

How ESSA Passed

The Inside Scoop

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On December 10, 2015, schoolchildren, teachers, education advocates, and lawmakers from across the political spectrum gathered to witness and celebrate the signing of the Every Student Succeeds Act.

They had good reason to be jubilant. The bipartisan legislation to replace the withered, nearly universally despised No Child Left Behind Act coasted through both houses of Congress by overwhelming margins—an eye-popping feat in an era of partisan paralysis. It brought together some of the most conservative Republicans in Congress with teacher unions, state education chiefs, and even the coalition of civil rights and business leaders that had been behind NCLB.

The conservative *Wall Street Journal* called ESSA the biggest retreat of the federal role in K–12 education in twenty-five years. The law’s Democratic sponsors called it a continuation of the Elementary and Secondary Education Act’s civil rights legacy. Remarkably, both were arguably correct.

Amid the celebratory selfies, it was easy to forget that this reauthorization was more than seven years overdue, and that its path was riddled with partisan potholes. There were multiple moments through the course of 2015 when nearly everyone in Washington assumed the effort would falter just as previous attempts had.

As a reporter for *Education Week* for more than a decade, I covered failed attempt after failed attempt. At the beginning of the year, I counted myself among the skeptics. This chapter will give you a front-row seat to how one of the most partisan, deadlocked Congresses in recent history pulled off a long-elusive reauthorization that touched nearly all of their constituents.

THE CAST OF CHARACTERS

Getting the legislation through Congress took a mix of good timing, old-school wheeling and dealing, and just the right collection of characters. Each of the four lawmakers who forged ESSA had been on Capitol Hill for over a decade and commanded respect. Each wanted to get to “yes” on a reauthorization. And each believed that 2015 could offer the best shot at a law that embraced their priorities.

ESSA’s architects included Sen. Lamar Alexander (R-TN), the new chairman of the Senate committee on Health, Education, Labor, and Pensions. Alexander, a former US secretary of education and former governor of the Volunteer State, was bent on reining in an Education Department that had begun acting like a “national school board.”

He was particularly incensed that Secretary of Education Arne Duncan and his team had attached prescriptive requirements to its No Child Left Behind waivers (see chapter 2 for more on this). More than once, Alexander likened the bureaucratic back and forth to a game of “Mother May I?” between the administration and the states.

And, as it turned out, Alexander had a willing dance partner in Sen. Patty Murray (D-WA), the top Democrat on the Senate Education Committee. Even before ESSA’s passage, Murray had a reputation as an ace negotiator. In late 2013, for instance, she worked with Rep. Paul Ryan (R-WI) to craft a fiscal deal that had eluded the rest of their Capitol Hill colleagues.

What’s more, Murray had an extra incentive to push forward on reauthorization. Washington State lost its NCLB waiver, thanks to a difference of opinion with the administration on whether teacher evaluation should be based on local or state tests. Murray tried to intervene, to no avail. She never said publicly that Secretary Duncan had been unfair, but she did cite the loss of the waiver as a major reason NCLB needed to be replaced sooner rather than later.

The leaders in the House were equally important. Rep. John Kline (R-MN), chairman of the House Committee on Education and the Workforce, shared Alexander’s frustration with the Obama administration’s “overreach” on K–12. Kline had already drafted partisan reauthorization legislation that hadn’t made it over the finish line. But he’d also worked across the aisle on bills on charter school and workforce development.

Rep. Robert C. “Bobby” Scott (D-VA), the top Democrat on the House Education Committee, stayed on the sidelines at first. But he ultimately

played a key role in crafting the toughest compromise: accountability. Scott voted for NCLB in 2001 and wanted any rewrite to maintain a focus on making achievement gaps transparent. But he didn’t think the federal government should tell schools exactly how to help historically disadvantaged groups; to his mind, that hadn’t worked well under NCLB.

In fact, when I asked Kline why reauthorization finally happened this time, he told me, “The really secret sauce was the fact that everybody was fed up with No Child Left Behind.”¹

THE OBAMA ADMINISTRATION: EXECUTIVE ACTION

The Obama administration, which had stood aloof during the 2013 rewrite effort, had an incentive to play ball this time around. The president had just two years left in office. If Obama moved on without a new ESEA in place, the administration’s waivers—which had no grounding in legislation—could be quickly put aside by his successor. The president’s entire K–12 legacy might be swept away by a Republican. And even under a Democrat, key elements could be rolled back.

To be sure, Duncan and his team had tried to advance their ESEA renewal vision, releasing a proposal back in 2010. But the administration got much of its K–12 wish list through the American Recovery and Reinvestment Act, which included \$100 billion for education.

Part of that money—about \$4 billion—went to the creation of Race to the Top, which rewarded a dozen states for embracing the Common Core, test-based teacher evaluation, and more. The stimulus also doled out \$3 billion to turn around the nation’s worst performing schools by taking dramatic actions, such as replacing the principal and removing at least half the teaching force. Both initiatives were unveiled with great fanfare.

But those good feelings didn’t last. Teacher unions, who especially disliked the practice of tying their members’ evaluations to test scores while standards and assessments were changing, became some of the loudest critics. Race to the Top and the turnaround program grew increasingly unpopular on the Hill, as did Duncan himself.

Even so, it wasn’t until the Obama administration rolled out its waiver plan in 2011, which it called a stopgap solution to a stalled reauthorization, that Congress started considering an ESEA rewrite in earnest for the first time in years.

THE FIRST FAILED ATTEMPTS

An initial draft of a nominally bipartisan bill, written by then education chairman Sen. Tom Harkin (D-IA) and ranking member Sen. Mike Enzi (R-WY), incorporated ideas from the administration's reauthorization proposal, including one of the president's top K-12 priorities: test-based teacher evaluation.

But Republicans on the Senate Education Committee worked in tandem with the National Education Association (NEA) to jettison that provision before the legislation was ever formally introduced. Senator Alexander saw federal interference in teacher performance reviews as overreach. The lack of the requirement helped sour the Obama administration on that attempt.

What's more, civil rights groups were concerned that the bill weakened NCLB's accountability requirements, particularly for underperforming subgroups of students. That was a deal breaker. A Democratic-only bill in 2013 was even less politically viable.

Meanwhile, Kline managed to pass an ESEA reauthorization bill through the House in 2013. The legislation, which became a basis for ESSA, put states and districts in the driver's seat on accountability and slashed dozens of federal programs. It also contained a provision for "Title I portability," which would allow states to use federal Title I funds to create public school choice programs. Portability was popular with Republicans, but others saw it as a backdoor attempt at a voucher program.

Kline also put a personal premium on an issue close to the administration's heart: test-based teacher evaluations. But more conservative members of the House, working at a similar purpose as the unions, forced the education chairman to ditch that provision.

Those past attempts foreshadowed the political dynamic that would ultimately be crucial to the passage of ESSA: the unlikely meeting of the minds between education associations, who typically worked with Democrats, and Republicans bent on reining in the federal role.

ALEXANDER'S PARTISAN OPENING GAMBIT

ESSA ended up as a major bipartisan achievement, but it started off on a decidedly partisan note. Soon after the 2014 midterm election, which gave Republicans control of the Senate and put Alexander at the helm of the Education Committee, he declared that his first priority was fixing NCLB.

Rumors began to fly that Alexander, who had already found common cause with teacher unions over test-based teacher evaluation, was considering getting rid of federally mandated annual testing altogether. It was the move that the civil rights community and the White House probably feared the most. And there was reason to believe that some key players, especially teacher unions, would welcome it with open arms. A crescendo of opposition against NCLB's standardized testing had reached a fever pitch by 2015. As teacher evaluation tests were layered over other federal, state, and local tests, both parents and teachers increasingly decried testing itself.

Parents—some of whom were also wary of new, federally funded Common Core-aligned tests—chose to opt their children out of testing altogether. And in 2014, ahead of the midterm elections, the National Education Association and the American Federation of Teachers backed different House bills to let states test students in certain grade spans instead of every year.

Those bills, coupled with the social media-fueled "opt-out" movement, put civil rights organizations and their Democratic allies in a tight spot. They didn't want to back off NCLB's mandate for annual reading and math tests in grades 3-8. They saw yearly assessments as an essential element in ensuring all students had access to an equitable education. But they couldn't ignore the public outcry.

Democrats attempted to chart a middle course. In December 2014, Rep. Suzanne Bonamici (D-OR) introduced legislation allowing federal funds to be used to rethink state and local tests. The Obama administration quickly backed the legislation. But the strategy didn't work, at least not entirely. The NEA endorsed Bonamici's bill, but continued to beat the drum on grade-span testing.

Meanwhile, Alexander let the question hang in the air. The very first hearing on ESEA reauthorization centered on testing and whether there was too much of it. And in January, Alexander released a "discussion draft" that was similar to the bill that had passed the House in 2013, but with a twist: two options for testing. One kept intact NCLB's schedule of reading and math tests in grades 3-8 and once in high school. The other allowed states to use whatever measures they wanted—summative tests, portfolios, performance tasks—as frequently or infrequently as they wanted. Progressive antitest groups swooned at the sight of that second option.

Democrats allied with the civil rights community to save the tests. In the process, the debate over whether to preserve a strong federal role in accountability was elbowed out of the spotlight.

A day before Alexander's draft came out, Duncan gave a speech acknowledging the problems with overtesting, while making it clear that the administration would not support a reauthorization that cut back on yearly assessments. "I am absolutely convinced that we need to know how much progress students are making," Duncan said. "But we also must do more to ensure that the tests—and time spent in preparation for them—don't take excessive time away from actual classroom instruction."

Meanwhile, some Democratic organizations seemingly panicked. The Center for American Progress, a think tank closely associated with the Obama administration, teamed up with the AFT to endorse an approach that called for annual testing, but accountability only in certain grade spans. If the Obama administration or congressional Democrats had adopted this proposal, it would have been a big concession on accountability, right out of the gate.

Alexander's original plan was to write a GOP-only bill and move it through the legislative process, with most Democrats and the Obama administration joining relatively late in the day. But Murray wanted to be part of the process from the beginning, and the White House made it known it would consider an ESEA overhaul, so long as it was bipartisan in spirit.

In early February, Alexander and Murray made a surprise announcement: they'd team up to fix NCLB. Their collaboration may have had a rocky start, but once they decided to work together, it became the engine that propelled reauthorization throughout the year and, finally, over the finish line. "I knew that if we pushed through a partisan bill we would not fix this," Murray told me later.²

In the short term, their partnership helped quell fears that the final legislation would ditch NCLB's annual testing regime. Murray had already made it clear she wasn't willing to get rid of any of the federally required tests. Nor were Alexander's colleagues in the House; Kline and Rep. John A. Boehner, the Speaker of the House and an author of NCLB, both favored maintaining the tests.

By that point, Alexander was on board, too. He said that he had been persuaded by groups like charter advocates—who told him they needed annual testing data to demonstrate to the public that their schools were of high quality—as well as by Republicans who spoke out in favor of the need for transparency, including Marty West, a Harvard professor who had done a stint in Alexander's office. (See chapter 5 for West's take on ESSA.) In fact, advocates wondered later whether Alexander had ever seriously considered

paring back the tests, or whether the proposal had just been a negotiating tactic to get education organizations on his side early on and persuade Democrats to accept a slimmed-down federal role in accountability and greater funding flexibility.

Alexander told me later that, in fact, both were true. "I *was* seriously considering it because we heard more about overtesting than any other issue," he said. "I thought that was an option we should consider—in fact, I thought it would be irresponsible if we didn't consider it. But it also had the effect of shocking people and creating a place for [Democrats] to have a win when we kept it."³

To be sure, there were still plenty of testing questions left on the negotiating table: How much would tests matter in gauging school performance, as opposed to other factors, like school climate and teacher engagement? Could districts use their own tests instead of state exams for accountability? Murray, Alexander, and their staff hunkered down to consider the issues.

Meanwhile, Duncan held a series of public events and gave speeches that showcased the administration's other top priorities for the law, including a continued focus on closing the achievement gap, implementing college-ready standards, and providing resources for early childhood education.

REVOLT ON THE RIGHT

For their part, House Republicans moved forward on what was supposed to be an easy step: approving essentially the same party-line bill that had passed two years earlier. That legislation scrapped dozens of education programs by rolling them into a block grant, made it clear that the Education Department couldn't require states to embrace Common Core or any other standards, and allowed for Title I portability. Everyone expected smooth sailing. After all, the main controversy last time was over test-based teacher evaluations, and House leaders had already made that concession.

So, for a few days late in February, Kline and others extolled the bill's local control virtues. Democrats, led by Scott, vehemently but predictably opposed the bill as an attack on the civil rights of the children NCLB had been designed to protect. The White House threatened to veto the bill. Lawmakers adopted, among other changes, an amendment that would have allowed districts to substitute local tests for state exams.

But backstage, the bill's support was shakier than it appeared. The conservative Heritage Action Fund, which had criticized the 2013 version,

circulated statements that this measure didn't go nearly far enough. In fact, the group decided to "score" the vote, Washington lingo for factoring it into lawmakers' overall rating on their legislative "report card."

The Heritage Action Fund was especially miffed that its favored amendments were kept from the floor in order to smooth the legislative path. These included an option for federal funds to be used for private—not just public—school choice, and a proposal that would have enabled states to say "thanks, but no thanks" to federal accountability, while still getting federal money. The Club for Growth, an influential antitax organization, joined the effort to defeat the bill. And an anti-Common Core blogger in Utah claimed (erroneously) that the bill mandated the standards. Her post went viral, prompting constituent calls to House conservatives. That didn't help matters.

Eventually, Kline and his allies admitted they simply didn't have the votes, and pulled the bill. "If I made a mistake, and I have to admit that I did . . . I didn't realize how many people didn't know, were not familiar with the debate," Kline told me later. "It took me longer to get people informed, to get them educated, on the education bill, than I had anticipated."⁴ Supporters took cold comfort in the fact that the legislation hadn't actually failed to pass; it had simply been postponed. Advocates were despondent. It looked like the effort was dead yet again.

THE SHOW GOES ON IN THE SENATE

But over on the other side of the Capitol, Alexander and Murray pushed on, undaunted. In March, the pair went to the White House, where President Obama outlined his priorities, including annual testing, an early childhood education program, and a requirement that states identify and intervene in the lowest performing 5 percent of their schools.

Murray agreed, and Alexander felt the list was doable, even if all of the president's priorities couldn't be in the initial proposal. "I said, 'Mr. President, in order to get a result, we have to present you with a bill that you are comfortable signing. We'll keep the testing,'" Alexander recalled later. He told the president that he and Murray were sorting through the early childhood issue, and that Congress would do "something on the 5 percent" but they probably wouldn't be able to add it to the bill before conference.⁵

Murray and her staff, meanwhile, were aware that whatever deal they forged would have to take a step backward from NCLB's strong federal role on accountability. But they successfully advocated for a number of additional

reporting requirements that they hoped would give districts a clearer picture of how historically disadvantaged students were performing.

As difficult as it was to reach consensus on areas like accountability, it was actually another issue that threatened to blow up the Senate negotiations: early childhood education. Murray, a former preschool teacher, put her foot down, saying she wasn't going to support the bill without an early childhood education program.

Alexander didn't see the rationale for adding a preschool twist to a K-12 law. And he knew a new program, particularly one that bolstered Obama's education legacy, would only make the bill a tougher sell with conservatives. Ultimately, he turned the issue over to Sen. Johnny Isakson (R-GA), who'd worked with Murray before on workforce development legislation. They crafted a preschool amendment, and Alexander agreed to support it in committee.

In April, Alexander and Murray introduced a bill that addressed nearly every one of the most serious concerns that state chiefs, school board members, teachers, and principals had about NCLB. The testing regime at the center of the law remained the same, but states could figure out how much those tests would factor in for accountability purposes. And a small group of states could get permission from the Education Department to pilot new assessments, like performance tasks, in a handful of districts before going statewide. Title I portability was out. There were resources for interventions in low performing schools, but no requirement to turn around a specific percentage of schools, as the White House had wanted. And there was a lengthy list of prohibitions on the education secretary's authority when it came to teacher evaluations, school turnaround methods, and more.

Days later, the ideologically diverse Senate Education Committee passed the compromise unanimously, sending a strong signal that reauthorization was back on track. The panel made a few tweaks in committee—adding, for instance, the early childhood education program. But they left the trickiest issues, accountability and secretarial authority, for further down the legislative road. Lawmakers agreed to save amendments that might have doomed the bill's chances for further consideration—including a bullying amendment and an Alexander-authored voucher provision—for the floor.

Advocates for practitioners and state and district education leaders rushed to embrace the bill and called for quick floor action. The civil rights community, meanwhile, hung back, making it clear that they wanted to see accountability provisions beefed up, particularly for the lowest performing

schools and student subgroups. But, unlike in 2011, they didn't attempt to smother the bill. That was partly because some in the community believed 2015 was their best chance to preserve annual assessments and a serious focus on historically underperforming groups of students. It was impossible to guess where the next president's heart might be on these issues, so they wanted Obama to sign and regulate the law.

THE HOUSE BILL GETS DRAGGED ACROSS THE FINISH LINE

Meanwhile, for months, supporters of the rewrite were trying to persuade recalcitrant House Republicans to support the legislation. Kline's staff held roundtables with lawmakers on the fence. It helped that the process was moving along in the Senate; Kline's aides could assure nervous lawmakers they weren't taking a tough vote for nothing. Boehner and other GOP leaders also helped grease the wheels.

Ultimately, the legislation was scheduled again for floor action in July, but not before conservatives had a chance to vote on a package of changes they hadn't been able to consider the first time around. One, which was scored by the Heritage Action Fund, would have allowed states to essentially opt out of federal accountability altogether. It failed to pass but still garnered 195 Republican votes.

Two other changes ultimately made it into the House version of the bill, including one that shortened the "authorization" period of ESEA from five to four years, giving the new president a chance to put their stamp on the next iteration of the law during their first term. The other, which sailed through the chamber with substantial help from Democrats, permitted parents to allow their children to opt out of standardized tests without penalties for their schools.

Even with those concessions, the legislation barely squeaked through the House, passing by a hair-raising margin of 218 to 213, with no Democrats on board. Lawmakers reportedly changed their votes from no to yes in the final minutes. For its part, the Obama administration vowed to veto the bill, and Secretary Duncan said, "House Republicans have chosen to take a bad bill and make it even worse."

THE SENATE MARCHES ON

Shortly afterward, the Senate passed its own NCLB rewrite, after about a week of debate. From the outside, the process on the north side of the

Capitol was almost boring, especially compared to the cliff-hanger in the House. But that was because Alexander, Murray, and their aides had spent weeks smoothing over potential trouble spots. Alexander's education staff, for instance, visited the office of every Republican senator, armed with editorials supporting the bill from conservative-leaning papers like the *Washington Times*. The last thing they wanted was a repeat of what happened on the House side.

Both sides were prepared for a fight over accountability. Sen. Christopher Murphy (D-CT), who had voted for the bill in committee, put together an amendment that included much of the civil rights community's wish list, and had White House backing. It would have called for states to take action in the bottom 5 percent of schools and high schools where less than two-thirds of students graduate, and to identify schools that didn't meet their achievement targets for any subgroup of students for two years in a row or more. And, under the amendment, the secretary of education could tell states how much tests had to count toward a school's performance rating. The amendment was designed to bolster accountability while holding together the bill's coalition of supporters.

Still, the NEA worked to defeat Murphy's amendment. The union said that the requirements would just continue the failed policies of NCLB. In one letter, the NEA warned that it would score the vote, as the Heritage Action Fund had with amendments on the House side. But the Democrats—with Murray's help—muscle up forty-three votes in favor of the changes, including one from a Republican, Rob Portman (R-OH). That wasn't enough to get the amendment over the finish line, but civil rights and disability advocates congratulated themselves anyway. At least it was clear that Senate Democrats favored a more robust approach to accountability.

With that, the legislation coasted to passage on a vote of 81 to 17. A smattering of Democrats, including Murphy, voted against it. So did fourteen Republicans bent on slimming down the federal role in education, including all three Republicans running for president: Sens. Ted Cruz of Texas, Rand Paul of Kentucky, and Marco Rubio of Florida.

By this point, ESEA reauthorization had gotten further than almost anyone had initially expected—further, in fact, than at any point in the past eight years. The clock, however, was ticking. So far, education had flown under the radar in the 2016 presidential contest, but the bills' sponsors assumed that couldn't last. Lawmakers figured they would be best off finishing the bill by the end of the year before it could get mired in election-year politics.

CRISIS AND OPPORTUNITY

And then something happened that seemed to throw a monkey wrench into the proceedings: Boehner announced his resignation as Speaker of the House. For a short time, no one knew who would fill the Speaker's chair. Negotiators put in even longer days, hoping to finish their task either before Boehner stepped down, or more realistically, early into the new Speaker's tenure, when the bill could still credibly be viewed as part of Boehner's legacy. Advocates fretted that months of work would amount to nothing. They feared the new Speaker would be too beholden to hardliners to move a bill to the left of one House conservatives had nearly rejected.

Those fears turned out to be unfounded when Rep. Paul Ryan (R-WI) stepped into the job. Ryan made it known that he wanted a return to old-school legislating, of which the ESEA bill was a prime example. He agreed to bring any compromise to the floor, but hoped to see it finished by the end of the year, congressional aides said.

Meanwhile, negotiators were still searching for the sweet spot on some of the stickiest issues. Civil rights groups and some in the business community found the accountability provisions in both versions deeply unsatisfactory. The legislation would have to move to the left of both bills, at least somewhat, in order to win support from House Democrats, and just as crucially, the White House.

This is where Representative Scott proved critical. "To get Democratic support, we wanted improvements over both bills," he said. "That is unusual in a conference committee because a conference committee is usually just an opportunity to reconcile the differences."⁶

The requirement to turn around the bottom 5 percent of schools was almost a given, since it was the White House's top ask. But Scott knew he had to do something for subgroups of students and schools with high dropout rates. He also knew that some civil rights groups felt the waivers hadn't been strong enough when it came to requiring interventions in schools where at least one group of student—say, English language learners—was struggling to succeed.

At the same time, Republicans were wary of anything that smacked of NCLB. They didn't want prescriptive timelines that told states and districts what they had to do when. And they wanted states to largely be able to decide what constituted poor performance.

Threading the needle wasn't easy. But Scott ended up with an unlikely partner in Kline. The two may have sparred when the House passed its version of the rewrite, but now they worked through the trickiest issue together.

Under their agreement, states would intervene in their worst schools, but they'd get to decide what those interventions looked like. The only schools that would automatically be on the hook would be high schools where less than two-thirds of students graduated. And they wouldn't be subjected to a hard-and-fast timeline, with one exception: states would be required to step in after no more than four years if the lowest performing schools (those with high dropout rates or particularly bad subgroup performance) weren't getting any better.

"We did not compromise at all on the objective that you have to measure and fix achievement gaps," Scott said later. "We just told the states 'you have to get the job done' and they [got] the authority to figure out how to do it."

Kline and Scott presented the plan to the Senate, and it formed the basis of the eventual deal on accountability. "Once we had that, then we really started to roll," Kline said later.⁷

Meanwhile, negotiators were able to sift through equally thorny issues. Title I portability, for example, was out. There would be considerable consolidation of programs—the bill did away with a school counseling program and grants for Advanced Placement courses, for instance—but it didn't go as far as the House bill in slimming down the Education Department. Some of the compromises were dizzyingly complicated, especially on test participation. Under the agreement, states would be allowed to pass laws allowing parents to opt out of standardized tests. But the bill maintained the requirement that 95 percent of students take assessments.

The other major stumbling block was secretarial authority. The Obama administration, naturally, would have preferred to see those prohibitions—some of which read like a barely disguised personal rebuke of Duncan—stripped out. But Republicans refused to budge, even after Duncan announced his resignation in October. There was no way, Republicans argued, that they would have agreed to an accountability system nearly as robust as the one in the bill if the education secretary still had just as much power to interfere in state K–12 systems as he had before. "I didn't trust the Department to follow the law," Alexander told me later.⁸

In the end, the prohibitions remained, but were tweaked in a way that the administration and the bill's Democratic sponsors felt they could live with.

Under the final bill, for example, the secretary would still have the option to give a thumbs up or down to state accountability plans.

But for all the angst over accountability and the secretary's power during the course of the year, one of the last issues settled was early childhood education. Murray dearly wanted to see the president's preschool development grants enshrined in ESSA. Kline didn't think he could sell a new program, especially one with Obama's fingerprints all over it, to his conservative House colleagues.

Instead, negotiators gave Murray a choice: put the program in the US Department of Health and Human Services, which already had responsibility for early education chiefly through the Head Start program, or accept a much smaller investment at the Education Department. She picked the more robust option at HHS, and retained a role for the Education Department in administering the grants.

It had taken marathon negotiating sessions, including at least one that went all night, but the lawmakers arrived at a deal on the timeline they'd hoped for. They hadn't even had a chance to draft actual legislation. A conference committee ended up almost unanimously agreeing to a "framework" essentially consisting of staff notes. The framework was never officially released publicly because no one was sure if the legislation could pass the House, even with Scott fully on board. No one wanted bloggers picking apart the language. Even the Obama administration stayed quiet about provisions it liked—including what it viewed as similarities between the waivers and ESSA's accountability compromise—because it feared that the White House or Duncan could trip up the bill if they hugged it too hard.

The deal was almost immediately embraced by state chiefs, school superintendents, school boards, and teacher unions. The National Governors Association gave ESSA its full endorsement, marking the first time in nearly twenty years that all the nation's governors got behind a piece of pending legislation.

The civil rights community, meanwhile, kept quiet, saying they were waiting for actual legislative language before expressing their views. When the bill was finally released, some three dozen organizations joined the Leadership Conference on Civil and Human Rights in issuing a milquetoast statement of support. ESSA was an improvement over waivers, they said, but not the bill they would have written.

The legislation sailed through the House, 359–64, with the support of every Democrat and the majority of Republicans, and through the Senate,

85–12, with a handful of Republicans dissenting. On the floor, Alexander marveled that the bill was even a reality. He said he'd had dinner the previous night with a Democratic senator who told him he assumed at the beginning of the year that the effort was probably doomed.

CONCLUSION

ESSA, Alexander said, would release "a flood of innovation" in states and school districts. It would also, he predicted, have staying power. "My guess is that this bill and the policies within it will set the standard for policy in elementary and secondary education from the federal level for the next two decades," Alexander said. "It is a compromise, but it is a very well-crafted piece of work. It is good. It is good policy."

To be sure, even then, many of the staffers and advocates who worked so hard to pass the law knew there would be turmoil ahead. Policy wonks puzzled over how the accountability provisions would square with the crack-down on the education secretary. Both sides tried to define the nascent ESSA in the eyes of the public. Republicans hit the local control aspect hard. The civil rights community and Democrats argued that ESSA didn't translate into a free-for-all for states and districts.

Just a few months into the new year, the good feelings at the end of 2015 would begin to evaporate. Alexander would call Duncan's replacement, John King, on the carpet for overstepping his bounds on proposed regulations for a wonky spending provision of the law, "supplement not supplant." It quickly became clear that the new law didn't put a stop to the age-old debates over the federal role in K–12 education. Instead, the same old controversies continued to dog implementation and regulation.

But, for few brief moments in December 2015, all of that was on pause. ESSA was an achievement of which everyone could be proud.

"This is a big step in the right direction," President Obama said moments before signing the legislation. "A true bipartisan effort, a reminder of what can be done when people enter into these issues in a spirit of listening and compromise."