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(202) 226-7532

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COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

518 ANNEX I

WASHINGTON, DC 20515

SUBCOMMITTEE ON SELECT EDUCATION

WITNESS LIST
JULY 18, 1989

PANEL I

Honorable Ronald V. Dellums, Chairman
Congressional Black Caucus

The Reverend Jesse Jackson

PANEL II

Ms. Sandra Parrino, Chairwoman
National Council on Disability
Washington, D.C.

Mr. Justin Dart, Jr., Chairman
Task Force on the Rights and Empowerment
of Americans with Disabilities
Washington, D.C.

Brother Philip Nelan, Director
Handicapped Employment Program
National Restaurant Association
Washington, D.C.

Mr. Joseph Rauh
Leadership Conference on Civil Rights

Augustus F. Hawkins, CA '63
John Conyers, Jr., MI '65
William Clay, MO '69
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Ronald V. Dellums, CA '71
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Edolphus Towns, NY '83
Alan Wheat, MO '83
Charles A. Hayes, IL '83
Mike Espy, MS '87
Floyd H. Flake, NY '87
John Lewis, GA '87
Kweisi Mfume, MD '87
Donald M. Payne, NJ '89



Congressional Black Caucus Congress of the United States

H2-344 House Annex #2
Washington, D.C. 20515

202 — 226-7790

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CONGRESSIONAL BLACK CAUCUS TESTIMONY

In support of the

"AMERICANS WITH DISABILITIES ACT OF 1989"

Joint Hearing

House Subcommittee on Select Education
and
House Subcommittee on Employment Opportunities

July 18, 1989
2175 Rayburn HOB

(Delivered by Congressman Donald M. Payne)

To our colleagues Chairman Owens and Chairman Martinez, The Congressional Black Caucus is pleased to offer testimony before this joint hearing on H.R. 2273 - The American's With Disabilities Act of 1989. We salute your leadership on this most crucial of issues, for we come as proponents of a movement -- as patriots in this struggle for decency and human dignity. As a Member of the House Subcommittee on Select Education it is an honor and special privilege to have been asked to make this presentation on behalf of the Congressional Black Caucus.

Twenty-five years ago, the Congress of the United States gave America a vehicle which changed the course of history. The passage of the 1964 Civil Rights Act made justice and morality the cornerstones of American democracy. Today we begin another trek toward equality.

Many have traveled a tortuous road in coming to this moment and on their behalf this Congress shall make critical decisions which will determine the quality of their lives far into the future.

This institution stands on the threshold of infinite possibility, and we must not be reactive nor have historians write that we sat at the tail end of this struggle for justice. Rather, it is our duty and the commitment of the Congressional Black Caucus to champion and challenge this Congress to protect and advance the rights of those who some would define by their disabilities - yet whose abilities we know have no bounds.

Those who sit in this room, who face the constant challenges of disabilities have an absolute understanding of what it means to be "at-risk". Let us not build hurdles to imperil their future by our failure to enact this legislation. We, the Members of the Congressional Black Caucus state here our unanimous and unequivocal support for the passage of this Civil Rights Act for Disabled Americans. We affirm our mutual kinship and interdependence as cohabitants of this land and we pledge to work toward the immediate passage of these guarantees.

As beneficiaries of the 1964 Civil Rights Act, we understand the legacy that comes with an appreciation for the universality of the human condition and the sharing of a common destiny. While the will of the majority prevails, circumstances forge a special alliance among those who have suffered injustice.

As African-Americans we have learned never to be intimidated because one is in the minority on an issue which you know to be right. This lesson we repeat for those who join us as advocates in seeking passage of these civil rights measures.

Page 2

We sit before you today on behalf of those who cannot stand to implore justice, who cannot speak to demand equality, who cannot hear discrimination, and who cannot see their oppressor.

We must again place America on the right side of history with the passage of this omnibus civil rights statute that prohibits discrimination against individuals with disabilities -- imposing guarantees and requiring enforcement in the private sector, all public services, public accommodations, transportation; and telecommunications.

Such a victory is won by a coalition beginning with one person with vision and commitment. As Members of the Congressional Black Caucus, even in the most painful circumstances, we have seen ordinary people become catalysts for extraordinary movements. An illiterate Black slave named Frederick Douglass learned to read and write and became a world acclaimed poet, orator, and statesman. A poor Alabama seamstress named Rosa Parks fueled the entire civil rights movement in America when she refused to sit in the back of a bus.

And a small group of unrelenting warriors captured the eye of the nation in bringing disability rights and Gallaudet University onto the front pages of the world press. I am especially proud to sit before you today as the most recent of 65 African-Americans to have been elected to serve in the United States Congress in the history of this nation. Those who know the Congressional Black Caucus understand our collective mandate to serve, and our covenant to fight for justice and equality. This too is our battle.

The witnesses who will follow this presentation are the real experts. Their courage inspires us, and their will challenges the conscience of this Congress. We as Members of the Congressional Black Caucus are not draftees, but enlistees in this mission to create a mutually supportive partnership with government, the private sector, labor and the courts to empower -- with full rights and privileges -- this nation's disabled citizens. To this end we pledge our allegiance.

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MW+LF
9/5 - evening
revisions

THE AMERICANS WITH DISABILITIES ACT (S.933)

SEPTEMBER 7, 1989

Mr. President: I speak today to urge Senate passage of S.933, The Americans with Disabilities Act. It was a long time in coming and many -- on both sides of the aisle -- have worked long and hard to get us here today.

S. 933 is the product of bipartisan effort at each and every stage of its inception. The origin of the Americans with Disabilities Act is rooted in an initiative of the National Council on Disability, an independent federal entity comprised of 15 members appointed by President Reagan and charged with reviewing all laws, programs, and policies of the Federal Government affecting individuals with disabilities, and making recommendations as appropriate to the President and Congress. In 1986, the Council issued a report which found that the major obstacles facing people with disabilities were not the disability characteristic of the person but rather those which arose from barriers imposed externally. The Report recommended that Congress "enact a comprehensive law requiring equal opportunity for

individuals with disabilities, with broad coverage and setting clear, consistent, and enforceable standards prohibiting discrimination on the basis of handicap."

During the last Congress, my Republican colleague, Senator Lowell Weicker introduced a bill developed by the National Council, titled "The Americans with Disabilities Act." Although this bill was not considered by the Senate, it initiated a dialogue and became the basis for the current revised bill introduced by Senators Harkin, Kennedy and Durenberger earlier this year. I acknowledge the leadership taken by these Senators in moving the Americans with Disabilities Act forward during the 101st Congress.

I also commend President Bush for his participation in the negotiations which have occurred over the past several weeks. ADA could not have happened so quickly without the support President Bush has given. His willingness demonstrated that his Administration would support expanding civil rights protections to include people with disabilities. That we have moved forward with legislation demonstrates the resolve in his Inaugural Address: that this "is the age of the offered hand."

The efforts of numerous members of the Administration, notably those of Attorney General Dick Thornburgh, Secretary of Transportation, Sam Skinner, National Council on Disability Chairwoman Sandra Swift Parrino, and Justin Dart, Chairman of the President's Committee on Employment of People with Disabilities and White House input from Bill Roper, John Wodasch, Hans Kutchner, David Sloane, Boyd Hollingsworth and Bob Funk all these individuals have contributed significantly to the legislation that is before us today.

Many have termed people with disabilities the last minority. Enactment of the Americans with Disabilities Act will bring the largest minority group into a position of achieving equal opportunity, access and full participation in the American dream.

OPPORTUNITIES AND PROBLEMS

The Americans with Disabilities Act reaffirms our commitment to support the

individual. In so doing, however, we must go beyond rhetoric. ~~A~~
~~staggering 66% unemployment rate for persons with disabilities~~
~~has been well documented.~~ An important principle in the Act's
employment non discrimination provisions is the requirement that
individualized determinations be made about people with
disabilities rather than generalizations about types of
disabilities. Such generalizations, based on ignorance, have long
proven to be discriminatory because they eliminate many
genuinely qualified candidates ^{from the work force}. As documented by the staggering
66% unemployment rate for persons with disabilities. Persons with
disabilities should be taxpaying citizens and consumers not
dependents on society. Enabling people with disabilities to ^{join} ~~work~~
^{the work force and the mainstream of American Society}
is what this bill is about. My commitment to this area is
^{as evidenced by the}
~~longstanding and is embodied in the work of the Dole Foundation~~
which was established to promote ^{employment for} opportunities of persons with
disabilities. My association with the ^{business} ~~business~~ community in this
regard has taught me that the business community is committed to
the goal of accessibility ^{for} ~~to the~~ workforce and employability of
persons of with disabilities.

Our responsibility is to craft legislation that can be
implemented to achieve its intended effect. However, let's not
try and deceive anyone, there will be costs incurred by
businesses, large as well as small in meeting the requirements of
this bill. In attempting to assure the civil rights of persons
with disabilities we must attend to the realistic concerns
associated with such an assurance.

One problem with this legislation according to some is the suggestion that a mountain of litigation will be unleashed on unsuspecting parties once this bill becomes law.

That is not an accurate judgement. The remedies allowed under this legislation in the case of employment are the familiar remedies of Title VII of the Civil Rights Act of 1964 -- enforcement

through the Equal Employment Opportunity Commission with recourse to the courts. Punitive damages or immediate access to jury trials are not part of ADA's remedies.

Another question deals with the public accommodations title. The only person who can bring suit under this title is the Attorney General. Lawyers cannot build careers on bringing suits against public accommodations on a contingency fee basis. That was formerly under S.933 as introduced, but not now.

The idea that the unsuspecting could be subject to suit is inconsistent with the intent of the legislation. Section 308 grants the Attorney General the authority to bring suit where there is "a pattern or practice of resistance to the full enjoyment of any of the rights" of people with disabilities.

TRANSPORTATION

The financial consequences of ADA language is my interest. For example, our nation's intercity bus industry is the primary form of affordable mass transportation for the poor, the elderly, and rural Americans. It is not a subsidized mass transit system. Greyhound has estimated that the annual cost of ADA to the company will range from \$40 to \$100 million dollars. Advocates in the disability community

believe the estimate is too high, but in any event it will be high. Obviously, we cannot allow the important and much needed protections of this legislation to financially bankrupt an entire industry that provides a critical service.

The bill contains a provision directing the Architectural and Transportation Barriers Compliance Board to undertake a study to determine the access needs of individuals with disabilities and the most cost effective methods for meeting those needs. The study will analyze the cost of providing accessibility as well as cost saving technological developments in equipment and devices. I believe that the results of this study will be of critical importance to the private transportation industry because it will provide the information needed to make cost effective decisions about the most pragmatic and effective way to proceed in service delivery.

Some have suggested that the provisions of the bill requiring ^{the} compliance ^{of private transit providers} within ^{a maximum} 5 to 6 years should be deleted pending the results of the ATCB study. Others argue that without ^{Statutory} strong requirements, the issue will not get the attention it deserves. I believe both positions have merit, however, it is easier to amend a statutory timeline subsequent to the results of a study than it is to add additional requirements once the bill becomes law. This is an area I intend to follow closely. My support for ADA is based upon my commitment to seeing that its provisions can work to the benefit of all and the detriment of ^{none}.

I am hopeful that the beneficial results of this study will generalize to other groups as well. For example, busses which are accessible to persons with disabilities may also make transportation a little easier for the elderly, or mothers with small children in strollers.

and other
provisions
of ADA

delete
talking point for tax Amendment
more
While cost alone is no reason to deny people with disabilities their civil rights, there must be incentives and assistance for small businesses to enable them to meet their responsibilities. To this end, I will soon introduce an amendment to the tax code for the express purpose of ameliorating the financial burden to small businesses of complying with ADA.

PUBLIC ACCOMMODATIONS

Our being here today demonstrates that these are not dark days for civil rights in this country. The scope of our civil rights laws will be expanded until they embrace every American. The tradition of civil rights laws is one of opportunity. The public accommodations provisions in the ADA guarantee that Americans with disabilities will no longer be denied the opportunity to participate in any segment of American life.

The private sector and those with disabilities must continue to work together to respond to questions that remain and will arise as we implement this ^{legislation} ~~but~~ here passage of the bill will not be the end but the beginning.

TECHNICAL ASSISTANCE

Later today, I will offer a technical assistance amendment designed to operationalize implementation of this legislation. We have an obligation to provide assistance to those we require to comply with the law. Technical assistance is necessary to assist private businesses, and other newly covered agencies and

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<http://dolearchives.ku.edu>

disabilities, employers and others affected by the ADA must have access to accurate information. My amendment will enable federal agencies responsible for implementation of the law to establish a strong government-wide technical assistance program. Such a program will help to educate concerned parties about the new terms and standards set forth in this Act. There are many knowledgeable and qualified experts available to assist in this endeavor such as PCEH, NARF and DREDEF just to name a few..

Given the comprehensive and far-reaching nature of the rights and responsibilities extended under the Act, I believe it is our obligation to see that those persons this bill was written for will be informed of those rights and that those asked to comply will understand the nature of their obligation ~~One benefit of such a program would be to reduce unnecessary and costly litigation.~~

CONCLUSION

The enactment of this huge bill will substantially benefit our Nation. The eradication of discrimination in employment against persons with disabilities will result in a stronger workforce and lessen dependency on the welfare system. Passage of this bill is a step towards ensuring that we are fully utilizing the potential and inherent talents of every individual within our society. In closing, I ask consent

to insert into the record the "Op-Ed" piece written by my friend James Brady, President Reagan's Press Secretary. His poignant remarks are certainly worth noting as we consider this legislation.

STENY H. HOYER
5TH DISTRICT, MARYLAND

VICE CHAIR
DEMOCRATIC CAUCUS

DEPUTY WHIP

DEMOCRATIC STEERING
AND POLICY COMMITTEE

CO-CHAIR
COMMISSION ON SECURITY AND
COOPERATION IN EUROPE

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TREASURY, POSTAL SERVICE,
GENERAL GOVERNMENT

LABOR,
HEALTH AND HUMAN SERVICES,
EDUCATION

DISTRICT OF COLUMBIA

Congress of the United States
House of Representatives
Washington, DC 20515

STATEMENT OF THE HONORABLE STENY H. HOYER
JULY 18, 1989

BEFORE THE HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON SELECT EDUCATION
AND
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

MR. CHAIRMAN, AS YOU KNOW, SINCE CONGRESSMAN TONY COELHO'S RESIGNATION FROM THE HOUSE OF REPRESENTATIVES, I HAVE TAKEN OVER AS ONE OF THE LEAD SPONSORS OF H.R. 2273, THE AMERICAN WITH DISABILITIES ACT. I WOULD LIKE TO COMMEND BOTH SUBCOMMITTEE CHAIRMEN, CHAIRMAN MAJOR OWENS AND CHAIRMAN MATTHEW MARTINEZ, AS WELL AS CHAIRMAN GUS HAWKINS, FOR HOLDING TODAY'S HEARINGS ON H.R. 2273 AND BEGINNING THE COMMITTEE'S CONSIDERATION OF THIS MEASURE.

H.R. 2273 WILL ENSURE BASIC CIVIL RIGHTS FOR 43 MILLION DISABLED AMERICANS, BY PROHIBITING DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES IN EMPLOYMENT, IN PUBLIC SERVICES, PUBLIC ACCOMMODATIONS, TRANSPORTATION AND TELECOMMUNICATIONS. THE AMERICANS WITH DISABILITIES ACT, WHICH WAS INTRODUCED A SHORT WHILE AGO, ON MAY 9, IS ALREADY COSPONSORED BY 195 OF OUR COLLEAGUES IN THE HOUSE.

THE IMPORTANCE, NECESSITY AND URGENCY OF THE AMERICANS WITH DISABILITIES ACT CANNOT BE OVEREMPHASIZED. I DO NOT BELIEVE THAT OUR GOVERNMENT SHOULD DO EVERYTHING FOR ITS CITIZENS, OR BE ALL THINGS TO ALL AMERICANS. HOWEVER, I DO BELIEVE THAT ONE OF THE FUNDAMENTAL

PRINCIPLES ON WHICH OUR NATION WAS FOUNDED IS THAT ALL AMERICANS SHOULD HAVE AN EQUAL OPPORTUNITY TO LIVE IN OUR SOCIETY AND TO LIVE PRODUCTIVE LIVES. IF AN INDIVIDUAL CHOOSES NOT TO MAKE THE MOST OF HIS OR HER TALENTS, THEN SO BE IT. BUT IN AMERICA, ONE MUST NOT BE DENIED AN OPPORTUNITY BECAUSE OF IGNORANCE OR PREJUDICE.

A 1987 LOU HARRIS SURVEY FOUND THAT 72 PERCENT OF THE TOP MANAGERS IN AMERICA FEEL THAT DISABLED AMERICANS ENCOUNTER DISCRIMINATION WHICH KEEPS THEM FROM EMPLOYMENT. AND THE FACT IS, THAT THE DISABLED WANT TO WORK. ALTHOUGH TWO-THIRDS OF ALL DISABLED AMERICANS BETWEEN THE AGE OF 16 AND 64 ARE UNEMPLOYED, SIXTY-SIX PERCENT OF THE NON-WORKING DISABLED AMERICANS SAY THEY WANT TO WORK.

MR. CHAIRMAN, THE COSTS TO OUR NATION OF THIS DISCRIMINATION ARE TREMENDOUS. IN ADDITION TO THE LOSS OF THE PRODUCTIVE TALENTS AND CONTRIBUTIONS OF THESE AMERICANS, OUR NATION IS SPENDING ALMOST \$170 BILLION ON MAINTAINING THE DEPENDENCY OF THE DISABLED. A STUDY BY RUTGERS UNIVERSITY SHOWED THAT THE FEDERAL GOVERNMENT ALONE SPENDS UP TO \$75 BILLION ANNUALLY. THESE FUNDS WOULD BE AVAILABLE FOR OTHER NATIONAL PRIORITIES IF THE DISABLED, WHO ARE BARRED FROM WORKING BECAUSE OF THE BARRIERS OF DISCRIMINATION, WERE ABLE TO LEAD PRODUCTIVE LIVES. THE AMERICANS WITH DISABILITIES ACT WOULD GUARANTEE THAT THE PERSON WITH EPILEPSY WOULD NOT BE IMMEDIATELY DISMISSED FOR CONSIDERATION FROM A JOB SOLELY ON THE BASIS OF HIS DISABILITY, AND THAT THE PARALYZED VETERAN, WHO HAS ALREADY GIVEN MORE TO HIS COUNTRY THAN WE CAN ASK, WOULD HAVE ACCESSIBLE TRANSPORTATION TO GET TO WORK.

MR. CHAIRMAN, THE ADA IS BASED ON THE RECOMMENDATIONS OF THE NATIONAL COUNCIL ON DISABILITY. AFTER EXTENSIVE AND EXHAUSTIVE STUDY AND REVIEW, THE FIFTEEN MEMBER COUNCIL, APPOINTED BY PRESIDENT RONALD REAGAN, FOUND THAT AMERICANS WITH DISABILITIES FACE DISCRIMINATION IN ALMOST EVERY ASPECT OF THEIR LIVES INCLUDING, EMPLOYMENT, HOUSING, TRANSPORTATION, COMMUNICATIONS, AND RECREATION. H.R. 2273 IS A REASONABLE AND EFFECTIVE RESPONSE TO THIS DISCRIMINATION AND PARALLELS THE SUCCESSFUL MODEL USED BY THE FEDERAL GOVERNMENT IN ELIMINATING DISCRIMINATION BASED ON DISABILITY IN FEDERALLY-FUNDED ACTIVITIES.

MR. CHAIRMAN, TWENTY-FIVE YEARS HAVE PASSED SINCE THE ENACTMENT OF THE CIVIL RIGHTS ACT. WE ARE NOW MORE THAN READY TO EXTEND CIVIL RIGHTS PROTECTIONS TO DISABLED AMERICANS. I FIRMLY BELIEVE THE ADA IS ONE OF THE MOST IMPORTANT BILLS OF THE 101ST CONGRESS AND I LOOK FORWARD TO WORKING WITH YOU AND THE MEMBERS OF THE COMMITTEE ON THIS HISTORIC LEGISLATION.

INTRODUCTION TO JOINT HEARING

STATEMENT BY CONGRESSMAN MAJOR R. OWENS, CHAIRMAN, SUBCOMMITTEE ON SELECT EDUCATION

ALL OVER THE WORLD--FROM THE TOWNSHIPS OF SOUTH AFRICA AND THE SHIPYARDS OF POLAND TO THE STUDENTS IN TIANENMEN SQUARE IN CHINA--PEOPLE WHO ASPIRE TO A BETTER LIFE LOOK TO THE IMAGE OF AMERICAN DEMOCRACY AS THEIR GUIDING STAR. AS AMERICANS IT IS OUR DUTY TO WORK HARDER TO GUARANTEE THAT THIS IMAGE MORE AND MORE BECOMES REALITY. AT THE SAME TIME WE MUST ALSO WORK HARDER TO MAINTAIN OUR LEADERSHIP ROLE, TO EXTEND THE PARAMETERS OF OUR DEMOCRACY, TO EXPAND THE SCOPE OF CIVIL RIGHTS AND HUMAN RIGHTS ENJOYED BY ALL OF OUR CITIZENS.

TODAY, OUR IMMEDIATE FOCUS IS ON THE LAUNCHING OF A COMPREHENSIVE EFFORT TO REAFFIRM, EXPAND, AND MORE EXPLICITLY DELINEATE THE RIGHTS OF AMERICAN CITIZENS WITH DISABILITIES. AND WHEN WE RESOLVE TO FULLY USE THE FEDERAL GOVERNMENT'S AUTHORITY AND RESOURCES TO BETTER PROTECT AND EXPAND THE RIGHTS OF ANY GROUP WE STIMULATE THE PROCESSES OF EMPOWERMENT WITHIN THAT GROUP. THE RELEASE AND RECOGNITION OF NEW SKILLS, TALENTS AND NEW LEADERSHIP WILL GREATLY ENRICH THE FABRIC OF OUR SOCIETY. THE NATION'S WEALTH OF HUMAN RESOURCES WILL BE GREATLY INCREASED BY THIS EMPOWERMENT OF PEOPLE WITH DISABILITIES.

A CIVILIZED AND MORAL GOVERNMENT WHICH IS ALSO SEEKING TO ENHANCE ITS OWN SELF-INTEREST MUST STRIVE TO MAXIMIZE THE OPPORTUNITIES FOR THE EDUCATIONAL DEVELOPMENT, EQUAL ACCESS

AND PRODUCTIVE EMPLOYMENT OF ALL OF ITS CITIZENS.

THIS AMERICANS WITH DISABILITIES ACT IS A FAR-REACHING AND COMPLEX LEGISLATIVE INITIATIVE. MANY PARTS OF THE ACT WILL REQUIRE LENGTHY, TECHNICAL DISCUSSIONS. IN SUBSEQUENT HEARINGS WE WILL REVIEW FORMIDABLE CONCEPTS AND PROPOSALS. OUR PURPOSE TODAY, HOWEVER, IS TO EMPHASIZE THE FACT THAT THIS BILL IS FIRST AND FOREMOST A CIVIL RIGHTS INITIATIVE, HUMAN RIGHTS LEGISLATION.

THERE ARE MANY WHO WILL OPPOSE THIS ACT AND CONDEMN ITS BASIC THRUST AS BEING TOO FAR-REACHING AND TOO GREAT A BURDEN FOR GOVERNMENT. WE MUST REMEMBER THAT CONSERVATIVES OF THIS SAME KIND OPPOSED THE PROTECTION OF THE RIGHTS OF LABORERS; THEY OPPOSED EQUAL RIGHTS FOR WOMEN; THEY FOUGHT FIERCELY AGAINST FULL CIVIL RIGHTS FOR AFRICAN-AMERICANS. DISABILITY RIGHTS LEADERS UNDERSTAND THAT THEIR STRUGGLE WILL BE NO LESS. GREATER THAN ALL OF THE PHYSICAL BARRIERS ARE THE BARRIERS OF ENTRENCHED ATTITUDES AND THE SILENT INSISTENCE THAT PEOPLE WITH DISABILITIES SHOULD BE GRATEFUL FOR MINIMAL GOVERNMENTAL PROTECTION AND ASSISTANCE.

THE PARALLELS WITH THE CIVIL RIGHTS MOVEMENT CONSTITUTE SIMILARITIES THAT DO NO FRIGHTEN, BUT INSTEAD, THEY INSPIRE THE FORTY-THREE MILLION STRONG COMMUNITY OF PEOPLE WITH DISABILITIES RESIDING IN EVERY STATE AND SPREAD THROUGH EVERY CONGRESSIONAL DISTRICT IN THE NATION. FORTY-THREE MILLION CITIZENS IN DEMOCRATIC AMERICA DO NOT NEED TO BEG FOR ANYTHING.

THE AMERICANS WITH DISABILITIES ACT IS THE PRODUCT OF

A NEW MOVEMENT WITHIN THE DISABILITY COMMUNITY. THE SPIRIT OF THE REVOLUTION OF DEAF STUDENTS AT GALLAUDET UNIVERSITY IN THE SPRING OF 1988 IS EMBODIED IN THIS ACT. THIS IS A DOCUMENT WHICH DOES NOT BEG. STRONG DEMANDS ARE MADE HERE. A NOBLE TRUMPET IS SOUNDED HERE.

IN THE MONTHS AHEAD AS WE FIGHT FOR THE PASSAGE OF THIS LONG OVERDUE LEGISLATION WE WELCOME THE ENLISTMENT OF ALL THE SOLDIERS WHO MARCH UNDER THE RAINBOW BANNER OF HUMAN RIGHTS. THE POWER, THE SOLIDARITY, THE TECHNICAL ASSISTANCE, THE NEGOTIATING SKILLS AND THE ABILITY TO INSPIRE; THESE QUALITIES FROM ALL WHO HAVE CONTRIBUTED TO THE LEGACY OF CIVIL RIGHTS AND HUMAN RIGHTS MUST NOW COME TO THE AID OF THE LAST OF THOSE WHO HAVE BEEN LEFT OUT. WITH THE EFFECTIVE ASSEMBLAGE AND SUPPORT OF THESE FORCES WE HAVE NO DOUBT THAT THIS LEGISLATION CAN BE PASSED. WE SHALL OVERCOME.

INTRODUCTION TO JOINT HEARING

STATEMENT BY CONGRESSMAN MAJOR R. OWENS, CHAIRMAN, SUBCOMMITTEE
ON SELECT EDUCATION

ALL OVER THE WORLD--FROM THE TOWNSHIPS OF SOUTH AFRICA AND THE SHIPYARDS OF POLAND TO THE STUDENTS IN TIANENMEN SQUARE IN CHINA--PEOPLE WHO ASPIRE TO A BETTER LIFE LOOK TO THE IMAGE OF AMERICAN DEMOCRACY AS THEIR GUIDING STAR. AS AMERICANS IT IS OUR DUTY TO WORK HARDER TO GUARANTEE THAT THIS IMAGE MORE AND MORE BECOMES REALITY. AT THE SAME TIME WE MUST ALSO WORK HARDER TO MAINTAIN OUR LEADERSHIP ROLE, TO EXTEND THE PARAMETERS OF OUR DEMOCRACY, TO EXPAND THE SCOPE OF CIVIL RIGHTS AND HUMAN RIGHTS ENJOYED BY ALL OF OUR CITIZENS.

TODAY, OUR IMMEDIATE FOCUS IS ON THE LAUNCHING OF A COMPREHENSIVE EFFORT TO REAFFIRM, EXPAND, AND MORE EXPLICITLY DELINEATE THE RIGHTS OF AMERICAN CITIZENS WITH DISABILITIES. AND WHEN WE RESOLVE TO FULLY USE THE FEDERAL GOVERNMENT'S AUTHORITY AND RESOURCES TO BETTER PROTECT AND EXPAND THE RIGHTS OF ANY GROUP WE STIMULATE THE PROCESSES OF EMPOWERMENT WITHIN THAT GROUP. THE RELEASE AND RECOGNITION OF NEW SKILLS, TALENTS AND NEW LEADERSHIP WILL GREATLY ENRICH THE FABRIC OF OUR SOCIETY. THE NATION'S WEALTH OF HUMAN RESOURCES WILL BE GREATLY INCREASED BY THIS EMPOWERMENT OF PEOPLE WITH DISABILITIES.

A CIVILIZED AND MORAL GOVERNMENT WHICH IS ALSO SEEKING TO ENHANCE ITS OWN SELF-INTEREST MUST STRIVE TO MAXIMIZE THE OPPORTUNITIES FOR THE EDUCATIONAL DEVELOPMENT, EQUAL ACCESS

AND PRODUCTIVE EMPLOYMENT OF ALL OF ITS CITIZENS.

THIS AMERICANS WITH DISABILITIES ACT IS A FAR-REACHING AND COMPLEX LEGISLATIVE INITIATIVE. MANY PARTS OF THE ACT WILL REQUIRE LENGTHY, TECHNICAL DISCUSSIONS. IN SUBSEQUENT HEARINGS WE WILL REVIEW FORMIDABLE CONCEPTS AND PROPOSALS. OUR PURPOSE TODAY, HOWEVER, IS TO EMPHASIZE THE FACT THAT THIS BILL IS FIRST AND FOREMOST A CIVIL RIGHTS INITIATIVE, HUMAN RIGHTS LEGISLATION.

THERE ARE MANY WHO WILL OPPOSE THIS ACT AND CONDEMN ITS BASIC THRUST AS BEING TOO FAR-REACHING AND TOO GREAT A BURDEN FOR GOVERNMENT. WE MUST REMEMBER THAT CONSERVATIVES OF THIS SAME KIND OPPOSED THE PROTECTION OF THE RIGHTS OF LABORERS; THEY OPPOSED EQUAL RIGHTS FOR WOMEN; THEY FOUGHT FIERCELY AGAINST FULL CIVIL RIGHTS FOR AFRICAN-AMERICANS. DISABILITY RIGHTS LEADERS UNDERSTAND THAT THEIR STRUGGLE WILL BE NO LESS. GREATER THAN ALL OF THE PHYSICAL BARRIERS ARE THE BARRIERS OF ENTRENCHED ATTITUDES AND THE SILENT INSISTENCE THAT PEOPLE WITH DISABILITIES SHOULD BE GRATEFUL FOR MINIMAL GOVERNMENTAL PROTECTION AND ASSISTANCE.

THE PARALLELS WITH THE CIVIL RIGHTS MOVEMENT CONSTITUTE SIMILARITIES THAT DO NO FRIGHTEN, BUT INSTEAD, THEY INSPIRE THE FORTY-THREE MILLION STRONG COMMUNITY OF PEOPLE WITH DISABILITIES RESIDING IN EVERY STATE AND SPREAD THROUGH EVERY CONGRESSIONAL DISTRICT IN THE NATION. FORTY-THREE MILLION CITIZENS IN DEMOCRATIC AMERICA DO NOT NEED TO BEG FOR ANYTHING.

THE AMERICANS WITH DISABILITIES ACT IS THE PRODUCT OF

A NEW MOVEMENT WITHIN THE DISABILITY COMMUNITY. THE SPIRIT OF THE REVOLUTION OF DEAF STUDENTS AT GALLAUDET UNIVERSITY IN THE SPRING OF 1988 IS EMBODIED IN THIS ACT. THIS IS A DOCUMENT WHICH DOES NOT BEG. STRONG DEMANDS ARE MADE HERE. A NOBLE TRUMPET IS SOUNDED HERE.

IN THE MONTHS AHEAD AS WE FIGHT FOR THE PASSAGE OF THIS LONG OVERDUE LEGISLATION WE WELCOME THE ENLISTMENT OF ALL THE SOLDIERS WHO MARCH UNDER THE RAINBOW BANNER OF HUMAN RIGHTS. THE POWER, THE SOLIDARITY, THE TECHNICAL ASSISTANCE, THE NEGOTIATING SKILLS AND THE ABILITY TO INSPIRE; THESE QUALITIES FROM ALL WHO HAVE CONTRIBUTED TO THE LEGACY OF CIVIL RIGHTS AND HUMAN RIGHTS MUST NOW COME TO THE AID OF THE LAST OF THOSE WHO HAVE BEEN LEFT OUT. WITH THE EFFECTIVE ASSEMBLAGE AND SUPPORT OF THESE FORCES WE HAVE NO DOUBT THAT THIS LEGISLATION CAN BE PASSED. WE SHALL OVERCOME.

INTRODUCTION TO JOINT HEARING

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STATEMENT OF
BROTHER PHILIP NELAN, F.S.C.
DIRECTOR, PROJECTS WITH INDUSTRY
NATIONAL RESTAURANT ASSOCIATION

BEFORE THE

HOUSE EDUCATION AND LABOR COMMITTEE'S
SUBCOMMITTEE ON SELECT EDUCATION

July 18, 1989

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During the last eleven years, The National Restaurant Association has promoted a program to encourage the industry to look to the benefit of employing persons with disabilities. The program, on the one hand, aims to provide employers with willing and qualified workers to fill plentiful jobs in this era of relatively low unemployment rates. The program, on the other hand, gives a fair chance to people with physical or mental disabilities to fill jobs they are qualified for and to find in work a basis for greater independence and an incentive to sense their human dignity.

In this effort, our program takes us into close relationships with many organizations serving disabled persons such as the the National Rehabilitation Association, the National Association of Rehabilitation Facilities, the National Association of Retarded Citizens, the newly forming coalition of organizations serving deaf people, sponsored by the National Technical Institute for the Deaf (Rochester, N.Y.), and Goodwill Industries, Easter Seal.

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To discover job-openings, we have conducted pollings of the National Restaurant Association's membership, the high volume independents, the chains, franchisees, and in the May issue of Restaurants USA with a circulation of 27,000, we supplied a tear-out reply mailer, a request-form for information about rehabilitation training and placement. These efforts have returned thousands of job opportunities for the impaired and have established firmer relationships between the training services for disabled people and the industry.

Aside from the well-known programs of the Marriott Corporation and McDonald's Corporation to recruit and train workers from pools of disabled people, other foodservice organizations have likewise adopted policies to attract this untraditional sector of the population into their labor forces.

Among them we should cite some samples of industry programs in which we have had a role in developing:

- o Kentucky Fried Chicken's formal effort to link its 7500 units to the training programs of the Association of Rehabilitation Facilities in 26 states.
- o Pizza Huts' unique plan to hire 2000 persons with impairments in these three current years by linking its 6600 units with local sources of employees with disabilities.
- o The Imperial Hotels, a franchisee of 50 various hotels in 23 states recently adopted a program through the office of the Vice President for Human Resources to relate the managers and training programs in their areas.
- o Lettuce Leaf, a small chain, only 9 years old, in Missouri, has maintained a policy to hire developmentally disabled of whom its president writes, "All of these young persons are wonderful. They are reliable...constantly on the job."
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- o Walt Disney World Swan at Lake Buena Vista is currently recruiting 800 persons with the assistance of the Florida Vocational Rehabilitation Services for its labor force in its new operation to open November first.

So our liaison program between the public and private sectors links foodservice operators, both large and small, including single unit owners, throughout the country to the sources of employees among organizations serving persons with disabilities.

Having access to public and private vocational training services, the employer finds potential resources of productive and loyal workers. Ideally, through training program counselors, the employer knows beforehand the potentials, skills, attitudes, backgrounds of these people. Employers enjoy a new alliance through professional counselors of rehabilitative services who make job analyses and select qualified candidates who will succeed in performing specific jobs.

The only available data on the number of people with impairments newly employed annually in the foodservice industry is compiled by the Statistical Division of the Rehabilitation Services Administration at the Department of Education. .

The Division receives annual reports of the rehabilitated and job placed who are subsidized under state vocational rehabilitation services, which, in turn, are 80% subsidized by the federal government. A constant national total of rehabilitated employees placed in private industry yearly is about 220,000. Of that number placed in 1980, 5.8% were competitively employed by the hospitality industry. In succeeding years to 1985, the latest year of complete record, the percentage increased by annual increments to 7.3%. Since then the percentage has probably climbed to above 9%, representing upwards of 20,000 finding employment in the hospitality industry.

An additional number not subsidized by public funding but trained and placed each year in foodservice jobs by private agencies is unknown.

Meanwhile, the demand by the hospitality industry for additional workers gradually grows acute in today's tight labor market.

At the same time, the generally accepted data says that 6-8 million persons with disabilities are of working age, and at least two-thirds of them may qualify and want to work, but cannot for lack of training and the necessary assistance. Incidentally, this population is not counted in the national unemployment rate.

Today 8.5 million persons are employed in the food service industry, grossing \$227 billion in 1988 and having a growth rate annually of 6 to 7 percent. The total employed will increase to 11.4 million workers by the year 2000. According to the Labor Department forecasts, an increase of 2.9 million new job-openings will occur, owing to growth alone. Of these, about one million cooks, bakers, and other workers in food preparation will be needed; another 1.2 million more persons will be required to fill added service occupations, such as hosts, hostesses, waiters, waitresses, counter attendants, cashiers, bartenders, etc.; an additional 700,000 will find positions as managers, accountants and for other administrative functions.

These predicted increases in the foodservice labor force refer only to new positions that growth will create in the next 10 years. At the same time another million and more positions will be vacated by retirees and other turnovers.

Ample job opportunities at all levels exist in the industry for people with disabilities. Marriott Hotels Corporation exemplifies the industry's ability to absorb into its labor force people with various types and severity of disabilities:

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work entails, especially in entry level positions. But they do offer first entry into the world of work for many and opportunity for advances by persons with impairments in accord with their abilities and the training preparation they receive.

Mr. Chairman, I would like to offer you three observations at this point: One, constraints on federal funding over the past eight or ten years have limited the number of handicapped workers placed by government subsidized vocational rehabilitation services to a level substantially lower than required to meet the needs of this population; two, the number and characteristics of disabled workers assisted by privately funded agencies is unknown but should be researched so that Congress has a clearer picture of the existing problems and solutions; and, three, the enactment of civil rights-type legislation such as the Americans With Disabilities Act will not be particularly helpful to millions of handicapped people if it is not accompanied by an increase in the resources necessary to train and place these individuals in suitable jobs.

On this final point, Mr. Chairman, there is justifiable concern on the part of employers that the ADA legislation now pending before this Committee is so broadly written as to override certain elements of common sense. For example, to what extent is an employer expected to modify or add to his facilities to accommodate disabled workers? Do countertops where food is prepared have to be lowered to a level accessible to someone in a wheelchair?

Additionally, there are several areas within the legislation which conflict with requirements of existing legislation, the requirements of maintaining a "drug free workplace" and existing requirements under sections 503 and 504 of the Rehabilitation Act of 1973.

Mr. Chairman, I was told that the purpose of today's testimony was to hear from an industry that is very aggressive in promoting the employment of citizens with physical and mental limitations. However, I would be remiss if I did not note that there are significant problems with this legislation as introduced. Fortunately, the vast majority of these concerns are problems encountered when we take a public policy and attempt to place it into an operational context. Simple drafting alterations will surface for many of these problems. I am not prepared to violate the wishes of the Committee and speak to these today; however, I wish to submit for the record a document prepared by a broad based business group which addresses several of the areas of concern businesses have with the legislation drafted.

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I did not come today prepared to comment in any detail on the ADA legislation, Mr. Chairman, but I want to assure you that the National Restaurant Association stands prepared to offer you the benefit of its experience as an employer of thousands of disabled workers in crafting a bill that is beneficial and workable both for employers and the employees you are seeking to help.

TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES

907 6th Street, S.W., Suite 516C, Washington, D.C. 20024
(202) 488-7684 Voice (202) 863-0010 FAX (202) 484-1370 TDD

Appointed by Congressman Major R. Owens, Chairman, House Subcommittee on Select Education

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Patricia Laird

TESTIMONY PRESENTED BY JUSTIN DART, CHAIRPERSON OF THE TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES, BEFORE THE JOINT HEARING OF THE HOUSE SUBCOMMITTEES ON SELECT EDUCATION AND EMPLOYMENT OPPORTUNITIES ON THE AMERICANS WITH DISABILITIES ACT OF 1989, JULY 18, 1989.

MR. CHAIRMAN, IT IS AN HONOR TO APPEAR BEFORE THESE DISTINGUISHED COMMITTEES, WHICH HAVE GIVEN STAUNCH SUPPORT TO AMERICANS WITH DISABILITIES OVER THE YEARS. I BELIEVE THAT I SPEAK FOR ALL OF MY FELLOW MEMBERS OF THE DISABILITY COMMUNITY WHEN I COMMEND YOU FOR YOUR PERSONAL LEADERSHIP IN ADVOCATING FOR OUR RIGHTS. WE ALSO COMMEND YOU AND YOUR COLLEAGUES FOR EMPOWERING PEOPLE WITH DISABILITIES THROUGH THE UNPRECEDENTED ESTABLISHMENT OF THIS TASK FORCE - COMPOSED OF 35 OUTSTANDING AMERICANS WHO ARE AUTHENTIC REPRESENTATIVES OF VIRTUALLY EVERY MAJOR DISABILITY CONSTITUENCY. IT HAS BEEN A PRIVILEGE AND A PLEASURE TO WORK WITH YOU, MARIA CUPRILL, BOB TATE, PAT MORRISSEY AND THE OTHER VERY CAPABLE MEMBERS OF YOUR STAFFS.

I SPEAK TODAY AS CHAIRPERSON OF THE TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES, TO GIVE OUR REPORT ON THE MOST IMPORTANT DISABILITY-RELATED LEGISLATION IN THE HISTORY OF THIS NATION, THE AMERICANS WITH DISABILITIES ACT.

AMERICANS WITH DISABILITIES

DISABILITY HAS BECOME A MAJOR FACTOR IN THE LIVES OF ALL THE MEMBERS OF OUR SOCIETY. PRESENTLY THERE ARE AN ESTIMATED 43 MILLION AMERICANS WITH DISABILITIES. THIS FIGURE IS INCREASING RAPIDLY AS MODERN MEDICAL SCIENCE ENABLES MORE AND MORE PEOPLE TO SURVIVE PREVIOUSLY FATAL BIRTH DEFECTS, INJURIES AND ILLNESSES AND TO LIVE MANY POTENTIALLY PRODUCTIVE AND HAPPY YEARS WITH SIGNIFICANT DISABILITIES. THESE DISABILITIES RESULT FROM NUMEROUS PHYSICAL AND MENTAL CONDITIONS, INCLUDING THE NORMAL PROCESS OF AGING AND IMPAIRMENTS OF VISION, SPEECH, HEARING, LEARNING, INTELLECTUAL FUNCTION AND MOBILITY. ALTHOUGH NOT ALL CHRONIC ILLNESS IS DISABLING, MUCH DISABILITY IS A CONSEQUENCE OF DISEASES OF THE CIRCULATORY, RESPIRATORY, URINARY, NEUROLOGICAL, SKELETAL, MUSCULAR, GLANDULAR, DERMATOLOGICAL, AND DIGESTIVE SYSTEMS; OF ARTHRITIS, CEREBRAL PALSY, EPILEPSY, DIABETES, MENTAL ILLNESS, CANCER, TRAUMATIC BRAIN INJURY, MULTIPLE SCLEROSIS,

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MUSCULAR DYSTROPHY, AIDS, AUTISM, ALLERGIES, AND MANY OTHER DISORDERS. SOME RESEARCHERS ESTIMATE THAT THE PROPORTION OF OUR POPULATION WITH DISABILITIES, NOW MORE THAN 15%, WILL DOUBLE WITHIN THE NEXT 30-50 YEARS. IT IS HIGHLY PROBABLE THAT ANY PERSON BORN IN 1989 WILL EXPERIENCE AT LEAST TEMPORARY DISABILITY DURING HIS OR HER LIFETIME. IT IS VIRTUALLY CERTAIN THAT ONE OR MORE MEMBERS OF ALMOST EVERY AMERICAN FAMILY WILL BECOME DISABLED.

ALTHOUGH THIS DRAMATIC INCREASE IN THE LIFE SPAN REPRESENTS AN HISTORIC ENLARGEMENT OF THE HUMAN POTENTIAL, OUR CULTURE HAS NOT YET MODIFIED ITS PRACTICES TO FULFILL THAT POTENTIAL, OR EVEN TO MEET THE BASIC LIFE SUPPORT REQUIREMENTS CREATED BY THE NEW CHARACTERISTICS OF ITS MEMBERS. MAJOR PROBLEMS HAVE DEVELOPED.

THE TASK FORCE

IN THIS CONTEXT, THE TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES WAS ESTABLISHED ON MAY 2, 1988, BY CONGRESSMAN MAJOR R. OWENS, CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON SELECT EDUCATION. COMPOSED OF 34 DISTINGUISHED REPRESENTATIVES OF MAJOR SEGMENTS OF THE DISABILITY COMMUNITY, THE TASK FORCE IS MANDATED TO COLLECT INFORMATION AND TO MAKE RECOMMENDATIONS WHICH WILL ASSIST CONGRESS AS IT CONSIDERS THE HISTORIC AMERICANS WITH DISABILITIES ACT, AND OTHER LEGISLATION DESIGNED TO IMPLEMENT THE RIGHTS OF AMERICA'S CITIZENS WITH DISABILITIES.

THE TASK FORCE WISHES TO ACKNOWLEDGE THE MAGNIFICENT SUPPORT IT HAS RECEIVED FROM NUMEROUS MEMBERS OF CONGRESS, PARTICULARLY TASK FORCE FOUNDER CONGRESSMAN MAJOR OWENS AND THE MEMBERS OF THE HOUSE SUBCOMMITTEE ON SELECT EDUCATION, SENATORS TOM HARKIN AND LOWELL WEICKER AND THE MEMBERS OF THE SENATE SUBCOMMITTEE ON THE HANDICAPPED, AND ALL THE SPONSORS OF THE CIVIL RIGHTS RESTORATION ACT, THE FAIR HOUSING ACT AMENDMENTS OF 1988, THE TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT AND THE AMERICANS WITH DISABILITIES ACT.

THE TASK FORCE HAS NO PUBLIC FUNDING OR PRIVATE GRANTS. PARTICULAR RECOGNITION IS DUE TASK FORCE MEMBERS, STAFF AND VOLUNTEERS, AND THE LITERALLY THOUSANDS OF PATRIOTIC CITIZENS AND ORGANIZATIONS IN EVERY STATE AND TERRITORY WHO HAVE CONTRIBUTED SERVICES, MONEY AND TIME TO MAKE THE DEMOCRATIC SYSTEM WORK.

FINDINGS

THE MEMBERS OF THE TASK FORCE, THE ORGANIZATIONS WITH WHICH THEY ARE AFFILIATED AND MORE THAN 8,000 PERSONS WITH DISABILITIES, FAMILIES, ADVOCATES AND SERVICE PROVIDERS ATTENDING 63 TASK FORCE FORUMS IN 50 STATES AND TWO CONGRESSIONAL HEARINGS HAVE PRODUCED

OVERWHELMING VERBAL AND WRITTEN EVIDENCE THAT:

- ALTHOUGH AMERICA HAS RECORDED GREAT PROGRESS IN THE AREA OF DISABILITY DURING THE PAST FEW DECADES, OUR SOCIETY IS STILL INFECTED BY THE ANCIENT, NOW ALMOST SUBCONSCIOUS ASSUMPTION THAT PEOPLE WITH DISABILITIES ARE LESS THAN FULLY HUMAN AND THEREFORE ARE NOT FULLY ELIGIBLE FOR THE OPPORTUNITIES, SERVICES AND SUPPORT SYSTEMS WHICH ARE AVAILABLE TO OTHER PEOPLE AS A MATTER OF RIGHT. THE RESULT IS MASSIVE, SOCIETY-WIDE DISCRIMINATION.

- MILLIONS OF OUR CITIZENS WITH DISABILITIES SUFFER UNCONSCIONABLE INFRINGEMENT OF THEIR HUMAN RIGHTS. THEY ARE SUBJECTED TO DE FACTO GUARDIANSHIP, DETENTION, AND CONFISCATION OF PROPERTY WITHOUT DUE PROCESS OF LAW. THEY ARE OFTEN DENIED ESSENTIAL LIFE SUPPORT SERVICES. THEY SUFFER FREQUENT HUMILIATION AND REJECTION, AS WELL AS PHYSICAL AND PSYCHOLOGICAL DEPRIVATION AND ABUSE. THEY ARE OFTEN UNREASONABLY EXCLUDED FROM SIGNIFICANT OPPORTUNITIES FOR SOCIAL PARTICIPATION, INCLUDING ACCESS TO PUBLIC AND PRIVATE FACILITIES, EDUCATION, EMPLOYMENT, HOUSING, TRANSPORTATION, COMMUNICATIONS AND RECREATION.

- PIONEER MEDICAL, EDUCATIONAL, REHABILITATION AND INDEPENDENT LIVING SERVICES DESIGNED TO ENABLE PEOPLE WITH DISABILITIES TO PARTICIPATE FULLY IN THE PRODUCTIVE MAINSTREAM OF SOCIETY HAVE PROVEN TO BE EFFECTIVE AND PROFITABLE. HOWEVER, IN SPITE OF THE VALIANT EFFORTS OF THE CONGRESS AND OF MANY DEDICATED SERVICE PROVIDERS, THESE PROMISING PROGRAMS HAVE BEEN SEVERELY LIMITED BY TRADITIONAL DISCRIMINATION. THEY HAVE BEEN UNDERFUNDED, FRAGMENTED, UNCOORDINATED, AND CONTINUALLY CONSTRAINED BY OBSOLETE ATTITUDES AND INACCESSIBLE ENVIRONMENTS. THE NEEDS OF THE MAJORITY OF PEOPLE WITH DISABILITIES ARE NOT BEING MET.

- BLOCKED BY DISCRIMINATORY PRACTICES FROM FULFILLING THEIR PRODUCTIVE POTENTIAL, 43 MILLION AMERICANS WITH DISABILITIES FORM THIS NATION'S MOST IMPOVERISHED LARGE MINORITY. THEY RECEIVE THE LEAST EDUCATION. THEY HAVE THE LOWEST INCOMES AND AMONG THE HIGHEST RATES OF UNEMPLOYMENT, SUBSTANDARD HOUSING, HOMELESSNESS, SUICIDE AND PREVENTABLE ILLNESS AND DEATH.

- A CALIFORNIA WOMAN WITH A HEAD INJURY WRITES:

"I HAD BEEN A CPA, AND WAS A PRODUCER & DIRECTOR FOR CNN AND PBS IN LONDON UP UNTIL ACCIDENT, JUNE 1987. NOW NOTHING. MY CHILDREN ARE HURT, FRUSTRATED AND CONFUSED. WHAT WILL HAPPEN TO THEIR MOTHER THAT WAS SUCCESSFUL, INTELLIGENT, HAPPY, LOVING, GIVING?

I'VE BEEN FLOUNDERING AND SEARCHING LONG ENOUGH. WE CAN GO JUST SO LONG CONSTANTLY REACHING DEAD ENDS. I'M BROKE, DEGRADED AND

ANGRY. HAVE ATTEMPTED SUICIDE THREE TIMES. I KNOW HUNDREDS. MOST OF US TRIED, BUT WHICH WAY AND WHERE DO WE GO? WHERE CAN WE LIVE? WHAT AND WHO CAN WE BE? IF I WERE UNDERSTOOD, CARED FOR, EDUCATED FOR A NEW LIFE AND CAREER, I WOULD HAVE SOMETHING TO LIVE FOR.

WHO HAS THE DEPTH, DETERMINATION, INTUITION, PLAN TO HELP US?"

- ON DECEMBER 28, 1988, IN TACOMA, WASHINGTON, TWO YEAR OLD DYLAN DAY AND HIS GRANDFATHER HOLLIS DAY WERE FOUND SHOT TO DEATH, AN APPARENT MURDER-SUICIDE. ACCORDING TO THE CHILD'S MOTHER, HER FATHER HAD BEEN "VERY, VERY CONCERNED ABOUT MY CHILD'S CONDITION." DYLAN HAD "A MILD FORM OF CEREBRAL PALSY, AND WAS CONSIDERED TO BE DEVELOPMENTALLY DISABLED." MR. DAY, A RETIRED COMPANY PRESIDENT, COULD NOT BEAR THE THOUGHT THAT HIS DAUGHTER AND GRANDSON WOULD HAVE TO FACE THE DEVASTATING LIFETIME OF DISCRIMINATION AND DEPRIVATION THAT HE FORESAW FOR THEM.

- A WOMAN IN CALIFORNIA WHO IS BLIND WROTE TO THE TASK FORCE: "I AM A TRAINED NEWS REPORTER AND HAVE BEEN APPLYING FOR JOBS AT RADIO STATIONS THROUGHOUT THE COUNTRY. I HAVE BEEN REPEATEDLY TOLD THAT I AM THE MOST QUALIFIED CANDIDATE, BUT SINCE THERE HAS NEVER BEEN A BLIND REPORTER BEFORE, THEY CANNOT HIRE ME. I WOULD LIKE THE CHANCE TO SUCCEED OR FAIL BASED ON MY ABILITY AS A REPORTER RATHER THAN MY LACK OF VISION."

- A SERVICE PROVIDER TO HEARING IMPAIRED PEOPLE IN ILLINOIS TESTIFIED: "WE HAVE CLIENTS WHO ARE ADMITTED TO HOSPITALS, UNDERGO SURGERY, AND ARE RELEASED WITHOUT THE BENEFIT OF A SIGN LANGUAGE INTERPRETER TO RECEIVE INFORMATION CRITICAL TO THEIR HEALTH. WE HAVE CLIENTS WHO HAVE BEEN ARRESTED AND HELD IN JAIL OVER NIGHT WITHOUT EVER KNOWING THEIR RIGHTS NOR WHAT THEY ARE BEING HELD FOR. WE HAVE CLIENTS WHOSE CHILDREN HAVE BEEN TAKEN AWAY FROM THEM AND TOLD TO GET PARENT INFORMATION, BUT HAVE NO PLACE TO GO BECAUSE THE SERVICES ARE NOT ACCESSIBLE. WHAT CHANCE DO THEY EVER HAVE TO GET THEIR CHILDREN BACK?"

223 YEARS AFTER OUR FOUNDING FATHERS DECLARED THAT ALL MEN "ARE ENDOWED BY THEIR CREATOR WITH CERTAIN UNALIENABLE RIGHTS," 25 YEARS AFTER THE CIVIL RIGHTS ACT OF 1964, AMERICANS WITH DISABILITIES STILL DO NOT ENJOY THE COMPREHENSIVE PROTECTION AGAINST DISCRIMINATION WHICH HAVE BEEN PROVIDED TO ALL OTHER MAJOR MINORITIES. EXISTING LAWS PROVIDING FOR PARTIAL RIGHTS ARE VERY POORLY IMPLEMENTED AND ENFORCED.

THE TASK FORCE CONCLUDES THAT:

DISABILITY HAS BECOME A NORMAL CHARACTERISTIC OF HUMAN EXPERIENCE. MOST PEOPLE WITH DISABILITIES HAVE THE POTENTIAL TO BECOME FULLY

PRODUCTIVE PARTICIPANTS IN THE MAINSTREAM OF SOCIETY. VIRTUALLY ALL PEOPLE WITH DISABILITIES HAVE THE POTENTIAL TO BECOME MORE SELF-RELIANT, AND TO CONTRIBUTE TO THE PRODUCTIVITY AND QUALITY OF LIFE OF THOSE AROUND THEM. HOWEVER THIS VAST HUMAN POTENTIAL IS BEING SEVERELY SUPPRESSED BY TRADITIONAL DISCRIMINATION, RESULTING IN UNCONSCIONABLE INJUSTICE TO INDIVIDUALS, AND UNAFFORDABLE ECONOMIC AND MORAL BURDENS FOR THE NATION.

AMERICANS WITH DISABILITIES WILL NEVER BE ABLE TO FULFILL THEIR POTENTIAL TO BECOME FULLY CONTRIBUTING, PRODUCTIVE CITIZENS OF THE FIRST CLASS UNTIL THIS NATION EMPOWERS THEM BY TAKING DECISIVE ACTION TO ELIMINATE DISCRIMINATORY PRACTICES AND THE FALSE ASSUMPTIONS ON WHICH THOSE PRACTICES ARE BASED. HISTORY DEMONSTRATES THAT THIS CAN ONLY BE DONE THROUGH A FIRM, ENFORCEABLE STATEMENT OF LAW THAT PEOPLE WITH DISABILITIES HAVE THE SAME INALIENABLE RIGHTS AS OTHER PEOPLE, AND THAT HENCEFORTH THEY ARE TO BE ACCORDED EQUAL OPPORTUNITY IN ALL ASPECTS OF LIFE.

THE TASK FORCE URGES:

- THAT CONGRESS TAKE PROMPT ACTION TO CONSIDER AND TO PASS THE AMERICANS WITH DISABILITIES ACT OF 1989, WITH VIGILANCE THAT THE PRINCIPLE OF EQUALITY NOT BE COMPROMISED. THE FINAL PRODUCT OF THE LEGISLATIVE PROCESS MUST ENSURE THE PROTECTION AND ENFORCEMENT OF THE CIVIL RIGHTS OF ALL PEOPLE WITH DISABILITIES TO PARTICIPATE FULLY AND EQUALLY IN THE MAINSTREAM OF SOCIETY.
- THAT THE PRESIDENT AND THE EXECUTIVE BRANCH PROVIDE VIGOROUS PUBLIC AND ADMINISTRATIVE LEADERSHIP ON BEHALF OF THE PASSAGE AND THE IMPLEMENTATION OF THE AMERICANS WITH DISABILITIES ACT.
- THAT ALL CITIZENS WHO LOVE JUSTICE ADVOCATE FOR THE ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT, AND TAKE DECISIVE ACTION TO MAKE THE RIGHTS WHICH ADA MANDATES REAL IN THEIR HOMES AND COMMUNITIES.

SUPPORT AND CONCERNS

THE AMERICANS WITH DISABILITIES ACT HAS BEEN ENDORSED SPECIFICALLY OR IN PRINCIPLE BY THE LEADERS OF BOTH MAJOR POLITICAL PARTIES: PRESIDENT BUSH, VICE PRESIDENT QUAYLE AND GOVERNOR DUKAKIS; AND BY MORE THAN ONE HUNDRED AND FIFTY DISTINGUISHED MEMBERS OF THE LAST CONGRESS. IT HAS BEEN ENDORSED BY INDIVIDUALS AND ORGANIZATIONS REPRESENTING EVERY MAJOR SEGMENT OF THE DISABILITY COMMUNITY. OF THE LITERALLY THOUSANDS OF PEOPLE WITH DISABILITIES, THEIR FAMILIES, SERVICE PROVIDERS AND ADVOCATES PRESENTING EVIDENCE TO THE TASK FORCE, NOT ONE INDIVIDUAL EXPRESSED OPPOSITION TO ADA.

HOWEVER CONCERNS HAVE BEEN EXPRESSED BY PERSONS AND GROUPS UNFAMILIAR WITH OUR PROBLEMS AND POTENTIAL, WHO FEAR THAT PROVISIONS OF ADA MIGHT NEGATIVELY IMPACT THEIR INTERESTS.

THE TASK FORCE BELIEVES THAT THE MAJORITY OF THESE CONCERNS, ALTHOUGH SINCERELY HELD AND WELL MEANING, ARE BASED LARGELY ON TRADITIONAL ASSUMPTIONS AND LACK OF INFORMATION.

MOST OFTEN EXPRESSED IS CONCERN ABOUT THE COST OF IMPLEMENTING ADA. DOES ADA IMPOSE UNAFFORDABLE ECONOMIC BURDENS ON THE NATION?

EQUALITY UNAFFORDABLE IN AMERICA? WOULD THIS QUESTION BE ASKED ABOUT BLACK, HISPANIC OR JEWISH PEOPLE? THE VERY EXISTENCE OF THE QUESTION REVEALS THE EXTENT TO WHICH ANCIENT ASSUMPTIONS ABOUT DISABILITY HAVE BEEN INTERNALIZED. THE VERY QUESTION IS INCONSISTENT WITH THE PRINCIPLES SET OUT IN THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION AND THE PLEDGE OF ALLEGIANCE TO THE FLAG. THE VERY QUESTION DEMONSTRATES DRAMATICALLY THE ABSOLUTE NECESSITY FOR A NATIONAL MANDATE OF EQUALITY.

NOT SINCE THE ABOLITION OF SLAVERY HAVE AMERICANS BEEN DENIED EQUALITY FOR ECONOMIC REASONS. THE PRINCIPLE OF EQUALITY IS NOT NEGOTIABLE IN THE UNITED STATES OF AMERICA.

ADA IS NOT ONLY AFFORDABLE, WE CANNOT AFFORD NOT TO HAVE IT.

IT IS THE STATUS QUO THAT IS UNAFFORDABLE. IT IS THE OBSOLETE STATUS QUO PRACTICES OF DISCRIMINATION AND SEGREGATION THAT ARE PREVENTING PERSONS WITH DISABILITIES FROM BEING PRODUCTIVE, AND ARE DRIVING US INEVITABLY TOWARD THE ECONOMIC AND MORAL DISASTERS OF GIANT PATERNALISTIC WELFARE BUREAUCRACIES. WE ARE ALREADY PAYING UNAFFORDABLE BILLIONS IN PUBLIC AND PRIVATE FUNDS TO MAINTAIN MILLIONS OF POTENTIALLY PRODUCTIVE AMERICANS IN UNJUST, UNWANTED WELFARE DEPENDENCY. FEDERAL, STATE AND LOCAL GOVERNMENTS ARE ESTIMATED TO SPEND WELL OVER \$100 BILLION ANNUALLY. EXPENDITURES BY PRIVATE INDIVIDUALS AND ORGANIZATIONS AND LOST TAXES AND PRODUCTIVITY, PROBABLY TOTAL AT LEAST ANOTHER 200 BILLION. THOUSANDS OF FAMILIES ARE BANKRUPTED ANNUALLY. AND THESE MASSIVE COSTS ARE ESCALATING EXPLOSIVELY WITH THE RAPIDLY INCREASING POPULATION OF CITIZENS, ESPECIALLY ELDERLY PERSONS, WITH SIGNIFICANT PHYSICAL AND MENTAL IMPAIRMENTS.

BUT WON'T ADA REQUIRE MASSIVE EXPENDITURES BY GOVERNMENT AND THE PRIVATE SECTOR? HOW CAN WE AFFORD SUCH EXPENDITURES NOW, IN A TIME OF PROPOSED BUDGET CUTS BY GOVERNMENT, AND INCREASING COSTS FOR BUSINESS AND INDIVIDUALS?

EQUALITY DOES REQUIRE A RECOGNITION OF COMPETING EQUITIES AND A BALANCING OF INTERESTS. ADA HAS BEEN WRITTEN ON PRINCIPLES OF FAIRNESS TO THE ADVANTAGED AS WELL AS TO THE DISADVANTAGED.

WHILE IT IS TRUE THAT EQUAL OPPORTUNITY FOR PEOPLE WITH DISABILITIES WILL REQUIRE CERTAIN INITIAL COSTS, INCREASED GOVERNMENT SPENDING TO IMPLEMENT ADA WILL BE MINIMAL, LIMITED PRINCIPALLY TO ENFORCEMENT ENTITIES WHICH ALREADY EXIST. THE PRIVATE SECTOR WILL NOT BE REQUIRED TO SPEND ENORMOUS SUMS ON INSTANT TOTAL RENOVATIONS OF EXISTING FACILITIES, BUT RATHER TO MAKE REASONABLE EFFORTS TO MAKE SUCH FACILITIES ACCESSIBLE, AND TO ACCOMMODATE EMPLOYEES WITH DISABILITIES. MAJOR EMPHASIS IS GIVEN TO CREATING NEW FACILITIES AND SYSTEMS THAT WILL BE COMPLETELY ACCESSIBLE. WITH APPROPRIATE PLANNING, THIS WILL, IN MOST CASES, REQUIRE ONLY MODESTLY INCREASED INVESTMENTS SPREAD OVER A REASONABLE PERIOD OF TIME.

WHAT WILL BE NECESSARY IS NOT GREAT INCREASES IN SPENDING, BUT RATHER CREATIVE, COURAGEOUS ACTION TO CHANGE TRADITIONAL PRACTICES, AND TO REALLOCATE PUBLIC AND PRIVATE RESOURCES FROM PROCESSES THAT FORCE SEGREGATION AND DEPENDENCE TO PROCESSES THAT PRODUCE PRODUCTIVE INVOLVEMENT IN THE MAINSTREAM OF SOCIETY. JUST AS THE PREVENTION OF DRUG ABUSE COSTS LESS IN THE LONG RUN THAN ITS CURE, SO WILL THE PREVENTION OF THE DEPENDENCY OF PEOPLE WITH DISABILITIES COST LESS THAN THE PUBLIC AND PRIVATE COSTS OF ITS CONSEQUENCES.

THE PAYMENTS AND REALLOCATIONS REQUIRED BY ADA WILL NOT BE OVERHEAD COSTS, BUT WILL CONSTITUTE THE TYPE OF INVESTMENTS THAT HAVE ALREADY PROVEN TO BE PROFITABLE TO EVERY CITIZEN, AND TO THE NATION AS A WHOLE.

THE APPROPRIATE QUESTION IN REGARD TO THE ECONOMIC IMPACT OF ADA IS NOT "HOW MUCH WILL IT COST?," OR EVEN "HOW MUCH WILL IT SAVE?," BUT RATHER, "HOW MUCH WILL IT PROFIT THE NATION IN THE LONG RUN?" THE PROBABLE ANSWER IS, "HUNDREDS OF BILLIONS."

DOES ADA INITIATE AN AGENDA WHEREBY PEOPLE WITH DISABILITIES WILL BE ENTITLED TO GOVERNMENT SOLUTIONS FOR ALL THEIR PROBLEMS?

CERTAINLY NOT. THAT IS NOT ONLY UNDESIRABLE, IT IS IMPOSSIBLE. PROBLEMS ARE SOLVED BY THE CITIZENS THEMSELVES, OR THEY ARE NOT SOLVED AT ALL. INDEED, RESPONSIBILITY FOR IMPLEMENTING ADA ON A DAY-TO-DAY BASIS WOULD LIE PRINCIPALLY WITH THE PRIVATE SECTOR. BUT GOVERNMENT IS INESCAPABLY RESPONSIBLE TO PROVIDE LEADERSHIP WHICH RESULTS IN CITIZEN SOLUTIONS. ADA AUTHORIZES GOVERNMENT AT SEVERAL LEVELS TO PROVIDE THAT LEADERSHIP TO END DISCRIMINATION.

WILL ADA REQUIRE EMPLOYERS TO EMPLOY UNQUALIFIED PEOPLE?

ADA SPECIFICALLY STATES THAT EMPLOYERS WILL NOT BE REQUIRED TO EMPLOY UNQUALIFIED PERSONS. HOWEVER THEY WOULD BE REQUIRED TO MAKE REASONABLE ACCOMMODATIONS FOR QUALIFIED CANDIDATES WITH DISABILITIES.

SUMMARY.

EVER INCREASING MILLIONS OF AMERICANS WITH DISABILITIES SUFFER MASSIVE DISCRIMINATION IN ALL ASPECTS OF SOCIAL PROCESS WHICH CONDEMNS THEM TO LIFETIMES OF SEGREGATION, POVERTY AND UNPRODUCTIVE DEPENDENCY ON PUBLIC AND PRIVATE WELFARE. THIS IS MORALLY INTOLERABLE AND ECONOMICALLY DISASTROUS.

ADA WILL NOT SOLVE ALL OF THE PROBLEMS OF AMERICANS WITH DISABILITIES, BUT IT IS AN ESSENTIAL FOUNDATION FOR ALL OPTIMAL SOLUTIONS. BECAUSE UNTIL WE ELIMINATE THE INSIDIOUS ASSUMPTION THAT PEOPLE WITH DISABILITIES ARE LESS THAN FULLY HUMAN, AND ESTABLISH THE CONCEPT AND PRACTICE OF THEIR EQUALITY, THERE WILL BE NO MORE THAN TOKEN ACTION TO ENABLE THEM TO PARTICIPATE FULLY IN THE PRODUCTIVE MAINSTREAM OF SOCIETY.

THE ECONOMIC AND MORAL GREATNESS OF AMERICA IS BASED ON A HISTORY OF EXTENDING EQUAL OPPORTUNITY TO WAVE AFTER WAVE OF PREVIOUSLY OPPRESSED AND DEPENDENT GROUPS. PROVIDING SUCH OPPORTUNITY TO AMERICANS WITH DISABILITIES WILL RESULT IN YET ANOTHER PERIOD OF DYNAMIC GROWTH IN THE PRODUCTIVITY, PROSPERITY AND QUALITY OF LIFE OF THE NATION. IT WILL REINFORCE AMERICA'S TRADITIONAL LEADERSHIP FOR DEMOCRACY AND HUMAN RIGHTS THROUGHOUT THE WORLD.

THE TASK FORCE URGES ALL WHO BELIEVE IN THE DREAM OF LIBERTY AND JUSTICE FOR ALL TO UNITE IN SUPPORT OF THE IMMEDIATE ENACTMENT AND THE VIGOROUS IMPLEMENTATION OF THE AMERICANS WITH DISABILITIES ACT.

Justin Dart
Chairperson

Dr. Elizabeth Boggs
Co-chairperson

Lex Frieden
Coordinator

TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES

907 6th Street, S.W., Suite 516C, Washington, D.C. 20024
(202) 488-7684 Voice (202) 863-0010 FAX (202) 484-1370 TDD

Appointed by Congressman Major R. Owens, Chairman, House Subcommittee on Select Education

MEMBERS

Justin Dart
Chairperson

Elizabeth Boggs, Ph.D.
Co-Chairperson

Lex Frieden
Coordinator

Elmer Bartels
Wade Blank
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Patrisha Wright
Tony Young

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Marcia Lee Nelson
Gwyneth Rochlin

SUBCOMMITTEE LIAISONS

Maria Cuprill
Robert Tate
Patricia Laird

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THE TASK FORCE

IN THIS CONTEXT, THE TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES WAS ESTABLISHED ON MAY 2, 1988, BY CONGRESSMAN MAJOR R. OWENS, CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON SELECT EDUCATION. COMPOSED OF 34 DISTINGUISHED REPRESENTATIVES OF MAJOR SEGMENTS OF THE DISABILITY COMMUNITY, THE TASK FORCE IS MANDATED TO COLLECT INFORMATION AND TO MAKE RECOMMENDATIONS WHICH WILL ASSIST CONGRESS AS IT CONSIDERS THE HISTORIC AMERICANS WITH DISABILITIES ACT, AND OTHER LEGISLATION DESIGNED TO IMPLEMENT THE RIGHTS OF AMERICA'S CITIZENS WITH DISABILITIES.

THE TASK FORCE WISHES TO ACKNOWLEDGE THE MAGNIFICENT SUPPORT IT HAS RECEIVED FROM NUMEROUS MEMBERS OF CONGRESS, PARTICULARLY TASK FORCE FOUNDER CONGRESSMAN MAJOR OWENS AND THE MEMBERS OF THE HOUSE SUBCOMMITTEE ON SELECT EDUCATION, SENATORS TOM HARKIN AND LOWELL WEICKER AND THE MEMBERS OF THE SENATE SUBCOMMITTEE ON THE HANDICAPPED, AND ALL THE SPONSORS OF THE CIVIL RIGHTS RESTORATION ACT, THE FAIR HOUSING ACT AMENDMENTS OF 1988, THE TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT AND THE AMERICANS WITH DISABILITIES ACT.

THE TASK FORCE HAS NO PUBLIC FUNDING OR PRIVATE GRANTS. PARTICULAR RECOGNITION IS DUE TASK FORCE MEMBERS, STAFF AND VOLUNTEERS, AND THE LITERALLY THOUSANDS OF PATRIOTIC CITIZENS AND ORGANIZATIONS IN EVERY STATE AND TERRITORY WHO HAVE CONTRIBUTED SERVICES, MONEY AND TIME TO MAKE THE DEMOCRATIC SYSTEM WORK.

FINDINGS

THE MEMBERS OF THE TASK FORCE, THE ORGANIZATIONS WITH WHICH THEY ARE AFFILIATED AND MORE THAN 8,000 PERSONS WITH DISABILITIES, FAMILIES, ADVOCATES AND SERVICE PROVIDERS ATTENDING 63 TASK FORCE FORUMS IN 50 STATES AND TWO CONGRESSIONAL HEARINGS HAVE PRODUCED

OVERWHELMING VERBAL AND WRITTEN EVIDENCE THAT:

- ALTHOUGH AMERICA HAS RECORDED GREAT PROGRESS IN THE AREA OF DISABILITY DURING THE PAST FEW DECADES, OUR SOCIETY IS STILL INFECTED BY THE ANCIENT, NOW ALMOST SUBCONSCIOUS ASSUMPTION THAT PEOPLE WITH DISABILITIES ARE LESS THAN FULLY HUMAN AND THEREFORE ARE NOT FULLY ELIGIBLE FOR THE OPPORTUNITIES, SERVICES AND SUPPORT SYSTEMS WHICH ARE AVAILABLE TO OTHER PEOPLE AS A MATTER OF RIGHT. THE RESULT IS MASSIVE, SOCIETY-WIDE DISCRIMINATION.

- MILLIONS OF OUR CITIZENS WITH DISABILITIES SUFFER UNCONSCIONABLE INFRINGEMENT OF THEIR HUMAN RIGHTS. THEY ARE SUBJECTED TO DE FACTO GUARDIANSHIP, DETENTION, AND CONFISCATION OF PROPERTY WITHOUT DUE PROCESS OF LAW. THEY ARE OFTEN DENIED ESSENTIAL LIFE SUPPORT SERVICES. THEY SUFFER FREQUENT HUMILIATION AND REJECTION, AS WELL AS PHYSICAL AND PSYCHOLOGICAL DEPRIVATION AND ABUSE. THEY ARE OFTEN UNREASONABLY EXCLUDED FROM SIGNIFICANT OPPORTUNITIES FOR SOCIAL PARTICIPATION, INCLUDING ACCESS TO PUBLIC AND PRIVATE FACILITIES, EDUCATION, EMPLOYMENT, HOUSING, TRANSPORTATION, COMMUNICATIONS AND RECREATION.

- PIONEER MEDICAL, EDUCATIONAL, REHABILITATION AND INDEPENDENT LIVING SERVICES DESIGNED TO ENABLE PEOPLE WITH DISABILITIES TO PARTICIPATE FULLY IN THE PRODUCTIVE MAINSTREAM OF SOCIETY HAVE PROVEN TO BE EFFECTIVE AND PROFITABLE. HOWEVER, IN SPITE OF THE VALIANT EFFORTS OF THE CONGRESS AND OF MANY DEDICATED SERVICE PROVIDERS, THESE PROMISING PROGRAMS HAVE BEEN SEVERELY LIMITED BY TRADITIONAL DISCRIMINATION. THEY HAVE BEEN UNDERFUNDED, FRAGMENTED, UNCOORDINATED, AND CONTINUALLY CONSTRAINED BY OBSOLETE ATTITUDES AND INACCESSIBLE ENVIRONMENTS. THE NEEDS OF THE MAJORITY OF PEOPLE WITH DISABILITIES ARE NOT BEING MET.

- BLOCKED BY DISCRIMINATORY PRACTICES FROM FULFILLING THEIR PRODUCTIVE POTENTIAL, 43 MILLION AMERICANS WITH DISABILITIES FORM THIS NATION'S MOST IMPOVERISHED LARGE MINORITY. THEY RECEIVE THE LEAST EDUCATION. THEY HAVE THE LOWEST INCOMES AND AMONG THE HIGHEST RATES OF UNEMPLOYMENT, SUBSTANDARD HOUSING, HOMELESSNESS, SUICIDE AND PREVENTABLE ILLNESS AND DEATH.

- A CALIFORNIA WOMAN WITH A HEAD INJURY WRITES:

"I HAD BEEN A CPA, AND WAS A PRODUCER & DIRECTOR FOR CNN AND PBS IN LONDON UP UNTIL ACCIDENT, JUNE 1987. NOW NOTHING. MY CHILDREN ARE HURT, FRUSTRATED AND CONFUSED. WHAT WILL HAPPEN TO THEIR MOTHER THAT WAS SUCCESSFUL, INTELLIGENT, HAPPY, LOVING, GIVING?

I'VE BEEN FLOUNDERING AND SEARCHING LONG ENOUGH. WE CAN GO JUST SO LONG CONSTANTLY REACHING DEAD ENDS. I'M BROKE, DEGRADED AND

ANGRY. HAVE ATTEMPTED SUICIDE THREE TIMES. I KNOW HUNDREDS. MOST OF US TRIED, BUT WHICH WAY AND WHERE DO WE GO? WHERE CAN WE LIVE? WHAT AND WHO CAN WE BE? IF I WERE UNDERSTOOD, CARED FOR, EDUCATED FOR A NEW LIFE AND CAREER, I WOULD HAVE SOMETHING TO LIVE FOR.

WHO HAS THE DEPTH, DETERMINATION, INTUITION, PLAN TO HELP US?"

- ON DECEMBER 28, 1988, IN TACOMA, WASHINGTON, TWO YEAR OLD DYLAN DAY AND HIS GRANDFATHER HOLLIS DAY WERE FOUND SHOT TO DEATH, AN APPARENT MURDER-SUICIDE. ACCORDING TO THE CHILD'S MOTHER, HER FATHER HAD BEEN "VERY, VERY CONCERNED ABOUT MY CHILD'S CONDITION." DYLAN HAD "A MILD FORM OF CEREBRAL PALSY, AND WAS CONSIDERED TO BE DEVELOPMENTALLY DISABLED." MR. DAY, A RETIRED COMPANY PRESIDENT, COULD NOT BEAR THE THOUGHT THAT HIS DAUGHTER AND GRANDSON WOULD HAVE TO FACE THE DEVASTATING LIFETIME OF DISCRIMINATION AND DEPRIVATION THAT HE FORESAW FOR THEM.

- A WOMAN IN CALIFORNIA WHO IS BLIND WROTE TO THE TASK FORCE: "I AM A TRAINED NEWS REPORTER AND HAVE BEEN APPLYING FOR JOBS AT RADIO STATIONS THROUGHOUT THE COUNTRY. I HAVE BEEN REPEATEDLY TOLD THAT I AM THE MOST QUALIFIED CANDIDATE, BUT SINCE THERE HAS NEVER BEEN A BLIND REPORTER BEFORE, THEY CANNOT HIRE ME. I WOULD LIKE THE CHANCE TO SUCCEED OR FAIL BASED ON MY ABILITY AS A REPORTER RATHER THAN MY LACK OF VISION."

- A SERVICE PROVIDER TO HEARING IMPAIRED PEOPLE IN ILLINOIS TESTIFIED: "WE HAVE CLIENTS WHO ARE ADMITTED TO HOSPITALS, UNDERGO SURGERY, AND ARE RELEASED WITHOUT THE BENEFIT OF A SIGN LANGUAGE INTERPRETER TO RECEIVE INFORMATION CRITICAL TO THEIR HEALTH. WE HAVE CLIENTS WHO HAVE BEEN ARRESTED AND HELD IN JAIL OVER NIGHT WITHOUT EVER KNOWING THEIR RIGHTS NOR WHAT THEY ARE BEING HELD FOR. WE HAVE CLIENTS WHOSE CHILDREN HAVE BEEN TAKEN AWAY FROM THEM AND TOLD TO GET PARENT INFORMATION, BUT HAVE NO PLACE TO GO BECAUSE THE SERVICES ARE NOT ACCESSIBLE. WHAT CHANCE DO THEY EVER HAVE TO GET THEIR CHILDREN BACK?"

223 YEARS AFTER OUR FOUNDING FATHERS DECLARED THAT ALL MEN "ARE ENDOWED BY THEIR CREATOR WITH CERTAIN UNALIENABLE RIGHTS," 25 YEARS AFTER THE CIVIL RIGHTS ACT OF 1964, AMERICANS WITH DISABILITIES STILL DO NOT ENJOY THE COMPREHENSIVE PROTECTION AGAINST DISCRIMINATION WHICH HAVE BEEN PROVIDED TO ALL OTHER MAJOR MINORITIES. EXISTING LAWS PROVIDING FOR PARTIAL RIGHTS ARE VERY POORLY IMPLEMENTED AND ENFORCED.

THE TASK FORCE CONCLUDES THAT:

DISABILITY HAS BECOME A NORMAL CHARACTERISTIC OF HUMAN EXPERIENCE. MOST PEOPLE WITH DISABILITIES HAVE THE POTENTIAL TO BECOME FULLY

PRODUCTIVE PARTICIPANTS IN THE MAINSTREAM OF SOCIETY. VIRTUALLY ALL PEOPLE WITH DISABILITIES HAVE THE POTENTIAL TO BECOME MORE SELF-RELIANT, AND TO CONTRIBUTE TO THE PRODUCTIVITY AND QUALITY OF LIFE OF THOSE AROUND THEM. HOWEVER THIS VAST HUMAN POTENTIAL IS BEING SEVERELY SUPPRESSED BY TRADITIONAL DISCRIMINATION, RESULTING IN UNCONSCIONABLE INJUSTICE TO INDIVIDUALS, AND UNAFFORDABLE ECONOMIC AND MORAL BURDENS FOR THE NATION.

AMERICANS WITH DISABILITIES WILL NEVER BE ABLE TO FULFILL THEIR POTENTIAL TO BECOME FULLY CONTRIBUTING, PRODUCTIVE CITIZENS OF THE FIRST CLASS UNTIL THIS NATION EMPOWERS THEM BY TAKING DECISIVE ACTION TO ELIMINATE DISCRIMINATORY PRACTICES AND THE FALSE ASSUMPTIONS ON WHICH THOSE PRACTICES ARE BASED. HISTORY DEMONSTRATES THAT THIS CAN ONLY BE DONE THROUGH A FIRM, ENFORCEABLE STATEMENT OF LAW THAT PEOPLE WITH DISABILITIES HAVE THE SAME INALIENABLE RIGHTS AS OTHER PEOPLE, AND THAT HENCEFORTH THEY ARE TO BE ACCORDED EQUAL OPPORTUNITY IN ALL ASPECTS OF LIFE.

THE TASK FORCE URGES:

- THAT CONGRESS TAKE PROMPT ACTION TO CONSIDER AND TO PASS THE AMERICANS WITH DISABILITIES ACT OF 1989, WITH VIGILANCE THAT THE PRINCIPLE OF EQUALITY NOT BE COMPROMISED. THE FINAL PRODUCT OF THE LEGISLATIVE PROCESS MUST ENSURE THE PROTECTION AND ENFORCEMENT OF THE CIVIL RIGHTS OF ALL PEOPLE WITH DISABILITIES TO PARTICIPATE FULLY AND EQUALLY IN THE MAINSTREAM OF SOCIETY.
- THAT THE PRESIDENT AND THE EXECUTIVE BRANCH PROVIDE VIGOROUS PUBLIC AND ADMINISTRATIVE LEADERSHIP ON BEHALF OF THE PASSAGE AND THE IMPLEMENTATION OF THE AMERICANS WITH DISABILITIES ACT.
- THAT ALL CITIZENS WHO LOVE JUSTICE ADVOCATE FOR THE ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT, AND TAKE DECISIVE ACTION TO MAKE THE RIGHTS WHICH ADA MANDATES REAL IN THEIR HOMES AND COMMUNITIES.

SUPPORT AND CONCERNS

THE AMERICANS WITH DISABILITIES ACT HAS BEEN ENDORSED SPECIFICALLY OR IN PRINCIPLE BY THE LEADERS OF BOTH MAJOR POLITICAL PARTIES: PRESIDENT BUSH, VICE PRESIDENT QUAYLE AND GOVERNOR DUKAKIS; AND BY MORE THAN ONE HUNDRED AND FIFTY DISTINGUISHED MEMBERS OF THE LAST CONGRESS. IT HAS BEEN ENDORSED BY INDIVIDUALS AND ORGANIZATIONS REPRESENTING EVERY MAJOR SEGMENT OF THE DISABILITY COMMUNITY. OF THE LITERALLY THOUSANDS OF PEOPLE WITH DISABILITIES, THEIR FAMILIES, SERVICE PROVIDERS AND ADVOCATES PRESENTING EVIDENCE TO THE TASK FORCE, NOT ONE INDIVIDUAL EXPRESSED OPPOSITION TO ADA.

HOWEVER CONCERNS HAVE BEEN EXPRESSED BY PERSONS AND GROUPS UNFAMILIAR WITH OUR PROBLEMS AND POTENTIAL, WHO FEAR THAT PROVISIONS OF ADA MIGHT NEGATIVELY IMPACT THEIR INTERESTS.

THE TASK FORCE BELIEVES THAT THE MAJORITY OF THESE CONCERNS, ALTHOUGH SINCERELY HELD AND WELL MEANING, ARE BASED LARGELY ON TRADITIONAL ASSUMPTIONS AND LACK OF INFORMATION.

MOST OFTEN EXPRESSED IS CONCERN ABOUT THE COST OF IMPLEMENTING ADA. DOES ADA IMPOSE UNAFFORDABLE ECONOMIC BURDENS ON THE NATION?

EQUALITY UNAFFORDABLE IN AMERICA? WOULD THIS QUESTION BE ASKED ABOUT BLACK, HISPANIC OR JEWISH PEOPLE? THE VERY EXISTENCE OF THE QUESTION REVEALS THE EXTENT TO WHICH ANCIENT ASSUMPTIONS ABOUT DISABILITY HAVE BEEN INTERNALIZED. THE VERY QUESTION IS INCONSISTENT WITH THE PRINCIPLES SET OUT IN THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION AND THE PLEDGE OF ALLEGIANCE TO THE FLAG. THE VERY QUESTION DEMONSTRATES DRAMATICALLY THE ABSOLUTE NECESSITY FOR A NATIONAL MANDATE OF EQUALITY.

NOT SINCE THE ABOLITION OF SLAVERY HAVE AMERICANS BEEN DENIED EQUALITY FOR ECONOMIC REASONS. THE PRINCIPLE OF EQUALITY IS NOT NEGOTIABLE IN THE UNITED STATES OF AMERICA.

ADA IS NOT ONLY AFFORDABLE, WE CANNOT AFFORD NOT TO HAVE IT.

IT IS THE STATUS QUO THAT IS UNAFFORDABLE. IT IS THE OBSOLETE STATUS QUO PRACTICES OF DISCRIMINATION AND SEGREGATION THAT ARE PREVENTING PERSONS WITH DISABILITIES FROM BEING PRODUCTIVE, AND ARE DRIVING US INEVITABLY TOWARD THE ECONOMIC AND MORAL DISASTERS OF GIANT PATERNALISTIC WELFARE BUREAUCRACIES. WE ARE ALREADY PAYING UNAFFORDABLE BILLIONS IN PUBLIC AND PRIVATE FUNDS TO MAINTAIN MILLIONS OF POTENTIALLY PRODUCTIVE AMERICANS IN UNJUST, UNWANTED WELFARE DEPENDENCY. FEDERAL, STATE AND LOCAL GOVERNMENTS ARE ESTIMATED TO SPEND WELL OVER \$100 BILLION ANNUALLY. EXPENDITURES BY PRIVATE INDIVIDUALS AND ORGANIZATIONS AND LOST TAXES AND PRODUCTIVITY, PROBABLY TOTAL AT LEAST ANOTHER 200 BILLION. THOUSANDS OF FAMILIES ARE BANKRUPTED ANNUALLY. AND THESE MASSIVE COSTS ARE ESCALATING EXPLOSIVELY WITH THE RAPIDLY INCREASING POPULATION OF CITIZENS, ESPECIALLY ELDERLY PERSONS, WITH SIGNIFICANT PHYSICAL AND MENTAL IMPAIRMENTS.

BUT WON'T ADA REQUIRE MASSIVE EXPENDITURES BY GOVERNMENT AND THE PRIVATE SECTOR? HOW CAN WE AFFORD SUCH EXPENDITURES NOW, IN A TIME OF PROPOSED BUDGET CUTS BY GOVERNMENT, AND INCREASING COSTS FOR BUSINESS AND INDIVIDUALS?

EQUALITY DOES REQUIRE A RECOGNITION OF COMPETING EQUITIES AND A BALANCING OF INTERESTS. ADA HAS BEEN WRITTEN ON PRINCIPLES OF FAIRNESS TO THE ADVANTAGED AS WELL AS TO THE DISADVANTAGED.

WHILE IT IS TRUE THAT EQUAL OPPORTUNITY FOR PEOPLE WITH DISABILITIES WILL REQUIRE CERTAIN INITIAL COSTS, INCREASED GOVERNMENT SPENDING TO IMPLEMENT ADA WILL BE MINIMAL, LIMITED PRINCIPALLY TO ENFORCEMENT ENTITIES WHICH ALREADY EXIST. THE PRIVATE SECTOR WILL NOT BE REQUIRED TO SPEND ENORMOUS SUMS ON INSTANT TOTAL RENOVATIONS OF EXISTING FACILITIES, BUT RATHER TO MAKE REASONABLE EFFORTS TO MAKE SUCH FACILITIES ACCESSIBLE, AND TO ACCOMMODATE EMPLOYEES WITH DISABILITIES. MAJOR EMPHASIS IS GIVEN TO CREATING NEW FACILITIES AND SYSTEMS THAT WILL BE COMPLETELY ACCESSIBLE. WITH APPROPRIATE PLANNING, THIS WILL, IN MOST CASES, REQUIRE ONLY MODESTLY INCREASED INVESTMENTS SPREAD OVER A REASONABLE PERIOD OF TIME.

WHAT WILL BE NECESSARY IS NOT GREAT INCREASES IN SPENDING, BUT RATHER CREATIVE, COURAGEOUS ACTION TO CHANGE TRADITIONAL PRACTICES, AND TO REALLOCATE PUBLIC AND PRIVATE RESOURCES FROM PROCESSES THAT FORCE SEGREGATION AND DEPENDENCE TO PROCESSES THAT PRODUCE PRODUCTIVE INVOLVEMENT IN THE MAINSTREAM OF SOCIETY. JUST AS THE PREVENTION OF DRUG ABUSE COSTS LESS IN THE LONG RUN THAN ITS CURE, SO WILL THE PREVENTION OF THE DEPENDENCY OF PEOPLE WITH DISABILITIES COST LESS THAN THE PUBLIC AND PRIVATE COSTS OF ITS CONSEQUENCES.

THE PAYMENTS AND REALLOCATIONS REQUIRED BY ADA WILL NOT BE OVERHEAD COSTS, BUT WILL CONSTITUTE THE TYPE OF INVESTMENTS THAT HAVE ALREADY PROVEN TO BE PROFITABLE TO EVERY CITIZEN, AND TO THE NATION AS A WHOLE.

THE APPROPRIATE QUESTION IN REGARD TO THE ECONOMIC IMPACT OF ADA IS NOT "HOW MUCH WILL IT COST?," OR EVEN "HOW MUCH WILL IT SAVE?," BUT RATHER, "HOW MUCH WILL IT PROFIT THE NATION IN THE LONG RUN?" THE PROBABLE ANSWER IS, "HUNDREDS OF BILLIONS."

DOES ADA INITIATE AN AGENDA WHEREBY PEOPLE WITH DISABILITIES WILL BE ENTITLED TO GOVERNMENT SOLUTIONS FOR ALL THEIR PROBLEMS?

CERTAINLY NOT. THAT IS NOT ONLY UNDESIRABLE, IT IS IMPOSSIBLE. PROBLEMS ARE SOLVED BY THE CITIZENS THEMSELVES, OR THEY ARE NOT SOLVED AT ALL. INDEED, RESPONSIBILITY FOR IMPLEMENTING ADA ON A DAY-TO-DAY BASIS WOULD LIE PRINCIPALLY WITH THE PRIVATE SECTOR. BUT GOVERNMENT IS INESCAPABLY RESPONSIBLE TO PROVIDE LEADERSHIP WHICH RESULTS IN CITIZEN SOLUTIONS. ADA AUTHORIZES GOVERNMENT AT SEVERAL LEVELS TO PROVIDE THAT LEADERSHIP TO END DISCRIMINATION.

WILL ADA REQUIRE EMPLOYERS TO EMPLOY UNQUALIFIED PEOPLE?

ADA SPECIFICALLY STATES THAT EMPLOYERS WILL NOT BE REQUIRED TO EMPLOY UNQUALIFIED PERSONS. HOWEVER THEY WOULD BE REQUIRED TO MAKE REASONABLE ACCOMMODATIONS FOR QUALIFIED CANDIDATES WITH DISABILITIES.

SUMMARY.

EVER INCREASING MILLIONS OF AMERICANS WITH DISABILITIES SUFFER MASSIVE DISCRIMINATION IN ALL ASPECTS OF SOCIAL PROCESS WHICH CONDEMNS THEM TO LIFETIMES OF SEGREGATION, POVERTY AND UNPRODUCTIVE DEPENDENCY ON PUBLIC AND PRIVATE WELFARE. THIS IS MORALLY INTOLERABLE AND ECONOMICALLY DISASTROUS.

ADA WILL NOT SOLVE ALL OF THE PROBLEMS OF AMERICANS WITH DISABILITIES, BUT IT IS AN ESSENTIAL FOUNDATION FOR ALL OPTIMAL SOLUTIONS. BECAUSE UNTIL WE ELIMINATE THE INSIDIOUS ASSUMPTION THAT PEOPLE WITH DISABILITIES ARE LESS THAN FULLY HUMAN, AND ESTABLISH THE CONCEPT AND PRACTICE OF THEIR EQUALITY, THERE WILL BE NO MORE THAN TOKEN ACTION TO ENABLE THEM TO PARTICIPATE FULLY IN THE PRODUCTIVE MAINSTREAM OF SOCIETY.

THE ECONOMIC AND MORAL GREATNESS OF AMERICA IS BASED ON A HISTORY OF EXTENDING EQUAL OPPORTUNITY TO WAVE AFTER WAVE OF PREVIOUSLY OPPRESSED AND DEPENDENT GROUPS. PROVIDING SUCH OPPORTUNITY TO AMERICANS WITH DISABILITIES WILL RESULT IN YET ANOTHER PERIOD OF DYNAMIC GROWTH IN THE PRODUCTIVITY, PROSPERITY AND QUALITY OF LIFE OF THE NATION. IT WILL REINFORCE AMERICA'S TRADITIONAL LEADERSHIP FOR DEMOCRACY AND HUMAN RIGHTS THROUGHOUT THE WORLD.

THE TASK FORCE URGES ALL WHO BELIEVE IN THE DREAM OF LIBERTY AND JUSTICE FOR ALL TO UNITE IN SUPPORT OF THE IMMEDIATE ENACTMENT AND THE VIGOROUS IMPLEMENTATION OF THE AMERICANS WITH DISABILITIES ACT.

Justin Dart
Chairperson

Dr. Elizabeth Boggs
Co-chairperson

Lex Frieden
Coordinator



National Council on the Handicapped

800 Independence Avenue, S.W.
Suite 814
Washington, D.C. 20591

202-267-3846 voice
202-267-3232 TDD

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Federal Agency

STATEMENT
OF
SANDRA SWIFT PARRINO
CHAIRPERSON
BEFORE
THE
COMMITTEE ON EDUCATION AND LABOR
U. S. HOUSE OF REPRESENTATIVES
CONCERNING
THE AMERICANS WITH DISABILITIES ACT
ON
JULY 18, 1989

STATEMENT OF SANDRA SWIFT PARRINO, CHAIRPERSON, NATIONAL COUNCIL ON
DISABILITY, WASHINGTON, D.C.

Good Morning, Mr. Chairman and distinguished members of the
Committee.

I am Sandra Swift Parrino, Chairperson of the National Council on
Disability. It is an honor to be invited to testify today before the
House Subcommittee on Select Education on this, your first day of hearings
on H.R. 2273, the "Americans With Disabilities Act of 1989" (ADA).

I am, in private life, a mother of two children with significant
disabilities. I am, in public life, the Chairperson of the National
Council on Disability, an independent Federal agency whose board is
comprised of 15 knowledgeable persons, many of them with disabilities,
parents and experts on disability service programs. All of us are
appointed by the President and confirmed by the Senate. We are an
independent Federal agency with a statutory mandate to analyze issues
related to public policy affecting Americans with disabilities and make
recommendations. The major thrust of our efforts is towards eliminating
barriers which prevent persons with disabilities from full participation
in the mainstream of American life.

The National Council on Disability has not been timid in its efforts
in both originating and spearheading the Americans With Disabilities
Act (ADA). We first recommended this legislation in the report entitled
Toward Independence that was submitted to the President and Congress in
1986.

In our 1988 report to the President and the Congress, On the Threshold of Independence, we submitted draft legislation of the Americans With Disabilities Act (ADA). As you know this was the legislation introduced in the 100th Congress. H.R. 2273, which you have before you today represents the second generation of the Americans With Disabilities Act (ADA).

The National Council is heartened by the progress on the Americans With Disabilities Act (ADA) in the 101st Congress. On the Senate side, the leadership of Senator Harkin, Chairman of the Subcommittee on the Handicapped, has been key in bringing the bill close to full committee consideration. The initiative taken by President Bush, Attorney General Thornburgh, White House staff and others in the Administration has been an essential component of the momentum that is building toward enactment. We are pleased that the House is beginning legislative consideration of the bill, and we look forward, Mr. Chairman and Subcommittee members, to your leadership as we move through the legislative process.

While this piece of legislation that you have before you today is not the exact same piece the National Council originally drafted, the intentions are the same. Flexibility, but also persistence is most essential in accomplishment of our goals. We believe the quotation that President Reagan had on his desk says it best, "There is no limit to how far you can go or how much you can accomplish, if you don't care who gets the credit."

The goal that we all share is the removal of attitudinal, architectural and communication barriers in employment, transportation, public accommodations and telecommunications which denies persons with disabilities an equal opportunity to contribute to and benefit from the richness of the American society.

Before proceeding to give you a sense of the Council's perspective in developing the legislation, I would like to share with you a recent experience of the Council's and a recommendation which has grown out of that experience.

As you know, Mr. Chairman, the National Council has been participating in the dialogue surrounding the legislative progress of the ADA. As many others have been doing, we too have been combing through the many detailed provisions of the current bill, analyzing specific phrases, constructing case law history and pondering the precise meaning and impact of the various statutory requirements. As we have engaged in this process, we began to wonder what it was going to be like for businesses, government entities, and other organizations which would be held accountable under the bill to try to figure out precisely what their responsibilities were in order to comply. If we, as the originators of the legislation and persons knowledgeable about disability policy, needed to expend such energy understanding the legislation, what sort of position would they be in?

Most employers today have no experience with accommodating a job for a person with a disability. Where are they to turn for information, for knowledge and for assistance in their efforts to ensure that they comply with this legislation? How are they to know they are doing what needs to be done?

We recommend that you consider adding a technical assistance provision to the legislation so that those responsible for complying with the legislation will be able to understand and receive guidance in how they are to fulfill their responsibility. History shows us that technical assistance can be a powerful and effective tool for educating and enabling compliance. The technical assistance available in the mid 1970's, upon enactment of our current civil rights statute for persons with disabilities, Section 504 of the Rehabilitation Act, was considered especially valuable as it often provided recipients with practical solutions to difficult problems such as developing physical accessibility in older buildings and accommodating services for persons with sensory impairments.

There are many ways to construct a technical assistance package to accompany this legislation and the Council is currently exploring a number of alternatives. There are numerous existing organizations and networks with expertise in the technical aspects of accommodation for disabilities

which should be utilized in such an effort. We would be happy to work with this Subcommittee and any other Representatives who might be interested in such a provision or additional legislation.

Mr. Chairman, the intention in drafting the original ADA was to offer constructive, realistic and fiscally sound policy to enhance independence and productivity of people with disabilities, and to ensure that Americans with disabilities would no longer be second class citizens.

The Americans With Disabilities Act of 1989 (ADA) is not only important to the over 43 million citizens with disabilities, it is also, as I will illustrate a bit later, of the highest importance to our nation. From the person who becomes quadriplegic as the result of a football injury to the infant with spina bifida in a hospital crib; from rapidly growing numbers of senior citizens to 75,000 Vietnam veterans the basic nugget of truth is that, due to discriminatory practices, persons with disabilities continue to suffer from the highest rates of unemployment and poverty compare to any other group of Americans. Americans with disabilities have less access to decent schooling, housing, employment, health care and transportation than any other persons in this country, including non-citizens.

ADA is critically important because its provisions are shaped to break the chains that bind many of the millions of persons with disabilities into a bondage of unjust, unwanted dependency on families, charity and social welfare. This dependency is a major and totally unnecessary contributor to public deficits and private expenditures.

These hearings will provide you with a vital source of information to assess the scope and meaning of the Americans With Disabilities Act of 1989 (ADA). On behalf of the millions of citizens with disabilities, I ask you to keep in mind that for decades people with disabilities have been waiting. For decades people with disabilities have seen laws enacted by their elected representatives that prohibit discrimination for other groups of individuals. For decades, Americans with disabilities, have had to live with the realization that there are no similarly effective laws to protect them.

Today, I am proud to say, there is an emerging group-consciousness on the part of Americans with disabilities, their families, friends and advocates. This consciousness represents a mounting political activism.

The over 43 million Americans our nation's largest and no longer silent minority.

Martin Luther King had a dream. We have a vision. Dr. King dreamed of an America where people are judged not by the color of their skin, but by the content of their character. ADA's vision is of an America where persons are judged by their abilities, not their disabilities.

In Toward Independence, our 1986 report to Congress our vision was to shape responsible legislation by which Federal disincentives and barriers to employment are removed so that disabled Americans can go to work.

In the 1984 report to Congress by the Rehabilitation Services Administration, it was indicated that for every \$1 spent to return a

disabled person to work, \$18 were returned to the tax base upon their placement. This would include not only taxes paid by the individual, but money saved from the removal of public expenditures.

The majority of persons with disabilities "not working" said they want to work. The Louis Harris poll which we sponsored in 1985, indicated that persons with disabilities in the workplace are rated "good" to "excellent" by an overwhelming majority of their employers. Disability does not mean incompetence. The perception that persons with disabilities are dependent by nature is the result of discriminatory attitudes, not the result of disability.

America cannot afford to discard citizens with disabilities. In a nation with a labor shortage, two-thirds of all disabled Americans between the ages of 16 and 64 years age are not working. No one demographic group under 65 has such a small proportion working. The two words "not working" are perhaps the truest definition of what it means to be disabled in America today.

As Louis Harris discovered in the poll commissioned by the Council in 1985, people with disabilities want to become involved in their communities as taxpaying contributors.

It is contrary to sound principles of fiscal responsibility to spend billions of Federal tax dollars to relegate people with disabilities to positions of dependency upon public support.

People with disabilities represent America's greatest untapped resource of individuals who want to work. As we all know, in America, jobs are a major source of status, dignity, and self-esteem. "What do you do?" is often a conversational staple. To contribute to society and support yourself is a cherished precept of our American vision.

ADA sweeps into obsolescence those obstacles that limit opportunity, promote discrimination, prevent integration, restrict choice and frustrate self-help for working-aged Americans with disabilities who are unemployed.

Advancing age, economic circumstances, illness, and accident will someday, according to reputable statistics, put most of us, in the category of a person with a disability. We are all potential beneficiaries of the ADA.

The goals espoused in the Americans with Disabilities Act are economically practical as well as morally correct and humanely necessary. The ADA is legislation that does away troubling historical echoes, echoes that are no longer tolerable in a society committed to equal opportunity for all its citizens.

Esteemed members of Congress, in closing, I wish to relay a message from our National Council on Disability and the over 43 million Americans with disabilities. For decades, we have retained a faith in the reformability and adaptability of our Government. For decades we have been told to have patience, but patience is not an inexhaustible commodity. People with disabilities have waited long enough. America has waited long enough. The Americans with Disabilities Act (ADA) must be enacted now.

The vision of equality for 43 million of Americans with disabilities now rests with you.

Thank you for this opportunity to testify. The National Council on Disability looks forward to working with you on this most important piece of legislation.



National Council on the Handicapped

800 Independence Avenue, S.W.
Suite 814
Washington, D.C. 20591

202-267-3846 voice
202-267-3232 TDD

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I am Sandra Swift Parrino, Chairperson of the National Council on
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I am, in private life, a mother of two children with significant
disabilities. I am, in public life, the Chairperson of the National
Council on Disability, an independent Federal agency whose board is
comprised of 15 knowledgeable persons, many of them with disabilities,
parents and experts on disability service programs. All of us are
appointed by the President and confirmed by the Senate. We are an
independent Federal agency with a statutory mandate to analyze issues
related to public policy affecting Americans with disabilities and make
recommendations. The major thrust of our efforts is towards eliminating
barriers which prevent persons with disabilities from full participation
in the mainstream of American life.

The National Council on Disability has not been timid in its efforts
in both originating and spearheading the Americans With Disabilities
Act (ADA). We first recommended this legislation in the report entitled
Toward Independence that was submitted to the President and Congress in
1986.

In our 1988 report to the President and the Congress, On the Threshold of Independence, we submitted draft legislation of the Americans With Disabilities Act (ADA). As you know this was the legislation introduced in the 100th Congress. H.R. 2273, which you have before you today represents the second generation of the Americans With Disabilities Act (ADA).

The National Council is heartened by the progress on the Americans With Disabilities Act (ADA) in the 101st Congress. On the Senate side, the leadership of Senator Harkin, Chairman of the Subcommittee on the Handicapped, has been key in bringing the bill close to full committee consideration. The initiative taken by President Bush, Attorney General Thornburgh, White House staff and others in the Administration has been an essential component of the momentum that is building toward enactment. We are pleased that the House is beginning legislative consideration of the bill, and we look forward, Mr. Chairman and Subcommittee members, to your leadership as we move through the legislative process.

While this piece of legislation that you have before you today is not the exact same piece the National Council originally drafted, the intentions are the same. Flexibility, but also persistence is most essential in accomplishment of our goals. We believe the quotation that President Reagan had on his desk says it best, "There is no limit to how far you can go or how much you can accomplish, if you don't care who gets the credit."

The goal that we all share is the removal of attitudinal, architectural and communication barriers in employment, transportation, public accommodations and telecommunications which denies persons with disabilities an equal opportunity to contribute to and benefit from the richness of the American society.

Before proceeding to give you a sense of the Council's perspective in developing the legislation, I would like to share with you a recent experience of the Council's and a recommendation which has grown out of that experience.

As you know, Mr. Chairman, the National Council has been participating in the dialogue surrounding the legislative progress of the ADA. As many others have been doing, we too have been combing through the many detailed provisions of the current bill, analyzing specific phrases, constructing case law history and pondering the precise meaning and impact of the various statutory requirements. As we have engaged in this process, we began to wonder what it was going to be like for businesses, government entities, and other organizations which would be held accountable under the bill to try to figure out precisely what their responsibilities were in order to comply. If we, as the originators of the legislation and persons knowledgeable about disability policy, needed to expend such energy understanding the legislation, what sort of position would they be in?

Most employers today have no experience with accommodating a job for a person with a disability. Where are they to turn for information, for knowledge and for assistance in their efforts to ensure that they comply with this legislation? How are they to know they are doing what needs to be done?

We recommend that you consider adding a technical assistance provision to the legislation so that those responsible for complying with the legislation will be able to understand and receive guidance in how they are to fulfill their responsibility. History shows us that technical assistance can be a powerful and effective tool for educating and enabling compliance. The technical assistance available in the mid 1970's, upon enactment of our current civil rights statute for persons with disabilities, Section 504 of the Rehabilitation Act, was considered especially valuable as it often provided recipients with practical solutions to difficult problems such as developing physical accessibility in older buildings and accommodating services for persons with sensory impairments.

There are many ways to construct a technical assistance package to accompany this legislation and the Council is currently exploring a number of alternatives. There are numerous existing organizations and networks with expertise in the technical aspects of accommodation for disabilities

which should be utilized in such an effort. We would be happy to work with this Subcommittee and any other Representatives who might be interested in such a provision or additional legislation.

Mr. Chairman, the intention in drafting the original ADA was to offer constructive, realistic and fiscally sound policy to enhance independence and productivity of people with disabilities, and to ensure that Americans with disabilities would no longer be second class citizens.

The Americans With Disabilities Act of 1989 (ADA) is not only important to the over 43 million citizens with disabilities, it is also, as I will illustrate a bit later, of the highest importance to our nation. From the person who becomes quadriplegic as the result of a football injury to the infant with spina bifida in a hospital crib; from rapidly growing numbers of senior citizens to 75,000 Vietnam veterans the basic nugget of truth is that, due to discriminatory practices, persons with disabilities continue to suffer from the highest rates of unemployment and poverty compare to any other group of Americans. Americans with disabilities have less access to decent schooling, housing, employment, health care and transportation than any other persons in this country, including non-citizens.

ADA is critically important because its provisions are shaped to break the chains that bind many of the millions of persons with disabilities into a bondage of unjust, unwanted dependency on families, charity and social welfare. This dependency is a major and totally unnecessary contributor to public deficits and private expenditures.

These hearings will provide you with a vital source of information to assess the scope and meaning of the Americans With Disabilities Act of 1989 (ADA). On behalf of the millions of citizens with disabilities, I ask you to keep in mind that for decades people with disabilities have been waiting. For decades people with disabilities have seen laws enacted by their elected representatives that prohibit discrimination for other groups of individuals. For decades, Americans with disabilities, have had to live with the realization that there are no similarly effective laws to protect them.

Today, I am proud to say, there is an emerging group-consciousness on the part of Americans with disabilities, their families, friends and advocates. This consciousness represents a mounting political activism.

The over 43 million Americans our nation's largest and no longer silent minority.

Martin Luther King had a dream. We have a vision. Dr. King dreamed of an America where people are judged not by the color of their skin, but by the content of their character. ADA's vision is of an America where persons are judged by their abilities, not their disabilities.

In Toward Independence, our 1986 report to Congress our vision was to shape responsible legislation by which Federal disincentives and barriers to employment are removed so that disabled Americans can go to work.

In the 1984 report to Congress by the Rehabilitation Services Administration, it was indicated that for every \$1 spent to return a

disabled person to work, \$18 were returned to the tax base upon their placement. This would include not only taxes paid by the individual, but money saved from the removal of public expenditures.

The majority of persons with disabilities "not working" said they want to work. The Louis Harris poll which we sponsored in 1985, indicated that persons with disabilities in the workplace are rated "good" to "excellent" by an overwhelming majority of their employers. Disability does not mean incompetence. The perception that persons with disabilities are dependent by nature is the result of discriminatory attitudes, not the result of disability.

America cannot afford to discard citizens with disabilities. In a nation with a labor shortage, two-thirds of all disabled Americans between the ages of 16 and 64 years age are not working. No one demographic group under 65 has such a small proportion working. The two words "not working" are perhaps the truest definition of what it means to be disabled in America today.

As Louis Harris discovered in the poll commissioned by the Council in 1985, people with disabilities want to become involved in their communities as taxpaying contributors.

It is contrary to sound principles of fiscal responsibility to spend billions of Federal tax dollars to relegate people with disabilities to positions of dependency upon public support.

People with disabilities represent America's greatest untapped resource of individuals who want to work. As we all know, in America, jobs are a major source of status, dignity, and self-esteem. "What do you do?" is often a conversational staple. To contribute to society and support yourself is a cherished precept of our American vision.

ADA sweeps into obsolescence those obstacles that limit opportunity, promote discrimination, prevent integration, restrict choice and frustrate self-help for working-aged Americans with disabilities who are unemployed.

Advancing age, economic circumstances, illness, and accident will someday, according to reputable statistics, put most of us, in the category of a person with a disability. We are all potential beneficiaries of the ADA.

The goals espoused in the Americans with Disabilities Act are economically practical as well as morally correct and humanely necessary. The ADA is legislation that does away troubling historical echoes, echoes that are no longer tolerable in a society committed to equal opportunity for all its citizens.

Esteemed members of Congress, in closing, I wish to relay a message from our National Council on Disability and the over 43 million Americans with disabilities. For decades, we have retained a faith in the reformability and adaptability of our Government. For decades we have been told to have patience, but patience is not an inexhaustible commodity. People with disabilities have waited long enough. America has waited long enough. The Americans with Disabilities Act (ADA) must be enacted now.

The vision of equality for 43 million of Americans with disabilities now rests with you.

Thank you for this opportunity to testify. The National Council on Disability looks forward to working with you on this most important piece of legislation.



National Council on Disability

ROBERT S. MULLER

MEMBER

4252 Mesa Court
Grandville, MI 48418
(616) 531-0492
(616) 534-9527 (Ans. Service)

800 Independence Ave., S.W.
Suite 814
Washington, D.C. 20591
(202) 267-3846

Statement of
Reverend Jesse Jackson
President
National Rainbow Coalition

before the

Committee on Education and Labor
Subcommittee on Select Education

July 18, 1989

Statement of Reverend Jesse Jackson

The eyes and hearts and hopes of Americans have, over the past several months, been focussed on Chinese students, and their struggle for dignity and democracy. As I watched their struggle, heard their eloquence, and understood their place on the right side of history, I was reminded of another group of students who fought for what they believed in, another group of students who led in the fight for justice.

I thought of the students at Gallaudet College here in Washington D.C..

I am told that the hearing impaired refer to the struggle at Gallaudet as "our Selma."

I support the Americans with Disabilities Act, the ADA bill, because I believe in civil rights, because I believe in human dignity. From Selma to Gallaudet is a straight line -- the line of justice.

Statement of Reverend Jackson

I have devoted much of my life to fighting for civil rights; it is that devotion that brings me before this subcommittee today. Mr. Chairman, members of Congress, we all know that the fight for the Civil Rights Act of 1964 was long and hard. The triumph was great. But the struggle is not over.

There is more work to be done, and the ADA represents an important step.

There are now tens of millions of Americans who lack basic civil rights protections. Men and women who can be turned away from a lunch counter, who can be refused a hotel room, who can be cast out for no reason other than ignorance and fear.

Americans with disabilities do not receive the protection of the Civil Rights Act of 1964, and the ADA would right that wrong.

Statement of Reverend Jackson

Workplaces will become accessible, opening the opportunity of participation and accomplishment to millions of Americans. We spend \$170 billion a year on disabled adults -- too much of it is spent maintaining dependency and activity.

Public accommodations, transportation, and telecommunications would no longer be unfairly and unjustly denied to disabled Americans.

When we open workplaces, we empower men and women -- we also save money.

Fewer dollars will be spent maintaining dependency-- more dollars will come in from taxpaying workers.

And that is one of the key lessons -- empowerment and participation for minorities benefit all Americans.

We know that integrating our society increases our moral integrity as a nation -- we must also remember it strengthens us in practical terms.

When the deaf can communicate more freely, through TDD devices, we all benefit from what they have to say.

Statement of Reverend Jackson

When a woman in a wheel chair can work instead of remain locked into a second class existence, we all win.

When people with AIDS are guaranteed basic civil rights, we all benefit. That is what the AIDS Commission understood when it called the ADA "model" legislation-- civil rights literally protect the public health.

The support for this bill is widespread -- the Leadership Conference on Civil Rights leads the list.

They understand that as long as any civil right is abridged, no civil right is secure.

We have seen many try to turn back the clock on civil rights. The Supreme Court has now thrown obstacles in the way of decades of progress.

This bill offers us a chance to just say no to injustice.

This bill offers us a chance to make our country stronger.

Statement of Reverend Jackson

Romanticized versions of the pre-civil rights past have made this country weaker -- too many young Americans have grown up knowing too little of the struggle and triumphs of the civil rights movement.

We have a chance to turn away from this "nightmare recast as dream" approach to history. We have a chance to continue to open up our nation, a chance to continue to "form a more perfect union."

We have a chance to pay real tribute to our flag. How does the Pledge of Allegiance conclude?

"And to the nation, for which it stands -- one nation, under God, indivisible, with liberty and justice for all."

For all. Not just for white male landowners. Not just for the conventionally abled. Not just for the HIV negative. Not just for the English speaking. "Liberty and justice for all."

Statement of Reverend Jackson

Doctor King made it clear to Rosa Parks that it was better to walk in dignity than ride in shame.

History has since given us a glimpse of how much better still it is to ride in dignity.

The Americans with Disability Act will fulfill this dream for millions more Americans -- we should all be proud to work for this landmark legislation.

Thank you.

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