



## National Council on the Handicapped

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To: National Council on the Handicapped  
From: Robert L. Burgdorf Jr., Attorney/Research Specialist  
(The author's initials appear after the name and title)  
Subject: Cost Data Regarding the Americans with Disabilities Act

At the May, 1988, quarterly meeting of the Council, Dr. Lenkowsky and other Council members indicated their desire to have more information about the costs and benefits associated with the Americans with Disabilities Act. This memorandum responds to that request. There was also discussion at the May meeting of the possibility of the Council obtaining the services of an economist to locate and develop cost data. In the absence of such assistance, I have pulled together the data included here on my own.

The available data are certainly far from comprehensive. At the time that the original HEW section 504 regulations were being considered in 1976, the Office for Civil Rights of the Department of Health, Education, and Welfare commissioned the Public Research Institute of Arlington, Virginia to compile a detailed report on the costs and benefits of the proposed regulations. That report, "Discrimination Against Handicapped Persons: The Costs, Benefits and Inflationary Impact of Implementing Section 504 of the Rehabilitation Act of 1973 covering Recipients of HEW Financial Assistance" presented a great quantity of statistical information, charts, tables, and

projections regarding the financial implications of the nondiscrimination requirements. To date, that report continues to be one of the most comprehensive reviews of costs and benefits of provisions prohibiting discrimination against persons with disabilities. A copy of that report is attached as Exhibit One of this memorandum.

No comparable study of the costs and benefits of the Americans with Disabilities Act has been conducted. Apart from the HEW Section 504 report, the available data that I have been able to identify are much more piecemeal and sketchy. One of the broadest compilations of such information is the section on "The Costs and Benefits of Full Participation" that I wrote for the U.S. Commission on Civil Rights, and which is included in its report, Accommodating the Spectrum of Individual Abilities. A copy of that section is attached as Exhibit Two.

Costs and benefits data that influenced the Council's deliberations in developing the recommendations in Toward Independence are presented in that report and in the detailed topic papers included in the Appendix to Toward Independence. Other pertinent facts and figures were presented in the Council's 1988 report, On the Threshold of Independence.

Most other sources of fiscal data about discrimination are much narrower in focus, tending to deal with a single topic, such as bus transportation or costs of adaptability in new housing construction. Before describing some such data sources, some general observations are in order.

## I. GENERALLY

As existing data are reviewed or compiled, and as studies of the costs of nondiscrimination requirements are conducted in the future, some guiding principles should be borne in mind:

A. There is great danger of that cost estimates of nondiscrimination requirements will be inflated.

The imposition of nondiscrimination requirements protecting persons with disabilities may be associated with unrealistic, inflated estimates of their costs, particularly when such cost estimates are based upon data developed by an affected industry. Such overestimates of costs were a problem that arose when the Section 504 regulations were promulgated. In his book, From Goodwill to Civil Rights, about the history of section 504, Richard Scotch observed that some of the agencies to be covered by the regulations "provided extremely high cost estimates and then complained that they could not meet the cost of compliance" (Id. at p. 118).

In his floor statement upon the introduction of the ADA, Congressman Tony Coelho noted :

In the past, concerns about cost have been raised as an obstacle to our addressing this problem. Estimates of these costs are inflated. For example, when the implications of section 504 were debated, universities and hospitals claimed that nondiscrimination was absolutely beyond their financial means. We have now had regulations implementing section 504 over 10 years. During that time, these institutions have not complained of financial difficulties due to accommodating the disabled.

Such inflations of cost figures under section 504 were a problem not only with the universities and hospitals as mentioned by Representative Coelho, but were encountered in regard to other areas to which section 504 applies, including the public transit industry. Some cost estimates supplied by public transportation agencies in the late 1970s and early 80s regarding the expenses involved in providing accessible transportation under section 504 were quite high, with the result that there was a vociferous debate involving the transportation industry, the U.S. Department of Transportation, the Congressional Budget Office, and various disability activists about the actual costs of providing accessible transportation. This debate is described on pp. 79-80 of Exhibit Two.

Sometimes exaggerations of costs of nondiscrimination requirements result from misguided fears and lack of knowledge about practical options for accommodating the needs of persons with disabilities. In introducing the Americans with Disabilities Act, Senator Weicker noted that "experience suggests that the costs of modifications are usually much less than might be feared by those unfamiliar with the issues." Such lack of familiarity can result from a limited knowledge of the abilities and limitations of persons with disabilities, from a lack of awareness of devices and technology that are available, or from an insufficient understanding of the nondiscrimination requirements themselves. In introducing the ADA, Senator Weicker went to some length to explain the accessibility

requirements of the bill in concrete terms to allay the likelihood of these requirements being misunderstood and inflated. But such dangers make it essential to carefully scrutinize cost data associated with eliminating discrimination against persons with disabilities to assure that they are not exaggerated.

B. In Calculating the Costs Entailed by the Requirements of the Americans with Disabilities Act, Expenses Associated with Existing Federal, State, and Local Requirements Should Be Deducted.

An important element in developing a realistic estimate of the cost implications of the ADA is to attribute to the requirements of the bill the costs of only those new or additional changes and modifications it entails. From the costs of full compliance with the requirements of ADA should be subtracted the costs of accommodations and barrier removal already required under existing laws, ordinances, building codes, and regulations. For example, an accurate determination of the costs of making state and local public buildings accessible to the extent required by the ADA must take into account that many such buildings were constructed with Federal financial assistance; consequently, such buildings are already required to meet accessibility requirements under Section 504 and nondiscrimination provisions associated with Federal block grants programs and other particular Federal funding programs.

Likewise, such buildings may be subject to state and local building codes and antidiscrimination requirements. The costs of what is already required should be subtracted from the estimated expenses of full compliance with the requirements of the ADA.

Similarly, estimates of the costs of eliminating discrimination by employers and by public accommodations must take into account that most States and many localities already have laws and ordinances that prohibit such discrimination. Moreover, some employers and places of public accommodation may already be subject to nondiscrimination requirements under sections 503 or 504 if they have received Federal grants or Federal contracts. Similarly, housing providers, transportation companies, and communications agencies subject to the ADA may already be covered by a variety of Federal, State, and local requirements that prohibit discrimination or establish accessibility standards.

Each of the 50 States and the District of Columbia has one or more laws prohibiting discrimination on the basis of handicap in employment, public accommodations, or housing. The overwhelming majority have some State law requirements in each of those three areas. Most also have provisions in their State laws establishing architectural accessibility requirements. "A Survey of State Laws," along with some more detailed and updated information about such laws and building codes, are attached as Exhibit Three.

To accurately estimate the financial impact of the ADA, estimates of the costs of full compliance with its requirements should be reduced by subtracting any costs associated with complying with state and local measures mandating nondiscrimination or establishing accessibility standards. And the estimates of ADA compliance should also exclude those requirements already established under other Federal laws, including sections 502, 503, and 504 of the Rehabilitation Act of 1973, the Architectural Barriers Act of 1968. A listing of "Handicap civil Rights statutes" from the U.S. Commission on civil Rights report, Accommodating the Spectrum of Individual Abilities, is attached as Exhibit Four. In short, costs should be attributed to the ADA only for new requirements it imposes over and above those currently mandated.

## II. INTRODUCTORY STATEMENTS REGARDING THE ADA

Some discussion of costs and benefits appeared in the floor statements of sponsors of the ADA at the time of its introduction in the Senate and House of Representatives. Most notable were remarks by Senator Lowell Weicker and Representatives Tony Coelho and Major Owens. In his introductory statement, Senator Weicker, the ranking minority member and former chairman of the Senate Subcommittee on the Handicapped, declared:

Some may fear that the bill will create requirements that are unrealistically expensive. There are several answers to questions about cost. First, it must be asked: how much is too much to pay for equality? Can we establish an acceptable price tag for civil rights? Second, experience suggests the costs of modifications are usually much less than might be feared by those unfamiliar with the issues. Wider doorways and ramps are not particularly expensive, and even modifications to bathrooms and lifts can be secured at relatively modest prices. And many communication devices are quite reasonable in cost. A telecommunication device for the deaf [TDD], which enables deaf people to use a telephone, can be purchased for about \$150.

As we consider cost, it is important to bear in mind that the federal tax code permits businesses to take an annual deduction of up to \$35,000 for expenditures entailed in removing barriers to people with disabilities.

A Harris Poll of employers found that three out of four managers interviewed believed the average costs of hiring a person with a disability to be about the same as that of employing a non-disabled person. A 1982 study by the Department of Labor concluded accommodating for disabilities is "no big deal." This confirms experiences of major U.S. corporations, such as du Pont, which report that workplace accommodations frequently cost little to nothing.

Likewise, the expenses associated with accessibility features for new housing are relatively small. Estimates are that, at most, such requirements would entail less than 1% of construction cost. Officers of the National Association of Homebuilders have declared that they can build in such features at very little cost. And such costs are expected to decline even further once they become uniform within the housing industry. The requirements regarding accessibility of new vehicles and rolling stock of transportation agencies are not extravagant. Often the issue resolves itself into a question of purchasing slightly fewer accessible vehicles versus a slightly greater number of inaccessible ones. Taking buses as an example, although costs can vary, a lift on a new bus currently costs about 6 to 9% of the total price tag. Thus, for the same outlay, a company can either purchase 10 accessible buses or 11 buses without lifts.

Perhaps the most difficult and costly modifications contemplated are those associated with existing stations and platforms of mass transit systems. But I would reiterate that the builders let allowed these changes, and consequently their cost, to be spread over a period of up to 10 years. The act does not naively demand full access immediately, but gives transit systems the opportunity to plan for and spread out the refurbishment and capital expenditures necessary to achieve accessibility. And again, the limitations section of the bill prevents the requirement of modifications on a timetable that would threaten the existence of any transportation operator.

In short, the costs associated with this bill are a small price to pay for opening up our society to persons with disabilities. Indeed, the costs to this nation of discrimination against persons with the disabilities are staggering. Over \$60 billion of our annual federal budget are spent on disability related programs. Disability is second only to defense is the largest category in the federal budget expenditures. And 95% of what we spend on disability goes to maintaining people in dependent situations. All taxpayers are underwriting the activity and waste of resources of

people with disabilities who are not permitted the opportunity to be employed and self-sufficient. The costs to our society of discrimination – in economic as well as humanitarian terms – are much greater than the costs of eliminating discrimination.

In part of his introductory remarks, Congressman Coelho, Majority Whip in the House of Representatives, declared:

In the past, concerns about cost have been raised as an obstacle to our addressing this problem. Estimates of these costs are inflated. For example, when the implications of Section 504 of the Rehabilitation Act of 1973 were debated, universities and hospitals claimed that non-discrimination was absolutely beyond their financial means. We have now had regulations implementing section 504 over 10 years. During that time, these institutions have not complained of financial difficulties due to accommodating the disabled. Paragraph I believe we find that in the long run, ending discrimination will actually lower cost to our society as a whole. Maintaining discrimination is expensive because discriminatory barriers keep people out of work, lowers our gross national product and our tax revenue and what's more, swell benefits payments. Government studies have estimated eliminating employment discrimination and even a narrow spectrum of jobs would add \$58 million to the annual government revenues. A Department of Transportation study indicated that with accessible transportation, SSI benefits savings due to increased employment would account for about \$276 million a year. Statistics indicated that funds generated by eliminating handicap discrimination would return more than three dollars for every one dollar spent. We as a nation stand to cash in quite a bit on this integration, and subsequent enhanced productivity, of people with disabilities.

And Representative Owens, Chairman of the Subcommittee on Select Education, observed:

The very existence of an architectural barrier – steps – or a transportation barrier – the lack of a lift – constitutes discrimination.

Not the removal of such barriers has to be costly. For example, the Americans with Disabilities Act proposes to make the most reachable units of new apartment complexes to incorporate basic universal features of an accessible design – this means that they can be easily modified to be barrier free. And the cost? As little as \$500 per new apartment constructed, and often less. The act also proposes that the new public accommodations be barrier free. And at a cost of less than 1/2 of 1% of the construction cost. And a lift on a new bus? As little as 5% of the bus cost, or even less. Not to mention the savings we'll realize from decreased benefits support cost, as employment barriers for a disabled people recover there an eight productive capacity.

### III. COSTS RELATED TO TRANSPORTATION

The debates about the costs of accessibility in public transportation have been noted above. A major source of additional data became available in December of 1985, when the U.S. Department of Transportation published its "Final Regulatory Impact Analysis" for its Section 504 regulation applicable to urban mass transit programs. This analysis was revised in a final form in May of 1986. While the regulatory impact analysis has not been without criticism, it does provide a huge quantity of new statistical information about the expenses associated with accessible urban mass transportation. These include cost figures for fixed-route-accessibility, paratransit systems, and user-subsidies for taxis and other services. It presents cost data derived from certain transit systems selected by the Department of Transportation as case study systems. It also presents a comparison of cost estimates for accessible transportation in large, medium, and small cities.

While the data are complex and detailed, one of the major conclusions of the DOT study was that most urban transit systems can be made accessible for less than 3 percent of their annual operating costs. A copy of the revised Regulatory Impact Analysis issued in May of 1986 is enclosed as Exhibit Five.

In his introductory statement on the ADA, Representative Tony Coelho made the following comment regarding data on the

potential benefits of accessible transportation:

A Department of Transportation study indicated that with accessible transportation, SSI benefit savings due to increased employment would account for \$276 million a year. Statistics indicated that funds generated by eliminating handicap discrimination would return more than \$3 for every \$1 spent. We as a nation stand to cash in quite a bit on the integration, and subsequent enhanced productivity, of people with disabilities.

In accord, Representative Major Owens noted that the expenses associated with lifts on buses are "as little as 5 percent of the bus cost, or even less. Not to mention the savings we'll realize from decreased benefit support costs

In the Senate, Senator Kerry voiced similar sentiments:

Today the technology exists to fashion the existing transit systems with appropriate lifts and seating to accommodate those who need it. Trains and buses, particularly newly purchased models, are easily equipped. Many states and cities are already adopting the policies that are put forth in this legislation. As new buses and trains are purchased they are equipped with lifts. The added costs are relatively small in comparison to the actual gains that are made through employment and, more importantly, through independence.

#### IV. COSTS RELATED TO HOUSING

The most comprehensive compilation of data concerning the costs and benefits of eliminating discrimination in housing of which we are aware continues to be the material collected in the section on "Costs and Benefits" in the Housing topic paper of the Appendix to Toward Independence. A copy of that section is enclosed as Exhibit Six.

Much of the discussion regarding costs of accessible housing has come to center on the "universal features of adaptable housing" advocated by the Council in Toward Independence. Such an approach to accessibility has been incorporated in the Fair Housing Amendments Act bills and in the Americans with Disabilities Act. In 1987, the Department of Housing and Urban Development issued a report titled Adaptable Housing: Marketing Accessible Housing for Everyone. The report examines the advantages of the adaptable housing approach over prior attempts to establish a certain percentage of completely accessible units. The report concludes that the universal features of adaptability approach is much more effective and beneficial. As to the costs of such adaptability, the report declares that "with increased experience with the adaptable housing concept and growing participation of product manufacturers and better market information, the building industry may find that most houses can be made accessible at little or no increase in cost." (Id. at p. 10)

A recent issue of Rehab Brief quoted architect Ron Mace and a GAO study regarding the costs of universal features of adaptable housing:

Stories circulate about the thousands of dollars required to make buildings accessible. While this may be true of modifying older structures, it is not true when accessibility is part of the original design. Mace has been quoted as saying the cost can be "zero"; a report from the U.S. Government Accounting Office puts the costs at "only about one half of one percent."

("Design for the Life Span of All People? Spotlight on Adaptable Housing," Rehab Brief Vol. X, No. 12, p. 2)

The housing and architecture professions are becoming increasingly aware of and accepting of the notion of universal features of adaptable design. A January 1987 article in Architecture recognized that "there will probably be, in the near future, uniform design standards for accessibility in this country." In an April, 1988, article in the New York Times, the Vice President of the National Association of Home Builders (NAHB), Shirley McVay Wiseman, was quoted as stating, "We want to demonstrate that we can build in adaptability at very little cost." NAHB has become a strong supporter of the universal features of adaptive design as incorporated in the Fair Housing Act Amendments bill. In a letter to Congressional leaders considering the bills, NAHB described these provisions as assuring "equal opportunity in housing for handicapped individuals, while minimizing both construction costs and potential issues of marketability." The home builders also specifically opposed an amendment that would have substituted a requirement of 10 percent fully accessible units for the

universal adaptability approach in the bill, saying that the former would "result in a higher and more costly standard." A copy of the NAHB letter is enclosed as Exhibit Seven.

Members of Congress quoted some estimates regarding the costs and benefits of housing adaptability requirements during their introductory remarks in regard to the ADA. Representative Owens stated:

The very existence of an architectural barrier ... constitutes discrimination.

Not that removal of such barriers has to be costly. For example, the Americans with Disabilities Act proposes to make the most reachable units of new apartment complexes incorporate basic universal features of adaptable design this means that they can be easily modified to be barrier-free. And the cost? As little as \$500 per new apartment constructed, and often less.

Representative Coelho declared:

Adaptive design also makes tremendous economic sense. A new adaptable apartment has been shown to cost only about \$500 more to build than one without adaptability features. This compares with renovation at a later date which, if it is even possible, can cost as much as \$15,000. Moreover, institutionalization, which is a never-ending expense, is vastly more costly, between \$40,000 and \$75,000 a year.

In his introductory statement regarding the ADA in the Senate, Senator Kennedy quoted the identical statistics regarding the costs of adaptable housing.

## V. COSTS IN OTHER AREAS

Apart from the foregoing, available information concerning the costs and benefits associated with eliminating discrimination against people with disabilities as required under the ADA is sketchy. Some useful bits and pieces are available, but no comprehensive and authoritative studies are available on various particular issues.

In regard to the costs of eliminating discrimination in regard to public accommodations, some limited cost estimates are available. In his floor statement upon the introduction of the ADA, Representative Major Owens declared: "The act also proposes that new public accommodations be barrier free -- at a cost of less than 1/2 of 1 percent of the construction cost." This estimate is consistent with sources quoted in the Appendix to Toward Independence, which estimated that accessibility costs on a new facility range between one-tenth of one percent to one-half of one percent of total construction costs of a new building (Appendix, p. F-29).

In an article in Nation's Restaurant News, the following statements were made regarding the impact of ADA on restaurants, and the implications of Senator Weicker's statements regarding accessibility requirements:

How much would it cost restaurants to comply with the new handicap legislation?

According to Weicker, the expense of modifications is usually much less than might be feared by those unfamiliar with the issues.

"wider doorways and ramps are not particularly expensive," he said, 'and even modifications to bathrooms and lifts can be secured at relatively modest prices."

Moreover, existing law allows food-service operators and other employers to tax deduct up to \$35,000 annually toward the cost of removing architectural barriers to the disabled.

Consider, too, the fact that some of that spending is sure to be plowed back into the restaurant industry as dining out becomes more accessible to the 6 million people in the United States who are severely handicapped. For example, if only 10 percent of those individuals are encouraged to eat out once a month, that's another \$100 million plus for the food-service industry.

Moreover, helping the disabled to become more self-sufficient would pay dividends for all of us at tax-time, according to the bill's backers.

At the federal level alone, we spend more than \$60 billion a year on disability-related programs and according to Weicker, "95 percent of what we spend on disability goes to maintaining people in dependent situations."

"All taxpayers are underwriting the inactivity and waste of resources of people with disabilities who are not permitted to be employed and self-sufficient," Weicker told Congress.

(Ken Rankin, "New Legislation for Handicapped Draws Bipartisan Support," Nation's Restaurant News, May 30, 1988, p. F4)

A few limited cost estimates have been made in regard to the removal of communications barriers. In his opening statement on the ADA, Senator Weicker stated that "many communication devices are quite reasonable in cost. A telecommunications device for the deaf (TDD), which enables deaf people to use the telephone, can be purchased for about \$150." Estimates of costs of captioning films and videotapes are usually less than 1 percent of producing the film or tape for a one-half-hour documentary (Subcommittee on Hearing Impaired Persons, Interagency Committee on Handicapped Research, Memorandum of May 15, 1986), and much less for longer products or high budget projects, such as Hollywood style movies.

We continue to pursue additional data on the costs of eliminating discrimination. States with antidiscrimination laws prohibiting discrimination on the basis of handicap would seem a likely source of information about the costs and benefits of such requirements, but little such information has been compiled and published. I have been in touch with Mr. Jud Boies, a State Architect for the State of California, which has one of the most extensive state statutory requirements regarding the removal of architectural barriers. Mr. Boies has promised to send me what cost information is available, but he indicated that very little has been collected or summarized in written form.

We will continue to seek further information. I hope that the data collected here is helpful.