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Name Markie / Rules

REPORT OF THE BIPARTISAN TASK FORCE ON SENATE COVERAGE

MANDATE

The Bipartisan Task Force on Senate Coverage was established October 1992, by section 315 of the Legislative Branch Appropriations Act of 1993 (P.L. 102-392). The Task Force consists of the Majority Leader and the Minority Leader, as ex officio members, three senators appointed by the Majority Leader, three senators appointed by the Minority Leader, and four representatives from the administrative offices of the Senate—including the Office of the Secretary of the Senate, the Office of the Sergeant at Arms and the Office of the Architect of the Capitol, appointed jointly by the two leaders. As authorized in section 315, the Task Force has consulted with the Senate committees with jurisdiction over the statutes to be examined by it.

The Task Force was charged with reviewing all existing statutes under which the Senate is covered, reviewing Senate rules to determine whether the Senate is effectively complying with other statutes that could be applied to the Senate, and recommending the extent to which, and the way in which, these statutes should be applied to the Senate. Subsection (c)(2) of section 315 identified four types of statutes to be reviewed: (1) conflict of interest statutes; (2) the Freedom of Information Act; (3) the Privacy Act; and (4) labor laws such as the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act.

THE CONSTITUTION AND THE SENATE

The Constitution secures individual liberty by creating three coequal branches, each capable of protecting their independence from outside interference and coercion. Each branch has its own historic role and origin. The House of Representatives, being directly elected by the people, originates all revenue bills and, by tradition, is the first to act on appropriations bills. The President, elected by all the people, has special responsibilities for acting in the national interest and providing unity and accountability for the executive branch.

The Senate, by design and precedent, also has a unique role within the constitutional structure. Its members are elected for six years, with staggered terms, to assure continuity and experience. Senators must be at least thirty years old, compared to twenty-five for

members of the House of Representatives. The Framers made the Senate smaller in size (two per state or twenty-six in 1789, compared to sixty-five for the House) to facilitate deliberation on legislative, treaty, and appointment questions.

Constitutional issues are shaped through five discrete processes: legislation, treaties, impeachment, appointment, and constitutional amendments. In this sense, the federal judiciary interprets the Constitution only in one phase (legislation). The President is involved in three (legislation, treaties, and appointments) and the House in three (legislation, impeachment, and amendments). Only the Senate is fully engaged in all five processes.¹ As noted in a recent study, the Senate was "designed to be a select deliberative body whose special job—unlike that of any other governmental institution—was to protect the people from policy and value preferences that would be unwise in the long-term."² In an earlier analysis of the Senate's special institutional role, George H. Haynes remarked:

The result was a legislative body unique in its basis of representation, in its relation to the Executive and to the other branches of Congress, in its procedure, and in its weighty non-legislative powers. It was designed to be a small body, associated with the President somewhat as an executive council, acting as judge in the trial of all impeachments, serving as a check upon "the changeableness, precipitation, and excesses of the first branch," especially as the guardian of the small states against aggression on the part of the large states, and as the protector of all the states against encroachment by the new "centralized power." AND IT WAS TO BE THE PEOPLE'S DEFENDER AGAINST "THE TURBULENCY OF DEMOCRACY" [emphasis added.]³

The discharge of these unique responsibilities by the Senate requires independence from outside interference and control. Independence of judgment may be seriously compromised by permitting executive officers to use their enforcement machinery against Senate operations. Enforcement—or even the THREAT of enforcement—could be used by the executive branch to influence Senate actions on legislation, treaties, and appointments.

¹ Vik D. Amar, "The Senate and the Constitution," 97 Yale L. J. 1111 (1988).

² Id. at 1114.

³ George H. Haynes, *The Senate of the United States: Its History and Practice* 1037 (1938).

The Constitution grants to Congress specific power to investigate and even remove the President of the United States from power. The President, however, is not granted similar disciplinary powers over the members of Congress; those powers rest in the hands of the two legislative bodies. By establishing this principle of legislative self-discipline, the Constitution's Framers ensured the independence of Congress and addressed a major weakness of the previous Constitution, which provided that states could recall members for any reason their legislatures deemed appropriate.

No member of the legislative branch may hold executive office. This restriction was included to keep members of Congress from being placed under the authority of the President or to be tempted by appointments to executive positions. The principle of separated powers would be violated by having an executive agency oversee legislators and legislative committees that pass on the nominees to that agency and approve its annual appropriations.

Members (and by extension, their staffs), unlike executive agency officials, are directly answerable to the citizens of their respective states through the electoral process. In considering the application of various principles of federal laws to the Senate, the Task Force was mindful of the Senate's constitutional prerogatives, as well as the history and procedures that have defined those powers.

THE SEPARATION OF POWERS PRINCIPLE

The unique role of the Senate was an element in the Founders' strategy for protecting the nation against concentrated power in the executive branch. Separation of powers is a central principle in our governmental system and one which the Task Force recognizes and respects.

The principle of separation of powers is central to the appropriate application of rights and protections provided by existing laws to employees in Senate offices because administrative enforcement of such laws is usually vested in agencies of the executive branch. The concept of separation of powers embodied in our governmental system is rooted in a distinguished philosophical tradition as well as in the practical political exigencies facing the new republic. The delegates to the Constitutional Convention, it will be recalled, assembled in Philadelphia to remedy the defects of an impotent national government under the Articles of Confederation. At the same time, having just thrown off the yoke of royal oppression, they were exceedingly distrustful of centralized unitary

authority. The corollary notions of "separation of powers" and "checks and balances" served their requirements admirably and have been at the heart of the American constitutional consensus ever since.⁴

The idea of three government functions, each to be performed separately by the executive, legislative, and judicial branches, has been traced to Aristotle.⁵ The concept of separation of powers is usually credited to Montesquieu, who combined Aristotle's concept with the theory of checks and balances.⁶ This system of divided, yet shared, authority is the principal justification of the new constitutional order expounded in *The Federalist Papers*.

By establishing three separate branches of the federal government, the Framers sought to achieve efficiency by having each of the three functions of government performed by a separate branch. More important, they believed that such an arrangement would limit the power any one branch could exercise and would establish a system of checks and balances whereby "those who administer each department" would have "THE NECESSARY CONSTITUTIONAL MEANS AND PERSONAL MOTIVES TO RESIST ENCROACHMENTS OF THE OTHERS."⁷ [emphasis added.] The Framers therefore divided governmental powers among the three branches which were independent of each other and coequal.

According to James Madison, "a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands."⁸ Although the branches were intended to serve as checks on each other, no branch was "to

⁴ For a discussion of elements of the doctrine, see "Separation of Powers," *Encyclopedia of the American Constitution* at 1659 (1986).

⁵ See *Constitution of the United States: Analysis and Interpretation*, S. Doc. No. 99-16, 99th Cong., 1st Sess. at xvii-xviii n. 29 (1987) (Professor Corwin's introduction to 1953 edition) hereafter cited as *Constitution Annotated*.)

⁶ *Constitution Annotated*, supra note 5. See also *Buckley v. Valeo*, 424 U.S. 1, 120 (1976).

⁷ *The Federalist*, No. 51 (G.P. Putnam's Sons ed. 1902).

⁸ *The Federalist*, No. 48.

possess, directly or indirectly, an overruling influence over the others, in the administration of their powers." ⁹

Recent rulings of the Supreme Court have evidenced a "flexible understanding of the separation of powers," ¹⁰ recognizing "Madison's teaching that the greatest security against tyranny—the accumulation of excessive authority in a single branch—lies not in a hermetic division between the Branches, but in a carefully crafted system of checked and balanced power within each Branch." ¹¹

SPEECH OR DEBATE CLAUSE

Members of Congress have immunity for their legislative acts under article I, § 6, clause 1, of the Constitution, which provides in part that "for any speech or debate in either House, [Senators and Representatives] shall not be questioned in any other place." The clause, which affords both an institutional and an individual privilege, has roots in English history, specifically in the conflict between Parliament and the Crown. The clause is almost identical to a provision included in the English Bill of Rights of 1689, in response to conflicts between the House of Commons and British monarchs who used criminal and civil legal proceedings to suppress critical legislators.

The speech or debate immunity provision was included in our Constitution without discussion or opposition. It was intended to prevent legislators from being intimidated by the executive or from being held accountable before a possibly hostile judiciary. The clause was not meant for the personal benefit of members, but rather to assure the integrity of legislative proceedings by protecting the independence of individual legislators. Thus, in the American system of government, the clause reinforces the separation of powers. The Supreme Court has declared that the immunity of members should be interpreted broadly to effectuate its purposes.

⁹ *The Federalist*, No. 48, at p. 308.

¹⁰ *Mistretta v. United States*, 488 U.S. 361, 380 (1989).

¹¹ *Mistretta v. United States*, *supra*.

RULEMAKING AUTHORITY

Each House is granted specific authority under article I, § 5, clause 2, of the Constitution to make rules governing its proceedings. The Framers recognized that such power is possessed by all assemblies and extended it to the House and Senate to enable them to transact their business with order and deliberation. It is the prerogative of each body to establish rules for itself without approval by the other body or by the executive. The power to make rules by simple resolution is a constitutionally created exception to the procedure governing legislation which requires bicameral passage and presentment to the President.

Measures adopted under the rulemaking power are not only freed from the usual constitutional restrictions on legislative action, but frequently are not subject to review by the judiciary. The courts have construed the rulemaking authority broadly, and have generally shown a reluctance to interpret the rules of either House or to review challenges to the application of such rules. The rulemaking power thus enables each body to control its proceedings without intervention by the other branches, and thereby complements the speech or debate clause.

FINDINGS

Employees of Senate offices and organizations should be accorded the rights and protections made available under federal law to other citizens in similar circumstances to the extent and in a manner consistent with the historic and constitutional character of the Senate.

1. The Senate has already acted to extend such rights and protections to employees of Senate entities in a number of areas. The institution has placed itself under the coverage of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973, by passage of the Civil Rights Act of 1991. The Senate also is subject to the provisions of the Family and Medical Leave Act and the Americans with Disabilities Act of 1990. The Senate's achievements in this regard can be further improved, extended, amplified, and institutionalized.

Broadening the scope of current Senate "coverage" to include rights and protections relating to conditions of employment, occupational safety and health, etc., poses serious constitutional issues including the separation of powers and the Senate's unique functions in our system of government.

2. The Task Force finds that extending to employees of Senate offices the rights and protections necessary to ensure their health and safety, fair wages and hours, and equitable working conditions is not inconsistent with the current structure in the Senate in which each office is separately administered by an elected senator, committee, officer, or official.
3. As citizens, members are subject to the laws they make. Members who own businesses or act in any private capacity, must comply with all federal, state and local laws applicable to any business owner or citizen. In addition, members are subject to many laws not applicable to other citizens or private businesses, such as public financial disclosure, including reporting assets and liabilities of their dependent children.
4. The Task Force observes that recent Congresses have enacted a range of government-wide reforms aimed at reducing or eliminating conflicts of interest and, in general, tightening ethics rules for public officials.

The Ethics Reform Act of 1989 (P.L. 101-194) provides for uniform financial disclosure and gift acceptance regulations for the three branches of government. For the first

time, it imposes restrictions on the legislative branch on post-employment lobbying (a one-year cooling off period) by members, officers, and designated staff. It prohibits conversion of campaign funds to personal use as of 1993. And it imposes on members of the House and designated non-career officers and employees of the three branches of government (other than the Senate) annual limitations on outside earned income and a ban on honoraria.

The FY 1992 Legislative Branch Appropriations Act (P.L. 102-90) brought senators as well as Senate officers and employees under the outside earned income limitations/honoraria ban of the Ethics Reform Act. In addition, it establishes uniform restrictions on the acceptance of gifts and uniform financial disclosure requirements for gifts and reimbursements for all three branches.

Legislation on these matters is pending in the Governmental Affairs Committee (Boren/McCain—S. 420; DeConcini—S. 79; Lautenberg—S. 885). In addition, the leadership has established a Commission on Ethics [membership: Bryan (chairman), Kassebaum, Lott, Pryor, McConnell, Mikulski, Daschle, Smith, and Craig], which is considering reforms in the current ethics process. The Task Force, accordingly, defers to these entities on ethics and conflict of interest issues.

5. As with the conflict statutes, the Task Force observed that amending the Freedom of Information Act (FOIA) to include the Senate is not warranted. The Task Force has determined that the Senate already is in substantial compliance with the spirit of the Freedom of Information Act. The Senate already publishes and makes easily available a wide range of information, more so than any other branch of the government or the private sector. The proceedings of the Senate are televised and the Senate facilitates coverage of Senate committees. Every senator is readily available to the media. The *Congressional Record* is published each day that either the House or Senate is in session and contains a vast amount of information about the legislative activities of both bodies. The Senate's schedule is available through televised proceedings, the *Congressional Record*, published calendars and the press. Both the Secretary of the Senate and Clerk of the House regularly publish reports pursuant to statute, as does the Architect of the Capitol, which exhaustively detail all official expenditures, including salaries, procurements, services, travel costs, mass mailings, etc.

The reports, hearing transcripts, bills, resolutions, calendars, prints, and other publications of committees and the Senate are easily accessible to any interested party. In fact, all official publications of the Congress are distributed through the Government Printing Office to the nearly 1,400 depository libraries across the nation. Indeed, bureaucratizing the process by applying FOIA procedures could well result in a more restricted flow of information about Senate activity than currently exists.

The Senate leads all other government organizations in making the vast majority of its permanent records systematically available at the National Archives within twenty years of their creation. Executive branch records are routinely closed for a minimum of thirty years.

Further, the Task Force finds that the Freedom of Information Act and the Privacy Act were both aimed at possible abuses by officials in the executive branch of the federal government. Neither applies to private organizations or individuals. FOIA requires the routine publication of certain classes of information (e.g., descriptions of agency organization, general policy statements, etc.) and establishes a general right of access to agency records subject to nine exemptions. The Privacy Act is intended to protect individuals from unwarranted disclosure of personal information and provides individuals a right of access to information about themselves in agency records, along with the right to request amendment of such records if they are not accurate, complete, or up to date.

The dangers that FOIA and the Privacy Act address are by and large characteristic of executive organizations charged with the implementation of law. Administration and enforcement often require information on particular individuals and organizations. Moreover, public bureaucracies are accountable for carrying out legislation as enacted and intended by the Congress. There is thus a presumption that any records they generate in the course of doing so should be in the public domain unless overridden by some more substantial interest. The primary functions of the Congress, in contrast, are not concerned with the execution of law per se; Congress is not an administrative agency, and does not routinely produce or maintain the kinds of personal information with which FOIA and the Privacy Act are concerned.

For these reasons, FOIA and the Privacy Act are mostly irrelevant to the functions of the Senate. Moreover, FOIA explicitly recognizes the privileged status of deliberative

activities which it exempts from mandatory disclosure. The core functions of the Congress are inherently deliberative and so, presumably, most Senate records and documents would fall under this exemption.

6. The Senate is solely responsible under the Constitution for its internal operations (article I, section 5, clause 2).
7. Because administrative enforcement of civil rights and labor laws is generally vested in executive agencies, blanket application of these laws to the Senate raises serious separation of powers concerns. The Task Force finds that allowing an executive agency to enforce civil rights and labor laws against Senate offices would violate the principle of separation of powers established by the Constitution and disrupt the proper balance between the coordinate branches.
8. The Task Force finds that the speech or debate clause of the Constitution protects the independence and integrity of the legislature and reinforces the separation of powers principle.
9. The Task Force finds that these principal constitutional protections can be safeguarded by providing an alternative administrative enforcement mechanism, such as the procedure already established under Title III of the Civil Rights Act of 1991.
10. The power of each House under article I, § 5, clause 2, to make rules governing its proceedings, provides firm constitutional authority for the adoption by the Senate of internal mechanisms to administer civil rights and labor laws as an alternative to executive branch enforcement.
11. Most laws, and particularly labor laws, applicable to both the private and public sectors include provisions to create limits, exemptions or exclusions to adapt to the nature, characteristics and objectives of particular sectors of the economy. Similar adaptations are appropriate in applying the principles and objectives of these laws to the Senate.
12. The National Labor Relations Act of 1935, as amended, provides the basis for labor-management relations in the private sector, including the right to strike and enforcement procedures. The federal labor-management statutes have adapted those principles and procedures to the special circumstance and requirements of public

administrative organizations. Similar adaptations will be necessary to apply these principles and procedures to a legislative organization. For example, federal employees do not have the right to strike or bargain over wages, salaries or benefits provided by law (e.g., retirement benefits).

13. The federal labor-management relations statutes (Title VII, Civil Service Reform Act of 1978) exempts the following classes of federal employees:

- employees of the National Security Agency;
- employees of the Central Intelligence Agency;
- members of the uniformed services of the U.S.;
- officers or employees of the U.S. Foreign Service in the Department of State, in the Agency for International Development, or the International Communications Commission;
- supervisors and management officials;
- employees of the General Accounting Office;
- employees of the Federal Bureau of Investigation;
- employees of the Tennessee Valley Authority;
- employees of the Federal Labor Relations Authority; and
- employees of the Federal Service Impasse Panel.

14. The Fair Labor Standards Act of 1938 (as amended) provides for:

- the payment of a minimum hourly wage for covered employees;
- an overtime pay standard of at least one and one-half the basic hourly rate paid to the employees otherwise qualified for overtime pay under the Act;
- child labor standards;
- anti-retaliation requirements;
- record-keeping requirements placed on employers of covered employees; and
- equal pay standards prohibiting sex-based discrimination in the payment of wages.

15. The Fair Labor Standards Act, as amended, also makes numerous exemptions and exclusions for certain categories of industries, occupations and work, including:

- businesses with less than \$500,000 in volume of sales or business done are exempt from the minimum wage and overtime requirements of the Act (nearly one-half

of a million workers in these businesses are paid at or below the minimum wage by some estimates);

- eleven different groups of employees are exempt from both the minimum wage and overtime pay requirement of the Act [See Appendix A.];
- another twenty-two groups of employees are exempt from the overtime pay requirement only of the Act [See Appendix B.];
- employers of "tipped employees" may count the employees' tipped income toward meeting up to 50% of the required minimum wage;
- employees at the state and local government level who are not otherwise subject to civil service laws of the state or the local government and "who hold a public office, are selected by the holder of such an office to be a member of his personal staff, are appointed by the officeholder to serve on a policymaking level, or who are immediate advisors to such an officeholder with respect to constitutional or legal powers of that office"; and
- employees employed in a "bona fide executive, administrative, or professional capacity" are exempt from both the minimum wage and the overtime requirements of the Act. The U.S. Department of Labor estimates that close to 22 million workers (of 114.8 million wage and salary workers) in both the public and private sectors were exempt under this category in 1990.

16. For purposes of computing overtime pay, the Fair Labor Standards Act sets a 40- hour workweek for any consecutive seven-day period. But, the Act provides for several deviations from this workweek standard. Special longer pay periods are allowed in the following situations:

- through collective bargaining agreements for workers on irregular schedules;
- for certain employees paid on piece rates;
- for workers performing work paid at different hourly and piece rates;
- for workers paid on commission;
- for workers employed in a hospital or institution engaged in the care of the sick, the aged, or the mentally ill or defective if the worker resides on the premises; and

- for workers in a public agency employed in fire protection activities or in law enforcement.

In addition, extended work periods are allowed for workers employed in

- green leaf tobacco handling and/or processing; and
- surface transportation.

17. Compensatory time off in lieu of overtime compensation is permitted by the Fair Labor Standards Act, subject to certain conditions, for employees of a public agency at the state, the political subdivisions of a state, or an interstate government agency.

RECOMMENDATIONS

The Task Force believes that employees of Senate offices are entitled to the rights and protections guaranteed to employees of the private sector and the federal executive branch. Substantial progress has been made in recent years, particularly in protecting employees from employment discrimination. More remains to be done.

A labor-management relations system should be developed for the Senate which includes the fundamental objectives of existing federal law. Such a system would continue protections from discrimination, assure a safe and healthy working environment, and institutionalize a process for ensuring fair wages, hours and working conditions. Specifically, such a system would:

- establish minimum wage and hour standards and provide for their effective enforcement;
 - establish procedures for identifying and rectifying unsafe and unhealthy working conditions;
 - develop an employee-management relations process within the Senate which enables employees of Senate units and offices to voice concerns about their working conditions and have them fairly addressed;
 - facilitate and improve employee performance and the efficient accomplishment of the operation of the Senate in its legislative function;
 - if requested, protect the confidentiality of employees who raise issues regarding the conditions of work; and
 - resolve all issues and complaints presented by employees in a fair and impartial manner including, where appropriate, the adjudication of unresolved issues by arbitration utilizing outside impartial experts as panel members.
1. The Senate should adopt a Resolution which extends to employees of Senate offices the rights and protections necessary to ensure their health and safety, fair treatment, equitable wages and hours, and a workplace free of discrimination.

2. The Task Force believes the current structure of the Senate in which each office is separately administered by an elected senator, committee, officer, or official should be preserved. The Resolution should reiterate that policy.
3. The Task Force recommends a structure comprising three specialized offices operating under the direct authority and oversight of a nonlegislative Committee on Employee Rights and Protections. This Committee would be composed of the President pro tempore of the Senate, the majority and minority leaders of the Senate and the chairman and ranking minority member of the Senate Committee on Rules and Administration.
 - a. The three offices would include the existing Office of Senate Fair Employment Practices, a new Office of Senate Employment Standards, and a new Office of Senate Occupational Safety and Health. The directors of these offices would be appointed by the Chair with the approval of the Committee for a term of service expiring at the end of Congress following the Congress during which the appointment is made.

Each office would develop rules and regulations for implementing appropriate rights, protections, and requirements in their respective jurisdictions subject to the overall policy guidance of the Committee. The Office of Senate Employment Standards and the Office of Senate Occupational Safety and Health would also establish and administer a system for enforcing pertinent rights and protections and for resolving complaints, grievances, and disputes. The multistaged process currently utilized by the Office of Senate Fair Employment Practices would be continued and could serve as a model for the other two offices.

Appellate judicial review should be maintained for cases under the Office of Senate Fair Employment Practices. Appellate judicial review should be provided with respect to employment standards and occupational safety and health cases to the extent the Committee determines that such review is available in similar cases in other private or public institutions.

- b. The Committee should have authority to approve all rules and regulations designed to implement the directives of this Resolution.

- c. The Committee should appoint staff, including a staff director, to assist in overseeing the administration of rules and regulations promulgated by the Committee pursuant to the Resolution.
 - d. The Committee should establish a fair and impartial process similar to that established in Title III of the Civil Rights Act of 1991, to hear complaints and resolve disputes, including appeals by either party to a dispute or action of the Federal Circuit Court of Appeals for the District of Columbia to the extent such review is appropriate. The Task Force realizes that outside entities cannot commit the Senate, or any of its offices, to expenditures to be made outside the legislative process. Any determination of financial liability or remedial action shall require approval by the Committee.
- 4. The policies incorporated in these recommendations should be limited to entities of the Senate as defined in item 2 above.
 - 5. In order to provide sufficient time to establish the structure for the provisions of the Resolution, the Task Force recommends an effective implementation date commencing with the 104th Congress, and believes that the rights and remedies provided should be prospective in application.

November 19, 1993

EXHIBIT A
Exemptions from Both Minimum Wage
and Overtime Provisions

1. An employee who is in an executive, administrative or professional capacity, including academic administrative personnel and teachers in elementary and secondary schools, and outside salesmen as defined and delimited by regulations;
2. An employee of an amusement or recreational establishment, organized camp, or religious or non-profit educational conference center, with stipulations;
3. Any employee employed in catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the processing, packing or canning of such marine products;
4. An employee employed in agriculture under specified conditions;
5. Any employee exempted by the Secretary of Labor;
6. Employees of weekly, semiweekly, or daily newspapers with circulation of less than 4,000 with the major part of circulation within the county where the newspaper is published or contiguous counties;
7. Any switchboard operator employed by an independently owned public telephone company which has no more than 750 stations;
8. An employee employed as a seaman on a vessel other than an American vessel;
9. An employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services, as defined and delimited by regulations;
10. Any employee engaged in the delivery of newspapers to the consumer or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens, including harvesting of evergreens and other forest products used in making such wreaths; and
11. Any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States, with exceptions.

EXHIBIT B
Exemptions from Overtime Provisions Only

1. Any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935;
2. Any employee of an employer engaged in the operation of a common carrier by rail and subject to the provisions of part I of the Interstate Commerce Act;
3. Any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act;
4. Any individual employed as an outside buyer of poultry, eggs, cream or milk in their raw or natural state;
5. Any employee employed as a seaman;
6. Any employee employed as an announcer, news editor, or chief engineer by a radio or television station, under certain conditions;
7. Any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks or farm implements, under certain conditions;
8. Any salesman primarily engaged in selling trailers, boats or aircraft, if he is employed by a non-manufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;
9. Any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a);
10. Any employee employed in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, under certain conditions;
11. Any employee employed within the areas of production as defined by the Secretary by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm if no more than five employees are employed in the establishment of such operations;
12. Any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup;

13. Any employee engaged in the transportation or preparation for transportation of farm products, under certain conditions;
14. Any driver employed by an employer engaged in the business of operating taxicabs;
15. An employee of a public agency who in any workweek is engaged in fire protection activities or law enforcement activities, with certain conditions;
16. Any employee who is employed in domestic service in a household and who resides in such household;
17. Any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children;
18. Any employee employed by an establishment which is a motion picture theater;
19. Any employee employed in planting or tending trees, cruising, surveying or felling timber, or in preparing, or transporting logs or surveying or other forestry products to the mill, processing plant, railroad, or other transportation terminal, under certain conditions;
20. Any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System, under certain conditions;
21. Any employee of an employer primarily engaged in the ginning of cotton for market, under certain conditions; and
22. An employee of an employer primarily engaged in the receiving, handling, storing and processing of cottonseed, raw cotton, sugar cane, sugar beet molasses or sugar beets, under certain conditions.

MEMORANDUM TO SENATOR DOLE

Date: January 30, 1995

From: Alec Vachon *AV*

RE: UPDATE/ADA AND STATE AND LOCAL GOVERNMENTS--
WHAT ARE THE PROBLEMS? HOW CAN YOU HELP?

- * As you know, I have contacted state & local government associations, asking questions like: How is ADA going? What kind of help do you need? Groups contacted: National Assn. of Counties, National Assn. of Towns, National Conference of State Legislatures, National Governors Assn., National League of Cities, and U.S. Conference of Mayors.
- * Have also spoken to key ADA co-sponsors: Kennedy, Hatch, Harkin, and McCain.

GOOD AND BAD NEWS--AND SOME SURPRISING ANSWERS

- * Everyone has heard of ADA, and most communities have begun to move. Incidentally, no one call ADA an "unfunded mandate"--U.S. Conference of Mayors: "ADA got tagged as an unfunded mandate because it showed up on top of an undoable agenda--ADA last one through." But staffer noted, "On a personal basis, ADA is a good thing. Should have been done a longtime ago."
- * Generally pleased with ADA regs. The National Assn. of Towns called them a "model of flexibility."
- * Problems:
 1. Biggest single capital expense is curb cuts--and deadline for compliance passed on Thursday, 1/26.
 2. Getting fast, definitive answers from the Justice Department. Complain ADA regs are not detailed enough.

AM EXPLORING THREE ACTIONS--FINAL OPTIONS NEXT WEEK

- * CURB CUTS--Drafting letter to Justice w/ADA co-sponsors to extend deadline 5-10 years. Kennedy & Harkin support this action--Harkin says disability groups will not oppose.
- * PROCESS FOR QUICK ANSWERS AND SOLVING FUTURE PROBLEMS. Letter to Tony Coelho at President's Committee asking him to set up regular meeting of state & local government associations, Justice, and disability groups to get kinks worked out. President's Committee affiliates in most states are the state agency for ADA implementation.
- * SIMPLIFY REGULATORY BURDEN. Example: Rather than each jurisdiction apply for ADA certification of building code, Justice would certify model codes--jurisdictions would be deemed in compliance unless vary from model codes.

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MEMORANDUM TO SENATOR DOLE

DA: February 15, 1995

FR: Alec Vachon

RE: UPDATE ON ADA & STATE AND LOCAL GOVERNMENTS

As I wrote you (memo attached), working to fix some reported problems with ADA. Again, this project is proactive--as far as I know, you have not received any requests to change ADA, nor have contacts with state & local government associations yielded any requests. For example, Mayor Victor Ashe of Knoxville, currently President of the U.S. Conference of Mayors, has been vocal about the costs of curb cuts, but has not asked the Conference to work on this matter.

I am working also to keep the heat down. As you know, disability issues are emotionally and politically charged--for example, during the unfunded mandates debate Chairman Goodling felt obliged to issue on a letter of support for ADA (attached).

EXTENDING THE DEADLINE FOR CURB CUTS

- * Curb cuts are a large, unique capital expense--and the single biggest complaint of local governments. Attached is a draft letter to the Justice Department to amend the regs to extend the deadline--working proposal is 5 more years for curbs cuts in heavily traveled areas; 10 years in other places. All four other ADA co-sponsors, Harkin, Hatch, Kennedy, and McCain are willing to sign this letter.
- * I met with Justice officials this morning--they are ready to act when they get the letter.
- * To drum up support, on Friday I will meet with the National Association of Counties, the National Association of Towns and Townships, and the National League of Cities--next week, U.S. Conference of Mayors and perhaps NGA.
- * This letter should be ready to go after these meetings.

SIMPLIFY REGULATORY BURDEN--BUILDING CODES

- * Attached is another letter to Justice--asking it to certify the three model building codes upon which virtually all 15,000 state and local building codes are based. State and local governments will not have to apply for approval of their codes--automatic as long as they use a model code. This suggestion came from a building code inspector in Overland Park, Tim Ryan, who you met with last year.

JUSTICE TO MEET WITH STATE AND LOCAL GOVERNMENTS ASSOCIATIONS

- * Justice has agreed to meet with state & local government associations to improve technical assistance--will discuss this with the state and local government associations.

FRIST HEARINGS ON ADA IMPLEMENTATION

- * Frist, as new Chairman of the Subcommittee on Disability Policy, is interested in holding hearings in July on ADA (ADA anniversary). Any problems with ADA could be raised in this hearings.

THOMAS E. PETRI, WISCONSIN
MARGE ROUSEMA, NEW JERSEY
STEVE GUNDERSON, WISCONSIN
HARRIS W. FAWELL, ILLINOIS
CASS BALLINGER, NORTH CAROLINA
BILL E. BARRETT, NEBRASKA
RANDY "DUKE" CUNNINGHAM, CALIFORNIA
PETER HOEKSTRA, MICHIGAN
BUCK McKEON, CALIFORNIA
MIKE CASTLE, DELAWARE
IAN MEYERS, KANSAS
JIM TALENT, MISSOURI
SAM JOHNSON, TEXAS
JIM GREENWOOD, PENNSYLVANIA
TIM HUTCHINSON, ARKANSAS
JOE KNOXENBERG, MICHIGAN
FRANK RUGGS, CALIFORNIA
LINDSEY GRAHAM, SOUTH CAROLINA
DAVE WELDON, FLORIDA
DAVID FUNDERBURK, NORTH CAROLINA
MARK SOUDER, INDIANA
DAVID MCINTOSH, INDIANA
CHARLIE NORWOOD, GEORGIA

COMMITTEE ON ECONOMIC AND
EDUCATIONAL OPPORTUNITIES
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

UNFUNDED MANDATES ALERT!
IDEA and ADA Are PROTECTED Under H.R. 5.

January 19, 1995

Dear Colleague:

As the House prepares to consider H.R. 5, the Unfunded Mandate Reform Act of 1995, I would like to clarify the bill's effect on the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA).

In recent weeks, you probably have received urgent phone calls from constituents asking you to resist the alleged repeal of the IDEA, which provides for special education and early intervention services for infants and toddlers and children with disabilities.

These phone calls are the result of a fax and mail alert originated by a disability advocacy organization in late December. The alert alleged that the Unfunded Mandates legislation under consideration by the House and Senate would force the repeal of IDEA. Apparently, the group developed and distributed the alert a few days AFTER my staff conducted an outreach meeting specifically to explain that the unfunded mandate legislation includes provisions that would PROTECT both IDEA and the ADA from coverage as an unfunded mandate!

Since there continues to be confusion about the effect of H.R. 5, let me clarify exactly how IDEA and the ADA are protected under the bill.

Exemption of IDEA:

Under Section 301, "Legislative Mandate Accountability and Reform," there is a definition of the term Federal Intergovernmental Mandate. The definition would NOT apply to voluntary, non-entitlement Federal programs, and therefore, does NOT include IDEA.

As a condition of receiving funds under IDEA, States must agree to comply with the requirements of the law. Although the cost of providing special education far exceeds the limited federal funds provided, in a legal sense, participation in IDEA by States is voluntary. In addition, funds for the IDEA State grant program are provided through annual appropriations made on a discretionary basis. Thus, IDEA is not an entitlement program. For these reasons, IDEA does not meet the definition of an intergovernmental mandate in this legislation.

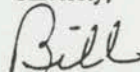
Exemption of ADA:

Sec. 4 of H.R. 5 says that the bill will not apply to "any provision in a Federal statute or a proposed or final Federal regulation, that-- (1) enforces constitutional rights of individuals; (2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status.

This provision was specifically drafted to exempt the Americans with Disabilities Act and other federal legislation related to protecting civil rights from coverage under the bill.

I hope that this statement clarifies any misimpression that has arisen with regard to the issue of H.R. 5's effect on IDEA and ADA. If you have further questions about this issue, please call Hans Meeder (225-6558) of the Committee on Economic and Educational Opportunities.

Sincerely,



BILL GOODLING
Chairman

WILLIAM L. CLAY, MISSOURI
GEORGE MILLER, CALIFORNIA
DALE E. KILDEE, MICHIGAN
PAT WILLIAMS, MONTANA
MATTHEW G. MARTINEZ, CALIFORNIA
MAJOR E. OWENS, NEW YORK
TOM SAWYER, OHIO
DONALD M. PAYNE, NEW JERSEY
PATSY T. MINK, HAWAII
ROBERT E. ANDREWS, NEW JERSEY
JACK REED, RHODE ISLAND
TIM ROEMER, INDIANA
ELIJAH L. ENGEL, NEW YORK
XAVIER BECERRA, CALIFORNIA
ROBERT C. SCOTT, VIRGINIA
GENE GREEN, TEXAS
LYNN WOOLSEY, CALIFORNIA
CARLOS ROMERO-BARCELO, PUERTO RICO
MEL REYNOLDS, ILLINOIS

MAJORITY--(202) 225-4577

MINORITY--(202) 225-3725

MEMORANDUM TO SENATOR DOLE

Date: January 30, 1995
From: Alec Vachon *AV*
RE: UPDATE/ADA AND STATE AND LOCAL GOVERNMENTS--
WHAT ARE THE PROBLEMS? HOW CAN YOU HELP?

- * As you know, I have contacted state & local government associations, asking questions like: How is ADA going? What kind of help do you need? Groups contacted: National Assn. of Counties, National Assn. of Towns, National Conference of State Legislatures, National Governors Assn., National League of Cities, and U.S. Conference of Mayors.
- * Have also spoken to key ADA co-sponsors: Kennedy, Hatch, Harkin, and McCain.

GOOD AND BAD NEWS--AND SOME SURPRISING ANSWERS

- * Everyone has heard of ADA, and most communities have begun to move. Incidentally, no one call ADA an "unfunded mandate"--U.S. Conference of Mayors: "ADA got tagged as an unfunded mandate because it showed up on top of an undoable agenda--ADA last one through." But staffer noted, "On a personal basis, ADA is a good thing. Should have been done a longtime ago."
- * Generally pleased with ADA regs. The National Assn. of Towns called them a "model of flexibility."
- * Problems:
 1. Biggest single capital expense is curb cuts--and deadline for compliance passed on Thursday, 1/26.
 2. Getting fast, definitive answers from the Justice Department. Complain ADA regs are not detailed enough.

AM EXPLORING THREE ACTIONS--FINAL OPTIONS NEXT WEEK

- * CURB CUTS--Drafting letter to Justice w/ADA co-sponsors to extend deadline 5-10 years. Kennedy & Harkin support this action--Harkin says disability groups will not oppose.
- * PROCESS FOR QUICK ANSWERS AND SOLVING FUTURE PROBLEMS. Letter to Tony Coelho at President's Committee asking him to set up regular meeting of state & local government associations, Justice, and disability groups to get kinks worked out. President's Committee affiliates in most states are the state agency for ADA implementation.
- * SIMPLIFY REGULATORY BURDEN. Example: Rather than each jurisdiction apply for ADA certification of building code, Justice would certify model codes--jurisdictions would be deemed in compliance unless vary from model codes.

(2/13/95B)

[Date]

The Honorable Janet F. Reno
Attorney General
U.S. Department of Justice
Constitution Avenue & 10th Street, N.W.
Washington, D.C. 20530

Dear Madam Attorney General:

As the principal Senate co-sponsors of the Americans with Disabilities Act (P.L. 101-336) ("ADA"), we are writing to request the U.S. Department of Justice extend the time period for installation of curb ramps by public entities under 28 C.F.R. 35.150. As you may know, it was our intent to carefully craft ADA to include fair and balanced provisions and specific safeguards for state and local governments regarding costs. We are concerned that curb cuts are a unique, significant capital expense, and that our intent would be more properly fulfilled over a longer time period.

Currently, we understand that public entities were required to have completed all necessary curb cuts by January 26, 1996 ("effective date"). We believe that the Department should have separate time periods for at least two classes or tiers of curb cuts, provided public entities have a written transition plan with specific milestones for completing all curbs cuts within the extended time period. Tier I cuts are ones that serve state and local government offices, transportation, places of public accommodation, other places of employment, other heavily traveled routes, and private homes of persons with disabilities, and should be completed no later than 5 years after the effective date. Tier II serve residential and other non-commercial areas where pedestrian walkways exist, and a public entity should be given 10 years from the effective date to install the necessary curb ramps.

We urge you to adopt this modification as soon as possible. If you have any questions or if we can be otherwise helpful, please contact Bobby Silverstein of Senator Harkin's staff at 224-6265, or Alexander Vachon of Senator Dole's staff at 224-8959.

Sincerely yours,

(2/13/95B)

[Date]

The Honorable Janet F. Reno
Attorney General
U.S. Department of Justice
Constitution Avenue & 10 Street, N.W.
Washington, D.C. 20530

Dear Madam Attorney General:

As the principal Senate co-sponsors of the Americans with Disabilities Act (P.L. 101-336) ("ADA"), we are writing to ask you to implement a change in the procedure for deeming that state and local building codes comply with the regulations under ADA. We believe the procedure proposed below would ease the regulatory burden on both the Justice Department and on state and local governments, and improve accessibility without resort to enforcement through complaints.

Currently, under the regulations governing Title III of ADA (see 28 C.F.R. 36.607 et seq.), the Justice Department will issue a "certificate of equivalency" upon request that a state or local building code meets or exceeds the requirements of ADA. Under statute, such certification constitutes rebuttable evidence that a code meets the requirements of ADA. However, Justice will not certify -- although it will informally review -- any of the three models codes upon which virtually all 15,000 state and local building codes are based. Those models codes are prepared by Building Officials & Code Administrators (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International (SBCCI).

We urge the Justice Department to first certify or otherwise approve model codes, which we believe it has current authority to do, and then allow all state and local codes that adopt such codes as equivalent. State and local government would only have to submit for certification any variances from the model codes.

We urge you to adopt this modification as soon as possible. If you have any questions or if we can be otherwise helpful, please contact Alexander Vachon of Senator Dole's staff at 224-8959, or Bobby Silverstein of Senator Harkin's staff at 224-6265.

Sincerely yours,

Angie Allen

MEMORANDUM TO SENATOR DOLE

Da: February 24, 1995
Fr: Alec Vachon *AV*
RE: GOOD NEWS ON ADA--KC-AREA COMMUNITIES MAKING GOOD PROGRESS

* Attached is a KC Star article (1/25/95), pulled off NEXIS, on how well KC-area communities are doing in meeting ADA requirements--Overland Park, Prairie Village, Fairway, Westwood, Roeland Park, Mission Hills, and Mission. As you know, January 26th was a big milestone--state and local governments were supposed to have completed all architectural and structural changes to make their programs accessible.

* Some highlights:

--All communities believe they are generally in compliance.

--To help meet requirements of the law, Prairie Village formed an "ADA Advisory Committee"--composed of department managers, the city attorney, the city administrator, and residents who are disabled or have disabled children. This is the smartest way to proceed--puts decisionmakers with disabled persons--sharply reducing the likelihood of complaints and promoting constructive action.

--In Fairway, the City Council meeting room (located in the basement of City Hall) is not accessible. Instead of moving the meeting place or installing an elevator, the City opted to install a video system in the Council Chamber--disabled persons can watch (and participate) from an accessible room on the first floor of City Hall.

--Roeland Park has been installing ramps in all new curbs over the past 10 years--at this point only about 20-25 blocks lack ramps. The new City Hall was built to be fully accessible. The Community Center is also accessible--but the City plans to add 2 more accessible entrances if the City's CDBG application is approved.

--Mission Hills had little to do because the city has been working on accessibility for years.

--Mission expects finish all curb ramps this year.

THE KANSAS CITY STAR
January 25, 1995 Wednesday JOHNSON COUNTY EDITION

SECTION: ZONE/SHAWNEE MISSION; Pg. 4

HEADLINE: CITIES CONFIDENT THEY'RE COMPLYING WITH DISABILITY ACT;
DEADLINE TO MEET REQUIREMENTS IS THURSDAY.

BYLINE: MARISA AGHA, Staff Writer

BODY:

As the Thursday deadline for compliance with the Americans with Disabilities Act approached, most area city officials were confident that their cities had met the requirements.

In a few cities, projects to make their facilities more accessible to the handicapped were under way but not complete.

The ADA, passed in 1990, was designed to to remove public and private barriers for the disabled.

Some advocates for disabled persons, while cheering the progress, said that the cities need to remain aware of possible concerns and realize that the transition process is a continual one.

"They've had 25 years to do this so I would really hope that most of them would be 95 to 100 percent done," said Sharon Joseph, an advocate for disability rights and a board member for The Whole Person Inc., a nonprofit group in Kansas City dedicated to helping people with disabilities. Joseph was referring to the Rehabilitation Act of 1973, which required cities receiving federal funds to make public facilities accessible.

"They still have a ways to go," said Joseph, a 40-year Overland Park resident and a wheelchair user. "Hopefully they're well on their way."

"Sometimes the cities think they're in code and they're not," said Kathy Estill, executive director of The Whole Person.

Specifically, Estill said that some cities do not have transition plans necessary to help them meet the federal ADA requirements.

Here's what area cities had to say about their progress on meeting the requirements of the act.

OVERLAND PARK

According to Alan Sims, Overland Park's ADA coordinator, the city needed \$ 1.1 million to meet ADA requirements under Title III, the provision that deals with accessibility. Sims said the major expense came from installing curb ramps on major thoroughfares and sidewalks in commercial areas.

The city plans to provide ramps on residential curbs when requested by citizens. The most extreme scenario, providing ramps throughout the city, would cost more than \$ 1 million, Sims said.

The city also plans to make accessibility improvements to park and recreation facilities, which should be completed this summer.

Sims said it hasn't been easy evaluating every public facility to ensure it satisfies the law's criteria.

"I'm not complaining, though," he said. "I think there is something to be said for eliminating barriers to people with disabilities. "

PRAIRIE VILLAGE

In Prairie Village, the city has taken several actions to comply with ADA requirements.

"We feel that we are complying with the spirit and intent of the law," said Assistant City Administrator and City Clerk Sheila Shockey. She also is the designated ADA coordinator for the city.

The Prairie Village City Hall is accessible and meets ADA standards, Shockey said.

To help meet the requirements of the law, the city formed an ADA Advisory Committee made up of department managers, the city attorney, the city administrator and Prairie Village residents who are disabled or have disabled children.

They also created a long-range park plan to make all of the city's parks accessible by installing ramps and accessible woodchip surfacing. This year, the city will perform these renovations at Meadowlake Park and Bennett Park.

In addition, the city modified public curbs during major street reconstruction, removed all barriers around public pay phones in the Police Department, publicized the availability of interpreters for public meetings and court proceedings, and added grab bars to public restrooms.

The city's policy of requiring pool patrons to be able to swim unassisted in the deep end was modified. In one instance, a child was allowed to swim with the aid of a life jacket and additional guards.

Beginning this year, disabled residents are not required to take their household trash to the curb. The hauler will work out an arrangement with the resident.

According to its ADA transition plan, the city will continue to make changes to curbs during major street reconstruction, conduct a review of all public facilities and present a report to the ADA Advisory Committee.

FAIRWAY

After a long process, the city of Fairway has complied with all of the ADA guidelines, officials said.

The city made improvements to the city's swimming pool, park facilities and all other public areas through the installation of sidewalks, ramps, hard-surfaced paths and parking spaces, said Henry Lopez, public works director and the city's ADA coordinator.

"We have met all the guidelines," Lopez said.

The City Council has also solved the problem for disabled residents who are unable to gain access to council meetings, which are held in the basement. The council approved installing a special video system so that disabled residents can watch, hear and speak to the council on the first level of the building.

There are no immediate plans to place an elevator in the city hall.

WESTWOOD

In Westwood, the majority of work necessary to meet the standards was accomplished, said City Clerk Lisa Lene, who serves as the city's ADA coordinator.

The city has mostly met its requirements but it has two sidewalk curb ramp projects planned for this year. The work will be done at several locations throughout the city.

"It's an on-going project," Lene said. "The difficult part of it was getting a good reading on the law and getting ourselves familiar with it."

Last summer, the city built a ramp for the pool house at the city's public pool at the Woodside Racquet Club. The city also plans to install automatic front doors at the City Hall.

ROELAND PARK

Roeland Park's new City Hall is one every resident can visit, thanks to a wheelchair ramp in the rear of the facility and an elevator that stops at all three floors. The Roeland Park Community Center, which was established in 1984, also boasts accessible entrances and will receive two more if the city's application for a community development block grant is approved later this month.

The city's public works department is equally considerate of ADA standards, said Mayor Joan Wendel.

"For the past 10 years, all the new curbs and gutters the city has installed have ramp access at the street corners," she said, estimating that 20 to 25 city blocks currently lack new curbs and gutters.

MISSION HILLS

In Mission Hills, ADA requirements had a minimal impact on the city, said City Administrator Douglas Cruce.

"We have very little to do," Cruce said. The city has installed sidewalks and curb ramps over the years and the city hall is accessible on the ground level for disabled residents interested in attending council meetings.

The city has no public pools or parks that needed to be made accessible.

MISSION

Making all sidewalks accessible is a priority for the City of Mission. Public Works Director Stephen Weeks said the city has an ongoing curb and gutter replacement program that makes sure sidewalk inclines aren't too steep for wheelchair-users. Weeks estimated that 90 percent of Mission's sidewalks are currently accessible.

"We'll hit a hundred percent this year," he said.

The city is also working to make all public buildings comply with ADA standards. The City Hall has a ramp on its south side and officials plan to eventually install an automatic door at the building's main entrance. The city also encourages local businesses to foster an atmosphere of accessibility.

"Because there is a parking shortage in the city, they (businesses) will call on us occasionally about needing a disabled parking spot and we'll help them out," he said.

Staff writer Oscar Avila contributed to this story.
LOAD-DATE-MDC: January 25, 1995

February 14, 1995

DRAFT

TO: Howard O. Green
Sergeant at Arms

FR: Deborah E. Jans
Director, CSSO

RE: 1995 Budget Adjustment

The Congressional Special Services 1995 budget is \$363,000.00. Shown below are updated plans for expenditure of these funds as well as the changes that would be made to achieve either a 12 percent or 5 percent reduction in the budget.

	1995	-12%	-5%
		-44,000.00	-18,000.00
Salaries(7)	244,000.00	244,000.00	244,000.00
Contributions	71,000.00	71,000.00	71,000.00
Salary Adjust- ments, Intern	6,000.00	0	6,000.00
TOTAL	321,000.00	315,000.00	321,000.00
Special Equipment			
Wheelchairs (4)	12,000.00	0	12,000.00
Braille Embosser	6,000.00	0	0
Training			
Seminars, classes for CSSO staff	7,000.00	0	3,000.00
Teaching aids books,videos etc.	4,000.00	0	2,000.00
Office Supplies	3,000.00	0	2,000.00

Interpreting Fund

Commercial vendors	10,000.00	4,000.00	5,000.00
TOTAL	42,000.00	4,000.00	24,000.00
1995 TOTAL	363,000.00	319,000.00	345,000.00

1) Explanation of CSSO's original FY'95 spending plans.

SALARIES

CSSO's initial 1995 budget included \$24,000 for salary adjustments and to provide for one summer intern.

In addition to allowing for one CSSO summer intern, salary adjustments were planned to attempt to make CSSO salaries competitive and help retain current staff members. Three of the CSSO staff make less than the minimum Capitol Guide Service salaries for staff with similar experience. This difference is in spite of the fact that, in addition to giving tours, the CSSO staff must have specialized knowledge and experience in dealing with individuals with disabilities and provide additional support services when not touring. CSSO's two sign language interpreters are paid at a rate that is less than that currently paid in other federal agencies. The last salary review and raise for the CSSO Director was in 1990.

In order to meet unanticipated needs for replacement wheelchairs and for a braille embosser (see below), the funds allotted for salary adjustments (\$18,000) have been tentatively reprogrammed.

CSSO still anticipates the use of a summer intern to meet the demands of summer visitors with disabilities. Previous experience has demonstrated that interns are an inexpensive way to meet the increased demand for tours during the summer. Failure to have adequate staff during this critical period may mean that individuals with disabilities may not receive a tour.

SPECIAL EQUIPMENT

Wheelchairs

Currently 9 wheelchairs are available -- (2) Special Services, (2) Capitol Guide Service, (5) Senate Sgt at Arms. The above wheelchairs are in continual use and were utilized by over 600 individuals who had temporary or varying degrees of mobility impairments for use in the Capitol Building in 1994. These

chairs are in continual use and were loaned for various periods of time to over 600 individuals with disabilities during 1994.

Five of the existing wheelchairs are over 10 years old, in poor condition and continuing to deteriorate in spite of numerous attempts to repair them. Four of the Senate Sgt at Arms chairs are new, but are not heavy duty enough to meet the demands of the visiting public. As a result, they too have required constant repair.

New heavy duty chairs for individuals of average to large stature should be made available immediately. CSSO proposes to purchase 4 new wheelchairs each year. Parts from the "surplused" wheelchairs will be used to repair the remaining chairs.

Braille Embosser

CSSO has a qualified brailist on staff. A high speed interpoint braille embosser is necessary to allow the CSSO staffer to format braille materials for the Senate and the House. Braille production will then be accomplished on equipment already available in the Senate and House service departments.

TRAINING

Seminars

In order to maintain and increase their expertise related to meeting the needs of individuals with disabilities, CSSO staff must attend appropriate conferences and seminars. This field continues to change rapidly, especially with the implementation and interpretation of the Americans with Disabilities Act.

Teaching Aids

CSSO provides special classes and workshops to Congressional offices, Disability Awareness (appropriate language and etiquette), American Sign language, Telecommunications for the Deaf (TDD) equipment usage and etiquette. In order to keep these classes and the information they provide up-to-date, it is necessary to constantly update video's and book's used during the classes.

Office Supplies

Previously, office supplies were provided to CSSO through the Senate Sergeant at Arms and the Clerk of the House. CSSO now obtains these items through its own budget.

INTERPRETING FUND

CSSO provides interpreting services, upon request, to Senate and

House offices that employ deaf and hearing impaired individuals on their staffs. Requests are normally for staff meetings, instructional classes, press conferences, meetings with constituents, police actions and arrests, special events (1989/1993 Inaugurations, Commemoration of Bicentennial of the United States Capitol). Services are provided during normal working hours at locations within the Capitol complex. Most interpreting sessions last from one to two hours.

CSSO has two certified sign language interpreters on its staff who fill the majority of interpreting requests. However, whenever a prescheduled job cannot be met with CSSO staff, or, in the case of emergencies, CSSO hires private practice interpreters to fulfill the requests.

2) Explanation of CSSO's plan for a 12 percent budget reduction.

A 12% reduction in CSSO's 1995 budget is nearly equal to the total of CSSO's non salary expenses. CSSO would meet this reduction by a) maintaining the current staffing level without salary adjustments or providing for a summer intern; and b) by limiting non salary expenditures to interpreting expenses.

At this funding level, a) CSSO salaries will continue to fall behind Guide Service salaries for comparable work; b) CSSO ability to provide tours during the busy summer season will be compromised, visitors may be turned away; c) CSSO will not begin replacement of wheelchairs, the number of wheelchairs available for loan will be reduced; d) ability to support braille production for Senate and House documents will be reduced; e) no provisions will be made to increase the training or experience of CSSO staff; f) no new training materials will be purchased to support CSSO training of Congressional staff; g) no office supplies will be purchased; h) interpreting expenses will be limited to the amount spent in FY'94 with no provision for increased demand.

3) Explanation of CSSO's plan for a 5 percent budget reduction.

A 5% reduction in CSSO's 1995 budget would be met by a) maintaining the current staffing level without salary adjustments; b) providing for a summer intern; and c) by selective reductions in CSSO's non salary expenses.

At this funding level, a) CSSO salaries will continue to fall behind Guide Service salaries for comparable work; b) CSSO ability to support braille production for Senate and House documents will be reduced; c) CSSO training activities will continue at a reduced level; and d) CSSO will continue to provide interpreting services at or slightly above the rate used in FY'94.

CONGRESSIONAL SPECIAL SERVICES OFFICE
1993-1994 SUMMARY

DRAFT

When a building is ramped, a performance is signed (for hearing-impaired people), and public signs are printed in Braille - these things say to disabled people, 'Welcome, you belong, you are part of us.'... Gallagher, Author

The Congressional Special Services Office (CSSO) provides a variety of services for Capitol visitors and staff with disabilities. These include adaptive tours of the Capitol building, wheelchair loans, escort services for individuals who are blind or have low-vision, and interpreting services for individuals who are deaf or hearing impaired. In addition, CSSO provides support programs in the use of TDDs (Telecommunication Device for the Deaf) to facilitate better communications between Congressional offices and constituents who are deaf and hard of hearing.

The support services and resources that Congress provides through CSSO are often unique or among the forefront of similar activities at both public and private institutions. CSSO continues to assist Congressional Offices to provide the most comprehensive services possible to comply with the recent Americans with Disabilities Act (ADA).

TOURS

In 1994, CSSO provided 1,190 tours of the Capitol for 5,135 visitors with disabilities and their escorts. When it was established 10 years ago, CSSO gave 100 tours during the last six months of 1983. Today's workload represents a significant increase in the number of tours annually for visitors with disabilities.

Visits to the Capitol are memorable events for many of our citizens and their families each year. However, visitors with disabilities often experience considerable anxiety and concern when visiting crowded and confusing public facilities with limited accessibility. CSSO's tours and services relieve any anxiety and allow a visitor with a disability to more fully utilize and enjoy the Capitol building. CSSO adapts each tour to the special needs of the visitor with disabilities. For example, tours are given in sign language for individuals who are deaf or hard of hearing. CSSO staff give "tactile" tours to individuals who are blind or have low-vision, explaining in great detail the visuals of a room and allowing the individual to handle selected furniture and artifacts in areas not normally accessible to visitors. Individuals using wheelchairs are taken on accessible tour routes, giving them the use of staff elevators and more direct access through restricted areas. Tours for individuals who are developmentally disabled are geared towards the individual's comprehension level.

During the peak summer months, CSSO activities are focused on touring and interpreting services. "Walk-in" visitors account for the majority of the tours given. These individuals have not made reservations, but are seeking a

tour on the day of their visit. Often, they are directed to CSSO by the Capitol Police or the Capitol Guide Service.

Seventy-five percent of the tours were given to individuals using a wheelchair. Twelve percent of all tours were given to individuals who use wheelchairs or who are hearing impaired.

INTERPRETING SERVICES

CSSO provides interpreting services, upon request, to Senate and House offices that employ deaf and hearing impaired individuals on their staffs. Requests are normally for staff meetings, instructional classes, press conferences, meetings with constituents, police actions, or special events. Services are provided during normal working hours at locations within the Capitol complex. Most interpreting sessions last from one to two hours.

During 1994, there were 214 requests totaling 319.5 hours of service. CSSO has two certified sign language interpreters on its staff who fill the majority of interpreting requests. However, when a prescheduled job can not be met with CSSO staff, CSSO hires private practice interpreters to fulfill the request.

BROCHURES AND SENSORY AIDS

CSSO prepares and distributes a number of brochures and sensory aids for visitors with disabilities, including:

- a brochure on the CSSO, including accessibility information, also available in large print and braille
- braille-tactile maps of the Capitol
- a Washington Highlights Brochure with specific information for those with disabilities, also available in large print and braille
- miscellaneous Senate publications in large print and braille
- audio-assistive devices
- a photographic resource book
- a portable closed circuit television system for those with low-vision
- descriptive audio tapes and/or written tour for individuals who are hard of hearing or deaf.

The CSSO brochure includes a description of CSSO services, historical information, and accessibility information on the Capitol. The same information is available in braille, large print, ASCII disc or audio tape for individuals who are blind or who have low-vision. The braille-tactile maps depict the Capitol Building, the Mall, and the Monuments. The Washington Highlights Brochure, recently revised and updated, contains specific information and phone numbers for individuals with disabilities on Washington's tourist attractions, including the Capitol. CSSO is currently updating and revising its brochure on support services available to Congressional office staff and constituents. This brochure can be mailed to all Congressional Offices to advise them of services available to assist in meeting current ADA requirements. The Congressional Handbook - U.S. Senate Edition 1994 lists services and resources available to constituents and Senate staff through the CSSO.

CSSO, in cooperation with the Senate Seminar Program, presented six seminars

to Senate staff on the use of TDDs. The "hands-on" workshop addressed the use of the TDD, TDD etiquette and problem solving. Thirty-seven Senate staffers attended this training. A special TDD class was provided to the Capitol Police, nine officers attended.

CSSO continued to implement a voluntary TDD monitoring program intended to help assure Congressional offices that their TDDs continue to function properly. Forty-four offices currently participate in the program. The TDD Monitoring Program in 1994 placed 513 calls resulting in 29 problems being identified and corrected.

CSSO has provided a Disability Awareness Workshop for selected Congressional staff in cooperation with the Clearing House on Computer Accommodation, General Services Administration. This special training consisted of information on attitudinal barriers and demonstrated several types of assistive equipment.

CSSO evaluated and obtained several new training videos for use in Sign Language Classes and Disability Awareness Seminars. The Director of CSSO has attended several special training courses and workshops in order to provide the most up to date training techniques and material in Disability Awareness and etiquette.

CSSO conducted three sign language classes for 38 staff members. Each of the classes was taught twice a week for eight weeks. Five classes were provided for the Capitol Police (60 police recruits and 10 new security aides). They were presented with information on CSSO, the proper use of interpreter services, building access including parking and accessible entrances, and appropriate etiquette for interacting with individuals with disabilities.

CSSO provides assistance to all offices sponsoring special events at the Capitol that require interpreters, escorts or services responsive to the needs of individuals with disabilities. CSSO assisted at many small events and functions. Of special significance, CSSO, in cooperation with the Joint Committee on Inaugural Ceremonies (JCCIC) participated in the Inaugural Ceremony on January 20, 1993. During the ceremony, CSSO provided and supervised 10 nationally certified sign language and oral interpreters to assist the police at the entrances and to interpret the program. CSSO staff assisted individuals with disabilities in locating and positioning themselves in the accessible areas and oversaw the needs of individuals in all five barrier free areas. Further, CSSO worked with JCCIC to provide the invitation, program and instructions for attendees in braille.

On October 23, 1993, CSSO contracted and supervised 4 certified sign language interpreters for the Commemoration of the Bicentennial of the United States Capitol. These interpreters assisted the police at the entrances. A CSSO staff member was the interpreter for the ceremony. In addition, CSSO staff assisted individuals with disabilities in locating and positioning themselves in the accessible areas, and oversaw the needs of all individuals in the barrier free areas.

CSSO has provided staff members from the White House, the Old Executive Office Building, the Supreme Court and the Library of Congress with information on

CSSO operations and procedures. The above agencies are in the process of gathering information on how to best provide accessibility services and resources for visitors and staff with disabilities.

CSSO staff interpreters have assisted with Police Actions, the Act-Up Demonstration on April 26, 1993 and the ADAPT (American Disabled for Attendant Programs Today) Demonstration on May 10, 1993. In addition the CSSO staff assisted the Capitol Police in providing assistance during the Health Security Express Rally on the West Front on August 4, 1994.

There is a need for members of the CSSO staff to attend conferences and seminars that would increase their expertise in issues and services relating to meeting the needs of individuals with disabilities. In the past every member of the CSSO participated, all maintained and upgraded their skills and knowledge in this ever changing field this is not the case currently. In 1994, only two staff members attended a local conference. Some of the past conferences and seminars included:

- The National Registry of Interpreters Conference (1993)
- Perspectives on Employment of Persons with Disabilities (1994)
- Partnerships 2000 (The First National Forum on Employment of Deaf and Hard of Hearing People) (1993)
- American Council of the Blind 32nd Annual National Convention
- Closing the Gap (Microcomputer Technology in Special Education and Rehabilitation) (1993)
- Interpreting and Interpreting Services Workshop (A Better Understanding)(1993)
- Working Together: Deaf and Hearing People (1993)
- Windmills "Train the Trainer" (1993)
- Managing Information Resources for Accessibility (1993)
- Continuing education courses on American Sign Language (1993)

Newt Gingrich
Sixth District
Georgia



(202) 225-2800

The Speaker's Press Room
United States House of Representatives
Washington, DC 20515

JOINT STATEMENT ON OFFICE OF COMPLIANCE
Committee Selection Announced by Dole, Daschle, Gingrich and Gephardt

WASHINGTON, D.C. (May 24, 1995) -- In releasing the names of those selected to serve on the Board of Directors of the Office of Compliance as established by the Congressional Accountability Act, P.L. 104-1, the joint leadership of the House and Senate -- Senate Majority Leader Bob Dole, Senate Minority Leader Tom Daschle, Speaker Newt Gingrich and House Minority Leader Dick Gephardt -- today issued the following statement:

"The selection committee had a tough job given the high caliber of candidates who expressed an interest in serving on this non-partisan and independent board. Those who have been chosen bring to the table a variety of experience, expertise and knowledge required for the task at hand. We believe they will be a productive team and look forward to working with them."

The Office of Compliance was created to administer the 11 statutes that will be applied to the Congress. The five-member Board is responsible for administering the Office of Compliance, carrying out an educational program for the House and Senate, adopting rules and regulations to implement the new laws, and serving as the appeals body for administrative complaints under the Act.

Attached are the names and brief biographies of those who have been selected.

The following five individuals were jointly appointed by the House and Senate leadership to serve on the Board of Directors of the newly-established Office of Compliance:

Chairman
Glen Nager
5-Year term

Mr. Nager is currently a partner in the Employment/Labor Department of Jones Day. Glen has 10 years of experience as a labor and employment attorney, including experience in all eleven laws made applicable by the Congressional Accountability Act of 1995. In addition, he has extensive litigation experience.

Glen received his B.S. from the University of Texas with highest honors. His J.D. is from Stanford University Law School, where he was President of the Stanford Law Review as well as a member of the Order of the Coif. He was a Clerk for the U.S. Supreme Court and former Assistant to the Solicitor General, U.S. Department of Justice. Finally, he is the former Chairman of the Civil Rights and Employment Discrimination Subcommittee of the American Bar Association.

Glen clerked for Supreme Court Justice Sandra Day O'Connor.

Glen is nationally recognized as a leading employment/labor lawyer.

He currently resides in the Washington, D.C. area.

Virginia A. Seitz
5-Year term

Virginia is a partner with Bredhoff and Kaiser, a Washington, D.C. labor law firm. She has handled litigation at all levels and has done extensive work in advising clients in the areas of labor and employee benefit law.

She received her B.A. from Duke University where she was Phi Beta Kappa and graduated Summa Cum Laude. She was a Rhodes Scholar and in 1980 received an M.A. from Oxford. Her J.D. is from the State University of New York where she graduated first in her class.

She also was a judicial law clerk for the U.S. Supreme Court Justice Brennan.

She currently resides in the Washington, D.C. area.

Jerry Hunter
4-Year term

Mr. Hunter is currently a partner at Bryan Cave in St. Louis. He is a member of the firm's Employment and Labor Relations Department. Prior to entering private practice, Jerry was the General Counsel to the National Labor Relations Board. In 1986, Jerry was nominated by the Governor and confirmed by

Page 2
May 24, 1995

the Missouri State Senate to be director of the Missouri State Department of Labor and Industrial Relations. Prior to that appointment, he served in various positions with the EEOC and the NLRB.

He received his B.A. in History from the University of Arkansas and his J.D. from Washington University.

He currently resides in St. Louis.

James Adler
4-Year term

Mr. Adler is currently the head of the labor/employment Law Department of Irell and Manella in Los Angeles. He has over 30-years of experience as a labor and employment attorney. He has extensive experience in all eleven laws made applicable by the Congressional Accountability Act of 1995. In addition, he has extensive experience in litigation.

James received his B.S. in Engineering from Princeton University where he was ranked first in his class. His J.D. is from the University of Michigan Law school, where he was once again ranked first in his class and was Editor-in-Chief of the Michigan Law Review.

He clerked for two Justices of the U.S. Supreme Court. He is the former Special Assistant to the Solicitor at the U.S. Department of Labor and is published in areas of employment law. He is also the former President of the L.A. County Bar Association Employment Law Section.

James is recognized in the book, "The Best Lawyers in America."

He lives in Los Angeles.

Larry Lorber
3-Year term

Mr. Lorber has 24-years of experience in private practice labor and employment law.

He received his B.A. from Brooklyn College and his J.D. from the University of Maryland Law School. He was a graduate student ROTC at Johns Hopkins and was commissioned 2nd Lt., U.S. Army Reserves.

His professional experience includes an appointment as Deputy Assistance Secretary of Labor and Director of the Office of Federal Contract Compliance Programs. In addition, he was the Executive Assistant to the Solicitor of Labor where he focused on labor legislation, labor protective law, equal employment and OSHA regulations. In addition, he began his career at the Labor Department's Solicitor Office Division of Labor Relations and Civil Rights.

He is currently a partner at Verner, Lipfert, Bernhard, McPherson & Hand. In this capacity, he has served as an expert witness before Congress on labor issues.

Larry currently practices in Washington, D.C.

WALTER J. STEWART
• SECRETARY

SUITE S-208
THE CAPITOL
WASHINGTON, DC 20510-7100
(202) 224-3622

United States Senate

OFFICE OF THE SECRETARY

March 23, 1992

The Honorable Bob Dole
The Honorable Tom Harkin
United States Senate
Washington, D.C. 20510

Dear Senators Dole and Harkin:

The Assistant Secretary attended the meeting chaired by Congressman Hoyer on March 20 along with two members of my staff who supervise offices which provide significant service to the public and the Senate community.

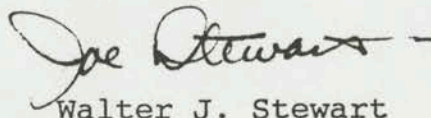
Section 509 of the law provides that the Legislative Branch must comply with the law in matters of employment and other than employment (physical and participatory access). Regarding employment, all job descriptions for positions within the Secretary's Office have been rewritten following verbal guidelines received from the Office of Personnel Management. These job descriptions are currently undergoing legal review by counsel in my office.

Regarding physical and participatory access, my office's principal responsibility was to provide closed captioning of Senate Chamber proceedings. We began broadcasting closed captions of Senate proceedings November 18, 1991. Enclosed is a fact sheet about this service.

For those offices under my jurisdiction which exclusively serve the Senate community, our efforts have been focused on ensuring Senate staff have adequate access to information primarily through the installation of TDD services and providing documents in braille or large type. TVs with captioning chip technology have been ordered for selected offices, but have not been received from the manufacturer to date. Supervisors are encouraged to send staff to sign language training if possible.

The enclosed detailed summary of services currently available may be of interest.

Best regards,



Walter J. Stewart

COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Legislative Offices:

The Senate switchboard provides TDD services for these offices. Very few Senate staff visit these offices, with the exception of the Office of the Official Reporters of Debates which is the only office which can comfortably accommodate a wheelchair. Staff have access to signers in the Office of Special Services should the need arise.

Administrative Offices:

Disbursing Office: The Senate switchboard provides TDD services. Because of severe crowding in the office, major renovation would be required to accommodate a Disbursing Office employee in a wheelchair. Other Senate employees in wheelchairs can be served in portions of the office easily accessible. Braille versions of brochures on health benefits, life insurance and retirement programs are available to the Disbursing Office through the Office of Personnel Management. Forms are not yet available in braille, but staff can fill out forms for those needing such assistance.

Stationery Room: One staff member is trained in sign language. Staff members assist those staff who cannot reach items on high shelves and those who cannot read price information. Merchandise is available for tactile inspection prior to purchase.

Office of Public Records: Physically and hearing impaired individuals presently are served with some assistance from staff. The visually impaired would have difficulty researching the databases themselves, but limited assistance could be provided by staff depending on the number of users of the office's services.

Document Room: Because of the number of requests for documents from the public, a TDD was installed several years ago. In addition, some staff members have been trained in sign language. Some documents are available in braille from the Library of Congress. We are exploring with the GPO the possibility of making documents available in ASCII format to facilitate faster production of braille versions of selected documents.

Senate Library: The Senate Library will be moved to a new site in the Dirksen Building. The Architect's staff will ensure compliance with ADA regarding the physical aspects of the new facility. We are exploring the possibility of establishing a network of volunteer readers from the Senate community who would be available to assist the visually impaired in the Library as well as in the Office of Public Records and the Document Room. We anticipate installing a large screen CRT for the visually impaired, a TDD and a large screen microform reader/printer.

Library staff will assist the physically impaired, but, in general, the collection stacks will be accessible to Library staff only.

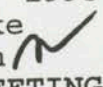
Interparliamentary Services: While accommodations may be made for Members or staff traveling on official business, the level of assistance is directly dependent on the facilities available at the destination.

Commission on Art: The Commission has been working closely with the Office of Special Services to provide increased access to all exhibits in the Capitol, particularly emphasizing tactile exhibits. Staff will take any visually impaired visitor beyond the ropes in the Old Senate Chamber to touch certain items displayed there, and wheelchairs of physically impaired visitors are lifted up the steps to the second level to fully view the Chamber. Staff have been sent to training sessions and workshops to learn about barriers to exhibits that prevent or discourage the disabled from participating.

Historical Office: The Historical Office, working with Special Services, has had several brochures and documents prepared in braille and large type. As additional materials are prepared, they too will be made available in multiple formats. In addition, Volume I of Senator Byrd's noted series on the Senate is available in taped or braille format from the Library of Congress.

Office of Senate Security: Requests for special services have not been received from those whose duties bring them into contact with this office, although it should be noted that classified material is not available in alternate formats.

MEMORANDUM

Date: January 23, 1995
To: Sheila Burke
From: Alec Vachon 
RE: NEXT ADA MEETING

- * I have prepared a short agenda you might want to use for the next ADA meeting--ATTACHED.
- * I located a 1992 report to Senators Dole and Harkin re ADA activities of the Secretary's office. It might be useful to distribute this report as a "benchmark"--ATTACHED.
- * I have not been notified of any time for the next meeting.
I have a call into Marilyn.

SECRETARY OF THE SENATE ACCESSIBILITY TASK FORCE
SECOND MEETING--AGENDA
[DATE]

1. BRIEF SYNOPSIS OF LAST MEETING (JANUARY 17, 1995)
 1. History of Secretary activities/Leadership Interest
(Distribute Stewart letter--March 23, 1992)
 2. Review ADA Title II Action Guide--recommended strategy
for conducting implementation activities. (Roger and
Peter to work with Department Heads--who will each
review their operations.)
2. REVIEW OF MATERIALS DISTRIBUTED LAST MEETING
Is outside instruction/technical assistance needed or
helpful?

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Department Heads--who will each review their
operations.


Products:

- Each department to prepare accessibility status
report/list of improvements to be made.
- Prepare memo to Senate personal/committee offices on
accessing services of Secretary of the Senate.
- Prepare memo to Secretary employees on employment and
reasonable accommodations issues. [QUERY: Jurisdiction
of Fair Employment Office? N.B.: Congressional
Accountability Act provisions become effective in
1997.]
- Seminars for Senate staff--content TBD.

2. REVIEW OF MATERIALS DISTRIBUTED LAST MEETING

Is outside instruction/technical assistance needed or
helpful?

MEMORANDUM

Date: January 23, 1995
To: Joyce McCluney
From: Alec Vachon 
RE: ADA MATERIALS

- * I thought you might find the enclosed materials helpful: an ADA TITLE II ACTION GUIDE and a TITLE II ADA TECHNICAL ASSISTANCE MANUAL.
- * The ACTION GUIDE provides a highly detailed approach to organizing an ADA compliance program--from recruiting an ADA coordinator to worksheets for conducting a self-evaluation.
- * If I can help in any way, please let me know.

WALTER J. STEWART
SECRETARY

SUITE S-208
THE CAPITOL
WASHINGTON, DC 20510-7100
(202) 224-3622

United States Senate
OFFICE OF THE SECRETARY

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Closed Captioning of Senate Chamber Proceedings



Office of Captioning Services • Under Direction of the Secretary of the Senate • ST-54, The Capitol • 224-4321

WHAT IS REALTIME CLOSED CAPTIONING?

Realtime Closed Captioning is the live electronic subtitling of the audio portion of a television program. The captions are closed or *hidden* in the television picture. Viewers wanting access to the captions currently need a caption decoder attached to their television to see the captions.

WHERE IS IT BEING DONE?

The captions are created by the *Office of Captioning Services* under the direction of the Secretary of the Senate in specially designed and built control rooms in the basement of the Capitol (ST-54). These control rooms contain video and audio monitoring equipment, computers, computerized stenotype machines and real-time captioning software.

WHO IS DOING IT?

Specially trained court reporters called *captioners* write what they hear on a computerized stenotype machine. They are all Registered Professional Reporters (RPR) and have been certified to write testimony at 225 words per minute with 97% accuracy.

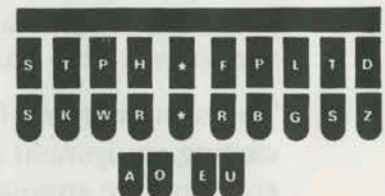
HOW IS IT DONE?

Court Reporters and captioners write in a phonetic language called *Steno*. Using the stenotype keyboard's 22 keys and a number bar, they learn unique combinations of letters to represent sounds or phonemes. The left hand writes the beginning sound of a word (a syllable in the case of multi-syllabic words), the thumbs write the vowel sounds, and the right hand writes the final sound of a word or syllable. The keyboard is chordal, therefore multiple keys are pressed at the same time, much like playing chords on a piano, to represent certain phonemes.

When an outline (syllable or word) is written on the keyboard it passes via cable to a computer for processing. This processing can be referred to as "translation" because it takes the phonetic outlines written by the captioner and translates them into English words using a special *dictionary* created by the captioner. This dictionary contains word parts, whole words, phrases, Senator's names, punctuation and special entries used by the captioner during a real-time captioning session.

Once translation has occurred, the captions are transmitted to the Senate Recording Studio Control Room where an *encoder* inserts them into line 21 of the Senate Recording Studio's video signal.

The Keyboard



WHAT ABOUT ERRORS?

Errors will occur as a result of the real-time captioning process even though our captioners are rated at 97% accuracy.

Captioning takes intense concentration. Captioners get one chance—and only one chance—to get it right. The captioner cannot go back and change or correct a word once it is written. If concentration lapses even for a moment, or the audio signal is degraded or lost, or two Senators speak at the same time, errors result. If a captioner mis-keys a word, syllable or phoneme, there is no opportunity to back up and correct the mistake.

Errors result from:

- Mis-hearing
- Mis-keying
- Equipment failure

Sometimes a captioner realizes that a wrong word or syllable was written. If that realization is immediate, they can correct it using the asterisk [*] key on the stenotype keyboard. If they realize the error two or three words later (after having more contextual information), it is too late to go back and correct the error. Inconsistent voice modulation in speakers can cause a word or words to be inaudible and therefore non-comprehensible to the captioner. Speakers not speaking directly into microphones also can cause loss of an audio signal adequate for the captioners to work from. Captioners will have difficulty with any speaker talking at excessive rates of speed.

These then are errors that result from *mis-hearing*, the most frequent cause of errors and the greatest source of frustration to the captioners.

Mis-keying errors result from the complex task of trying to outline the phonemes correctly on the keyboard. The entire alphabet is not present on the keyboard and the letters S, T, P, and R appear on both the left and right sides of the keyboard. Letters must be combined (pressed simultaneously) to form sounds. The phonetic outline for the word **judge**, for example, uses **SKWR** on the left, **U** from the center, and **PBLG** on the right. That's nine keys, **WRUPBLG**, that are pressed for one word. If an extra key is added or a key is left out, the outline becomes some other word or word part or appears as gibberish. With multi-syllabic words, the risk of a mis-keying error is even greater because multiple keys in successive outlines (syllables) must be pressed correctly or a word such as "**occupancy**" may translate as multiple words, "**okay you pansy**", or appear as a mixture of readable text and gibberish.

The combination of sophisticated computer hardware and software and television broadcasting equipment requires continual monitoring and maintenance by the captioning staff and the engineers in the Senate Recording Studio. Stenowriting machines must be in perfect adjustment both mechanically and electronically. Broadcast equipment must be perfectly timed with the captioning equipment and translating computers.

The Office of Captioning Services has anticipated many of the circumstances that might cause errors while real-time captioning the floor proceedings of the U. S. Senate. The Office will continually monitor the captions for errors on a routine basis, which will result in fewer errors over time.



Washington, D.C. 20540

Congressional Research Service
The Library of Congress

SEE Pages 4-6

October 18, 1989

TO : Senate Labor Subcommittee on the Handicapped
Attention: Robert Silverstein

FROM : American Law Division

SUBJECT : Application of Americans with Disabilities Act to Congress

This memorandum responds to your inquiry with respect to the constitutional issues that may be raised by the application of S. 933, the Americans with Disabilities Act, to Congress, as provided by the adoption on September 7, 1989, of the Grassley Amendment. CONG. REC. (daily ed. Sept. 7, 1989), S 10780 - S 10782. As adopted, the amendment provides:

Notwithstanding any other provision of this Act or of Law, the provisions of this Act shall apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

Questions raised by this amendment would primarily relate to the employment title, in which discrimination against any individual on the basis of a disability would be banned. Enforcement of the ban is in two stages, an administrative process, through complaints to the EEOC, and a judicial process, through private rights of action in the federal courts. Both stages implicate the speech or debate clause assurance that Members of Congress "shall not be questioned in any other Place" for things said or done in the legislative process. Article I, § 6, cl. 1. Additionally, a general separation of powers issue would be raised by authorization of an executive branch agency to police the employment relations of the legislative branch. The speech or debate clause would also be implicated by the application of provisions of the bill mandating the elimination of architectural and other barriers to access to persons with disabilities and the conferral of a private right of action to individuals to enforce the mandate.

Speech or Debate Clause

The speech or debate clause has a long lineage from the struggles of Parliament with the Crown in England, *United States v. Johnson*, 383 U.S. 169, 178 (1966), and in our scheme of things is designed to protect the independence and integrity of the legislature and to reinforce the principle of separation of powers. *Ibid.*; *United States v. Brewster*, 408 U.S. 501, 507

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(1972). The protection of the clause is not limited to words spoken in debate. "Committee reports, resolutions, and the act of voting are equally covered, as are 'things generally done in a session of the House by one of its members in relation to the business before it.'" *Powell v. McCormack*, 395 U.S. 486, 502 (1969)(quoting *Kilbourn v. Thompson*, 103 U.S. 168, 204 (1881)). Thus, so long as legislators are "acting in the sphere of legitimate legislative activity," they are "protected not only from the consequence of litigation's results but also from the burden of defending themselves." *Tenney v. Brandhove*, 341 U.S. 367, 376-377 (1972). But the scope of the meaning of "legislative activity" has its limits. "The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." *Gravel v. United States*, 408 U.S. 606, 625 (1972). Immunity from civil suit, both in law and equity, and from criminal action based on the performance of legislative duties flows from a determination that a challenged act is within the definition of legislative activity. *Gravel*, for example, held that a grand jury could validly inquire into the processes by which a Member obtained classified information and into the arrangements for subsequent private republication of these documents, since neither action involved protected conduct, *id.*, 626, and republication by a Member of allegedly defamatory remarks outside the legislative body, here through newsletters and press releases, was held unprotected, because it was not essential to the legislative process. *Hutchinson v. Proxmire*, 441 U.S. 111 (1979).

Not only is the Member protected when the clause applies, but his aides receive equal coverage. In *Gravel*, *supra*, 408 U.S., 616-617, the Court accepted the contentions urged on it by the Senate: "that it is literally impossible, in view of the complexities of the modern legislative process, with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks without the help of aides and assistants; that the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latter's alter ego; and that if they are not so recognized, the central role of the Speech or Debate Clause . . . will inevitably be diminished and frustrated." Therefore, the Court held "that the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself." *Id.*, 618.

Are Employment Decisions Immunized by the Speech or Debate Clause?

That the employment decisions of Members with respect to their aides, at least with respect to those aides who are essential to the performance of those legislative activities that are protected by the clause, "shall not be questioned in any other Place," i.e., in any place other than in the respective House of the Members, would seem to flow from the premises of *Gravel*. But

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this conclusion may not be warranted on the basis of a quite recent Supreme Court decision. First, we review the case law prior to the recent decision.

In *Davis v. Passman*, 442 U.S. 228 (1979), a divided Court held that an aide of a Member, discharged because the Member preferred a male for the job, had a cause of action under the due process clause of the Fifth Amendment to sue the Member for monetary damages.¹ Because the lower court had not passed on the contention that the speech or debate clause precluded the suit, the Supreme Court declined to do so at that stage. *Id.*, 235-236 n. 11. The Court did hold that, inasmuch as the clause embodied for Members of Congress the concerns of the separation of powers doctrine for purposes of immunity from suit, it was the only source of immunity, not other principles of separation as well. *Ibid.* Chief Justice Burger, dissenting along with Justices Powell and Rehnquist, argued that separation of powers in combination with the speech or debate clause, both sharing common roots, did not permit the suit to go forward, *id.*, 249, and Justice Stewart, dissenting, thought the speech or debate clause issue was "far from frivolous" and would have remanded so the court of appeals could decide it. *Id.*, 251.²

In two decisions, the United States Court of Appeals for the District of Columbia Circuit attempted to formulate a standard to permit determination of applicability or nonapplicability of the clause to congressional employment decisions. The discharge of the manager of the House of Representatives' restaurants was the issue in *Walker v. Jones*, 733 F.2d 923 (D.C.Cir.), *cert. den.*, 469 U.S. 1036 (1984). Essentially, the court thought inquiry should focus on whether an employee's duties could be viewed "as work that significantly informs or influences the shaping of our nation's laws" or whether an employee's duties were "peculiar to a Congress member's work qua legislator," "intimately cognate . . . to the legislative process." *Id.*, 931. Under that standard, the clause did not apply to the employee. In *Browning v. Clerk, U.S. House of Representatives*, 789 F.2d 923 (D.C.Cir.), *cert. den.*, 479 U.S. 996 (1986), the discharge of an Official Reporter for the House of Representatives was challenged. The court held the congressional defendants to be immune under the speech or debate clause. The standard was "whether the employee's duties were *directly related to the due functioning of the*

¹ In *Bivens v. Six Unknown Named Agents of the Bureau of Narcotics*, 403 U.S. 388 (1971), the Court held that a person, alleging violation of his Fourth Amendment search and seizure protection, in the absence of a statutory remedial cause of action, could sue the individual officers for damages under an implied cause of action premised directly upon the constitutional provision in question. *Davis v. Passman* extended this ruling, by basing the implication of a cause of action upon the Fifth Amendment's due process clause, which contains an equal protection component when the Federal Government or one of its agents is the actor.

² The case was settled after the Supreme Court remanded it for further proceedings, and no speech or debate clause resolution was reached.

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legislative process." *Id.*, 929 (emphasis in original). If the employee's duties are "such that they are directly assisting members of Congress in the 'discharge of their functions,' personnel decisions affecting them are correspondingly legislative and shielded from judicial scrutiny." *Ibid.*

Requiring reconsideration of this developing case law, however, is *Forrester v. White*, 108 S.Ct. 538 (1988). The case unanimously held that a state court judge did not have judicial immunity in a suit for damages brought by a probation officer whom he had fired. The Court explained that in determining whether immunity attaches to a particular official action it applies a "functional" approach. "Under that approach, we examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and we seek to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions. Officials who seek exemption from personal liability have the burden of showing that such an exemption is justified by overriding considerations of public policy" *Id.*, 542. Thus, it is "the nature of the function performed, not the identity of the actor who performed it, that inform[s] our immunity analysis." *Id.*, 545.

Judges have absolute immunity from liability for the performance of judicial functions. *Bradley v. Fisher*, 13 Wall. (80 U.S.) 335 (1872); *Pierson v. Ray*, 386 U.S. 547 (1967); *Stump v. Sparkman*, 435 U.S. 349 (1978). But when a judge acts in an administrative or a legislative capacity, he enjoys no judicial immunity. In the Court's view, "Judge White was acting in an administrative capacity when he demoted and discharged Forrester. Those acts . . . may have been quite important in providing the necessary conditions of a sound adjudicative system. The decisions at issue, however, were not themselves judicial or adjudicative." *Supra*, 108 S.Ct., 545. Employment decisions, like many others, the Court continued, "are often crucial to the efficient operation of public institutions," *ibid.*, yet they are not entitled to absolute immunity, "even though they may be essential to the very functioning of the courts" *Id.*, 544.

Forrester v. White was, of course, not a case governed by the speech or debate clause; it was brought under 42 U.S.C. § 1983, which affords persons who have been denied their constitutional rights under color of state law a cause of action against state and local defendants. And, yet, the Court has, when passing on questions of legislative immunity in § 1983 actions, looked to speech and debate principles, emphasizing that the clause itself is but a part of the much larger common-law principle of legislative freedom of speech. *Tenney v. Brandhove*, *supra*, 341 U.S., 372-379; *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719, 732 (1980). Indeed, the Court has said that "we generally have equated the legislative immunity to which state legislators are entitled under § 1983 to that accorded Congressmen under the Constitution." *Id.*, 733. See also *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 502-503, 505, 506 (1975); *Dombrowski v. Eastland*, 387 U.S. 82, 84-85; *United States v. Johnson*, *supra*, 383 U.S., 180. If, therefore, *Forrester v. White* bears on the question of congressional immunity for employment

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decisions, it strongly suggests that for such decisions Members of Congress do not have immunity.

The D. C. Circuit in *Gross v. Winter*, 876 F.2d 165 (D.C.Cir. 1989), has read *Forrester* to apply to legislative immunity and has held that a legislator's employment decisions are not entitled to legislative immunity. *Gross*, too, is a § 1983 case brought against a member of the City Council of the District of Columbia, but the court took the two previous decisions in the Circuit, *Walker* and *Browning*, to have stated the doctrinal standards, which must be modified in the light of *Forrester*. See also *Rateree v. Rockett*, 852 F.2d 946, 950 (7th Cir. 1988)(dictum). The *Gross* court, however, reserved the question "whether special considerations applicable to members of Congress, such as separation-of-powers concerns, continue to justify the absolute immunity standard for congressional personnel decisions adopted in *Browning*." *Supra*, 876 F.2d, 172.

Ambiguity on this point clouds any analysis of *Forrester*. The Court observes at one point that it follows its "functional" approach in all cases, save for those that are governed "by express constitutional or statutory enactment." *Forrester v. White*, *supra*, 108 S.Ct., 542. Paramount of the express constitutional provisions, it then notes, is the legislative immunity created by the speech or debate clause. "Even here, however, the Court has been careful not to extend the scope of the protection further than its purposes require." *Ibid*. The Court then refers to *Davis v. Passman*, *supra*, for its holding that except for speech or debate clause immunity, a Member of Congress may be liable for his employment decisions. *Id.*, 543. But when, later in the opinion, the Court observed that, no less than a judge's ability to hire and fire employees as bearing on his ability to carry out his judicial functions is the similar ability of executive branch officials to hire and fire, and executive officials have no such immunity as the judge was claiming, the Court made no reference at all to employment decisions by legislators. *Id.*, 545.

Some conflicting lines of precedent thus exist. Staffs of Members are so essential to the functioning of the legislative process that under *Gravel* they are entitled to the same speech or debate immunity that the Members have. This suggests that the clause could very well protect the Members' discretion in choosing to hire or to keep or not keep any person they want on their staffs. At the same time, the *Forrester* decision forecloses this mode of analysis for judges (as well as those executive officers with some measure of immunity). It is simply not relevant that the employee or aide is essential to the execution of the official's function or crucial to the efficient operation of his office. What is relevant is whether the function for which the judge is being questioned is judicial or adjudicative; if it is administrative, or legislative, judicial immunity does not attach.

Legislative immunity could be similarly analyzed. When the Member is engaged in legislative activity, he and his assisting aides are entitled to speech or debate immunity; when the Member, or an aide deputized by him, is

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engaged in an administrative function, such as hiring or firing staff, neither has speech or debate immunity. The conceptual difficulty is that in being "careful not to extend the scope of the protection [of the speech or debate clause] further than its purposes require," *Forrester*, 108 S.Ct., 542, the Court has construed the application of the clause to depend upon the connection of the acts challenged to the legislative process. In the context of *Gravel*, the "purposes" served by the clause required coverage of aides. But hiring and firing an aide is not legislating, anymore than discharging the probation officer was a judicial act of Judge White. A tension exists here, but on the strength of *Forrester*, a persuasive argument can be made that the speech or debate clause does not encompass employment decisions.

Certainly, an express decision made legislatively by Congress that employment decisions of Members can be placed outside coverage of the speech or debate clause would be a determination by the body most familiar with the issue that should be entitled to special deference by the courts when they are called upon to pass on the question of the validity of congressional coverage under the ADA.

May Congress Waive Speech or Debate Immunity from Suit?

Even if it is eventually determined, either by Congress or by the courts, that employment decisions are encompassed by the clause, the validity of ADA coverage could still be defended on the basis that Congress may waive the protection of the clause by an express provision of law and give jurisdiction of an issue to the courts. Absent clearly applicable case law, we can, at this point, but speculate about how the Supreme Court might eventually resolve the question.

Twice now, the Court has reserved the issue. "[W]ithout intimating any view thereon, we expressly leave open for consideration when the case arises a prosecution which . . . is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." *Johnson*, supra, 383 U.S., 185. See also *Brewster*, supra, 408 U.S., 529 n. 18. But in the latter case, three dissenters reached the issue and would have ruled that Congress may not authorize the courts to try Members for conduct protected by the speech or debate clause. *Id.*, 529, 540-549 (Justices Brennan and Douglas), 551, 562-563 (Justices White, Brennan, and Douglas). Both *Johnson* and *Brewster* were criminal cases, the paradigmatic kind of executive invasion of legislative privilege with which the parliamentary proponents of legislative integrity and the Framers were concerned. It may be that with respect to civil cases, especially civil cases in which the plaintiff is a private citizen, the concern is of a lesser nature, see *Gross v. Winter*, supra, 876 F.2d, 172-173 n. 11, but the clause clearly applies to both criminal and civil suits, and the Court, with one exception not relevant in this context, has indicated no difference of treatment based on the nature of the cause of action. See *Supreme Court of Virginia*, supra, 446 U.S., 733 (noting *United States v. Gillock*, 445 U.S. 360 (1980)).

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Facially, the clause seems to make jurisdiction over Members for conduct covered by the clause exclusive with the respective House of each Member. That is, "for any Speech or Debate in either House, they shall not be questioned in any other Place." That exclusivity is the necessary conclusion from the plain language of the clause is hardly compelling. It merits mention that Congress is given by the Constitution, Article I, § 5, cl 2, the power to punish its Members for disorderly behavior and even to expel a Member by a two-thirds vote of the respective House. This power to punish is a complementary authority to speech or debate immunity, inasmuch as the drive of the English Parliament for legislative freedom included the successful assertion of the power to punish members for offenses for which they were immune to executive prosecution. Colonial and state legislatures in this country and the Federal Congress all claimed the same power as part of the same consideration. See *Anderson v. Dunn*, 6 Wheat. (19 U.S.) 204 (1821); *Watkins v. United States*, 354 U.S. 178, 188-199 (1957); *United States v. Brown*, 381 U.S. 437, 441-446 (1965); *Powell v. McCormack*, 395 U.S. 486, 522-548 (1969). As the Court has observed, Congress' power to punish Members, even to expulsion, is quite broad, extending "to all cases where the offence is such as in the judgment of the Senate [and, no doubt, the House of Representatives] is inconsistent with the trust and duty of a member." *In re Chapman*, 166 U.S. 661, 669-670 (1897). In exercising its powers under this grant of authority, the Senate or the House of Representatives "acts as a judicial tribunal" and its powers to adjudge "is in no wise inferior under like circumstances to that exercised by a court of justice." *Barry v. United States ex rel. Cunningham*, 279 U.S. 597, 616 (1929).

In *Burton v. United States*, 202 U.S. 344 (1906), a Senator convicted for accepting money to influence an executive department, conduct not protected by the speech or debate clause, argued that the statute under which he was charged conflicted with the provision of Article I, § 5, cls. 1 & 2, making each House the sole judge of the qualifications of its Members and giving each House the authority to punish its Members for disorderly behavior. Cf. *Kilbourn v. Thompson*, supra, 103 U.S., 183 (The Constitution "is not wholly silent as to the authority of the separate branches of Congress to inflict punishment. It authorizes each House to punish its own members."). Rejecting the contention, the Court observed: "While the framers of the Constitution intended that each Department should keep within its appointed sphere of public action, it was never contemplated that the authority of the Senate to admit to a seat in its body one who had been duly elected as a Senator, or its power to expel him after being admitted, should, in any degree, limit or restrict the authority of Congress to enact such statutes, not forbidden by the Constitution, as the public interests required for carrying into effect the powers granted to it. In order to promote the efficiency of the public service and enforce integrity in the conduct of such public affairs as are committed to the several Departments, Congress, having a choice of means, may prescribe such regulations to those ends as its wisdom may suggest, if they be not forbidden by the fundamental law." *Id.*, 202 U.S., 367. That is, Congress, though the Senate had the power to punish the Member itself, could enact legislation providing for his trial in the courts of the United States.

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Similarly, though each House has the power, pursuant to the legislative power of inquiry, to punish contempts by witnesses before it or one of its committees, *Anderson v. Dunn*, supra; *Marshall v. Gordon*, 243 U.S. 521 (1917); *McGrain v. Daugherty*, 273 U.S. 135 (1927); *Jurney v. MacCracken*, 294 U.S. 125 (1935), it may also provide for trial and punishment before the federal courts. In 1857, because imprisonment could extend no further than the adjournment of the House which ordered it and because contempt trials before the bar of the charging House were time consuming, Congress enacted a statute providing for criminal process in the federal courts with prescribed penalties for contempt of Congress. Act of January 24, 1857, 11 Stat. 155. With only minor modifications, this statute is now 2 U.S.C. § 192.

Holding that the purpose of this statute is merely supplementary of the power retained by Congress, the Supreme Court has rejected all constitutional challenges to it. "We grant that Congress could not divest itself, or either of its Houses, of the essential and inherent power to punish for contempt, in cases to which the power of either House properly extended; but because Congress, by the Act of 1857, sought to aid each of the Houses in the discharge of its constitutional functions, it does not follow that any delegation of the power in each to punish for contempt was involved." *In re Chapman*, supra, 166 U.S., 671-672.

The lesson of these cases is that Congress' power under Article I, § 8, cl. 18, to enact all laws which are "necessary and proper" to execute its powers includes the power to enact laws which implement and execute the powers of each House to govern itself. Congress regularly, pursuant to its authority to "determine the Rules of its Proceedings," enacts legislation binding both Houses to observance of procedural and substantive matters. The Legislative Reorganization Acts of 1946 and 1970, 60 Stat. 834, 84 Stat. 1175, contained extensive provisions affecting one House or the other as well as both bodies, and the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 99 Stat. 1037, made similar extensive provisions. Of course, each House retained the power to make unilateral changes, pursuant to the authorization to determine the rules of proceedings, but as to the power to enact legislation for both Houses there was no doubt.

Establishing that there is no necessary exclusivity simply because the Constitution imposes a power or duty on Congress, or on one House thereof, merely addresses one half of the equation, however. The provisions discussed above involved delegations or authorizations to each House, whereas the speech or debate clause appears on its face to be directed to the protection of the *individual* Senator or Representative. It has been observed by the Court that "[t]he immunities of the Speech or Debate Clause were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators." *United States v. Brewster*, supra, 408 U.S., 507. See also *Kilbourn v. Thompson*, supra, 103 U.S., 203.

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Practice by the House of Representatives considers the response of a Member to a subpoena or other legal process to raise a question related to the dignity of the House and the integrity of its proceedings. "The rules and precedents of the House require that no Member, official, staff member, or employee of the House may, either voluntarily or in obedience to a subpoena, testify regarding official functions, documents, or activities of the House without the consent of the House being first obtained." 3 DESCHLER'S PRECEDENTS of the UNITED STATES HOUSE of REPRESENTATIVES, H. Doc. 94-661 (1979), ch. 11, § 14. See *In re Grand Jury Investigation (Eilberg)*, 587 F.2d 589, 592-593 (3d Cir. 1978) (House acquiescence to grand jury subpoena). This practice reflects the institutional interest of the House in the protection of the clause and might, without more, support enactment of legislation based on Congress' necessary and proper power.

Personal interest in the protection of the clause has also been recognized, though. In *Coffin v. Coffin*, 4 Mass. 1, 27 (1808), speaking of the Massachusetts equivalent of the federal clause, Chief Justice Parsons said: "In considering this article, it appears to me that the privilege secured by it is not so much the privilege of the house as an organized body, as of each individual member composing it, who is entitled to this privilege, even against the declared will of the house. For he does not hold this privilege at the pleasure of the house; but derives it from the will of the people, expressed in the constitution, which is paramount to the will of either or both branches of the legislature. In this respect the privilege here secured resembles other privileges attached to each member by another part of the constitution, by which he is exempted from arrests on *mesne* (or original) process, during his going to, returning from, or attending the general court. Of these privileges, thus secured to each member, he cannot be deprived, by a resolve of the house, or by an act of the legislature." The significance of this particular case is that the Supreme Court has pronounced it to be perhaps "the most authoritative case in this country on the construction of the provision in regard to freedom of debate in legislative bodies . . ." *Kilbourn v. Thompson*, supra, 103 U.S., 204. See also *Tenney v. Brandhove*, supra, 341 U.S., 373-374; *United States v. Brewster*, supra, 408 U.S., 513-517. While the Court has not quoted these lines, its explanation of the reasons underlining the clause gives weight to the personal protection accorded individual Members as well as to the institutional interest. *Brewster*, supra, 408 U.S., 501; *Tenney v. Brandhove*, supra, 341 U.S., 372-373.

To be sure, there were instances in English history in which Parliament contrived to deny the protection of the privilege to Members. For example, John Wilkes was denied his parliamentary privilege and thereafter convicted in court for seditious libel, *Powell v. McCormack*, supra, 395 U.S., 527-531, but this case was such a *cause celebre*, here as well in England, that adoption of its particular approach silently into the speech or debate clause is unlikely, to say the least.

It thus must be concluded that the power of Congress to waive the clause by expressly making Members subject to judicial process for covered

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conduct is unsettled. It is not, however, foreclosed as a possibility, inasmuch as the exclusivity argument has not been accepted in other contexts involving Article I, §§ 5 and 6. If Congress should enact a statute, making the determination that it can waive, again the fact that the body for whom the protections of the clause were intended has reasoned that its institutional interests would not be adversely affected by judicial exercise of the power would doubtlessly be given substantial deference by the courts. That the clause protects the individual interests of each Member, even though in the long run the protection is to further the institutional interest of the legislative body, would perhaps require some balancing by the courts. Acceptance of such a statute would appear to be reasonable.

May Congress Authorize Suits to Promote Removal of Barriers to Disabled?

This issue may be briefly dealt with, inasmuch as what has already been said is obviously on point. Clearly, some of the bill's requirements would fall on activities that are not protected by the speech or debate clause, while other activities would be covered. Examples of the former would appear to be the requirement of removal of architectural barriers to access to congressional buildings and to facilities within the buildings. Building access would appear in no way to implicate the speech or debate clause. The legislative process, speaking and voting on the floor, conducting hearings, and the like are not involved. Similarly, the assertion by visitors to individual Members, perhaps constituents of the Members, of entitlement to overcoming hearing or sight impairment would seem to present no problem with the clause. Communications with constituents, however important to the Members, is not part of the legislative process. See, e.g., *Doe v. McMillan*, 412 U.S. 306 (1973) (suit against congressional officers to restrain dissemination outside Congress of report containing defamatory material); *Hutchinson v. Proxmire*, *supra* (suit for defamation for press release and newsletter disseminated outside Congress).

On the other hand, other efforts to obtain the benefits of ADA could implicate the legislative process. Access to the galleries of the two bodies and seeking the benefits of interpretation and other assistance would be squarely within the protection accorded each House for the conduct of its legislative business. See, e.g., *Consumers Union v. Periodical Correspondents' Assn.*, 515 F.2d 1341 (D.C.Cir. 1975) (suit barred against panel of correspondents delegated power to accredit press representatives access to press galleries). The conduct of hearings of congressional committees with respect to the provision of facilities for those with disabilities would certainly be covered by the clause.

Insofar as the clause is not implicated, authorization of suits against Members or officers would seem to present no problem. Where the clause applies, the critical question would be whether Congress could waive the protection of the clause, and the arguments on that above should be consulted. However, because in all these instances the privilege would be that of each House as an institution and the personal privilege of individual

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Members would not be called into question, save perhaps in very particular circumstances, the argument in favor of the power to waive might be stronger commensurate with the respective interests.

Separation of Powers

With respect to the administrative process, the involvement of the EEOC in the administrative enforcement of the ADA, what has been said so far about the speech or debate clause should apply. But, in addition, a separation of powers issue may be independently raised. It is true that in *Davis v. Passman*, supra, 442 U.S., 228-229 n. 11, the Court stated that unless the speech or debate clause protected Members, they were not protected generally by the separation of powers doctrine. But we take that statement to refer to the issue of amenability to suit in federal court. We do not think that subjection of Members of Congress to administrative process by an executive branch agency is so readily settled.

Briefly, the Court has adopted in its separation of powers decision-making a standard that evaluates whether there is encroachment and aggrandizement. That is, does the action of one branch toward another threaten to "impermissibly undermine" the powers of the other or threaten to "disrupt the proper balance between the coordinate branches [by] prevent[ing] the [branch acted upon] from accomplishing its constitutionally assigned functions." *Morrison v. Olson*, 108 S.Ct. 2597, 2621 (1988); *Mistretta v. United States*, 109 S.Ct. 647, 658-661 (1989). See also *United States v. Nixon*, 418 U.S. 683, 713 (1974); *Nixon v. Administrator of General Services*, 433 U.S. 425, 442-443 (1977). It would appear evident that a significant "potential for disruption" exists in the conferral on an executive branch agency of the power to investigate and make determinations about a Member of Congress, whether the conduct in question is or is not covered by the speech or debate clause.

Conclusion

First, application of the employment title of the ADA to Congress could raise problems under the clause. Under one possible analysis, some employees would be sufficiently removed from the legislative process so that decisions about them may well not implicate the clause at all, whereas other employees are so integral to the legislative process that their employment would be covered. But if the Supreme Court's *Forrester* decision provides the appropriate mode of analysis, an employment decision of a Member with respect to all staff would be an administrative decision not entitled to speech or debate clause protection. Especially if Congress should conclude that *Forrester* is the correct analysis, in the course of enacting the ADA, it seems likely that the courts may well defer to that determination.

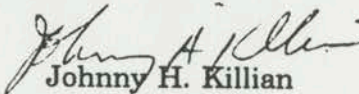
Second, if it is concluded that the speech or debate clause applies to the employment decisions of Members, an argument exists that Congress may expressly waive the protection and subject Members to suit. Little actual authority exists for the proposition, but there is little on the other side

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either. The matter is largely one of deductions from basic principles and analogies.

Third, many utilizations of the private cause of action to enforce ADA with respect to removal of barriers to access would not be covered by the clause. To the extent that some utilizations are, the question of Congress' ability to waive coverage would be determinative.

Fourth, whatever the case may be with regard to suits in federal courts against Members, authorization of administrative enforcement by an executive agency would raise serious separation of powers problems.



Johnny H. Killian

Senior Specialist

American Constitutional Law

United States Senate

MEMORANDUM

10/20/93

Alexander —

Here's another draft.

I prefer this one because it makes it more clear that (a) we're concerned about ADA compliance (b) our primary motivation is to get info out to Member's offices and (c) self-evaluation is going to be necessary. Let me know if you concur. Thanks —

Afley

Date

The Honorable Wendell H. Ford
Chairman
Committee on Rules and Administration
Washington, DC 20510

Dear Wendell:

As you know, the Americans with Disabilities Act mandates congressional compliance with its provisions. We are pleased with the progress that has been made in the Senate in this regard. However, we are concerned that not all offices may be aware of the policies and services that have been established.

Consequently, we are writing to urge the Committee to publish a print describing such policies and services for staff and constituents with disabilities. This publication would cover such matters as employment and hiring practices; accommodations, including assistive devices for staff, interpreter services, closed captioning of floor debate, braille and other alternate media preparation of constituent replies; parking arrangements; tours for visitors with disabilities; procedures for filing suggestions or complaints about Capitol accessibility; and staff training. Our offices have encountered questions on each of these matters, and the availability of a comprehensive guide would greatly enhance Members' abilities to respond to constituents in a timely manner.

Preparation of this publication also would provide an opportunity to review Senate policies and practices and assess the Senate's compliance with the ADA. We feel that self-evaluation is an important tool in identifying and correcting barriers which remain for persons with disabilities.

We appreciate your attention to our request. If you have questions or would like assistance from our offices, please contact Alexander Vachon of Senator Dole's staff at 4-8959 or Ashley Abbott of Senator Mitchell's staff at 4-5344.


With best wishes,

Sincerely,

George J. Mitchell
Majority Leader

Bob Dole
Republican Leader

November 29, 1994

TO: Janet Dorsey
FROM: Alexander Vachon 
SUBJECT: Accessibility Issues

I am preparing recommendations for Senator Dole of possible improvements in policies and services regarding accessibility and accommodations for constituents, visitors, and staff with disabilities. We have, of course, discussed this matter from time to time, but I would appreciate any additional suggestions or comments you might have -- in writing, by Thursday, December 1st, if possible.

Please give me a call if I can provide any further information (4-8959).

Thanks very much.

Memorandum

Date: April 2, 1993

To: File

From: Alec Vachon

Re: Capitol Access/Senate Compl

Senator Dole signed off on my memo yesterday.

Summary of past conversations

1. Janet Dorsey (3/10/93):

1. Sergeant at Arms policy equipment; has ordered s
2. Architect's Office: Hand building. Accessibility Leadership of each House
3. Last meeting of Senate w last October.
4. Mark Buse (Senator McCain 1992, McCain made floor done.

2. Kelly Riordan (Senator Mitchell)

1. Offices involved: (1) Secretary of the Senate; (2) Architect, (3) Sergeant at Arms.
2. Office of Fair Employment Practices: Have prepared brochure.
3. Her priorities:
 - a. Physical accessibility.
 - b. Process for complaints
 - c. Provide guidance to Committee on Rules & Administration on overall policies and procedures.

3. Kelly Riordan (Senator Mitchell) (4/1/93):

Arranged meet for April 8, 10:00 a.m., at Mitchell Russell Office.

5/3/93

Kelly spoke w/
Jack Smta
General Counsel,
Rules Committee.
in March

Call Nancy Jones

Other regulatory
Smta here

Debbie Jones

Which happens to
complaints?

Memorandum

Date: April 2, 1993

To: File

From: Alec Vachon

Re: Capitol Access/Senate Compliance with ADA

Senator Dole signed off on my participation in a decision memo yesterday.

Summary of past conversations:

1. Janet Dorsey (3/10/93):

1. Sergeant at Arms policy re reasonable accommodations & equipment; has ordered some assistive technology.
2. Architect's Office: Handles accessibility of Capitol building. Accessibility of office buildings left up to Leadership of each House.
3. Last meeting of Senate working group on accessibility last October.
4. Mark Buse (Senator McCain's Office, x4-2329); March 1992, McCain made floor statement on what needed to be done.

2. Kelly Riordan (Senator Mitchell) (3/22/92):

1. Offices involved: (1) Secretary of the Senate; (2) Architect, (3) Sergeant at Arms.
2. Office of Fair Employment Practices: Have prepared brochure.
3. Her priorities:
 - a. Physical accessibility.
 - b. Process for complaints
 - c. Provide guidance to Committee on Rules & Administration on overall policies and procedures.

3. Kelly Riordan (Senator Mitchell) (4/1/93):

Arranged meet for April 8, 10:00 a.m., at Mitchell Russell Office.

Alexander -
I see these as
some (but not
necessarily all) of
the fundamental
questions.
Kelly

ADA Senate Coverage

Defining extent of coverage

Should the Senate use as its model the businesses or local and state government something in between?

Is it necessary to differentiate between areas for public as opposed to staff? (priority on making public areas accessible - these are the most traveled areas. Also, I think the public v. staff areas came up as part of McCain's dispute with the Sergeant-at-Arms.)

Does the Senate have differing responsibilities in its roles as employer and public facility? If so, what are those differences and how do we meet those responsibilities?

How does the Senate resolve legitimate questions about whether structural accommodations jeopardize the historical integrity of the building? Who makes that determination and how do we ensure that those decisions are sound and not used as an excuse not to make necessary accommodations?

How does the Senate prioritize and set limits on what needs to be done or should be done? There will be monetary constraints on what can be done at any given time. Who makes the determination of what is reasonable? An individual office? Rules Committee? Administrative offices (Architect, Sergeant-at-Arms, Secretary of Senate)? Maybe a combination of these? (i.e. Make request to appropriate office with ability to appeal to Rules; or Rules works with offices each year to set priorities and budgets for ADA accessibility.)

Since this is an issue that Bobby has raised - to what extent is the Senate responsible for accessibility "off campus"? (Interpreters for hearing impaired employees, signers for town meetings, etc.)

Procedures for requesting and reviewing accessibility

How should accessibility requests be handled? Do we differentiate between public and staff requests?

How do we ensure that the comments of the disabled are taken into consideration, particularly the public who are less familiar with the Senate's administrative offices?

How do we ensure that Senate offices and employees are aware of services and accommodations available to the disabled?

ADA Senate Coverage Issues

Defining extent of coverage

Should the Senate use as its model the law as applied to businesses or local and state governments? Or do we define something in between?

Is it necessary to differentiate between areas and services that are for public as opposed to staff? (The Architect has placed priority on making public areas accessible on the grounds that these are the most traveled areas. Also, I think the issue of public v. staff areas came up as part of McCain's dispute with the Sergeant-at-Arms.)

Does the Senate have differing responsibilities in its roles as employer and public facility? If so, what are those differences and how do we meet those responsibilities?

How does the Senate resolve legitimate questions about whether structural accommodations jeopardize the historical integrity of the building? Who makes that determination and how do we ensure that those decisions are sound and not used as an excuse not to make necessary accommodations?

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United States Senate

WASHINGTON, DC 20510

March 20, 1992

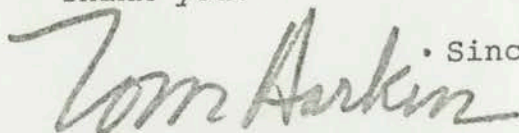
Hon. Martha S. Pope
Sergeant at Arms
S-321, The Capitol Building
United States Senate
Washington, D.C. 20510

Dear Ms. Pope:

Today, our respective staffs attended a meeting regarding congressional compliance with the Americans with Disabilities Act.

Please share with us any written reports, memos, or letters which you have prepared that describe the steps your office has taken or plans on taking in the near term regarding compliance with the ADA.

Thank you.



Sincerely,

Tom Harkin,
Co-Chair, Senate
Bipartisan Working
Group on Disability



Bob Dole
Co-Chair, Senate
Bipartisan Working
Group on Disability

United States Senate

WASHINGTON, DC 20510

March 20, 1992

Hon. Walter J. Stewart
Secretary of the Senate
S-208, The Capitol Building
United States Senate
Washington, D.C. 20510

Dear Mr. Stewart:

Today, our respective staffs attended a meeting regarding congressional compliance with the Americans with Disabilities Act.

Please share with us any written reports, memos, or letters which you have prepared that describe the steps your office has taken or plans on taking in the near term regarding compliance with the ADA.

Thank you.

Sincerely,



Tom Harkin,
Co-Chair, Senate
Bipartisan Working
Group on Disability



Bob Dole,
Co-Chair, Senate
Bipartisan Working
Group on Disability

United States Senate

WASHINGTON, DC 20510

March 20, 1992

Honorable George White
Architect of the Capital
SB-15, Capitol Building
Washington, D.C. 20510

Dear George:

Our respective staffs briefed us about the meeting you attended today regarding congressional compliance with the Americans with Disabilities Act.

Please send each of us a copy of the 1976 consultant report about accessibility you made reference to in the meeting. We would also appreciate receiving copies of the March 12, 1992 letter sent to Chairman Ford regarding congressional compliance with the ADA and any other letters, documents, and reports which describe the steps you have taken and plan on taking to ensure that the Congress is accessible to people with disabilities.

As you know, section 509 of the ADA directs you to develop remedies and procedures to be utilized with respect to the rights and protections regarding matters other than employment and instructs you to submit them to the Senate Committee on Rules and Administration. What is the status of these remedies and procedures?

We look forward to working with you in the future in our efforts to ensure full access to the Congress for people with disabilities.

• Sincerely,



Tom Harkin
Co-Chair, Senate
Bipartisan
Working Group on
Disability



Bob Dole
Co-Chair, Senate
Bipartisan
Working Group on
Disability

STATEMENT OF SENATOR ROBERT DOLE
ON INSTALLATION OF SENATE CLOSED CAPTIONED PROCEEDINGS
NOVEMBER 18, 1991

Mr. President: Congress has long recognized the importance of providing programs and services that enable people with disabilities to live lives of dignity and independence -- to take part in all that our society offers. Just a year ago Congress passed and the President signed into law the landmark Americans with Disabilities Act guaranteeing the inclusion of people with disabilities into the mainstream of American society.

As this country fulfills its promise to integrate Americans with disabilities into our towns and communities, it is essential that we realize the obstacles that exist toward that goal. Today I am pleased to join with my colleagues in providing access to our nation's democratic process. For too long proceedings in the U.S. Senate could only be seen or heard by people in this chamber. Hard to believe now, but as recently as 1984, television and radio coverage Senate action was not-existent. Today another barriers to full inclusion in to the democratic process by every American has been removed forever. I am proud to have sponsored S. Res 13 which mandated that Senate proceedings be closed captioned so that EVERY American will have the opportunity to take part in their democratic process. I believe that the more people who participate in our democracy, the stronger it becomes. No individual should be denied that right due to lack of access to the process. Our viewers may not always like what they see. But they will have the opportunity to judge for themselves whether they are being well-served by their elected leaders. It is time to extend that opportunity.

Mr. President, in addition to making Senate proceedings available to the approximately 29 million Americans who are hearing impaired, two million of whom are profoundly deaf these proceedings will also open new doors for those with learning disabilities, and those using english as a second language.

Studies have shown that captioning improves the vocabulary and comprehension of remedial readers. Additionally, those working with illiterate adults have found that captioning is effective in motivating adults to learn reading skills.

**TALKING POINTS FOR SENATOR DOLE
RECIPIENT OF NATIONAL BARRIER AWARENESS
FOUNDATION'S
CIRCLE OF HONOR AWARD
FUNDING PARTNERSHIP RECEPTION
U.S. CAPITOL, MANSFIELD ROOM, JULY 29, 1992**

*to
by*

RECEIPT OF CIRCLE OF HONOR AWARD

- IT IS A GREAT HONOR TO BE SELECTED FOR THE NATIONAL BARRIER AWARENESS FOUNDATION'S CIRCLE OF HONOR. I HAVE ALWAYS BELIEVED THAT IT IS NOT ONLY THE ARCHITECTURAL AND LEGAL BARRIERS THAT IMPEDE THE FULL INTEGRATION OF PEOPLE WITH DISABILITIES, BUT ATTITUDINAL BARRIERS AND STEREOTYPES HELD BY OTHERS IN OUR SOCIETY.
- I HAVE OFTEN SAID THAT THE ONLY REAL HANDICAP IS IGNORANCE AND THAT PUBLIC AWARENESS IS THE FIRST STEP TOWARD THE REMOVAL OF THOSE ATTITUDINAL BARRIERS WHICH ARE OFTEN MORE PERNICIOUS THAN THE BARRIERS WE CAN SEE AND TOUCH.

- **THE ADA, AND ESPECIALLY THE EMPLOYMENT PROVISIONS WHICH WENT INTO EFFECT THIS WEEK, WILL GO A LONG WAY IN HELPING US BREAK DOWN THE PHYSICAL, LEGAL, AND ARCHITECTURAL BARRIERS. IT IS THE ATTITUDINAL BARRIERS AND THE LACK OF KNOWLEDGE THAT WE HAVE TO KEEP HAMMERING AT....**

TRANSITION: FUNDING PARTNERSHIP

...AND IT IS GROUPS OF PEOPLE AND ORGANIZATIONS LIKE THE FUNDING PARTNERSHIP AND THE GRANTEES IT SUPPORTS THAT HELP SOCIETY ADDRESS THE SUBTLE PROBLEMS OF STEREOTYPING AND IGNORANCE.

FUNDING PARTNERSHIP

- **(TO GENERAL AUDIENCE) I'M VERY HAPPY TO SEE YOU ALL HERE TO HELP US CELEBRATE THE SECOND ANNIVERSARY OF THE ADA AND THE FIRST ROUND OF GRANTS OF THE FUNDING PARTNERSHIP. I KNOW THAT SOME OF YOU PARTICIPATED IN THE FIRST FUNDING**

PARTNERSHIP AS EITHER FUNDERS OR GRANTEES AND THAT OTHERS OF YOU ARE CONSIDERING JOINING THE PARTNERSHIP FOR ITS NEXT ROUND OF GRANTS IN 1993.

- **OUR MAIDEN VOYAGE WAS A REMARKABLE SUCCESS. AS PAUL SAID, PARTNERSHIP FUNDERS HAVE AWARDED OVER \$1.1 MILLION TO 35 COLLABORATIVE PROJECTS ACROSS THE COUNTRY. AS IMPORTANT AS THESE DIRECT GRANTS THEMSELVES, IS THE LEVERAGING POWER THEY GAVE TO THEIR RECIPIENTS--SO THAT THIS \$1.1 MILLION AWARDED BY THE PARTNERSHIP REALLY REPRESENTS MANY MILLIONS MORE THROUGH IN-KIND CONTRIBUTIONS AND LOCAL COMMITMENTS.**
- **WE'RE ALSO DRAWING A LOT MORE ATTENTION TO THE DISABILITY ISSUE FROM THE PRESS AND THE FOUNDATION AND CORPORATE COMMUNITIES. IN AN ERA WHEN COLLABORATION IS APPLAUDED AS ONE OF THE BEST WAYS TO ADDRESS COMPLEX ISSUES, THE**

**FUNDING PARTNERSHIP IS BEING HELD UP AS
AN EXAMPLE OF AN INNOVATIVE AND EFFICIENT
MECHANISM.**

- **ALL OF THIS HELPS TO BRING US INTO THE
MAINSTREAM OF THE FUNDING COMMUNITY,
WHICH IS WHERE WE--AND THE DISABILITY
ISSUE--BELONG.**

United States Senate

WASHINGTON, DC 20510

December 17, 1992

The Honorable Wendell Ford
Chairman
Committee on Rules and Administration
United States Senate
Washington, D.C. 20510

Dear Wendell:

As you may know, several Senators' offices have been requested to provide sign language interpreters for their deaf and hard of hearing constituents for official Senate business events in our states. Examples of such events would be for town meetings, press conferences, job interviews and many other official Senate functions.

Currently, the only available method for payment comes directly out of our office accounts. Right now, sign language interpreting within the Capitol complex is paid for by the Senate as a whole. We believe the same principle should apply when Senate business occurs in our states for equal access to all. We strongly believe that more Senators would use these services for their deaf and hard of hearing constituents if they were provided out of "general funding" by the Senate; thereby increasing access for more constituents to official Senate business in our states.

Thank you for your assistance.

Sincerely,


Tom Harkin
U. S. Senator


Paul Simon
U. S. Senator


Bob Dole
U. S. Senator

cc: Janet Dorsey, Senate Deputy Postmaster

NCI PRESENTS "WORDS FOR THE WORLD" AWARD
TO SENATOR DOLE

Washington, DC -- Bob Dole, U.S. Senator from Kansas, receives a "Words for the World" award from John E.D. Ball, President of the National Captioning Institute, in recognition of his leadership on the Americans with Disabilities Act, captioning of the Senate televised proceedings, and other legislation ensuring equal access for deaf and hard-of-hearing people.

- 30 -

NCI PRESENTS "WORDS FOR THE WORLD" AWARD
TO SENATOR DOLE

Washington, DC -- U.S. Senate Minority Leader Bob Dole (R-KS) received a "Words for the World" award from the National Captioning Institute (NCI) in recognition of his many legislative contributions to ensuring equal access for deaf and hard-of-hearing people. NCI captions programs ranging from "Sesame Street" to various news programs.

In presenting the award, John E.D. Ball, President of NCI, cited the Senator's "long-standing commitment to equal access for all disabled people. He is a strong and effective leader for hearing-impaired people in Congress who is always thinking about the next step needed to help improve opportunities and the quality of life for disabled people."

Dole was instrumental in securing passage of the Americans with Disabilities Act which guarantees that people with disabilities be provided with equal access to employment, communications, public transportation and accommodations. Dole authored the Air Carriers Access Act and the Employment Opportunities for Disabled Americans Act. He was a strong supporter of the Television Decoder Circuitry Act which requires that all televisions be manufactured with built-in decoder circuitry that will enable viewers to receive captions without additional equipment.

Because of Dole's influence, the Senate is now required to caption its televised floor proceedings. Captioned proceedings will begin in January 1992.

Speaking of the award, Ball said "we want to recognize those members of Congress without whom our cause would be years behind schedule. Senator Dole has been outspoken in recognizing the value in extending the captioning service for the benefit of all deaf and hard-of-hearing people."

NCI is a non-profit corporation created with the help of Congress in 1979. It introduced the national closed-captioning television service on March 16, 1980. For the first few years, it was the only closed-captioning organization providing captioning services to the television and home video industries. In its ten-year history, NCI has considerably expanded access to these entertainment media for deaf and hard-of-hearing people. Presently, NCI captions over 80% of all national captioned programming while at the same time handling the sole responsibility for decoder development, consumer research, public awareness efforts, and many other activities.

Headquartered in Falls Church, Virginia, it has offices in Hollywood and New York City. For more information, call NCI a 1-800-533-9673 (voice) and 1-800-321-8337 (TDD).

WALTER J. STEWART
SECRETARY

SUITE S-208
THE CAPITOL
WASHINGTON, DC 20510-7100
(202) 224-3622

United States Senate
OFFICE OF THE SECRETARY

March 23, 1992

The Honorable Bob Dole
The Honorable Tom Harkin
United States Senate
Washington, D.C. 20510

Dear Senators Dole and Harkin:

The Assistant Secretary attended the meeting chaired by Congressman Hoyer on March 20 along with two members of my staff who supervise offices which provide significant service to the public and the Senate community.

Section 509 of the law provides that the Legislative Branch must comply with the law in matters of employment and other than employment (physical and participatory access). Regarding employment, all job descriptions for positions within the Secretary's office have been rewritten following verbal guidelines received from the Office of Personnel Management. These job descriptions are currently undergoing legal review by counsel in my office.

Regarding physical and participatory access, my offices principle responsibility was to provide closed captioning of Senate Chamber proceedings. We began broadcasting closed captions of Senate proceedings November 18, 1991. Enclosed is a fact sheet about this service.

For those offices under my jurisdiction which exclusively serve the Senate community, our efforts have been focused on ensuring Senate staff have adequate access to information primarily through the installation of TDD services and providing documents in braille or large type. TVs with captioning chip technology have been ordered for selected offices, but have not been received from the manufacturer to date. Supervisors are encouraged to send staff to sign language training if possible.

The enclosed detailed summary of services currently available may be of interest.

Best Regards,

Joe Stewart
Walter J. Stewart

COMPLIANCE WITH THE AMERICANS WITH DISABILITY ACT

Legislative Offices:

The Senate switchboard provides TDD services for these offices. Very few Senate staff visit these offices, with the exception of the Office of the Official Reporters of Debates which is the only office which can comfortably accommodate a wheel chair. Staff have access to signers in the Office of Special Services should the need arise.

Administrative Offices:

Disbursing Office: The Senate switchboard provides TDD services. Because of severe crowding in the office, major renovation would be required to accommodate a Disbursing Office employee in a wheelchair. Other Senate employees in wheelchairs can be served in portions of the office easily accessible. Braille versions of brochures on health benefits, life insurance and retirement programs are available to the Disbursing Office through the Office of Personnel Management. Forms are not yet available in braille, but staff can fill out forms for those needing such assistance.

Stationery Room: One staff member is trained in sign language. Staff members assist those staff who cannot reach items on high shelves and those who cannot read price information. Merchandise is available for tactile inspection prior to purchase.

Office of Public Records: Physically and hearing impaired individuals presently are served with some assistance from staff. The visually impaired would have difficulty researching the databases themselves, but limited assistance could be provided by staff depending on the number of users of the office's services.

Document Room: Because of the number of requests for documents from the public, a TDD was installed several years ago. In addition, some staff members have been trained in sign language. Some documents are available in braille from the Library of Congress. We are exploring with the GPO the possibility of making documents available in ASCII format to facilitate faster production of braille versions of selected documents.

Senate Library: The Senate Library will be moved to a new site in the Dirksen Library. The Architect's staff will ensure compliance with ADA regarding the physical aspects of the new facility. We are exploring the possibility of establishing a network of volunteer readers from the Senate community who would be available to assist the visually impaired in the Library as

well as the Office of Public Records and the Document Room. We anticipate installing a large screen CRTs for the visually impaired, a TDD and a large screen microform reader/printer. Library staff will assist the physically impaired, but in general the collection stacks will be accessible to Library staff only.

Interparliamentary Services: While accommodations may be made for Members or staff traveling on official business, the level of assistance is directly dependent on the facilities available at the destination.

Commission on Art: The Commission has been working closely with the Office of Special Services to provide increased access to all exhibits in the Capitol, particularly emphasizing tactile exhibits. Staff will take any visually impaired visitor beyond the ropes in the Old Senate Chamber to touch items displayed there and will lift physically impaired visitors up the steps to enable them to fully view the Chamber. Staff have been sent to training sessions and workshops to learn about barriers to exhibits that prevent or discourage the disabled from participating.

Historical Office: The Historical Office, working with Special Services, has had several brochures and documents prepared in braille and large type. As additional materials are prepared, they too will be made available in multiple formats. In addition, Volume I of Senator Byrd's noted series on the Senate is available in taped or braille format from the Library of Congress.

Office of Senate Security: Requests for special services have not been received from those whose duties bring them into contact with this office, although it should be noted that classified material is not available in alternate formats.

BOB DOLE
KANSAS

~~Dole, Bob~~

Brotman, Judy

STANDING COMMITTEES
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
RULES

United States Senate

WASHINGTON, DC 20510

February 1, 1985

Mr. Larry Allison
Architectural & Transportation
Barriers Compliance Board
330 C Street, S.W.
Room 1010
Washington, D.C. 20202

Dear Larry:

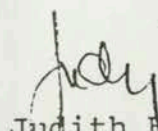
I'm enclosing a copy of the response that Senator Dole recently received from George M. White, Architect of the Capitol, regarding his inquiry into accessibility within the Capitol complex.

As you can see, he indicates that remodeling will be completed within the next three years. While the schedule has been somewhat slow, it appears that the end results will be consistent with ANSI and the needs of persons with disabilities.

Please let me know if you have any additional thoughts or guidance on this issue.

With best regards.

Sincerely,



Judith Brotman
Legislative Assistant to
Senator Bob Dole

Enclosure

United States Senate

WASHINGTON, D.C. 20510

December 4, 1984

Mr. George M. White
Architect of the Capitol
SB-15
Washington, D. C. 20510

Dear Mr. White:

It has recently been brought to my attention that in spite of the tremendous progress that has been made in making Senate Office Buildings and the Capitol itself accessible to handicapped persons, these buildings still are not fully accessible.

Very few of the rest rooms in either the Dirksen or the Russell Buildings are accessible--4 men's and 3 women's in the six floors of the Dirksen Building and 2 men's and 3 women's in the four floors of the Russell Building. Clearly there should be, at a minimum, one accessible rest room on each floor.

While I am aware that the Capitol itself and the two Senate Office Buildings referred to were built prior to the passage of the Architectural Barriers Act (1969), I would encourage that additional efforts be taken to bring the buildings into compliance with the Uniform Federal Accessibility Standards. Staff of the Architectural and Transportation Barriers Compliance Board would, I'm sure, be pleased to provide technical assistance in determining where additional effort is warranted.

The Capitol of the United States continues to represent Government of the people, by the people, and for the people to persons around the world. Every effort to make it fully accessible to all of America's citizens is surely in order.

Sincerely yours,


BOB DOLE
United States Senate

BD:jb



Washington, D.C. 20515

January 29, 1985

Handwritten signature: Judy

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, D. C. 20510

Dear Mr. Leader:

This will respond to your letter of December 4, 1984, suggesting the need for additional efforts to bring the Senate Office Buildings and the Capitol into compliance with the Uniform Federal Accessibility Standards.

As you may recall, this office commissioned a study in 1973 by Edward H. Noakes, architectural consultant, then Chairman of the President's Commission on the Handicapped, to survey all buildings on Capitol Hill, including the Capitol, House and Senate Office Buildings, the Library of Congress Buildings, the Botanic Garden and their surrounding grounds, to determine measures required to bring them in full compliance with the American National Standards Institute Standards 117.1. The latter standard was then the accepted guideline prior to issuance of the Architectural and Transportation Barriers Compliance Board's "Minimum Guidelines and Requirements for Accessible Design (36 CFR Part 1190) issued August 4, 1982, the present standard which we now follow.

As a result of the foregoing study, this office prepared cost estimates for implementation of the study recommendations and the Legislative Branch Appropriations Act, 1976, Public Law 94-59 (89 Stat 290), provided \$2,700,000 for this purpose, to remain available until expended. The project was planned to be undertaken in increments over a 15 year period, following an initial accomplishment of at least one barrier free restroom for each sex, telephone, drinking fountain, elevator, entrance door, etc., in each building. In the ensuing years a great many more facilities have been completed. The project is on schedule and is expected to be completed within three years, three years ahead of schedule. Approximately \$1.2 million remains available in the original appropriation, which is sufficient to complete the project.

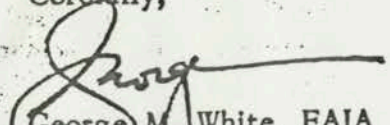
The Honorable Robert Dole
January 29, 1985
Page Two

Working drawings are currently in preparation for a number of facilities, including the completion of at least one accessible restroom for each sex on each floor where they do not already exist. We have in the past availed ourselves of valued technical assistance from the staff of the Architectural and Transportation Barriers Compliance Board and will continue to do so in the future.

Please be assured that I share your objective that all buildings on Capitol Hill be fully accessible to all of America's citizens and will continue to bend every effort toward that end.

I shall, of course, be pleased to assist you in any other way you may deem desirable.

Cordially,



George M. White, FAIA
Architect of the Capitol

Faxed

MEMORANDUM

Date: December , 1994
To: Sheila Burke
From: Alec Vachon *AV*
Re: LETTER TO GEORGE WHITE

- * As request, attached is a letter to George White. I expect White will have objections--we'll see. By way of history, Mo had worked on this matter (and others) without success, and was even unable to get a meeting with White.
- * BTW, a wheelchair has been requested opening day for Senator-Elect Frist's Dad, Dr. Thomas Frist--he is somewhat ambulatory, but needs assistance. Arrangements have been made for wheelchair access to the gallery. Reenactments for photos will be conducted as usual in the Old Senate Chamber --First could participate without a ramp but it would be an added convenience.
- * I will call you to follow up re approval of letter and next steps. Thanks.

December 29, 1994

The Honorable George M. White
Architect of the Capitol
U.S. Capitol
Washington, D.C. 20510

Dear George:

As you know, the Old Senate Chamber is inaccessible to people who use wheelchairs because of two short steps at the main entrance. It is my understanding that plans had been drawn up some time ago to remedy this situation, with due respect for the historical sensitivity of this room, but that these plans were never implemented. In my view, the Capitol Building itself is an important symbol of our open and representative government, and that it should be equally available to all Americans.

Pending a permanent alteration, I request that a temporary ramp be installed immediately, but in no case later than the opening of the 104th Congress on January 4, 1994.

In addition, I have asked a member of my staff, Dr. Alexander Vachon, to call you to follow up on this request and to arrange a meeting to review other outstanding accessibility issues. Although I am aware the Architect's office has been active in making the Capitol complex accessible since 1976, I believe a fresh review would be timely.

Thank you for your attention to this matter.

Sincerely,

BOB DOLE
United States Senate

The ADA Process

1. Senate offices who are seeking adaptive equipment for a present or future employee need to fill out a "Reasonable Accommodation Form" found at the Service Dept.
2. Once the form is filled, they need to send it to the SAA representative for ADA, Janet Dorsey, 224-9096.
3. If the request is for adaptive computer equipment, Janet will send the request to the SCC.
4. If the request is for equipment which is already approved, such as Zoomtext, the consultant can put in an order form for the product through normal channels. There is a commodity code for this product.

If the request is for a system such as Dragon Dictate, the SCC ADA rep. needs to contact the vendor and get a price for the product. An order form is then filled out and sent back to Janet Dorsey to be added to the SAA RCAN for ADA requests.

If the office is requesting help but no specific product is mentioned, and such a product is not found on the approval list, the SCC rep. will find the most appropriate equipment through contact with the GSA Clearinghouse or locate the equipment in the product literature found in the file folder for ADA. The requests which need equipment that has not been used in an office before need to be tested on the requesting office's standard configuration to determine if it is a sound system for the environment. Most of the requests such as this that come through are for stand-alone systems that will not need to be tested connected to a LAN.

5. Support - The SCC is responsible for installation of product, or coordination with the vendor to have them install, and all calls that come through concerning problems with an installed system. If the problem is not easily remedied, the vendor may be called in for support. INET does not work with ADA equipment. If you find the problem is not specifically with the ADA equipment, then INET can be called in.
6. The SCC ADA rep. may attend expositions on ADA equipment. The main expo being the Commerce Dept.'s yearly ACT (Accommodating Computer Technology). This usually occurs the first week in October and is very informative regarding what present government agencies are using for adaptive equipment.

Present approved equipment and vendor contacts:

Dragon Dictate System (mobility impairment technology)
ITG - Pat Zowalski 703-698-8282

Arkenstone (vision-impaired technology)
Arkenstone - Kathi Korpilinski 800-444-4443

Cintex II (mobility impairment technology)
Nanopac, Inc. - Silvio Cianfrone 918-665-0329

ZoomText (text enlargement software)
on approval list, consultant can order

Support Numbers:

GSA Clearinghouse on Computer Accommodation 202-501-4906

This resource will give tours as well as show you equipment which may suit the user's needs.
Call them with your user's diagnosis and they can recommend an appropriate product.

ADA Equipment presently in use:

1. Arkenstone Open Book Text Recognition System -- Designed for persons with visual impairments which affect reading. System scans in text and reads contents back through the PC.

Quantity = 2 Open Book System (one system is in the TR Lab)

Senator Chaffee Staffer with visual impairment is using the system to scan items such as the Congressional Record. Once scanned the product then reads the contents of the pages to the staffer. They then can convert the documents to WordPerfect format and save them on their personal computer.

2. Dragon Dictate, Version 2.0 (Dragon Systems, Inc.) -- Speech Recognition system which assists persons with mobility impairments. System is voice-activated and allows person to use their pc with "hands off" capability.

Quantity = 2 Dragon Dictate Systems (one system is in SCC Demo Center)

Senator McCain Staffer uses the system to access his pc through voice commands. The user accesses cc:Mail and WordPerfect through a microphone connected to the pc. The system has been trained to recognize his voice patterns and macros have been developed to condense steps such as printing to one or two word utterances (i.e. "Print Document = Shift f7, 1, enter key... in WordPerfect 5.1). This user is also using a system called:

3. Cintex II (Nanopac, Inc) -- this system is used in conjunction with the Dragon Dictate system. It is a voice-activated system which allows a user to control appliances, telephones... The system is used in Senator McCain's office to turn the staffer's TV on and off, and to dial a telephone by using speech (i.e. user says "Dial SCC" and phone is

automatically dialed using macros stored in the system).

4. ZoomText (Ai Squared, Inc.) -- PC compatible Magnification software. Enlarges text up to 16 times it's normal size.

Quantity = 1 software set

Presently being used in a few offices to assist users with problems concerning their vision. The software is run on both DOS and Windows PCs and allows text on the screen to be enlarged to up to 16 times it's normal size.

5. EZ Clean Magnifier (Less Gaus, Inc.) -- Magnification screen used to magnify computer screen up to 4 times it's normal size.

This screen is presently being used by a remote user of Senator Mikulski's office. This user accesses the mainframe services and CSS system so the DOS Zoomtext product did not work for them. The software solution did not work in their environment due to memory restrictions. The hardware alternative has worked well for the individual.

6. Comfort Keyboard System (Healthcare Keyboard Corp.) -- Ergonomically designed keyboard which is separated into 3 adaptable parts. These parts can be lowered, raised or tilted to best fit the users needs. These systems were specifically designed for persons with Carpal Tunnel Syndrome.

Quantity = 3 systems

Two systems are presently being used in the Senate offices for staffers who have been diagnosed with Carpal Tunnel.

Relay Telecommunications Service Directory

(Compiled by TDI)

The following are relay services that are available 24-hours/day, 7-days/week and 365 days/year. Please immediately inform Telecommunication for the Deaf, Inc. (TDI) at 301-569-3006/TTY, or 301-569-3707/FAX, of any additions, deletions, or corrections.

Statewide			
Alabama	800-548-2546 800-548-2547/V	Maine	800-437-1220 800-457-1220/V
Alaska	800-770-8973 800-770-8255/V	Maryland	*800-735-2258
Arizona	800-367-8939 800-842-4681/V	Massachusetts	*800-439-2370
Arkansas	800-285-1131 800-285-1121/V	Michigan	*800-649-3777
California	800-735-2929 800-735-2922/V	Minnesota	*800-627-3529 *612-297-5353
Colorado	800-659-2656 800-659-3656/V 800-659-4656/C	Mnpls-St. Paul	
Connecticut	800-842-9710 800-833-8134/V	Mississippi	*800-582-2233
Delaware	800-232-5460 800-232-5470/V	Missouri	800-735-2966 800-735-2466/V
District of Columbia	202-855-1234 202-855-1000/V	Montana	800-253-4091 800-253-4093/V
Florida	800-955-8771 800-955-8770/V	Nebraska	800-833-7352 800-833-0920/V
Georgia	800-255-0056 800-255-0135/V	Nevada	800-326-6868 800-326-6888/V
Hawaii	711 511/V 808-643-8833 808-546-2565/V	New Hampshire	*800-735-2964
Idaho	800-377-3529 800-377-1363/V	New Jersey	800-852-7899 800-852-7897/V
Illinois	800-526-0844 800-526-0857/V	New Mexico	800-659-8331 800-659-1779/V
Indiana	*800-743-3333	New York	800-662-1220 800-421-1220/V
Iowa	800-735-2942 800-735-2943/V	North Carolina	800-735-2962 800-735-8262/V
Kansas	*800-766-3777	North Dakota	800-366-6888 800-366-6889/V
Kentucky	800-648-6056 800-648-6057/V	Ohio	*800-750-0750
Louisiana	800-846-5277 800-947-5277/V	Oklahoma	*800-722-0353/N *800-522-8506/S
		Oregon	*800-735-2900
		Pennsylvania	800-654-5984 800-654-5988/V
		Puerto Rico	800-240-2050 800-260-2050/V 800-208-2828/LD 800-290-2828/V/LD
		Rhode Island	*800-745-5555
		South Carolina	*800-735-2905
		South Dakota	*800-877-1113
		Tennessee	800-848-0298 800-848-0299/V
		Texas	800-735-2989 800-735-2988/V 800-735-2991/C
		Utah	*800-346-4128 *801-298-9484 *801-546-2982 *801-752-9596 *801-374-2504
		Salt Lake Ogden Logan Provo-Orem	
		Vermont	800-253-0191 800-253-0195/V
		Virgin Islands	800-440-8477 800-809-8477/V
		Virginia	800-828-1120 800-828-1140/V
		Washington	800-833-6388 800-833-6384/V 800-833-6385/B
		West Virginia	800-982-8771 800-982-8772/V
		Wisconsin	*800-947-3529
		Wyoming	800-877-9965 800-877-9975/V

Nationwide Long Distance Relay Services

AT&T	800-855-2880 800-855-2881/V 800-855-2882/C 800-855-2883/B
MCI	800-688-4889 800-947-8642/V
Sprint	*800-877-8973

*=Voice & TTY B=Braille C=Computer V=Voice Only Blank=TTY LD=Long Distance

Classified

* denotes the

Ac

David Thomas Agro, Certified P
Income Tax Returns - Feder
7813 Carroll Avenue
Takoma Park, Maryland 2091
***Income Tax Service for the De**
"24 Years Experience - Spo
814 Thayer Avenue, Suite 30
Silver Spring, Maryland 2091

***Metropolitan Washington Tele**
Directory for the Deaf (MW
814 Thayer Avenue, Suite #3
Silver Spring, Maryland 2091

The Warner Companies
We do it right the first time
12716 Lee Highway
Fairfax, Virginia 22030
The Warner Companies
We do it right the first time
6102 Livingston Road
Oxon Hill, Maryland 20745

Baltimore/Washington Interna
BWI - Easy Come, Easy Go
P.O. Box 8766
BWI Airport, Maryland 21241

Cider Mill Apartments
The Easy Life
18201 Lost Knife Circle
Gaithersburg, Maryland 208

MICHAEL DAVIDSON
COUNSEL

KEN V. BENJAMIN, JR.
DEPUTY COUNSEL

MORGAN J. FRANKEL
CLAIRE M. SYLVIA
ASSISTANT COUNSEL

United States Senate

OFFICE OF SENATE LEGAL COUNSEL
WASHINGTON, DC 20510-7250

MEMORANDUM

To: The Honorable George J. Mitchell
The Honorable Robert Dole ✓

From: Michael Davidson *MD*

Re: The Application of the Americans with Disabilities Act
of 1990 to the Senate

Date: July 9, 1990

Section 509(a)(1) of the Americans with Disabilities Act of 1990 ("ADA"), as agreed to by the conferees, would provide (with emphasis added) that "[n]otwithstanding any other provision of this Act or of law, the provisions of this Act shall apply in their entirety to the Senate, except as provided in paragraph (2)." H. Conf. Rep. No. 101-558, at 49. Paragraph (2) provides that "[a]uthorities granted under this Act to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation shall be exercised by the Senate." Id.

At Senator Dole's request, I have prepared a memorandum to describe the application to the Senate of the enforcement provisions of the ADA. The memorandum does not address the significant policy questions that would be associated with any proposal to establish a procedure for judicial redress for discrimination in employment within the Congress, but seeks to describe the enforcement procedures that the ADA, as presently drafted, would create, and to identify several implications of those procedures.

Title I -- Employment

Title I of the ADA prohibits, with respect to qualified individuals with disabilities, discrimination because of their disabilities in job application procedures, hiring, advancement, compensation, job training, other terms or conditions of employment, and discharge. Although section 101(5)(B) provides that the United States is not a covered employer within the meaning of the ADA (executive branch employment is covered by another act, the Rehabilitation Act of 1973, as amended), the Senate would be covered by virtue of the "in their entirety" provision of section 509(a)(1) of the ADA.

The Honorable George J. Mitchell
The Honorable Robert Dole
July 9, 1990
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Section 107 governs enforcement of the employment discrimination provisions of Title I of the ADA: "The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability...." In accordance with section 509(a)(2) of the ADA, all references to the Commission and to the Attorney General are deemed to be references to the Senate.

Omitting some detail, the incorporation of the powers, remedies, and procedures of the Civil Rights Act would establish the following general scheme. An individual claiming employment discrimination within the Senate on the basis of disability would file a charge with the Senate. 42 U.S.C. 2000e-5(b). The charge must be filed within 180 days of the alleged unlawful act. 42 U.S.C. 2000e-5(e). Presumably, the Senate would designate a committee to receive charges; discrimination on the basis of "state of physical handicap" is already barred by Senate Standing Rule XLII, which was adopted as part of the Senate Code of Official Conduct, enforcement of which is within the jurisdiction of the Select Committee on Ethics.

Applying 42 U.S.C. 2000e-5(b) literally, the committee would serve notice on the employer (a senator for his or her personal staff or a committee chair for his or her committee staff) and conduct an investigation. After the investigation, the committee should dismiss the charge if it determines that there is not reasonable cause to believe that the charge is true. If the committee determines that there is reasonable cause to believe that the charge is true, it should attempt to eliminate the unlawful practice "by informal methods of conference, conciliation, and persuasion." If the committee dismisses the charge, or if within 180 days the committee has not entered into a conciliation agreement, the committee is to notify the complainant of his or her right to sue; the complainant may then file suit within 90 days. 42 U.S.C. 2000e-5(f).

The complainant may sue in the federal judicial district in which the discrimination allegedly occurred, or in the judicial district in which the complainant would have worked. 42 U.S.C. 2000e-5(f)(3). The court may appoint an attorney for the complainant "in such circumstances as the court may deem just." 42 U.S.C. 2000e-5(f)(1). If the requirements of Rule 23 of the Federal Rules of Civil Procedure are met, the case may be maintained as a class action. Broad

The Honorable George J. Mitchell
The Honorable Robert Dole
July 9, 1990
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discovery against the Senate defendant under the Federal Rules would be permitted, including discovery of information about the comparative treatment of other employees. See University of Pennsylvania v. Equal Employment Opportunity Commission, 110 S.Ct. 577 (1990) (allegation of gender discrimination; discovery permitted into personnel files of other faculty members who allegedly received more favorable treatment).

If the court finds intentional discrimination, the court may order the hiring or reinstatement of the complainant and back pay for up to two years preceding the filing of the charge with the Senate. The court may also enjoin the Senate defendant from engaging in the unlawful practice "and order such affirmative action as may be appropriate." 42 U.S.C. 2000e-5(g). Under this authority the courts have ordered the implementation of hiring ratios and goals to remedy the continuing effects of patterns of persistent discrimination. Also, if the complainant prevails, he or she would be entitled to "a reasonable attorney's fee as part of the costs." 42 U.S.C. 2000e-5(k).

In addition to the intended consequences of the inclusion of the Senate within Title I of the ADA, there may be unintended consequences. As recounted above, section 509(a)(2) of the ADA provides that authorities granted under the Act to the EEOC and the Attorney General shall be exercised by the Senate. Because Title VII authorizes the EEOC and the Attorney General to bring actions against covered employers, 42 U.S.C. 2000e-5(f) and 2000e-6, the substitution of the Senate for the EEOC and the Attorney General theoretically would authorize the Senate to bring actions against its own members.

Title II -- Public Services

Title III -- Public Accommodations and Services
Operated by Private Entities

Subtitle A of Title II of the ADA prohibits, in section 202, discrimination with respect to "the benefits of the services, programs, or activities of a public entity." Title III prohibits, in section 302, discrimination "in the full and equal enjoyment of ... any place of public accommodation." Under section 301 among the private entities that are considered public accommodations are restaurants, auditoriums and other places of public gathering, and museums and other places of public display or collection. Section 509(a)(1) makes the provisions of the ADA applicable to the Senate "in their entirety." Consequently, the Capitol, the grounds, and the Senate buildings, to the extent that they are open to the public, are covered by Titles II and III of the ADA.

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The Honorable Robert Dole
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The ADA has been structured so that each of these substantive titles has its own enforcement mechanism. In regard to subtitle A of Title II, enforcement is under section 505 of the Rehabilitation Act of 1973, 29 U.S.C. 794a. The intention appears to be to make available to persons subject to discrimination on the basis of disabilities, with respect to their access to public facilities, the private right of action which the courts have recognized under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. In regard to Title III, enforcement is under yet another provision of the Civil Rights Act of 1964 (section 204, codified at 42 U.S.C. 2000a-3) which provides for injunctive relief and attorney's fees. Section 308(a)(2) of the ADA provides that "injunctive relief shall include an order to alter facilities to make such facilities readily accessible."

* * * * *

Three features of the procedural mechanisms established by the ADA, through the Act's incorporation of procedures under the Civil Rights Act, warrant, I believe, particular consideration.

First, in Davis v. Passman, the Supreme Court held that a cause of action for gender discrimination may be asserted under the equal protection component of the due process clause. Representative Passman, who had employed Ms. Davis as a deputy administrative assistant for several months in 1974, terminated her employment with a letter that said "that it was essential that the understudy to my Administrative Assistant be a man." 442 U.S. 228, 230 (1979). The Court concluded that a damages remedy was appropriate, as "[r]elief in damages would be judicially manageable, for the case presents a focused remedial issue without difficult questions of valuation or causation." Id. at 245. Under the ADA, the courts would have the power also to order injunctive relief, including, pursuant to 42 U.S.C. 2000e-5(g), "such affirmative action as may be appropriate," which might include affirmative (perhaps Senate-wide) relief in class actions. Thus, the role for the courts under the ADA could be far broader with regard to the Senate than the possible relief in Davis v. Passman might have been.

Second, broad civil discovery would be available in enforcement actions under the ADA. In Davis v. Passman, the fact of discrimination was demonstrated by Representative Passman's letter to Ms. Davis. Ordinarily, however, discovery would be required to compare the treatment of employees of a favored and disfavored group. That discovery might result in a degree of judicial compulsion to disclose congressional information that is without precedent.

Honorable George J. Mitchell
Honorable Robert Dole
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Third, Title VII of the Civil Rights Act of 1964, the enforcement procedures for which are incorporated into Title I of the ADA, assigns a limited role to the Equal Employment Opportunity Commission prior to the commencement of litigation. The EEOC may investigate a complaint, and it may endeavor to eliminate unlawful practices by informal methods of conference, conciliation, and persuasion. The EEOC may not order compliance, but may commence a civil action to attain compliance. In providing that a complainant may bring a civil action if EEOC has not resolved a complaint within 180 days, the Congress concluded that six months is a sufficient period for EEOC to complete its pre-litigation functions.

Under the ADA, the Senate would have the powers of the EEOC. Within the Senate, the Ethics Committee already has authority concerning discrimination. But the authority and ultimate purpose of the Ethics Committee differ fundamentally from that of the EEOC. Rule XLII of the Standing Rules, on discrimination, was adopted as part of the Senate Code of Official Conduct. The Senate investigates complaints of discrimination in order to determine whether redress for complainants is warranted, but also to determine whether members or officers have violated an accepted standard of conduct. The procedural constraints of Title VII are ill-suited to the Ethics Committee, which must do more than conciliate, but must also determine whether discipline is warranted.

United States Senate

WASHINGTON, DC 20510

July 12, 1993

TO: Senate Managers
FR: Senate Seminar Program
RE: ADA Awareness Training

In an effort to develop an appropriate awareness training session on the Americans with Disabilities Act, we would like your input on relevant issues to be addressed in future programs. Please assist us by taking a few moments to complete this survey.

Please circle the issues related to the ADA that you would like to see explored in additional awareness programs.

- ① How is a disability defined by ADA
- ② How to handle an employee who develops a disability
- ③ Interviewing
- ④ Reasonable Accommodation:
Who provides it?
What is considered reasonable?
- ⑤ Reassignment or firing disabled employees who can no longer perform the job, even after reasonable accommodation is made
- ⑥ Safety Issues with regard to disabled employees

Additional comments or suggestions:

Also would include history of "disability rights" (accessibility and accommodations) to give context and rationale for ADA.
See attached list.

Thank you for your assistance. Please return completed surveys to the Senate Seminar Program in SH-142A.

7/15/93

The proposed topics all relate to employment of people with disabilities by Senate offices. In addition, following information would also be useful to Senate offices:

1. Services available to disabled visitors to the Capitol (e.g., requesting accessible tours run by Congressional Special Services Office).
2. Services available to a Senate office re disabled constituents (e.g., braille letters, TDDs, sign language interpreters, etc.).
3. Procedures for visitors to register comments/complaints about Capitol accessibility.
4. Briefing on Senate plans to meet ADA Sec. 509(a) requirements (e.g., long-range plan to make Capitol barrier free, wheelchair access on new subway, etc.)

BOB DOLE
KANSAS
141 SENATE HART BUILDING
(202) 224-6521

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
RULES

United States Senate

WASHINGTON, DC 20510-1601

December 29, 1994

The Honorable George M. White
Architect of the Capitol
U.S. Capitol
Washington, D.C. 20510

Dear George:

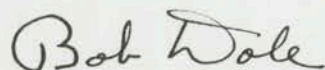
As you know, the Old Senate Chamber is inaccessible to people who use wheelchairs because of two short steps at the main entrance. It is my understanding that plans had been drawn up some time ago to remedy this situation, with due respect for the historical sensitivity of this room, but that these plans were never implemented. In my view, the Capitol Building itself is an important symbol of our open and representative government, and that it should be equally available to all Americans.

Pending a permanent alteration, I request that a temporary ramp be installed immediately, but in no case later than the opening of the 104th Congress on January 4, 1994.

In addition, I have asked a member of my staff, Dr. Alexander Vachon, to call you to follow up on this request and to arrange a meeting to review other outstanding accessibility issues. Although I am aware the Architect's office has been active in making the Capitol complex accessible since 1976, I believe a fresh review would be timely.

Thank you for your attention to this matter.

Sincerely,



BOB DOLE
United States Senate

JAMES E. ELLISON, FAIA

1.3.95

Dr Vachon.

I look forward to our
meeting Fri. 6 Jan, 2 pm,
your office.

J-E



JAMES E. ELLISON, FAIA
ASSISTANT TO THE ASSISTANT ARCHITECT
OFFICE OF THE ARCHITECT OF THE CAPITOL
WASHINGTON, D.C. 20515
202-228-0550 TEL/FAX 202-228-1893



**STATUS REPORT
ADA ACCESSIBILITY PROGRAM
OFFICE OF THE ARCHITECT OF THE CAPITOL
December 1994**

Following passage of the Americans with Disabilities Act of 1990, the new ADA Accessibility Program was established to eliminate physical barriers throughout the Capitol Complex. Features of the program include:

- the continuation of building renovations, both large and small, designed in compliance with the new ADA guidelines by key staff architects and engineers, and constructed by in-house forces and external contractors under the direction of the AOC superintendents and supervising engineers;
- detailed surveys of public and restricted spaces in and around all buildings in the Complex to identify additional accessibility problems and costs associated with correcting these problems;
- the establishment of a computerized database and link to the AOC Computer-aided Design (CAD) system to enable the AOC to assess and prioritize the problems and to manage the program of making the Complex accessible over the next several years; and
- the training of a range of AOC staff members to enable the AOC to conduct the building surveys, design the needed building modifications and manage the related construction.

The original effort to eliminate architectural barriers, approved and funded by the Congress, began in the late 1970s and continued into the 1990s. As a function of the new ADA effort, the U.S. Capitol was surveyed. The raw data collected during this survey provided evidence of 2,053 locations where accessibility could be improved in the 532 public and restricted spaces in and around the Capitol that were surveyed, and an estimated cost of nearly \$4.5 million to complete all related building modifications.

The data has been analyzed to determine relative priorities among accessibility problems that should be addressed but cannot be within the scope of annual or cyclical maintenance or separately-approved special projects such as the Elevator Modernization Program. These priorities are being applied

STATUS REPORT: ADA ACCESSIBILITY PROGRAM
OFFICE OF THE ARCHITECT OF THE CAPITOL
DECEMBER 1994

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not only to the scheduling of ADA building modifications to the Capitol, but to the scheduling of additional focused surveys in the other buildings in the Complex that are resulting in the identification of accessibility problems in those buildings that deserve the most immediate attention.

In Fiscal Year 1994 a sum in excess of \$2.9 million was requested to begin ADA-related building modifications based upon an extrapolation of cost data from the survey of the U.S. Capitol and an assumption that the program would be funded over a seven year period with a constant annual appropriation. The sum of \$950,000 was appropriated on a "No Year" basis as follows:

	REQUESTED	APPROPRIATED
Capitol Building	\$ 500,000	\$ 300,000
Senate Office Buildings	700,000	0
House Office Buildings	900,000	400,000
Library of Congress Buildings	750,000	200,000
Capitol Grounds	50,000	25,000
Supreme Court	25,000	25,000
Total	\$ 2,925,000	\$ 950,000

The same levels of funding provided for FY 1994 were requested in the budget base on a "No Year" basis for FY 1995 with the addition of \$300,000 for the Senate Office Buildings. This funding was approved and it is anticipated that at these annual funding levels, ADA improvements will continue throughout the Complex for a period of between seven and ten years.

The present funding is being committed to specific design and construction projects that reflect the following priorities that are generally compatible with priorities established by the ADA:

- Building entrances
- Public toilet rooms (water closets, toilet stalls, urinals, lavatories and mirrors, etc.)
- Interior paths of travel to most essential public areas and services (ramps, stairs, platform lifts, elevators, protruding objects, ground and floor surfaces, signage, doors and doorways, alarms, etc.)

- Exterior paths of travel to buildings from public transportation stops, parking and passenger loading zones, and public streets (curb ramps, cross walks, walks, ramps, stairs, platform lifts, ground surfaces, signage, etc.)
- Public telephones
- Cafeterias and food service areas
- Post offices and credit unions
- Public assembly areas
- Other interior paths of travel
- Other service areas
- All other areas

Work has been underway since the beginning of Fiscal Year 1994 to complete construction of a variety of renovation projects that comply with ADA guidelines, to identify additional accessibility problems that are deemed the highest priority, and to produce credible designs to solve these problems. Related studies and cost estimates have been completed, and construction of an additional number of building modifications has begun.

In addition to priority projects -- all of which address problems in public and restricted spaces -- funds continue to be committed to the design and construction of building modifications intended to relieve accessibility problems identified from time to time by individual Members and staff, consistent with the long-term policy of the Architect of the Capitol. Numerous such problems have been addressed and solved during the past five years.

PRIORITY PROJECTS BY BUILDING/COMPLEX

U.S. Capitol

The U.S. Capitol Terrace Restoration and Courtyard Project was completed in 1993. It provided major ADA-compliant improvements to the building and terrace, including wheelchair ramps integrated sensitively in the North and South Porticoes leading from street level to the first floor and at the lower levels of the West Terrace, and fully accessible public and private toilet rooms, meeting rooms and offices in the new Courtyard Infills on the Terrace Level.

Priority work during Fiscal Years 1994 and 1995 is being directed toward ADA citations in public spaces, involving basic access to the Capitol and access to goods and services in the Capitol. Among the problems being corrected are building entrances, obstacles in principal routes of travel and the configuration of sales and service counters. At present, a fully accessible door configuration and information desk have been planned and partially implemented at the North Portico entrance (Senate Side). ADA-compliant telephone booths have been provided in public spaces and the press galleries. The new cafeteria serving line in the House Carry-out, the House Credit Union and the new women's toilet room near the Senate Chamber have been designed to satisfy ADA guidelines.

Entrance and vestibule details have been designed for two additional public entrances to the Capitol -- the Document and Law Library Doors. However, these will not be implemented immediately, as a new design for a prospective Capitol Visitor Center would eliminate the need. (Funding has been provided for the design but not the construction of the Capitol Visitor Center. The total design will meet ADA requirements and guidelines. Should the center be constructed in the near future, a wider range of fully accessible facilities and services will be made available to the visiting public than is presently possible.)

Work is being continued in public toilet rooms. At present, the Capitol has four women's and four men's accessible toilet rooms located on the first floor (the principal public floor) and on the Terrace Level as previously described.

Senate Office Buildings

Subject to the availability of funds, priority work during Fiscal Year 1995 will be directed toward building entrances, paths of travel through the buildings, parking garages and toilet rooms. The presently designated "accessible" entrances to the Dirksen and Russell Senate Office Buildings are not sufficient to meet the standards of the ADA and will require modification. In addition, a study will be undertaken to determine the feasibility of modifying the Constitution Avenue and First Street, N.E., entrances to the Dirksen and Russell. As priorities are set following the accessibility surveys of the Senate Office Buildings, it may be determined that the configuration of sales and service counters in the cafeterias, coffee shops, etc., will receive attention in Fiscal Year 1995.

At present, the post offices in the Russell and Dirksen have been renovated, as have the coffee shop and new women's health suite in the Russell. A significant new design for the Senate Library in the Dirksen is underway and it is compliant with ADA.

Work will be continued in public toilet rooms in all three buildings. At present, the Hart Senate Office Building has 10 accessible public toilet rooms located on floors 1 through 9. The Russell has 5 located on the 1st and third floors and the Dirksen has 9 located on the basement, 1st, 2nd and 4th floors. This office is presently preparing for two major plumbing renovation projects in the Hart and Russell that will result in up to 16 new ADA-compliant public toilet rooms in the former and up to 26 in the latter.

House Office Buildings

Priority work during Fiscal Years 1994 and 1995 is being directed toward building entrances, paths of travel through the buildings, parking garages and toilet rooms. The presently designated "accessible" entrances to most of the House Office Buildings are not sufficient to meet the standards of the ADA and require modification, including the addition of vestibules in some instances. Also, the possible addition of accessibility ramps or lifts to the C Street, S.E., entrances to the Longworth and Cannon is being studied to accommodate Metro Subway users. Modifications to the entrance of the O'Neill are being completed at this time. As additional priorities are set following further targeted surveys of the House Office Buildings, it may be determined that the configuration of sales and service counters in the cafeterias, coffee shops, post offices, etc., will receive attention in Fiscal Year 1995. At present, credit union facilities in the Longworth and Rayburn have been modified and are now ADA-compliant.

Work is being continued in toilet rooms. At present, the Rayburn House Office Building has 22 accessible public toilet rooms located on the Basement through 4th floors. The Cannon has 10 located on the 1st through 4th floors and the Longworth has 7 located on the Basement, 1st, 3rd and 5th floors. A tier of women's toilet rooms is being modified in the Cannon and men's and women's toilet rooms are being modified in the Longworth. Planning is underway for the addition of two new elevator towers in the courtyard of the Longworth. Space will be provided in this significant project for new ADA-compliant toilet rooms on each floor of the building.

Remainder of Capitol Complex

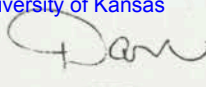
The same level of attention to ADA regulations and guidelines is being given in the remainder of the Capitol Complex, subject to the availability of funds. New facilities, including the Senate Page facilities at Webster Hall and the Special Facilities Center of the Library of Congress, are being designed to be compliant with the ADA. Also, all major renovation projects with independent funding are being undertaken with full consideration of the ADA. For example, although funds were not provided for the Senate Office Buildings in Fiscal Year 1994, substantial plumbing renovation projects were being planned in the Russell and the Hart that will result in a number of ADA-compliant toilet rooms, as previously noted.

Other projects that will relieve accessibility problems are underway or completed, supported by non-ADA funds. Perhaps the single largest such program is the multi-year elevator and escalator modernization program that began in 1987 and will continue to 2002. Within the program, approximately 100 elevators in the Capitol Complex will be modernized in compliance with ADA. The total cost of the program will be over \$30 million.

Priorities for work to be accomplished in the Library of Congress Buildings (principally in the Madison) are being determined in cooperation with the Library's own ADA staff task force. This includes an investigation of the entrance to the Madison at 1st and C Streets, S.E., across from the Metro Subway. A multiple-year restoration and renovation project in the Jefferson and Adams has just been completed, and within the constraints of historic preservation, both buildings are now ADA-compliant.

On the Capitol Grounds, the construction of new curb-cuts and the repair of existing ones are being completed. A new study of directional signage needs for the Capitol Complex is underway. The signage will provide direction to accessible entrances to all buildings and will be ADA-compliant.

Finally, priorities for work to be accomplished in the Supreme Court are being determined in cooperation with the Court's own ADA staff task force. Permanent ramps to accommodate the disabled have already been integrated into the major terrace renovation project at the Court, allowing full access from street level to the terrace and on up to the first floor level. At present, improvements to the Men's and Women's Public Toilet Rooms on the Ground Floor have been completed, and a private toilet room on the 2nd floor has been subdivided in conformance with ADA.



PHONE:
202-224-2341

MARTHA S. POPE
SERGEANT AT ARMS

United States Senate

OFFICE OF THE SERGEANT AT ARMS

ROOM S-321, THE CAPITOL BUILDING

WASHINGTON, DC 20510

January 5, 1994

Ms. Ruth Ann Komarek
Hon. Robert Dole
United States Senate
Washington, D.C.

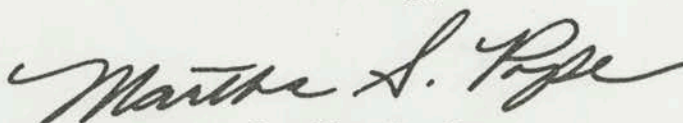
Dear Ms. Komarek:

Enclosed are policies and procedures to respond to requests under the jurisdiction of the Sergeant at Arms for "Reasonable Accommodation" in accordance with the Americans With Disabilities Act (ADA). These policies were developed in coordination with the Committee on Rules and Administration.

A "Reasonable Accommodation Request Form" is available for use in making such requests. These forms may be obtained from the Service Department.

Please contact Janet Dorsey at 224-9096 if you have any questions.

Sincerely,



Martha S. Pope
Sergeant at Arms

MSP:jld
Enclosure

SERVICES PROVIDED BY THE SERGEANT AT ARMS UNDER THE AMERICANS WITH DISABILITIES ACT

POLICY

The Americans with Disabilities Act prohibits employers from discriminating against a "qualified individual with a disability" with respect to job application procedures, hiring, advancement, discharge, compensation, training and other terms, conditions and privileges of employment. To be protected under this law, an individual must have a physical or mental impairment that substantially limits one or more of his/her major life activities, or the individual must have a record of or be regarded as having such an impairment. In addition, the individual must meet the skill, experience, education and other job related requirements of the position he/she has or desires, and must be able to perform the essential functions of the job either with or without reasonable accommodation.

It is the responsibility of each Senate and Committee Office to determine how it will comply with the Americans with Disabilities Act. Each office must institute its own procedures necessary to insure the rights and protection provided by this Act.

Purchase of equipment or modifications to existing equipment may be an effective and reasonable accommodation for people with many types of disabilities. In order to assist the Senate and Committee Offices where they have determined that reasonable accommodation is necessary for a qualified individual with a disability, the Sergeant at Arms has made certain services available.

In the information that follows, there are three categories of material. First, there is basic guidance on the procedures offices should follow in order to request accommodation services from the Senate Sergeant at Arms. Second, there is a brief description of the education and training available to offices through the Senate Sergeant at Arms. Finally, there is basic guidance on the medical documentation that offices may require from individuals who are seeking to substantiate a disability for which they are requesting reasonable accommodation. This documentation is not necessary where the need is obvious or there is no question about the need for the accommodation.

PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION SERVICES FROM THE SERGEANT AT ARMS

The following describes the procedures for requesting assistive devices provided by the Senate Sergeant at Arms (SAA) where the office has determined that reasonable accommodation is necessary

1. Complete the "Reasonable Accommodation Request Form". Copies of this form may be obtained from the Service Department.
 - a. Part I should be completed by the employee/applicant. (In Question 2. Type of Disability, there is a note that medical documentation may be required. The last section of this document provides guidance on documentation that may be needed to substantiate that an individual is disabled and to support his/her request for reasonable accommodation.)
 - b. Part II should be completed by the employing office.
2. Return completed form to the Office of the Sergeant at Arms, S-321 Capitol.
3. The Sergeant at Arms will notify the office in writing if services or assistive devices are currently available.
4. If the services or devices are non-standard equipment, or are not currently available through the Sergeant At Arms, the office should prepare a letter to the Chairman of the Committee on Rules and Administration with a copy to the Sergeant at Arms requesting approval of non-standard items. This letter should include the following:
 - a. Office recommendation; and
 - b. Cost and sources of available funding, (i.e.: state rehabilitation, office funds, special funds, etc.)

The Committee on Rules and Administration may, in order to make a final determination, convene representatives from the requesting office and the Sergeant at Arms to review the request. The requesting office will be notified immediately of the decision of the Committee on Rules and Administration.

PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION SERVICES FROM THE ARCHITECT OF THE CAPITOL

The Architect of the Capitol should be contacted by the Senate Office to request any accommodation that involves a physical barrier (i.e., restroom entrances, curb cuts, etc.) or any other structural barrier that falls under the Architect's jurisdiction.

EDUCATION AND TRAINING

The Sergeant at Arms will provide information and training for Senate staff on procedures for meeting reasonable accommodations for persons with disabilities. This will be provided in the following ways:

1. Informational Mailing

A letter from the Sergeant at Arms identifying the services and procedures for providing reasonable accommodation will be sent to all Senators and committees.

2. Training Seminar

Seminars will be provided to Office Managers and Administrative Assistants on:

- a. Interviewing - outlining appropriate questions that may be asked during the interview process.
- b. Working With Persons with Disabilities - Sensitivity Training & Reasonable Accommodation.
- c. Video tapes - which may be checked out for review upon request from the SAA video library.

3. Recruitment Resources

The Senate Placement Office will maintain recruitment resources as they relate to persons with disabilities. This will include agencies and organizations who assist individuals with disabilities in obtaining employment.

MEDICAL DOCUMENTATION OF DISABLING CONDITION

An employer may not ask a job applicant about his/her disability or make any medical inquiry. The employer only may ask questions about the applicant's ability to perform specific job functions. However, if an applicant who has been extended a conditional job offer or employee requests an accommodation and the need for the accommodation is not obvious, or if the employer does not believe that the accommodation is needed, the employer may request medical documentation of the individual's functional limitations. Medical information may be needed to determine if an individual has a disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment). Medical inquiries may include consultations with knowledgeable professional sources, such as occupational and physical therapists, rehabilitation specialists, and organizations with expertise in adaptations for specific disabilities.

1. In cases where the Senate or Committee Office has decided that there is a need for documentation, the supervisor should consult with the employee requesting the accommodation, and request appropriate documentation if necessary.

2. If a supervisor believes that the documentation presented is not adequate, the Committee on Rules and Administration may be consulted to review the medical documentation and make suggestions as to the appropriate documentation needed. Where appropriate, the employee may be provided a memorandum from the supervisor to take to the medical provider explaining the information required and why it is necessary.
3. To assist in developing the medical documentation, the employee should be provided with copies of the current position description and performance standards as well as any other narrative information which clearly explains the essential functions of the job. In addition, any problems the employee may be experiencing on the job that are related to the disability should be explained to the person making the medical report.
4. The requested documentation should include, at least, the following:
 - a. A complete description of the disabling condition.
 - b. An estimate of the date for full or partial recovery or the duration of the need for accommodation,
 - c. A specific description of the impact, effect, or limitation of the disabling condition as it relates to the essential functions of the job. It is important that this evaluation be precise and descriptive for each essential function. If there is any importance as to how the limitation is accommodated for functions of non-work related activities; this should be included,
 - d. If appropriate, an explanation to the employer of any limitation that can be expected which is connected with the use of a particular accommodation. For example where the doctor has recommended a particular assistive device for a substantial impairment of an employee's ability to see, the doctor should identify any time limits on the use of the particular device or any known drawbacks connected with its use.

The disclosure of medical information is limited to those individuals with a demonstrated need to know in order to make an informed management decision regarding the individual's employment.

Office of the Sergeant at Arms
S-321
Washington, D. C. 20510-7200

REQUEST FOR REASONABLE ACCOMMODATION

This form is to request adaptive devices for employees with disabilities. Complete Parts I and II and mail to the office of the SAA:

PART I (To be completed by employee of the requesting office)

1. NAME _____

POSITION TITLE _____
OFFICE/DIVISION _____
ADDRESS _____ TELEPHONE NUMBER _____
2. TYPE OF DISABILITY (Medical Documentation may be required) _____

3. ACCOMMODATION REQUESTED _____

4. EMPLOYEE SIGNATURE _____ DATE _____

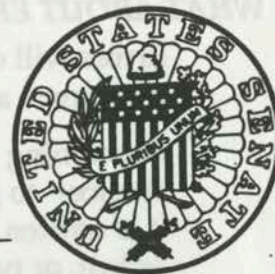
PART II (To be completed by the supervisor of the requesting office)

5. OFFICE/DIVISION _____
ADDRESS _____ TELEPHONE NUMBER _____
6. ESSENTIAL FUNCTION OF POSITION (Job description may be attached) _____

7. IS TRAINING REQUIRED FOR THE ACCOMMODATION REQUESTED ?
() YES () NO
8. IF SOFTWARE IS REQUIRED, PLEASE INDICATE DISK SIZE
() 3.5" () 5.25"
9. SUPERVISOR SIGNATURE _____ DATE _____
10. COMPLETE SAA FORM # 232 (Request for Assistance Form) AND SUBMIT TO THE SERGEANT AT ARMS.
a. Please address inquiries to Janet L. Dorsey, Special Assistant for ADA, at 4-9096

PART III (To be completed by SAA/Rules Committee)

Closed Captioning of Senate Chamber Proceedings



Office of Captioning Services • Under Direction of the Secretary of the Senate • ST-54, The Capitol • 224-4321

WHAT IS REALTIME CLOSED CAPTIONING?

Realtime Closed Captioning is the live electronic subtitling of the audio portion of a television program. The captions are closed or *hidden* in the television picture. Viewers wanting access to the captions currently need a caption decoder attached to their television to see the captions.

WHERE IS IT BEING DONE?

The captions are created by the *Office of Captioning Services* under the direction of the Secretary of the Senate in specially designed and built control rooms in the basement of the Capitol (ST-54). These control rooms contain video and audio monitoring equipment, computers, computerized stenotype machines and real-time captioning software.

WHO IS DOING IT?

Specially trained court reporters called *captioners* write what they hear on a computerized stenotype machine. They are all Registered Professional Reporters (RPR) and have been certified to write testimony at 225 words per minute with 97% accuracy.

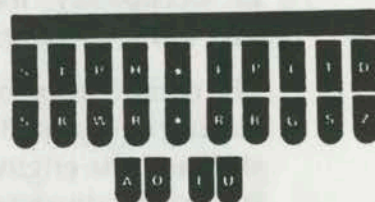
HOW IS IT DONE?

Court Reporters and captioners write in a phonetic language called *Steno*. Using the stenotype keyboard's 22 keys and a number bar, they learn unique combinations of letters to represent sounds or phonemes. The left hand writes the beginning sound of a word (a syllable in the case of multi-syllabic words), the thumbs write the vowel sounds, and the right hand writes the final sound of a word or syllable. The keyboard is chordal, therefore multiple keys are pressed at the same time, much like playing chords on a piano, to represent certain phonemes.

When an outline (syllable or word) is written on the keyboard it passes via cable to a computer for processing. This processing can be referred to as "translation" because it takes the phonetic outlines written by the captioner and translates them into English words using a special *dictionary* created by the captioner. This dictionary contains word parts, whole words, phrases, Senator's names, punctuation and special entries used by the captioner during a real-time captioning session.

Once translation has occurred, the captions are transmitted to the Senate Recording Studio Control Room where an *encoder* inserts them into line 21 of the Senate Recording Studio's video signal.

The Keyboard



WHAT ABOUT ERRORS?

Errors will occur as a result of the real-time captioning process even though our captioners are rated at 97% accuracy.

Captioning takes intense concentration. Captioners get one chance—and only one chance—to get it right. The captioner cannot go back and change or correct a word once it is written. If concentration lapses even for a moment, or the audio signal is degraded or lost, or two Senators speak at the same time, errors result. If a captioner mis-keys a word, syllable or phoneme, there is no opportunity to back up and correct the mistake.

Errors result from:

- Mis-hearing
- Mis-keying
- Equipment failure

Sometimes a captioner realizes that a wrong word or syllable was written. If that realization is immediate, they can correct it using the asterisk [*] key on the stenotype keyboard. If they realize the error two or three words later (after having more contextual information), it is too late to go back and correct the error. Inconsistent voice modulation in speakers can cause a word or words to be inaudible and therefore non-comprehensible to the captioner. Speakers not speaking directly into microphones also can cause loss of an audio signal adequate for the captioners to work from. Captioners will have difficulty with any speaker talking at excessive rates of speed.

These then are errors that result from *mis-hearing*, the most frequent cause of errors and the greatest source of frustration to the captioners.

Mis-keying errors result from the complex task of trying to outline the phonemes correctly on the keyboard. The entire alphabet is not present on the keyboard and the letters S, T, P, and R appear on both the left and right sides of the keyboard. Letters must be combined (pressed simultaneously) to form sounds. The phonetic outline for the word **judge**, for example, uses **SKWR** on the left, **U** from the center, and **PBLG** on the right. That's nine keys, **WRUPBLG**, that are pressed for one word. If an extra key is added or a key is left out, the outline becomes some other word or word part or appears as gibberish. With multi-syllabic words, the risk of a mis-keying error is even greater because multiple keys in successive outlines (syllables) must be pressed correctly or a word such as "**occupancy**" may translate as multiple words, "**okay you pansy**", or appear as a mixture of readable text and gibberish.

The combination of sophisticated computer hardware and software and television broadcasting equipment requires continual monitoring and maintenance by the captioning staff and the engineers in the Senate Recording Studio. Stenowriting machines must be in perfect adjustment both mechanically and electronically. Broadcast equipment must be perfectly timed with the captioning equipment and translating computers.

The Office of Captioning Services has anticipated many of the circumstances that might cause errors while real-time captioning the floor proceedings of the U. S. Senate. The Office will continually monitor the captions for errors on a routine basis, which will result in fewer errors over time.

1/17/95 (TU)

I. BACKGROUND

II. SPECIFIC TOPICS

1. EMPLOYMENT/HIRING
2. SERVICES--"EQUALLY EFFECTIVE COMMUNICATION"
3. BUILDINGS
4. PUBLIC NOTICE
5. INVESTIGATION AND ENFORCEMENT OF COMPLAINTS
6. SELF-EVALUATION AND TRANSITION PLAN

III. PRIOR/PLANNED WORK

1. SERGEANT AT ARMS MEMO
2. RULES LETTER

① audio versions
② documents & people involved
③ org. special services

{ Ray Strong 4-2020
Pete Jepsen 4-4321

Jeannine Manning

(?) Jean Thompson
Jenny

Charlie Rules

1. Employ + Employer / hiring
2. Service - equally effective command
3. Building
4. Public Notice

BOB DOLE
KANSAS

United States Senate

OFFICE OF THE REPUBLICAN LEADER

WASHINGTON, DC 20510-7020

- Jeanne Bowles ← demand
Heads Document Room
↳ Barry Wolk
- Set aside fund -
Priority fund?
- Service Dept. Russell Jackson,
Heard
Brailleing
Sergeant AT Arms

1. Employer + Employee / hiring
2. Senior - equally effective command
3. Builders
4. Public Notice
5. Investigation of Controversial
Enforcement
6. Self-evaluation plan
7. Support of Dams memo

MEMORANDUM

Date: January 19, 1995
To: Sheila Burke
From: Alec Vachon *A*
RE: FOLLOW UP/TUESDAY ACCESSIBILITY GROUP

Various follow-ups and thoughts about Tuesday's meeting, no particular order:

SUGGESTED AGENDA ITEM--RECOGNIZE PRIOR ACCESSIBILITY EFFORTS

- * Jeri gave a good thumbnail of prior accessibility activities by the Secretary, but casually dismissed the printed materials, among other things. I interpreted this to mean she may feel prior accessibility efforts unappreciated.
- * At the next meeting, perhaps it might be useful to make an explicit statement recognizing the good work of the prior management. I thought I had done that by pointing out that the Senate was probably 99% in compliance--the project we are engaged in is systematic review and documentation.

SERGEANT AT ARMS ACCESS COORDINATOR--INVITE TO YOUR MEETINGS?

- * I spoke with Joyce today about Sergeant's progress in naming an Access Coordinator. She will apparently make a pick soon--probably someone enthusiastic but not well informed about ADA.
- * Given that a key purpose of your meetings is to educate about ADA requirements and solutions, perhaps you might want to invite the Sergeant's person. Someone will have to educate that person--this would be the simplest route, may promote joint action, etc.

ACCESSIBILITY GROUP--INVOLVE OTHER STAFF?

- * To foster a bipartisan spirit, you might want to ask Daschle and Harkin staff for input. (Daschle's staff knows nothing about disability/Senate compliance, simply a courtesy. For the past 10 years, Senate compliance has been a joint Leadership project--at least nominally. Harkin's staff wrote ADA, of course.) On our side, McCain's staff has had longstanding interest in Senate compliance.

SEMINAR PROGRAM -- ADA SEMINAR?

- * I briefly attended a meeting in McCain's office yesterday put together by the Seminar Program to plan an ADA seminar for March. (I heard about the meeting and invited myself.)

Present were Drew Batavia (McCain), Dee Jessup (Seminar Program/Secretary), Sara Oursler (Seminar Program/Sergeant), Harriet Jenkins (Fair Employment), Jean Manning (Secretary Counsel), Janet Dorsey (Postmaster), Patty Fitzgibbons (Sergeant Human Resources), and Debbie Jans (Congressional Special Services).

- * Apparently, Seminar staff decided in December to organize an ADA seminar--and approached Mark Buse of McCain's staff. Buse turned this project over to Drew, who chaired the meeting. (Why McCain staff? Don't know.)
- * My intern remained for the full meeting--her memo on the proposed seminar is attached. The proposal will be sent through channels for approval (you and the Sergeant). I have concerns--perhaps those can be addressed when you receive the proposal.

CLOSED CAPTIONING OFFICE

- * Yesterday I visited the Closed Captioning Office--had not seen it before. Fascinating operation, and Peter was very gracious in showing me how it worked.

FOLLOW UP/RULES COMMITTEE

- * I spoke with Mark Mackie, Majority Counsel, about Rules plans for implementing the Congressional Accountability, specifically the disability provisions. (Mark has been very helpful over the past year on several matters.) Basically, he hasn't looked at the Congressional Accountability yet--Stevens doesn't like it.

FOLLOW UP/OUTSIDE EXPERTISE

- * Justice is prepared to provide technical assistance in developing a self-evaluation/transition plan if requested. I still need to follow up with the Architectural and Transportation Barriers Compliance Board (Access Board).

FINAL ITEM--IMAGING THE END POINT

- * RECAP OF GOALS: Three products--a self-evaluation and transition plan (identifying any steps to be taken) for Secretary services, and two policy statements--one for Secretary staff (around employment, etc.) and one for distribution Senate-wide. This latter statement may be unnecessary if Rules acts on attached letter--still waiting for Daschle sign on (you have seen this before.)

Thanks.

January 19, 1995

TO: Alex
FROM: Julie Kassik
SUBJECT: Disabilities Meeting (ADA)

The seminar is going to be set up to last two hours. There will be a 5 minute introduction by Harriet on the specifics of what Senate members need to do about dealing with future or current employees with disabilities. Next there will be a 45 minute segment on the specific guidelines of the ADA which will be the technical segment. It will cover FMCA and ADA, title 3. Then Drew and Janet will speak on specific accommodations for the disabled in the Senate offices. The last hour will deal with situational examples of specific instances of how to deal with disabled people including hiring of disabled persons.

[U.S. Senate Letterhead]

[Date]

The Honorable Ted Stevens
Chairman
Committee on Rules and Administration
U.S. Senate
Washington, D.C. 20510

Dear Ted:

We are writing to request the Committee publish a print describing Senate disability-related policies and services for constituents, visitors, and staff with disabilities. As we envision it, this print would cover the activities of the Secretary of Senate, the Sergeant at Arms, the Architect of the Capitol, and the Senate Office of Fair Employment Practices.

As you know, there is wide diversity of disability services currently offered by these offices, but currently there is no convenient guide to them. We believe this print would be a valuable resource to Senate offices and constituents. In addition, this print might include the name of a contact person on disability matters for the Sergeant at Arms, the Secretary of the Senate, Architect of the Capitol, and each Congressional agency (i.e., GAO, OTS, and the Library of Congress).

Preparation of this print would also be a timely occasion to review Senate compliance with the Americans with Disabilities Act (ADA) and other disability laws. To our knowledge, there has never been a thorough internal "self evaluation" in this regard.

We appreciate your attention to our request. If you have any questions or if we can be otherwise helpful, please contact either Alexander Vachon of Senator Dole's staff at 4-8959 or Aileen Gallagher of Senator Daschle's staff at 4-5344.

Sincerely,

THOMAS A. DASCHLE
Minority Leader

BOB DOLE
Majority Leader

RM

MEMORANDUM

Date: January 12, 1995
To: Senator Dole
From: Alec Vachon *AV*
RE: SENATE ACCESSIBILITY

- * Good progress in improving Senate accessibility--which assumes even greater importance in light of the Congressional Accountability Act.

ARCHITECT OF THE CAPITOL

- * Attached for signature is a letter to the Architect, thanking him for prompt action in constructing the Old Senate Chamber ramp and asking that any "mandatory" alterations to Senate be completed by January 26th--defined as the same kind of architectural and structural changes state and local governments are supposed to have completed by that date.
- * Also attached for signature are notes to the carpenters who constructed the ramp, thanking them for their work.
- * Although the Old Senate Chamber ramp is "temporary," it will remain until the Architect completes design of a permanent ramp. The Architect plans to seek permission from Rules before making a permanent alteration. Historical Note: A "temporary" wooden ramp was installed at the Constitution Ave. entrance of the National Gallery of Art in 1966--and worked fine until the permanent ramp was installed in the Spring of 1994.
- * Incidentally, the Old Senate Chamber ramp proved useful for Senator Ashcroft's Dad on January 4th, who is quite frail and uses a wheelchair.

SECRETARY OF THE SENATE/SERGEANT AT ARMS

- * I will be meeting with Secretary of the Senate staff on Tuesday to brief them on accessibility issues and get the ball rolling. I am working to arrange a similar meeting with Sergeant At Arms staff.

*CC: Dan
Shile*

BOB DOLE
KANSAS
141 SENATE HART BUILDING
(202) 224-6521

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
RULES

United States Senate

WASHINGTON, DC 20510-1601

January 12, 1995

The Honorable George M. White
Architect of the Capitol
U.S. Capitol
Washington, D.C. 20510

Dear George:

Thank you for your prompt attention to my request that the Old Senate Chamber be made accessible in time for opening of the 104th Congress. I look forward to installation of a permanent ramp. As you know, this is not only a moral obligation of the Senate--that the Capitol Building should be equally available to all Americans--but making the Old Senate Chamber is also tangible evidence of our commitment to obeying the laws we set for other Americans.

In this regard, under the Americans with Disabilities Act, state and local governments are supposed to have made all architectural and structural changes needed to make their services accessible by January 26, 1995. I know you have an ambitious, long-term plan to make the Capitol complex a model of accessibility, but trust that any mandatory renovations in Senate facilities will have been completed by that date as well.

Lastly, I ask that you designate a "Disability Services Coordinator" (or similar title) among your current staff, to provide a initial point-of-contact for inquiries and responsible for oversight of accessibility activities. It would also be helpful if the Disability Services Coordinator title was listed in the Senate and House Telephone Directories.

If I can provide any assistance in this matter, please contact Dr. Alexander Vachon of my staff at 4-8959.

Sincerely,

BOB DOLE
Senate Majority Leader



UNITED STATES SENATE
OFFICE OF THE MAJORITY LEADER
WASHINGTON, D. C.

BOB DOLE
KANSAS

January 12, 1995

Dear Mr. Miranda,

Just a brief note to thank you for all your help in installing the ramp in the Old Senate Chamber. As you may know, we have tried to get this done for several years, and I am very pleased it has finally been accomplished. In my view, this ramp is a "welcome mat" to people with disabilities. And, as it happened, the father of one of our new members uses a wheelchair, and it proved to be very handy for him.

Best wishes to you and your family in the New Year.

Sincerely,

BOB DOLE

Mr. Roberto Miranda
Acting Superintendent
of the Senate
U.S. Capitol
Washington, D.C. 20510



UNITED STATES SENATE
OFFICE OF THE MAJORITY LEADER
WASHINGTON, D. C.

BOB DOLE
KANSAS

January 12, 1995

Dear Mr. Caswell,

Thank you very much for your excellent work in building the ramp in the Old Senate Chamber. I know you had to put in extra time to complete it in time for the opening of the Senate. Apart from its important symbolic and practical value to people with disabilities generally, it proved very useful to the father of one of our new members. I am appreciative.

Best wishes to you and your family in the New Year.

Sincerely,

BOB DOLE

Mr. Perry Caswell
Office of the Architect of the Capitol
SB 15
Washington, D.C. 20510



UNITED STATES SENATE
OFFICE OF THE MAJORITY LEADER
WASHINGTON, D. C.

BOB DOLE
KANSAS

January 11, 1995

Dear Mr. Beaton,

Just a brief note to thank you for your work on building the ramp in the Old Senate Chamber. It was a fine job, and I know you had to put in extra time to get it done in time for the opening of the Senate. Your efforts are very much appreciated. In my view, this ramp is a welcome mat for people with disabilities. But, as it happened, the father of one of our new members uses a wheelchair, and it proved to be very handy for him.

Best wishes to you and your family in the New Year.

Sincerely,

BOB DOLE

Mr. Bill Beaton
Office of the Architect of the Capitol
SB 15
Washington, D.C. 20510

MEMORANDUM

Date: December 5, 1994
To: Senator Dole
From: Alec Vachon *AV*
Re: Senate Compliance w/Disability Laws/Memos to Sergeant at Arms, Architect of the Capitol, and Rules Committee

* Attached for your approval & signature is:

--Memo to Howard Greene asking he designate a "Disability Services Coordinator" to provide a single point-of-contact on accessibility and disability policies & services. N.B. No cost--Greene is simply asked to assign this job to one of his top assistants. A memo to the Secretary of the Senate will be prepared when that person is announced.

* In addition, with your approval I will approach:

--Gingrich staff for sign on to attached memo to George White asking him to also designate a "Disability Services Coordinator." (Since the Architect is a joint House/Senate office, this memo should come from both of you.)

--Daschle staff for sign on to attached letters to Rules, asking the Committee to publish a print on disability policies and services. The letter was written with Mitchell's staff months ago, who dithered in finalizing it. Republican Rules staff thought it a good idea.

BACKGROUND

* These memos and letters would accomplish 2 goals:

1. First, improve Congressional accountability--complying w/Federal laws that apply to private sector or state and local governments. The Senate probably complies 95% of disability laws, although a thorough internal "self-evaluation" has never been done. The Architect began removing architectural barriers in 1976, and in the last 2 years started addressing ADA standards. In January, the Sergeant at Arms released a policy on "reasonable accommodations" for disabled employees (which needs more work), but has no other systematic policies. The Secretary of the Senate has made some services accessible, but has no written policies.
2. Clear up confusion re Senate policies and services. Despite a decade of work by my predecessors in your office and other staffers, it is not easy finding out about disability policies and services. The Senate offers an impressive array of disability services; we need a better effort in letting offices know what they are. Disability Services Coordinators and a Committee print should solve this problem.

December 5, 1994

TO: Howard Greene

FROM: Senator Dole

SUBJECT: Designation of "Disability Services Coordinator"

As you know, Senate compliance with Federal laws from which Congress has been historically exempt is a priority for Senate Republicans. Among these laws are various disability statutes, including Title V of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

In this regard, I request that you designate within your Executive Office a "Disability Services Coordinator" (or similar title). This person would have two duties: (1) providing an initial point-of-contact within the Sergeant at Arms for inquiries by constituents, visitors, and staff with disabilities on policies and services; and (2) responsibility for oversight of accessibility of all services provided by the Sergeant at Arms. In my view, this position would not be full-time, but rather part of the job description of one of your executive assistants. It would also be helpful if the Disability Services Coordinator was listed in Senate Telephone Directory.

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December 5, 1994

TO: George White

FROM: Senator Dole
Congressman Gingrich

SUBJECT: Designation of "Disability Services Coordinator"

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[U.S. Senate Letterhead]

[Date]

The Honorable Ted Stevens
Chairman
Committee on Rules and Administration
U.S. Senate
Washington, D.C. 20510

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Minority Leader

BOB DOLE
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MEMORANDUM

Date: December 30, 1994
To: Senator Dole
From: Alexander Vachon 
RE: UPDATE ON SENATE COMPLIANCE WITH ADA



GOOD NEWS FROM THE ARCHITECT OF THE CAPITOL

- * As I have written you in an accompanying memo, January 26, 1995 is a big milestone in ADA implementation--State & local governments are supposed to have completed all needed architectural and other structural modifications.
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- * Earlier this month you sent a memo to Howard Greene asking him to add the duties of a "Disability Accessibility Coordinator" to one of his Executive Assistants. I have spoken with Howard and Joyce McCluney, and expect someone to be named by the second week of January (once personnel changes are sorted out.)
- * I hope we can get someone designated by the Secretary of the Senate by then as well. Following announcement of Secretary of Senate (which I understand will be Tuesday), a memo will be sent to that person with this request.
- * ONCE BOTH COORDINATORS ARE NAMED, A PRESS RELEASE WILL BE ISSUED--HOPEFULLY SECOND WEEK OF JANUARY.

LETTER TO RULES RE COMMITTEE PRINT

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DOLE ANNOUNCES OLD SENATE CHAMBER NOW ACCESSIBLE TO DISABLED; SHOWS CONGRESS SERIOUS ABOUT ITS ADA DUTIES

WASHINGTON. D.C.--Senate Majority Leader Bob Dole (R-KS) announced today that the Old Senate Chamber has been made accessible to people who use wheelchairs or have other mobility impairments. Until today, two steps at the entrance of the room made it impossible for wheelchair users to enter.

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Dole also wrote, "In my view, the Capitol Building itself is an important symbol of our open and representative government, and that it should be equally available to all Americans."

Dole said today, "In my view, making accommodations for people with disabilities is often more a matter of will than money. I understand that this new ramp cost about \$xxx. What I don't understand is why it wasn't done sooner, but I'm just glad it has been done now."

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Dole said his staff would meet with the Architect of the Capitol to ensure all mandatory architectural modifications would be completed by January 26th.

Dole is a longtime advocate on behalf of people with disabilities. Severely wounded during World War II, Dole has only limited use of his right arm. On April 14, 1969, Dole made his "maiden" speech to the Senate as the junior Senator from Kansas, and spoke about disability as both a personal issue and his vision of a national disability policy based on the values of

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[draft; 12/30/94]

Bob Dole



NEWS

U.S. SENATOR FOR KANSAS

FROM:

SENATE REPUBLICAN LEADER

*FOR IMMEDIATE RELEASE
Tuesday, January 3, 1995*

*Contact: Clarkson Hine
(202) 224-5358*

DOLE ANNOUNCES OLD SENATE CHAMBER NOW ACCESSIBLE TO DISABLED

WASHINGTON -- Incoming Senate Majority Leader Bob Dole announced today that a ramp has been installed to make the Old Senate Chamber in the U.S. Capitol accessible to individuals who use wheelchairs or have other mobility impairments. In a December 29 letter to Architect of the Capitol George M. White, Dole asked that the necessary construction be completed by the opening of the 104th Congress.

"This ramp is a welcome mat for people with disabilities. In my view, the Capitol is an important symbol of our open and representative government, and it should be equally available to all Americans," Dole stated.

Located on the second floor of the Capitol Building, the Old Senate Chamber, where the Senate resided from 1810-1859, is among the most popular visitor attractions in the Capitol Building. According to the Congressional Special Services Office, which arranges tours and other services for visitors with disabilities, at least 1,500 wheelchair users visited the Capitol in 1994, and another 4,000 persons with other disabilities requested special tours.

Under the Americans with Disabilities Act, state and local governments must complete any architectural and structural changes needed to make their services accessible by January 26, 1995. Dole said his staff would meet with the Architect of the Capitol to ensure all mandatory architectural modifications would be complete by the designated deadline.

#

January 3, 1994

TO: Sheila Burke
FROM: Senator Dole 
SUBJECT: Designation of "Disability Services Coordinator"

As you know, Senate compliance with Federal laws from which Congress has been historically exempt is a priority for Senate Republicans. Among these laws are various disability statutes, including Title V of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

In this regard, I request that as you organize the Secretary of the Senate you designate in your Executive Office a "Disability Services Coordinator" (or similar title). This person would have two duties: (1) providing an initial point-of-contact within the Secretary of the Senate for inquiries by members and staff, visitors, and constituents on disability matters; and (2) responsibility for oversight of the accessibility of all services provided by the Secretary of the Senate. In my view, this position would not be full-time, but rather part of the job description of one of your executive assistants. It would also be helpful if the Disability Services Coordinator was listed in Senate Telephone Directory.

Once the Disability Services Coordinator is designated, I suggest that he or she undertake a "self evaluation" or internal assessment of the accessibility and usability to people with disabilities of Secretary of the Senate. At some point, it might also be useful to survey Senate offices as to their needs and satisfaction in this regard.

Incidentally, I will also be writing to the new Chairman of the Rules Committee asking that the Committee publish a print describing all Senate disability policies and services. Currently, there is no single, readily convenient reference for members and staff.

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MEMORANDUM


Date: December 5, 1994
To: Senator Dole
From: Alec Vachon *on*
Re: Senate Compliance w/Disability Laws/Memos to Sergeant at Arms, Architect of the Capitol, and Rules Committee

- Slip - what is status of these? let's move on pen. to 50*
- * Attached for your approval & signature is:
--Memo to Howard Greene asking he designate a "Disability Services Coordinator" to provide a single point-of-contact on accessibility and disability policies & services. N.B. No cost--Greene is simply asked to assign this job to one of his top assistants. A memo to the Secretary of the Senate will be prepared when that person is announced.
- * In addition, with your approval I will approach:
--Gingrich staff for sign on to attached memo to George White asking him to also designate a "Disability Services Coordinator." (Since the Architect is a joint House/Senate office, this memo should come from both of you.)
--Daschle staff for sign on to attached letters to Rules, asking the Committee to publish a print on disability policies and services. The letter was written with Mitchell's staff months ago, who dithered in finalizing it. Republican Rules staff thought it a good idea.

BACKGROUND

- * These memos and letters would accomplish 2 goals:
1. First, improve Congressional accountability--complying w/Federal laws that apply to private sector or state and local governments. The Senate probably complies 95% of disability laws, although a thorough internal "self-evaluation" has never been done. The Architect began removing architectural barriers in 1976, and in the last 2 years started addressing ADA standards. In January, the Sergeant at Arms released a policy on "reasonable accommodations" for disabled employees (which needs more work), but has no other systematic policies. The Secretary of the Senate has made some services accessible, but has no written policies.
 2. Clear up confusion re Senate policies and services. Despite a decade of work by my predecessors in your office and other staffers, it is not easy finding out about disability policies and services. The Senate offers an impressive array of disability services; we need a better effort in letting offices know what they are. Disability Services Coordinators and a Committee print should solve this problem.

December 5, 1994

TO: Howard Greene 
FROM: Senator Dole
SUBJECT: Designation of "Disability Services Coordinator"

As you know, Senate compliance with Federal laws from which Congress has been historically exempt is a priority for Senate Republicans. Among these laws are various disability statutes, including Title V of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

In this regard, I request that as you organize the Sergeant at Arms that you designate in your Executive Office a "Disability Services Coordinator" (or similar title). This person would have two duties: (1) providing an initial point-of-contact within the Sergeant at Arms for inquiries by members and staff, visitors, and constituents on disability matters; and (2) responsibility for oversight of the accessibility of all services provided by the Sergeant at Arms. In my view, this position would not be full-time, but rather part of the job description of one of your executive assistants. It would also be helpful if the Disability Services Coordinator was listed in Senate Telephone Directory.

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[U.S. Senate Letterhead]

[Date]

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Committee on Rules and Administration
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Date: December 30, 1994
To: Senator Dole
From: Alexander Vachon 
RE: UPDATE ON SENATE COMPLIANCE WITH ADA



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#

[draft; 12/30/94]

**SENATE SERGEANT AT ARMS AND SECRETARY OF SENATE APPOINT
DISABILITY ACCESSIBILITY COORDINATORS**

At the urging of Senate Majority Leader Bob Dole (R-KS), the Secretary of the Senate and the Sergeant at Arms today each appointed a "Disability Accessibility Coordinator" to ensure Senate compliance with all federal disability accessibility laws, including the Americans with Disabilities Act.

"A big priority of Senate Republicans is to make sure the Senate complies with all the laws required of other Americans. In my view, the Senate must not only meet the letter of each law, but serve as a model as well," said Dole.

"I am very pleased with today's announcement by the Secretary of the Senate and the Sergeant at Arms. I believe the Senate is probably 95% in compliance with ADA--and this action will make sure its 100%. These appointments send the message that the Senate takes very seriously its obligations. And it sends a message to all Americans with Disabilities that they are welcome in the Senate."

The Secretary of the Senate and the Sergeant at Arms are elected by Senate members and responsible for most housekeeping functions of the Senate. The first Secretary of the Senate was chosen in 1789, and oversees such functions as. The newly elected Secretary is [NAME]. A Sergeant at Arms was first appointed in 1798, and is the chief law enforcement and protocol official of the Senate. The newly elected Sergeant is Howard Greene.

In addition, Dole has asked Senator Minority Leader Tom Daschle to co-sign a letter to Rules and Administration asking that.

Dole, who has a disability himself from combat wounds sustained during World War II, has been a longtime advocate for people with disabilities. In 1969, in his first speech on the Senate floor as the junior Senator from Kansas, Dole spoke of his experience as a person with a disability and his vision of disability policy, [themes not prevalent until 20 years later.] Throughout his Senate career, he has been active on virtually all legislation people with disabilities and in making Senate facilities accessible to people with disabilities. In 1990, closed captioning.

#

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#

Components with major responsibilities related to the Senate's implementation of ADA include the Senate Sergeant at Arms (equipment and services), the Secretary of the Senate (documents and captioning), the Architect of the Capitol (building and facilities) and the Rules Committee (overall policies and oversight). Within the SAA, several departments have distinct responsibilities for specific services and types of equipment. The current situation of a single individual within SAA assigned as the Senate's ADA Administrator has not been effective in promoting cooperation and coordination of the efforts of the Senate's major components or of the various departments within SAA and has not recognized the Senate's long term commitment to reasonable accommodations and related issues prior to the passage of ADA.

- The major Senate components should each identify an individual(s) or entity(s) with responsibility for policies, procedures and implementation of ADA.
- Rather than a single ADA Administrator, the Senate's implementation of ADA should be coordinated and controlled by a working group drawn from each of the responsible components. This should include representation from the Directors of the various Senate components providing specific services related to ADA.

Notes on Senate components:

► SAA

In the SAA, the Office of Human Resources is responsible for the following significant areas:

- Placement
- Personnel
- Workmans Compensation
- Seminars
- Health Promotion

This may be an ideal location for the assignment of SAA's ADA responsibilities.

The the following departments under SAA currently provide ADA related services and equipment:

- A Service Department - maintains equipment, including wheelchairs. Provides braille services.
- B Telecommunications - TDDs.
- C Computer Center - computer-related assistive devices.
- D Recording Studio - FM assistive devices.

Each of the above Departments issues equipment to Senate staff on a **permanent** basis as a reasonable accommodation. The above directors have had little or no input into the current

ADA compliance program.

E CSSO - Interpreters, Sign Language Classes, specialized tours for individuals with disabilities, TDD training, workshops training on etiquette and appropriate behavior with individuals with disabilities.

CSSO provides **temporary** loan of equipment (FM systems, CCTVs, etc.) for visitors and staff..

The CSSO should be seen as a provider of support services and resources if any of the above areas need assistance (i.e., interpreters, braille formatters, tours, information providers, research of current national policies, information on assistive technology, etc.).

► Secretary of the Senate

Focus to coordinate availability of Senate documents in appropriate formats (e.g., braille, large print) -- Congressional Record, Committee Reports Mark-Ups, Bills, Informational Documents

(Barry Wolf would be a good contact for more details)

Office of Captioning: in addition to floor captioning, can be used during downtimes to caption Senate training films. Further, this office could play a role in providing automated note taking for committee hearings.

► Senate Rules Committee

overall responsibility for institutional compliance and oversight