements on the use of state funds to allow schools in Baltimore to implement a federal Title I waiver. States are considered eligible for Ed-Flex status only if they have the ability to waive state-imposed education requirements associated with any federal education requirement that may be waived. However, many state education agencies do not have this authority. In our survey, only 12 of the 38 non-Ed-Flex states reported that they had the authority to waive provisions of both state education statutes and regulations. An additional 10 state education agencies reported that they could waive neither regulations nor statutes, which made them clearly ineligible for Ed-Flex.

Another 16 state education agencies reported that they could waive state-imposed education regulations, but not statutes. According to Department of Education officials, these 16 states may or may not meet this eligibility criterion for Ed-Flex status, depending on the nature of the state regulatory process. If the state requirements that apply to schools and school districts appear largely or entirely in regulations rather than in statutes, Department officials told us, the state might be considered eligible for Ed-Flex. However, if many of the potentially related state requirements were imposed by statute, the state might not be eligible for Ed-Flex.

NUMBER OF ED-FLEX WAIVERS
 VARIES BY STATE, BUT MOST
 WAIVERS ARE RELATED TO TITLE I

----- Letter :5

In some Ed-Flex states, the state education agency has granted relatively few waivers of federal requirements in comparison with the number of school districts in the state. In several other states, however, the waiver authority has been used more extensively. Some of the differences in the use of waivers among states may reflect differences in implementation of Ed-Flex--for example, variations in the amount of state resources devoted to Ed-Flex outreach and in the use of statewide waivers. The type of waivers that have been granted has been similar across states. These waivers typically involve redistributing Title I funds among schools in a district or broadening the criteria for eligibility for schoolwide projects under Title I.

STATES DIFFER IN NUMBER OF
 ED-FLEX WAIVERS GRANTED

----- Letter :5.1

Most of the Ed-Flex states granted relatively few waivers during the past 2 to 3 years, compared with the number of school districts in the states; however, some states have been more active than others in granting waivers. Three states received their Ed-Flex authority in July 1997 and thus had only limited time to implement their waiver process. Of the nine states that had been participating in Ed-Flex for more than 1 year as of January 1998, four granted 10 or fewer individual waivers. However, the other five states have been more active in their use of Ed-Flex. Kansas and Maryland have granted over 20 individual waivers each--an especially high total for Maryland considering the small number of school districts in the state. Texas and Ohio have not only granted a relatively high number of individual waivers but have also granted statewide waivers that have affected larger numbers of school districts. For example, 180 districts in Ohio have taken advantage of a statewide waiver that broadens eligibility for schoolwide programs under Title I. Table 2 shows when each state received its Ed-Flex authority, the number of school districts in the state, and the number of individual and statewide waivers granted from January 1995 through December 1997.

Table 2

Data on Ed-Flex States, 1995-97

Date state	Number of regular school districts	Number of waivers granted to individual	Number of waivers granted on a
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State	entered Ed-Flex	in the state\	school districts	statewide basis
Colorado	7/96	176	6	1
Illinois	7/97	905	1	\b
Iowa	7/97	383	0	\b
Kansas	8/95	304	20	\b
Maryland	5/96	24	22	0
Massachusetts	9/95	248	14	\b
Michigan	7/97	593	0	1
New Mexico	8/96	89	1	0
Ohio	9/95	611	14	2
Oregon	2/95	233	2	\b
Texas	1/96	1,044	40	8
Vermont	3/96	251	10	1

\a Regular school districts are agencies responsible for providing free public education for school-aged children residing in their jurisdiction. This category excludes local supervisory unions that provide management services for a group of associated school districts, regional education service agencies, state and federally operated institutions, and other agencies that do not fall into these groupings.

\b This state does not have the authority to grant statewide waivers.

The variation among states in the number of waivers granted may reflect differences in three key factors: state outreach efforts, use of waivers for state-imposed requirements, and use of statewide waiver authority. These factors can either promote or inhibit use of Ed-Flex by local school districts.

Before districts can use Ed-Flex, they need to know which requirements can be waived and how to apply for a waiver. Because states vary in their outreach efforts, districts in some states may have greater access to this information than districts in others. For example, one Ed-Flex state posted detailed information on Ed-Flex in a prominent position on its Web site, in addition to other outreach efforts, including mailings and presentations at education conferences and meetings. However, of the 12 Ed-Flex states, only 4 mentioned Ed-Flex or waivers of federal requirements on their Web site.

The use of waivers for state requirements may also promote districts' ability and willingness to apply for waivers of federal requirements under Ed-Flex. According to several state officials we interviewed, an active state waiver program makes districts more familiar with the concept of waivers and more comfortable with applying for them. However, not all Ed-Flex states granted many state waivers. For example, Iowa, Illinois, Michigan, and Texas have granted hundreds of waivers for state requirements, but other states, including Kansas and Maryland, have granted very few or none. Of the 10 Ed-Flex states that supplied data on state waivers, 5 granted 40 or more waivers in 1997; however, the other 5 states granted fewer than 10 waivers per year. In our survey of the 50 state education agencies, we found that the non-Ed-Flex states with the ability to grant waivers from their own state requirements also varied considerably in how frequently they used this authority. (For more information on state-level waiver programs, see app. II.)

Finally, the use of statewide waiver authority can encourage school districts to take advantage of federal waivers. In the seven Ed-Flex states that have the authority to grant statewide waivers, any qualifying school district can take advantage of a statewide waiver

without having to demonstrate specific need for that waiver. In some of these states, many more school districts have used the statewide waivers than have applied for individual waivers. For example, Texas has waived four record-keeping and administrative requirements on a statewide basis, and hundreds of school districts in Texas have taken advantage of these waiver provisions.

MOST ED-FLEX WAIVERS INVOLVE
TITLE I

----- Letter :5.2

Most of the Ed-Flex waivers granted have centered around Title I, the largest federal program for elementary and secondary education. For example, waivers of the provisions for schoolwide projects under Title I accounted for the largest number of Ed-Flex waivers. When operating Title I as a schoolwide project, the school can use its Title I funds to implement a plan to improve the education of all students in the school, not just those students that are Title I-eligible. Under current law, a school can operate as a Title I schoolwide project only if 50 percent of the students in the school or in the school attendance area are from low-income families. Waivers allow schools that do not meet this threshold to become eligible to use schoolwide projects. Three Ed-Flex states have granted statewide waivers to expand schoolwide projects; in addition, schoolwide projects account for nearly 70 percent of approved individual waivers.

Another common type of waiver allows school districts to distribute Title I funds according to criteria established by the district, rather than adhering solely to the statutory formula. For example, one school in Massachusetts was not eligible for Title I services for the 1997-98 school year, although it had been eligible in the past; further, the school was expected to become eligible again in the 1998-99 school year, when the district was to begin implementing a voluntary desegregation plan. The school district received a 1-year waiver to continue providing Title I funds to this school, rather than disrupt services for 1 year. Some school districts have also received waivers of requirements under the Eisenhower Professional Development Program that require them to give priority in the use of Eisenhower funds to math and science subject areas. Figure 1 shows the number of individual waivers approved by Ed-Flex states for Title I schoolwide programs, Title I eligibility, the Eisenhower Professional Development Program, and other areas.

Figure 1: Types of Individual
Waivers Granted Under Ed-Flex,
1995-97

(See figure in printed
edition.)

Source: Annual reports provided by Ed-Flex states to the Department of Education.

ED-FLEX STATES GENERALLY REPORT
POSITIVE EXPERIENCES, BUT SOME
SAY ED-FLEX IS OF LIMITED USE

----- Letter :6

Officials from participating states generally reported positive experiences with Ed-Flex. Two states that have used Ed-Flex extensively--Ohio and Texas--told us that the waivers they granted under Ed-Flex had a positive impact. For example, a Texas official

told us that Texas' statewide waiver to allow more flexible use of federal teacher training funds has allowed districts to better direct professional development dollars to those areas where they are needed the most.

According to several officials from these and other Ed-Flex states, Ed-Flex is valuable, regardless of the number of waivers granted, because it promotes a climate that encourages state and local educators to explore new approaches, frequently making better use of the flexibility that already exists within state and federal requirements. One state official reported that Ed-Flex motivates school districts to consider nontraditional ways of using federal resources to enhance educational services. Similarly, Ohio officials reported that as a result of examining the relevant laws and regulations, many districts discovered that they already had the ability to do what they want without a waiver.

However, some officials from Ed-Flex states commented that the program creates false hopes and expectations, because the waiver authority is limited to certain specific federal requirements. For example, one state official told us that it is the cumulative effect of all regulations combined, rather than any single requirement, that causes problems for school districts. Therefore, he believes that Ed-Flex's emphasis on identifying specific individual requirements makes the project less effective. In another Ed-Flex state, staff told us that the Ed-Flex waiver authority is too narrow to do much good. Officials in several states reported that Ed-Flex would be more helpful if the waiver authority were extended to other programs, such as special education or bilingual education. For example, while Texas has used its waiver authority to streamline administrative provisions for programs covered by Ed-Flex, the standard administrative requirements remain in effect for other programs that are not covered by Ed-Flex. A Texas state official told us that extending Ed-Flex authority to other programs would allow Texas districts to make even more progress in reducing administrative effort.

These reactions to Ed-Flex are consistent with the findings in our September 1998 report on how states and school districts have used waivers and other federal flexibility initiatives. In our work on how federal requirements affect school districts, we found that school districts' concerns did not focus on any single program or requirement; instead, they extended across several broad areas, including obtaining key information, working with limited funds, and overcoming logistical and management challenges. Whether granted by the Department of Education or by the state under Ed-Flex, waivers do not address these areas of concern because waivers are limited to a specific set of programs and requirements, and because districts' major concerns often lie outside the scope of the waiver authority.

\3 GAO/HEHS-98-232, Sept. 30, 1998.

STRUCTURE OF ED-FLEX POSES
CHALLENGES FOR ENSURING
ACCOUNTABILITY

----- Letter :7

In recent years, political leaders and government officials have become increasingly concerned with improving government management and increasing accountability for program results at the federal, state, and local levels. At the federal level, for example, the 1993 Government Performance and Results Act (the Results Act) requires

federal agencies to specify strategic goals and related performance objectives and to measure and report their progress in meeting these goals. Proponents of the Results Act anticipated that setting clearly defined goals (such as increasing reading proficiency for all students) would serve to focus program efforts and that establishing specific, measurable objectives (such as having all fourth-grade students pass a basic reading test) could be used to assess progress toward these goals and thus enhance accountability.

Ed-Flex poses unique challenges for achieving and maintaining accountability in this results-focused, data-driven environment. The Ed-Flex legislation and the guidance provided to Ed-Flex states by the Department of Education highlight two types of accountability. First, states are to ensure that districts and schools that receive waivers are held accountable for achieving intended results--that is, for fulfilling the purpose for which the waiver was granted. Second, the federal government is accountable for the overall results of the federal programs affected by Ed-Flex waivers.

Both the legislation and the guidelines represent the importance of both types of accountability but provide the states with little specific direction on how to apply these concepts in implementing the waiver program. Providing more specificity could be difficult, however, because of the variation in the types of waivers that are allowed and the circumstances prompting the waivers. In addition, providing explicit federal direction may affect states' discretion in designing their own processes for overseeing and evaluating Ed-Flex waivers. Consequently, Ed-Flex allows the states broad latitude in developing accountability systems with limited federal oversight, and states vary widely in how they establish goals, track districts' progress, and protect underlying program purposes.

ED-FLEX STATES VARY IN HOW
THEY ESTABLISH GOALS AND
OBJECTIVES FOR FEDERAL
WAIVERS

----- Letter :7.1

Wide variation exists among Ed-Flex states regarding whether they have established clearly defined goals to measure the results of waivers received by districts and schools. Some states and districts have expressed their goals only in the vaguest of terms, while others have been more precise. For example, in one state where a district was granted a schoolwide program waiver, only nonspecific goals were reported, such as "a commitment to the identification and implementation of programs that will create an environment in which all students actualize academic potential." In contrast, the goals listed for two school districts in another state that received similar waivers to implement schoolwide programs were "to improve reading comprehension" and to ensure that "students will become better readers and more proficient in math skills."

States also differ in the degree to which they use specific and measurable objectives to assess whether districts have achieved their goals. Of the 12 Ed-Flex states, 5 have set no specific objectives at all, nor have they specified whether the results of the waivers will be reviewed for the district, the school, or groups of students. For example, one state has stated that it is able to review standardized test results only for the state as a whole. In another state, officials reported only that districts are expected to submit reports that describe their progress.

Other Ed-Flex states have established more specific objectives, but these states differ in whether they target these objectives to a

group of students, a specific school, a group of schools, or the district. For example, one state evaluates schools receiving waivers for schoolwide programs as a group, by comparing the overall performance of students in that group of schools with the performance of a control group of similar schools that did not receive such waivers. Another state expects an individual school receiving schoolwide program waivers to achieve a specific increase in the overall percentage of students from that school to pass the statewide assessment test. Only one Ed-Flex state--Texas--has set specific numerical criteria that are closely tied to both the schools or districts and the specific students affected by the waiver. For example, Texas expects all districts that receive waivers under Title I to make annual gains on test scores so that in 5 years 90 percent of all students will pass the state's assessment tests in reading and mathematics. In addition, Texas' districts must make annual gains so that at the end of the same 5-year period 90 percent of African-American students, 90 percent of Hispanic students, 90 percent of white students, and 90 percent of economically disadvantaged students will pass these tests.

FEDERAL OVERSIGHT UNDER
ED-FLEX PROVIDES LIMITED
INFORMATION ON PROGRAM
RESULTS

----- Letter :7.2

Currently, the Department of Education's oversight of Ed-Flex waivers is limited to requiring Ed-Flex states to submit an annual report to the Department summarizing the waivers granted in the previous calendar year. These reports vary in the level of detail they provide--both on the process for reviewing waivers and on the waivers that have been granted. As a result, the Department has considerable information available on some states' activities and very limited data on other states' implementation of Ed-Flex. Aside from this reporting requirement, the Department's role in Ed-Flex is generally confined to providing technical assistance and information when requested by the states.

The Department's limited oversight role in the Ed-Flex project raises issues about ensuring accountability for the results of federal programs to which those waivers apply. Although the states play a key role in administering key federal programs such as Title I and the Eisenhower Professional Development Program, the Department of Education maintains an assistance and oversight role and is accountable for program results. In addition, the legislation authorizing Ed-Flex prohibits Ed-Flex states from waiving requirements if such a waiver would be inconsistent with the purpose of the underlying federal program. For example, some education experts have expressed concern that waivers of Title I targeting requirements could, if used indiscriminately, dilute Title I funds and undermine the program's ability to direct scarce federal dollars to the children most in need. Under Ed-Flex, each state independently decides whether its waivers are consistent with the purpose of the underlying federal program, creating the potential for inconsistencies across states.

Department of Education officials told us that they believe the 12 current Ed-Flex states have used their waiver authority carefully and judiciously. However, both federal and state officials acknowledged the potential for states to act less carefully, especially if Ed-Flex is expanded to states that are less knowledgeable or prepared. It is unclear how the Department of Education, in its current limited role, could address such issues. However, expanding the role of the Department of Education could conflict with the intention of Ed-Flex

by limiting the discretion allotted to the states.

AGENCY COMMENTS

----- Letter :8

The Department of Education provided written comments on a draft of this report. In its comments, the Department stated that we should note that Ed-Flex was enacted with the understanding that there would be accountability in exchange for increased flexibility. We added language to further emphasize this understanding. The Department also described the process under which the Department reviewed states' applications for Ed-Flex status: specifically, the eligibility for Ed-Flex and the selection process. We added more detailed information on this point.

The Department also expressed concern that the report focused on the few requirements that may not be waived rather than on the broad scope of program-related requirements that are subject to waivers. Although Ed-Flex waivers are available for many requirements within six major education programs, other important requirements within these same programs (including maintenance of effort, parental participation and involvement, and distribution of funds to local and state education agencies) are not subject to waivers. Other key federal programs--including IDEA, school lunch and breakfast programs, and bilingual education--are not subject to Ed-Flex at all. As we reported, officials from several Ed-Flex states expressed frustration with these limitations to the Ed-Flex waiver authority. Similarly, the Department stated that although waivers were not designed to address some of the school districts' concerns, this is not a deficiency in Ed-Flex but rather an indication that school districts also need help in other areas. However, officials from several Ed-Flex states commented that, given many of the issues they would like to address, Ed-Flex creates false hopes.

Finally, the Department suggested that instead of providing information on the number of waivers granted, we should provide information on the number of schools affected by the waivers. Because it is generally the school district that applies for Ed-Flex waivers, we believe that presenting information at the district level is more appropriate. In its report on the Goals 2000 program, where it presented information on Ed-Flex, the Department took a similar approach and reported the number of waivers approved. The complete text of the Department's comments appears in appendix III.

----- Letter :8.1

We are sending copies of this report to the Secretary of Education, relevant congressional committees, and other interested parties. If you or your staff have any questions concerning this report, please call me; Harriet C. Ganson, Assistant Director; or one of the individuals listed in appendix IV on (202) 512-7014.

Sincerely yours,

Carlotta C. Joyner
Director, Education and
Employment Issues

NON-ED-FLEX STATES: GOALS 2000
PLANS, WAIVER AUTHORITY, AND
ED-FLEX SELECTION CRITERIA

===== Appendix I

State	Status of state plan	Status of waiver	
	State has an approved Goals 2000 state improvement plan	State can waive both statutes and regulations	State can waive regulation but not statutes
Alabama	X		X
Alaska			X
Arizona	X		
Arkansas			X
California		X	
Connecticut		X	
Delaware	X		X
Florida		X	
Georgia	X		X
Hawaii	X		X
Idaho			
Indiana		X	
Kentucky	X		X
Louisiana			X
Maine		X	
Minnesota	X		X
Mississippi			
Missouri			X
Montana			
Nebraska			X
Nevada	X		
New Hampshire			
New Jersey	X		X
New York			X
North Carolina		X	
North Dakota	X		
Oklahoma		X	

Pennsylvania		X	
Rhode Island			X
South Carolina			
South Dakota			X
Tennessee		X	
Utah	X	X	
Virginia	X		
Washington	X	X	
West Virginia	X		X
Wisconsin		X	
Wyoming			

Total	14	12	16
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\a Kentucky applied for Ed-Flex status but withdrew its application upon determining that it did not meet the criteria for selection because its authority to waive state regulations was too limited.

Sources: For status of state Goals 2000 plan, Department of Education; for state waiver authority, our survey of state education agencies.

NUMBER AND TYPES OF WAIVERS GRANTED FOR STATE-IMPOSED REQUIREMENTS, 1997

Appendix II

State	Does state have authority to waive state requirements ?	Number of regular school districts in state	Number of state waivers granted	Types of waivers most comm granted
<hr/>				
Ed-Flex States				
Colorado	Yes	176	State did not provide data.	Rules governing charter schools.
Illinois	Yes	905	466	State-mandated holidays; d physical education requirement.
Iowa	Yes	383	395	Requirements to offer thir and fourth year of foreign language; changes to the length of school day or ye block scheduling of physic education periods.
Kansas	Yes	304	0	No waivers were granted.

Maryland	Yes	24	0	No waivers were granted.
Massachusetts	Yes	248	40	Requirements concerning the age span of class groups or class size.
Michigan	Yes	593	381\	Administrative rules that apply to special education
New Mexico	Yes	89	1	Changes to the length of the school day or year; class and teaching load requirements.
Ohio	Yes	611	State did not provide data.	Changes to the length of the school day or year.
Oregon	Yes	233	8	Changes to the length of the school day.
Texas	Yes	1,044	1,606	Changes to the length of the school day or year to make additional time available for staff development.
Vermont	Yes	251	8	State did not provide data

Non-Ed-Flex States

Alabama	Yes	127	67	Changes to the length of the school day or year; student course requirements; state special education requirements.
Alaska	Yes	55	0	No waivers were granted.
Arizona	No	214	State does not have waiver authority.	No waivers were granted.
Arkansas	Yes	311	15	Class size and staffing requirements; state curriculum requirements; teacher certification requirements
California	Yes	999	1,600	Staffing requirements; student testing; requirements for summer school meal program rules concerning placing special education students in certain private schools.
Connecticut	Yes	166	State did not provide data.	Curriculum requirements; charter schools.
Delaware	Yes	19	8	State special education requirements; certification

requirements; physical education requirements; changes to the length of t school day or year.

Florida	Yes	67	39	Changes to the school day accommodate block scheduli
Georgia	Yes	180	185	Changes to the school day accommodate block scheduli high school graduation requirements.
Hawaii	Yes	1	5	State did not provide data
Idaho	No	112	State does not have waiver authority.	No waivers were granted.
Indiana	Yes	292	772	Curriculum requirements.
Kentucky	Yes	176	State did not provide data.	State did not provide data
Louisiana	Yes	66	State did not provide data.	Age requirements for gener equivalency diploma (GED) testing; curriculum change teacher certification.
Maine	Yes	228	State did not provide data.	Requirements concerning th age span of class groups; class size; tutorial servi
Minnesota	Yes	383	3	Special education requirements; superintende licensing; extended school year.
Mississippi	No	153	State does not have waiver authority.	No waivers were granted.
Missouri	Yes	525	14	Certification requirements Title I teachers.
Montana	No	465	State does not have waiver authority.	No waivers were granted.
Nebraska	Yes	653	1	Staffing requirements.
Nevada	No	17	State does not have waiver authority.	No waivers were granted.
New Hampshire	No	164	State does not have waiver	No waivers were granted.

authority.

New Jersey	Yes	582	297	State special education requirements.
New York	Yes	709	156	Curriculum and testing requirements.
North Carolina	Yes	119	5	Restrictions on the amount funds a district can carry over from one fiscal year the next.
North Dakota	No	234		State does not have waiver authority. No waivers were granted.
Oklahoma	Yes	548	200\b	Changes to the length of t school day or year; teachi hours; requirements concer library and counseling services.
Pennsylvania	Yes	500	796	Changes to the length of t school day or year.
Rhode Island	Yes	36	22	Changes to the length of t school day or year.
South Carolina	No	95		State does not have waiver authority. No waivers were granted.
South Dakota	Yes	173	30	Changes to the length of t school day or year.
Tennessee	Yes	138	5	State requirements for loc maintenance of effort in schools operating as schoolwide programs.
Utah	Yes	40		State did not provide data. Changes to the length of t school day or year; teache certification requirements some financial requirement
Virginia	No	132		State does not have waiver authority. No waivers were granted.
Washington	Yes	296	49	Changes to the length of t school day or year.
West Virginia	Yes	55	61	State requirements concern instructional materials.
Wisconsin	Yes	426	6	Changes to the length of t school day or year.
Wyoming	No	49		State does not have waiver authority. No waivers were granted.

authority.

\a Data apply to the period Sept. 1996 through Feb. 1998.

\b Data apply to the 1997-98 school year.

Sources: For number of regular school districts, National Center for Education Statistics Common Core of Data; for state waiver authority, our survey of state education agencies.

(See figure in printed edition.) Appendix III
COMMENTS FROM THE DEPARTMENT OF
EDUCATION

===== Appendix II

(See figure in printed edition.)

GAO CONTACTS AND STAFF
ACKNOWLEDGMENTS

===== Appendix IV

GAO CONTACTS

Harriet C. Ganson, Assistant Director
Sarah L. Glavin, Senior Economist

STAFF ACKNOWLEDGMENTS

Arthur T. Merriam, Jr., managed the state survey and cowrote the report; Linda W. Stokes assisted in designing the survey and in gathering the information on the design of Ed-Flex and the waivers granted by the states.

*** End of document. ***

As School Aid Is Relaxed, So Is Response of Many States

By KENNETH J. COOPER
Washington Post Staff Writer

A new law designed to ease restrictions on federal school aid has not attracted nearly as much interest from the states as was expected when Congress approved the high-profile legislation a year ago.

Passed with huge bipartisan majorities, the Education Flexibility Partnership Act was the first substantive legislation Congress enacted after the midterm election and was meant to highlight Republican interest in education as well as the party's emphasis on local control of schools.

Last April, President Clinton signed the bill, which was endorsed by every governor and was described by Sen. James M. Jeffords (R-Vt.), chairman of the Health, Education, Labor and Pensions Committee, as offering "a deal no one can refuse."

But most states immediately affected by the law either aren't interested or haven't made plans to apply. So far only one state, North Carolina, has applied to the Education Department—although a dozen more indicate they intend to do so.

The "Ed-Flex" law, as it is commonly known, lets states relax rules for federal education programs—for the entire state or for individual school districts—in exchange for adopting a statewide plan to lift the achievement of disadvantaged students served by the Title I remedial program. States

are required to monitor test scores carefully and take "corrective action" if disadvantaged students do not perform better.

North Carolina, for instance, may seek to get around limits on how much federal money can be spent to train teachers in reading, writing and other subjects besides science and mathematics. Pennsylvania intends to apply partly because the state wants to spread remedial education funds to rural schools with relatively few poor children, instead of spending Title I money only in schools with the biggest concentrations of disadvantaged students.

But among states not interested in Ed-Flex, most say they already have the slack needed to make federal programs flexible enough to suit them. "I can get the flexibility I want under the current opportunities," said Peter McWalters, Rhode Island's education commissioner.

The lukewarm response from states has raised questions about the political appeal of the central Republican message on education and, more fundamentally, the presumed demand among states and local school districts for relief from burdensome federal regulations. In the presidential campaign, presumptive GOP nominee and Texas Gov. George W. Bush on Friday called for giving states the kind of freedom from federal regulation that his state has had in an Ed-Flex pilot project underway since 1995.

"States are not rushing to apply for Ed-Flex," said Michael Cohen, assistant secretary for elementary

and secondary education. "It's not like local people are beating up on states, saying, 'Why haven't you applied for Ed-Flex?'"

Rep. William F. Goodling (R-Pa.), chairman of the House Committee on Education and the Workforce, said he was disappointed but not entirely surprised at the limited interest. "If you don't have any ingenuity, if you don't have any creativity, if you're just satisfied with the status quo, it's just much easier to do what the federal government says," said Goodling, a former school superintendent.

The governors may have unanimously supported the legislation, but top state education officials have been less enthusiastic—and it is they who must submit applications to the Education Department.

"I think people are playing this flexibility stuff higher than it needs to be," said Stephen Barr, federal liaison for Missouri's Education Department. "Everybody wants to blame bureaucracy, paperwork and everything else for inertia."

Under the new law, a state can receive the power to waive certain rules for seven federal programs, including Title I, the largest. Besides producing an academic improvement plan, states have to agree to waive similar state rules and laws.

The federal law extends to 38 states and the District the authority that a dozen states, including Maryland, have had in the pilot project. Participating states have used their new power most

often to make academic programs funded by Title I—a new curriculum or reading lab, for instance—available not just to disadvantaged students but to an entire school where less than half the student body is impoverished.

Interviews with officials in eligible states indicate that 15 of them do not intend to apply and that 10 have no current plans to do so. That is about twice as many as the 12 that say they will definitely sign up.

Neither the District nor Virginia plans to seek the broad waiver authority. Maryland, along with Texas, is widely praised as a model program from the pilot project.

"We actually find the current legislation pretty flexible as it is," said Mary Elizabeth Beach, an assistant superintendent of D.C. schools.

Cynthia Cave, policy director for the Virginia Department of Education, said: "Up to now, we've applied for specific waivers and they've been approved, so there hasn't been a lot of pressure for us to go to Ed-Flex."

In contrast, North Carolina has been in a hurry to shake off federal regulation.

"Our feeling is, decisions about North Carolina schools ought to be made down here in North Carolina," said Bill McGrady, the state's director of compensatory education. "Ed-Flex is something we wanted to go after, and go after quickly. . . . I just can't picture that other people aren't jumping on it."

Nancy Keenan, Montana's

school superintendent, indicated that there is a simple reason her state hasn't applied. "I don't think we need to waive anything," she said.

Goodling sounded irritated about states reaching that conclusion. "To say you're getting all the flexibility you need—it's nonsense," he said. "It may be all that they want."

California and New York, citing a different reason, say they won't bother to apply because they're too busy implementing their own education reforms.

"Basically, districts are saying we don't need one more new program, not even if it streamlines what we're doing," said Delaine Eastin, California's superintendent of public instruction. "They're not hankering to do this."

And there are states that have decided it takes too much red tape to obtain the power to cut red tape. Florida, for instance, has chafed at having to produce detailed reports on the test scores of students attending every school that receives Title I funds. Several states indicated that their legislators would not diminish their own authority by granting state education officials the power to waive state laws.

Cohen, the assistant education secretary, acknowledged that the new law is stricter than the pilot project in requiring academic improvement plans for Title I. Despite the tepid response so far, Cohen said the Ed-Flex law sent a "symbolically important" message to states that federal rules need not

stand in the way of innovative, results-oriented reforms.

Kevin Noland, Kentucky's interim commissioner of education, said the law would allow the state to waive a rule that prevents districts from providing federally funded vocational education to sixth-graders. Currently, those funds cannot be used for students below seventh grade.

Goodling predicted that more states would be interested in pending legislation, originally dubbed "Super Ed-Flex," which would cover twice as many federal education programs and permit states to combine separate funding streams. The Clinton administration and congressional Democrats have denounced that bill as creating block grants that would allow states to neglect the educational needs of disadvantaged students.

Ed-Flex

Unions Mobilize to Beat Bush, Regain House

By THOMAS B. EDSELL
Washington Post Staff Writer

Determined to keep a liberal legislative agenda at the center of the national debate, leaders of organized labor have developed a back-to-basics program to convince 16 million union members that George W. Bush and a Republican Congress are threats to their livelihood and well-being.

"We want to be sure that by the time the Republican television ads start this summer, every union member knows that this guy [Bush] is not on their side and that a vote for him is a vote against workers and against unions," said Steve Rosenthal, political director of the AFL-CIO.

Major business groups, in turn, are raising unprecedented amounts of money and gearing up for what they hope will be a massive corporate mobilization of employees and stockholders to blunt the growing influence of labor in elections.

Republican control of the White House and both chambers of Congress would give business an opportunity to enact an agenda that includes restrictions on the political use of union dues, partial privatization of Social Security, limited minimum wage hikes, moderation of workplace health and safety rules, and, of crucial importance to business, tough tort reform that would limit the ability of consumers to sue corporations.

Conversely, Democratic control of the White House and the House—the Senate will likely remain Republican—would give organized labor powerful leverage in setting legislative priorities and in making changes in labor law and labor regulation. Such a result would help the AFL-CIO and its member unions continue to reverse the trend of declining membership and diminished political power.

Both sides see the next president as likely to make at least three appointments to the Supreme Court, and in the process to shape the ideological and economic tilt of the nation's legal system.

For organized labor, the first item on the political agenda is the defeat of Bush, who is seen as explicitly anti-union. Labor leaders plan to portray the Texas governor as a threat to working men and women—a politician who would empower corporate America to gut workers' wages, benefits and workplace protections.

"Across the board, when you talk about worker issues, George Bush is not just missing in action," said Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees and chairman of the AFL-CIO political committee. "It's worse: He's on a search-and-destroy mission."

The AFL-CIO has commissioned extensive research to determine the most effective ways to communicate its political goals to union members. Surveys of members by Democratic pollster Geoff Garin show that a phone call from a fellow union member or a flier distributed at the workplace by a union member or union leader are

among the most effective tools, while direct mail and newsletters are among the least effective.

Among union members who received no political information from their unions in 1998, 58 percent voted for Democratic congressional candidates and 27 percent for Republicans—a 31-point margin—according to surveys conducted for the AFL-CIO. The pro-Democratic margin rose to 44 percentage points among those who received direct mail, to 54 points among those who got a call from a fellow union member, and to 58 points, with 76 percent voting Democratic, among those who received fliers from union members at the workplace.

The most effective communication strategy is also the most personnel-intensive, and union officials have been setting up political liaisons in each battleground state and congressional district, with designated union officers and workers in every local headquarters and at every work site.

Labor will in large part abandon the "issue ad" strategy of 1996, when the AFL-CIO spent millions running television ads in the districts of vulnerable incumbent Republicans—a tactic that was costly, controversial and relatively ineffective. Instead, the AFL-CIO will concentrate on registering, persuading and turning out union members in force, capitalizing on a trend of increased political participation by union members. From 1992 to 1998, the percentage of voters from union households rose from 18 percent to 23 percent.

In three key states—Michigan, Ohio and Wisconsin—President Clinton won because of his strong union support. If only voters from non-union households had cast ballots in these states, Clinton would have lost, according to exit poll data.

Next month, the barrage of political persuasion begins with the first in a series of fliers contrasting Bush's stands on issues—from health care to "right-to-work" laws barring union shops—with Vice President Gore's, distributed to workers by fellow union members.

The union operation will focus on the Gore-Bush contest first, in part because it is the most visible, and because the candidates take opposing stands on key issues. Labor leaders are convinced that they have the opportunity to define Bush before he gets a chance to define himself to most union voters. If the GOP presidential nominee can be successfully portrayed as a threat, it will make it much easier to paint a similarly threatening picture of the predominantly Republican congressional candidates that labor hopes to defeat.

As the AFL-CIO's political operation goes into action, major business groups are countering with stepped-up fund-raising and a sharp escalation of political activity. They are focusing on Congress, not the presidential race, with a goal of turning out mainly Republican voters.

The U.S. Chamber of Commerce is not only rejuvenating a moribund political action committee to channel money to candidates but also plans to initiate a multimillion-dollar program to spend up to \$100,000 in 35 or more key House races, and larger sums in 10 to 12 Senate contests, much of it as independent expenditures. The National Federation of Independent Business (NFIB) plans to double previous records in political fund-raising and spending, with a goal of \$7 million to \$8 million for this election cycle.

"What's at stake? It's pretty much black and white," said Dennis Whitfield, NFIB senior vice president. "We support the folks that support us. We've got a situation right now where the [GOP House] leadership has a 93 percent NFIB rating, and the speaker [J. Dennis Hastert (R-Ill.)] is 100 percent." The Democrats who would take over leadership positions if the House changes hands have a collective NFIB rating of 7 percent, and Minority Leader Richard A. Gephardt (D-Mo.) has a zero rating, Whitfield said.

Both labor and business face substantial hurdles in their bids to influence the outcome of the 2000 elections. Business lacks the readily accessible voter bloc that is the bread and butter of labor, and there have been strategic disagreements between the Chamber leadership and the group's major fund-raiser, Ted Welsh, that have slowed development of the Chamber's program, according to sources.

For the AFL-CIO, two key unions, the Teamsters and the United Auto Workers, so far have refused to endorse Gore because of Clinton administration trade policy. Without these two unions, it will be difficult to establish a united labor front.

Many sources expect the Teamsters to back the vice president soon, but no one knows what UAW President Stephen P. Yokich will do. The UAW is a major force in Midwestern states, especially Michigan, that are expected to be battlegrounds in the fall.

"No question about it, the UAW is the key union in Michigan," said McEntee. "In my mind, for the entire Democratic ticket, in terms of trying to take over the House, making a run at the Senate, and the presidency, there is no question that the UAW and Teamsters are increasingly important to that process."

Yokich's anger at the Clinton-Gore administration was evident last week when he issued a statement attacking Gore for supporting a "voodoo trade policy" with China. "Al Gore should know better than to jump on that big business bandwagon," he said.

Yokich's dilemma is whether to stand on principle and refuse to endorse a candidate whose trade policies he believes cost union members jobs or to join with the rest of the labor movement behind Gore in support of the long-range goal of restoring the prestige labor held in the 1950s and 1960s. Starting in the 1970s, the AFL-CIO was generally viewed as a paper tiger, a once-powerful force whose influence in elections and in Congress steadily diminished.

After taking a huge hit in the 1994 congressional elections, the union movement, under AFL-CIO President John Sweeney, has worked to regain its influence—both in campaigns and in Congress, where it has succeeded in putting legislation such as increasing the minimum wage and patients' rights in the forefront of consideration.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 10, 1999
(House Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 800 - Education Flexibility Partnership Act of 1999

(Rep.Castle (R) DE and 65 cosponsors)

The Administration supports House passage of H.R. 800, which would expand the "Ed-Flex" demonstration authority to permit all States that meet the eligibility criteria to waive certain statutory and regulatory requirements of Federal education programs. The Administration has long supported the concept of expanding ed-flex demonstration authority in a manner that will promote high standards and accountability for results, coupled with increased flexibility for States and local school districts to achieve those results.

The Administration is pleased with the amendments made by the House Committee on Education and the Workforce to "sunset" the bill upon reauthorization of the Elementary and Secondary Education Act of 1965 (to ensure consistency between that statute and Ed-Flex), terminate local waivers if achievement levels decline, and require public notice and comment before waivers are requested and granted.

The Administration strongly supports the Clay/Wu amendment that would implement the President's proposal for a long-term extension of the one-year authority to help school districts reduce class size in the early grades, which the Congress approved last year on a bipartisan basis. In order to hire qualified teachers, arrange for additional classrooms, and take other steps that are necessary to reduce class size, school districts need to know, as soon as possible, that the Congress intends to support this initiative for more than one year.

The Administration also supports amendments designed to further strengthen accountability for results in the Ed-Flex program, and to ensure that Federal education dollars continue to reach the students they were designed to serve.

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, DC 20503**

FAX COVER SHEET

**Number of pages: 1
(excluding cover sheet)**

DATE: 3/10/99

TO: SAP DISTRIBUTION LIST

**FROM: OMB LEGISLATIVE AFFAIRS
Phone: 395-4790**

SUBJECT OF SAP:

H.R. 800 - Education Flexibility Partnership Act of 1999

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 9, 1999

REMARKS BY THE VICE PRESIDENT
REGARDING ED-FLEX

Roosevelt Room

9:50 A.M. EST

THE VICE PRESIDENT: We've got an important amendment that is pending in the United States Senate. Tom Harkin has been a great champion of it. Senator Patty Murray and Senator Ted Kennedy are the two co-authors and co-sponsors of this amendment.

The Murray/Kennedy Amendment will follow through on the hiring of 100 thousand new well-trained teachers to reduce the size of our classrooms so that teachers have more time with each individual student. We know that is probably the single-most important thing we can do to improve the educational system in our country. And this will bring the ratio down to one teacher for every 18 students in the early grades. What a revolutionary advance.

We know how to solve this problem and this is one of the key steps. It is sort of the same way we put extra community police on the streets and brought the crime problem down. We went about it the right way. We know what works in improving our schools. And so we've proposed this idea and now the Senate is prepared to vote on it today.

Some of the Republican leaders don't want to see it voted on and there is kind of a blocking tactic there. It will come to a head today. So I wanted to -- because it is pending and because it is so important to the future of educational quality in America, I wanted to say a special word about it. I want to urge senators in both political parties to vote for the Murray/Kennedy Amendment today when it comes up for a vote.

(End)

9:53 AM EST



Office of U.S. Congressman Tim Roemer

2352 Rayburn House Office Building
Washington, D.C. 20515-1403
(202) 225-3915 Phone
(202) 225-6798 Fax

Date: 3-26-99

To: Bruce Reed

Of: White House

Pages (Including Cover Sheet): 2

From: Mark Brown

*If There Are Any Problems With The Transmission Of This Document
Please Contact This Office At (202) 225-3915.*

Comments: Per our conversation

Congress of the United States
Washington, DC 20515

March 24, 1999

Honorable Richard Gephardt
Minority Leader
H-204, The Capitol
Washington, D.C. 20515

Dear Mr. Leader,

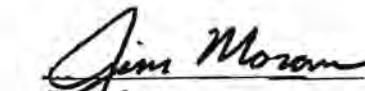
We are writing to express our concern, and indeed outrage, at the manner in which our party leadership handled the appointment of conferees on the Education-Flexibility bill.

Ed-Flex is a good, strong Democratic initiative which promotes bold reform and improvement of our nation's public school system. It has the strong support of the White House and all 50 Governors. More than half the members of the Democratic caucus voted for the bill in both committee and on the floor. And yet, not a single one of the 112 Democrats who voted for the bill on the House floor was appointed to the conference committee. We are now in the embarrassing position of having all four democratic conferees on the House side opposing a bill that has the support of the majority of our caucus.

This is a perfect example of why the Democratic party is struggling so hard to define itself, and why we are losing ground in public opinion polls on issues like education which belong to us. People are fed up with failure and incompetence in our public school system. However, when Democrats come up with an innovative plan to improve public schools, the face which our party puts on it is one of opposition and preserving the status quo. Clearly, our leadership is out of step with the party and with the overwhelming majority of the American people when it comes to the crucial issue of education flexibility and new ideas.

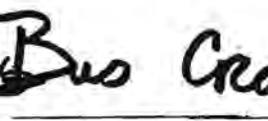
Sincerely,


Cal Dooley
New Democrat Coalition


Jim Moran
New Democrat Coalition


Tim Roemer
New Democrat Coalition


Gary Condit
Blue Dog Coalition


Bud Cramer
Blue Dog Coalition


Chris John
Blue Dog Coalition

Accountability and

- no deal w/ GOPs, but want it to pass

- 1) Texas: progress in order to keep waiver, activate it if doesn't
- 2) Track poor kids
- 3) Have whole system of stds + assess in place (knows not del.)
- 4) Statewide perf. goals
- 5) Sunset (OK w/ GOP)
- 6) Limits on how far from targeting
- no waiver to non-title I schools

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Reed's Notes of Meeting with Elena Kagan re: Ed-Flex, ca. 1999 (partial) (1 page)		P5

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Domestic Policy Council
Bruce Reed (Education)
OA/Box Number: 20166

FOLDER TITLE:

Ed-Flex

rs33

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Tom + Ted —
- get 30 senators
to sign
- what parents
really want

DAVID BEIER

EMK: We'll lose all of
these amdt's.

- Any \$
- GOP amdt's
- Ed/Flex w/IDEA

- My suggestion is
golden opport. for
a veto-repealing

- Arney quotes
- Event next wk.
- let it play out

ultimate is
approps.

- If preempting '99,
Dems will oppose overall bill
- If not

Tomorrow is the vote. Don't pit one against another.

- High stakes

- Class size - this is the time - not

Senate Amendments to the Ed Flex Bill

Authorizes LEAs to use Class Size Reduction funds to "carry out activities under part B of [IDEA]." (Sections 6(b), 7(b), 9(b), and 11(b)). Each of these sections -- Sections 6: Flexibility to Design Class Size Reduction Program, Section 7: Flexibility to Develop Dropout Prevention Programs, Section 9: Flexibility to Develop Afterschool Programs, and Section 11: Flexibility to Develop Programs to Reduce Social Promotion and Establish School Accountability Procedures -- carries a similar finding: that if part B of IDEA were fully funded, LEAs and schools would have the flexibility in their budgets to reduce class size, or develop dropout prevention programs, or develop afterschool programs, or develop programs to reduce social promotion or enhance accountability.

The Senate bill contains three separate "additional" authorizations of appropriations for part B of IDEA, one for \$150 million -- which correlates to Bingaman's defeated drop-out program amendment, one for \$600 million -- which correlates to Boxer's defeated after-school program amendment, and one for \$500 million -- which correlates to Feinstein's defeated social promotion amendment . (Sections 8, 10, and 13) Obviously the rhetoric behind these amendments is to put the funds that Democrats wanted for other programs into IDEA instead in order to "free up" local funds to do these other programs. (It may be good rhetoric, but that is not the way the IDEA trigger would work.)

The Senate bill also broadens the provision of part B of IDEA that authorizes school personnel to order a change of placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days, if the child "carries a weapon to school" to include instances in which the child does not carry the weapon to school, but "possesses" it at school, as well. (Sec. 12)

H.R. 800
Summary of Differences

The ED Flex provisions of the House- and Senate-passed versions of H.R. 800 are largely the same. This is a summary of the differences between the two versions of the bill, excluding editorial differences.

Findings The House bill emphasizes in finding #6 (i.e., expanded waiver authority will allow waiver of requirements that impede implementation of State and local improvement plans, while maintaining the intent and purpose of affected programs) the "important focus on improving math and science performance under title II [ESEA]."

Definitions The Senate bill defines "Outlying Area," but then appears not to use the term. Both bills appear to confine ED Flex eligibility to States (i.e., 50 States, plus the District and Puerto Rico.)

Scope of Program The House bill tracks the current ED Flex law and purports to authorize an SEA in an eligible State to waive certain requirements "for the State educational agency or any local educational or school within the State." (Sec. 4(a)(1)(A)). Despite this language, ED has read the current law not to authorize the practice of SEAs waiving requirements that apply to themselves, such as e.g., State accountability requirements. The Senate bill explicitly authorizes SEAs to waive requirements only "for any local educational agency or school in the State." Presumably, we would favor the Senate language on this point, but we may not want to call too much attention to the issue, given the language of current law.

State Eligibility Both bills make eligibility turn on the extent of implementation of Title I accountability systems, and both bills offer an alternative to States of either essentially complete or partial implementation. Under the essentially complete option, the Senate bill would require the State to have implemented the requirements in section 1111(b) relating to the disaggregation of data. With respect to the partial implementation alternative, the House bill appears to be the more rigorous. The House bill requires the State to have already "developed and implemented content standards and interim assessments and made substantial progress...toward developing and implementing performance standards and final aligned assessments, and toward having local educational agencies in the State produce [school performance] profiles." (Sec. 4(a)(2)(A)(II)) The Senate bill requires only "substantial progress... toward developing and implementing the standards and assessments, and toward having local educational agencies in the State produce the profiles."

The House bill requires an eligible State to hold LEAs and schools accountable for meeting the educational goals described in their local applications for a waiver (which States couldn't do, of course, before the State gets ED Flex authority in the first place!) The Senate bill requires States to hold LEAs and schools accountable for meeting "educational goals" in the abstract and "for engaging in the technical assistance and corrective actions consistent with section 1116 of the [ESEA], for the local educational agencies and schools that do not make adequate yearly progress." (Sec. 4(a)(2)(ii))

State Application The House bill requires the State's flexibility plan to include a "description of specific educational objectives the State intends to meet under [the] plan" and a description of how the State "will measure the progress of local educational agencies in meeting [those] specific goals." (Sec. 4(a)(3)(iii) and (iv)) The Senate bill instead requires the State to include in its flexibility plan a description of how the plan is "consistent with and will assist in implementing the State comprehensive reform plan" and if a State doesn't have such a plan, "a description of how the educational flexibility plan is coordinated with activities described in section 1111(b) of the [ESEA]." The Senate bill also requires a description of how the SEA will evaluate the performance of students in LEAs and schools affected by waivers "consistent with the requirements of title I of the [ESEA]." (Sec. 4(a)(3)(A)(iii) and (v))

Public Notice and Comment The House bill sets out detailed procedures and requires the State to include an assurance of compliance in its State application. The House's required procedures include: at least 30 days prior to granting a waiver the State would give public notice in widely read publications (e.g., newspapers) of the requirements to be waived, any expected improvements in student performance, and the State official to contact (who must also make the public comments available to the public.) (Sec. 4(a)(3)(v)) The House bill imposes parallel requirements on LEAs applying to the State for waivers. (Sec. 4(a)(4)(A)(v)) The Senate bill provides a little more flexibility to States and LEAs. The Senate bill requires SEAs and LEAs to include in their respective applications a description of how they will provide "adequate and efficient notice of the proposed waiver authority or waiver... in a widely read or distributed medium", and an opportunity, in accordance with State law, for the public to comment on the proposed waiver. The Senate bill also requires States to forward comments to the Secretary with their plans and LEAs to forward comments to the SEA with their applications. (Sec. 4(a)(3)(iv))

Approval of State Applications The House bill requires the Secretary to consider, when approving State applications, the degree to which the State's objectives, as described in the plan, are "specific and measurable" and "measure the performance of local educational agencies or schools and specific groups of students affected by waivers." Sec. 4(a)(3)(B)(iii)

Approval of Local Applications The House bill precludes an SEA from granting a waiver unless it is "satisfied that the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met." (Sec. 4(a)(4)(C)(iii).

State Monitoring and Reporting Both bills require State monitoring and annual monitoring reports; the House bill expressly states that the monitoring must include "a review of relevant audit, technical assistance, evaluation, and performance reports" and that the monitoring reports must include "the results of such oversight and its impact on the improvement of education programs." (Sec. 4(a)(5)(A).

State Performance Reporting The House bill provides for extensive State performance reporting to the Secretary. After two years of ED Flex status, a State would have to include in its annual monitoring report "performance data demonstrating the degree to which progress has been made toward meeting the [State's objectives in its plan]," including information on the number

and type waivers granted, the relationship between those waivers and the progress of LEAs and schools in meeting their performance objectives, and "an assurance from State program managers that the data used to measure performance... are reliable, complete, and accurate, or a description of a plan for improving the reliability, completeness, and accuracy of such data." (Sec. 4(a)(5)(B)) The Senate bill requires SEAs to conduct annual performance reviews of LEAs and schools with waivers, but does not expressly require any performance reporting to the Secretary.

SEA Termination of Waivers The House bill requires the State to terminate a waiver (after a hearing) if the LEA or school "experiences a statistically significant decrease in the level of performance in achieving [the State's or local's] objectives or goals for 2 consecutive years" unless the decrease "was justified due to exceptional or uncontrollable circumstances." (Sec. 4(a)(4)(D)) The Senate bill requires the State to terminate a waiver (after a hearing) if the LEA's or school's performance in meeting its goals "has been inadequate to justify the continuation of such waiver." (Sec. 4(a)(5)(B))

Duration of Federal Waivers The Senate bill would prohibit the Secretary from extending an ED Flex designation unless he determines it has "improved student performance." (Sec. 4(a)(6)(A))

Monitoring by Secretary Both bills require the Secretary to review State performance and terminate ED Flex designations for poor performance. The House bill requires such a review "three years after a State is designated" (Sec. 4(a)(B)), while the Senate bill requires such reviews "periodically" (sec. 4(a)(6)(B)). To terminate, the House bill would require the Secretary to determine that the State has "failed to make measurable progress in meeting [its State plan objectives] to justify continuation of such authority," while the standard in the Senate bill is more vague, that the State's "performance has been inadequate to justify continuation of such authority."

Secretary's Reports The House bill would require the Secretary to make each of the States' reports available to Congress and the public and submit to Congress "a report, on a timely basis, that addresses the impact that [ED Flex status has had on States' objectives]." The Secretary would also have to include in the report "an assurance that the data used to measure performance... are complete, reliable, and accurate or a plan for improving the reliability, completeness, and accuracy of such data." (Sec. 4(a)(5)(B)(ii)). The Senate bill would require a biennial report to Congress, starting not later than one year after enactment, that describes "the Federal statutory and regulatory requirements for which waiver authority is granted to SEAs [sic]," the State requirements "that are waived [sic]," "the effect of the waivers upon implementation of State and local educational reforms," and "the performance of students affected by the waivers." (Sec. 5)

Duration of ED Flex Authority The House bill authorizes the Secretary to carry out ED Flex "for each of the fiscal years 1999 through 20004," while the Senate bill authorizes ED Flex "for each of the fiscal years 2000 through 2004." (Sec. 4(a)(7))

Non-Waivable Requirements The House bill would allow waivers "to allow schools to

participate in part A of title I...if the percentage of children from low-income families in the attendance area of such school or who actually attend such school is within 5 percentage points of the lowest percentage of such children for any school in the local educational agency that meets the requirements of section 1113 of the Act." (Sec. 4(c)(1)(F)) The Senate bill expressly prohibits waivers relating to "serving eligible school attendance areas in rank order under section 1113(a)(3) of the [ESEA]."

Existing ED Flex States The House bill would not apply to existing ED Flex States unless they apply to extend that status, in which case they would become ED Flex States under the new law, and presumably give up their old status and authority. In reviewing the application for extension of an existing ED Flex State, the Secretary would have to review its progress in achieving the objectives set forth in its original application. (In other words, in time all ED Flex states would be governed under the new law.) The Senate bill would expressly make existing ED Flex States eligible to extend their current status, and does not address the possibility of such a State applying for ED Flex status under the new law, either in lieu of, or addition to, that status. (In other words there might be two classes of ED flex States and some double ED Flex States.)

Extension of ED Flex Status To determine whether a State's ED Flex status under the new law should be extended, the House bill would require the Secretary to determine whether the SEA and its LEAs and schools have made "measurable progress" in meeting their various objectives (Sec. 4(e)(1)), while the Senate bill would require only "progress".

Publication of Secretary's Decision Both bills would require the Secretary to publish in the Federal Register his decision to grant Ed Flex authority to a State, but the Senate bill would also require the Secretary to also publish "a description of the rationale the Secretary used to approve [the State's application.]" (Sec. 4(f))

Sunset The House bill would sunset the new ED Flex "on the date of enactment of an Act... that reauthorizes the [ESEA] in its entirety." (Sec. 4(g))

Other Provisions The Senate bill would authorize LEAs to use Class Size Reduction funds to "carry out activities under part B of [IDEA]." (Sections 6(b), 7(b), 9(b), and 11(b)). The Senate bill would contain two separate "additional" authorizations of appropriations for part B of IDEA, one for \$150 million, and one for \$600 million. (Sections 8 and 10) Finally, the Senate bill would also broaden the provision of part B of IDEA that authorizes school personnel to order a change of placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days, if the child "carries a weapon to school" to include instances in which the child does not carry the weapon to school, but "possesses" it at school, as well. (Sec. 12)

Motion to Instruct Conferees

Mr. Clay moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 800, an Act to provide for education flexibility partnerships, be instructed to insist that—

(1) funds appropriated under section 307 of the Department of Education Appropriations Act of 1999, may not be used for any activity other than those described in section 307 (class size reduction and professional development), as such section was in effect on October 21, 1998, in that the Senate Amendments to section 307 of such Act are inconsistent with the purpose and goal of such section, which is to improve educational achievement through a long-term commitment to help local communities hire new teachers to reduce class sizes in the early grades; and

(2) additional funding should be appropriated for the Individuals with Disabilities Education Act, but not by reducing funds for class size reduction.

03/10/99 14.08

TOM DASCHLE

U.S. Senator for South Dakota

320 North Main, Suite B
Sioux Falls, SD 57104
605-334-9596

320 S. First Street, Suite 101
Aberdeen, SD 57401
605-225-8823

816 6th Street
Rapid City, SD 57701
605-348-7551

Washington, DC 20510
202-224-2321
1-800-424-9094

FAX COVER SHEET

Date: March 16, 1999

TO: Broderick Johnson

Fax Number: 456-2604

FROM: Joan Huffer
Senator Tom Daschle
S-221 United States Capitol
Washington, DC 20510
Telephone: (202) 224-5556

Number of Pages (Including Cover Sheet): 1

MESSAGE: current version of Ed-Flex letter

United States Senate

WASHINGTON, DC 20510

March 16, 1999

The Honorable Jim Jeffords
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate
Washington D.C. 20510

Dear Mr. Chairman:

We are pleased that we are moving toward an expansion of Ed-Flex that increases flexibility and accountability, but we are deeply concerned about amendments added to the Ed-Flex bill that passed the Senate on March 11, 1999. We support expanding Ed-Flex, but the bill as it currently stands places two very important programs in conflict – the President’s initiative on class size, and support for the Individuals with Disabilities in Education Act. We strongly support both of these programs and are committed to funding them.

It should be possible in conference to develop a bill that expands the Ed-Flex program, and does not place the class size program and IDEA in competition with each other for the same funds. If such an agreement is not possible, we intend to oppose the conference report.

We look forward to working with you on this and other important education initiatives.

Sincerely,

_____	_____
_____	_____
_____	_____

TOM DASCHLE

U.S. Senator for South Dakota

320 North Main, Suite B
Sioux Falls, SD 57104
605-334-9596

320 S. First Street, Suite 101
Aberdeen, SD 57401
605-225-8823

816 6th Street
Rapid City, SD 57701
605-348-7351

Washington, DC 20510
202-224-2321
1-800-424-9094

FAX COVER SHEET

Date: March 12, 1999

TO: Larry Stein

Fax Number: 456-6220

FROM: Joan Huffer
Senator Tom Daschle
S-221 United States Capitol
Washington, DC 20510
Telephone: (202) 224-5556

Number of Pages (Including Cover Sheet): 1

MESSAGE: Attached is the letter Kennedy's staff drafted. I have been circulating it narrowly to see whether those who voted against us yesterday could support this move and the response so far has been positive with most except Byrd's staff. There was general agreement not to send this yesterday, but to get it going today or Monday. I haven't reached Michael to confirm that plan. Let me know if you have further thoughts or suggestions, or are concerned about keeping the option of adding class size open as part of this letter. My direct line is 224-8676.

03/13/99 SAT 00:44 FAX
03/12/99 FRI 11:17 FAX
03/12/99 THU 11:07 FAX
MAR. -11 '99 (THU) 13:18

US SENATE HELP CMTB

TEL: 202 224 5128

P. 002

March 11, 1999

The Honorable Trent Lott
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

We are deeply concerned about the Ed Flex bill that passed the Senate today, because it places two very important initiatives in conflict -- the President's initiative on class size, and increased support for the Individuals with Disabilities in Education Act. We strongly support both of these programs and are committed to funding them.

It should be possible in conference to develop a bill that not only expands the Ed Flex program, but strengthens both the class size initiative and IDEA, without placing these two programs in competition for the same funds. If such an agreement is not possible, we intend to oppose the conference report.

We look forward to working with you on this and other important education initiatives.

Sincerely,

UNITED STATES
DEPARTMENT OF EDUCATION



NEWS

For Release: March 10, 1999

Contact: Julie Green (202) 401-3026

STATEMENT BY U.S. SECRETARY OF EDUCATION RICHARD W. RILEY

I am deeply disappointed that Congress took steps in the wrong direction over the last two days as it failed to make a long-term commitment to reduce class size. Both the House and Senate had opportunities today to let local school districts know that funds will continue to be available so that over 7 years 100,000 teachers can be hired to reduce class size in grades 1-3 to 18 students per teacher. However, they not only failed to do that but instead, in the case of the Senate, retreated from the bipartisan agreement reached last year. There is nothing more timely or important than giving parents and teachers the reassurance that their children will be able to learn in smaller classes. I urge Congress to drop the amendments that undermine last year's bipartisan agreement to reduce class size and reach agreement on an Ed-flex bill with strong, responsible accountability provisions. It is unfortunate that the first education debate of this Congress ended in partisan efforts instead of addressing the serious issues confronting our nation's schools. Our students, parents and teachers want, need and deserve better.

###



DRAFT DRAFT DRAFT DRAFT

**Statement on Ed-Flex
March 11, 1999**

I have long supported the Ed-Flex concept, and I was pleased when the Congressional leadership decided to take up this bill as one of its first matters of business. Today, however, the Senate used this bill to undermine one of our most important educational achievements -- an initiative to hire 100,000 well-prepared teachers to reduce class size in the early grades to a national average of 18. The Senate not only voted down an amendment to ensure long-term funding for this initiative, but passed an amendment that would allow local school districts to completely opt out of class size reduction. I will work hard for the elimination of this amendment in Conference. We should be working together to make continued progress on obvious national needs such as reducing class size -- not attempting to tear down the bipartisan work we did last year to address this problem. The Conference Committee must drop this ill-considered Senate amendment to allow school districts to ignore the need for class size reduction.

Statement on Ed-Flex
March 11, 1999

I have long supported the Ed-Flex concept, and I was pleased when the Congressional Leadership decided to take up this bill as one of its first matters of business. Today, however, the Senate used this bill to undermine one of our most important educational achievements -- an initiative to hire 100,000 well-prepared teachers to reduce class size in the early grades to a national average of 18. Congress not only voted down an amendment to ensure long-term funding for this initiative, but passed an amendment that effectively would allow local school districts to opt out of class size reduction. I will vigorously oppose this amendment, and I will work hard for its elimination in Conference. We should be working together to make continued progress on obvious national needs such as reducing class size -- not attempting to tear down the bipartisan work we did last year to address this problem. The Conference Committee should drop this ill-considered Senate amendment to allow school districts to ignore class size.

Republican Support For 100,000 New Teachers

On October 15, 1998, President Clinton and Congressional budget negotiators reached agreement on a spending bill for 1999. Among the programs included in that agreement was a \$1.1 billion investment to hire 100,000 teachers to reduce class sizes across America. Here is how Republican leaders described the 100,000 teachers legislation at the time.

Former Speaker Newt Gingrich:

- ❑ "We said the local school board would make the decision, no new federal bureaucracy, no new state bureaucracy, not a penny in the bill that was passed goes to pay for bureaucracy; all of it goes to the local school districts...." [American Spectator, December, 1998]
- ❑ House Speaker Newt Gingrich, Georgia Republican, called it "a victory for the American people. There will be more teachers, and that is good for all Americans." [Washington Times, 10/16/98]

House Majority Leader Dick Armey:

- ❑ Asked "what would [you] say are the key Republican achievements in this bill -- Armey responded:

...Well, I think, quite frankly, I'm very proud of what we did and the timeliness of it. We were very pleased to receive the President's request for more teachers, especially since he offered to provide a way to pay them. And when the President's people were willing to work with us that we could let the state and local communities take this money, make these decisions, manage the money, spend the money on teachers as they saw the need, whether it be for special education or for regular teaching, with a freedom of choice and management and control at the local level, we thought this was good for America and good for the schoolchildren. We were very excited to move forward on that. [The NewsHour with Jim Lehrer, 10/15/98]

Rep. Bill Goodling, R-Pa, Chairman of the House Education and the Workplace Committee

- "It is a huge win for local educators and parents who are fed up with Washington mandates, red tape and regulation." [The San Francisco Examiner, 10/15/98]

F:\M6\CLAY\CLAY.007

H.L.C.

456-7028

William L. Clay

**AMENDMENT TO H.R. 800, AS REPORTED
OFFERED BY MR. CLAY OF MISSOURI**

In section 4(b) (of H.R. 800, as reported), strike paragraph (5) and insert the following:

1 (5) Beginning in fiscal year 2000, if a local
 2 educational agency participates in the class size re-
 3 duction program described under section 5 and uses
 4 90 percent of the funds made available under section
 5 6002 of the Elementary and Secondary Education
 6 Act of 1965 for such class size reduction program,
 7 with the remainder of such funds used to enhance
 8 student achievement in accordance with title VI of
 9 such Act, the local educational agency may waive the
 10 provisions of such title VI without seeking the ap-
 11 proval of the Secretary or State, except as provided
 12 in subsection (c).

13 At the end of the bill (H.R. 800, as reported), add the
 14 following:

15 **SEC. 5. CLASS SIZE REDUCTION.**

16 (a) ~~AUTHORIZATION OF APPROPRIATIONS.~~—For the
 17 purpose of carrying out this section, there are authorized
 18 to be appropriated, ~~\$1,400,000,000~~ for fiscal year 2000,
 19 ~~\$1,500,000,000~~ for fiscal year 2001, ~~\$1,700,000,000~~ for
 20 fiscal year 2002, ~~\$1,735,000,000~~ for fiscal year 2003,

90% of TMSI

1 ~~\$2,300,000,000 for fiscal year 2004, and \$2,800,000,000~~
2 ~~for fiscal year 2005.~~

3 (A) ALLOTMENTS.—

4 (1) IN GENERAL.—From the amount ^{allocated} ~~appro-~~
5 ~~riated under subsection (a)~~ ^{under this subpart} for a fiscal year the
6 Secretary—

7 (A) shall make a total of 1 percent avail-
8 able to the Secretary of the Interior (on behalf
9 of the Bureau of Indian Affairs) and the outly-
10 ing areas for activities that meet the purpose of
11 this section; and

12 (B) shall allot to each State the same per-
13 centage of the remaining funds as the percent-
14 age it received of funds allocated to States for
15 the previous fiscal year under section 1122 or
16 section 2202(b), whichever percentage is great-
17 er, except that such allotments shall be ratably
18 decreased as necessary.

19 (2) DEFINITION OF STATE.—In this section the
20 term 'State' means each of the several States of the
21 United States, the District of Columbia and the
22 Commonwealth of Puerto Rico.

23 (a) ~~(b)~~ WITHIN STATE DISTRIBUTION.—

24 (1) IN GENERAL.—Each State that ~~receives an~~ ^{makes funds}
25 ~~allotment~~ ^{available} under this section shall distribute the ^{under}
~~to expend~~ ^{Title}

VI

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H.L.C.

3

1 amount of the allotted funds to local educational
2 agencies in the State, of which—

3 (A) 80 percent of such amount shall be al-
4 located to such local educational agencies in
5 proportion to the number of children, aged 5 to
6 17, who reside in the school district served by
7 such local educational agency and are from
8 families with incomes below the poverty line (as
9 defined by the Office of Management and
10 Budget and revised annually in accordance with
11 section 673(2) of the Community Services
12 Block Grant Act (42 U.S.C. 9902(2)) applica-
13 ble to a family of the size involved) for the most
14 recent fiscal year for which satisfactory data is
15 available compared to the number of such indi-
16 viduals who reside in the school districts served
17 by all the local educational agencies in the State
18 for that fiscal year; and

19 (B) 20 percent of such amount shall be al-
20 located to such local educational agencies in ac-
21 cordance with the relative enrollments of chil-
22 dren, aged 5 to 17, in public and private non-
23 profit elementary schools and secondary schools
24 in the school districts within the boundaries of
25 such agencies.

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4

1 (2) AWARD RULE.—Notwithstanding paragraph
2 (1), if the award to a local educational agency under
3 this section is less than the starting salary for a new
4 teacher in that agency, the State shall not make the
5 award unless the local educational agency agrees to
6 form a consortium with not less than 1 other local
7 educational agency for the purpose of reducing class
8 size.

9 (5) (B) USES OF FUNDS.—Each local educational agency
10 that ^{expends} ~~receives~~ funds under this section shall use such funds
11 to carry out effective approaches to reducing class size
12 with highly qualified teachers to improve educational
13 achievement for both regular and special-needs children,
14 with particular consideration given to reducing class size
15 in the early elementary grades for which research has
16 shown class size reduction is most effective.

17 (C) (A) CLASS REDUCTION.—

18 (1) IN GENERAL.—Each such local educational
19 agency may pursue the goal of reducing class size
20 through—

21 (A) recruiting, hiring, and training cer-
22 tified regular and special education teachers
23 and teachers of special-needs children, including
24 teachers certified through State and local alter-
25 native routes;

1 (B) testing new teachers for academic con-
 2 tent knowledge, and to meet State certification
 3 requirements that are consistent with title II of
 4 the Higher Education Act of 1965; and

5 (C) providing professional development to
 6 teachers, including special education teachers
 7 and teachers of special-needs children, consist-
 8 ent with title II of the Higher Education Act of
 9 1965.

10 (2) RESTRICTION.—A local educational agency
 11 may use not more than a total of 15 percent of the
 12 funds ^{used} ~~received~~ under this section for each of ~~the~~ fis-
 13 cal years ~~2000 through 2003~~ to carry out activities
 14 described in subparagraphs (B) and (C) of para-
 15 graph (1), ~~and may not use any funds received~~
 16 ~~under this section for fiscal year 2004 or 2005 for~~
 17 ~~those activities.~~

Wants
 50%
 to 100,000

18 (3) SPECIAL RULE.—A local educational agency
 19 that has already reduced class size in the early
 20 grades to 18 or fewer children may use funds ~~re-~~
 21 ~~ceived~~ under this section—

22 (A) to make further class-size reductions
 23 in grades 1 through 3;

24 (B) to reduce class size in kindergarten or
 25 other grades; or

①
 2. not said

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1 (C) to carry out activities to improve
2 teacher quality, including professional develop-
3 ment activities.

4 ~~(d)~~ SUPPLEMENT NOT SUPPLANT.—A local edu-
5 cational agency shall use funds under this section only to
6 supplement, and not to supplant, State and local funds
7 that, in the absence of such funds, would otherwise be
8 spent for activities under this section.

9 ~~(e)~~ ^{expended} (f) PROHIBITION.—No funds ~~made available~~ under
10 this section may be used to increase the salaries of or pro-
11 vide benefits to (other than participation in professional
12 development and enrichment programs) teachers who are,
13 or have been, employed by the local educational agency.

14 ~~(f)~~ ^(g) PROFESSIONAL DEVELOPMENT.—If a local edu-
15 cational agency uses funds ~~made available~~ under this sec-
16 tion for professional development activities, the agency
17 shall ensure the equitable participation of private non-
18 profit elementary and secondary schools in such activities.
19 Section 6402 shall not apply to other activities under this
20 section.

21 ~~(g)~~ ^(h) ADMINISTRATIVE EXPENSES.—A local edu-
22 cational agency that ~~receives~~ ^{expends} funds under this section may
23 use not more than 3 percent of such funds for local admin-
24 istrative expenses.

1 (h)(1) FEDERAL SHARE.—The Federal share of the cost
2 of activities carried out under this section—

3 (1) may be up to 100 percent in local edu-
4 cational agencies with child-poverty levels of 50 per-
5 cent or greater; and

6 (2) shall be no more than 65 percent for local
7 educational agencies with child-poverty rates of less
8 than 50 percent.

9 (i) (j) LOCAL SHARE.—A local educational agency shall
10 provide the non-Federal share of a project under this sec-
11 tion through cash expenditures from non-Federal sources,
12 except that if an agency has allocated funds under section
13 1113(c) to one or more schoolwide programs under section
14 1114, it may use those funds for the non-Federal share
15 of activities under this program that benefit those
16 schoolwide programs, to the extent consistent with section
17 1120A(c) and notwithstanding section 1114(a)(3)(B).

18 (s)(k) REQUEST FOR FUNDS.—Each local educational
19 agency that desires to ~~receive~~ ^{expend} funds under ~~this~~ ^{the provisions} section
20 shall include in the application submitted under section
21 6303 a description of the agency's program under this sec-
22 tion to reduce class size by hiring additional highly quali-
23 fied teachers.

24 (k) (l) REPORTS.—

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8

1 (1) STATE REPORTS.—Each State ^{expending} ~~receiving~~
2 funds under this section shall report on activities in
3 the State under this section, consistent with section
4 6202(a)(2).

5 (2) SCHOOL REPORTS.—Each school ^{expending} ~~receiving~~
6 ~~assistance~~ ^{funds} under this section, or the local edu-
7 cational agency serving that school, shall produce an
8 annual report to parents, the general public, and the
9 State educational agency, in easily understandable
10 language, regarding student achievement that is a
11 result of hiring additional highly qualified teachers
12 and reducing class size.”.

*Enc -
Ed-Flex*

MEMORANDUM FOR *****DRAFT*****

FROM:

RE: Ed-Flex

Description of Program

The Education Flexibility (Ed-Flex) Partnership Demonstration Program was established by the Goals 2000: Educate America Act. Under Ed-Flex, states can waive certain federal rules and regulations in order to promote state and local school improvement efforts in exchange for greater accountability for student progress. To apply for status as an Ed-Flex state, states must have a comprehensive school improvement plan approved by the Secretary, and must waive their own statutory or regulatory requirements, while holding districts and schools affected by the waivers accountable for academic performance. Ed-Flex allows the Secretary of Education to delegate this authority to up to 12 states.

A State may waive requirements relating to several programs that are authorized as part of the Elementary and Secondary Education Act (ESEA), including Title I, Eisenhower Professional Development, Safe and Drug-Free schools and Even Start. Before granting a waiver, a State must first determine that the underlying purposes of the affected program will continue to be met. Ed-Flex does not apply to the Individuals with Disabilities Education Act (IDEA), or to requirements pertaining to health, safety, civil rights, and parental participation in education. The twelve states with Ed-Flex authority are: Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, New Mexico, Ohio, Oregon, Texas and Vermont.

Administration Support of Ed-Flex

The President and Secretary Riley have been very supportive of this program. Ed-Flex was originally proposed in 1994 by Sen Hatfield as an amendment, supported by the administration, to Goals 2000. When Goals 2000 was enacted, up to six states could be designated as Ed-Flex states. In 1995, Sen Specter added an amendment in appropriations to expand the number of Ed-Flex states to twelve. At last year's NGA meeting, the President announced his support for legislation to expand the ED-Flex program to all 50 states (assuming they met program eligibility requirements). That bill, passed out of committee in the Senate, but did not move in the House. This year, an Ed-flex bill has again been passed out of committee and is pending floor action in the Senate.

Although we supported a free-standing Ed-Flex bill last year, at that point we were more than a year away from reauthorization of ESEA. Now, are at best only a couple of months away from Congress taking up ESEA. Since Ed-Flex allows waivers of ESEA provisions, it makes most sense to consider Ed-Flex as part of the

ESEA reauthorization. This would ensure that Ed-Flex is designed to fit the federal education programs of the next five years, rather than the last five years.

Also, it is essential that an Ed-Flex provision strike the right balance between flexibility and accountability for results. In November of 1998, a GAO report gave Ed-FLEX mixed reviews in terms of its effectiveness. Specifically, states vary tremendously as to the extent to which they assess and monitor the impact of the waivers on student achievement. As we move forward on Ed-Flex, we need to determine how we can ensure that we are holding states and districts accountable for performance.

If Congress does take up Ed-Flex prior to ESEA reauthorization, the President will insist that it is consistent with his approach to ESEA and that it include tough accountability measures. In addition, the President will support efforts to take up other parts of his education agenda at the same time --particularly his proposal to reduce class size.

Congressional and Constituency Group Issues

Senate democrats (Kennedy/Dodd) have raised concerns about accountability and effectiveness of the Ed-Flex program. Realizing that the bill will probably move, they want to ensure that a tough accountability mechanism is included. In the House, reservations have been expressed by Rep. Clay and others about considering Ed-Flex separately from the ESEA reauthorization. Civil Rights groups are concerned that the waivers not be used in a manner that would result in the funds -- especially in the Title I program-- not going to the children in the greatest need (e.g. a state allowing schools that do not meet the poverty threshold to become eligible for Title I funds).

Examples of Waivers Granted by Ed-Flex States

The Fort Worth, Texas School District received a waiver allowing it to target an extra portion of its Title I dollars to four high poverty, inner-city elementary schools. The schools were chosen for a complete overhaul due to low achievement on the Texas Assessment of Academic Skills and other factors. Each school uses Title I funds to improve instruction for all its students and is reorganizing staff, lengthening the school year, enhancing instruction in reading and math, providing extensive teacher training, and strengthening links to the community. Without this waiver, these high-need schools would not have received as much funding.

Montgomery County Schools in Troy, North Carolina received a waiver permitting Troy Elementary School to implement a schoolwide program even though the percentage of children from low-income families at the school (45.75%) is slightly below the statutory minimum poverty threshold (50%) required for schoolwide programs. The school has undergone extensive planning to implement its schoolwide program, which promotes the integration of resources and emphasizes

continual assessments of students' progress. This waiver for a school-wide program enables the school to use its Title I resources to strengthen instruction for the entire school, rather than providing services to individual students.

LAW OFFICES
OF
WILLIAM L. TAYLOR

Ed Flex

2000 M STREET, N.W., STE. 400
WASHINGTON, D.C. 20036

WILLIAM L. TAYLOR
DIANNE M. PICHE*

TELEPHONE
(202) 659-5565

Confidential Memorandum

To: Mike Cohen
From: Bill Taylor *Bill*
Date: February 5, 1999
Re: Ed Flex

Here is the letter the LCCR has sent to the Hill on Ed Flex.

If necessary, we can draft amendments although I don't think it would be a good idea to preview any amendments that the Administration or our groups plan to offer to Title I. Rather, we would simply add the key accountability provisions of Title I to the list of nonwaivable items in S. 280.

Mainly though, I don't understand why (whatever the wishes of Democratic governors), the Democrats would want to hand Mr. Lott and his friends an education victory right out of the box.

cc: *Bruce Reed*
Chris Edley



Leadership Conference on Civil Rights

1629 "K" St., NW, Suite 1010
Washington, D.C. 20006
Phone: 202/466-3311
Fax: 202/466-3435
www.civilrights.org

February 5, 1999

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Brian Komar

Dear Senator Kennedy:

The Leadership Conference on Civil Rights (LCCR) has made continuation of the standards based reforms adopted in Title I of the Elementary and Secondary Education Act (ESEA) a top priority in the 106th Congress.

We are greatly concerned that swift passage of S. 280, the "Education Flexibility Partnership Act of 1999," could undermine the fundamental objectives of Title I reform. We urge that S. 280 be taken off the "fast track" on which Senator Lott has placed the bill. We believe that "Ed Flex" should be considered in the context of ESEA reauthorization. The gravity of this proposal suggests that full hearings should be held to address the implications of taking this dramatic action.

Such a review is necessary because, while S. 280 is concerned with student progress and accountability, once "Ed Flex" status is granted, states and local districts will be free to disregard the accountability provisions of Title I.

A recent report by the Citizens' Commission on Civil Rights raises real concerns about the capability or will of many states to take steps required under the law to improve educational opportunities for poor and minority students. The study also suggests that the Department of Education has had difficulty in implementing key provisions of the law. Moreover, the waiver section of Title I has proved adequate to meet state needs for flexibility.

The Leadership Conference does believe in the trade-off that Title I made in 1994 in which states and local educational agencies (LEAs) were given greater flexibility in exchange for a commitment to bring about educational results. We fear now that S. 280 may erase the commitment to results and that children will be the losers.

We strongly believe that S. 280 should not be considered on the Senate floor until it has been determined that it will have a beneficial impact on the education of students at risk.

Sincerely,

Wade Henderson
Executive Director
LCCR

William L. Taylor
Vice Chairman
LCCR

Nancy Zirkin
American Assn
of Univ Women
Co-Chair
LCCR Education Task Force

Cecilia Munoz
National Council
of La Raza
Co-Chair

"Equality In a Free, Plural, Democratic Society"

Ed-Flex Reflex

Education is Topic A in the opinion polls that Beltway politicians commission to do their thinking for them, so it's no surprise there was bipartisan celebration over the recent passage by Congress of the new Ed-flex bill. Well, education is indeed a concern of many parents, and this bill makes it clear why it's likely to stay high on their list.

Ed-flex itself may be little more than a photo-op bill, but there is in fact an important national argument taking place here. On the one hand are those who would like to widen further Washington's control of schools. For liberals, this is the fastest way to achieve public virtue—one mandate fits all. And under Democratic theory, the way to make people virtuous is simple. You bribe them.

Thus, the Democratic amendments to the Ed-flex bill offered to hire yet another 100,000 teachers, \$600 million for after-school programs, \$500 million for remedial education and \$150 million to reduce drop-outs (presumably they don't want to bribe the drop-outs directly, but maybe it's worth a try).

Republicans, to their credit, vetoed all this. They had embarrassed themselves last fall when the GOP leadership climbed on the class-size bandwagon and signed onto a federal budget that included \$1 billion extra in federal money for teachers, whose dues in turn would help the NEA drive more Republicans from office.

This time the Republicans were looking for ways to give states and local systems more flexibility in practicing the virtues already ordered upon them by Washington's secular theocracy. Occasionally, they could even spend the federal money as they see fit. Now GOP chatmeisters are de-

scribing Ed-flex as a kind of education revolution in America. And we suppose it is, if the standard is the incredible burden now in place, stretching all the way back to the fantastically expensive federal mandate to rip asbestos out of the nation's schools. Those wasted billions might have bought a few more computer labs at the dawn of the PC revolution, when they would have done some good.

We have to wonder when parents are going to feel a bit used by the education issue. What mother does not warm to the idea of more individual attention for her child? What father does not want his child to prepare for a nationally standardized test, if that preparation makes him a better reader? The problem is there is virtually no evidence that any amount of federal money—whether it's labeled "Ed-flex" or "standards" or "class-size reduction"—does much of anything for student academic achievement.

As education scholar Chester Finn and the Thomas B. Fordham Foundation show in a groundbreaking history of school centralization of the past 30 years, cash flows into our schools today as never before. America spends more per child on education than most developed countries. But much of the money ends up subsidizing causes quite irrelevant to what most parents would regard as learning.

Instead, much of the money cements in place the latest bricks in the bureaucracies—teachers, teachers' aides, aides to the teachers' aides, program managers, data processors, the companies that dream up the programs and then sell the infrastructure to the system. Precious little gets to kids at their desks. If it did, education would hardly be Topic A with parents.

Asides

Mexico's New Lunch

As evidence that a more open and competitive economy in Mexico can actually produce good results, consider the Mexican government's latest decree: the death of the three-hour lunch. Until now the government's 1.6 million bureaucrats operated on a rather inefficient schedule of lunch from 3 p.m. until 6 p.m., with the resulting obligation of working until 10 or 11 at night. Now the government says that starting April 1, it will save money by limiting lunch to one hour.

According to press reports, after the initial shock, the city seemed to be adjusting to the news with few complaints. That may be because it is the higher level functionaries who will suffer the most, ringing down the curtain on lazy tequila *comidas* in expensive restaurants or mid-day romances. It seems the average working José usually grabbed tortillas and beans on the street and killed the rest of the time anyway. Now he'll get home earlier in the evening. Who says market reforms favor only the rich?

LATEST SPORTS

SHOCKER: DUKE STOPS NO. 1 VOLS 69-63

THREE-TIME DEFENDING CHAMPION TENNESSEE ELIMINATED; FINAL FOUR COVERAGE, 1,4C

WOMEN'S NCAA PLAYOFFS

Tenn. coach Summitt

USA TODAY

PHOTO: THE U.S. AIR FORCE / FIRST IN DAILY READERS

BAGGY PANTS: THEY'RE SO YESTERDAY

TEEN FASHION IS FICKLE BUSINESS, 1,90

OSCARS' RATINGS LESS THAN GOLDEN

AFTER-SHOW PARTIES, 1,40

TUESDAY

Their style: Paul Beard, 18, and Josh Langsam, 17, 1D

TUESDAY, MARCH 23, 1999

NEWSLINE

A QUICK READ ON THE NEWS

WALL STREET: Dow Jones industrial average slips 13.04 points to 9890.51; Nasdaq index slides 25.33 points to 2395.94; 30-year Treasury bond yield climbs to 5.57%.

► Japan's Nikkei average is down 220 points to 16,159 midday; yen is 118.11 per dollar. Hong Kong's Hang Seng index slips 69 points to 11,038 early today.

CHESS GRANDMASTER: Maurice Ashley, left, is the first black chess player to become a grandmaster, the game's highest rank. 1A

USAIR CRASH: Investigators begin meetings today to decide whether rudder caused deadly 1994 crash of Flight 427. 13A

YOSEMITE DEATHS: Dental records show one burned body found in car trunk is missing Suzuki-Carole Sund; other remains unidentified and third victim is still missing. Meanwhile, roll of film shows last hours. 3A

KEVORKIAN TRIAL: Jack Kevorkian goes on trial in Michigan for murder charges, acting as own lawyer; he tells judge he was simply carrying out professional duty. 2A

POLICE-MEDIA DEALS: Supreme Court will hear arguments Wednesday in two cases that could curtail media's presence during police searches. 3A

FIGHTING TERRORISM: Anti-terrorism spending will exceed \$10 billion next year, raising fire of critics. 9A

GRAVE SITUATION: For the many cemetery memorials set aside for the living but already inscribed with unannounced death dates, 19... is running out. 4A

TODAY'S DEBATE: Kosovo. In USA TODAY's opinion, "The time for bluffing is over. NATO has no choice but to act now." 14A

► "It is only through direct, fair and honorable negotiations that we can achieve a lasting solution in the interest of all ethnic communities," Nehoyev Ujovjev says. 14A

MONEY: SEC chief Arthur Levitt urges mutual fund executives to make fund directors more autonomous. 1B

► Stock indexes hot as ever among investors. 1B

► Fame, fortune await around-the-world balloonists. 3B

SPORTS: Indiana tops Washington 90-86. NBA, 8:10C

► Michael Weiss currently in second place at world skiing championships in Helsinki, Finland. 12C

LIFE: Scientists say they could make more potent form of attention disorder drug Ritalin with fewer side effects. 1D

► Oprah joining the Good Morning America crew? TV, 3D

► A Final Word for nervous fliers. 6D

COMING WEDNESDAY

Coaching king

USA TODAY's series of interviews with living sports legends continues: former UCLA basketball wizard John Wooden.

Playing with guns

How do you know your children aren't playing with guns at someone else's house? Maybe you should ask.

Written by John O. Buckley

Crossword 11D

Editorial/Opinion 14-15A

Lotteries 11D

Marketplace Today 11D

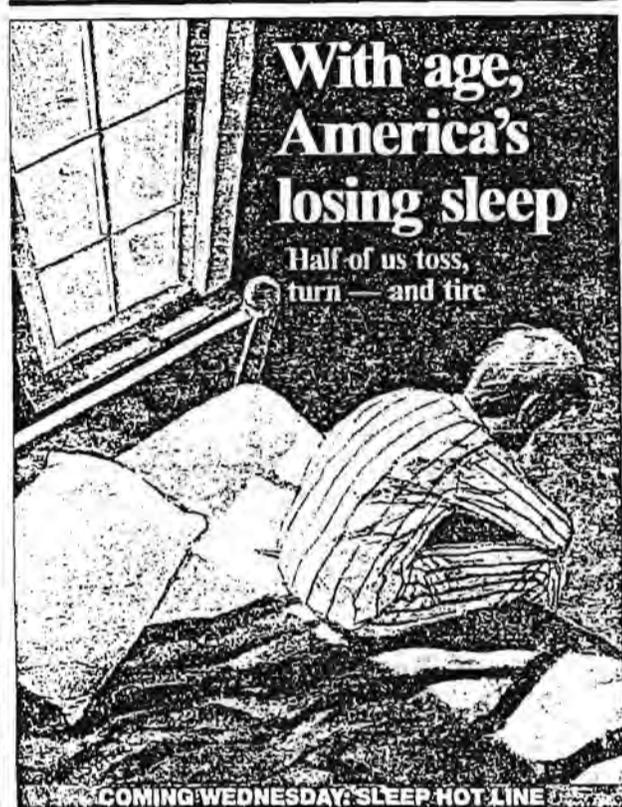
State-by-state 12A

Stocks 4,7,9,11-15B

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Milosevic at brink, U.S. warns



COMING WEDNESDAY: SLEEP HOT LINE

More talks expected today; Clinton to brief Congress

By David Lynch
USA TODAY

BELGRADE, Yugoslavia — Yugoslav President Slobodan Milosevic showed no signs of backing down Monday as NATO remains poised to launch airstrikes against his nation.

"We are on the brink of military action," U.S. envoy Richard Holbrooke warned.

Milosevic met for four hours with Holbrooke Monday, an 11th-hour meeting aimed at avoiding a NATO attack unless Serbia accepts a peace plan for Kosovo. It calls for up to 28,000 NATO troops to be deployed to help keep the peace.

White House aides said Holbrooke was expected to speak with Milosevic again today, just as President Clinton briefs congressional leaders at the White House.

But Serbian television indicated no movement by Milosevic. It said the Yugoslav leader told Holbrooke, "Anybody who tries to impose a solution by force will have to face the responsibility and consequences that may occur."

In Washington, the Clinton administration insisted that there was "strong unity" among the United States and its allies to launch airstrikes unless the Serbs agreed to a settlement.

"We all agree we cannot allow President Milosevic to continue the aggression with impunity," Clinton said.

But on Capitol Hill, the Senate debated a bill to block spending for any military intervention in Kosovo without congressional approval.

"Kosovo is a part of Serbia. How deeply engaged in this civil war are we going to become?" asked Senate Republican whip Don Nickles of Oklahoma.

The legislation was not expected to pass, but Democrats were pushing for a delay of a vote that is expected today.

In Moscow, Russian Prime Minister Yevgeny Primakov urged the United States and its allies not to strike.

"We are categorically against the use of force," Primakov said before he was to head to Washington to meet with Clinton.

In Kosovo, fighting raged between Serbian forces and the rebel Kosovo Liberation Army in the northern and central parts of the province. Several villages were ablaze, and there were reports of mass killings near the town of Srebica.

Ethnic Albanians, who make up 90% of Kosovo's 2 million people, are fighting for their independence from Serbia. Kosovo, which was Montenegro territory until 1991, has been killed and more than 250,000 ethnic Albanians have been forced from their homes since February 1998.

U.S.-EU lock horns over beef

By James Cox
USA TODAY

WASHINGTON — The United States issued a list of \$900 million in European products, from meats to mineral water, that could face 100% tariffs if Europe doesn't lift a decade-old ban on U.S. beef.

U.S. trade officials hope the list puts pressure on the 15-nation European Union to lift its ban rather than risk a tariff-for-trade war. Its release comes just weeks after the United States fired off with the EU over banana imports.

The EU has beef been treated with growth hormones, a category that includes 95% of the beef produced in the USA. The World Trade Organization (WTO) has twice ruled that the ban can't be justified by science. The U.S. beef industry says the EU ban costs it up to \$500 million a year.

The United States says Europe must lift the ban by May 13 to meet a WTO deadline. The EU says it needs only 19 complete trade assessment studies of hormones-treated beef by May 13.

The EU already has said its latest hormone studies won't be finished until next year. It says it is willing to compensate the United States by temporarily relaxing quotas and tariffs on some U.S. goods.

The beef sanctions list will have a "chilling effect on trade" with the United States, the EU said Monday. "This is not only a trade issue but also one involving human health."

The United States says scientific studies, including three by the EU, have shown that hormones-treated beef is safe.

The two sides have discussed a proposal to put labels on U.S. beef exported to Europe. But U.S. officials have rejected proposed wording that contains health warnings or references to hormones. Any agreement on labels must include a lifting of the ban, they insist.

The United States lashed out at the EU this month for refusing to change import rules that hurt U.S. banana marketers. It put 100% duties on \$520 million in European luxury goods and other products.

The banana and beef battles involve the world's two largest trading entities, and are seen as test cases for the WTO, which could crumble if it can't resolve the trade fights.

The trade fights complicate U.S.-EU relations as:

- The two work together to pressure Serbia to agree to a peace plan in Kosovo.
- The European Commission, the EU's equivalent of a Cabinet, is battling corruption allegations.
- Other U.S.-EU trade disputes over standards for cell phones, Internet privacy and aircraft noise are festering.

COVER STORY

Boomers' lifestyles often open the door to insomnia

By Nancy Hellmich
USA TODAY

Sleeplessness is getting worse in America, and scientists are scrambling to help an aging, highly stressed population get the rest it needs.

In a National Sleep Foundation poll of 1,014 adults to be released Wednesday, 56% say they've experienced one or more symptoms of insomnia a few nights a week or more.

They have difficulty falling asleep, or they wake up in the night and can't get back to sleep. Or they may simply awaken tired and unrefreshed.

In a similar poll in 1991, only 27% said they had occasional insomnia; 9% said they had chronic sleep difficulties — inadequate or poor quality sleep on most nights for a month or more — vs. an estimated 10% to 15% today.

"Those numbers keep going up, which is a concern," says Thomas Roth, head of the division of sleep medicine at Henry Ford Hospital in Detroit and author of several hundred articles on sleep.

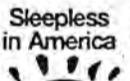
Sleep experts say insomnia is not a sleep disorder or a disease but a symptom of an underlying problem. It affects different ages in different ways: Middle-age and older people usually fall asleep easily, but they wake up repeatedly during the night. Roth says: Younger people tend to have difficulty falling asleep to begin with.

Aging boomers are at a prime time for some of the lifestyle factors that lead to sleeplessness:

- Stress, worries and frantic schedules. In the new poll, 30% of respondents say that stress affects their sleep. Many people feel pressured because there is so much to do juggling career, family and other obligations.
- Medical problems: 22% report that health conditions, pain or discomfort affect their sleep. As people get older, they are more likely to have problems sleeping because they take more medications, suffer from more illnesses and diseases, have more fragmented sleep and more disturbed circadian rhythms (24-hour sleep-wake cycles), Roth says.
- Poor sleep environments: 20% of adults say light, noise or temperature affects their sleep.
- Noisy or restless bedmates: 12% of adults (17% of women and 3% of men) say their partners' sleep habits keep them awake.

Disorder can be lethal, 8D

New treatments, 8D

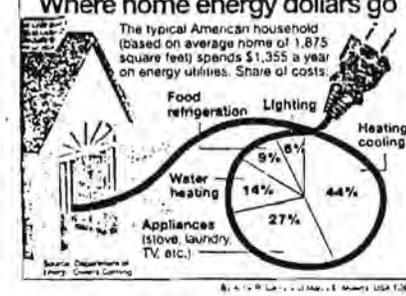


Sleepless in America

Please see COVER STORY next page ►

USA SNAPSHOTS

A look at statistics that shape the nation



Study: Military computers too exposed

By M.J. Zuckerman
USA TODAY

WASHINGTON — The U.S. military's "central nervous system" is vulnerable to attack or failures that rise to the level of "a pressing national security issue," according to a congressionally mandated report released Monday.

The three-year study by a panel of the National Research Council is the latest in a growing mountain of evidence from the military and private sector that dependence on computer systems is making the nation increasingly vulnerable.

The panel identified three specific areas in which the Defense Department faces "major challenges" in what is commonly called C4I — Command and Control, Communications, Computers and Intelligence — the spinal cord controlling the muscle of a modern military:

- Interoperability, or the ability to make various elements of the military work together.
- Security, or the ability to keep outsiders from controlling systems or disabling them.
- Culture, or training troops and commanders to understand how technology changes their jobs and responsibilities.

"The biggest vulnerabilities are people," either in terms of lax training and failure to understand the new technology or people who would actively undermine security, said James McGroddy, the committee chairman and retired senior vice president for research at IBM.

Asked to identify what each member saw as the most pressing need to be addressed, the six-member panel was divided evenly on security and interoperability.

"The vulnerability gap is growing at a rate faster than we

can defend it," McGroddy said. He pointed to the finding that "the rate at which information systems are being relied on outstrips the rate at which they are being protected."

The panel noted that the stunning expansion of technology, at a pace that "what you have today is 10% of what will exist in five years," makes it almost impossible to maintain a highly skilled staff.

The panel made several recommendations, including: creation of an Institute for Military Information Technology to train staff members and stay ahead of all challenges.

► Fighting rages, 11A

Comcast to acquire MediaOne for \$60B

The cable company Comcast agreed Monday to buy MediaOne for \$60 billion, creating a communications powerhouse to rival Time Warner and AT&T in offering high-speed Internet access and local phone and cable service. 11L