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Please copy for ^{1/19/00} Gene and Bruce
Revised as discussed
A
Disabled
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Smart

Tony Coelho, in his capacity as co-chair of the President's Task Force on Employment of Adults with Disabilities, may be calling you about his request to establish within the Department of Labor an Office of Disability Policy, Evaluation and Technical Assistance (ODPET) to be headed by an Assistant Secretary of Labor.

DOL Budget Request

In its FY 2001 Budget request, the Department of Labor requested \$140 million to establish ODPET. Headed by a new Assistant Secretary, ODPET would subsume the responsibilities of the President's Committee on Employment of People with Disabilities housed in DOL. DOL proposed to continue the Task Force on Employment of Adults with Disabilities you established by E.O. 13078 on March 13, 1998 to advise ODPET.

As originally proposed, ODPET would not run programs or directly provide services to the disabled. Instead, DOL proposed that ODPET would provide leadership to increase collaboration across Federal programs and within DOL, collapse duplicative Federal programs, provide technical assistance and training to increase the degree to which Federal programs serve the disabled, and develop and identify best practices for serving the disabled.

Though DOL rationalized its request by arguing for the program consolidation that ODPET would promote, DOL no longer proposes consolidating two of the primary organizations in the Federal government for disability services and policy -- the National Council on Disabilities (NCD) and the Department of Education's Office of Special Education and Rehabilitative Services (OSERS).

Tony Coelho's Request

I believe Tony wants ODPET to be established and headed by an Assistant Secretary to bring a higher level of attention within the Administration to the issues of the disabled. His request is consistent with a recommendation made in the Second Report of the Presidential Task Force of Adults with Disabilities which was released in November. I believe he will be satisfied with the level of funding provided in the FY 2001 budget.

OMB/DOL Settlement

In response to DOL's request, we provided \$20 million to establish a new Bureau of Disability Employment Policy to be headed by a Presidentially Appointed/Senate Confirmed (PAS) Director. This new Bureau would subsume the responsibilities of the President's Committee in terms of working with employers to encourage them to create opportunities for disabled individuals. In addition, the Bureau would work within DOL to ensure that all DOL programs address the needs of the disabled and to increase participation of people with disabilities in DOL training programs -- particularly those serving youth. The Bureau would also manage a grant program to provide assistive technology to One-

Stop centers established under the Workforce Investment Act to ensure that those centers are accessible to the disabled and that those staffing the One-Stops are trained in working with these clients. The proposed FY 2001 funding level for the Bureau is \$13 million above -- or nearly triple -- the FY 2000 funding level for the President's Committee. The Department will need authority for the additional PAS position, which will be included in appropriations language in the budget.

In addition, we would continue to fund separately the Presidential Task Force on Employment of Adults with Disabilities at \$2.6 million to continue its role coordinating interagency employment policy for the disabled and to act as an advisor to the Bureau.

We feel that establishing the head of the Bureau as an Assistant Secretary would be inconsistent with its size and scope. With a \$20 million budget, the focus of this office would be largely limited to working within DOL, with DOL grantees and with employers to advocate for the disabled. In addition, creation of an Assistant Secretary position would not be on par with a similar agency within DOL -- the Women's Bureau.

We modeled our proposal on the successful Women's Bureau. Funded at \$9 million in FY 2000 and \$10 million in the FY 2001 Budget, the Women's Bureau is headed by a PAS and is the only Federal agency with primary responsibility for serving and promoting the interests of working women. The Women's Bureau participates in the development of Federal, State and local policies and programs to benefit working women; conducts research; reviews legislation; and provides program support and technical assistance to various targeted groups, State and local governments, industries, trade unions, academia and others. We envisioned a similar role for the new Bureau in addition to managing the small grant program to help ensure One-Stop access for the disabled.

Secretary Herman concurs with this approach.

THE SAVINGS Lottery

A DOLLAR AND A DREAM

Perhaps millions of Americans play state lotteries because they are dreamers or, more prosaically, just mathematically challenged. A good libertarian might argue that policy makers should simply shrug and let people spend money as they choose. It's a free country, after all. The rich have portfolios, stockbrokers, and shrinks; the middle class have stocks, computers, and online day-trading. Why can't the poor have lottery tickets, forecasters, and fortune-tellers?

Maybe, but there are three realities about lotteries that policy makers must address. First, the odds are dismal. Second, the poor spend disproportionately. And third, the sponsor and beneficiary of lottery sales is the state itself. Our elected officials make the rules for these games, advertise them lavishly, and attract players with promises of great riches while government keeps nearly half of every bet. Government-sponsored gambling would be a dirty little secret—if it were little. But state-run lotteries have become a familiar part of neighborhoods, present when we buy a newspaper, pick up a carton of milk, or fill the gas tank.

The most striking fact about legalized gambling in the United States is how rapidly it has grown over the past 25 years. State-sponsored lotteries are only part of a much larger trend toward more gambling. The same activities that were illegal in all states, save Nevada, in the early

BY RICHARD C. LEONE AND BERNARD WASOW

1970s are now routine parts of most local landscapes. In 1973, seven states had state-sponsored lotteries. Today, 37 do, plus Washington, D.C. In 1997, the lottery take for all states grew to \$11.2 billion, or about 2.2 percent of direct state revenues. In some states—Georgia, Massachusetts, Michigan, Texas, New York—lotteries are an even larger revenue source.

The state is uniquely important to gambling in general, not only because government has legitimized it, but also because gambling is dependent upon government permission to be in business at all. And despite the spread of legalized gambling, in most parts of the country such permission is still restricted. Gambling operations often are so profitable exactly because competition is limited.

It is no coincidence that the expansion of gambling has paralleled the spread of antigovernment and antitax political rhetoric. The increasing number of governors and legislators who make promises to hold the line or roll back taxes do not want to face the fallout that comes from cutting programs. Instead, they find clever ways to buy time with more state debt, raids on state pension funds, and—even in the good economic times of the 1990s—new excursions into gambling. In the annual budget crunch that affects so many states, lotteries often look like free money: Add another game such as Powerball, increase the number of lottery machines, proliferate “instant-winner” games, and fill a budget gap. For politicians, this source of revenue has proven irresistible.

Most public officials extol the happy consequences of more gambling in their jurisdictions. It is, they claim, good for the economy; it pays for schools and other public goods; it attracts tourist dollars. All of these claims cannot mask the core reason that state-sponsored lotteries and, more broadly, state-

Can we turn government-sponsored gambling into a worthwhile personal savings plan?

sanctioned gambling, have grown so fast: How else can legislators induce voters to pay a "voluntary tax"? But what does this tax really buy? Lotteries may be described by advocates in entirely benign terms—as sources of support for education, the elderly, health care, the handicapped: good causes all—but in fact, money is fungible. Careful studies indicate that no more is spent on these activities because of gambling than would have been spent otherwise.

One place more money is being spent, however, is on gambling referenda and political campaigns. With more than \$13 million in contributions in recent years, gambling interests have become an important source for financing campaigns for both major parties.

Lotteries are perhaps the hardest form of gambling to justify in terms of their costs and benefits. Although there is surprisingly little good research on gambling, the best studies all point in the same direction: Lotteries prey on the poor and the undereducated. Among lottery players, 5 percent of ticket buyers purchase more than 50 percent of the tickets. Heavy buyers include residents of low-income neighborhoods and those with limited education. A recent study of more than 400 winners in the Massachusetts lottery found that none had earned more than \$50,000 in the year before their jackpot. Winners—a random sample of ticket holders—had bought an average of about 4.5 tickets in the game they won. A 1999 study concluded that households with incomes below \$10,000 per year spent more than 5 percent of their incomes on lottery tickets, roughly 10 times the share of the budget of middle-class households. Through the lottery, we are taxing those least able to pay and encouraging their delusions in order to reduce the tax rate for the rest of us. It's not a pretty picture. If the lottery were an overt rather than a hidden tax, its blatant inequity would prevent its enactment by even the most conservative legislature.

Since states keep almost half of lottery receipts, the games offer the worst deal of almost any legal bet. By contrast, slot machines and casino table games pay out 80 to 90 percent to customers. In effect, this high retention by the "house" means that, after income taxes on winners, the effective tax rate imposed by a lottery can be as high as 70 or 80 percent.

Most states promote their lottery games aggressively. They provide little or no information on the payout rate, and they don't offer much help to pathological or problem gam-

blers. Thirty-five states use the Internet to promote their lottery games, but only a third of the sites offer payout information. Typically a site encourages visitors to gamble; some sites also post a warning about the dangers of problem gambling, but more than 40 percent have no cautions at all.

Why are lotteries so popular? Partly because people like the instant action. It also helps that lottery tickets are available in so many locations. The hyped media coverage of big jackpots and winners builds lottery lust. But lotteries have an added advantage: They are exempt from advertising restrictions. States therefore promote lotteries in what is nothing less than a massive bait-and-switch form of consumer fraud, promising something—a win—that is actually available to only a tiny fraction of customers.

Still, it is hard to dispute the appeal of lotteries. The marketing and publicity efforts are selling to a receptive public. Any effort to curtail lotteries, in the name of the people who buy losing tickets, would most likely encounter strong resistance

from this very group. Government can take the people's money, but it better not mess with their dreams.

As a practical matter, new public policies toward lotteries accommodate the popularity of gambling. This constraint need not block all reform.

Suppose, for example, more and more of the lottery monies were paid right back to the gamblers, instead of financing other state outlays. Over time, the states would lose the incentive to promote existing games and add new ones. And suppose that in addition to bigger payouts, there were a savings scheme tied to the lottery, something specifically tailored to the needs of an aging population. An insurgent candidate for state office might build this idea into a politically attractive, as well as socially useful, program. Instead of funneling bettors' losses into general revenues, government could use the money to support people in their old age. A "savings lottery" plan would guarantee that whenever someone bought a lottery ticket, some of the outlay would go into a savings account in the player's name. So even perennial losers would always be partial winners.

HOW IT WOULD WORK

Lottery prizes would be set as they are now. After prizes are paid, the remainder of the price of a lottery ticket (in excess of the cost of administering the lottery and a "privilege tax" to pay for programs for problem and pathological gamblers) would be credited to a special savings account on behalf of the lottery ticket buyer.

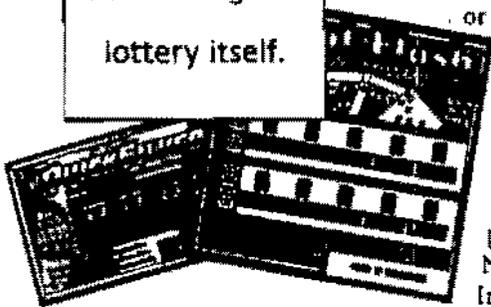
Over time, lottery machines would be replaced or modified so that every lottery ticket sale would be matched, if the buyer elected, to his or her Social Security number, to ensure proper crediting. Alternatively, players could fill in their Social Security numbers on used lottery tickets and, periodically, turn them in for credit.



Legislators do not want to face the political fallout that comes from cutting programs. So they make up for budget shortfalls with new excursions into gambling.



Supporters of state-sanctioned gambling say the lottery is a "voluntary tax" to support social outlay. But much of the revenue it generates is spent on advertising the lottery itself.



The lottery savings fund would be managed by existing state pension operations, with parallel oversight and restrictions. Overhead costs could be kept very low. After all, Social Security operates with less than 1 percent overhead. The Federal Thrift Program and well-managed state pension funds also function at a much lower cost than most private-sector retirement vehicles.

Owners of lottery savings accounts above a minimum size would receive annual reports on their accumulation.

Access to the lottery savings fund would be limited until the owner turned 65, at which time the owner would be issued either an annuity or a lump-sum payment equal in value to the accumulation in the account. (If the owner died before age 65, the money would go to heirs.)

After distribution, any income or reduction in principal

from a lottery savings account would be treated as taxable income.

The notion of a savings lottery was presented to the National Gambling Impact Study Com-

mission by one of the authors of this article. In the words of the Associated Press, the "idea died fast, but Leone had made his point." That point was to ignite a serious discussion—by liberals and conservatives alike—about how to wean states away from their growing dependence on gambling. If that is too steep a hill to climb right now, can't we at least make government's role in the business a little more respectable?

In fiscal terms, the timing for such a transition from heavy reliance on the lottery is excellent. Since 1992, state revenues have grown by more than 6 percent a year. As long as the current boom lasts, reducing dependence on gambling should be easier and more practical than in the past. Moreover, a savings lottery could be phased in over four or five years, softening the impact on state budgets.

Even with the best timing, of course, it will not be easy to induce states to break the lottery habit. The federal government could help a lot by creating financial incentives for states that create savings lotteries. In the same way that IRAs, 401(k)s, and the proposed USA accounts represent a subsidy for savings, a federal savings lottery program could replace at first, say, 75 percent and then a declining share of state lost revenues. There might even be a bonus arrangement, with the feds paying a higher percentage

and for a longer period of time to groups of states that join in congressionally sanctioned interstate "compacts." These agreements by adjoining states to forgo old-style lotteries and create new savings vehicles would go right at the booming market for multistate Powerball games. It's important, however, that any federal subsidy program expire after a transition period. After all, part of the point of the savings lottery is to eliminate the states' incentives to promote gambling. Our hunch is that over time, without the revenues, the advertising budgets will wither away.

Still, cynics stress that gambling reform is unlikely given the popularity of gambling with the public as well as with government. They point out that, in a fair share of referenda over the past 25 years, Americans have voted directly to permit gambling (although these contests often were hardly "fair fights," since the pro-gambling side tends to have much more money to spend). And, in state legislatures and Congress, the explosion of campaign contributions from gambling interests has been highly correlated with decisions that have allowed gambling to expand.

Yet even with big money on their side, pro-gambling forces are facing a tougher fight in their efforts to expand gambling. In recent years, gambling has been the losing side in most referenda and major legislative battles. This shift may suggest saturation or just a slowing of the previously rapid growth. It also implies that the appetite for new ideas, including the savings lottery, may be greater than cynics believe.

Granted, the savings lottery is neither the most elegant nor the most efficient way to build up a nest egg, and it raises significant operational questions, but it is a good deal better than grabbing as much money as possible from poor and poorly educated citizens determined to squander their incomes on million-to-one shots. It is offered here not as a model program but as a starting point for an effort to put government back where it belongs: as regulator, not promoter, of legalized gambling and as educator, not exploiter, of the citizenry.

Of course, it won't be easy to transform state lotteries. Recent gubernatorial elections in Alabama and South Carolina, for example, involved winning campaigns that heavily featured support for more gambling. Still, there is the possibility of a political strategy that depends on jujitsu—using the very popularity of lotteries to curb the insatiable appetite for lottery-generated revenues. We believe that a savings lottery would be very attractive to the public. Candidates who campaigned on a promise to transform lotteries in this way ("it's your money after all") would put advocates of the current setup at a disadvantage, reversing the current state of political debate on this issue.

Finally, we should face the reality that gambling participation is inversely correlated with education. That is why we believe that, at a minimum, a spirited political fight about something like a savings lottery might do a lot to enhance public understanding of just how bad a deal lotteries are. The nation's experience with bad news about smoking and warning labels for cigarettes teaches us that when Americans learn more about the downside of a particular behavior, they are less likely to engage in such behavior. So while the savings lottery is surely a long shot, it could be one of the few bets worth making. ♦

VP
Haker
EMK
Jeffords
Kara Moore
BC

THE WHITE HOUSE
WASHINGTON

January 12, 1999

K-J
Crime
[Mental Health]
WSJ/Tobacco
→ 2/16 Budget summit
→ Talking Pts for 80% rollat

**NEW INITIATIVE TO PROVIDE ECONOMIC OPPORTUNITIES
FOR AMERICANS WITH DISABILITIES**

DATE: January 13, 1999
TIME: 11:35 am to 12:30 pm
LOCATION: East Room
FROM: Bruce Reed/Gene Sperling
Chris Jennings/Ben Johnson

I. PURPOSE

To announce an employment-related disability initiative, which will be touted by the disability community as the boldest disability initiative since the ADA. This initiative will demonstrate your commitment to providing real economic opportunity for people with disabilities, whose unemployment rate is around 75 percent.

II. BACKGROUND

You will unveil a historic new initiative that will remove significant barriers to work for people with disabilities. This three-part budget initiative, which invests over \$2 billion over five years, includes: (1) full funding of the Work Incentives Improvement Act which will be introduced by Senators Jeffords, Kennedy, Roth, and Moynihan next week; (2) a new \$1,000 tax credit to cover work-related costs for people with disabilities; and (3) expanded access to information and communications technologies. With these new proposals, the Administration will have taken action on every recommendation made in the report of your Task Force on the Employment of Adults with Disabilities, which the Vice President accepted last month. Justin Dart, one of the foremost leaders of the disability communities, stated in response to today's proposals: "The Clinton-Gore Administration has a long history of supporting the disability community. This policy initiative is one of the boldest since the landmark passage of the ADA."

Critical Need to Remove Barriers to Work

Since you took office, the American economy has added 17.7 million new jobs, and unemployment is at a 29-year low of 4.3 percent. The unemployment rate among all working-age adults with disabilities, however, is nearly 75 percent. According to current estimates, about 1.6 million working-age adults have a disability that leads to functional limitations and 14 million working-age adults have less severe but still significant disabilities.

People with disabilities can bring tremendous energy and talent to the American workforce, but institutional barriers often limit their ability to work. Most critically, people with disabilities often

become ineligible for Medicaid or Medicare if they work. This means that many people with disabilities are put in the untenable position of choosing between health care coverage and work. In addition, advances in technology and communications are often not accessible to people with disabilities.

Three-Part Initiative to Improve Economic Opportunities for Americans with Disabilities

- **Funding the Work Incentives Improvement Act in your budget.** Health care -- particularly prescription drugs and personal assistance -- is essential for people with disabilities to work. Today, you are announcing that your FY 2000 budget will fund the full cost of the Work Incentives Improvement Act. This proposal, which costs \$1.2 billion over 5 years, would:

- Improve access to health care by:

- Expanding states' ability to provide a Medicaid buy-in to people with disabilities who return to work. This provision would enable states to offer the buy-in to people whose assets and/or income exceed current limits. It also would give states the option of offering the buy-in to people with medical conditions, such as rheumatoid arthritis, who do not meet the current disability standard, but who can work only because of medical treatment. Finally, this provision would give health care grants to those that do so.

Ek/Diana -
What do you
think?
BR

Extending Medicare coverage, for the first time, for people with disabilities who return to work. Although Medicare does not provide as comprehensive a benefit as Medicaid, this aspect of the proposal ensures that all people with disabilities who return to work have access to health care coverage, even if they live in a state that does not take the Medicaid option.

- Creating a new Medicaid buy-in demonstration to help people with a specific physical or mental impairment that is not yet severe enough to qualify for health care assistance, but that is reasonably expected to lead to a severe disability in the absence of medical treatment. This demonstration could help people with muscular dystrophy, Parkinson's Disease, HIV or diabetes who are able to work with appropriate health care.

- Modernize the vocational rehabilitation system by creating a "ticket" that will enable SSI or SSDI beneficiaries to go to any of a number of public or private providers for vocational rehabilitation. If the beneficiary goes to work and achieves substantial earnings, providers would be paid a portion of the benefits saved.

- Create a Work Incentive Grant program to provide benefits planning and assistance, facilitate access to information about work incentives, and better integrate services to people with disabilities working or returning to work.

- **Providing a \$1,000 tax credit for work-related expenses for people with disabilities.** The daily costs of getting to and from work, and being effective at work, can be high if not prohibitive for people with disabilities. Under this new proposal, workers with significant disabilities would

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Banning Kennedy
98-79 budget

receive an annual \$1,000 tax credit to help cover the formal and informal costs that are associated with employment, such as special transportation and technology. Like the Jeffords-Kennedy Work Incentive Act, this tax credit, which will assist 200,000 to 300,000 Americans, will help ensure that people with disabilities have the tools they need to return to work. The credit will cost \$700 million over 5 years.

- **Improving access to assistive technology.** Technology is often not adapted for people with disabilities and even when it is, people with disabilities may not be able to afford it. This new initiative would accelerate the development and adoption of information and communications technologies that can improve the quality of life for people with disabilities and enhance their ability to participate in the workplace. The initiative would: (1) help make the Federal government a "model user" of assistive technology; (2) support new and expanded state loan programs to make assistive technology more affordable for Americans with disabilities; and (3) invest in research and development and technology transfer in areas such as "text to speech" for people who are blind, automatic captioning for people who are deaf, and speech recognition and eye tracking for people who can't use a keyboard. It would cost \$35 million in FY 2000, more than double the government's current investment in deploying assistive technology.

Program Participants

You will be introduced by *Karen Moore*, who is a 53 year old polio survivor. Ms. Moore receives SSDI (\$493 a month) and Medicare, plus Medicaid personal attendant benefits. She currently works as a dispatcher for River City Transit and Pier. Without her personal attendant benefits, which she receives through the Medicaid program, Ms. Moore would be unable to work, because she is unable to get ready in the morning without assistance. Her job position entitles her to make \$7.50 an hour, but when she was hired, she asked the company to lower her salary to \$5.50 an hour to reduce a copayment for her Medicaid benefit. Ms. Moore is not sure she can continue working at her current level of salary and co-payment. Today's initiative could improve her health care coverage, as well as give her a tax credit for employment-related assistance.

III. PARTICIPANTS

Briefing Participants

The Vice President
Secretary Shalala
Secretary Herman
Gene Sperling
Bruce Reed
Ben Johnson
Tracey Thornton
Jordan Tamagni
Jeanne Lambrew
Sarah Bianchi
Jonathan Young

Program Participants

You
The Vice President
Senator Kennedy
Senator Jeffords
Senator Harkin
Karen Moore

IV. PRESS PLAN

Information about the new initiative has been advanced to all major national papers for Wednesday. In addition, Secretary Herman will be available to brief the press at the top of Joe Lockhart's briefing.

V. SEQUENCE OF EVENTS

- You and the Vice President, together with Secretary Herman, Secretary Shalala, Senator Jeffords, Senator Kennedy, Senator Harkin, and Karen Moore are announced into the East Room.
- The Vice President delivers remarks and introduces Karen Moore.
- Karen Moore delivers brief remarks and introduces you.
- You deliver remarks and introduce Senator Jeffords.
- Senator Jeffords delivers remarks and introduces Senator Kennedy.
- Senator Kennedy delivers remarks and introduces Senator Harkin.
- You deliver brief closing remarks and depart.

VI. REMARKS

Your remarks have been prepared by Speechwriting.

THE WHITE HOUSE
WASHINGTON

July 28, 1998

AMERICANS WITH DISABILITIES ACT ANNIVERSARY EVENT

DATE: July 29, 1998
LOCATION: Roosevelt Room
TIME: 1:15-1:30 pm
FROM: Minyon Moore, Bruce Reed, and Gene Sperling

I. PURPOSE

To sign an Executive Memorandum directing federal agencies to increase public outreach and education about important requirements within the Americans with Disabilities Act and the Medicaid buy-in option within the Balanced Budget Act of 1997. This event is also an opportunity to commemorate the 8th anniversary of the historic Americans with Disabilities Act, which was signed into law on July 26, 1990, and to further your commitment to the Task Force on Employment of Adults with Disabilities that you created this spring.

II. BACKGROUND

While the Americans with Disabilities Act makes it possible for millions of Americans to participate more fully in society, the unemployment rate among the 30 million working-age adults with disabilities continues to be significantly higher than that of the general population. For this reason, you signed an executive order in March establishing the Task Force on Employment of People with Disabilities. With Secretary Herman serving as Chair and Tony Coelho serving as Vice-Chair, the Task Force is charged with recommending policies to help increase the employment rate of adults with disabilities. Although the Task Force will not issue its first formal report until November, it already has identified actions that the Administration can take to begin reducing barriers to work. You will issue an Executive Memorandum tomorrow to direct these actions.

The Executive Memorandum will direct relevant agencies to take appropriate actions to expand public education and outreach about regulations within the ADA and the Medicaid buy-in option within the Balanced Budget Act of 1997. Specifically, you will:

- Direct the Attorney General, the Chair of the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration to

expand public education about the requirements of the Americans with Disabilities Act of 1990 to employers, employees, and others whose rights may be affected -- including, in particular, small businesses and under-served populations.

- Direct the Secretary of Health and Human Services to inform governors, state legislators, state Medicaid directors, consumer organizations, and others about the new Medicaid buy-in option enacted as part of the Balanced Budget Act of 1997. This new option provides Medicaid coverage for individuals with disabilities who, because of their earnings, would not qualify for Medicaid under current law.

You also will announce your strong commitment to working with Senators Kennedy and Jeffords to pass affordable and feasible legislation that helps people with disabilities maintain their health care coverage and return to work. This legislation would allow people with disabilities who return to work to keep their Medicare coverage, eliminating a provision in current law that often requires people with disabilities to choose between work and health insurance. The legislation also would increase the number of people with disabilities able to buy into Medicaid by eliminating the requirement that they have income below 250 percent of poverty and giving states additional resources and bonuses to offer this return-to-work option. Although a prior version of the Kennedy-Jeffords bill was not affordable -- costing \$5 billion over 5 years -- we have worked hard with the Senators' staff to bring the pricetag down to about \$1 billion.

III. PARTICIPANTS

PRE-BRIEF PARTICIPANTS

Bruce Reed
Minyon Moore
Chris Jennings
Diana Fortuna

EVENT PARTICIPANTS

YOU

Secretary Alexis Herman
Tony Coelho

*The audience will consist of approximately 40 Members of the Presidential Task Force on Employment of Adults with Disabilities and representatives from disability advocacy organizations.

IV. PRESS PLAN

Closed press.

V. SEQUENCE OF EVENTS

- * Prior to your arrival, Tony Coelho will deliver welcoming remarks and introduce Secretary Herman.
- * Secretary Herman will deliver remarks.
- * YOU will enter the room and deliver brief remarks.
- * YOU will sign the executive memorandum.
- * YOU will work a ropeline and then depart.

VI. REMARKS

Talking points to be provided by Speechwriting.

VII. ATTACHMENTS

- * List of attendees.

ADA ANNIVERSARY EVENT ATTENDEES

1. **Paul Marchand**, Director of Governmental Affairs for the ARC and Chair of the Consortium for Citizens with Disabilities
2. **James Brady**, President of the National Brain Injury Association
Mary Dixon (attendant)
3. **Gina McDonald**, President National Council on Independent Living
4. **John Kemp**, CEO Very Special Arts
5. **Justin Dart, Jr.**
Shinya Suganuma (Attendant)
6. **Paul Edwards**, President of American Council for the Blind
7. **Daniel Fisher**, President of National Empowerment Center
8. **Gordon Mansfiel**, CEO Paralyzed Veterans Association
9. **Alan Reich**, CEO National Organization on Disability
Mary Dolan (attendant)
10. **Linda Anthony**, President Pennsylvania Coalition of Citizens with Disabilities
11. **Jeanette Harvey**, CEO United Cerebral Palsy Association
12. **I. King Jordan**, President Gallaudet University
13. **Wade Henderson**, Executive Director Leadership Conference on Civil Rights
14. **Joseph Romer**, Executive Vice President of Public Affairs, National Easter Seals Society

MEMORANDUM FOR THE ATTORNEY GENERAL
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE CHAIRMAN OF THE EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
THE ADMINISTRATOR OF THE SMALL BUSINESS
ADMINISTRATION

SUBJECT: OUTREACH ACTIONS TO INCREASE EMPLOYMENT OF ADULTS
WITH DISABILITIES

As we commemorate the eighth anniversary of the Americans with Disabilities Act ("ADA"), we have much to celebrate. This landmark civil rights law is making it possible for millions of Americans to participate more fully in society, including employment, access to public facilities, and participation in community and leisure activities, and to do their part to make us a stronger and better country. At the same time, we are reminded that significant challenges remain. Far too many of the 30 million working-age adults with disabilities are still unemployed, especially those with significant disabilities.

To address barriers to work for people with disabilities, I issued Executive Order 13078 on March 13, 1998 establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force will issue in November the first in a series of reports on what the Federal Government can do to help bring the employment rate of adults with disabilities to a rate as close as possible to that of the general population. The Task Force, however, already has identified important ways to reduce barriers to work for people with disabilities, and I hereby direct you to act on these findings.

First, although awareness of the ADA is increasing among persons with disabilities, employers, and the general public, too many people still are not aware of their rights and responsibilities under the ADA. There is a particular need to educate the small business community, which employs most of the private work force and includes the vast majority of employers.

I therefore direct the Attorney General, the Chair of the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration to expand public education regarding the requirements of the Americans with Disabilities Act of 1990 to employers, employees, and others whose rights may be affected, with special attention to small businesses and under-served communities, such as racial and language minorities that may not have ready access to information that is already available.

Second, lack of adequate private health insurance options is a disincentive to leave Social Security programs for work. Few private health plans cover the personal assistance and other types of services that make it possible for many people with disabilities to work. Recognizing this problem, I proposed and the Congress passed a new Medicaid option last year that allows people with disabilities to buy into Medicaid without having to receive cash assistance. A number of states

have expressed a strong interest in offering this new option and I have instructed the Secretary of Health and Human Services to work with them to do so. Much more, however, needs to be done to increase the public outreach and education activities about these important laws and options.

I therefore direct the Secretary of Health and Human Services ("HHS") to continue to take all necessary actions to inform Governors, state legislators, state Medicaid directors, consumer organizations, employers, providers and other interested parties about Section 4733 of the Balanced Budget Act of 1997. Section 4733 allows states to provide Medicaid coverage for working individuals with disabilities who, because of their earnings, would not qualify for Medicaid under current law. Additional guidance, letters, technical assistance, and other efforts by HHS about the enormous benefits of this option can go a long way in encouraging states to adopt and use this Medicaid buy-in.

This memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

THE WHITE HOUSE,

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 4, 1997

REMARKS BY THE PRESIDENT
AT SIGNING CEREMONY FOR
THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The South Lawn

11:12 A.M. EDT

THE PRESIDENT: He did a great job, didn't he? Thank you, Josh, for your story. (Applause.) Thank you, Judy, for your work and the power of your example. And thanks to your Mom. (Applause.)

I thank Secretary Riley. I thank all the children who are here with me on the platform who have come to symbolize what this legislation is all about, and all the children who are out there in the crowds. I thank those of you who have helped me over the years to know and understand what is at stake in this issue more clearly. I thank especially the people who deserve the credit for what we're doing today -- the members of Congress: the committee chairs, Senator Jeffords and Congressman Goodling, and Senator Kennedy and Senator Harkin, Congressmen Clay and Martinez and Riggs.

I'd like to say a special word of thanks to all the staff people who worked on this, but especially to David Hoppe, Senator Lott's chief of staff, who did such a fine job here. Thank you, David. (Applause.)

I would like to ask -- they're all going to come up here later when we sign the bill, but there must be 30 members of Congress here, and this bill, as you know, received virtual unanimity of support across party lines and regional lines. And in addition to the members whose names I mentioned, I'd like to ask all the members of Congress to stand here and be recognized for what they did. Thank you all. (Applause.)

I thank all the advocates who are here. I dare not start to identify you all, but I will say I am glad to see Eunice Shriver here, and thank you for what you have done to help me understand this issue better. (Applause.)

For 22 years now, the IDEA has been the driving force behind the simple idea we have heard restated and symbolized here today, that every American citizen is a person of dignity and worth, having a spirit and a soul, and having the right to develop his or her full capacities. Because of IDEA, disabled children all over America have a better chance to reach that capacity. And through IDEA, we recognize our common obligation to help them make the most of their God-given potential.

We are here today to reaffirm and to advance that goal. Education clearly will become even more important to our people in the days ahead. That is why I have made it my number one priority as President. That is why last month, when we announced the bipartisan agreement to balance the budget, I was most proud that we could do that and include an historic investment in education, the most significant increase in funding for education at the national level in 30 years. (Applause.)

MORE

America Reads, a massive volunteer effort to help make sure all of our children can read independently by the time they're eight years old; millions of families getting a tax cut to help them pay for a college education; hundreds of thousands more deserving students getting Pell grants; tens of thousands of schools across America now will be wired to the Internet; support for raising academic standards -- we know that this is the right thing to do for every American. But just as we heard from Judy, for far too long children with disabilities were closed out of those kinds of opportunities, trapped in a system without guideposts, influenced by stereotypes, dominated by assumptions that people like Josh couldn't take the courses that he just enumerated.

In 1975, Congress began to change that when the IDEA was enacted. It has meant the right to receive an education that all children deserve. It has given children who would never have had it, the right to sit in the same classrooms, to learn the same skills, to dream the same dreams as their fellow Americans.

And for students who sat next to them in those classrooms, it has also given them the chance to learn a little something -- to get rid of the baggage of ignorance and damaging stereotypes, and to begin to understand that what we have in common is far more important than what divides us. (Applause.)

Since the passage of the IDEA, 90 percent fewer developmentally disabled children are living in institutions -- (applause) -- hundreds of thousands of children with disabilities attend public schools and regular classrooms; three times as many disabled young people are enrolled in colleges and universities; twice as many young Americans with disabilities in their twenties are in the American workplace. We have to continue to push these trends, to do everything we can to encourage our children with disabilities not only to dream of doing great things but to live out their dreams.

Our job is not yet done. All of you know that despite this progress, young people with disabilities still drop out of high school at twice the rate their peers drop out of high school, and into less certain futures. For those who stay in school, lower expectations and exclusion still are far too common. Too many parents still find themselves fighting for educational resources and services that are their children's right and their hope for a brighter future.

Today, we are taking the next steps to do better. The expanded IDEA reaffirms and strengthens our national commitment to provide a world-class education for all our children. It ensures that our nation's schools are safe and conducive to learning for children, while scrupulously protecting the rights of our disabled students.

First, this bill makes it clear once and for all that children with disabilities have a right to be in the classroom and to be included in school activities like work experience, science clubs and field outings. It requires states and school districts to help to get disabled children ready to come to school and to accommodate them once they are there with services ranging from pre-school therapy to sign language interpreters, from mobility instructors to an extended school year.

Second, this legislation mandates that with appropriate accommodations children with disabilities learn the same things with the same curricula and the same assessments as all other children. (Applause.) We know, from every teacher and every principal, from every parent and every coach, that children rise to expectations when they are set high. And children with disabilities are no exception. (Applause.)

I have asked America to embrace high national academic standards for all our children. So far, education leaders from California to Carolina, from Michigan to Maryland, have endorsed this effort. I believe very strongly that all children can make progress. Today I call upon those states to give every child the chance and the expectation of meeting those standards.

Third, we know our children's success depends upon the quality of their teachers and the involvement of their parents. This legislation will help more regular classroom teachers get the full range of teaching skills they need to teach children with disabilities. And it will require regular education teachers to be involved in the development of individual education plans to help disabled children succeed.

This legislation also gives parents a greater voice in their children's education. At long last, it will give them something other than what parents have expected from their schools for decades. It will give them what we know all parents should be entitled to -- simply, regular report cards on their children's progress.

High school is a make-or-break time for all young people, but teenagers with disabilities often need more help to succeed as they make the transition from school to work. This legislation will require schools to give students that help by developing individual plans that may include independent living skills, job training and preparation for higher education. And because acquiring these skills may take extra time, these plans must begin by the time the students with disabilities reach the age of 14. (Applause.)

Now, that is what the expansion of the legislation these members of Congress have passed will achieve. In a few moments I will sign it into law. As I do, I want you to think about what it really accomplishes. To the 5.8 million children whose futures are in the balance, we are saying, we believe in you; we believe in your potential and we are going to do everything we can to help you develop it. To the millions of families who are depending upon us to help them prepare their children to take their place in the world, we are saying, we are proud of you for your devotion to your children, for your belief in them, for your love for them, and we are going to do everything we can to help you succeed in preparing them.

To the teachers and the administrators who make all the difference, we are saying, we are depending upon you and we are going to do what we can to support you. To the American people, we are saying that we do not intend to rest until we have conquered the ignorance and prejudice against disabilities that disables us all. (Applause.)

And to the world, we are sending a message, the same message that the FDR Memorial I was honored to dedicate last month will send: In America, you are measured by what you are and what you can achieve. In America, the American Dream is alive for all our people. In America, we recognize that what really counts is the spirit and the soul and the heart, and we honor it with this legislation. (Applause.)

Now I would like to ask the children and the people here with me on the platform to join me as I sign the legislation. And I would like to ask the members of Congress who are here, every one of them, to come up, along with Tom Hehir, the Director of the Office of Special Education, as we sign into law the Individuals with Disabilities Education Act of 1997. (Applause.)



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, DC 20507

FACSIMILE TRANSMISSION COVER SHEET
for
OFFICIAL GOVERNMENT BUSINESS
OFFICE OF COMMISSIONER PAUL STEVEN MILLER

Office of
the Commissioner

DATE: 5/6/97

NUMBER OF PAGES: 5
(Including Cover)

TO: Erskine Bowles
Victoria Radd
Bruce Reed

OFFICE/COMPANY/FIRM: The White House

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FACSIMILE NO.: ()

FROM: Paul Steven Miller

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Commissioner
Paul Steven Miller

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Washington, D.C. 20507

disability

May 6, 1997

Mr. Erskine Bowles
Chief of Staff to the President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Bowles: *EM*

In connection with your interest in the disability community and your interest in hearing from the President's appointees with disabilities, I am writing to bring to your attention an issue of importance to persons with disabilities. This issue affects persons with disabilities both as employees and customers of the Federal government.

Section 508 of the Rehabilitation Act of 1973 currently requires that all technology-related equipment and electronic devices purchased by the Federal government be accessible for persons with disabilities. However, many agencies have failed to comply with this requirement because of a lack of effective government-wide contract and procurement strategies for enforcement. This lack of enforcement has made significant sections of the Federal government's technology infrastructure, such as computer equipment, software, and websites, inaccessible to persons with disabilities as employees or customers of the Federal government.

In an effort to address the need for procurement and contract enforcement strategies, U.S. Representative Anna Eshoo (D-14th Dist/CA) has introduced an amendment to Section 508 of the Rehabilitation Act. During the development of the Floor Manager's Report for H.R. 1385, the "Employment, Training and Literacy Enhancement Act of 1997," by the House Committee on Education and the Workforce, consideration will be given to Representative Eshoo's amendment which contains critical language directing the Office of Management and Budget to set up uniform procedures for Federal agencies to report their compliance with government accessibility guidelines. Furthermore, it requires agencies to provide written verification of their compliance each year and gives OMB the ability to monitor and enforce compliance as needed. In these key ways, Representative Eshoo's amendment will drastically improve Federal agency compliance with existing accessibility guidelines.

Notwithstanding these benefits, the Office of Federal Procurement Policy/OMB has expressed its concern about these responsibilities and has developed alternative language removing OMB's enforcement and monitoring role. As described above, OMB's monitoring and enforcement of

Mr. Erskine Bowles

May 6, 1997

Page 2

compliance with Section 508 is critical to ensure that thousands of persons with disabilities have equal access to information technology as employees and customers of the Federal government. The contract and procurement enforcement strategies must be grounded in the current A-130 Circular and recently enacted Chief Information Officers Act responsibilities which currently reside with the OMB. Without OMB's enforcement and monitoring of agency compliance, equal access for persons with disabilities will not be effectively achieved.

I believe that this issue rises to the level of me personally alerting you. The enforcement mechanisms contained in Representative Eshoo's amendment to Section 508 can successfully make the promise of accessibility of technology-related information to employees and customers with disabilities a reality. I thank you in advance for your consideration of this issue.

Very truly yours,



Paul Steven Miller
Commissioner

cc: Victoria Radd, Assistant to the President and Chief of Staff to the Chief of Staff
Bruce Reed, Assistant to the President

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- Clinton Administration accomplishments on disabilities
- FDR memorial background
- FDR memorial talking points
- List of attendees

for [unclear] [unclear]

Bruce - This is
essentially the
set of briefing
materials given to
Enrique for today's
disabilities mtg
Elena

Mar-04-97 04:27P Marie Strahan

301-855-4771

P.02

MEETING AGENDA
WHITE HOUSE OFFICIALS

I. Erskine opens

I. Introductions (3 min)

Tony Coelho

II. Background (5 min)

Achieving Independence Report
Advancing the President's Agenda
Widespread Support (Tony)

Marca Bristo

III. Concerns (5 min)

Integrating Disability Policy into Broader Agenda
State of the Union Address
Budget/Implementation Issues
-Special Education
-Welfare Reform and SSI
-Children's SSI Benefits
-Immigrant's SSI Benefits
-Health Care - Medicaid and Medicare
-Housing
-Transportation

Judy Heumann

IV. Top Priorities

White House Policy Appointment
Employment Initiatives/Executive Order
Key Appointments in the Administration
(SSA, ED, HHS, DOT, DOL, HUD, etc.)
Follow-Up on Current Policy Concerns

Marca Bristo, John Lancaster, Tony Coelho

V. Discussion

VI Erskine closes

DISABILITY ACCOMPLISHMENTS TALKING POINTS

- o Welcome to the White House. Before we begin, I want to introduce two members of my staff who will play key roles on disability issues. The first is Maria Echaveste, the new Assistant to the President for Public Liaison, and Elana Kagan, the new Deputy Assistant to the President for Domestic Policy.
- o The Clinton Administration is very proud of our record of accomplishment on disability issues during the last four years, and we look forward to working with you to develop and implement an agenda during the next four years.
- o We have worked hard to vigorously enforce the Americans with Disabilities Act, and we are particularly pleased that our FY 98 budget requests a 5% increase in ADA enforcement at the Department of Justice. We have also worked successfully to protect the ADA from Congressional efforts to weaken the law.
- o One of the accomplishments that the President is most proud is his stand to protect Medicare and Medicaid last year, which is so important to people with disabilities.
- o The President's efforts to enact the Family and Medical Leave Act is making the workplace more accommodating to families with adults or children with disabilities.
- o The Kennedy-Kassebaum legislation that the President signed last year now prohibits insurance companies from denying coverage because of pre-existing conditions, which greatly benefits people with disabilities.
- o We are proud that President Clinton has appointed more people with disabilities than any President in history. And we are not just talking numbers, but high-level policy making positions in which all of you in this room serve.
- o But although we recognize our past accomplishments, we both know that much remains to be done. We look forward to working together as we develop and implement disability policy.

Information about the Appointees:

As the Chief of Staff knows, the appointees with disabilities have a number of sensitivities about language and behavior pertaining to people with disabilities. They are leaders in the emerging civil rights movement for this community, and see this movement as being perhaps 20 years behind African Americans or women in terms of the degree of understanding and sensitivity of the non-disabled community. They believe that denigrating language and behavior is still widely tolerated in our society. In their view, disability is a natural part of life and people with disabilities should be viewed positively, rather than as victims, courageous, or pitied.

The term "people with disabilities" is preferred to "handicapped" or even "the disabled." They often say that, in the spirit of "putting people first," you should look first at the person rather than the disability. People "use" a wheelchair rather than "are in" a wheelchair -- or worse yet, "are confined to" a wheelchair. In general, you should not offer assistance with a basic task such as opening a door or getting seated unless the person appears unable to do so on his or her own.

The Administration's most prominent appointee with a disability is probably Judy Heumann, who is Assistant Secretary at Education in charge of special education and vocational rehabilitation. She played a major role in the development of the independent living movement, which champions people with disabilities living in the community and with their families, and has helped many people leave nursing homes. (The community is very much opposed to nursing homes, viewing them as rarely or never appropriate for people with disabilities.) She is a very constructive internal advocate.

Bob Williams, who is Commissioner of the Administration on Developmental Disabilities (ADD), part of HHS, speaks with a voice machine. When he wishes to speak, he often makes a noise and begins punching into the machine. The etiquette is that other conversations should continue until the artificial voice begins to speak, and then wait until the thought is expressed. Bob is a very thoughtful individual who has also been a leader in the disability movement.

The Americans with Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA, which governs special education) are viewed as virtually sacred by the community. The Administration has been extremely strong in supporting these laws. In 1994, the community was very fearful that the Republican takeover of Congress would lead to attempts to weaken these laws. The threat never materialized into proposed legislation, but the community believes it must be ever-vigilant in defending these laws.

REMOVING BARRIERS TO WORK FOR PEOPLE WITH DISABILITIES

The President's budget includes important steps to make it possible for more people with disabilities to work. A large and growing number of people with disabilities can work, and want to work. With the ADA, changes in societal attitudes, and advances in technology, it is clearer than ever that being disabled does not mean that you can't contribute to our nation's economy. However, people with disabilities face a variety of complex barriers to work.

Therefore, the President's budget addresses this critical problem with the following three initiatives designed to assist people with disabilities who are eligible for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI):

- **New State Option on Medicaid:** The budget proposes to help people with disabilities work without losing their health care coverage. Today, people on Supplemental Security Income (SSI) who go to work lose Medicaid if their earnings exceed caps that vary by state. Yet, it is often especially difficult for people with disabilities to get private insurance, especially coverage for any preexisting conditions. As a result, many people who are eligible for SSI "manage" their income to ensure that they keep Medicaid -- by stopping work when they hit the caps, or even turning down promotions. The President's proposal would create a new state option that would allow SSI beneficiaries with disabilities who earn more than these caps to keep Medicaid by contributing to the cost of their coverage as their income rises.
- **Medicare:** The President's budget authorizes a four-year demonstration to encourage Social Security Disability Insurance (SSDI) beneficiaries to return to work. Under the demonstration, certain SSDI beneficiaries who have exhausted their coverage would be eligible for up to four additional years of premium-free Part A coverage.
- **Pay for Results for Rehabilitation Services:** The Administration is proposing a new strategy to encourage more SSDI and SSI beneficiaries to return to work. Currently, the Social Security Administration refers some SSDI and SSI beneficiaries to state vocational rehabilitation agencies. Under this pilot proposal, SSDI and SSI beneficiaries could choose their own public or private rehabilitation providers. Providers who successfully assist beneficiaries in leaving the rolls and returning to work would be paid a percentage of the disability benefits saved. These payments would continue only as long as the person remained off the rolls, up to a maximum of five years. Because providers would be rewarded for results rather than for their costs, this should encourage more providers to have a continuing interest in their clients' long term success, which in turn may lead to more beneficiaries returning to work.

This plan creates new ways to help people find work and achieve their goals. The Administration looks forward to working with the Hill to enact these proposals. Since there are members of Congress from both sides of the aisle who are also working to solve this problem, we are hopeful that we will have a constructive dialogue that will lead to the enactment of legislation.

Criticisms that Disability Appointees May Raise:

- Welfare Reform -- The group would have preferred that the President not sign the welfare bill. They are concerned that disabled recipients are not exempt from or given special assistance in meeting the work requirements. People with severe disabilities are not subject to welfare reform because they are eligible for SSI. Therefore, the group is more concerned about those with mild or moderate disabilities. Some estimate that a very high proportion of AFDC recipients have some form of disability. Also, the group is also concerned about parents of children with disabilities being forced to work even though they can't afford child care.

The Administration is working with states on these issues, and encouraging them to provide the more expensive child care disabled children often require. Also, the law prohibits states from cutting off assistance to parents of children under 6 who can't find appropriate child care.

- Children's SSI -- Because of tremendous growth in the children's SSI program and media reports that children were faking mental problems to get benefits, Congress proposed block granting and sweeping cuts to this program. The Administration successfully fought off these cuts, but eventually agreed to significant cuts. The Social Security Administration just issued regulations that will cut 135,000 children from the program. The appointees are disappointed in two things: that we did not fight these cuts harder, and that our regulations did not take a more liberal approach in issuing the regulations.

We can take credit for defeating Republican plans to block grant children's SSI. As to SSA's recent regulation, SSA did not believe that a more liberal interpretation was legally possible.

- Medicaid -- The appointees are concerned that our per capita cap proposal could disadvantage people with disabilities, especially people with severe developmental disabilities, because their costs are far higher than average. Our proposal does address this problem by including a separate cap for the disabled. However, it is possible that a per capita cap would lead states to be reluctant to add services for very expensive long term care needs.

In addition, the appointees are disappointed that we have not been able to move forward on a proposal for Medicaid "personal assistance" services. Many people with disabilities need assistance with activities of daily living, such as getting bathed and dressed, in order to work or live in the community, but health plans do not tend to pay for this service because it is not considered medical. (Many states have Medicaid "waiver" programs that provide these services, but the number of participants is capped.) The Administration's health care reform proposal (which was strongly supported by the disability community) would have partially addressed this issue by creating a new block grant. The appointees feel that it is time to move ahead on this issue again. However, OMB has major concerns about the cost implications. The President has made very sympathetic statements about

the need for this program in public forums.

A radical advocacy group called ADAPT is pushing this issue. The Administration has agreed to a meeting on this issue and others with the President and a range of external disability advocates, including ADAPT.

- Special Education/“Individuals with Disabilities Education Act” -- Budget: The appointees are disappointed that our FY1998 budget includes “only” a 4% increase for special education spending. However, IDEA funding increased by an astounding 25% in the FY1997 budget, so we felt that a 4% increase was appropriate for this year. (Members of Congress pushed through the 25% increase, not the Administration, but we can take credit for signing it.)

Reauthorization: IDEA is also up for reauthorization, and Senator Lott is leading an collaborative process that the Administration is participating in to come to an agreement on a bill. IDEA is extremely important to this community, especially to parents of children of disabilities. IDEA includes civil rights protections that ensure that children with disabilities have the right to attend school -- something they did not have before IDEA was passed 20 years ago. In fact, Judy Heumann, the Administration’s most prominent political appointee with a disability, was excluded from public schools for many years, prior to IDEA.

The Administration has been extremely supportive of the disability community’s position on IDEA. School boards and the unions view IDEA as an “unfunded mandate” that is a major drain on school budgets. They point out that federal funds support only 7-8% of the costs of special education, even though the original legislation foresaw federal payments covering 40% of costs. We have fought the “unfunded mandate” interpretation in a number of settings, instead stressing that IDEA is a civil rights law that shouldn't be weakened or tampered with.

Discipline: The most contentious current IDEA issue is when and how schools can discipline students with disabilities. Critics charge that IDEA allows a double standard for students with disabilities by making it almost impossible for schools to remove them from the classroom or school, even if they are disruptive or violent. Parents respond that schools have long used the discipline issue as a smokescreen to try to remove these children just because they are different or harder to educate.

The Administration supports modest and sensible measures to ensure that schools can maintain order, but we have totally supported the disability community on this issue -- even to the point of allowing Secretary Riley to oppose a measure to expel disabled students who bring guns to school.

- Immigrants -- Disabled legal immigrants lose SSI benefits under welfare reform. We have proposed to ameliorate this, as part of our welfare “fix” package, by allowing legal

immigrants who become disabled after entering the country to continue to receive SSI. The appointees are concerned about whether we are committed to this proposal. They may also be concerned that we left out those who were disabled upon entry to the U.S.

Appointees may also be concerned about a regulation that the INS will issue shortly to waive the English and civics testing requirements of the naturalization process for legal immigrants with certain severe disabilities. They are concerned both that it has taken the INS over two years to issue these regulations, and that the final regs will not waive the oath of citizenship. An advocacy group is suing us over this regulation.

We can point out that our proposed welfare fix package would address much of this problem by exempting legal immigrants disabled after entering the U.S. from the SSI cuts. However, the INS says the law does not allow them to waive the oath of citizenship. (We have not commented on whether we would waive it if we could.)

- Employment -- Estimates are that half to two-thirds of people with disabilities are unemployed. The community argues that many unemployed people with disabilities want to work, but they face many barriers. The ADA is starting to improve this picture marginally, but there is a long way to go.

The appointees have two concerns. First, as reflected in their draft executive order, they believe this problem is not viewed as a national priority by the Administration. They point to the fact that the Bureau of Labor Statistics collects this unemployment statistic on a very occasional basis. Second, they believe that the current federal Social Security system often acts as a disincentive to work. People on SSI or SSDI benefits who want to work face the loss of Medicaid or Medicare, as well as cash benefits.

We should point to our new initiative in the President's 1998 budget that addresses the second issue (see attached description). We can also agree to consider the draft executive order. However, potential solutions to the "disincentives" of the current Social Security system could be very expensive. (Note this week's GAO report and House hearing alleging that the SSI program is out of control because, among other concerns, SSA fails to drop people from the program quickly enough when they go back to work.)

- Housing -- The appointees may be concerned that the Administration has not been more proactive in enforcing housing civil rights laws. Also, they oppose past HUD efforts to segregate people with disabilities or require them to accept services as a condition for housing assistance (i.e., residential programs for the mentally ill or drug addicted). An advocacy group is suing HUD on all these issues.

Secretary Cisneros reached out to groups very extensively on these issues and recently established an Office of Disability Policy in the Secretary's office that is staffed by a trusted appointee with a disability. He gets a lot of credit for this, but Secretary Cuomo is more of an unknown quantity to them.

- Transportation -- The concern here is probably that we should not weaken or delay the requirements of the ADA for accessible transit systems, and that we should make funds available to assist transit systems with compliance. We have been pretty strong on this issue. State and local governments tend to view these requirements as unfunded mandates, but we have argued that as a civil rights law the ADA can't be defined as an unfunded mandate. The appointees give us credit for eliminating problematic "unfunded mandate" language in a report by the Advisory Commission on Intergovernmental Relations last year.

Comments on Draft Executive Order on Employment of People with Disabilities

- Would establish a goal of parity in the employment rate between people with and without people with disabilities by the year 2006, including an interim goal of "a 3 percent annual increase in the employment rate" of people with disabilities.

It is not clear whether parity is an achievable goal. And the annual improvement expected appears quite ambitious. We should discuss with the NEC.

- Calls on federal agencies to "eliminate employment barriers to persons with disabilities, such as discrimination and inadequate access to health care...."

It is not clear that federal agencies are in a position to accomplish this without vastly increased resources.

- Sets a target that 11% of the federal workforce shall be persons with disabilities.

This must be considered in light of existing policies on targets for federal hiring.

- Would extend the Department of Defense's Computer/Electronics Accommodations Program ("CAP") to the civilian agencies, with funding for the expansion to be "sought within" DOD budget.

CAP is an excellent program that provides Defense employees with disabilities with the latest in computer equipment to allow them to do their jobs. The program has a showroom for equipment and serves as a central purchasing point so that federal purchasing power is maximized. Since funding for the program is centralized, individual departments do not have to bear the costs of a very expensive piece of computer equipment for an employee. Last year, the DPC recommended to OMB that we expand CAP to all federal agencies, but the change was not funded in the budget.

- In an otherwise innocuous section on encouraging small business and micro-enterprise among people with disabilities, the draft refers to using "the full buying power of the Federal government" to put people to work.

We would have to consider this in the context of current policy on federal purchases.

- Gives a one-year deadline for Labor and Commerce to develop a monthly measurement of the unemployment rate of people with disabilities.

We would have to investigate how achievable this suggestion is, and budget implications.

Suggested Talking Point: Thank you for all the hard work you have put into this package. As you can imagine, the specific points in the draft raise a number of budget and economic issues that we will want to discuss with you. We assume we should work with the President's Committee on Employment of People with Disabilities as we pursue these issues further.

DRAFT #6 -- 2/28/97

Memorandum

To: (List agency heads for the departments and agencies listed in Section 2 of the Order)

From: President Clinton

Subject: Executive Order Establishing a Goal for the Employment of People with Disabilities

Date: (mm/dd/97)

The Order accompanying this Memorandum establishes a national goal for the employment of people with disabilities and directs the key executive branch agencies charged therein to set in place the requisite policies and actions to achieve this goal.

People with disabilities are at least twice as likely as people without disabilities to be unemployed. At the end of 1994, 19.5 percent of the population aged 18-64, or 30.7 million people, had a disability. Of these, 14.5 million had a severe limitation and were employed at the rate of only 24.7 percent. The artificially low employment rate of people with disabilities poses a cost to society in excess of \$200 billion annually. This unacceptably low employment rate has been a long standing problem throughout the history of this country, and was a motivating factor in the enactment of the Americans with Disabilities Act in 1990. Additionally, the cost of many government subsidies is growing dramatically with the recent rapid expansion in the disability rolls, such as the Social Security disability benefit programs and workers' compensation insurance programs. More importantly, many individuals trapped in these programs seek to survive on poverty level subsistence and have little opportunity to contribute to and participate in our economy. We must work to change Federal policies and programs.

The Social Security Administration now pays more than \$36 billion a year in disability insurance benefits to 4.5 million disabled workers, and pays \$25 billion a year in Supplemental Security Income (SSI) to more than 5 million low-income people with disabilities. These costs reflect only monetary benefits. When the Medicare and Medicaid costs associated with disability-based cash assistance are factored in, the Federal and State expenditures associated with our income support programs more than double. We know that less than 1 percent of the over 8 million SSI and Social Security Disability Insurance beneficiaries return to work to become income earning, tax paying citizens, and that an alarming percentage of children on disability benefits never transition off the rolls into work as they become adults. High percentages of individuals with disabilities, both on these and other income maintenance rolls as well as others without any supports, can and want to work. However, to enable them to work, it is essential that government and industry work together to remove the remaining significant barriers to employment for people with disabilities, including lack of appropriate health insurance, transportation, long-term services and

John,
This is the
latest draft
Speed is to
only other
person who
has a
copy
EL

supports, and child care. Additionally, sufficient incentives and access to education, rehabilitation and job training services, job placement services, and fair and adequate wages must be available.

The Americans with Disabilities Act of 1990, along with other Federal, State and local civil rights laws which prohibit discrimination and mandate equal opportunity in the workforce, have set the framework for people with disabilities to compete effectively and fairly in our labor market. Recent statistics of the Census Bureau suggest a positive impact of the ADA on the employment rate of people with disabilities. Now we must eliminate the current policies and practices that do not encourage employment or actually deter employment and that conflict with the purposes of the ADA and other civil rights laws, and replace them with those which equip more of our people to work.

For example, innovative research and demonstration programs of the Department of Education and the Department of Health and Human Services show that individuals with disabilities who were previously thought incapable of substantial, gainful employment, including individuals with mental retardation and other serious cognitive, sensory, psychiatric and physical disabilities, can in fact work full-time with the availability of natural supports, medical breakthroughs, school to work programs, better vocational rehabilitation and training, and technological innovations. The approach of the 21st century is ushering in powerful changes in technology and telecommunications systems, which are opening up more entrepreneurial and telecommuting opportunities for individuals with disabilities. These programs must be further explored and expanded. However, all of this will only work if the severe economic disincentives, health care barriers, and other barriers to work are replaced with real access to jobs and careers.

The budget recently submitted to Congress contains initiatives that would begin to reverse the trend of increasing dependence on government benefits by increasing the availability of health care insurance and rehabilitation services for individuals with disabilities who want to leave the Social Security rolls to enter the workforce. This will be an important first step in the realigning of our Federal policies and programs to consistently support people with disabilities in working. Millions of unemployed and underemployed Americans with disabilities can become productive citizens if government programs and policies are designed to encourage their employment.

housing, education, vocational rehabilitation and training services. The above named departments and agencies shall also analyze all of their existing programs and policies to determine if changes, modifications and innovations of said programs and policies would encourage and provide incentives for the employment of people with disabilities.

(b) In achieving this National employment goal, the federal government shall become a model employer of people with disabilities. By July 26, 2006, 11 percent of the civilian workforce of each federal agency shall be people with disabilities as defined in this Order. The Office of Personnel Management and the Equal Employment Opportunity Commission shall review all federal government personnel laws, regulations and policies and, as appropriate, shall recommend or implement changes necessary to achieve this federal government goal. This review shall include personnel practices and actions including: hiring, promotion, benefits, retirement, workers' compensation, retention, and layoffs and reductions in force. Additionally, the Department of Defense's Computer/Electronics Accommodations Program is expanded to serve all government agencies, and appropriations shall be sought within the Department of Defense's budget to adequately fund the program.

(c) The Social Security Administration and the Department of Treasury, in cooperation with the National Council on Disability and the President's Committee on Employment of People with Disabilities, shall design and implement innovative programs that provide economic and other incentives to both employers and individuals with disabilities to encourage persons with disabilities to leave the Social Security and other income maintenance rolls or to avoid enrollment in those rolls altogether.

(d) The Departments of Education, Labor, and Health and Human Services, as well as the Small Business Administration, shall develop and carry out strategies for assisting low income individuals, including people with disabilities, to create small businesses and micro enterprises to provide consumer driven personal assistance and other work related supports. This effort shall use the full buying power of the Federal Government to achieve the twin vital aims of putting people on welfare and individuals with disabilities to work.

(e) The Department of Commerce and Small Business Administration shall develop and implement small business and entrepreneurial opportunities for individuals with disabilities that have a significant effect on the ability of such individuals to develop and sustain successful small business and entrepreneurial activities.

(f) All efforts taken by federal departments and agencies under this Section 2 of this Executive Order shall further partnerships and cooperation with public and private sector employers, disability advocacy groups, organized labor, veteran service organizations, and state and local governments whenever such partnerships and cooperation are possible and would promote the employment and gainful economic activities of individuals with disabilities. These efforts should also concentrate on the full array of employment opportunities; including benefits, types of jobs, job promotion, part-time and episodic work, and education and re-training programs.

Section 3. Measurement of Results.

(a) No more than one year after the effective date of this Executive Order, the Bureau of Labor Statistics of the Department of Labor and the Census Bureau of the Department of Commerce, in cooperation with the Department of Education, Department of Health and Human Services, National Council on Disability, and the President's Committee on Employment of People with Disabilities, shall design and implement a statistically reliable and accurate method to measure the employment rate of working age individuals with disabilities on a monthly basis.

(b) By January 1 of each year this Executive Order is in effect, the Secretary of Labor shall report to the President the steps taken by each department and agency listed in Section 2 to achieve this national goal on a biannual basis. The first report shall be due on July 26, 1998, and it shall articulate the government-wide plan to achieve the goal and the statistical data necessary to measure progress towards the goal. Subsequent biannual reports shall detail progress towards the goal and indicate any adjustments that may be necessary in the overall plan and strategy to achieve the goal by July 26, 2006.

Executive Order
[number]
[month / day], 1997

**Goals 2006 for the Employment of People with Disabilities: A Renewed and Reinvigorated
Executive Branch Commitment**

This Order establishes a National goal for the employment of people with disabilities and directs the key executive branch agencies charged herein to set in place the requisite policies and actions to achieve this goal.

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and in order to address the enumerated facts in the accompanying Memorandum and to support the goals articulated in the findings and purpose section of the Americans with Disabilities Act of 1990, it is ordered as follows:

Section 1. Establishment of National Employment Goal for Individuals with Disabilities.

There is hereby established as a national goal the reaching of parity in the employment rate for all adult individuals with disabilities as compared to the employment rate of the general adult population. Consistent with this goal, and in accordance with Section 3 of this Order, there is hereby established an interim goal of a 3 percent annual increase in the employment rate of people with disabilities ages 18 to 64, between the date of this Order and July 26, 2006, the 16th anniversary of the enactment of the Americans with Disabilities Act. As defined herein, a person with a disability is a person with a physical or mental impairment that substantially limits at least one major life activity. This definition comes from, and is to be read consistent with, the first prong of the definition of "individual with a disability" that appears in the Americans with Disabilities Act of 1990.

Section 2. Achievement of National Employment Goal.

(a) The U.S. Department of Labor, Department of Education, Department of Health and Human Services, Social Security Administration, Department of Veterans Affairs, Department of Commerce, Department of Treasury, Department of Justice, Equal Employment Opportunity Commission, Department of Transportation, Department of Housing and Urban Development, Department of Defense, Federal Communications Commission, Office of Personnel Management, National Council on Disability, and President's Committee on Employment of People with Disabilities shall put policies and programs into place which achieve the national employment goal described in Section 1 of this Executive Order. Furthermore, under the direction of the Secretary of Labor, with the assistance of the Secretaries of Education and Health and Human Services and the Commissioner of the Social Security Administration, the above named departments and agencies shall coordinate their efforts and resources to eliminate employment barriers for persons with disabilities, such as discrimination and inadequate access to health care, transportation,

THE DISABILITY CONSTITUENCY

DESCRIPTION

The 1994 Census estimates that there are 49 million Americans with disabilities. The community is even larger when including families, friends, and providers that are affected by disability policies. According to Lou Harris polls, during the last two Presidential elections, the disability vote was as follows:

1996 Clinton - 69%, Dole - 23%, Perot - 8%
1992 Clinton - 50%, Bush - 26%, Perot - 18%.

KEY GROUPS

Consortium of Citizens with Disabilities
Justice For All
The Arc (Mental Retardation)
National Council on Independent Living
United Cerebral Palsy
National Easter Seals Society
Disability Rights Education Defense Fund
Family Voices (Parents of children with disabilities)
National Federation of the Blind
National Association of the Deaf
National Mental Health Association
Bazelon Center (Mental Health)

MAJOR ISSUES

The Americans with Disabilities Act (ADA), the landmark civil rights law for people with disabilities, is the 3rd rail of disability politics; and is as central to the disability community as Social Security is to seniors. The other key issues for the community include: Medicare, Medicaid, Special Education (IDEA), home and community based services; and employment, housing, and transportation issues for people with disabilities.

AMERICANS WITH DISABILITIES

"Opportunity is critical to what we have to do as a nation to meet the great challenges we face and to move forward into the next century... We will not allow Americans with disabilities to be kept from realizing their dreams by closed doors or narrow minds."

President Bill Clinton

July 26, 1995

President Clinton came to Washington with a plan to put people first by making the government more accountable and accessible to all Americans, including those with disabilities. From the White House to every federal agency, this Administration has demonstrated an unprecedented commitment to address the concerns of Americans with disabilities. The President is committed to supporting the 49 million Americans with disabilities in their efforts to exercise their full rights and responsibilities, to live as independently as possible and to be productive throughout their lives.

A RECORD OF ACCOMPLISHMENTS:

- **Fighting Discrimination:** Under President Clinton, federal agencies have vigorously enforced the Americans with Disabilities Act, the Individuals with Disabilities Education Act and other critical civil rights laws that prohibit discrimination against people with disabilities in schools, workplaces and public areas across the nation. President Clinton strongly opposes attempts to weaken these laws.
- **Protecting Health Care:** The Clinton Administration refuses to go backwards on health care coverage for Americans with disabilities and has rejected proposals to end the Medicaid guarantee to meaningful health benefits for people with disabilities. President Clinton has preserved Medicaid coverage for 6 million persons with disabilities, including 1 million children. Without Medicaid, many families would have to impoverish themselves to pay for a child's medical care, give up their jobs to stay home to care for a child or seek placement in an institution. Medicaid is often the only form of health care available to people with disabilities and allows many children and adults to receive services at home rather than in institutions.

The President also pushed for and signed the Kennedy-Kassebaum legislation, to prohibit insurance companies from denying coverage because of pre-existing conditions, as well as legislation giving parity to mental health services.

- **Improving Education for Children with Disabilities:** President Clinton opposes weakening the guarantee of a right to education for children with disabilities. The Administration is increasing the Individuals with Disabilities Education Act's focus on educational results for children and cutting unnecessary paperwork so that more time can be spent on teaching and learning. The President signed legislation increasing funding for IDEA by 25% in the FY1997 budget.

- **Employment of People with Disabilities:** The President's 1998 budget proposes to remove barriers to employment for people with disabilities by making it possible for people to retain health care coverage when they go to work, and creating incentives for rehabilitation services.
- **Increasing Home and Community-Based Programs:** The Clinton Administration's flexibility in granting state waivers has spurred an increase in home and community-based services. As a result, the number of people with developmental or cognitive disabilities served in home and community waiver programs more than doubled to 149,000 in 1995.
- **Support for Families:** President Clinton fought for and enacted the Family and Medical Leave Act making workplaces more accommodating for many families that include a child or adult with a disability.
- **Increasing Access:** By enacting the National Voter Registration Act and the Telecommunications Reform Act, President Clinton has made voting easier and communications technology more accessible for Americans with disabilities.
- **Transportation and Housing:** The Clinton Administration is helping to connect people with disabilities to employment, educational opportunities and a full range of public activities by implementing requirements for accessible bus and rail transit systems, paratransit services and housing.
- **Appointees with Disabilities:** The President has appointed an impressive group of people with disabilities to high-level policy-making positions, including many people prominent in the disability community. Many of these appointments are to key positions that are not directly related to disability issues.

THE CHALLENGES AHEAD:

- Under President Clinton, federal agencies will continue to vigorously enforce the Americans with Disabilities Act with a balanced approach that emphasizes voluntary compliance wherever possible.
- The President has proposed a balanced budget that maintains meaningful health benefits for people with disabilities.
- President Clinton is committed to expanding employment options for people with disabilities and challenging all Americans to understand that people with disabilities can contribute to this country when given access to the workplace, health care, community services and technology.
- The Clinton Administration will work to maintain a strong Individuals with Disabilities Education Act for children with disabilities and to improve educational results for students with disabilities.

THE FDR MEMORIAL CONTROVERSY BACKGROUND INFORMATION

A decision memo is pending on whether the President should speak out on the FDR Memorial controversy and recommend to the FDR Commission that another statute be commissioned depicting FDR in his wheelchair.

The President serves as Honorary Chair of the FDR Memorial Commission, which was authorized by Congress in 1955 to oversee the design of the FDR Memorial. During the past two years, the Commission has been criticized because the design does not depict FDR as a man with a disability.

The Commission, chaired by Sen. Inouye (D-HI), has invited the President to speak at the FDR Memorial dedication on May 2, 1997. The disability community, which is dismayed that the statutes at the Memorial fail to depict FDR in his wheelchair, is planning a protest at the ceremony.

The Roosevelt grandchildren are split on the subject. Curtis Roosevelt, in a letter to the Commission said, "Let me say quite emphatically that FDR would have been very disturbed. He was a very private person..." But Anne Roosevelt, on behalf of herself and seven other grandchildren wrote, "Were he alive today we are convinced that he would wish to have the people of this country and the world understand his disability. He would be comfortable, possibly eager, in light of current increased understanding of disability issues, to share awareness ...While we wish no delay in the construction of the proposed memorial we urge adequate inclusion of all facets of the man as he was, not as some think he ought to have been."

Senator Inouye, a disabled veteran from WWII, member of the Commission for the past 25 years, and current Chair of the Commission, has strongly opposed including a sculpture of FDR in a wheelchair. He stated, "I for one would not want to redo history. FDR was Commander-in-Chief of the greatest fighting force in the world and he wanted to be viewed as a strong leader. I would hate to see the man exploited after he was dead." But national opinion leaders, including President Bush, President Ford, Doris Kearns Goodwin, Hugh Sidey, George Will, and Maureen Dowd have voiced strong support for including FDR's disability in the Memorial. A Harris poll indicates that 73% of Americans said the Memorial should include "visible recognition of FDR's disability."

In response to a weekly report from Interior on February 21 alerting him to the controversy, the President wrote, "They should have one in a wheelchair. Should I speak out on it." During the spring of 1996, in response to a memo from Carol Rasco on the subject, the President stated, "I agree...FDR was for continuous forward movement. In today's world, I think he would insist on being shown in his wheelchair." In May 1996, the President spoke out publicly on this issue in a

speech to the President's Committee on Employment For People With Disabilities by stating, "I hope with Christopher Reeve, that as the Roosevelt Memorial becomes a reality, with your efforts to remove the stigma of disability, they'll find a way to make sure that the American people know that this great, great President was great with his disability."

The draft decision memo recommends that the President participates in the Memorial Dedication Ceremony on May 2, but calls upon the FDR Commission to design and incorporate into the Memorial a fourth statute of FDR in his wheelchair by a specific date.

FDR TALKING POINTS

- o Last May, in a speech to the President's Committee on Employment for People with Disabilities (I know many of you were in attendance), the President spoke out on this subject, saying that he hoped the Memorial would show the American people, "that this great, great President was great with his disability."
- o The FDR Memorial Commission has taken some steps to highlight FDR's disability in the Memorial including; displaying a replica of FDR's wheelchair, displaying two photographs of FDR in his wheelchair in the entry building, and including discussion of FDR's disability in the National Park Service handout literature.
- o But the President is aware of the continued concern both within the disability community and beyond that the Memorial fails to depict FDR in his wheelchair. We look forward to working with you to find a solution to this issue.



PRESIDENT'S
COMMITTEE
ON EMPLOYMENT
OF PEOPLE
WITH DISABILITIES

To: Vicki Radd
From: Tony Coelho, Chairman, PCEPD *Schedule: Ben - 434-1050*
Subject: Meeting with Erskine Bowles
Date: February 25, 1997

Pursuant to our earlier conversation, this memorandum contains a list of individuals who Marca Bristo and I would like included in the meeting you are helping to organize with the Chief of Staff. Marca Bristo, and the other key appointees with disabilities who have been meeting on disability issues, feel very strongly that all of the individuals on the list should be invited to the meeting with the Chief of Staff. The individuals on this list would greatly contribute to the success and productivity of the meeting though, of course, not everyone needs to speak at the meeting and not everyone will be available to attend because of scheduling conflicts. Obviously, it is particularly important that Marca Bristo, Susan Daniels, Judy Heumann, Paul Steven Miller, Bob Williams and I are in attendance.

I have consulted with Marca, and we are both available to meet with you and the Chief of Staff on Thursday, March 6, 1997. We would like the meeting to begin at 4:00 p.m. but are available at 3:00 p.m. if that would be more convenient for you. Please let me know if either of those times are possible, or if we need to select alternative dates and times.

Thank you for all of your assistance in this matter. I look forward to our meeting.

List of Suggested Meeting Participants

- Marca Bristo, Chair, National Council on Disability
- Speed Davis, Special Assistant to the Chairperson, National Council on Disability
- Tony Coelho, Chairman, President's Committee on Employment of People with Disabilities
- John Lancaster, Executive Director, President's Committee on Employment of People with Disabilities
- Susan Daniels, Associate Commissioner, Office of Disability, Social Security Administration

David D. Davis

*Dep. Asst. Sec. of State
for PWD & C. R. 10/96*

1331 F Street, N.W.
Washington, DC 20004-1107

202-376-6200 (Voice)
202-376-6219 (FAX)
202-376-6205 (TDD)

Marie Strahan, Office of Disability, Social Security Administration

Judith Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services,
U.S. Department of Education

Howard Moses, Deputy Assistant Secretary, Office of Special Education and Rehabilitative
Services, U.S. Department of Education

Thomas Hehir, Director, Office of Special Education Programs, U.S. Department of Education

Fred Schroeder, Commissioner, Rehabilitation Services Administration, U.S. Department of
Education

Kate Seelman, Director, National Institute on Disability & Rehabilitation Research,
U.S. Department of Education

Paul Steven Miller, Commissioner, U.S. Equal Employment Opportunity Commission

Andy Imparato, Special Assistant to Commissioner Paul Steven Miller, U.S. Equal Employment
Opportunity Commission

Bob Williams, Commissioner, Administration on Developmental Disabilities

Liz Savage, Counsel to the Assistant Attorney General, Civil Rights Division, U.S. Department of
Justice

Thea Spires, Office of Disability Policy, Office of the Secretary, Department of Housing and
Urban Development

Michael Winter, Special Assistant to the Deputy Secretary of Transportation, U.S. Department of
Transportation

Jack Catlin, Access Board



DEPARTMENT OF
HEALTH AND HUMAN SERVICES

THE SECRETARY

APR 14 1997

Bruce Reed —

This is a good
idea from Bob Williams.

He runs the
office of Disability for
Oliver. He is the
lead DAS for Disability,
long term care + Aging
in ASPE.

Don

~~CONFIDENTIAL~~ NOTE TO SECRETARY SHALALA FROM BOB WILLIAMS

I just read the transcript of President Clinton's response to a reporter's question regarding his recent surgery and the way his temporary disability is "profoundly impact(ing)" his view of people with disabilities and the challenges we face. I have always believed that the President has understood the enormous strength, reservoir of potential and dreams deferred Americans with disabilities represent. But, as he himself pointed out the other day, "feeling it and knowing it are two different things."

To borrow Dorothy Day's phrase, I believe the President has undergone a revolution of the heart, which can have powerful transformational effects on both the man and the Nation he leads. I further believe that the best way to bring his recent experiences into sharper focus is to arrange for the President and Vice President Gore to meet in a relaxed atmosphere with key Cabinet officers (yourself, Secretary Riley, Attorney General Reno, the Secretary of Labor and the SSA Commissioner) as well as each's principal disability appointee. The group should likewise include Marca Bristol from the National Council on Disability, who we recently met with, and Tony Coehlo, the chair of the President's Committee on the Employment of People with Disabilities.

The size of the gathering should be kept small to foster ample give and take. Its purpose should be to discuss and identify with the President and the Vice President a series of incremental but vital next steps the Administration can take to increase employment opportunities for individuals with disabilities, including those on TANF (between twenty and fifty percent of those on AFDC have been estimated to have disabilities). As you know, the Administration has included several bold but viable proposals in its budget request aimed at strengthening the ability of disabled Americans to go to work and pay taxes.

Disability appointees in the Administration believe there are a number of similar steps we could be taking in an unified manner in this same vain. The idea of pulling together such a session with the President is not new. Judy Heumann first suggested it at the time of the State of the Union. The President's recent experiences, however, presents us with an historic opportunity to both have that substantive discussion and move forward with a politically achievable agenda.

My recommendation, therefore, is that you (acting alone or with Secretary Riley) explore whether the President would find such a dialogue to be a constructive use of his and Vice President Gore's time. Should you decide to go forward with this, I would welcome the opportunity to be of any assistance I can. I will be on vacation from April 2-4 but will be back in the office Monday. I hope you find my comments and suggestions helpful. Thank you.

cc: Olivia Golden

BR

TO: Elena Kagan
 Steve Warnath
 Wendy White

FROM: Diana Fortuna *Diana*

CC: Laura Oliven
 Debra Bond

DATE: January 13, 1997

Attached is a memo from a disability advocacy organization that is suing the INS over its implementation of a 1994 law that required the INS to waive parts of the citizenship test for certain people with disabilities. This advocate (Pat Wright) apparently met with the new chief of staff as part of a larger group of civil rights leaders, and somehow this memo to Rahm emerged from it. I am not sure what he plans to do with it.

The group wants two things:

- (1) A waiver or "accommodation" of the oath of allegiance: INS says that the 1994 law clearly did not allow waiver of the oath. The second notion -- that of accommodation -- is based on Section 504 of the Rehab Act, which requires the government to provide accommodations for people with disabilities. This is an interesting argument and I imagine will be considered in the lawsuit.
- (2) They want a "tolling" or grace period that would allow SSI and other federal benefits to continue to be paid for legal immigrants who have pending citizenship applications at INS. Elena, I imagine you must have gone over this territory pretty carefully in August.... Am I right to assume that this option is not legally permissible?

Diana -

1. We do not generally have legal authority to toll
2. When David & I checked w/ Randy Moss w/ OLC to see what he thinks of the accommodation issue, I suppose one could argue that if we have a legal obligation due to - and as a result of - a violation of law, a person's application of law, a person's duty that strikes me as a violation of the statute. If Elena

cc: Bruce



Disability Rights Education and Defense Fund, Inc.

Law, Public Policy, Training and Technical Assistance

MEMORANDUM

TO: Erskine Bowles, Chief of Staff
THE WHITE HOUSE

FROM: Patrisha Wright ^{BW}
DISABILITY RIGHTS EDUCATION & DEFENSE FUND

RE: Citizenship For Immigrants w/ Disabilities

DATE: January 13, 1997

Thank you for meeting with me and other members of the Leadership Conference on Civil Rights on January 9. Attached is a copy of the memo that DREDF sent to Rahm Emanuel.

I need to emphasize that the Administration's response must be a "tolling" or "grace period" which allows the continued payment of SSI and other federal public benefits to affected legal immigrants with disabilities until their citizenship applications are approved by INS.

MEMORANDUM

TO: Rahm Emanuel, THE WHITE HOUSE

FROM: Patrisha Wright, Stephen Rosenbaum
DISABILITY RIGHTS EDUCATION & DEFENSE FUND

RE: Citizenship For Immigrants w/ Disabilities

DATE: January 10, 1997

This memo follows yesterday's meeting between the White House Chief of Staff and the Leadership Conference on Civil Rights.

Immigrants ("lawful permanent residents") who have lived in the U.S. for more than five years and are not "excludable" (e.g., for violating laws, evading the draft, failing to pay taxes, trafficking in narcotics, defrauding the INS) are eligible for citizenship or "naturalization." Applicants must pass tests in English literacy and in knowledge of American history and government; submit fingerprints and photos; and complete a personal INS interview which tracks the written application itself (personal data, marital and family status, employment history, organizational memberships, etc.).

In October 1994, Congress adopted technical amendments waiving the English literacy and civics tests for applicants unable to comply "because of physical or developmental disability or mental impairment..." 8 U.S.C. § 1423(b)(1). More than two years after passage of the amendments, the INS has yet to adopt final rules implementing the statute. Local immigration officers, relying on a 2-page internal memorandum and individual discretion, have not applied the 1994 statute consistently and have made it virtually impossible until the last few months to get a waiver. Moreover, once having granted a waiver, these officers have held up applications when they are not satisfied the would-be citizen has the capacity or willingness to take the oath of allegiance. In effect, naturalization involves 3 components: English/civics tests, interview and the "oath requirement."

This stonewalling means long-term legal immigrants who lack a sufficient work history and are not veterans will be cut off such federal benefits as SSI and Medicaid within a matter of months under the Personal Responsibility Act -- unless their citizenship applications can be approved by an already backlogged INS. The immigration service estimates there are 300,000 applicants nationwide who might seek a disability waiver.

The INS did not publish proposed regulations to implement the waiver until August 1996, following the filing of a class action lawsuit by Disability Rights Education & Defense Fund, Asian Law Caucus and others. *Chow v. Meissner*, No. C-96 2422 SI (N. Dist. Calif.). An interim rule is pending at OMB and is expected to be published by next month, notwithstanding the Government's litigation posture that the statute is not subject to notice-and-comment rulemaking.

R. Emanuel

Page 2.

INS and DoJ have refused to seriously discuss settlement until the Court rules on their pending motion to dismiss the lawsuit on the ground that plaintiffs have not suffered any harm because none of their applications had actually been denied -- only delayed. This motion was argued October 31, along with plaintiffs' motions for nationwide class certification and a preliminary injunction to insure compliance with the spirit of §504 of the Rehabilitation Act of 1973 and the technical amendments to the immigration act. Rather than talk compromise with plaintiffs' counsel, INS has punished witnesses whose affidavits have been submitted in support of the pending motions. These witnesses -- who are neither parties to the litigation nor counsel -- have been subjected to petty harassment by senior agency officials, which interferes with their ability to serve their clients and to freely give testimony.¹

The Government attorneys have also stated that they will not "make policy" in the context of settlement, even if the ad hoc and ambiguous policy they now defend is at odds with both the Attorney General and INS Commissioner's intensive campaign to promote citizenship and the Administration's articulated desire to soften the harsh effects of welfare reform. The victims of this policy are lawful immigrants who are disabled or elderly.

Even if the impending interim rule establishes a streamlined and uniform process for documenting a disability and determining who qualifies for a waiver, it is not expected to resolve an equally fundamental problem: Processing applicants with severe developmental disabilities, including interview questions about their capacity or willingness to take the oath. This would mean providing reasonable accommodations for the full range of disabilities and impairments or modification of the application and interview/examination process and reconciling the oath requirement with the liberalized purpose of Congress' waiver statute.

For more details, please call Stephen Rosenbaum or Arlene Mayerson of DREDF at 510-644-2555.

Attachments: Legal Background
§504 Applicability
Plaintiff Profiles
Text of Oath

¹ One attorney affiant was advised by the Los Angeles INS District Deputy Director, on the very afternoon of a court hearing on the pending motions, that she could no longer attend meetings of the Los Angeles Naturalization Advisory Committee. Similarly, the Chicago Acting INS District Director informed the Illinois immigrant and refugee coalition's citizenship task force that he would not attend the December meeting of that body if task force member affiants from the Polish American Association, Travelers and Immigrants Aid and World Relief were also present.

LEGAL BACKGROUND

1. The Immigration and Nationality Act, as amended prescribes the requirements for naturalization. 8 U.S.C. §§ 1401 et seq. Among other things, applicants are required to pass an English language test and an American history and government examination. 8 U.S.C. § 1423. Prior to becoming citizens, applicants must take an oath of allegiance and renunciation in a public or expedited ceremony. 8 U.S.C. § 1448.

2. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 is applied to the Department of Justice. It provides, in pertinent part, that:

No otherwise qualified individual with a disability in the United States, as defined in [29 U.S.C. § 706(8)], shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity . . . conducted by any Executive agency."

3. The Immigration and Nationality Technical Corrections Act of 1994 (§ 108(d)), 8 U.S.C. § 1423(b)(1) In 1994, creates a waiver of the tests for applicants with disabilities such that the English language and history and government requirements "shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith." In adopting the Technical Corrections Act, Congress sought "to promote the acquisition of U.S. citizenship by relaxing or eliminating certain burdensome and unreasonable testing and residency requirements." Hse. Comm'ee on the Judiciary, Hse. Rep. No. 103-387 at 3-4.

4. The INS Associate Commissioner issues an intra-agency memorandum on November 21, 1995 to INS District Directors and other field directors and officers providing "preliminary guidance" on the agency's interpretation of the waiver. The guidance memo states that it was the intent of Congress to grant a "general waiver" of the testing requirements, but that applicants must still meet all other requirements of naturalization. The memo instructs adjudications officers to apply the waiver on a case-by-case basis.

5. The INS Commissioner and Attorney General are sued for not implementing the disability waiver. *Chow v. Meissner*, No. C-96 2422 SI (N. Dist. Calif.)

6. INS publishes a proposed rule on August 28, 1996 which focuses on the requirements for medical certifications and the professionals who should be designated to make the certifications. It makes broad, non-specific references to reasonable accommodations for applicants and is silent with regard to the oath of allegiance. 61 Fed. Reg. 44,222.

SECTION 504 REQUIRES REASONABLE ACCOMMODATIONS OR MODIFICATIONS

As a federal agency, the INS is bound by § 504 of the Rehabilitation Act of 1973, as amended, to provide modifications to enable persons with disabilities to benefit from its programs, including naturalization. Reasonable modifications may include, without limitation, wheelchair-accessible test sites, sign language interpreters, Braille material -- as well as modifications in the naturalization test format or test administration procedures. The principle of reasonable modification also is applicable to the administration of the oath of allegiance.

The accommodation or modification for applicants with developmental disabilities could include a facilitator for someone who is unable to express a willingness to take the oath (e.g., someone who knows a developmentally disabled person well and can assist that person in communication with others and with comprehension of a complex situation). See e.g., Technical Assistance Manual to Title II of the ADA, II-3.6100, Illus. 2 at p. 14 (Dept. of Justice 1993).

Similarly, if the Service were to determine that the applicant does not understand the "purpose and responsibilities of the naturalization procedures," 8 C.F.R. Pt. 316.12(a), an applicant's family members or professional contacts (social workers, teachers, or guardians) could attest through sworn statements that the applicant is unable to fully understand the oath, but would nonetheless be able to abide by it. An alternative accommodation would be for the applicant's family to establish a temporary or limited conservatorship, with the conservator attesting to the applicant's obligations set forth in the oath.

Modifications such as these could be accomplished by the INS without undue administrative burden or fundamental alteration of the naturalization process. See, 28 C.F.R. Pt. 39.150(a). Moreover, reasonable accommodation is necessary to ensure that applicants are able to participate in the naturalization process and enjoy the benefits and privileges that flow from citizenship.

PLAINTIFF PROFILES

M.C. immigrated from Hong Kong in 1969 and worked as a janitor. She is 85 years old and has been diagnosed with multi-infra dementia. M.C. applied for naturalization in April 1994 and almost one year later was scheduled for an INS interview, which she attended with her daughter. After showing the INS officer a letter from M.C.'s doctor and requesting a disability waiver, the daughter was told the waiver did not exist and was not allowed to accompany her mother into the interview room. M.C. was informed that she failed her interview because she could not communicate in English. In December 1995, however, M.C. received a written denial stating that she failed to satisfy the knowledge of history and government requirement. M.C. appealed the denial in January 1996 and appeared for a hearing in February 1996. She again requested a disability waiver and was told that the waiver did not exist and that she needed to satisfy the English literacy requirements. INS denied her appeal on the ground that she had failed to satisfy the English literacy requirements. M.C. was not aware that there was a procedure to reopen her case and was told that her appeal was the final step in her naturalization application. After she joined the lawsuit, M.C. received a letter stating her file would be reopened for reconsideration and that she would be requested to appear at another interview.

British national L.K.L. has mental retardation. She failed her first citizenship interview in October 1995 and was told by INS officers to return for an interview in February 1996. Between interviews, she received private tutoring to help her pass the tests. At the end of her second interview, L.K.L. came into the waiting room in tears. Her sister-in-law claims INS officers told her, "it looked like L-- K--'s whole family was trying to force her to become a citizen." L.K.L. was told not to contact INS in any way, but to await instructions on how to proceed. Her application was approved shortly after she and other plaintiffs filed suit.

M.H.C. of South Korea appeared for her May 1996 interview. Her caseworker had written to INS when she applied a year earlier describing her mental disability. She also presented a letter from her Stanford University neurologist. INS officers told M.H.C. she needed to return after two months with a letter from one of the agency's designated doctors. When her attorney asked to see this requirement in writing, he was told the "internal memo" could not be released. She was approved after the suit was filed.

M. R.-B. of Mexico went to her INS interview in January 1996 and was told to return with a doctor's letter. No one advised her the letter had to be from a doctor on the INS' designated list. M. R.-B. provided a letter in March 1996 from a state agency physician stating that she had mental retardation and a seizure disorder, but has not been interviewed again.

OATH OF ALLEGIANCE

8 CFR § 237.1(a)

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.



U.S. Department of
Transportation

Office of the Secretary
of Transportation

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Washington, D.C. 20590

Disabled

Review of Department of Transportation
Implementation of Accessibility Requirements,
for Domestic Policy Council, July 25, 1994

Much has been accomplished toward achieving a barrier-free transportation system, and an environment where travelers with disabilities will be treated without discrimination.

Summary

In mass transit, accessibility improvements are appearing rapidly, in the form of bus lifts and door-to-door paratransit vans. Rail transit systems are upgrading their key stations and buying railcars with accessibility devices.

In intercity rail, one car per train will be accessible by 1995.

On the highway, interstate rest areas and all pedestrian facilities being constructed, renovated and altered with Federal aid are being brought into conformance.

Disabled air travelers can use the air transportation system with much less difficulty. Airports are far more accessible. New aircraft have features such as movable aisle armrests, special wheelchairs to permit easy movement in the cabin, and, in some cases, accessible lavatories.

The Department is developing a proposed regulation to establish accessibility requirements for over-the-road-buses.

Although marine vessels are not mentioned specifically in the ADA, the Department has initiated the research that would enable it to begin rulemaking to require vessels (ranging from ferry boats to cruise ships) and facilities to be accessible.

Highlights

Transit

Buses - Half of the nation's 52,500 transit buses operating in urbanized areas (over 50,000 population) are now lift or ramp-equipped (versus 35 percent prior to ADA). Eventually, all will be fully accessible, as new buses replace old.

Term:

Rapid Rail - Most of the 8,100 rapid rail cars in service are accessible to wheelchair users now, although they lack accessibility features for the hearing and visually impaired.

Key Stations - Of the 2679 stations in the Nation's rapid, light, and commuter rail systems, 708 have been identified as key stations, which must be made accessible. DOT has had to grant time extensions for 284 such stations on the basis of extraordinary costs. These extensions are in accordance with the ADA. Requests were denied for 115 others.

While under ADA the extended modifications may take until 2020 in some cities, the majority are expected to be completed by 2000. Some systems are already generally accessible, based on the Federal standards in place as they were built. These include systems in Miami, San Francisco (BART) and Los Angeles.

Paratransit - The ADA requires parallel paratransit service to persons with disabilities who cannot use the fixed route systems. Operators have until January 27, 1997, to comply. Of the 540 transit systems subject to the paratransit requirements, more than 100 report full compliance already and 60 percent indicate that they expect to be in full compliance by 1995. There are substantial problems nonetheless:

- It is still too early in the implementation timetable to determine whether lack of funding for paratransit will prove a major problem in transit agencies, all of which are dependent on existing Federal, state and local funds.
- The operators are concerned about the prospect that human service agencies will abandon the transportation services they have traditionally provided, forcing even more clients onto the overburdened ADA paratransit services.
- Many paratransit systems are encountering problems because they may have to deny service to able-bodied elderly patrons previously served on the basis of age, but who are no longer required to be eligible under ADA guidelines.

Costs - The ADA requires substantial cost for compliance:

- For the FY 95-99 period, annual ADA costs are expected to be \$900 million, or about 4% of all public transit costs.
- Of this, costs for paratransit are estimated to be \$700 million a year, \$600 million of which is attributable to operating costs.
- The estimated cost of compliance with the ADA transportation requirements for the transit industry between 1991 and 2000 is \$7.3 billion.

Intercity Rail

Rail Service - Amtrak's service is becoming accessible, using station-based lifts to accommodate wheelchairs moving from the platform onto the car as well as accessible features within railcars. Amtrak expects to meet the requirement of one accessible car per train by ADA's July 1995 deadline.

Stations - A more difficult problem has been the major alterations needed to bring their stations into conformance with ADA standards. The standards call for full accessibility at all Amtrak stations as soon as possible, but no later than July 2010. Amtrak has identified eight key stations, the cost of modifying which is estimated to be in excess of \$10 million. They have requested extensions on several of them.

Highways

New Facilities - All Interstate highway rest areas have long since been made accessible. Other street and highway-related facilities are covered by the DOJ's ADA Title II regulations. Whenever pedestrian facilities or bus stops and shelters are provided in conjunction with new street or highway construction, curb cuts must be included. When the provision of the curb ramps will be totally completed is uncertain.

Over the Road Buses - The Department is now engaged in rulemaking on over-the-road buses. By statute this rule is to go into effect in 1996 and 1997. This is a very difficult area, because accessibility devices are expensive, and the intercity bus industry is in fragile financial condition. This industry is a critical component of the Nation's transportation system for rural and low income passengers.

Aviation - Major new levels of accessibility had been achieved under the Air Carrier Access Act, before ADA was enacted.

Aircraft - New aircraft delivered after April 1992, depending on size, have to have such features as movable armrests, space for at least one passenger's folding wheelchair and accessible lavatories on twin-aisle aircraft.

Passengers Services - All carriers must now provide disabled passengers with assistance in boarding, deplaning, and making connections. Passengers with battery-powered wheelchairs are routinely accommodated, with few exceptions. Complaints Resolution Officials must be immediately available. Sensitivity training, and training on the proper operation of equipment for travelers with disabilities is required.

Airports - Most airports and all air carrier-operated terminals being built or altered must be made accessible (e.g.,

baggage services, signage, water fountains, bathrooms, ticket counters, and information/telecommunications devices). There must be an accessible path from the front door of the terminal to the boarding gate to all aircraft with 30 or more seats. All Federally assisted airports are generally in compliance.

Commuter Aircraft - When DOT issued its air carrier regulations in 1990, there was no safe, efficient way for passengers using wheelchairs to board and leave small commuter aircraft. A series of external lifts recently developed, however, allowed DOT to publish last September a proposed rule to jointly require commuter air carriers and airport operators to acquire lift devices or other equipment to board passengers with mobility impairments onto such aircraft by 1997.

Information Program

One of the Department's most important areas is outreach to the disabled community. We have a major information program to advise passengers of the opportunities open to them. We provide information and interpretation of our regulations to travelers with disabilities and respond to complaints about non-compliance on a continuing basis. We also provide technical assistance on the special transportation needs and technologies to meet the needs of persons with disabilities to planners, architects, designers, and providers of transportation services.

Internal DOT Activities

Since January 1992, the Department has experienced a steady increase in the number of ADA complaints. To be more responsive, at the Secretary's direction, the Department is consolidating its civil rights functions. Under the consolidation, the Regional Offices located closest to the complainant will process and investigate these complaints.

DOT is conducting a self-evaluation under Section 504 of the Rehabilitation Act to ensure that its own programs and activities are accessible. Approximately 12,000 Departmental facilities are being surveyed to discover barriers to accessibility and eliminate them. All the Department's regulations relating to licensing are being reviewed to ensure that qualified individuals with disabilities are not prevented from careers in transportation.

To commemorate the 4th anniversary of the ADA, on July 26th the Secretary is holding a meeting with leaders of most of the major disability advocacy groups, to discuss progress to date.